TABLE OF CHAPTERS

REISSUE REVISED STATUTES

REVISED STATUTES
OF
NEBRASKA

2021 SUPPLEMENT

EDITED, ANNOTATED, AND PUBLISHED
BY THE
REVISOR OF STATUTES

VOLUME 1
CHAPTERS 1 TO 70, INCLUSIVE

CITE AS FOLLOWS

R.S.SUPP.,2021

Errata:

All errors so far discovered in the printing of the Reissue Revised Statutes of Nebraska, and the various supplements thereto, are corrected herein. The Revisor of Statutes would appreciate having reported to her any mistakes or errors of any kind in the Reissue Revised Statutes of Nebraska or in the various supplements thereto.

Reissue of Volumes 1 to 6

The laws enacted subsequent to 1943 which are included in the reissuance of Volumes 1 to 6 are not repeated and duplicated in this supplement. The dates of the latest reissue of such volumes are:

Volumes 1, 1A, and 1B	2012
Volumes 2 and 2A	2016
Volume 3	2016
Volumes 3A, 3B, and 3C	2021
Volumes 4, 4A, and 4B	2018
Volumes 5 and 5A	2014
Volume 6	2020
Cross Reference Tables	2000

Marcia M. McClurg
Revisor of Statutes
(402) 471-2225
mmcclurg@leg.ne.gov

CERTIFICATE OF AUTHENTICATION

I, Marcia M. McClurg, Revisor of Statutes, do hereby certify that the laws included in the 2021 Supplement to the Revised Statutes of Nebraska are true and correct copies of the original acts enacted by the One Hundred Seventh Legislature, First Session, 2021, and First Special Session, 2021, of the Nebraska State Legislature as shown by the enrolled bills on file in the office of the Secretary of State, save and except such compilation changes and omissions as are specifically authorized by sections 49-705 and 49-769.

Marcia M. McClurg
Revisor of Statutes

Lincoln, Nebraska
October 1, 2021

EDITORIAL STAFF

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Gaylena Gibson ..... Assistant Statute Technician
Catlin Bates ..... Assistant Statute Technician

ANNOTATIONS

CONSTITUTION OF THE STATE OF NEBRASKA

Article I, sec. 6.

Hurst v. Florida, 577 U.S. 92, 136 S. Ct. 616, 193 L. Ed. 2d 504 (2016), did not hold that a jury must find beyond a reasonable doubt that the aggravating circumstances outweighed the mitigating circumstances. State v. Jenkins, 303 Neb. 676, 931 N.W.2d 851 (2019).

Article I, sec. 7.

Misstatements within a search warrant and application may still produce a valid warrant issued with the requisite probable cause if the rest of the warrant and attached application cures any defect resulting from the scrivener's error when read together. A search warrant and application's indicating incorrect dates of the drafting and signing is not per se fatal to the validity of a warrant. State v. Benson, 305 Neb. 949, 943 N.W.2d 426 (2020).

A warrant must be sufficiently particular to prevent an officer from having unlimited or unreasonably broad discretion in determining what items to seize. State v. Jennings, 305 Neb. 809, 942 N.W.2d 753 (2020).

In determining whether a warrant is sufficiently particular, several factors are to be considered: (1) Whether the warrant communicates objective standards for an officer to identify which items may be seized, (2) whether there is probable cause to support the seizure of the items listed, (3) whether the items in the warrant could be more particularly described based on the information available at the time the warrant was issued, and (4) the nature of the activity under investigation. State v. Jennings, 305 Neb. 809, 942 N.W.2d 753 (2020).

In reviewing the strength of an affidavit submitted as a basis for finding probable cause to issue a search warrant, the question is whether, under the totality of the circumstances illustrated by the affidavit, the issuing magistrate had a substantial basis for finding that the affidavit established probable cause. State v. Jennings, 305 Neb. 809, 942 N.W.2d 753 (2020).

Although the accuracy of radar equipment must be demonstrated to support a conviction for speeding based on radar readings, reasonable proof of the accuracy of the radar equipment is not necessary to support the minimal level of objective justification for the belief that speeding occurred for purposes of an investigatory stop. State v. Montoya, 305 Neb. 581, 941 N.W.2d 474 (2020).

An officer has reasonable suspicion to stop a defendant's vehicle for speeding following radar detection of speeding, even if the police report lacked a memorialization of the officer's visual estimation of the traveling speed, where the officer checked the police cruiser's radar device at the beginning of the officer's shift to ensure it was working properly, the officer waited until the best moment to take the radar reading, there was good Doppler tone, and the radar read that the defendant was driving 50 miles per hour in a 35-mile-per-hour zone. State v. Montoya, 305 Neb. 581, 941 N.W.2d 474 (2020).

A seizure that is lawful at its inception can violate the Fourth Amendment's and the Nebraska Constitution's guarantees against unreasonable searches and seizures by its manner of execution. State v. Ferguson, 301 Neb. 697, 919 N.W.2d 863 (2018).

Judicial probable cause determinations must be made promptly after a warrantless arrest, and unreasonable delays in such judicial determinations of probable cause include delays for the purpose of gathering additional evidence to justify the arrest. However, the arrested individual bears the burden of proving the delay was unreasonable when the probable cause determination occurs within 48 hours. State v. Ferguson, 301 Neb. 697, 919 N.W.2d 863 (2018).

The fact that a dog sniff is conducted after the time reasonably required to complete the initial mission of a traffic stop is not, in and of itself, a Fourth Amendment violation; a Fourth Amendment violation arises only when the dog sniff is conducted after the initial mission of the stop is completed and the officer lacks probable cause or reasonable suspicion to investigate further. State v. Ferguson, 301 Neb. 697, 919 N.W.2d 863 (2018).

Article I, sec. 9.

The death penalty is cruel and unusual punishment when imposed on a prisoner whose mental illness makes him or her unable to reach a rational understanding of the reason for his or her execution. State v. Jenkins, 303 Neb. 676, 931 N.W.2d 851 (2019).

Article I, sec. 11.

The right to self-representation plainly encompasses certain specific rights of the defendant to have his or her voice heard, including that the pro se defendant must be allowed to control the organization and content of his or her own defense. This control may include a waiver of the right to present mitigating evidence during sentencing in a death penalty case. State v. Schroeder, 305 Neb. 527, 941 N.W.2d 445 (2020).

The competence that is required of a defendant seeking to waive his or her right to counsel is the competence to waive the right, not the competence to represent himself or herself. State v. Jenkins, 303 Neb. 676, 931 N.W.2d 851 (2019).

Article I, sec. 12.

The protection granted by the Nebraska Constitution against double jeopardy is coextensive to the protection granted by the U.S. Constitution. State v. Sierra, 305 Neb. 249, 939 N.W.2d 808 (2020).

Article I, sec. 16.

Where the death penalty was in effect at the time of the crimes and was also in effect at the time of sentencing, the repeal of the death penalty did not inflict a greater punishment than that available when the crimes were committed. State v. Jenkins, 303 Neb. 676, 931 N.W.2d 851 (2019).

Article III, sec. 1.

Statutory provisions authorizing initiative petitions should be construed in such a manner that the legislative power reserved in the people is effectual and should not be circumscribed by restrictive legislation or narrow and strict interpretation of the statutes pertaining to its exercise. Christensen v. Gale, 301 Neb. 19, 917 N.W.2d 145 (2018).

Article III, sec. 2.

For purposes of the single subject requirement for voter initiatives under the Nebraska Constitution, the general subject is defined by its primary purpose. Christensen v. Gale, 301 Neb. 19, 917 N.W.2d 145 (2018).

Statutory provisions authorizing initiative petitions should be construed in such a manner that the legislative power reserved in the people is effectual and should not be circumscribed by restrictive legislation or narrow and strict interpretation of the statutes pertaining to its exercise. Christensen v. Gale, 301 Neb. 19, 917 N.W.2d 145 (2018).

The controlling consideration in determining the singleness of a subject, for purposes of the single subject requirement for voter initiatives under this provision of the Nebraska Constitution, is its singleness of purpose and relationship of the details to the general subject, not the strict necessity of any given detail to carry out the general subject. Christensen v. Gale, 301 Neb. 19, 917 N.W.2d 145 (2018).

Where the limits of a proposed law, having natural and necessary connection with each other, and, together, are a part of one general subject, the proposal is a single and not a dual proposition, and thus does not violate the single subject requirement for voter initiatives under the Nebraska Constitution. Christensen v. Gale, 301 Neb. 19, 917 N.W.2d 145 (2018).

Whether the elements of complex statutory amendments can be characterized as presenting different policy issues for purposes of the single subject requirement for voter initiatives under this provision of the Nebraska Constitution, the crux of the question is the extent of the differences and how the elements relate to the primary purpose. Christensen v. Gale, 301 Neb. 19, 917 N.W.2d 145 (2018).

Article III, sec. 3.

Upon the filing of a referendum petition appearing to have a sufficient number of signatures, operation of the legislative act is suspended so long as the verification and certification process ultimately determines that the petition had the required number of valid signatures. State v. Mata, 304 Neb. 326, 934 N.W.2d 475 (2019).

Upon the filing of a referendum petition appearing to have a sufficient number of signatures, operation of the legislative act is suspended so long as the verification and certification process ultimately determines that the petition had the required number of valid signatures. State v. Jenkins, 303 Neb. 676, 931 N.W.2d 851 (2019).

Article IV, sec. 20.

The constitutional provision creating the Public Service Commission must be liberally construed to effectuate the purpose for which the commission was created, which is to serve the public interest. In re Application No. OP-0003, 303 Neb. 872, 932 N.W.2d 653 (2019).

The Public Service Commission is an independent regulatory body created by the Nebraska Constitution under this provision. In re Application No. OP-0003, 303 Neb. 872, 932 N.W.2d 653 (2019).

STATUTES OF THE STATE OF NEBRASKA

4-111.

For the purposes of state or local public benefits eligibility, "lawfully present" means the alien classifications under 8 U.S.C. 1621(a)(1), (2), or (3). E.M. v. Nebraska Dept. of Health & Human Servs., 306 Neb. 1, 944 N.W.2d 252 (2020).

12-613.

A trust established under this section for the care of a mausoleum is a trust for a specific noncharitable purpose which endeavors to facilitate perpetual care as opposed to care for a period of years. In re Maint. Fund Trust of Sunset Mem. Park Chapel, 302 Neb. 954, 925 N.W.2d 695 (2019).

12-616.

Where relevant, this section controls a court's analysis of a perpetual care trust for a mausoleum under the Nebraska Uniform Trust Code. In re Maint. Fund Trust of Sunset Mem. Park Chapel, 302 Neb. 954, 925 N.W.2d 695 (2019).

13-902.

The Political Subdivisions Tort Claims Act reflects a limited waiver of governmental immunity and prescribes the exclusive procedure for maintenance of a tort claim against a political subdivision or its officers, agents, or employees. Reiber v. County of Gage, 303 Neb. 325, 928 N.W.2d 916 (2019).

13-905.

The doctrine of substantial compliance applies when determining whether presuit presentment requirements pertaining to a claim's content are met. Saylor v. State, 306 Neb. 147, 944 N.W.2d 726 (2020).

The notice requirement of this section applies to intentional and negligent acts because the requirement applies to all tort claims. Hedglin v. Esch, 25 Neb. App. 306, 905 N.W.2d 105 (2017).

For substantial compliance with the written notice requirements of the Political Subdivisions Tort Claims Act, within 1 year from the act or omission on which the claim is based, the written notice of claim must be filed with an individual or office designated in the act as the authorized recipient for notice of claim against a political subdivision. Notice of claim filed only with one unauthorized to receive a claim does not substantially comply with the notice requirements of the act, even when settlement negotiations have been conducted with one unauthorized to receive the claim. Nyamatore v. Schuerman, 25 Neb. App. 209, 904 N.W.2d 730 (2017).

13-910.

A school's decision to enforce a "no dogs" policy only during school hours and to not supervise the playground area after school hours involved judgment shielded by the discretionary function exception. Lambert v. Lincoln Public Schools, 306 Neb. 192, 945 N.W.2d 84 (2020).

This section sets forth specific claims that are exempt from the waiver of sovereign immunity, including any claim arising out of assault, battery, false arrest, false imprisonment, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights. This is sometimes referred to as the "intentional torts exception." Rutledge v. City of Kimball, 304 Neb. 593, 935 N.W.2d 746 (2019).

When conduct arises out of a battery, it falls within subdivision (7) of this section, and the political subdivision is not liable for damages resulting from the battery, even when the pleaded conduct is characterized or framed as negligence. Rutledge v. City of Kimball, 304 Neb. 593, 935 N.W.2d 746 (2019).

13-919.

A claimant under the Political Subdivisions Tort Claims Act must bring a claim before the governing board of a political subdivision prior to filing suit, and suits must be filed within 2 years of the date the claim accrued. There are only two exceptions to extend this 2-year limitation by 6 months: (1) where the governmental subdivision takes some action on the claim before the 2 years have expired but at a time when less than 6 months remain for filing suit and (2) if the claimant withdraws the claim within the 2-year period but at a time when less than 6 months to file suit remain. Patterson v. Metropolitan Util. Dist., 302 Neb. 442, 923 N.W.2d 717 (2019).

14-813.

Unless the Legislature or a city of the metropolitan class alters the procedure for a claimant or appellant to challenge a decision regarding an assessment, the procedure shall follow that which is specified in this section. Glasson v. Board of Equal. of City of Omaha, 302 Neb. 869, 925 N.W.2d 672 (2019).

18-2129.

Any suit, action, or proceeding brought outside the 30-day period in section 18-2142.01 is subject to the conclusive presumption of this section and section 18-2142.01 as long as the action is one challenging the validity or enforceability of a redevelopment bond or contract and the bond or contract recites in substance the language required by the two sections. Salem Grain Co. v. City of Falls City, 302 Neb. 548, 924 N.W.2d 678 (2019).

18-2142.01.

Any suit, action, or proceeding brought outside the 30-day period in this section is subject to the conclusive presumption of section 18-2129 and this section as long as the action is one challenging the validity or enforceability of a redevelopment bond or contract and the bond or contract recites in substance the language required by the two sections. Salem Grain Co. v. City of Falls City, 302 Neb. 548, 924 N.W.2d 678 (2019).

21-2,114.

Because this section provides that a director may apply for indemnification for attorney fees "to the court conducting the proceeding" and because "proceeding" includes an appeal, this section provides that a director may apply to an appellate court for indemnification related to an appeal that took place in the appellate court. Gerber v. P & L Finance Co., 301 Neb. 463, 919 N.W.2d 116 (2018).

"Proceeding," as used in this section, includes appeals, and therefore, this section applies to indemnification for attorney fees incurred in an appeal. Gerber v. P & L Finance Co., 301 Neb. 463, 919 N.W.2d 116 (2018).

21-2,201.

A proceeding under this section to determine the fair value of a petitioning shareholder's shares of stock is equitable in nature. Anderson v. A & R Ag Spraying & Trucking, 306 Neb. 484, 946 N.W.2d 435 (2020).

In order to award expenses to a petitioning shareholder under subsection (e) of this section, a court must make findings that the shareholder established probable grounds for relief concerning corporate dissolution. Anderson v. A & R Ag Spraying & Trucking, 306 Neb. 484, 946 N.W.2d 435 (2020).

Where a corporation or shareholder is not a party to election-to-purchase proceedings, a court lacks authority to enter judgment against that party once it has determined the value of the shares to be purchased. Anderson v. A & R Ag Spraying & Trucking, 306 Neb. 484, 946 N.W.2d 435 (2020).

21-1917.

This section does not independently authorize a district court to appoint new members to the board of a nonprofit corporation. In re Stueven Charitable Foundation, 304 Neb. 140, 933 N.W.2d 554 (2019).

21-19,152.

A corporation's registration under this section does not provide an independent basis for the exercise of general jurisdiction. Lanham v. BNSF Railway Co., 305 Neb. 124, 939 N.W.2d 363 (2020).

21-19,165.

Pursuant to subsection (a) of section 21-19,166, a member is permitted to inspect and copy, without conditions, those records described in subsection (e) of this section, which include financial statements that include a balance sheet as of the end of the fiscal year and a statement of operations for that year. Dunbar v. Twin Towers Condo. Assn., 26 Neb. App. 354, 920 N.W.2d 1 (2018).

21-19,166.

Pursuant to subsection (a) of this section, a member is permitted to inspect and copy, without conditions, those records described in subsection (e) of section 21-19,165, which include financial statements that include a balance sheet as of the end of the fiscal year and a statement of operations for that year. Dunbar v. Twin Towers Condo. Assn., 26 Neb. App. 354, 920 N.W.2d 1 (2018).

The Nebraska Nonprofit Corporation Act applies broadly to all nonprofit corporations, whereas the Nebraska Condominium Act applies only to condominium regimes and condominium owners. To the extent that there is conflict between two statutes on the same subject, the specific statute controls over the general statute. Dunbar v. Twin Towers Condo. Assn., 26 Neb. App. 354, 920 N.W.2d 1 (2018).

24-302.

A district court's jurisdiction over a 42 U.S.C. 1983 claim flows from the Legislature's grant of general jurisdiction to that court, over and above the district court's jurisdiction conferred by the Nebraska Constitution. Webb v. Nebraska Dept. of Health & Human Servs., 301 Neb. 810, 920 N.W.2d 268 (2018).

In a court of general jurisdiction, jurisdiction may be presumed absent a record showing the contrary. Webb v. Nebraska Dept. of Health & Human Servs., 301 Neb. 810, 920 N.W.2d 268 (2018).

24-517.

A county court has jurisdiction to construe a power of attorney or review an agent's conduct and grant appropriate relief. In re Estate of Adelung, 306 Neb. 646, 947 N.W.2d 269 (2020).

County courts have not been given authority to decide motions to transfer to juvenile court in cases in which they lack jurisdiction to try the case. State v. A.D., 305 Neb. 154, 939 N.W.2d 484 (2020).

The county courts have the power to construe wills. Brinkman v. Brinkman, 302 Neb. 315, 923 N.W.2d 380 (2019).

24-734.

Subsection (4) of this section only pertains to allowing a witness to be examined telephonically with the consent of the parties. It does not address permitting a party to appear and participate at trial telephonically. In re Estate of Newman, 25 Neb. App. 771, 913 N.W.2d 744 (2018).

25-201.01.

The savings clause in this section does not apply to an action under the State Tort Claims Act. Saylor v. State, 304 Neb. 779, 936 N.W.2d 924 (2020).

25-205.

A claim for indemnification filed after the applicable statute of limitations for the underlying breach of contract does not preserve a separate cause of action for breach of contract. Keith v. Data Enters., 27 Neb. App. 23, 925 N.W.2d 723 (2019).

A claim for indemnification filed after the applicable statute of limitations for the underlying negligence or negligent misrepresentation claims does not preserve separate causes of action for negligence or negligent misrepresentation. Keith v. Data Enters., 27 Neb. App. 23, 925 N.W.2d 723 (2019).

25-207.

In order to toll the statute of limitations, allegations of fraudulent concealment must be pleaded with particularity. Chafin v. Wisconsin Province Society of Jesus, 301 Neb. 94, 917 N.W.2d 821 (2018).

25-216.

A judgment is not a contract for purposes of the tolling provision of this section. Nelssen v. Ritchie, 304 Neb. 346, 934 N.W.2d 377 (2019).

25-222.

In a professional negligence action, a physician did not waive and was not estopped from asserting as a defense the statute of limitations set forth in this section, where the physician engaged in discovery after a complaint was filed rather than immediately moving to dismiss the complaint on statute of limitations grounds. Bonness v. Armitage, 305 Neb. 747, 942 N.W.2d 238 (2020).

A massage therapist is not a "professional" for the purpose of application of the professional negligence statute of limitations; while a massage therapist is required to be licensed, the licensing requirements do not require long and intensive training or preparation, including instruction in skills and methods as well as in the scientific, historical, or scholarly principles underlying such skills and methods, which would be comparable to that of a college degree, and the standards for membership in the occupation of massage therapy did not include high standards of achievement. Wehrer v. Dynamic Life Therapy & Wellness, 302 Neb. 1025, 926 N.W.2d 107 (2019).

Each of the elements set forth in the *Tylle* definition of "profession" are considered to be necessary and not merely possible factors for consideration; therefore, to constitute a "profession" within the meaning of this section, a particular type of endeavor must meet all of the principal elements. Wehrer v. Dynamic Life Therapy & Wellness, 302 Neb. 1025, 926 N.W.2d 107 (2019).

Great emphasis is placed on college degrees in considering whether a particular occupation is a "profession" for the purpose of applying this section. Wehrer v. Dynamic Life Therapy & Wellness, 302 Neb. 1025, 926 N.W.2d 107 (2019).

In analyzing whether a particular group or organization meets the definition of a "profession" for purposes of the professional negligence statute of limitations, each of the following principal elements must be demonstrated, as an occupation is not a "profession" unless: (1) The profession requires specialized knowledge; (2) the profession requires long and intensive preparation; (3) preparation must include instruction in skills and methods of the profession; (4) preparation must include scientific, historical, or scholarly principles underlying the skills and methods of the profession; (5) membership in a professional organization is required; (6) a professional organization or concerted opinion within an organization regulates and enforces standards for membership; (7) the standards for membership include high standards of achievement; (8) the standards for membership include high standards of conduct; (9) its members are committed to continued study; (10) its members are committed to a specific kind of work; and (11) the specific kind of work has for its primary purpose the rendering of a public service. Wehrer v. Dynamic Life Therapy & Wellness, 302 Neb. 1025, 926 N.W.2d 107 (2019).

The 1-year discovery exception in this section is a tolling provision, but it applies only in those cases in which the plaintiff did not discover, and could not have reasonably discovered, the existence of the cause of action within the applicable statute of limitations. Walz v. Harvey, 28 Neb. App. 7, 938 N.W.2d 110 (2020).

25-302.

A written assignment must be proved by a preponderance of the evidence. Hawley v. Skradski, 304 Neb. 488, 935 N.W.2d 212 (2019).

An assignee of a chose in action may maintain an action thereon in the assignee's own name when the assignment being sued upon is in writing. Hawley v. Skradski, 304 Neb. 488, 935 N.W.2d 212 (2019).

25-304.

An assignee can establish standing to bring an action in its own name, and thus show the court had subject matter jurisdiction, if it proves by a preponderance of the evidence the existence of a written assignment. Western Ethanol Co. v. Midwest Renewable Energy, 305 Neb. 1, 938 N.W.2d 329 (2020).

A written assignment must be proved by a preponderance of the evidence. Hawley v. Skradski, 304 Neb. 488, 935 N.W.2d 212 (2019).

An assignee of a chose in action may maintain an action thereon in the assignee's own name when the assignment being sued upon is in writing. Hawley v. Skradski, 304 Neb. 488, 935 N.W.2d 212 (2019).

25-323.

The language of this section tracks the traditional distinction between the necessary and indispensable parties. Panhandle Collections v. Singh, 28 Neb. App. 924, 949 N.W.2d 554 (2020).

The first clause of this section makes the inclusion of necessary parties discretionary when a controversy of interest to them is severable from their rights. The second clause, however, mandates that the district court order indispensable parties to be brought into the controversy. All persons interested in the contract or property involved in an action are necessary parties, whereas all persons whose interests therein may be affected by a decree in equity are indispensable parties. The absence of an indispensable party to a controversy deprives the court of subject matter jurisdiction to determine the controversy and cannot be waived. When it appears that all indispensable parties to a proper and complete determination of an equity cause were not before the court, an appellate court will remand the cause for the purpose of having such parties brought in. In re Trust Created by Augustin, 27 Neb. App. 593, 935 N.W.2d 493 (2019).

25-516.01.

By filing a suggestion in bankruptcy and an amended suggestion in bankruptcy, the party asked the court to bring its powers into action on a matter other than the question of jurisdiction, thus making a general appearance and waiving any defects in the service of process. Bayliss v. Clason, 26 Neb. App. 195, 918 N.W.2d 612 (2018).

25-520.01.

Because the appellant did not file an affidavit that complied with this section, the appellant's constructive service was improper and the district court lacked personal jurisdiction over the appellee. Francisco v. Gonzalez, 301 Neb. 1045, 921 N.W.2d 350 (2019).

25-536.

Nebraska's long-arm statute extends Nebraska's jurisdiction over nonresidents having any contact with or maintaining any relation to this state as far as the U.S. Constitution permits. It was the intention of the Legislature to provide for the broadest allowable jurisdiction over nonresidents under Nebraska's long-arm statute, and when a state construes its long-arm statute to confer jurisdiction to the fullest extent constitutionally permitted, the inquiry collapses into the single question of whether jurisdiction comports with due process. Yeransian v. Willkie Farr, 305 Neb. 693, 942 N.W.2d 226 (2020).

Nebraska's long-arm statute extends Nebraska's jurisdiction over nonresidents having any contact with or maintaining any relation to this state as far as the U.S. Constitution permits. Thus, courts need only look to the Due Process Clause when determining personal jurisdiction. Lanham v. BNSF Railway Co., 305 Neb. 124, 939 N.W.2d 363 (2020).

An ongoing relationship, by itself, is not sufficient to establish personal jurisdiction. The quality and nature of the ongoing business relationship is important, not just the fact that a business relationship exists. Roth Grading v. Martin Bros. Constr., 25 Neb. App. 928, 916 N.W.2d 70 (2018).

The existence of a contract with a party in a forum state or the mere use of interstate facilities, such as telephones and mail, does not, in and of itself, provide the necessary contacts for personal jurisdiction. Roth Grading v. Martin Bros. Constr., 25 Neb. App. 928, 916 N.W.2d 70 (2018).

To determine whether a defendant's contract supplies the contacts necessary for personal jurisdiction in a forum state, a court is to consider the parties' prior negotiations and future contemplated consequences, along with the terms of the contract and the parties' actual course of dealing. Roth Grading v. Martin Bros. Constr., 25 Neb. App. 928, 916 N.W.2d 70 (2018).

Nebraska courts lacked personal jurisdiction over a wife to adjudicate personal matters that were incidences of the parties' marriage, such as child custody, parenting time, child support, and division of property and debts, where the wife and children never had contact with Nebraska, and the parties were married, had children, and separated in Canada. Metzler v. Metzler, 25 Neb. App. 757, 913 N.W.2d 733 (2018).

25-601.

Under this section, a plaintiff has the right to dismiss an action without prejudice any time before final submission of the case, so long as no counterclaim or setoff has been filed by an opposing party. HBI, L.L.C. v. Barnette, 305 Neb. 457, 941 N.W.2d 158 (2020).

25-824.

A cognizable claim brought with a reasonable belief that discovery would support its allegations is not frivolous. George Clift Enters. v. Oshkosh Feedyard Corp., 306 Neb. 775, 947 N.W.2d 510 (2020).

Attorney fees may be assessed when a party persists in asserting a claim after it knows or reasonably should know it would not prevail on the claim. George Clift Enters. v. Oshkosh Feedyard Corp., 306 Neb. 775, 947 N.W.2d 510 (2020).

A trial court's decision awarding or denying attorney fees under this section will be upheld absent an abuse of discretion. Seldin v. Estate of Silverman, 305 Neb. 185, 939 N.W.2d 768 (2020).

Under subsection (2) of this section, attorney fees shall be awarded against a party who alleged a claim or defense that the court determined was frivolous, interposed any part of the action solely for delay or harassment, or unnecessarily expanded the proceeding by other improper conduct. Seldin v. Estate of Silverman, 305 Neb. 185, 939 N.W.2d 768 (2020).

Subsection (2) of this section provides generally that a court can award reasonable attorney fees and court costs against any attorney or party who has brought or defended a civil action that alleges a claim or defense that a court determines is frivolous or made in bad faith. In re Guardianship of Aimee S., 26 Neb. App. 380, 920 N.W.2d 18 (2018).

25-824.01.

In determining whether to assess attorney fees and costs and the amount to be assessed against offending attorneys and parties, the court considers a number of factors, including, but not limited to, the 10 factors listed in this section. In re Guardianship of Aimee S., 26 Neb. App. 380, 920 N.W.2d 18 (2018).

25-914.

A docket entry/journal entry contained in the "Judges Notes" constituted an interlocutory order disposing of the party's motion to alter or amend; it did not need to be a separate file-stamped document. Pearce v. Mutual of Omaha Ins. Co., 28 Neb. App. 410, 945 N.W.2d 516 (2020).

An unsigned journal entry without a file stamp can constitute an interlocutory order; but it cannot constitute a final, appealable order, particularly when it does not dispose of all issues. Pearce v. Mutual of Omaha Ins. Co., 28 Neb. App. 410, 945 N.W.2d 516 (2020).

25-1113.

A trial court's failure to mark a jury instruction as "given" or "refused" pursuant to this section is not available as error on appeal in the absence of an objection made on these statutory grounds at trial. Schuemann v. Menard, Inc., 27 Neb. App. 977, 938 N.W.2d 378 (2020).

25-1114.

An objection that jury instructions were not filed by the clerk before being read to the jury as required by this section must be made when or before the instructions are read, or the objection is waived. Schuemann v. Menard, Inc., 27 Neb. App. 977, 938 N.W.2d 378 (2020).

25-1140.

In order for the appellate court to consider evidence, the evidence must be marked, identified, and made a part of the bill of exceptions at the trial court. Bohling v. Bohling, 304 Neb. 968, 937 N.W.2d 855 (2020).

25-1141.

This section does not apply to testimony given by a different witness when no objection is made to that witness' testimony. State v. Pope, 305 Neb. 912, 943 N.W.2d 294 (2020).

This section applies to objections made to the testimony of the same nature by the same witness and therefore does not apply to objections made to a demonstrative exhibit and/or statements made by the prosecutor during closing arguments. State v. Howard, 26 Neb. App. 628, 921 N.W.2d 869 (2018).

25-12,125.

Under this section, the presumption that a statement was taken under duress may be rebutted by evidence that the statement was not made under duress. Schuemann v. Menard, Inc., 27 Neb. App. 977, 938 N.W.2d 378 (2020).

25-1301.

A docket entry/journal entry contained in the "Judges Notes" constituted an interlocutory order disposing of the party's motion to alter or amend; it did not need to be a separate file-stamped document. Pearce v. Mutual of Omaha Ins. Co., 28 Neb. App. 410, 945 N.W.2d 516 (2020).

An unsigned journal entry without a file stamp can constitute an interlocutory order; but it cannot constitute a final, appealable order, particularly when it does not dispose of all issues. Pearce v. Mutual of Omaha Ins. Co., 28 Neb. App. 410, 945 N.W.2d 516 (2020).

25-1329.

A judgment entered by the district court at the conclusion of an error proceeding pursuant to sections 25-1901 to 25-1908 is a judgment within the meaning of this section. McEwen v. Nebraska State College Sys., 303 Neb. 552, 931 N.W.2d 120 (2019).

A second motion to reconsider a final order entered 11 days earlier did not terminate the time for filing a notice of appeal, and because appellant did not appeal within 30 days of the overruling of his first motion to reconsider—which was properly construed as a motion to alter or amend—the appellate court lacked jurisdiction over the appeal. Bryson L. v. Izabella L., 302 Neb. 145, 921 N.W.2d 829 (2019).

A motion to alter or amend filed more than 10 days after the court's denial of a postconviction claim does not terminate or extend the time to appeal that denial. State v. Lotter, 301 Neb. 125, 917 N.W.2d 850 (2018).

In order to qualify for treatment as a motion to alter or amend a judgment, the motion must be filed no later than 10 days after the entry of judgment, as required under this section, and must seek substantive alteration of the judgment. Bayliss v. Clason, 26 Neb. App. 195, 918 N.W.2d 612 (2018).

Under this section, a motion for reconsideration is the functional equivalent of a motion to alter or amend a judgment. Bayliss v. Clason, 26 Neb. App. 195, 918 N.W.2d 612 (2018).

Under this section, if a postjudgment motion seeks a substantive alteration of the judgment—as opposed to the correction of clerical errors or relief wholly collateral to the judgment—a court may treat the motion as one to alter or amend the judgment. Bayliss v. Clason, 26 Neb. App. 195, 918 N.W.2d 612 (2018).

25-1334.

The trial court's consideration of a nursing home director's affidavit, when deciding a motion for summary judgment, was not plain error in a negligence action arising from a nursing home resident's death after an alleged fall from bed, where the director had sufficient personal knowledge, the affidavit set forth facts that would be admissible, and the director was competent to testify to the matters stated. Apkan v. Life Care Centers of America, 26 Neb. App. 154, 918 N.W.2d 601 (2018).

25-1335.

This section provides a safeguard against an improvident or premature grant of summary judgment. George Clift Enters. v. Oshkosh Feedyard Corp., 306 Neb. 775, 947 N.W.2d 510 (2020).

25-1401.

A survival action is personal to the decedent for damages suffered by the decedent between the wrongful act and his or her death, and recovery for such damage belongs to the decedent's estate and is administered as an estate asset. In re Estate of McConnell, 28 Neb. App. 303, 943 N.W.2d 722 (2020).

A wrongful death action and a survival action are two distinct causes of action which may be brought by a decedent's personal representative. Although they are frequently joined in a single action, they are conceptually separate. In re Estate of McConnell, 28 Neb. App. 303, 943 N.W.2d 722 (2020).

Although damages for pain and suffering may be difficult to compute, that cannot preclude the entry of damages where they are appropriate as discernible by sufficient evidence. The amount of damages is a matter solely for the fact finder. In re Estate of McConnell, 28 Neb. App. 303, 943 N.W.2d 722 (2020).

An action under Nebraska's survival statute is the continuance of the decedent's own right of action, which he or she possessed prior to his or her death. The survival action is brought on behalf of the decedent's estate and encompasses the decedent's claim for predeath pain and suffering, medical expenses, funeral and burial expenses, and any loss of earnings sustained by the decedent, from the time of the injury up until his or her death. In re Estate of McConnell, 28 Neb. App. 303, 943 N.W.2d 722 (2020).

The same individuals may stand to recover in both a wrongful death and a survival action, as the decedent's next of kin may also be beneficiaries of a survival claim under the decedent's will or the laws of intestate succession. In re Estate of McConnell, 28 Neb. App. 303, 943 N.W.2d 722 (2020).

25-1420.

A judgment is not a contract for purposes of the tolling provision of section 25-216. Nelssen v. Ritchie, 304 Neb. 346, 934 N.W.2d 377 (2019).

25-1506.

When the party sought a stay more than 20 days after the initial foreclosure decree, but less than 20 days after the supplemental decree, the party was not entitled to a stay. Mutual of Omaha Bank v. Watson, 301 Neb. 833, 920 N.W.2d 284 (2018).

25-1558.

The basic subsistence limitation under the child support guidelines was not applicable to reduce the amount being withheld from the father's monthly Social Security benefits to pay his child support arrearages. Ybarra v. Ybarra, 28 Neb. App. 216, 943 N.W.2d 447 (2020).

25-1708.

This section does not apply to a discretionary award of reasonable litigation expenses under either 18 U.S.C. 2520 or section 86-297. Brumbaugh v. Bendorf, 306 Neb. 250, 945 N.W.2d 116 (2020).

25-1803.

A judgment does not become final and appealable until the trial court has ruled upon a pending request for attorney fees made pursuant to state statute. Webb v. Nebraska Dept. of Health & Human Servs., 301 Neb. 810, 920 N.W.2d 268 (2018).

A party seeking fees authorized by state law must make a request for such fees prior to a judgment in the cause. Webb v. Nebraska Dept. of Health & Human Servs., 301 Neb. 810, 920 N.W.2d 268 (2018).

Attorney fees awarded pursuant to this section are generally treated as an element of court costs, and an award of costs in a judgment is considered a part of the judgment. Webb v. Nebraska Dept. of Health & Human Servs., 301 Neb. 810, 920 N.W.2d 268 (2018).

25-1902.

A trial court's order denying a judgment debtor's motion to quash and vacate a foreign judgment affected a substantial right, and thus, the order was a final, appealable order; once the court ordered garnishment of the debtor's bank account, forcing him to postpone his appeal from such an order would have significantly undermined his right to the use and enjoyment of his property. Gem City Bone & Joint v. Meister, 306 Neb. 710, 947 N.W.2d 302 (2020).

The order granting an application to proceed in forma pauperis is not a final, appealable order because it does not affect a substantial right. State v. Fredrickson, 306 Neb. 81, 943 N.W.2d 701 (2020).

When there has been an amendment to the final order statute to make a previously interlocutory order a final order, it is a procedural change and not a substantive change and is therefore binding upon a tribunal upon the effective date of the amendment; this allows a party to file an appeal if the amendment took place within 30 days of the interlocutory order. Great Northern Ins. Co. v. Transit Auth. of Omaha, 305 Neb. 609, 941 N.W.2d 497 (2020).

An order overruling a plea in bar was not a final, appealable order, where the defendant's plea in bar did not present a colorable double jeopardy claim. State v. Kelley, 305 Neb. 409, 940 N.W.2d 568 (2020).

An order finding a defendant to be indigent and appointing appellate counsel at the county's expense did not affect a substantial right of the parties and was not a final order for purposes of appeal, where the order did not obligate the county to pay any specific amount or set a deadline for payment, such determinations were to be the subject of future proceedings addressing the question of reasonable attorney fees, and the State had the ability to challenge the findings of indigency and recoup any subsequently expended funds from the defendant. State v. Fredrickson, 305 Neb. 165, 939 N.W.2d 385 (2020).

An order denying a motion to modify or eliminate a probation condition is a final, appealable order. State v. Paulsen, 304 Neb. 21, 932 N.W.2d 849 (2019).

An order reinstating a case does not affect a substantial right merely because reinstatement would affect a defense in a future hypothetical action. Fidler v. Life Care Centers of America, 301 Neb. 724, 919 N.W.2d 903 (2018).

Not every order vacating a dismissal and reinstating a case is final and appealable; rather, the statutory criteria of this section must be applied to determine whether the order appealed from is final. Fidler v. Life Care Centers of America, 301 Neb. 724, 919 N.W.2d 903 (2018).

A juvenile court order ceasing reasonable efforts and rejecting the permanency plan of reunification affected a substantial right of the parent, and thus was a final, appealable order that had to be appealed within 30 days; it did not matter that the court's order did not also simultaneously specify a new permanency plan, but instead returned the case to the Department of Health and Human Services for alternative permanency planning recommendations. In re Interest of LeAntonaé D. et al., 28 Neb. App. 144, 942 N.W.2d 784 (2020).

Under the collateral order doctrine, the denial of a claim for qualified immunity is appealable, notwithstanding the absence of a final judgment, if the denial of immunity turns on a question of law. D.M. v. State, 25 Neb. App. 596, 911 N.W.2d 621 (2018).

An appellate court may review three types of final orders: (1) an order that affects a substantial right and that determines the action and prevents a judgment, (2) an order that affects a substantial right made during a special proceeding, and (3) an order that affects a substantial right made on summary application in an action after a judgment is rendered. Moyers v. International Paper Co., 25 Neb. App. 282, 905 N.W.2d 87 (2017).

Substantial rights within the meaning of the statute include those legal rights that a party is entitled to enforce or defend. Moyers v. International Paper Co., 25 Neb. App. 282, 905 N.W.2d 87 (2017).

25-1911.

An order finding a defendant to be indigent and appointing appellate counsel at the county's expense did not affect a substantial right of the parties and was not a final order for purposes of appeal, where the order did not obligate the county to pay any specific amount or set a deadline for payment, such determinations were to be the subject of future proceedings addressing the question of reasonable attorney fees, and the State had the ability to challenge the findings of indigency and recoup any subsequently expended funds from the defendant. State v. Fredrickson, 305 Neb. 165, 939 N.W.2d 385 (2020).

Because the district court's order denying the plaintiff's request for a stay did not finally determine the rights of the parties in an action, it was not a judgment and thus is only appealable if it qualifies as a final order. Mutual of Omaha Bank v. Watson, 301 Neb. 833, 920 N.W.2d 284 (2018).

25-1912.

A motion to alter or amend a judgment is a "terminating motion" under subsection (3) of this section. State ex rel. BH Media Group v. Frakes, 305 Neb. 780, 943 N.W.2d 231 (2020).

A motion to alter or amend filed within 10 days of a judgment entered by the district court disposing of a petition in error will terminate the time for running of appeal under subsection (3) of this section. McEwen v. Nebraska State College Sys., 303 Neb. 552, 931 N.W.2d 120 (2019).

Where a court does not reach the merits of a claim, its order does not announce a "decision or final order" which would trigger the saving clause for a premature notice of appeal. State v. Lotter, 301 Neb. 125, 917 N.W.2d 850 (2018).

A docket entry/journal entry contained in the "Judges Notes" constituted an interlocutory order disposing of the party's motion to alter or amend; it did not need to be a separate file-stamped document. Pearce v. Mutual of Omaha Ins. Co., 28 Neb. App. 410, 945 N.W.2d 516 (2020).

An unsigned journal entry without a file stamp can constitute an interlocutory order; but it cannot constitute a final, appealable order, particularly when it does not dispose of all issues. Pearce v. Mutual of Omaha Ins. Co., 28 Neb. App. 410, 945 N.W.2d 516 (2020).

To obtain a reversal, vacation, or modification of judgments and decrees rendered or final orders made by the district court, a notice of appeal must be filed within 30 days after the entry of such judgment, decree, or final order. State v. Barber, 26 Neb. App. 339, 918 N.W.2d 359 (2018).

Pursuant to this section, a defendant has just 30 days to appeal from the denial of an evidentiary hearing; the failure to do so results in the defendant's losing the right to pursue those allegations further. State v. Huff, 25 Neb. App. 219, 904 N.W.2d 281 (2017).

25-2001.

The rule is well-established in Nebraska that the lack of diligence or negligence of counsel is not an unavoidable casualty or misfortune in the context of subdivision (4)(f) of this section, entitling the applicant to vacation of a judgment after adjournment of the term at which the judgment has been rendered. Woodcock v. Navarrete-James, 26 Neb. App. 809, 923 N.W.2d 769 (2019).

25-21,150.

The district court was correct in concluding that it did not have authority to enter a declaratory judgment for a taxpayer seeking an order declaring the meaning of the Nebraska Supreme Court's prior opinion and directing the county assessor to record the taxable value that the opinion and the mandate required, because a writ of mandamus issued to the Tax Equalization and Review Commission was a serviceable remedy. Cain v. Lymber, 306 Neb. 820, 947 N.W.2d 541 (2020).

25-21,185.07.

In an action that accrued after February 8, 1992, the jury should not be instructed with the "slight" and "gross" comparative negligence formulation. City of Wahoo v. NIFCO Mech. Systems, 306 Neb. 203, 944 N.W.2d 757 (2020).

25-21,185.10.

In an action that accrued after February 8, 1992, the jury should not be instructed with the "slight" and "gross" comparative negligence formulation. City of Wahoo v. NIFCO Mech. Systems, 306 Neb. 203, 944 N.W.2d 757 (2020).

25-21,185.11.

In an action that accrued after February 8, 1992, the jury should not be instructed with the "slight" and "gross" comparative negligence formulation. City of Wahoo v. NIFCO Mech. Systems, 306 Neb. 203, 944 N.W.2d 757 (2020).

25-21,206.

This section expressly waives the State's sovereign immunity, but only if all requirements of the section are met. Burke v. Board of Trustees, 302 Neb. 494, 924 N.W.2d 304 (2019).

25-2405.

A court interpreter is not required to recite an oath at the beginning of each proceeding if the interpreter is already certified under the rules of the Nebraska Supreme Court. State v. Garcia, 27 Neb. App. 705, 936 N.W.2d 1 (2019).

A trial court can accept, without further inquiry, an interpreter's representation that he or she is a certified court interpreter. State v. Garcia, 27 Neb. App. 705, 936 N.W.2d 1 (2019).

25-2612.

When a party seeks to confirm an arbitration award pursuant to Nebraska's Uniform Arbitration Act, a court must confirm that award unless a party has sought to vacate, modify, or correct the award and grounds for such vacation, modification, or correction exist. Garlock v. 3DS Properties, 303 Neb. 521, 930 N.W.2d 503 (2019).

25-3401.

A district court's denial of in forma pauperis under this section is reviewed de novo on the record based on the transcript of the hearing or written statement of the court. Mumin v. Nebraska Dept. of Corr. Servs., 25 Neb. App. 89, 903 N.W.2d 483 (2017).

The district court erred when it failed to make determinations as to whether any or all of the prisoner's previous civil actions were related to or involved the prisoner's conditions of confinement, as further defined in subdivision (1)(b) of this section, were motions for postconviction relief, or were petitions for habeas corpus relief. Mumin v. Nebraska Dept. of Corr. Servs., 25 Neb. App. 89, 903 N.W.2d 483 (2017).

27-201.

An appellate court may examine its own records and take judicial notice of the proceedings and judgment in a former action involving one of the parties, and it may take judicial notice of a document, including briefs filed in an appeal, in a separate but related action concerning the same subject matter in the same court. Western Ethanol Co. v. Midwest Renewable Energy, 305 Neb. 1, 938 N.W.2d 329 (2020).

27-401.

Testimony regarding controlled substances seized from the defendant's home was relevant to corroborate testimony of eyewitness and two jailhouse informants in a murder trial, where the eyewitness testified that she purchased marijuana from the defendant on the night of the incident, the first informant testified that the defendant told him that drugs were found during the search of his house, and the second informant testified as to the defendant's statements about the substances seized from his house. State v. Devers, 306 Neb. 429, 945 N.W.2d 470 (2020).

27-403.

While the fact that a defendant was acquitted of sexual assault charges in a prior prosecution does not affect the threshold admissibility of the evidence under section 27-414, it is relevant to the undue prejudice analysis conducted under that section and under this section. State v. Lierman, 305 Neb. 289, 940 N.W.2d 529 (2020).

In the context of this section, unfair prejudice means an undue tendency to suggest a decision based on an improper basis. Unfair prejudice speaks to the capacity of some concededly relevant evidence to lure the fact finder into declaring guilt on a ground different from proof specific to the offense charged, commonly on an emotional basis. State v. Sierra, 305 Neb. 249, 939 N.W.2d 808 (2020).

An appellate court reviews for an abuse of discretion a trial court's evidentiary rulings on the admissibility of a defendant's other crimes or bad acts under subsection (2) of this section or under the inextricably intertwined exception to the rule. State v. Lee, 304 Neb. 252, 934 N.W.2d 145 (2019).

Gruesome crimes produce gruesome evidence, but the State may generally choose its evidence to present a coherent picture of the facts of the crimes charged. State v. Munoz, 303 Neb. 69, 927 N.W.2d 25 (2019).

27-404.

Under this section, other types of character or bad acts evidence are presumed to be *inadmissible*, and where admissible for one or more of the particular purposes as set forth by this section, the evidence may be considered only for those purposes. Thus, while this section is a rule of exclusion, section 27-414 is a rule of admissibility. State v. Lierman, 305 Neb. 289, 940 N.W.2d 529 (2020).

This section's restriction on evidence of other crimes, wrongs, or acts did not apply when evidence of the defendant's pandering of another victim was inextricably intertwined with the evidence of the charged crimes. State v. Briggs, 303 Neb. 352, 929 N.W.2d 65 (2019).

The defendant's statement that the abuse between her and her husband was "50/50" was not evidence of prior bad acts in violation of this section, but, rather, was inextricably intertwined with the charged crime and admissible to present a coherent picture of the assault. State v. Cavitte, 28 Neb. App. 601, 945 N.W.2d 228 (2020).

27-412.

A trial court did not abuse its discretion in determining that the defendant could not question the victim about previous sexual encounters because they were not similar enough to be relevant. The victim's encounter with the defendant occurred when the defendant was 18 years old and the defendant was 10 years old and involved sexual penetration; the victim's previous encounters involved sexual touching between other similarly aged children. State v. Dady, 304 Neb. 649, 936 N.W.2d 486 (2019).

27-414.

Because the standard set forth as to the question of whether allegations of sexual assault were proved for purposes of this section is lower than the standard of proof the State is held to in prosecuting those allegations, the principles of collateral estoppel do not bar the admission of such evidence in the situation where the defendant was acquitted of the prior allegations. State v. Lierman, 305 Neb. 289, 940 N.W.2d 529 (2020).

Despite the prejudice inherent in allegations of sexual assault, the Legislature enacted this section permitting the admission of such evidence. Assuming that this evidence met the balancing test of this section, the Legislature set no limitation on a fact finder's use of this evidence. State v. Lierman, 305 Neb. 289, 940 N.W.2d 529 (2020).

Under section 27-404, other types of character or bad acts evidence are presumed to be *inadmissible*, and where admissible for one or more of the particular purposes as set forth by section 27-404, the evidence may be considered only for those purposes. Thus, while section 27-404 is a rule of exclusion, this section is a rule of admissibility. State v. Lierman, 305 Neb. 289, 940 N.W.2d 529 (2020).

Under this section, assuming that notice and hearing requirements are met and the evidence survives a more-probative-than-prejudicial balancing test, evidence of prior sexual assaults are admissible if proved by clear and convincing evidence. State v. Lierman, 305 Neb. 289, 940 N.W.2d 529 (2020).

While the fact that a defendant was acquitted of sexual assault charges in a prior prosecution does not affect the threshold admissibility of the evidence under this section, it is relevant to the undue prejudice analysis conducted under this section and under section 27-403. State v. Lierman, 305 Neb. 289, 940 N.W.2d 529 (2020).

27-513.

Although a witness invoked his Fifth Amendment privilege in the jury's presence, no error was plainly evident from the record where the bill of exceptions did not contain evidence showing that the parties or the court knew the

witness would invoke his privilege and where, after being given immunity, the witness testified and was subject to cross-examination. State v. Munoz, 303 Neb. 69, 927 N.W.2d 25 (2019).

27-609.

When a defendant testifies in a criminal trial in his or her own behalf, he or she is precluded from testifying regarding the details or the nature of the previous convictions because such information is not relevant to the defendant's credibility. The defendant may testify as to whether he or she has previous felony convictions or convictions involving dishonesty. State v. Howell, 26 Neb. App. 842, 924 N.W.2d 349 (2019).

27-701.

Lay witness opinion testimony concerning the identity of a person depicted in a photograph or video is admissible if there is evidence that the witness is better able to correctly identify the contents of the photograph or video than the jury. State v. Hickey, 27 Neb. App. 516, 933 N.W.2d 891 (2019).

27-702.

In a bench trial, an expert's testimony will be admitted and given the weight to which it is entitled. Reiber v. County of Gage, 303 Neb. 325, 928 N.W.2d 916 (2019).

When a court is faced with a decision regarding the admissibility of expert opinion evidence, the trial judge must determine at the outset, pursuant to the evidence rule governing expert witness testimony, whether the expert is proposing to testify to (1) scientific, technical, or other specialized knowledge that (2) will assist the trier of fact to understand or determine a fact in issue. Pitts v. Genie Indus., 302 Neb. 88, 921 N.W.2d 597 (2019).

The trial court's admission of a doctor's testimony regarding "grooming" in a sexual assault of a child case, without performing its gatekeeping function under the *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579, 113 S. Ct. 2786, 125 L. Ed. 2d 469 (1993), and *Schafersman v. Agland Coop*, 262 Neb. 215, 631 N.W.2d 862 (2001), framework, was prejudicial error. State v. Edwards, 28 Neb. App. 893, 949 N.W.2d 799 (2020).

An expert's opinion is ordinarily admissible under this section if the witness (1) qualifies as an expert, (2) has an opinion that will assist the trier of fact, (3) states his or her opinion, and (4) is prepared to disclose the basis of that opinion on cross-examination. In re Interest of Aly T. & Kazlynn T., 26 Neb. App. 612, 921 N.W.2d 856 (2018).

Sufficient foundation existed for a doctor's expert opinion in his affidavit that a nursing home's actions or inactions did not cause a resident's injuries and subsequent death, so that the opinion could be considered by the trial court when deciding a motion for summary judgment where the affidavit and attached curriculum vitae established that the doctor, board certified in family and geriatric medicine, had regularly cared for residents of assisted living facilities and was qualified to evaluate the cause of injuries and death. Apkan v. Life Care Centers of America, 26 Neb. App. 154, 918 N.W.2d 601 (2018).

27-704.

This section abolished the "ultimate issue" rule in Nebraska. Reiber v. County of Gage, 303 Neb. 325, 928 N.W.2d 916 (2019).

Under this section, a witness may not give an opinion as to how the case should be decided, but, rather, must leave the conclusions to be drawn by the trier of fact, because such opinions are not helpful. Reiber v. County of Gage, 303 Neb. 325, 928 N.W.2d 916 (2019).

Under this section, the basic approach to opinions, lay and expert, is to admit them when helpful to the trier of fact. Reiber v. County of Gage, 303 Neb. 325, 928 N.W.2d 916 (2019).

27-801.

Where the translator of a defendant's out-of-court verbal or written statements from a foreign language to English is initially shown by the State to be qualified by knowledge, skill, experience, training, or education to perform such translation, and where the translator testifies at trial and is subject to cross-examination, the translation is admissible as nonhearsay under subdivision (4) of this section, and any challenges to the accuracy of the translation go to the weight of the evidence and not to its admissibility. State v. Martinez, 306 Neb. 516, 946 N.W.2d 445 (2020).

The State must prove by a greater weight of the evidence that a defendant authored or made a statement in order to establish preliminary admissibility as nonhearsay by a party opponent. State v. Savage, 301 Neb. 873, 920 N.W.2d 692 (2018).

27-802.

The Nebraska Evidence Rules provide that hearsay is admissible when authorized by the statutes of the State of Nebraska. In re Application No. OP-0003, 303 Neb. 872, 932 N.W.2d 653 (2019).

27-803.

Pretrial notice of an intent to admit evidence under the residual hearsay exception is mandatory, and an adverse party's knowledge of a statement is not enough to satisfy the notice requirement. State v. Martinez, 306 Neb. 516, 946 N.W.2d 445 (2020).

Testimony by an examining physician concerning a 10-year-old victim's diagnoses was admissible pursuant to the hearsay exception governing medical diagnosis or treatment, where the physician testified that she learned of the diagnoses while conducting a patient interview for the purpose of treating the victim during a visit to the emergency room following the underlying incident. The physician further testified that obtaining a patient history was an important part of her job and that she attempted to obtain a medical history from every patient she treated. State v. Dady, 304 Neb. 649, 936 N.W.2d 486 (2019).

A child sexual assault victim's statements to parents were admissible as excited utterances under subdivision (1) of this section. State v. Edwards, 28 Neb. App. 893, 949 N.W.2d 799 (2020).

Pursuant to subdivision (3) of this section, a child sexual assault victim's statements, as relayed to a doctor by a forensic examiner and testified to by the doctor, were admissible even though they were double hearsay because each part of the combined statements conformed with an exception to the hearsay rule. State v. Edwards, 28 Neb. App. 893, 949 N.W.2d 799 (2020).

Pursuant to subdivision (3) of this section, statements made by a child victim of sexual abuse to a forensic interviewer in the chain of medical care may be admissible even though the interview has the partial purpose of assisting law enforcement. State v. Edwards, 28 Neb. App. 893, 949 N.W.2d 799 (2020).

Statements having a dual medical and investigatory purpose are admissible under subdivision (3) of this section only if the proponent of the statements demonstrates that (1) the declarant's purpose in making the statements was to assist in the provision of medical diagnosis or treatment and (2) the statements were of a nature reasonably pertinent to medical diagnosis or treatment by a medical professional. State v. Edwards, 28 Neb. App. 893, 949 N.W.2d 799 (2020).

Subdivision (3) of this section is based on the notion that a person seeking medical attention will give a truthful account of the history and current status of his or her condition in order to ensure proper treatment. State v. Edwards, 28 Neb. App. 893, 949 N.W.2d 799 (2020).

Under subdivision (3) of this section, the appropriate state of mind of the declarant may be reasonably inferred from the circumstances; such a determination is necessarily fact specific. State v. Edwards, 28 Neb. App. 893, 949 N.W.2d 799 (2020).

Under subdivision (3) of this section, the fundamental inquiry when considering a declarant's intent is whether the statement was made in legitimate and reasonable contemplation of medical diagnosis or treatment. State v. Edwards, 28 Neb. App. 893, 949 N.W.2d 799 (2020).

Under subdivision (3) of this section, a statement is generally considered admissible under the medical purpose hearsay exception if gathered for dual medical and investigatory purposes, as long as the statement, despite its dual purpose, was made in legitimate and reasonable contemplation of medical diagnosis and treatment. State v. Cheloha, 25 Neb. App. 403, 907 N.W.2d 317 (2018).

27-805.

A child sexual assault victim's statements, as relayed to a doctor by a forensic examiner and testified to by a doctor, were admissible even though they were double hearsay because each part of the combined statements conformed with an exception to the hearsay rule. State v. Edwards, 28 Neb. App. 893, 949 N.W.2d 799 (2020).

28-105.

A defendant's sentence on a Class IIIA felony needed to be an indeterminate sentence pursuant to subsection (4) of section 29-2204.02, because the defendant was also sentenced on Class II felonies. State v. Wells, 28 Neb. App. 118, 940 N.W.2d 847 (2020).

28-106.

A defendant's sentences on various misdemeanors needed to be indeterminate sentences pursuant to subsection (5) of section 29-2204.02, because the defendant was also sentenced on Class II felonies. State v. Wells, 28 Neb. App. 118, 940 N.W.2d 847 (2020).

28-109.

Under this section, "serious bodily injury" means bodily injury which involves a (1) substantial risk of death, (2) substantial risk of serious permanent disfigurement, or (3) protracted loss or impairment of the function of any part or organ of the body. State v. Williams, 306 Neb. 261, 945 N.W.2d 124 (2020).

28-202.

Pursuant to subsection (1) of this section, a conviction requires only that an agreement for the commission of a criminal act was entered into and an overt act in furtherance of the conspiracy was committed. State v. Theisen, 306 Neb. 591, 946 N.W.2d 677 (2020).

28-306.

Just as in the context of habitual criminal and driving under the influence sentence enhancements, evidence of a prior conviction must be introduced in order to enhance a sentence for motor vehicle homicide. State v. Valdez, 305 Neb. 441, 940 N.W.2d 840 (2020).

28-311.02.

Evidence was insufficient to support a finding that an alleged harasser's behavior fit the statutory definition of a harassing "course of conduct" as defined by subdivision (2)(b) of this section, where the incident between the alleged harasser and the alleged victims occurred within a span of 10 to 20 minutes on one particular day, and there was no evidence of harassment prior to or after the incident. Knopik v. Hahn, 25 Neb. App. 157, 902 N.W.2d 716 (2017).

28-311.09.

"[A]ppear," as it is found in subdivision (8)(b) of this section, is not narrowly confined to require the presence of a respondent in person. Rather, it is the same as any other "appearance" in court. Weatherly v. Cochran, 301 Neb. 426, 918 N.W.2d 868 (2018).

Under this section, a respondent is entitled to appear by and through his or her counsel. Weatherly v. Cochran, 301 Neb. 426, 918 N.W.2d 868 (2018).

This section was amended operative January 1, 2020, and now provides that the petition and affidavit shall be deemed to have been offered into evidence at any show cause hearing, and the petition and affidavit shall be admitted into evidence unless specifically excluded by the court; this was a substantive amendment and therefore was not applicable to the pending case. Prentice v. Steede, 28 Neb. App. 423, 944 N.W.2d 323 (2020).

When a trial court determines an ex parte temporary harassment protection order is not warranted, an evidentiary hearing is not mandated under the harassment protection order statute as it is under the domestic abuse protection order statute. In harassment protection order proceedings, a trial court has the discretion to direct a respondent to show cause why an order should not be entered or, alternatively, the court can dismiss the petition if insufficient grounds have been stated in the petition and affidavit. Rosberg v. Rosberg, 25 Neb. App. 856, 916 N.W.2d 62 (2018).

The court erred in finding sufficient evidence to support issuance of harassment protection orders because the alleged harasser had not engaged in the type of stalking offense for which this section provides relief, where the incident between the alleged harasser and the alleged victims occurred within a span of 10 to 20 minutes on one particular day, and there was no evidence of harassment prior to or after the incident. Knopik v. Hahn, 25 Neb. App. 157, 902 N.W.2d 716 (2017).

28-311.11.

A party seeking a sexual assault protection order must prove a sexual assault offense by a preponderance of the evidence. S.B. v. Pfeifler, 26 Neb. App. 448, 920 N.W.2d 851 (2018).

28-318.

"[C]oercion," under subdivision (8)(a)(i) of this section, includes nonphysical force. State v. McCurdy, 301 Neb. 343, 918 N.W.2d 292 (2018).

Sufficient evidence existed to establish sexual contact when the defendant touched the buttocks of a 12-year-old girl over her clothing on multiple occasions, coupled with the defendant's position of authority over the victim, his knowledge of her "tough" upbringing, and his watching pornography immediately after touching the victim on one occasion. State v. Cheloha, 25 Neb. App. 403, 907 N.W.2d 317 (2018).

Under subdivision (5) of this section, sexual contact means the intentional touching of the victim's sexual or intimate parts or the intentional touching of the victim's clothing covering the immediate area of the victim's sexual or intimate parts, and it includes only such conduct which can be reasonably construed as being for the purpose of sexual arousal or gratification of either party. State v. Cheloha, 25 Neb. App. 403, 907 N.W.2d 317 (2018).

28-319.

Evidence was sufficient to support a conviction for first degree sexual assault where the victim testified she did not consent to having sex with anyone on the night of her party, an attendee at the party testified that the defendant said he had sex with the victim, and there was abundant testimony about the victim's intoxication. State v. Guzman, 305 Neb. 376, 940 N.W.2d 552 (2020).

Subdivision (1)(b) of this section applies to a wide array of situations that affect a victim's capacity, including age. State v. Dady, 304 Neb. 649, 936 N.W.2d 486 (2019).

The definition of "mentally incapable" could have been excluded from the court's instructions, as the language of subdivision (1)(b) of this section is sufficiently clear that a definitional instruction would not normally be necessary. State v. Dady, 304 Neb. 649, 936 N.W.2d 486 (2019).

The evidence was sufficient to support a finding that a 10-year-old victim was incapable of appraising the nature of sexual conduct where the expert testimony provided an explanation of the brain capacities and reasoning abilities of a normal 10-year-old child and opined that the victim appeared to be a normally developed 10-year-old child. State v. Dady, 304 Neb. 649, 936 N.W.2d 486 (2019).

The trial court's ambiguous instruction was harmless error because the potential ambiguity did not in fact mislead the jury, because the instructions taken as a whole, combined with the evidence and arguments presented at trial, clarified the ambiguity of "because of the victim's age" such that the jury understood "age" in this context to be a subjective review of the victim's developmental age. State v. Dady, 304 Neb. 649, 936 N.W.2d 486 (2019).

Under subdivision (1)(b) of this section, whether the victim was incapable of consent depends upon a specific inquiry into the victim's capacity, i.e., whether the victim was mentally or physically incapable of resisting or appraising the nature of his or her conduct. State v. Dady, 304 Neb. 649, 936 N.W.2d 486 (2019).

Using the phrase "because of the victim's age" to preface the term "mentally incapable" is ambiguous as to whether age can be the sole basis for a finding that the victim was mentally incapable, without an individualized assessment of the victim's maturity. State v. Dady, 304 Neb. 649, 936 N.W.2d 486 (2019).

Consent is not relevant and the State need not prove lack of consent for a charge under subdivision (1)(c) of this section. State v. Cramer, 28 Neb. App. 469, 945 N.W.2d 222 (2020).

28-319.01.

The age classifications of the victim in subdivision (1)(a) of this section are rationally related to plausible policy reasons considered by lawmakers, including the concern of protecting young people. The relationship of the classifications to legislative goals was not so attenuated as to render the distinction arbitrary or irrational, and it does not violate the Equal Protection Clause of the 14th Amendment of the Constitution of the United States or article I, sec. 3, of the Nebraska Constitution. State v. Hibler, 302 Neb. 325, 923 N.W.2d 398 (2019).

28-324.

To find the element of taking "by putting in fear" under this section, the finder of fact must determine from the context established by the evidence whether the defendant's conduct would have placed a reasonable person in fear. State v. Garcia, 302 Neb. 406, 923 N.W.2d 725 (2019).

28-353.

This section does not limit family caregiver status to an order of court or express or implied contract. This section also includes reference to any person who has assumed responsibility for the care of a vulnerable adult voluntarily. State v. Boyd, 28 Neb. App. 874, 949 N.W.2d 540 (2020).

28-386.

The term "neglected" as used in subdivision (1)(f) of this section includes an act or omission. State v. Boyd, 28 Neb. App. 874, 949 N.W.2d 540 (2020).

28-518.

When items are stolen simultaneously from the same location, only one theft has occurred and the value of the items should be aggregated to determine the grade of the offense. State v. Sierra, 305 Neb. 249, 939 N.W.2d 808 (2020).

28-520.

The plain language of "knowing" in subdivision (1)(a) of this section, in the context of entering any building or occupied structure "knowing that he or she is not licensed or privileged to do so," imposes a subjective standard focused on the accused's actual knowledge. State v. Stanko, 304 Neb. 675, 936 N.W.2d 353 (2019).

28-522.

A person entering premises open to the public has not "complied with all lawful conditions imposed on access to or remaining in the premises" pursuant to subdivision (2) of this section if he or she has been lawfully barred from the premises and the business has not reinstated its implied consent to entry. State v. Stanko, 304 Neb. 675, 936 N.W.2d 353 (2019).

28-707.

To convict a defendant of knowing and intentional child abuse resulting in death, the State must prove the defendant knowingly and intentionally caused or permitted the child to be abused in one or more of the ways defined in subsection (1) of this section, and also must prove the offense resulted in the child's death. It is not necessary to prove the defendant intended the abuse to result in the child's death. State v. Montoya, 304 Neb. 96, 933 N.W.2d 558 (2019).

Criminal endangerment in subsection (1) of this section, providing that a "person commits child abuse if he or she knowingly, intentionally, or negligently causes or permits a minor child to be . . . [p]laced in a situation that endangers his or her life or physical or mental health," encompasses not only conduct directed at the child, but also conduct that presents the likelihood of injury due to the child's having been placed in a situation caused by the defendant's conduct. State v. Ferguson, 301 Neb. 697, 919 N.W.2d 863 (2018).

This section only requires proof of the status of the victim as a minor child; it does not require proof of the victim's actual identity or birth date. State v. Thomas, 25 Neb. App. 256, 904 N.W.2d 295 (2017).

28-833.

Where a prosecution involves a minor child rather than a decoy, a defendant's knowledge that the recipient is under age 16 is an element of the crime of enticement by electronic communication device. State v. Paez, 302 Neb. 676, 925 N.W.2d 75 (2019).

28-906.

"Interference" means the action or fact of interfering or intermeddling (with a person, et cetera, or in some action). State v. Ferrin, 305 Neb. 762, 942 N.W.2d 404 (2020).

It is not necessary under this section for a defendant to engage in some sort of physical act. State v. Ferrin, 305 Neb. 762, 942 N.W.2d 404 (2020).

"Obstacle" means something that stands in the way or that obstructs progress (literal and figurative); a hindrance, impediment, or obstruction. State v. Ferrin, 305 Neb. 762, 942 N.W.2d 404 (2020).

To show a violation of this section, the State must prove that (1) the defendant intentionally obstructed, impaired, or hindered either a peace officer, a judge, or a police animal assisting a peace officer; (2) at the time the defendant did so, the peace officer or judge was acting under color of his or her official authority to enforce the penal law or preserve the peace; and (3) the defendant did so by using or threatening to use either violence, force, physical interference, or obstacle. State v. Ferrin, 305 Neb. 762, 942 N.W.2d 404 (2020).

28-919.

A defendant's reasons for attempting to induce a witness to commit any of the acts enumerated in this section are not relevant. State v. Benson, 305 Neb. 949, 943 N.W.2d 426 (2020).

Evidence was sufficient to support a conviction for tampering with a witness, where after the victim reported that she was sexually assaulted, the defendant relayed a message asking the victim to drop the charges; by doing so, the defendant essentially asked the victim to inform falsely or to withhold information. State v. Guzman, 305 Neb. 376, 940 N.W.2d 552 (2020).

28-932.

The use of a deadly or dangerous weapon in the commission of an assault by a confined person is an element of the offense which must be submitted to the jury and proved beyond a reasonable doubt, because the use of a weapon increases the offense of assault by a confined person from a Class IIIA felony to a Class IIA felony. State v. Jenkins, 28 Neb. App. 931, 950 N.W.2d 124 (2020).

28-1204.05.

The prohibition on possessing firearms in this section is not punishment imposed for a prior juvenile adjudication. In re Interest of Zoie H., 304 Neb. 868, 937 N.W.2d 801 (2020).

28-1212.03.

The absence of an intent to restore a firearm to the owner is a material element of possession of a stolen firearm and must be instructed to the jury. State v. Mann, 302 Neb. 804, 925 N.W.2d 324 (2019).

The use of the term "deprive" in a separate definition within the jury instructions does not instruct the jury that the absence of an intent to restore the property was a material element of the crime. State v. Mann, 302 Neb. 804, 925 N.W.2d 324 (2019).

28-1206.

In the sufficiency of evidence context, the State is not required to prove that a defendant charged with violating this section had or waived counsel at the time of a prior conviction as an essential element of the crime. State v. Vann, 306 Neb. 91, 944 N.W.2d 503 (2020).

To prove that a defendant has a prior felony conviction in a felon in possession case, convictions obtained after *Gideon v. Wainwright*, 372 U.S. 335, 83 S. Ct. 792, 9 L. Ed. 2d 799 (1963), are entitled to a presumption of regularity such that records of conviction are admissible, unless the defendant can show that he or she did not have or waive counsel at the time of conviction. State v. Vann, 306 Neb. 91, 944 N.W.2d 503 (2020).

28-1407.

A defense under this section, otherwise known as the choice of evils justification, was not available to a defendant who left the scene of an injury accident to allegedly prevent loss to the cattle he was hauling in his semi-truck, where there was no allegation that the defendant intentionally collided with a motorist in an attempt to save the cattle in his trailer, and the defendant's act of leaving the scene was not done with force. State v. Schmaltz, 304 Neb. 74, 933 N.W.2d 435 (2019).

28-1408.

While the violation of department policy may be evidence that the degree or nature of force used was unlawful, section 28-1413 ultimately requires the court to make a determination that the force used was not forbidden by this section or section 28-1409. State v. Jackson, 26 Neb. App. 727, 923 N.W.2d 97 (2019).

28-1409.

While the violation of department policy may be evidence that the degree or nature of force used was unlawful, section 28-1413 ultimately requires the court to make a determination that the force used was not forbidden by section 28-1408 or this section. State v. Jackson, 26 Neb. App. 727, 923 N.W.2d 97 (2019).

28-1413.

While the violation of department policy may be evidence that the degree or nature of force used was unlawful, this section ultimately requires the court to make a determination that the force used was not forbidden by section 28-1408 or section 28-1409. State v. Jackson, 26 Neb. App. 727, 923 N.W.2d 97 (2019).

28-1439.01.

Conviction for possession of a controlled substance with intent to deliver was not based solely on the uncorroborated testimony of a cooperating individual, even though some testimony was elicited from two cooperating individuals, where the State provided evidence of text messages that indicated that the defendant was selling methamphetamine, as well as witness testimony from five other noncooperating individuals who generally corroborated the cooperating individuals' testimony. State v. Savage, 301 Neb. 873, 920 N.W.2d 692 (2018).

29-122.

Voluntary intoxication is not a defense to any criminal offense and shall not be taken into consideration in determining the existence of a mental state that is an element of the criminal offense. State v. Cheloha, 25 Neb. App. 403, 907 N.W.2d 317 (2018).

29-818.

The presumptive right to possession of seized property may be overcome when superior title in another is shown by a preponderance of the evidence. State v. Ebert, 303 Neb. 394, 929 N.W.2d 478 (2019).

The district court, as the court in which the criminal charge was filed, has exclusive jurisdiction to determine the rights to seized property and the property's disposition. State v. McGuire, 301 Neb. 895, 921 N.W.2d 77 (2018).

A car was property seized for the purpose of enforcing criminal laws in the plaintiff's ongoing criminal case; therefore, the car had been and remained to be in the custody of the court in the criminal case. As such, the district court in the plaintiff's separate criminal case continued to have exclusive jurisdiction to determine the rights to the car and the car's disposition. Huff v. Otto, 28 Neb. App. 646, 947 N.W.2d 343 (2020).

A harmonious reading of this section and section 29-819 is that references to jurisdiction in each are to jurisdiction over seized property, not subject matter jurisdiction. Huff v. Otto, 28 Neb. App. 646, 947 N.W.2d 343 (2020).

This section mandates that the seized property is to be kept so long as necessary to make it available as evidence in "any trial." Postconviction proceedings are the equivalent of a "trial" for purposes of this section. Huff v. Otto, 28 Neb. App. 646, 947 N.W.2d 343 (2020).

Where invoked, the grant of "exclusive jurisdiction" under this section gives a criminal trial court exclusive jurisdiction over only two issues: the disposition of seized property and the determination of rights in seized property. Huff v. Otto, 28 Neb. App. 646, 947 N.W.2d 343 (2020).

29-819.

A harmonious reading of this section and section 29-818 is that references to jurisdiction in each are to jurisdiction over seized property, not subject matter jurisdiction. Huff v. Otto, 28 Neb. App. 646, 947 N.W.2d 343 (2020).

29-820.

This section applies only where the exclusive jurisdiction of a court under section 29-818 has not been invoked. State v. McGuire, 301 Neb. 895, 921 N.W.2d 77 (2018).

29-1207.

For speedy trial purposes, the calculation of excludable time for a continuance begins the day after the continuance is granted and includes the day on which the continuance ends. State v. Lovvorn, 303 Neb. 844, 932 N.W.2d 64 (2019).

For cases commenced with a complaint in county court but thereafter bound over to district court, the 6-month statutory speedy trial period does not commence until the filing of the information in district court. State v. Carrera, 25 Neb. App. 650, 911 N.W.2d 849 (2018).

If an information is filed initially in district court, referred to as a "direct information," such filing is treated in the nature of a complaint until a preliminary hearing is held or waived. In the case of a direct information, the day the information is filed for speedy trial act purposes is the day the district court finds probable cause or the day the defendant waives the preliminary hearing. State v. Carrera, 25 Neb. App. 650, 911 N.W.2d 849 (2018).

Pursuant to subdivision (4)(a) of this section, it is presumed that a delay in hearing defense pretrial motions is attributable to the defendant unless the record affirmatively indicates otherwise. A delay due to the appointment of the district court judge to the Nebraska Supreme Court, which caused the case to be reassigned, should be attributable to the defendant's motion to suppress as reasonable delay when there is no evidence of judicial neglect. State v. Carrera, 25 Neb. App. 650, 911 N.W.2d 849 (2018).

The time between the dismissal of an information and its refiling is not includable, or is tolled, for purposes of the statutory 6-month period. However, any nonexcludable time that passed under the original information is tacked onto any nonexcludable time under the refiled information, if the refiled information alleges the same offense charged in the previously dismissed information. State v. Carrera, 25 Neb. App. 650, 911 N.W.2d 849 (2018).

29-1301.01.

Two jury instructions read in conjunction with one another correctly instructed the jury that the offenses must have been "committed in this state." Taken as a whole, the instructions as to venue did not relieve the State of its burden to prove the acts were committed in Nebraska, and the defendant was not prejudiced as to necessitate a reversal on these grounds. State v. Lee, 304 Neb. 252, 934 N.W.2d 145 (2019).

29-1301.02.

Two jury instructions read in conjunction with one another correctly instructed the jury that the offenses must have been "committed in this state." Taken as a whole, the instructions as to venue did not relieve the State of its burden to prove the acts were committed in Nebraska, and the defendant was not prejudiced as to necessitate a reversal on these grounds. State v. Lee, 304 Neb. 252, 934 N.W.2d 145 (2019).

29-1407.01.

A hearing on a motion concerning the public disclosure of grand jury documents is a special proceeding. In re Grand Jury of Douglas Cty., 302 Neb. 128, 922 N.W.2d 226 (2019).

An order regarding the public disclosure of grand jury documents is made during a special proceeding. In re Grand Jury of Douglas Cty., 302 Neb. 128, 922 N.W.2d 226 (2019).

In a special proceeding, an order is final and appealable if it affects a substantial right of the aggrieved party. In re Grand Jury of Douglas Cty., 302 Neb. 128, 922 N.W.2d 226 (2019).

29-1607.

In an informal preliminary hearing, it does not violate the Confrontation Clause to rely on out-of-court statements to determine probable cause for purposes of continuing a defendant's pretrial detention. State v. Anderson, 305 Neb. 978, 943 N.W.2d 690 (2020).

29-1816.

County courts have not been given authority to decide motions to transfer to juvenile court in cases in which they lack jurisdiction to try the case. State v. A.D., 305 Neb. 154, 939 N.W.2d 484 (2020).

Pursuant to subsection (2) of this section, alleged juvenile offenders have the ability to move for a transfer of their case from a county or district court to a juvenile court and this motion must be made within 30 days after arraignment unless otherwise permitted by the court for good cause shown. State v. Uhing, 301 Neb. 768, 919 N.W.2d 909 (2018).

Subsection (2) and subdivision (3)(c) of this section provide that an alleged juvenile offender can move for transfer to a juvenile court within 30 days of the juvenile's arraignment and that either the juvenile or the State can appeal an order on the motion within 10 days of its entry. State v. Uhing, 301 Neb. 768, 919 N.W.2d 909 (2018).

The district court abused its discretion in granting the transfer of two criminal cases to the juvenile court because there was substantial evidence supporting the retention of the cases in the district court for the sake of public safety and societal security, and there was a lack of evidence demonstrating that any further rehabilitation through the juvenile system would be practical and nonproblematical in the limited time left under the juvenile court's jurisdiction. State v. Esai P., 28 Neb. App. 226, 942 N.W.2d 416 (2020).

For matters initiated in the county or district court, a party can move to transfer to the juvenile court pursuant to subsection (3) of this section. State v. Comer, 26 Neb. App. 270, 918 N.W.2d 13 (2018).

The second degree murder and use of a deadly weapon charges filed against a 15-year-old were retained in the district court; the trial court's denial of a motion to transfer to the juvenile court is reviewed for an abuse of discretion. State v. Leroux, 26 Neb. App. 76, 916 N.W.2d 903 (2018).

The statutory amendment providing for interlocutory appeals from an order granting or denying transfer of the case from county or district court to juvenile court became effective August 24, 2017. State v. Leroux, 26 Neb. App. 76, 916 N.W.2d 903 (2018).

29-1819.02.

Where the trial court provided the required advisement of possible immigration consequences, errors by the interpreter in communicating that advisement to the defendant do not create a statutory right to withdraw a plea of guilty or nolo contendere. State v. Garcia, 301 Neb. 912, 920 N.W.2d 708 (2018).

29-1823.

A finding of "conditionally competent" is not permitted under Nebraska law. State v. Lauhead, 306 Neb. 701, 947 N.W.2d 296 (2020).

29-1917.

A district court's order authorizing a second deposition of a State witness who refused to answer questions during the first deposition was a sufficient remedy for noncompliance with discovery, where the authorization occurred approximately 4 months before trial was to begin. State v. Devers, 306 Neb. 429, 945 N.W.2d 470 (2020).

There is no obligation for the State to produce the victim or assist in locating the victim for purposes of a pretrial deposition by defense counsel. State v. Anderson, 305 Neb. 978, 943 N.W.2d 690 (2020).

29-1919.

Under the plain meaning of this section, if a party fails to comply with discovery and give notice of an intent to call a witness, the court may prohibit that witness from being called. State v. Sierra, 305 Neb. 249, 939 N.W.2d 808 (2020).

29-2002.

A defendant appealing the denial of a motion to sever has the burden to show compelling, specific, and actual prejudice. State v. Benson, 305 Neb. 949, 943 N.W.2d 426 (2020).

Joined charges do not usually result in prejudice if the evidence is sufficiently simple and distinct for the jury to easily separate evidence of the charges during deliberations. State v. Benson, 305 Neb. 949, 943 N.W.2d 426 (2020).

The question of whether offenses were properly joined involves a two-stage analysis: (1) whether the offenses were sufficiently related to be joinable and (2) whether the joinder was prejudicial to the defendant. State v. Benson, 305 Neb. 949, 943 N.W.2d 426 (2020).

There is no error under either subsection (1) or (3) of this section if joinder was not prejudicial, and a denial of a motion to sever will be reversed only if clear prejudice and an abuse of discretion are shown. State v. Benson, 305 Neb. 949, 943 N.W.2d 426 (2020).

Joinder of murder and pandering charges was proper because the evidence was such that the jury could have easily separated evidence of the charges during deliberations. State v. Briggs, 303 Neb. 352, 929 N.W.2d 65 (2019).

29-2011.02.

A court is not obligated under this section to notify a defendant when the State offers a witness immunity. State v. Lierman, 305 Neb. 289, 940 N.W.2d 529 (2020).

The language of this section, and the case law interpreting it, provides that because the Legislature has given courts the power to immunize a witness solely upon the request of the prosecutor, it is not a power the court can exercise upon the request of the defendant or upon its own initiative. State v. Lierman, 305 Neb. 289, 940 N.W.2d 529 (2020).

29-2103.

Where the record does not support a finding that a defendant was unavoidably prevented from timely filing a motion for new trial based on grounds set forth in subdivisions (1) through (4) or (7) of section 29-2101, such a filing made more than 10 days after the jury returned its verdict has no effect and may not be considered by an appellate court. State v. Avina-Murillo, 301 Neb. 185, 917 N.W.2d 865 (2018).

29-2204.02.

A sentence of imprisonment upon revocation from post-release supervision is a determinate sentence within the meaning of this section. State v. Galvan, 305 Neb. 513, 941 N.W.2d 183 (2020).

Where the district court sentenced a defendant for a Class II felony and imposed a concurrent sentence for a Class IV felony for offenses occurring in 2017, the court plainly erred by imposing a determinate sentence rather than an indeterminate sentence for the Class IV felony. State v. Guzman, 305 Neb. 376, 940 N.W.2d 552 (2020).

A defendant's sentence on a Class IIIA felony needed to be an indeterminate sentence because the defendant was also sentenced on Class II felonies. State v. Wells, 28 Neb. App. 118, 940 N.W.2d 847 (2020).

A defendant's sentences on various misdemeanors needed to be indeterminate sentences pursuant to subsection (5) of this section, because the defendant was also sentenced on Class II felonies. State v. Wells, 28 Neb. App. 118, 940 N.W.2d 847 (2020).

If a defendant was previously subject to parole under preexisting sentences and subsequently sentenced in other cases either concurrently or consecutively to the prior sentences, subsection (4) of this section prevents the defendant from being subject to post-release supervision. State v. Lillard, 27 Neb. App. 824, 937 N.W.2d 1 (2019).

Subsection (4) of this section applies in a situation where sentences are imposed and the defendant is serving preexisting sentences. State v. Lillard, 27 Neb. App. 824, 937 N.W.2d 1 (2019).

29-2204.03.

Both this section and section 29-2261 give the court the discretion to order further evaluations of the defendant prior to sentencing when it deems such evaluations necessary for determining the sentence to be imposed; neither statute provides that a defendant can or should request the evaluations. Trial counsel cannot be deficient for failing to request evaluations that the court itself could have ordered, but in its discretion deemed unnecessary. State v. St. Cyr, 26 Neb. App. 61, 916 N.W.2d 753 (2018).

29-2260.

This section does not require the trial court to articulate on the record that it has considered each sentencing factor, and it does not require the court to make specific findings as to the factors and the weight given them. State v. McCulley, 305 Neb. 139, 939 N.W.2d 373 (2020).

29-2261.

The presentence investigation and report shall include, when available, any submitted victim statements and an analysis of the circumstances attending the commission of the crime and the offender's history of delinquency or criminality, physical and mental condition, family situation and background, economic status, education, occupation, and personal habits. The presentence investigation and report may also include any other matters the probation officer deems relevant or the court directs to be included. State v. Schroeder, 305 Neb. 527, 941 N.W.2d 445 (2020).

It is "the better practice" for a sentencing court to issue a more direct advisement of the statutory right to a presentence investigation, conduct an explicit inquiry into the voluntariness of a defendant's waiver of that right, and make explicit findings with respect to a waiver. State v. Iddings, 304 Neb. 759, 936 N.W.2d 747 (2020).

Both section 29-2204.03 and this section give the court the discretion to order further evaluations of the defendant prior to sentencing when it deems such evaluations necessary for determining the sentence to be imposed; neither statute provides that a defendant can or should request the evaluations. Trial counsel cannot be deficient for failing to request evaluations that the court itself could have ordered, but in its discretion deemed unnecessary. State v. St. Cyr, 26 Neb. App. 61, 916 N.W.2d 753 (2018).

29-2262.

Individuals in the county or district court can be placed on probation with conditions related to the rehabilitation of the offender. State v. Comer, 26 Neb. App. 270, 918 N.W.2d 13 (2018).

29-2263.

An order denying a motion to modify or eliminate a probation condition is a final, appealable order. State v. Paulsen, 304 Neb. 21, 932 N.W.2d 849 (2019).

29-2267.

Where a probationer allegedly committed a new felony—possession of methamphetamine—while already on probation for a felony, the allegation of a law violation was not a "substance abuse" violation for revocation of probation purposes and the State could therefore institute revocation proceedings without showing that the probationer had served at least 90 days of cumulative custodial sanctions during the current probation term. State v. Jedlicka, 305 Neb. 52, 938 N.W.2d 854 (2020).

Pursuant to subsection (1) of this section, the court shall not revoke probation except after a hearing upon proper notice where the violation of probation is established by clear and convincing evidence. State v. Phillips, 302 Neb. 686, 924 N.W.2d 699 (2019).

29-2268.

A court's authority to revoke a probationer and impose a term of imprisonment extends only to the single term of post-release supervision that the probationer is serving, provided that the probationer has not otherwise been ordered to serve multiple terms concurrently. State v. Galvan, 305 Neb. 513, 941 N.W.2d 183 (2020).

Terms of post-release supervision may be served consecutively. When a consecutive sentence is imposed, the second sentence begins only upon the termination of the prior term of imprisonment. A prisoner who receives multiple consecutive sentences does not serve all sentences simultaneously, but serves only one sentence at a time. State v. Galvan, 305 Neb. 513, 941 N.W.2d 183 (2020).

Because a court has discretion under subsection (2) of this section to impose, upon revocation, any term of imprisonment up to the remaining period of post-release supervision, an appellate court will not disturb that decision absent an abuse of discretion. State v. Phillips, 302 Neb. 686, 924 N.W.2d 699 (2019).

The Legislature has not demonstrated within this section that jail credit should be given for time served prior to revocation. State v. Phillips, 302 Neb. 686, 924 N.W.2d 699 (2019).

Time spent in jail prior to revocation is credited against a probationer's sentence of post-release supervision. State v. Phillips, 302 Neb. 686, 924 N.W.2d 699 (2019).

When calculating the "remaining period of post-release supervision" under subsection (2) of this section, courts must first identify the number of days the probationer was originally ordered to serve on post-release supervision. The court calculates the "remaining period of post-release supervision" by subtracting the number of days actually served from the number of days ordered to be served. State v. Phillips, 302 Neb. 686, 924 N.W.2d 699 (2019).

When determining the amount of time "remaining" on a period of post-release supervision, courts are not required to turn a blind eye to a probationer's absconsion from supervision. State v. Phillips, 302 Neb. 686, 924 N.W.2d 699 (2019).

When a court has revoked post-release supervision, the maximum term of imprisonment that can be imposed is governed exclusively by this section and does not depend on the maximum sentence of initial imprisonment authorized by the relevant statute. State v. Wal, 302 Neb. 308, 923 N.W.2d 367 (2019).

29-2280.

It is plain error for a court to fail to specify in its written sentencing order whether the restitution is to be made immediately, in specified installments, or within a specified period of time. State v. Street, 306 Neb. 380, 945 N.W.2d 450 (2020).

Before restitution can properly be ordered, the trial court must consider (1) whether restitution should be ordered, (2) the amount of actual damages sustained by the victim of a crime, and (3) the amount of restitution a criminal defendant is capable of paying. State v. McCulley, 305 Neb. 139, 939 N.W.2d 373 (2020).

Restitution ordered by a court pursuant to this section is a criminal penalty imposed as a punishment for a crime and is part of the criminal sentence imposed by the sentencing court. State v. McCulley, 305 Neb. 139, 939 N.W.2d 373 (2020).

29-2281.

Actual damages do not require an assessment of the damaged property's prior fair market value when it can be repaired to its former condition. State v. Street, 306 Neb. 380, 945 N.W.2d 450 (2020).

The listed factors of this section are neither exhaustive nor mathematically applied, and the court's ultimate determination of whether restitution should be imposed is a matter of discretion. State v. McCulley, 305 Neb. 139, 939 N.W.2d 373 (2020).

This section does not require setting forth factors to be considered in determining whether to order restitution and does not require a court to specifically articulate that it has considered factors or make explicit findings, disapproving State v. St. Cyr, 26 Neb. App. 61, 916 N.W.2d 753 (2018), and State v. Mick, 19 Neb. App. 521, 808 N.W.2d 663 (2012). State v. McCulley, 305 Neb. 139, 939 N.W.2d 373 (2020).

29-2282.

Restitution will be upheld if calculated by use of reasonable methods; therefore, when the defendant does not present contradictory evidence, the court does not err in relying on a victim's competent estimates of loss. State v. Street, 306 Neb. 380, 945 N.W.2d 450 (2020).

The determination of whether return or repair is impossible, impractical, or inadequate is left to the sound discretion of the sentencing court and is not necessarily bound by concepts of fair market value. State v. Street, 306 Neb. 380, 945 N.W.2d 450 (2020).

This section warrants restitution where the offense results in damage, destruction, or loss of property. State v. McBride, 27 Neb. App. 219, 927 N.W.2d 842 (2019).

29-2302.

Factors to be considered in determining the reasonableness of a defendant's appeal bond following a misdemeanor conviction include the atrocity of the defendant's offenses, the probability of the defendant's appearance to serve his or her sentence following the conclusion of his or her appeal, the defendant's prior criminal history, and the nature of the other circumstances surrounding the case. State v. Kirby, 25 Neb. App. 10, 901 N.W.2d 704 (2017).

Reasonableness of the appeal bond amount is determined under the general discretion of the district court. State v. Kirby, 25 Neb. App. 10, 901 N.W.2d 704 (2017).

29-2306.

The order granting an application to proceed in forma pauperis is not a final, appealable order because it does not affect a substantial right. State v. Fredrickson, 306 Neb. 81, 943 N.W.2d 701 (2020).

29-2315.01.

When a defendant challenges a sentence imposed by the district court as excessive and the State believes the sentence to be erroneous but has not complied with this section or section 29-2321, the State may not assert such error via a cross-appeal. State v. Guzman, 305 Neb. 376, 940 N.W.2d 552 (2020).

The State does not have the ability to appeal an order finding indigency and appointing counsel prior to the issuance of a final order. State v. Fredrickson, 305 Neb. 165, 939 N.W.2d 385 (2020).

29-2321.

When a defendant challenges a sentence imposed by the district court as excessive and the State believes the sentence to be erroneous but has not complied with section 29-2315.01 or this section, the State may not assert such error via a cross-appeal. State v. Guzman, 305 Neb. 376, 940 N.W.2d 552 (2020).

While there is a temptation on a visceral level to conclude that anything less than incarceration depreciates the seriousness of crimes involving sexual assault of a child, it is the function of the sentencing judge, in the first instance, to evaluate the crime and the offender. State v. Gibson, 302 Neb. 833, 925 N.W.2d 678 (2019).

29-2519.

The death penalty is imposed for a conviction of murder in the first degree only in those instances when the aggravating circumstances existing in connection with the crime outweigh the mitigating circumstances. State v. Schroeder, 305 Neb. 527, 941 N.W.2d 445 (2020).

29-2521.

Because a sentencing panel is required to consider and weigh any mitigating circumstances in imposing a sentence of death, the introduction of evidence of the existence or nonexistence of these potential mitigators has probative value to the sentence, and as such, a sentencing panel has the discretion to hear evidence to address potential mitigating circumstances regardless of whether the defendant presents evidence on that issue. State v. Schroeder, 305 Neb. 527, 941 N.W.2d 445 (2020).

The sentencing panel could consider a defendant's no contest plea and the factual basis underlying it, but it could not use it as an admission to aggravating circumstances for sentencing purposes. State v. Jenkins, 303 Neb. 676, 931 N.W.2d 851 (2019).

29-2522.

A court's proportionality review spans all previous cases in which a sentence of death is imposed and is not dependent on which cases are put forward by the parties. The proportionality review does not require that a court "color match" cases precisely, and instead, the question is simply whether the cases being compared are sufficiently similar, considering both the crime and the defendant, to provide the court with a useful frame of reference for evaluating the sentence in this case. State v. Schroeder, 305 Neb. 527, 941 N.W.2d 445 (2020).

29-2523.

Mitigating circumstances involve, in part, circumstances surrounding the underlying crime and include pressure or influences which may have weighed on the defendant, potential influence on the defendant of extreme mental or emotional disturbance at the time of the offense, potential victim participation or consent to the act, the defendant's capacity to appreciate the wrongfulness of the act at the time of the offense, and any mental illness, defect, or intoxication which may have contributed to the offense. State v. Schroeder, 305 Neb. 527, 941 N.W.2d 445 (2020).

29-3001.

Hurst v. Florida, 577 U.S. 92, 136 S. Ct. 616, 193 L. Ed. 2d 504 (2016), did not announce a new rule of law and thus cannot trigger the 1-year statute of limitations. State v. Hessler, 305 Neb. 451, 940 N.W.2d 836 (2020).

Pursuant to subsection (4) of this section, a 1-year time period for filing a verified motion for postconviction relief was not triggered by a Supreme Court case which merely applied previously recognized constitutional requirements in sentencing of capital defendants. State v. Mata, 304 Neb. 326, 934 N.W.2d 475 (2019).

The conclusion of a direct appeal occurs when a Nebraska appellate court issues the mandate in the direct appeal. State v. Koch, 304 Neb. 133, 933 N.W.2d 585 (2019).

Where none of the triggering events applied to extend the time for filing a second motion for postconviction relief, the motion was barred by the 1-year time limit. State v. Edwards, 301 Neb. 579, 919 N.W.2d 530 (2018).

The decision in *Hurst v. Florida*, 577 U.S. 92, 136 S. Ct. 616, 193 L. Ed. 2d 504 (2016), did not extend the time for filing a postconviction motion, because it did not announce a newly recognized right that has been made applicable retroactively to cases on postconviction collateral review. State v. Lotter, 301 Neb. 125, 917 N.W.2d 850 (2018).

Under subdivision (4)(a) of this section, the claims raised in an amended motion for postconviction relief which is filed outside the 1-year statute of limitations must be based on the same set of facts as the claims contained in the original motion in order to relate back to the filing of the original motion. State v. Liner, 26 Neb. App. 303, 917 N.W.2d 194 (2018).

29-3002.

An order overruling a motion for postconviction relief as to a claim is a "final judgment" as to such claim. State v. Lotter, 301 Neb. 125, 917 N.W.2d 850 (2018).

An order ruling on a motion filed in a pending postconviction case, seeking to amend the postconviction motion to assert additional claims, is not a final judgment and is not appealable. State v. Lotter, 301 Neb. 125, 917 N.W.2d 850 (2018).

29-3528.

This section does not either expressly or by overwhelming implication waive sovereign immunity for actions brought against a state agency seeking compliance with the Criminal History Information Act. State ex rel. Rhiley v. Nebraska State Patrol, 301 Neb. 241, 917 N.W.2d 903 (2018).

29-3908.

An order finding a defendant to be indigent and appointing appellate counsel at the county's expense did not affect a substantial right of the parties and was not a final order for purposes of appeal, where the order did not obligate the county to pay any specific amount or set a deadline for payment, such determinations were to be the subject of future proceedings addressing the question of reasonable attorney fees, and the State had the ability to challenge the findings of indigency and recoup any subsequently expended funds from the defendant. State v. Fredrickson, 305 Neb. 165, 939 N.W.2d 385 (2020).

29-4001.01.

Following the 2009 amendments to the Sex Offender Registration Act, a sentencing court has the authority to find that a defendant committed an aggravated offense as defined in subdivision (1) of this section. State v. Wilson, 306 Neb. 875, 947 N.W.2d 704 (2020).

When a defendant pleads to an offense, such as first degree sexual assault pursuant to section 28-319, where the term "aggravated offense" is not a specifically included element of the offense, in order for lifetime community supervision to apply, a jury would need to find that the defendant had committed an aggravated offense, or the defendant must plead separately to the commission of an aggravated offense. State v. Nelson, 27 Neb. App. 748, 936 N.W.2d 32 (2019).

To constitute "direct genital touching" for purposes of finding an aggravated offense under this section, there must be evidence that the actor touched the victim's genitals under the victim's clothing. State v. Kresha, 25 Neb. App. 543, 909 N.W.2d 93 (2018).

29-4005.

Following the 2009 amendments to the Sex Offender Registration Act, a sentencing court has the authority to find that a defendant committed an aggravated offense as defined in section 29-4001.01 and to inform the defendant that he or she is thus required to register for life under subdivision (1)(b)(iii) of this section. State v. Wilson, 306 Neb. 875, 947 N.W.2d 704 (2020).

29-4006.

In carrying out its notification obligation under subsection (7) of this section, the Nebraska State Patrol cannot make a different determination regarding an offender's registration duration after a sentencing court finds an aggravated offense as defined in section 29-4001.01. State v. Wilson, 306 Neb. 875, 947 N.W.2d 704 (2020).

29-4007.

Following the 2009 amendments to the Sex Offender Registration Act, a sentencing court has the authority to find that a defendant committed an aggravated offense as defined in section 29-4001.01 and to inform the defendant that he or she is thus required to register for life under section 29-4005. State v. Wilson, 306 Neb. 875, 947 N.W.2d 704 (2020).

29-4106.

The requirement for a convicted felon to provide a DNA sample pursuant to subdivision (1)(a) of this section exists once the convicted felon begins serving his or her sentence. State v. Weathers, 304 Neb. 402, 935 N.W.2d 185 (2019).

This section inherently authorizes the use of reasonable force to collect a DNA sample from a convicted felon. State v. Weathers, 304 Neb. 402, 935 N.W.2d 185 (2019).

29-4116.

Pursuant to the DNA Testing Act, a person in custody takes the first step toward obtaining possible relief by filing a motion in the court that entered the judgment requesting forensic DNA testing of biological material. State v. Hale, 306 Neb. 725, 947 N.W.2d 313 (2020).

The DNA Testing Act is a limited remedy providing inmates an opportunity to obtain DNA testing in order to establish innocence after a conviction. State v. Hale, 306 Neb. 725, 947 N.W.2d 313 (2020).

29-4117.

The DNA Testing Act is a limited remedy providing inmates an opportunity to obtain DNA testing in order to establish innocence after a conviction. State v. Myers, 304 Neb. 789, 937 N.W.2d 181 (2020).

29-4120.

A court is not required to order DNA testing under this section if such testing would not produce exculpatory evidence. State v. Hale, 306 Neb. 725, 947 N.W.2d 313 (2020).

If the criteria in subsection (1) of this section are met, and the reviewing court finds that testing may produce noncumulative, exculpatory evidence relevant to the claim that the person was wrongfully convicted or sentenced, under subsection (5) of this section, the court must order DNA testing. State v. Hale, 306 Neb. 725, 947 N.W.2d 313 (2020).

The threshold showing required under subsection (5) of this section is relatively undemanding and will generally preclude testing only where the evidence at issue would have no bearing on the guilt or culpability of the movant. State v. Hale, 306 Neb. 725, 947 N.W.2d 313 (2020).

Under subsection (5) of this section, the court has discretion to either consider the motion on affidavits or hold a hearing. State v. Hale, 306 Neb. 725, 947 N.W.2d 313 (2020).

The statutory requirement that requested DNA testing may produce noncumulative, exculpatory evidence relevant to a movant's claim that he or she was wrongfully convicted or sentenced is relatively undemanding for the movant

and will generally preclude testing only where the evidence at issue would have no bearing on the guilt or culpability of the movant. State v. Ildefonso, 304 Neb. 711, 936 N.W.2d 348 (2019).

Where a prisoner sought DNA testing to corroborate an admittedly fabricated story and where testing results would be inconclusive at best, the prisoner failed to meet his burden to show that DNA testing may produce noncumulative, exculpatory evidence relevant to his claim that he was wrongfully convicted. State v. Ildefonso, 304 Neb. 711, 936 N.W.2d 348 (2019).

The showing that must be made to obtain DNA testing presents a relatively low threshold; in determining whether to allow such testing, consideration of the higher legal standards applicable to setting aside a judgment or requiring a new trial after testing has been performed is inappropriate. State v. Myers, 301 Neb. 756, 919 N.W.2d 893 (2018).

29-4122.

Decisions regarding appointment of counsel under the DNA Testing Act are reviewed for an abuse of discretion. State v. Myers, 304 Neb. 789, 937 N.W.2d 181 (2020).

29-4123.

Resentencing, absent a successful motion for new trial under this section, is not a form of relief available under the DNA Testing Act. State v. Amaya, 305 Neb. 36, 938 N.W.2d 346 (2020).

Withdrawal of a guilty or no contest plea is not an available remedy under the DNA Testing Act. State v. Amaya, 305 Neb. 36, 938 N.W.2d 346 (2020).

29-4603.

Actual innocence under the Wrongful Conviction and Imprisonment Act is akin to factual innocence, while a self-defense claim is relevant to a claim of legal innocence. Marie v. State, 302 Neb. 217, 922 N.W.2d 733 (2019).

Claim preclusion is inapplicable in cases under the Wrongful Conviction and Imprisonment Act. Marie v. State, 302 Neb. 217, 922 N.W.2d 733 (2019).

30-809.

A wrongful death action and a survival action are two distinct causes of action which may be brought by a decedent's personal representative. Although they are frequently joined in a single action, they are conceptually separate. In re Estate of McConnell, 28 Neb. App. 303, 943 N.W.2d 722 (2020).

30-810.

Because of the binding effect of a federal court judgment, Nebraska's wrongful death statute did not apply and the county court properly ordered distribution pursuant to the federal court judgment that applied North Carolina law. In re Estate of Helms, 302 Neb. 357, 923 N.W.2d 423 (2019).

A wrongful death action and a survival action are two distinct causes of action which may be brought by a decedent's personal representative. Although they are frequently joined in a single action, they are conceptually separate. In re Estate of McConnell, 28 Neb. App. 303, 943 N.W.2d 722 (2020).

A wrongful death action is brought on behalf of the widow or widower and next of kin for damages they have sustained as a result of the decedent's death. Such damages include the pecuniary value of the loss of the decedent's support, society, comfort, and companionship. In re Estate of McConnell, 28 Neb. App. 303, 943 N.W.2d 722 (2020).

The next of kin may recover in a wrongful death action only those losses sustained after the injured party's death by reason of being deprived of what the next of kin would have received from the injured party from the date of his or her death, had he or she lived out a full life expectancy. In re Estate of McConnell, 28 Neb. App. 303, 943 N.W.2d 722 (2020).

The pecuniary value of the loss of the decedent's support, society, comfort, and companionship does not require evidence of the dollar value; that is a matter left to the sound discretion of the fact finder. In re Estate of McConnell, 28 Neb. App. 303, 943 N.W.2d 722 (2020).

The proceeds from a wrongful death action are not the property of a decedent's estate and are therefore not contemplated as a property right waived in a premarital agreement unless the language of the premarital agreement specifically waives such a right. In re Estate of McConnell, 28 Neb. App. 303, 943 N.W.2d 722 (2020).

Where a husband and a wife had no meaningful relationship at the time of the husband's death and a divorce was pending, the wife was not entitled to recover in a wrongful death action based on the loss of her deceased husband's society, love, affection, care, attention, companionship, comfort, or protection. In re Estate of McConnell, 28 Neb. App. 303, 943 N.W.2d 722 (2020).

Relatives absent from a decedent's life may suffer little, or no, pecuniary loss from the death and not be entitled to share in the damages recovered for a wrongful death. In re Estate of Brown-Elliott, 27 Neb. App. 196, 930 N.W.2d 51 (2019).

30-2211.

The county courts have the power to construe wills. Brinkman v. Brinkman, 302 Neb. 315, 923 N.W.2d 380 (2019).

30-2327.

There is no requirement under this section that the acknowledgment of a testator's signature on a will be duly sworn or confirmed by oath or affirmation; rather, the two witnesses must witness either the signing of the will or the testator's acknowledgment of the signature. In re Estate of Loftus, 26 Neb. App. 439, 920 N.W.2d 718 (2018).

30-2328.

A document which did not contain sufficient material provisions expressing testamentary and donative intent within the document itself could not be legally recognized as a valid holographic will. Absent a latent ambiguity, extrinsic evidence could not be considered to aid in that determination. In re Estate of Tiedeman, 25 Neb. App. 722, 912 N.W.2d 816 (2018).

A holographic will must contain sufficient material provisions, meaning words which express donative and testamentary intent. Donative intent relates to words reflecting specific bequests to particular beneficiaries, and testamentary intent concerns whether the document was intended to be a will. In re Estate of Tiedeman, 25 Neb. App. 722, 912 N.W.2d 816 (2018).

30-2341.

The cardinal rule in construing a will is to ascertain and effectuate the testator's intent if such intent is not contrary to the law. In re Estate of Barger, 303 Neb. 817, 931 N.W.2d 660 (2019).

30-2350.

Ademption by satisfaction is provided only for the devisees of a will, and if a devise is made by a will to a trust or trustee, the trust or trustee is the devisee and the beneficiaries of the trust are not devisees and ademption does not apply. In re Estate of Radford, 304 Neb. 205, 933 N.W.2d 595 (2019).

30-2405.

This section was designed to give probate courts of limited jurisdiction broad concurrent jurisdiction with courts of general jurisdiction. Eagle Partners v. Rook, 301 Neb. 947, 921 N.W.2d 98 (2018).

30-2410.

Commencement of a probate case in Nebraska does not, in and of itself, preclude a decedent from having been domiciled in a different state, because venue is proper in any county in Nebraska where property of the decedent was located at the time of his or her death. In re Estate of Helms, 302 Neb. 357, 923 N.W.2d 423 (2019).

30-2473.

A motion to surcharge a personal representative is properly brought within the probate proceeding, because the facts underlying such motions ultimately concern the probate of the decedent's will and the distribution of the decedent's property. In re Estate of Graham, 301 Neb. 594, 919 N.W.2d 714 (2018).

30-2482.

Under the Nebraska Probate Code, the Legislature has not expressly provided that a county is responsible for personal representative compensation. Therefore, a court lacks the authority to order a county to pay for a personal representative's fees and expenses. In re Estate of Hutton, 306 Neb. 579, 946 N.W.2d 669 (2020).

Section 30-2405 and this section are part of a scheme to give jurisdiction for the enforcement of probate claims to the county court, and that jurisdiction is concurrent with the jurisdiction of the district court to enforce such claims. Eagle Partners v. Rook, 301 Neb. 947, 921 N.W.2d 98 (2018).

The language of this section does not preclude using the probate claims procedure established in sections 30-2483 through 30-2498. Eagle Partners v. Rook, 301 Neb. 947, 921 N.W.2d 98 (2018).

30-2485.

Because the Nebraska Probate Code requires that all claims, whether absolute or contingent, be presented within certain time periods or be barred against the estate, a contingency's unfulfilled status does not automatically defeat a claim. In re Estate of Ryan, 302 Neb. 821, 925 N.W.2d 336 (2019).

30-24,103.

A no contest clause is unenforceable if probable cause exists for instituting proceedings. In re Estate of Barger, 303 Neb. 817, 931 N.W.2d 660 (2019).

30-2616.

A biological mother's failure to accept responsibility for her past misconduct indicated present unfitness. In re Guardianship of K.R., 304 Neb. 1, 932 N.W.2d 737 (2019).

Where the rights of a biological or adoptive parent are not at issue, the standard for removal of a guardian of a minor under this section is the best interests of the ward, and the burden of proof is on the moving party to establish that terminating the guardianship is in the best interests of the ward. In re Guardianship of Issaabela R., 27 Neb. App. 353, 932 N.W.2d 749 (2019).

This section governs resignation or removal proceedings in cases involving guardians of minors. In re Guardianship of Aimee S., 26 Neb. App. 380, 920 N.W.2d 18 (2018).

This section provides that a person may petition for removal of a guardian on the ground that removal would be in the best interests of the ward. In re Guardianship of Aimee S., 26 Neb. App. 380, 920 N.W.2d 18 (2018).

This section relates to the removal of a guardian when the protected person is a juvenile. In re Guardianship of Aimee S., 26 Neb. App. 380, 920 N.W.2d 18 (2018).

30-2627.

Subsection (a) of this section provides that any competent person may be appointed guardian of a person alleged to be incapacitated and that nothing in this subsection prevents spouses, adult children, parents, or relatives of the person alleged to be incapacitated from serving in that capacity. In re Guardianship of Aimee S., 26 Neb. App. 380, 920 N.W.2d 18 (2018).

Subsection (b) of this section provides that persons who are not disqualified by subsection (a) of this section and who exhibit the ability to exercise the powers to be assigned by the court have priority in the order listed. In re Guardianship of Aimee S., 26 Neb. App. 380, 920 N.W.2d 18 (2018).

Subsection (b)(4) of this section allows a parent to serve as a guardian. In re Guardianship of Aimee S., 26 Neb. App. 380, 920 N.W.2d 18 (2018).

30-3836.

A trust may expire or terminate by its own terms, thereby triggering the period for winding up the trust; the winding-up period continues to exist until the trust is fully terminated by distribution of the trust property. In re Trust Created by Augustin, 27 Neb. App. 593, 935 N.W.2d 493 (2019).

If a trustee knows or should know of circumstances that justify judicial action to modify an administrative or distributive provision of a trust because of circumstances not anticipated by the settlor, the trustee has a duty to petition the court for appropriate modification of, or deviation from, the terms of the trust. The possible imposition of such a duty on a trustee further supports permitting a trustee to seek modification under section 30-3838 even in those instances where a trust may have terminated or expired by its own terms, but the winding up and distribution of trust property is still pending. In re Trust Created by Augustin, 27 Neb. App. 593, 935 N.W.2d 493 (2019).

If the trustees fail to distribute the property once the purpose of the trust was fulfilled, a court can enter an order fully terminating the trust with directions to distribute the trust property in accordance with the terms of the trust or, if appropriate, enter an order modifying (or reforming) the trust terms. In re Trust Created by Augustin, 27 Neb. App. 593, 935 N.W.2d 493 (2019).

Regardless of how a trust may terminate, subsection (b) of this section authorizes a trustee or beneficiary to commence a proceeding to approve or disapprove a proposed modification or termination under sections 30-3837 to 30-3842. In re Trust Created by Augustin, 27 Neb. App. 593, 935 N.W.2d 493 (2019).

The Nebraska Uniform Trust Code allows a beneficiary or trustee to petition a county court to consider modification or termination of a trust which has expired or terminated pursuant to its own terms but remains in the winding-up period, including the possible modification of, or deviation from, dispositive terms. In re Trust Created by Augustin, 27 Neb. App. 593, 935 N.W.2d 493 (2019).

The Nebraska Uniform Trust Code provides statutory options for a trustee to seek a modification of the trust during the winding-up period following the expiration or termination of a trust by its own terms. In re Trust Created by Augustin, 27 Neb. App. 593, 935 N.W.2d 493 (2019).

30-3837.

Although subsection (e) of this section authorizes a court to modify a trust without the consent of all beneficiaries, it can only do so if the modification is not inconsistent with a material purpose of the trust and any nonconsenting beneficiary would be adequately protected. In re Trust Created by Augustin, 27 Neb. App. 593, 935 N.W.2d 493 (2019).

While this section refers to a noncharitable irrevocable trust, and the trusts at issue here were revocable when made, this section's application is nevertheless appropriate because of the death of the last surviving grantor/settlor. A trust which is revocable when made remains revocable during the settlor's lifetime; however, a revocable trust necessarily becomes irrevocable upon the settlor's death. In re Trust Created by Augustin, 27 Neb. App. 593, 935 N.W.2d 493 (2019).

30-3838.

If a trustee knows or should know of circumstances that justify judicial action to modify an administrative or distributive provision of a trust because of circumstances not anticipated by the settlor, the trustee has a duty to petition the court for appropriate modification of, or deviation from, the terms of the trust. The possible imposition of such a duty on a trustee further supports permitting a trustee to seek modification under this section even in those instances where a trust may have terminated or expired by its own terms, but the winding up and distribution of trust property is still pending. In re Trust Created by Augustin, 27 Neb. App. 593, 935 N.W.2d 493 (2019).

This section broadens the court's ability to apply equitable deviation to modify a trust. The application of equitable deviation allows a court to modify the dispositive provisions of a trust, as well as its administrative terms. The purpose of equitable deviation is not to disregard the settlor's intent but to modify inopportune details to effectuate better the settlor's broader purpose. In re Trust Created by Augustin, 27 Neb. App. 593, 935 N.W.2d 493 (2019).

30-3862.

Removal of bank as trustee was inconsistent with material purpose of trust, where bank was selected because settlor wanted a trustee that was independent, and settlor did not want trustee that was a part of settlor's family. In re Trust Created by Fenske, 303 Neb. 430, 930 N.W.2d 43 (2019).

30-3881.

Pursuant to subsection (26) of this section, after the termination of a trust, the trustees continue to have a nonbeneficial interest in the trust for timely winding it up and distributing its assets; but their powers are limited to those that are reasonable and appropriate to the expeditious distribution of the trust property and preserving the trust

property pending the winding up and distribution of that property. In re Estate of Barger, 303 Neb. 817, 931 N.W.2d 660 (2019).

30-3882.

Pursuant to subsection (b) of this section, after a trust has been terminated, a trustee must expeditiously exercise the powers appropriate to wind up the administration of the trust and distribute the trust property to the persons entitled to it. In re Estate of Barger, 303 Neb. 817, 931 N.W.2d 660 (2019).

30-3890.

When a trustee unduly delays distributions from a trust, the trustee has breached a duty of care owed to a beneficiary, and the violation of that duty is a breach of trust. In re Trust Created by Augustin, 27 Neb. App. 593, 935 N.W.2d 493 (2019).

30-4014.

An agent under a power of attorney is in a fiduciary relationship with his or her principal. In re Estate of Adelung, 306 Neb. 646, 947 N.W.2d 269 (2020).

30-4015.

An exoneration clause in a power of attorney will not relieve an agent of liability where the agent's attorney drafted the document and the agent did not prove that the clause was fair and adequately communicated to the principal. In re Estate of Adelung, 306 Neb. 646, 947 N.W.2d 269 (2020).

30-4016.

Subsection (1)(e) of this section pertains to a "presumptive heir," which necessarily relates to a decedent's blood relatives. In re Trust of Cook, 28 Neb. App. 624, 947 N.W.2d 870 (2020).

30-4040.

The Nebraska Uniform Power of Attorney Act limits gifts made via a general grant of authority. In re Estate of Adelung, 306 Neb. 646, 947 N.W.2d 269 (2020).

30-4045.

The Nebraska Uniform Power of Attorney Act does not apply retroactively to an agent's actions prior to January 1, 2013. In re Estate of Adelung, 306 Neb. 646, 947 N.W.2d 269 (2020).

The provision of the Nebraska Uniform Power of Attorney Act governing retroactivity should be construed similarly to section 30-38,110, the comparable provision of the Nebraska Uniform Trust Code. In re Estate of Adelung, 306 Neb. 646, 947 N.W.2d 269 (2020).

32-1405.

A non-named person or entity's motivation to decline to be a named sponsor is irrelevant to the question of who must be listed as a sponsor of an initiative or referendum petition. Christensen v. Gale, 301 Neb. 19, 917 N.W.2d 145 (2018).

Defining sponsors who must be disclosed on an initiative or referendum petition as those who assume responsibility for the petition process serves the dual purposes of informing the public of (1) who may be held responsible for the petition, exposing themselves to potential criminal charges if information is falsified, and (2) who stands ready to accept responsibility to facilitate the referendum's inclusion on the ballot and defend the referendum process if challenged. Christensen v. Gale, 301 Neb. 19, 917 N.W.2d 145 (2018).

In the context of the statutory requirement that an initiative or referendum petition contain a sworn statement containing the names and street addresses of every person or entity sponsoring the petition, "sponsoring the petition" means assuming responsibility for the initiative or referendum petition process. Christensen v. Gale, 301 Neb. 19, 917 N.W.2d 145 (2018).

Limiting the category of "sponsors," in the context of the sponsor-disclosure requirement for initiative or referendum petitions, to those persons or entities who have specifically agreed to be responsible for the petition process and serve in the capacities the statutes require of sponsors, lends clarity and simplicity to the petition process, thereby facilitating and preserving its exercise. Christensen v. Gale, 301 Neb. 19, 917 N.W.2d 145 (2018).

33-125.

A county court does not lack subject matter jurisdiction of an original proceeding on the basis that no filing fee was assessed and paid. In re Estate of Adelung, 306 Neb. 646, 947 N.W.2d 269 (2020).

36-105.

Where the owner of one property sought to bind a purchaser of another property to the terms of a 50-year lease agreement entered into between different parties, the owner's breach of contract claim was barred by the statute of frauds because there was no privity of contract or an express assumption of the lease. Brick Development v. CNBT II, 301 Neb. 279, 918 N.W.2d 824 (2018).

36-702.

A blanket security agreement does not convey an asset under the Uniform Fraudulent Transfer Act if everything subject to ownership that is described as collateral therein is fully encumbered by other creditors with superior claims at the time of the alleged transfer. Korth v. Luther, 304 Neb. 450, 935 N.W.2d 220 (2019).

A security agreement by the debtor in favor of an alleged transferee is not the "asset" itself. Korth v. Luther, 304 Neb. 450, 935 N.W.2d 220 (2019).

Creditors are not entitled to avoid as fraudulent a conveyance of property to which the debtor had no title at all or no such title as they could have subjected to payment of their claims. Korth v. Luther, 304 Neb. 450, 935 N.W.2d 220 (2019).

Liens and encumbrances do not exist independently of the interests they attach to, and the reference in subsection (12) of this section to liens or other encumbrances does not modify the express requirement that there be an "asset" before there can be a "transfer." Korth v. Luther, 304 Neb. 450, 935 N.W.2d 220 (2019).

Where the focus of a fraudulent transfer action is a security agreement by the debtor in favor of the alleged transferee, the question is what identifiable and legitimate claim of entitlement the debtor had, in which the debtor transferred an interest via the security agreement. Korth v. Luther, 304 Neb. 450, 935 N.W.2d 220 (2019).

Whether there is a subject of ownership constituting property that can be an asset depends on a legitimate and identifiable claim of entitlement. Korth v. Luther, 304 Neb. 450, 935 N.W.2d 220 (2019).

39-301.

A public road includes the entire area within the county's right-of-way. County of Cedar v. Thelen, 305 Neb. 351, 940 N.W.2d 521 (2020).

It is in the interest of the public to prevent obstructions of the public roads, both for their maintenance and more direct safety, and the mere fact that the Legislature has enacted a criminal law addressing the subject does not mean that the subject matter is preempted. County of Cedar v. Thelen, 305 Neb. 351, 940 N.W.2d 521 (2020).

42-349.

Domicile is obtained only through a person's physical presence, accompanied by the present intention to remain indefinitely at a location or site, or by the present intention to make a location or site the person's permanent or fixed home. The absence of either presence or intention thwarts the establishment of domicile. Lasu v. Lasu, 28 Neb. App. 478, 944 N.W.2d 773 (2020).

In order to effect a change of domicile, there must not only be a change of residence, but an intention to permanently abandon the former home. The mere residing at a different place, although evidence of a change, is, however long continued, per se insufficient. A brief move to another location to see if living with one's spouse will succeed may not indicate present intent to change one's domicile. Lasu v. Lasu, 28 Neb. App. 478, 944 N.W.2d 773 (2020).

Once established, domicile continues until a new domicile is perfected. Lasu v. Lasu, 28 Neb. App. 478, 944 N.W.2d 773 (2020).

The language of this section requiring an "actual residence in this state" means that one party is required to have a bona fide domicile in Nebraska for 1 year before commencement of a dissolution action. Lasu v. Lasu, 28 Neb. App. 478, 944 N.W.2d 773 (2020).

A plaintiff satisfied Nebraska's residency requirement to obtain a divorce where he alleged in the complaint that he had lived in Nebraska for more than 1 year with the intent of making this state a permanent home. Metzler v. Metzler, 25 Neb. App. 757, 913 N.W.2d 733 (2018).

The language of this section requiring an "actual residence in this state" means that one party is required to have a bona fide domicile in Nebraska for 1 year before commencement of a dissolution action. Metzler v. Metzler, 25 Neb. App. 757, 913 N.W.2d 733 (2018).

42-351.

Pursuant to subsection (2) of this section, a trial court may retain jurisdiction to provide for an order concerning custody and parenting time even while an appeal is pending; however, a court does not retain authority to hear and determine anew the very issues then pending on appeal and to enter permanent orders addressing these issues during the appeal process. Becher v. Becher, 302 Neb. 720, 925 N.W.2d 67 (2019).

A district court had subject matter jurisdiction to adjudicate a husband's divorce because his complaint for dissolution of marriage fell within the court's jurisdiction, even though there were no marital assets in Nebraska. Metzler v. Metzler, 25 Neb. App. 757, 913 N.W.2d 733 (2018).

42-352.

A district court had jurisdiction to dissolve a parties' marriage where the plaintiff satisfied procedural due process by complying with the process service requirements for dissolution proceedings under this section and also satisfied Nebraska residency requirements. Metzler v. Metzler, 25 Neb. App. 757, 913 N.W.2d 733 (2018).

42-353.

Because the husband's complaint contained each of the allegations required by this section, he stated a claim upon which the district court could grant relief, and the court erred in granting the wife's motion to dismiss for failure to state a claim. Metzler v. Metzler, 25 Neb. App. 757, 913 N.W.2d 733 (2018).

42-358.02.

The district court did not have discretion to reduce the amount of accrued interest on a father's child support arrearage. Ybarra v. Ybarra, 28 Neb. App. 216, 943 N.W.2d 447 (2020).

42-364.

Pursuant to subdivision (1)(b) of this section, a court must determine physical custody based upon the best interests of a child and such determination shall be made by incorporating (i) a parenting plan developed by the parties, if approved by the court, or (ii) a parenting plan developed by the court based upon evidence produced after a hearing in open court if no parenting plan is developed by the parties and approved by the court. Blank v. Blank, 303 Neb. 602, 930 N.W.2d 523 (2019).

Pursuant to subsection (3) of this section, a joint physical custody award is allowed if (a) both parents agree to such an arrangement in the parenting plan and the court determines that such an arrangement is in the best interests of the child or (b) the court specifically finds, after a hearing in open court, that joint physical custody or joint legal custody, or both, is in the best interests of the minor child regardless of any parental agreement or consent. Blank v. Blank, 303 Neb. 602, 930 N.W.2d 523 (2019).

Pursuant to subsection (3) of this section, a trial court's decision to award joint legal or physical custody can be made without parental agreement or consent so long as it is in the child's best interests. Blank v. Blank, 303 Neb. 602, 930 N.W.2d 523 (2019).

In an action for dissolution of marriage involving the custody of minor children, the court is required to make a determination of legal and physical custody based upon the children's best interests. Such determinations shall be

made by incorporation into the decree of a parenting plan, developed either by the parties as approved by the court or by the court after an evidentiary hearing. Dooling v. Dooling, 303 Neb. 494, 930 N.W.2d 481 (2019).

A juvenile court lacks statutory authority to transfer a proceeding back to the district court under subsection (5) of this section where: (1) The district court, having subject matter jurisdiction of a modification proceeding under subsection (6) of this section in which termination of parental rights has been placed in issue and having personal jurisdiction of the parties to that proceeding, has transferred jurisdiction of the proceeding to the appropriate juvenile court; (2) termination of parental rights remains in issue and unadjudicated in the transferred proceeding; (3) the State is not involved in the proceeding and has not otherwise asserted jurisdiction over the child or children involved in the modification proceeding; and (4) the juvenile court has not otherwise been deprived of jurisdiction. Christine W. v. Trevor W., 303 Neb. 245, 928 N.W.2d 398 (2019).

Although joint physical custody generally should be reserved for those cases where the parties can communicate and cooperate with one another, a court may order joint custody in the absence of parental agreement if, after a hearing in open court, it finds that such custody is in the child's best interests. Leners v. Leners, 302 Neb. 904, 925 N.W.2d 704 (2019).

The district court did not abuse its discretion by denying joint legal custody when the parties did not communicate and the mother thwarted any meaningful and appropriate contact between the father and the child. Kashyap v. Kashyap, 26 Neb. App. 511, 921 N.W.2d 835 (2018).

42-364.08.

The basic subsistence limitation under the child support guidelines was not applicable to reduce the amount being withheld from a father's monthly Social Security benefits to pay his child support arrearages. Ybarra v. Ybarra, 28 Neb. App. 216, 943 N.W.2d 447 (2020).

42-364.16.

In general, child support payments should be set according to the Nebraska Child Support Guidelines. Ybarra v. Ybarra, 28 Neb. App. 216, 943 N.W.2d 447 (2020).

42-364.17.

Court erred in not addressing each party's responsibility for the reasonable and necessary expenses of the children based on the record. Dooling v. Dooling, 303 Neb. 494, 930 N.W.2d 481 (2019).

The decree, together with the attached parenting plan, allocated the parties' responsibility for the necessary child expenses. Leners v. Leners, 302 Neb. 904, 925 N.W.2d 704 (2019).

Supervision of children in the form of day camps, lessons, or activities may under the circumstances constitute childcare for purposes of child support so long as such supervision is reasonable, in the child's best interests, and necessary due to employment or for education or training to obtain a job or enhance earning potential. Moore v. Moore, 302 Neb. 588, 924 N.W.2d 314 (2019).

42-365.

A district court need not choose one single date to value the entire marital estate, so long as the valuation date rationally relates to the property being valued. Rohde v. Rohde, 303 Neb. 85, 927 N.W.2d 37 (2019).

The Nebraska Child Support Guidelines exclude alimony between parents from their total monthly income for the purpose of calculating child support obligations for their children. Hotz v. Hotz, 301 Neb. 102, 917 N.W.2d 467 (2018).

The equitable division of property is a three-step process: (1) classify the parties' property as marital or nonmarital, setting aside the nonmarital property to the party who brought that property to the marriage; (2) value the marital assets and marital liabilities of the parties; and (3) calculate and divide the net marital estate between the parties in accordance with the principles contained in this section. Cook v. Cook, 26 Neb. App. 137, 918 N.W.2d 1 (2018).

42-366.

To the extent employment benefits such as unused sick time, vacation time, and comp time have been earned during the marriage, they constitute deferred compensation benefits under subsection (8) of this section and are

considered part of the marital estate subject to equitable division. Dooling v. Dooling, 303 Neb. 494, 930 N.W.2d 481 (2019).

42-371.

An appearance bond deposited by the defendant into the court registry to secure the defendant's appearance in a criminal proceeding was not personal property registered with a county office, within the meaning of the statute creating a lien on personal property of a child support obligor registered with a county office; statute limited personal property subject to lien for unpaid child support as tangible goods and chattels, and money was neither good nor chattel, but, rather, was intangible property. State v. McColery, 301 Neb. 516, 919 N.W.2d 153 (2018).

42-903.

Not only is the recipient or target of a credible threat a "victim" of abuse eligible for a domestic abuse protection order under section 42-924, so too are those family members for whose safety the target reasonably fears because of the threat. Robert M. on behalf of Bella O. v. Danielle O., 303 Neb. 268, 928 N.W.2d 407 (2019).

42-924.

Not only is the recipient or target of a credible threat a "victim" of abuse eligible for a domestic abuse protection order under this section, so too are those family members for whose safety the target reasonably fears because of the threat. Robert M. on behalf of Bella O. v. Danielle O., 303 Neb. 268, 928 N.W.2d 407 (2019).

42-925.

In considering whether to continue an ex parte domestic abuse protection order following a finding that domestic abuse has occurred, a court is not limited to considering only whether the ex parte order was proper, but may also consider a number of factors pertinent to the likelihood of future harm. Maria A. on behalf of Leslie G. v. Oscar G., 301 Neb. 673, 919 N.W.2d 841 (2018).

Whether domestic abuse occurred is a threshold issue in determining whether an ex parte protection order should be affirmed; absent abuse as defined by the Protection from Domestic Abuse Act, a protection order may not remain in effect. Maria A. on behalf of Leslie G. v. Oscar G., 301 Neb. 673, 919 N.W.2d 841 (2018).

The 5-day period to file a show cause hearing request as set forth in subsection (1) of this section is directory and not mandatory. Accordingly, failing to file a request for a show cause hearing within that 5-day period does not preclude the later filing of a motion to bring the matter back before the court, including the filing of a motion to vacate an ex parte order. Courtney v. Jimenez, 25 Neb. App. 75, 903 N.W.2d 41 (2017).

42-1002.

The parties' premarital agreement providing that each party would retain "full and complete ownership of all real and personal property that they now own" and "full and complete ownership of all property which shall come into their possession as the result of each party's work and labor, investments, inheritance or otherwise" was enforceable. Cook v. Cook, 26 Neb. App. 137, 918 N.W.2d 1 (2018).

42-1004.

The proceeds from a wrongful death action are not the property of a decedent's estate and are therefore not contemplated as a property right waived in a premarital agreement unless the language of the premarital agreement specifically waives such a right. In re Estate of McConnell, 28 Neb. App. 303, 943 N.W.2d 722 (2020).

The parties' premarital agreement providing that each party would retain "full and complete ownership of all real and personal property that they now own" and "full and complete ownership of all property which shall come into their possession as the result of each party's work and labor, investments, inheritance or otherwise" was enforceable. Cook v. Cook, 26 Neb. App. 137, 918 N.W.2d 1 (2018).

42-1006.

The proceeds from a wrongful death action are not the property of a decedent's estate and are therefore not contemplated as a property right waived in a premarital agreement unless the language of the premarital agreement specifically waives such a right. In re Estate of McConnell, 28 Neb. App. 303, 943 N.W.2d 722 (2020).

43-104.

Under the Nebraska adoption statutes, a voluntary relinquishment is effective when a parent executes a written instrument and the Department of Health and Human Services or an agency, in writing, accepts responsibility for the child. In re Interest of Donald B. & Devin B., 304 Neb. 239, 933 N.W.2d 864 (2019).

Evidence of a parent's conduct, either before or after the statutory period, may be considered because this evidence is relevant to a determination of whether the purpose and intent of that parent was to abandon his or her child or children. In re Adoption of Micah H., 301 Neb. 437, 918 N.W.2d 834 (2018).

The critical period of time during which abandonment must be shown is the 6 months immediately preceding the filing of the adoption petition. In re Adoption of Micah H., 301 Neb. 437, 918 N.W.2d 834 (2018).

43-246.01.

County courts have not been given authority to decide motions to transfer to juvenile court in cases in which they lack jurisdiction to try the case. State v. A.D., 305 Neb. 154, 939 N.W.2d 484 (2020).

Subsection (3) of this section grants concurrent jurisdiction to the juvenile court and the county or district court over juvenile offenders who (1) are 11 years of age or older and commit a traffic offense that is not a felony or (2) are 14 years of age or older and commit a Class I, IA, IB, IC, ID, II, or IIA felony. State v. Comer, 26 Neb. App. 270, 918 N.W.2d 13 (2018).

43-246.02.

A bridge order is not final for purposes of section 25-1902. In re Interest of Kamille C. & Kamiya C., 302 Neb. 226, 922 N.W.2d 739 (2019).

A bridge order "shall only address matters of legal and physical custody and parenting time," but it is not a domestic relations custody decree. In re Interest of Kamille C. & Kamiya C., 302 Neb. 226, 922 N.W.2d 739 (2019).

In enacting this section authorizing bridge orders, the Legislature crafted a solution for temporary continuity when the child is no longer in need of the juvenile court's protection; the juvenile court has made, through a dispositional order, a custody determination in the child's best interests; and the juvenile court does not wish to enter a domestic relations custody decree under the power granted by subsection (3) of section 25-2740. In re Interest of Kamille C. & Kamiya C., 302 Neb. 226, 922 N.W.2d 739 (2019).

The custody determination made by the juvenile court has no legally preclusive effect and will be made anew by the district court if either parent is discontent with the custody arrangement originally set forth by the bridge order. In re Interest of Kamille C. & Kamiya C., 302 Neb. 226, 922 N.W.2d 739 (2019).

43-247.

"Parental" as used in the phrase "lacks proper parental care" describes the type and nature of care rather than the relationship of the person providing it. In re Interest of Jeremy U. et al., 304 Neb. 734, 936 N.W.2d 733 (2020).

"Proper parental care" includes providing a home, support, subsistence, education, and other care necessary for the health, morals, and well-being of the child. It commands special care for the children in special need because of mental condition. It commands that the child not be placed in situations dangerous to life or limb, and not be permitted to engage in activities injurious to his or her health or morals. In re Interest of Jeremy U. et al., 304 Neb. 734, 936 N.W.2d 733 (2020).

The factual allegations of a petition seeking to adjudicate a child must give a parent notice of the bases for seeking to prove that the child is within the meaning of the statute. In re Interest of Jeremy U. et al., 304 Neb. 734, 936 N.W.2d 733 (2020).

The juvenile court properly declined to adjudicate two children who received proper parental care from their grandmother and were not at risk of harm from their mother; however, the court erred in failing to adjudicate a newborn, who lacked proper parental care as demonstrated by his mother's drug use during pregnancy until the time of his birth. In re Interest of Jeremy U. et al., 304 Neb. 734, 936 N.W.2d 733 (2020).

While the State need not prove that a child has actually suffered physical harm to assert jurisdiction, Nebraska case law is clear that at a minimum, the State must establish that without intervention, there is a definite risk of future harm. In re Interest of Jeremy U. et al., 304 Neb. 734, 936 N.W.2d 733 (2020).

A parent's absenteeism cannot defeat the juvenile court's authority to promote and protect a juvenile's best interests under subdivision (3)(b) of this section. In re Interest of Reality W., 302 Neb. 878, 925 N.W.2d 355 (2019).

The county attorney's coordinated effort with the school and its letter referring the family to various available community-based resources, including website resources, as well as specific contact information for a "Truancy Resource Specialist," complied with the "reasonable efforts" requirement of subsection (2) of section 43-276 as applied to the habitual truancy provision of subdivision (3)(b) of this section. In re Interest of Hla H., 25 Neb. App. 118, 903 N.W.2d 664 (2017).

43-251.01.

The exhaustion requirement of subdivision (7)(a) of this section demands evidence establishing that no other community-based resources have a reasonable possibility for success or that all options for community-based services have been thoroughly considered and none are feasible. In re Interest of Robert W., 27 Neb. App. 11, 925 N.W.2d 714 (2019).

43-272.01.

This section has long provided that a guardian ad litem in certain juvenile cases has certain duties, which may include filing petitions on behalf of juveniles, presenting evidence and witnesses, and cross-examining witnesses at all evidentiary hearings. In re Guardianship of Aimee S., 26 Neb. App. 380, 920 N.W.2d 18 (2018).

43-276.

Subsection (2) of this section requires the county attorney to make reasonable efforts to refer the juvenile and family to community-based resources. In re Interest of Reality W., 302 Neb. 878, 925 N.W.2d 355 (2019).

The district court abused its discretion in granting the transfer of two criminal cases to the juvenile court because there was substantial evidence supporting the retention of the cases in the district court for the sake of public safety and societal security, and there was a lack of evidence demonstrating that any further rehabilitation through the juvenile system would be practical and nonproblematical in the limited time left under the juvenile court's jurisdiction. State v. Esai P., 28 Neb. App. 226, 942 N.W.2d 416 (2020).

Denial of a motion to transfer without a specific finding with regard to subdivision (1)(h) of this section does not constitute an abuse of discretion. State v. Comer, 26 Neb. App. 270, 918 N.W.2d 13 (2018).

In determining whether a case should be transferred to juvenile court, a court should consider those factors set forth in this section. State v. Comer, 26 Neb. App. 270, 918 N.W.2d 13 (2018).

Second degree murder and use of a deadly weapon charges filed against a 15-year-old were retained in the district court; the trial court's denial of a motion to transfer to the juvenile court is reviewed for an abuse of discretion. State v. Leroux, 26 Neb. App. 76, 916 N.W.2d 903 (2018).

The county attorney's coordinated effort with the school and its letter referring the family to various available community-based resources, including website resources, as well as specific contact information for a "Truancy Resource Specialist," complied with the "reasonable efforts" requirement of subsection (2) of this section as applied to the habitual truancy provision of subdivision (3)(b) of section 43-247. In re Interest of Hla H., 25 Neb. App. 118, 903 N.W.2d 664 (2017).

43-283.01.

The term "aggravated circumstances" embodies the concept that the nature of the abuse or neglect must have been so severe or repetitive that to attempt reunification would jeopardize and compromise the safety of the child and would place the child in a position of an unreasonable risk to be reabused. In re Interest of Jade H. et al., 25 Neb. App. 678, 911 N.W.2d 276 (2018).

43-286.

A juvenile court may not change a disposition unless the juvenile has violated a term of probation or supervision or the juvenile has violated an order of the court and the procedures established in subdivision (5)(b) of this section have been satisfied. In re Interest of Iyana P., 25 Neb. App. 439, 907 N.W.2d 333 (2018).

Subsection (5) of this section sets forth the procedures for changing an existing disposition. In re Interest of Iyana P., 25 Neb. App. 439, 907 N.W.2d 333 (2018).

This section sets out a juvenile court's disposition options for juveniles who have been adjudicated under subdivision (1), (2), or (4) of section 43-247. In re Interest of Iyana P., 25 Neb. App. 439, 907 N.W.2d 333 (2018).

43-290.

The Nebraska Child Support Guidelines apply in juvenile cases where child support is ordered. In re Interest of Cayden R. et al., 27 Neb. App. 242, 929 N.W.2d 913 (2019).

43-292.

If an appellate court determines that a lower court correctly found that termination of parental rights is appropriate under one of the statutory grounds set forth in this section, the appellate court need not further address the sufficiency of the evidence to support termination under any other statutory ground. In re Interest of Aly T. & Kazlynn T., 26 Neb. App. 612, 921 N.W.2d 856 (2018).

In Nebraska statutes, the bases for termination of parental rights are codified in this section. In re Interest of Aly T. & Kazlynn T., 26 Neb. App. 612, 921 N.W.2d 856 (2018).

In order to terminate parental rights under subdivision (6) of this section, the State must prove by clear and convincing evidence that (1) the parent has failed to comply, in whole or in part, with a reasonable provision material to the rehabilitative objective of the plan and (2) in addition to the parent's noncompliance with the rehabilitative plan, termination of parental rights is in the best interests of the child. In re Interest of Aly T. & Kazlynn T., 26 Neb. App. 612, 921 N.W.2d 856 (2018).

The State must prove the facts by clear and convincing evidence when showing a factual basis exists under any of the 11 subdivisions of this section. In re Interest of Aly T. & Kazlynn T., 26 Neb. App. 612, 921 N.W.2d 856 (2018).

The term "unfitness" is not expressly used in this section but the concept is generally encompassed by the fault and neglect subsections of this section, and also through a determination of the child's best interests. In re Interest of Aly T. & Kazlynn T., 26 Neb. App. 612, 921 N.W.2d 856 (2018).

This section provides 11 separate conditions, any one of which can serve as the basis for the termination of parental rights when coupled with evidence that termination is in the best interests of the child. In re Interest of Aly T. & Kazlynn T., 26 Neb. App. 612, 921 N.W.2d 856 (2018).

Reasonable efforts to reunify a family are required under the juvenile code only when termination is sought under subdivision (6) of this section. In re Interest of Jade H. et al., 25 Neb. App. 678, 911 N.W.2d 276 (2018).

Subdivision (9) of this section allows for terminating parental rights when the parent of the juvenile has subjected the juvenile or another minor child to aggravated circumstances, including, but not limited to, abandonment, torture, chronic abuse, or sexual abuse. In re Interest of Jade H. et al., 25 Neb. App. 678, 911 N.W.2d 276 (2018).

Whether aggravated circumstances under subdivision (9) of this section exist is determined on a case-by-case basis. In re Interest of Jade H. et al., 25 Neb. App. 678, 911 N.W.2d 276 (2018).

Without other evidence of a parent's neglect of his or her children, incarceration alone is insufficient to justify termination of parental rights under subdivision (2) of this section. In re Interest of Lizabella R., 25 Neb. App. 421, 907 N.W.2d 745 (2018).

43-293.

Under the Nebraska Juvenile Code, in order to terminate parental rights, the court must take judicial action. In re Interest of Donald B. & Devin B., 304 Neb. 239, 933 N.W.2d 864 (2019).

43-512.03.

The remedy specified in this section is a means by which the State, as the real party in interest, may recover amounts which it has paid or is obligated to pay on behalf of a dependent child. Thus, the State's right to sue under this section is conditioned upon the payment of public assistance benefits for a minor child. State on behalf of Elijah K. v. Marceline K., 28 Neb. App. 772, 949 N.W.2d 531 (2020).

43-1238.

Mother had a significant connection to the country of Togo because she had been married there, had family living there, and voluntarily sent the minor child to live there. DeLima v. Tsevi, 301 Neb. 933, 921 N.W.2d 89 (2018).

On appeal from a dissolution of marriage decree that awarded primary physical custody of the children to the father, the Court of Appeals could not review, upon the mother's request, an Illinois court's prior decision to not exercise jurisdiction over the parties' child custody dispute under the Uniform Child Custody Jurisdiction and Enforcement Act; the only decision made by the district court was to accept jurisdiction in the matter after the Illinois court declined to exercise jurisdiction over the matter, and any claim of error by the Illinois court would have to be appealed to the appellate courts of that state. Bryant v. Bryant, 28 Neb. App. 362, 943 N.W.2d 742 (2020).

43-1239.

When North Dakota made the initial child custody determination concerning a child in the parents' divorce, exclusive and continuing jurisdiction remained with that court under the Uniform Child Custody Jurisdiction and Enforcement Act, either until a determination was made under subsection (a) of this section or until the court declined to exercise jurisdiction under section 43-1244 on the basis of being an inconvenient forum. In re Interest of Kirsten H., 25 Neb. App. 909, 915 N.W.2d 815 (2018).

43-1243.

Since a child custody proceeding had been commenced in North Dakota, the Nebraska court should have stayed its juvenile proceeding and communicated with the North Dakota court. In re Interest of Kirsten H., 25 Neb. App. 909, 915 N.W.2d 815 (2018).

43-1244.

When North Dakota made the initial child custody determination concerning a child in the parents' divorce, exclusive and continuing jurisdiction remained with that court under the Uniform Child Custody Jurisdiction and Enforcement Act, either until a determination was made under subsection (a) of section 43-1239 or until the court declined to exercise jurisdiction under this section on the basis of being an inconvenient forum. In re Interest of Kirsten H., 25 Neb. App. 909, 915 N.W.2d 815 (2018).

43-1252.

When the registration procedure of this section has been followed and the registration is either not contested or, after a hearing, none of the statutory grounds have been established, the registering court shall confirm the registered order. Hollomon v. Taylor, 303 Neb. 121, 926 N.W.2d 670 (2019).

43-1409.

A previous paternity determination, including a properly executed and undisturbed acknowledgment, must be set aside before a third party's paternity may be considered. Tyler F. v. Sara P., 306 Neb. 397, 945 N.W.2d 502 (2020).

The proper legal effect of a signed, notarized acknowledgment of paternity is a finding that the individual who signed as the father is in fact the legal father. Tyler F. v. Sara P., 306 Neb. 397, 945 N.W.2d 502 (2020).

In cases where a defendant has signed a notarized acknowledgment of paternity but properly challenges the acknowledgment, due process requires that an indigent defendant be furnished appointed counsel at public expense, even if the case was not commenced as a paternity case. State on behalf of Mia G. v. Julio G., 303 Neb. 207, 927 N.W.2d 817 (2019).

43-1411.

The definition of "child" in this section means a child under the age of 18 years born out of wedlock. State on behalf of Miah S. v. Ian K., 306 Neb. 372, 945 N.W.2d 178 (2020).

The State may not bring an action under this section to establish the paternity of a child born in wedlock. State on behalf of Miah S. v. Ian K., 306 Neb. 372, 945 N.W.2d 178 (2020).

ANNOTATIONS

A guardian, next friend of the child, or the State is authorized to bring a paternity action on behalf of a child under subsection (2) of this section within 18 years after the child's birth. This section does not extend the statute of limitations for anyone other than the minor child involved. State on behalf of Elijah K. v. Marceline K., 28 Neb. App. 772, 949 N.W.2d 531 (2020).

In an action filed by the State under this section, the minor child is the real party in interest, and the State is authorized by statute to bring the action on the child's behalf. State on behalf of Elijah K. v. Marceline K., 28 Neb. App. 772, 949 N.W.2d 531 (2020).

Pursuant to this section, the State, in its parens patriae role, may bring a paternity action on behalf of a minor child for future support. The State's right to sue under this section is not conditioned upon the payment of public assistance benefits for the minor child. State on behalf of Elijah K. v. Marceline K., 28 Neb. App. 772, 949 N.W.2d 531 (2020).

This section applies in proceedings that solely seek to establish the paternity of a child or parental support for a child, but not when custody and/or visitation of a child is at issue. Wolter v. Fortuna, 27 Neb. App. 166, 928 N.W.2d 416 (2019).

43-1412.

Retroactive support is included in the support that the trial court may order under subsection (3) of this section. State on behalf of Elijah K. v. Marceline K., 28 Neb. App. 772, 949 N.W.2d 531 (2020).

43-1412.01.

A properly executed acknowledgment of paternity cannot be set aside merely by DNA testing which later shows the identified individual is not the child's biological father. Tyler F. v. Sara P., 306 Neb. 397, 945 N.W.2d 502 (2020).

The State is not an "individual" who may file a complaint to disestablish paternity under this section. State on behalf of Miah S. v. Ian K., 306 Neb. 372, 945 N.W.2d 178 (2020).

43-1503.

A guardianship proceeding qualified as a "foster care placement" as defined by the federal Indian Child Welfare Act of 1978 and subdivision (3)(a) of this section, where the proceeding was initiated by a grandparent of an Indian child, and the object of the proceeding was to remove custody from the Indian child's parent and place custody with the Indian child's grandparent who would serve as guardian. In re Guardianship of Eliza W., 304 Neb. 995, 938 N.W.2d 307 (2020).

There is no precise formula for active efforts; the active efforts standard requires a case-by-case analysis and should be judged by the individual circumstances. In re Adoption of Micah H., 301 Neb. 437, 918 N.W.2d 834 (2018).

43-1505.

Subsection (6) of this section requires that the qualified expert's opinion must support the ultimate finding of the court, i.e., that continued custody by the parent will likely result in serious emotional or physical damage to the child. In re Interest of Audrey T., 26 Neb. App 822, 924 N.W.2d 72 (2019).

43-1512.

In a child custody proceeding involving an Indian child, this section applies only when "any petitioner" improperly removes or retains custody of the Indian child; it does not apply where a court order brings about the removal of the Indian child and a petitioner merely follows that order. In re Guardianship of Eliza W., 304 Neb. 995, 938 N.W.2d 307 (2020).

43-1801.

Grandparents' standing is predicated upon their satisfying the statutory definition of "grandparent" at the time they filed their action for grandparent visitation. Dean D. v. Rachel S., 26 Neb. App. 678, 923 N.W.2d 87 (2018).

43-1802.

Modification of grandparent visitation may be ordered pursuant to subsection (3) of this section, subject to the parties' receiving notice and having an opportunity to be heard. Krejci v. Krejci, 304 Neb. 302, 934 N.W.2d 179 (2019).

Because the order for temporary grandparent visitation at issue was not a final, appealable order, the appellate court could not address whether such orders were permissible. Simms v. Friel, 302 Neb. 1, 921 N.W.2d 369 (2019).

The grandparents' standing is predicated upon their satisfying the statutory definition of "grandparent" at the time they filed their action for grandparent visitation. Dean D. v. Rachel S., 26 Neb. App. 678, 923 N.W.2d 87 (2018).

When grandparents sought grandparent visitation under subdivision (1)(b) of this section, their legally cognizable interest was predicated upon the divorce of their grandchild's parents. The grandparents' legal basis for visitation still existed because the grandchild's parents remained divorced. Thus, the grandparents' application for grandparent visitation did not become moot, because they continued to have a legally cognizable interest in the outcome of litigation, they sought to determine a question upon existing facts and rights, and the issues presented were still alive. Dean D. v. Rachel S., 26 Neb. App. 678, 923 N.W.2d 87 (2018).

A court can order grandparent visitation only if the petitioning grandparent proves by clear and convincing evidence that (1) there is, or has been, a significant beneficial relationship between the grandparent and the child; (2) it is in the best interests of the child that such relationship continue; and (3) such visitation will not adversely interfere with the parent-child relationship. Gatzemeyer v. Knihal, 25 Neb. App. 897, 915 N.W.2d 630 (2018).

43-2922.

"Domestic intimate partner abuse," pursuant to subdivision (8) of this section, requires both attempting to cause or intentionally and knowingly causing bodily injury with or without a dangerous instrument to a family or household member and a pattern or history of abuse. Blank v. Blank, 303 Neb. 602, 930 N.W.2d 523 (2019).

An order governing custody was an award of "joint physical custody," rather than an award of "sole physical custody" to the mother, although the trial court referred to it as an award of "sole physical custody," where the custody order granted the father parenting time that amounted to seven overnights out of fourteen, and each parent was granted continuous blocks of parenting time for significant periods. State on behalf of Emery W. v. Michael W., 28 Neb. App. 956, 951 N.W.2d 177 (2020).

43-2923.

A 15-year-old child's custody preference and the reasoning behind such preference is entitled to consideration but is not controlling in the determination of custody. Leners v. Leners, 302 Neb. 904, 925 N.W.2d 704 (2019).

The trial court was required to make written findings in a marital dissolution proceeding as to why the parties' stipulated parenting plan was not in the children's best interests, and beyond the court's statement that it did not approve of the parties' sharing joint decisionmaking authority over their children, the dissolution decree provided no written findings explaining why it rejected and modified the stipulated parenting plan. Cook v. Cook, 26 Neb. App. 137, 918 N.W.2d 1 (2018).

43-2929.

Pursuant to subdivision (1)(b)(ix) of this section, the district court did not abuse its discretion in ordering the mother to attend an anger management course and counseling to address her coparenting issues. Schriner v. Schriner, 25 Neb. App. 165, 903 N.W.2d 691 (2017).

43-2930.

Pursuant to subdivision (2)(e) of this section, the district court did not abuse its discretion in ordering the mother to attend an anger management course and counseling to address her coparenting issues. Schriner v. Schriner, 25 Neb. App. 165, 903 N.W.2d 691 (2017).

43-2932.

In awarding custody of a child, special written findings that a child and other parent can be adequately protected from harm are required if a parent is found to have engaged in "domestic intimate partner abuse," which means attempting to cause or intentionally and knowingly causing bodily injury with or without a dangerous instrument to

a family or household member and a pattern or history of abuse. Blank v. Blank, 303 Neb. 602, 930 N.W.2d 523 (2019).

When a parent has committed domestic intimate partner abuse, subsection (3) of this section requires the district court to make special written findings that the child and other parent can be adequately protected from harm before ordering legal or physical custody to be given to that parent. Fales v. Fales, 25 Neb. App. 868, 914 N.W.2d 478 (2018).

43-4505.

Immigration relief services, under subdivision (3)(h) of this section, is an exception where the Department of Health and Human Services may offer immigration assistance to unlawful aliens until they are 21 years old. E.M. v. Nebraska Dept. of Health & Human Servs., 306 Neb. 1, 944 N.W.2d 252 (2020).

69-2301.

The scope of the Disposition of Personal Property Landlord and Tenant Act is not so narrowly confined as to exclude commercial leases; as such, the act applies in commercial lease cases. Pan v. IOC Realty Specialist, 301 Neb. 256, 918 N.W.2d 273 (2018).

69-2302.

"Landlord," as defined under this section as the "owner, lessor, or sublessor of furnished or unfurnished premises, including self-service storage units or facilities," does not limit the application of the Disposition of Personal Property Landlord and Tenant Act to self-service storage units or facilities, but, rather, relates to the inclusion of those two types of facilities indicating a nonexclusive list of example applications. Pan v. IOC Realty Specialist, 301 Neb. 256, 918 N.W.2d 273 (2018).

"Tenant," as defined under this section as a person entitled under a rental agreement to occupy any premises for rent or storage uses to the exclusion of others "whether such premises are used as a dwelling unit or self-service storage unit or facility or not," does not limit the application of the Disposition of Personal Property Landlord and Tenant Act to leases in nature of dwelling unit or self-service storage unit. Rather, the language "whether or not" indicates that it is not important which of the possibilities were true. Pan v. IOC Realty Specialist, 301 Neb. 256, 918 N.W.2d 273 (2018).

The definition of landlord under this section clearly includes agents under its scope. Pan v. IOC Realty Specialist, 301 Neb. 256, 918 N.W.2d 273 (2018).

69-2307.

Giving the word "former" its plain and ordinary meaning, "former tenant" under this section includes any past tenant to whom the property may have belonged. Pan v. IOC Realty Specialist, 301 Neb. 256, 918 N.W.2d 273 (2018).

Reading this section in conjunction with section 69-2312, a landlord would not be required to relinquish property to any party that is either (1) not a former tenant or (2) not a person who is reasonably believed by the landlord to be the owner of the personal property at issue. Pan v. IOC Realty Specialist, 301 Neb. 256, 918 N.W.2d 273 (2018).

The purpose of this section is to protect landlords from liability to the owners of personal property when the landlord erroneously surrenders property to a party other than the true owner but who the landlord reasonably believed was the owner. Conversely, if the requesting party is not a former tenant or a person that the landlord reasonably believes owns the personal property, the landlord would not be protected from liability under this section. Pan v. IOC Realty Specialist, 301 Neb. 256, 918 N.W.2d 273 (2018).

69-2312.

Under this section, the phrase "value of the personal property" in its relation to "[a]ctual damages" is the fair market value of the property at the time the tenant's property is improperly detained by the landlord. Pan v. IOC Realty Specialist, 301 Neb. 256, 918 N.W.2d 273 (2018).

70-1301.

The Nebraska Power Review Board's jurisdiction to resolve wholesale electric rate disputes extends to contractual issues intertwined with such disputes. City of Sidney v. Municipal Energy Agency of Neb., 301 Neb. 147, 917 N.W.2d 826 (2018).

70-1306.

This section makes the Commercial Arbitration Rules of the American Arbitration Association, as amended and in effect March 1, 1977, the default procedural rules governing arbitration. City of Sidney v. Municipal Energy Agency of Neb., 301 Neb. 147, 917 N.W.2d 826 (2018).

This section provides an arbitration board with the authority to allow a party to amend its notice, substantive or not, at any time in the arbitrative proceedings. City of Sidney v. Municipal Energy Agency of Neb., 301 Neb. 147, 917 N.W.2d 826 (2018).

75-110.

The Public Service Commission has authority to take actions affecting parties subject to its jurisdiction if such action is taken pursuant to a statute. In re Application No. OP-0003, 303 Neb. 872, 932 N.W.2d 653 (2019).

75-134.02.

The words "file" and "filing" in this section mean that a motion for reconsideration must be in the possession of the Public Service Commission within 10 days after the effective date of the order in order to suspend the time for filing a notice of intention to appeal. In re App. No. C-4973 of Skrdlant, 305 Neb. 635, 942 N.W.2d 196 (2020).

75-136.

An appellate court reviews an order of the Nebraska Public Service Commission de novo on the record. In re Application No. OP-0003, 303 Neb. 872, 932 N.W.2d 653 (2019).

75-362.

Pursuant to subdivision (31) of this section, when distinguishing between a motor carrier and a broker, the determinative question is whether the disputed party accepted legal responsibility to transport the shipment. Sparks v. M&D Trucking, 301 Neb. 977, 921 N.W.2d 110 (2018).

Even if the regulatory scheme governing intrastate motor carriers was applicable to common-law concepts of respondeat superior liability in a tort action, a general contractor that was a registered motor carrier, and that hired another registered motor carrier to transport construction debris, was not the statutory employer of the hired carrier or its truckdriver and, thus, could not be held vicariously liable to automobile passenger who was injured in a collision with the hired carrier's truck while the driver was under the influence of drugs; regulatory scheme contemplated a relationship between a registered motor carrier and a private truck owner or driver that was not a registered motor carrier, and did not impose an agency relationship when the independent contractor was also a registered motor carrier. Cruz v. Lopez, 301 Neb. 531, 919 N.W.2d 479 (2018).

Under the plain language of "employee" and "employer," as used in the statutes governing intrastate motor carriers and adopting certain federal motor carrier safety regulations, a registered motor carrier that is also an employer of the drivers of its commercial motor vehicles cannot at the same time be the statutory employee of another motor carrier acting as a general contractor for a particular job. Cruz v. Lopez, 301 Neb. 531, 919 N.W.2d 479 (2018).

75-363.

A motor carrier may combine more than one policy, and use more than one method, to meet the minimum financial responsibility requirements. Shelter Ins. Co. v. Gomez, 306 Neb. 607, 947 N.W.2d 92 (2020).

Compliance with the minimum financial responsibility requirements in this section is the responsibility of the motor carrier, not the insurer. Shelter Ins. Co. v. Gomez, 306 Neb. 607, 947 N.W.2d 92 (2020).

This section does not regulate the terms and conditions of insurance policies. Shelter Ins. Co. v. Gomez, 306 Neb. 607, 947 N.W.2d 92 (2020).

76-2,120.

If a conveyance of real property is not made in compliance with this section, the purchaser shall have a cause of action against the seller and may recover the actual damages, court costs, and reasonable attorney fees. Hutchison v. Kula, 27 Neb. App. 96, 927 N.W.2d 373 (2019).

Sellers must complete the disclosure statement to the best of their belief and knowledge as of the date it was completed and signed, and as they are otherwise required by law to update before closing on the property. Hutchison v. Kula, 27 Neb. App. 96, 927 N.W.2d 373 (2019).

To state a cause of action under this section, the buyer must plead and prove either that the seller failed to provide a disclosure statement or that the statement contained knowingly false disclosures by the seller. Hutchison v. Kula, 27 Neb. App. 96, 927 N.W.2d 373 (2019).

76-705.

This section includes compensation for property that is damaged, in addition to property that is taken. Russell v. Franklin County, 27 Neb. App. 684, 934 N.W.2d 517 (2019).

76-717.

This section provides that only when a district court orders an appealing party to file a petition on appeal does it become necessary for the court to impose such sanctions as are reasonable. Pinnacle Enters. v. City of Papillion, 302 Neb. 297, 923 N.W.2d 372 (2019).

76-876.

The Nebraska Nonprofit Corporation Act applies broadly to all nonprofit corporations, whereas the Nebraska Condominium Act applies only to condominium regimes and condominium owners. To the extent that there is conflict between two statutes on the same subject, the specific statute controls over the general statute. Dunbar v. Twin Towers Condo. Assn., 26 Neb. App. 354, 920 N.W.2d 1 (2018).

This section does not confer on condominium owners the right to make copies of all records; rather, it gives them the right to examine all of them. Dunbar v. Twin Towers Condo. Assn., 26 Neb. App. 354, 920 N.W.2d 1 (2018).

This section, rather than the Nebraska Nonprofit Corporation Act, controls a condominium owner's right to examine all financial and other records of its association. Dunbar v. Twin Towers Condo. Assn., 26 Neb. App. 354, 920 N.W.2d 1 (2018).

76-1418.

A tenant who accepts possession and lives on the property for several months thereafter does not have a claim under this section, because the duties described in this section pertain to the "commencement" of the lease term. Vasquez v. CHI Properties, 302 Neb. 742, 925 N.W.2d 304 (2019).

76-1419.

The duties set forth in this section to comply with minimum housing codes materially affecting health and safety and to "put and keep" the premises in a fit and habitable condition are not limited under the plain language to conditions arising after commencement of the lease term. Vasquez v. CHI Properties, 302 Neb. 742, 925 N.W.2d 304 (2019).

76-1425.

So long as a tenant has given notice when required by section 76-1419, a tenant can seek damages or injunctive relief under subsection (2) of this section without sending notice under subsection (1) of this section specifying that the rental agreement will terminate upon a date not less than 30 days after receipt of the notice of the breach, if not remedied within 14 days. Vasquez v. CHI Properties, 302 Neb. 742, 925 N.W.2d 304 (2019).

The conjunction "and" in subsection (2) of this section "serves to vest a tenant with two distinct options for relief" and does not require that both be pursued in order to pursue either. Vasquez v. CHI Properties, 302 Neb. 742, 925 N.W.2d 304 (2019).

76-1439.

A separate action for termination of a rental agreement is not a prerequisite to termination under this section. Vasquez v. CHI Properties, 302 Neb. 742, 925 N.W.2d 304 (2019).

77-1801.

Under this section, properties with delinquent real estate taxes on or before the first Monday of March may be sold at a tax sale. HBI, L.L.C. v. Barnette, 305 Neb. 457, 941 N.W.2d 158 (2020).

Actions challenging title obtained via a tax deed are governed by statute. Adair Holdings v. Johnson, 304 Neb. 720, 936 N.W.2d 517 (2020).

77-1824.

A property owner may redeem a property sold at a tax sale with payment of the amount noted on the tax certificate, other taxes subsequently paid, and interest. HBI, L.L.C. v. Barnette, 305 Neb. 457, 941 N.W.2d 158 (2020).

If a property sold at a tax sale has not been redeemed after 3 years, there are two methods by which the holder of a tax certificate may acquire a deed to the property: the tax deed method and judicial foreclosure. HBI, L.L.C. v. Barnette, 305 Neb. 457, 941 N.W.2d 158 (2020).

A tax deed holder's misstatement of the time available for the redemption provided in a notice rendered the tax deed invalid, regardless of whether the record owner relied on the misstatement. Adair Holdings v. Johnson, 304 Neb. 720, 936 N.W.2d 517 (2020).

77-1831.

This section does not contain language requiring the party applying for the tax deed to be included in the notice. HBI, L.L.C. v. Barnette, 305 Neb. 457, 941 N.W.2d 158 (2020).

A misstatement in the statutory notice of the expiration of the time of redemption renders the tax deed invalid. Adair Holdings v. Johnson, 304 Neb. 720, 936 N.W.2d 517 (2020).

A tax deed holder's misstatement of the time available for the redemption provided in a notice rendered the tax deed invalid, regardless of whether the record owner relied on the misstatement. Adair Holdings v. Johnson, 304 Neb. 720, 936 N.W.2d 517 (2020).

77-1832.

Under this section, notice may be sent by certified mail, return receipt requested, to the address where the property tax statement is mailed. HBI, L.L.C. v. Barnette, 305 Neb. 457, 941 N.W.2d 158 (2020).

77-1834.

In contrast to section 25-520.01, this section does not require that the published notice be mailed to all parties having a direct legal interest in the action when the party's name and address are known. HBI, L.L.C. v. Barnette, 305 Neb. 457, 941 N.W.2d 158 (2020).

Notice by publication is permitted under this section upon proof of compliance with section 77-1832 if the record owner lives at the address where the property tax statement was mailed. HBI, L.L.C. v. Barnette, 305 Neb. 457, 941 N.W.2d 158 (2020).

This section only authorizes service by publication in the county where the property at issue is located. HBI, L.L.C. v. Barnette, 305 Neb. 457, 941 N.W.2d 158 (2020).

77-1837.

Under this section, a tax deed acts to convey property to the purchaser of a tax sale certificate or his or her assignee and may be issued by the county treasurer after proper notice is provided. HBI, L.L.C. v. Barnette, 305 Neb. 457, 941 N.W.2d 158 (2020).

77-1843.

A misstatement in the statutory notice of the expiration of the time of redemption renders the tax deed invalid. Adair Holdings v. Johnson, 304 Neb. 720, 936 N.W.2d 517 (2020).

A record owner's attempt to tender payment to the county treasurer for all taxes due upon the property complied with this section's requiring that all such taxes be "paid" by a person seeking to challenge a tax deed and gave the record owner standing to assert a claim seeking to set aside the tax deed, though the record owner's attempted tender took place outside of the statutory redemption period; the record owner attempted tender within the redemption period set forth in a public notice by the holder of the tax deed, and the treasurer refused to accept the tender because the tax deed had already issued. Adair Holdings v. Johnson, 304 Neb. 720, 936 N.W.2d 517 (2020).

This section has a jurisdictional component that renders a tax deed void when the tax deed holder failed to comply with the statutory notice requirements prior to acquiring the deed. Adair Holdings v. Johnson, 304 Neb. 720, 936 N.W.2d 517 (2020).

77-1844.

A record owner's attempt to tender payment to the county treasurer for all taxes due upon the property complied with this section's requiring that all such taxes be "paid" by a person seeking to challenge a tax deed and gave the record owner standing to assert a claim seeking to set aside the tax deed, though the record owner's attempted tender took place outside of the statutory redemption period; the record owner attempted tender within the redemption period set forth in a public notice by the holder of the tax deed, and the treasurer refused to accept the tender because the tax deed had already issued. Adair Holdings v. Johnson, 304 Neb. 720, 936 N.W.2d 517 (2020).

The standing requirement that the taxes are "paid" under this section includes tendering payment. Adair Holdings v. Johnson, 304 Neb. 720, 936 N.W.2d 517 (2020).

77-1902.

Judicial foreclosure requires the holder of a tax certificate to foreclose on the lien for taxes in the district court of the county where the property is located. HBI, L.L.C. v. Barnette, 305 Neb. 457, 941 N.W.2d 158 (2020).

77-2004.

Factual findings necessary in determining whether the requisite acknowledged parent-child relationship of this section exists should be reviewed for sufficient evidence and should not be disturbed on appeal unless clearly wrong. In re Estate of Chambers, 27 Neb. App. 398, 932 N.W.2d 343 (2019).

The following factors serve as appropriate guideposts to the trial court in making a determination of an acknowledged relationship of a parent under this section: (1) reception of the child into the home and treatment of the child as a member of the family, (2) assumption of the responsibility for support beyond occasional gifts and financial aid, (3) exercise of parental authority and discipline, (4) relationship by blood or marriage, (5) advice and guidance to the child, (6) sharing of time and affection, and (7) existence of written documentation evincing the decedent's intent to act as parent. In re Estate of Chambers, 27 Neb. App. 398, 932 N.W.2d 343 (2019).

Factual findings necessary in determining whether the requisite acknowledged parent-child relationship of this section exists should be reviewed for sufficient evidence and should not be disturbed on appeal unless clearly wrong. In re Estate of Sedlacek, 27 Neb. App. 390, 932 N.W.2d 91 (2019).

The Nebraska Supreme Court has identified the following factors as appropriate guideposts to the trial court in making a determination of an acknowledged relationship of a parent under this section: (1) reception of the child into the home and treatment of the child as a member of the family, (2) assumption of the responsibility for support beyond occasional gifts and financial aid, (3) exercise of parental authority and discipline, (4) relationship by blood or marriage, (5) advice and guidance to the child, (6) sharing of time and affection, and (7) existence of written documentation evincing the decedent's intent to act as a parent. In re Estate of Sedlacek, 27 Neb. App. 390, 932 N.W.2d 91 (2019).

77-2018.02.

Although subsection (5) of this section states that the court may dispense with the notice required under subsections (2) and (3), the court is ultimately responsible for determining the inheritance tax. In re Estate of Chambers, 27 Neb. App. 398, 932 N.W.2d 343 (2019).

77-2018.03.

This section, while authorizing the county attorney to stipulate to facts regarding the determination of inheritance tax which could be presented by evidence to the county court, does not require the court to accept the stipulated facts. In re Estate of Chambers, 27 Neb. App. 398, 932 N.W.2d 343 (2019).

77-2701.10.

Where the statutes allow contractors a choice as to how they are taxed and where certain exceptions are provided, there is no conflict between subdivision (2) of this section, which allows a contractor to pay sales tax as a consumer, and subdivision (2)(e) of section 77-2701.16, which requires the payment of tax on the "furnishing, installing, or connecting" of mobile telecommunications services. Diversified Telecom Servs. v. State, 306 Neb. 834, 947 N.W.2d 550 (2020).

77-2701.16.

Where the statutes allow contractors a choice as to how they are taxed and where certain exceptions are provided, there is no conflict between subdivision (2) of section 77-2701.10, which allows a contractor to pay sales tax as a consumer, and subdivision (2)(e) of this section, which requires the payment of tax on the "furnishing, installing, or connecting" of mobile telecommunications services. Diversified Telecom Servs. v. State, 306 Neb. 834, 947 N.W.2d 550 (2020).

77-2701.46.

For purposes of the statutory definition of "manufacturing," "reduce" means "to diminish in size, amount, extent, or number," and "transform" means "to change the outward former appearance" or "to change in character or condition." Ash Grove Cement Co. v. Nebraska Dept. of Rev., 306 Neb. 947, 947 N.W.2d 731 (2020).

77-5704.

Any term used in the Nebraska Advantage Act shall have the same meaning as used in chapter 77, article 27, of Nebraska's statutes. Ash Grove Cement Co. v. Nebraska Dept. of Rev., 306 Neb. 947, 947 N.W.2d 731 (2020).

77-5715.

In the context of the Nebraska Advantage Act, "manufacturing" and "processing" have distinct meanings. In the absence of a statute or regulation indicating the contrary, the term "processing" means to subject to a particular method, system, or technique of preparation, handling or other treatment designed to prepare tangible personal property for market, manufacture, or other commercial use which does not result in the transformation of property into a substantially different character. Ash Grove Cement Co. v. Nebraska Dept. of Rev., 306 Neb. 947, 947 N.W.2d 731 (2020).

79-209.

The plain language of this section does not provide that a parent's absence at the collaborative plan meeting is a defense to adjudication. In re Interest of Reality W., 302 Neb. 878, 925 N.W.2d 355 (2019).

The school's failure to document the efforts required by subsection (3) of this section is a defense to adjudication for habitual truancy. In re Interest of Reality W., 302 Neb. 878, 925 N.W.2d 355 (2019).

Absence of a guardian from a collaborative plan meeting is not an absolute defense in a truancy proceeding where the school documented sufficient efforts to obtain the guardian's presence. In re Interest of Cole J., 26 Neb. App. 951, 925 N.W.2d 365 (2019).

81-8,212.

The doctrine of substantial compliance applies when determining whether presuit presentment requirements pertaining to a claim's content are met. Saylor v. State, 306 Neb. 147, 944 N.W.2d 726 (2020).

81-8,219.

A recreational activity involves something more than simply being physically on property maintained by the State; it must involve some leisure activity other than merely being present on state-maintained land. Brown v. State, 305 Neb. 111, 939 N.W.2d 354 (2020).

For the recreational activity exception to apply, the claim must relate to a recreational activity on property leased, owned, or controlled by the State; the claim must result from an inherent risk of that recreational activity; and no fee must have been charged for the plaintiff to participate in, or be a spectator at, the recreational activity. Brown v. State, 305 Neb. 111, 939 N.W.2d 354 (2020).

It is necessary as a threshold matter to identify the recreational activity, if any, in which the plaintiff was engaged as either a participant or a spectator. Brown v. State, 305 Neb. 111, 939 N.W.2d 354 (2020).

"[A]ny law enforcement officer" covered by the exception to the waiver of sovereign immunity in the State Tort Claims Act, specifically subdivision (2) of this section, includes all law enforcement officers, including Department of Correctional Services personnel. Rouse v. State, 301 Neb. 1037, 921 N.W.2d 355 (2019).

81-8,227.

Under the State Tort Claims Act, if a claimant brings his or her claim before a claims board and elects to await final disposition instead of withdrawing the claim to file suit, a 6-month extension from the mailing of a denial applies regardless of whether final disposition was made before or after the 2-year limitation for suits. Patterson v. Metropolitan Util. Dist., 302 Neb. 442, 923 N.W.2d 717 (2019).

83-1,106.

The credit for time served to which a defendant is entitled is an absolute and objective number that is established by the record. State v. McCulley, 305 Neb. 139, 939 N.W.2d 373 (2020).

Failing to give credit for time served, while erroneous, does not render the sentence void. State v. Barnes, 303 Neb. 167, 927 N.W.2d 64 (2019).

Subsection (1) of this section does not set forth a right to collaterally attack the final judgment in a criminal case on the ground that credit for time served was not given as mandated by statute. State v. Barnes, 303 Neb. 167, 927 N.W.2d 64 (2019).

Pursuant to subsection (1) of this section, the defendant was not entitled to credit for time served during his pretrial detainment in Nebraska, following his extradition from Colorado, for time that occurred prior to Colorado's grant of parole, since he was in custody because of his Colorado sentence up until he was paroled. State v. Leahy, 301 Neb. 228, 917 N.W.2d 895 (2018).

83-967.

Subsection (2) of this section does not provide a complete exception to the public records statutes and is reasonably and ordinarily understood as an exemption like those under section 84-712.05. State ex rel. BH Media Group v. Frakes, 305 Neb. 780, 943 N.W.2d 231 (2020).

Under the plain and unambiguous language of subsection (2) of this section, the Legislature intended to prevent the disclosure of the identities of execution team members. State ex rel. BH Media Group v. Frakes, 305 Neb. 780, 943 N.W.2d 231 (2020).

84-712.

A statute qualifies as an "other statute" under subsection (1) of this section when the plain language of a statute makes it clear that a record, or portions thereof, is exempt from disclosure in response to a public records request. State ex rel. BH Media Group v. Frakes, 305 Neb. 780, 943 N.W.2d 231 (2020).

An "other statute" exemption does not allow a court to imply an exemption, but only allows a specific exemption to stand. State ex rel. BH Media Group v. Frakes, 305 Neb. 780, 943 N.W.2d 231 (2020).

84-712.01.

The Legislature intended that courts liberally construe the public records statutes in favor of disclosure whenever the expenditure of public funds is involved. State ex rel. BH Media Group v. Frakes, 305 Neb. 780, 943 N.W.2d 231 (2020).

84-712.03.

In the context of a public records denial, a district court's jurisdiction over a writ of mandamus is governed by this section, and such jurisdiction does not turn on whether the claim advanced by the relator has merit. State ex rel. BH Media Group v. Frakes, 305 Neb. 780, 943 N.W.2d 231 (2020).

It is well-understood that the public records statutes place the burden of proof upon the public body to justify nondisclosure. State ex rel. BH Media Group v. Frakes, 305 Neb. 780, 943 N.W.2d 231 (2020).

A party seeking a writ of mandamus under this section has the burden to satisfy three elements: (1) The requesting party is a citizen of the state or other person interested in the examination of the public records, (2) the document sought is a public record as defined by section 84-712.01, and (3) the requesting party has been denied access to the public record as guaranteed by section 84-712. Huff v. Brown, 305 Neb. 648, 941 N.W.2d 515 (2020).

If the public body holding the record wishes to oppose the issuance of a writ of mandamus, the public body must show, by clear and conclusive evidence, that the public record at issue is exempt from the disclosure requirement under one of the exceptions provided by section 84-712.05 or section 84-712.08. Huff v. Brown, 305 Neb. 648, 941 N.W.2d 515 (2020).

Under subdivision (1)(a) of this section, the requesting party's initial responsibility includes demonstrating that the requested record is a public record that he or she has a clear right to access under the public records statutes and that the public body or custodian against whom mandamus is sought has a clear duty to provide such public records. Huff v. Brown, 305 Neb. 648, 941 N.W.2d 515 (2020).

84-712.05.

Disclosure, within the meaning of the public records statutes, refers to the exposure of documents to public view. An exemption from disclosure should not be misunderstood as an exception to the laws of the public records statutes. State ex rel. BH Media Group v. Frakes, 305 Neb. 780, 943 N.W.2d 231 (2020).

84-712.06.

In order for an agency to carry its burden before the district court, the agency must provide a reasonably detailed justification rather than conclusory statements to support its claim that the nonexempt material in a document is not reasonably segregable. State ex rel. BH Media Group v. Frakes, 305 Neb. 780, 943 N.W.2d 231 (2020).

The withholding of an entire document by an agency is not justifiable simply because some of the material therein is subject to an exemption. Agencies are required to disclose nonexempt portions of a document, unless those nonexempt portions are inextricably intertwined with exempt portions. State ex rel. BH Media Group v. Frakes, 305 Neb. 780, 943 N.W.2d 231 (2020).

84-911.

Citizens lacked standing under the Administrative Procedure Act to challenge the validity of a regulation where they alleged an infringement of a procedural right to informed participation in the regulation-making process but did not show that the challenged regulation itself threatened or violated their rights. Griffith v. Nebraska Dept. of Corr. Servs., 304 Neb. 287, 934 N.W.2d 169 (2019).

Common-law exceptions to injury-in-fact standing do not apply in actions brought under the Administrative Procedure Act provision that permits the validity of any rule or regulation to be determined upon a petition for declaratory judgment if it appears that the rule or regulation or its threatened application interferes with legal rights or privileges of the petitioner, overruling *Project Extra Mile v. Nebraska Liquor Control Comm.*, 283 Neb. 379, 810 N.W.2d 149 (2012). Griffith v. Nebraska Dept. of Corr. Servs., 304 Neb. 287, 934 N.W.2d 169 (2019).

84-912.02.

The Administrative Procedure Act grants agencies the power to impose conditions upon an intervenor's participation, and this action is distinct from granting or denying a petition for intervention. In re Application No. OP-0003, 303 Neb. 872, 932 N.W.2d 653 (2019).

Under the Administrative Procedure Act, an agency may modify an order imposing conditions on intervention at any time. In re Application No. OP-0003, 303 Neb. 872, 932 N.W.2d 653 (2019).

84-917.

Service on nongovernmental entities under subdivision (2)(a)(i) of this section is required within 30 days of the filing of the petition. Candyland, LLC v. Nebraska Liquor Control Comm., 306 Neb. 169, 944 N.W.2d 740 (2020).

The Administrative Procedure Act does not limit a district court's general original jurisdiction. Webb v. Nebraska Dept. of Health & Human Servs., 301 Neb. 810, 920 N.W.2d 268 (2018).

Under subdivision (5)(b) of this section, the district court has the discretion to remand a cause to the agency for resolution of issues that were not raised before the agency if the court determines that the interest of justice would be served by resolution of such issues. Barrios v. Commissioner of Labor, 25 Neb. App. 835, 914 N.W.2d 468 (2018).

Under subdivision (5)(b) of this section, where the district court, sitting as an intermediate appellate court for an agency decision, reverses a judgment in favor of a party and remands the matter for further proceedings, that party's substantial right has been affected, so as to make that order final for purposes of appeal. Barrios v. Commissioner of Labor, 25 Neb. App. 835, 914 N.W.2d 468 (2018).

84-1408.

Although a committee was a subcommittee of a natural resources district board, it was not subject to the Open Meetings Act because there was never a quorum of board members in attendance and the committee did not hold hearings, make policy, or take formal action on behalf of the board. Koch v. Lower Loup NRD, 27 Neb. App. 301, 931 N.W.2d 160 (2019).

84-1409.

Although a committee was a subcommittee of a natural resources district board, it was not subject to the Open Meetings Act because there was never a quorum of board members in attendance and the committee did not hold hearings, make policy, or take formal action on behalf of the board. Koch v. Lower Loup NRD, 27 Neb. App. 301, 931 N.W.2d 160 (2019).

Although the Open Meetings Act does not define "subcommittee," a subcommittee is generally defined as a group within a committee to which the committee may refer business. Koch v. Lower Loup NRD, 27 Neb. App. 301, 931 N.W.2d 160 (2019).

The Open Meetings Act does not require policymakers to remain ignorant of the issues they must decide until the moment the public is invited to comment on a proposed policy. By excluding nonquorum subgroups from the definition of a public body, the Legislature has balanced the public's need to be heard on matters of public policy with a practical accommodation for a public body's need for information to conduct business. Koch v. Lower Loup NRD, 27 Neb. App. 301, 931 N.W.2d 160 (2019).

86-135.

Subsection (1) of this section permits a person to file an application with the Public Service Commission to seek service from a telecommunications company in the local exchange area adjacent to the local exchange area in which the applicant resides, which, in this instance, meant the Public Service Commission necessarily interpreted the words "the local exchange area in which the applicant resides" to include property an applicant presently owns and on which the applicant does not presently reside, but has demonstrated an intent to reside on such property in the future. In re Application No. C-4981, 27 Neb. App. 773, 936 N.W.2d 365 (2019).

86-136.

Subsection (1) of this section relates to whether an applicant is receiving, or will receive within a reasonable time, broadband service from the telecommunications company which furnishes telecommunications service in the local

exchange area in which the applicant resides; a timeframe of nearly 8 months did not meet the requirement of "within a reasonable time." Note that this section was amended effective September 1, 2019, to place the focus on when the application to change exchange boundaries is filed, rather than whether service can be made available within a reasonable time. In re Application No. C-4981, 27 Neb. App. 773, 936 N.W.2d 365 (2019).

86-291.

The requirement that the submissions of applications for intercept to the Attorney General and the court occur "[a]t the same time" necessitates that the application be submitted to the Attorney General in close enough proximity to the submission to the court that the grounds upon which the application is based are equally applicable and the Attorney General could issue its recommendation with sufficient time so the court could timely consider it in making its determination. State v. Brye, 304 Neb. 498, 935 N.W.2d 438 (2019).

86-293.

Pursuant to subsection (3) of this section, a court can authorize interception of communications within its territorial jurisdiction and this interception occurs both at the origin or point of reception and where the communication is redirected and first heard. State v. Brye, 304 Neb. 498, 935 N.W.2d 438 (2019).

86-297.

Whether reasonable attorney fees should be awarded under this section is addressed to the trial court's discretion, and a trial court is not required to provide an explanation of such an award in the absence of a party's request for specific findings. Brumbaugh v. Bendorf, 306 Neb. 250, 945 N.W.2d 116 (2020).

87-208.

"Denali Custom Builders" was a trade name of appellant Denali Custom Builders, Inc., because it was used on signs and advertising in transacting business but was not the true name of appellant. Denali Real Estate v. Denali Custom Builders, 302 Neb. 984, 926 N.W.2d 610 (2019).

87-302.

Pursuant to subdivision (a)(9) of this section, a product disparagement claim alleging the disparagement of the goods, services, or business "of another" by false or misleading representation of fact requires that the offending statements be "of and concerning" a claimant's goods or services. Determining whether a statement is "of and concerning" a claimant's goods or services requires the consideration of the circumstances surrounding the statement but also requires more than general, industry-wide allegations. JB & Assocs. v. Nebraska Cancer Coalition, 303 Neb. 855, 932 N.W.2d 71 (2019).

Denali Custom Builders, Inc., engaged in a deceptive trade practice when its use of "Denali Custom Builders" in the course of its business and the similarity of the fonts and colors used on its signage and its website caused confusion regarding the source of goods or services and its affiliation or association with Denali Real Estate's entities. Denali Real Estate v. Denali Custom Builders, 302 Neb. 984, 926 N.W.2d 610 (2019).

87-303.

Requiring Denali Custom Builders, Inc., to remove the name "Denali" from any registration of its corporate name or trade name with the Nebraska Secretary of State was equitable relief necessary to grant complete relief to the prevailing party. Denali Real Estate v. Denali Custom Builders, 302 Neb. 984, 926 N.W.2d 610 (2019).

Ticket seller was not a "prevailing party," as would support award of attorney fees under Nebraska's Consumer Protection Act and Uniform Deceptive Trade Practices Act following dismissal of the State's consumer protection suit where the State chose to voluntarily dismiss its claims before any judicial determination could be made as to their merits. State ex rel. Peterson v. Creative Comm. Promotions, 302 Neb. 606, 924 N.W.2d 664 (2019).

87-303.07.

This section, which specifically lists buyers and lessees as those protected by its provisions, does not apply to guarantors. Lindsay Internat. Sales & Serv. v. Wegener, 301 Neb. 1, 917 N.W.2d 133 (2018).

CONSTITUTION OF THE STATE OF NEBRASKA OF 1875, AND SUBSEQUENT AMENDMENTS

CONSTITUTION OF THE STATE OF NEBRASKA

ARTICLE I

BILL OF RIGHTS

Section
2. Slavery prohibited.

Sec. 2 Slavery prohibited.

There shall be neither slavery nor involuntary servitude in this state.

Source: Neb. Const. art. I, sec. 2 (1875); Amended 2020, Laws 2019, LR1CA, sec. 1.

ARTICLE III

LEGISLATIVE POWER

Section
24. Games of chance, lotteries, and gift enterprises; restrictions; use of state lottery proceeds; parimutuel wagering on horseraces; bingo games; laws relating to games of chance, applicability.

Sec. 24 Games of chance, lotteries, and gift enterprises; restrictions; use of state lottery proceeds; parimutuel wagering on horseraces; bingo games; laws relating to games of chance, applicability.

(1) Except as provided in this section, the Legislature shall not authorize any game of chance or any lottery or gift enterprise when the consideration for a chance to participate involves the payment of money for the purchase of property, services, or a chance or admission ticket or requires an expenditure of substantial effort or time.

(2) The Legislature may authorize and regulate a state lottery pursuant to subsection (3) of this section and other lotteries, raffles, and gift enterprises which are intended solely as business promotions or the proceeds of which are to be used solely for charitable or community betterment purposes without profit to the promoter of such lotteries, raffles, or gift enterprises.

(3)(a) The Legislature may establish a lottery to be operated and regulated by the State of Nebraska. The proceeds of the lottery shall be appropriated by the Legislature for the costs of establishing and maintaining the lottery and for the following purposes, as directed by the Legislature:

(i) The first five hundred thousand dollars after the payment of prizes and operating expenses shall be transferred to the Compulsive Gamblers Assistance Fund;

(ii) Forty-four and one-half percent of the money remaining after the payment of prizes and operating expenses and the initial transfer to the Compulsive

Gamblers Assistance Fund shall be transferred to the Nebraska Environmental Trust Fund to be used as provided in the Nebraska Environmental Trust Act;

(iii) Forty-four and one-half percent of the money remaining after the payment of prizes and operating expenses and the initial transfer to the Compulsive Gamblers Assistance Fund shall be used for education as the Legislature may direct;

(iv) Ten percent of the money remaining after the payment of prizes and operating expenses and the initial transfer to the Compulsive Gamblers Assistance Fund shall be transferred to the Nebraska State Fair Board if the most populous city within the county in which the fair is located provides matching funds equivalent to ten percent of the funds available for transfer. Such matching funds may be obtained from the city and any other private or public entity, except that no portion of such matching funds shall be provided by the state. If the Nebraska State Fair ceases operations, ten percent of the money remaining after the payment of prizes and operating expenses and the initial transfer to the Compulsive Gamblers Assistance Fund shall be transferred to the General Fund; and

(v) One percent of the money remaining after the payment of prizes and operating expenses and the initial transfer to the Compulsive Gamblers Assistance Fund shall be transferred to the Compulsive Gamblers Assistance Fund.

(b) No lottery game shall be conducted as part of the lottery unless the type of game has been approved by a majority of the members of the Legislature.

(4) Nothing in this section shall be construed to prohibit (a) the enactment of laws providing for the licensing and regulation of wagering on the results of horseraces, wherever run, either within or outside of the state, by the parimutuel method, when such wagering is conducted by licensees within a licensed racetrack enclosure or (b) the enactment of laws providing for the licensing and regulation of bingo games conducted by nonprofit associations which have been in existence for a period of five years immediately preceding the application for license, except that bingo games cannot be conducted by agents or lessees of such associations on a percentage basis.

(5) This section shall not apply to any law which is enacted contemporaneously with the adoption of this subsection or at any time thereafter and which provides for the licensing, authorization, regulation, or taxation of all forms of games of chance when such games of chance are conducted by authorized gaming operators within a licensed racetrack enclosure.

Source: Neb. Const. art. III, sec. 21 (1875); Amended 1934, Initiative Measure No. 332; Amended 1958, Initiative Measure No. 302; Amended 1962, Laws 1961, c. 248, sec. 1, p. 735; Amended 1968, Laws 1967, c. 307, sec. 1, p. 832; Amended 1988, Laws 1988, LR 15, sec. 1; Amended 1992, Laws 1991, LR 24CA, sec. 1; Amended 2004, Laws 2004, LR 209CA, sec. 1; Amended 2020, Initiative Measure No. 429.

Cross References

Nebraska Environmental Trust Act, see section 81-15,167.

ARTICLE VIII
REVENUE

Sec. 12 Cities or villages; redevelopment project; substandard and blighted property; incur indebtedness; taxes; how treated.

For the purpose of rehabilitating, acquiring, or redeveloping substandard and blighted property in a redevelopment project as determined by law, any city or village of the state may, notwithstanding any other provision in the Constitution, and without regard to charter limitations and restrictions, incur indebtedness, whether by bond, loans, notes, advance of money, or otherwise. Notwithstanding any other provision in the Constitution or a local charter, such cities or villages may also pledge for and apply to the payment of the principal, interest, and any premium on such indebtedness all taxes levied by all taxing bodies on the assessed valuation of the property in the project area portion of a designated blighted and substandard area that is in excess of the assessed valuation of such property for the year prior to such rehabilitation, acquisition, or redevelopment. Cities and villages may pledge such taxes for a period not to exceed fifteen years, except that the Legislature may allow cities and villages to pledge such taxes for a period not to exceed twenty years if, due to a high rate of unemployment combined with a high poverty rate as determined by law, more than one-half of the property in the project area is designated as extremely blighted.

When such indebtedness and the interest thereon have been paid in full, such property thereafter shall be taxed as is other property in the respective taxing jurisdictions and such taxes applied as all other taxes of the respective taxing bodies.

Source: Neb. Const. art. VIII, sec. 12 (1978); Adopted 1978, Laws 1978, LB 469, sec. 1; Amended 1984, Laws 1984, LR 227, sec. 1; Amended 1988, Laws 1987, LR 11, sec. 1; Amended 2020, Laws 2019, LR14CA, sec. 1.

CHAPTER 1
ACCOUNTANTS

Section
1-116. Certified public accountant; examination; eligibility.

1-116 Certified public accountant; examination; eligibility.

Any person making initial application to take the examination described in section 1-114 shall be eligible to take the examination if he or she has completed at least one hundred fifty semester hours or two hundred twenty-five quarter hours of postsecondary academic credit and has earned a baccalaureate or higher degree from a college or university accredited by an accrediting agency recognized by the United States Department of Education or a similar agency as determined to be acceptable by the board. The person shall demonstrate that accounting, auditing, business, and other subjects at the appropriate academic level as required by the board are included within the required hours of postsecondary academic credit. A person who expects to complete the postsecondary academic credit and earn the degree as required by this section may take test sections of the examination within one hundred twenty days prior to completing the postsecondary academic credit and earning the degree, but such person shall not receive any credit for such test sections unless evidence satisfactory to the board showing that such person has completed the postsecondary academic credit and earned the degree as required by this section is received by the board within one hundred fifty days following when the first test section of the examination is taken. The board shall not prescribe the specific curricula of colleges or universities. If the applicant is an individual, the application shall include the applicant's social security number.

Source: Laws 1957, c. 1, § 11, p. 59; Laws 1976, LB 619, § 2; Laws 1984, LB 473, § 6; Laws 1991, LB 75, § 5; Laws 1997, LB 114, § 13; Laws 1997, LB 752, § 49; Laws 1999, LB 346, § 1; Laws 2009, LB31, § 7; Laws 2014, LB967, § 1; Laws 2020, LB808, § 1; Laws 2021, LB528, § 1.
Operative date August 28, 2021.

CHAPTER 2
AGRICULTURE

Article.
2. State and County Fairs.
(b) Prohibited Acts. 2-219.
12. Horseracing. 2-1201 to 2-1247.
26. Pesticides. 2-2626, 2-2634.
32. Natural Resources. 2-3213 to 2-3254.
41. Dry Pea and Lentil Resources. 2-4108.

ARTICLE 2
STATE AND COUNTY FAIRS

(b) PROHIBITED ACTS

Section
2-219. State, district, and county fairs; prohibited activities; penalty; exceptions; sale of liquor, when.

(b) PROHIBITED ACTS

2-219 State, district, and county fairs; prohibited activities; penalty; exceptions; sale of liquor, when.

No person shall be permitted to exhibit or conduct indecent shows or dances or to engage in any gambling or other games of chance or horseracing, either inside the enclosure where any state fair or district or county agricultural society fair is being held or within forty rods thereof, during the time of holding such fairs. Nothing in this section shall be construed to prohibit wagering on the results of horseraces by the parimutuel or certificate method when conducted by licensees within the racetrack enclosure at licensed horserace meetings, to prohibit the operation of bingo games as provided in the Nebraska Bingo Act, to prohibit the conduct of lotteries pursuant to the Nebraska County and City Lottery Act, to prohibit the conduct of lotteries or raffles pursuant to the Nebraska Lottery and Raffle Act or the Nebraska Small Lottery and Raffle Act, to prohibit the sale of pickle cards pursuant to the Nebraska Pickle Card Lottery Act, or to prohibit the conduct of games of chance pursuant to the Nebraska Racetrack Gaming Act. Nothing in this section shall be construed to prohibit the sale of intoxicating liquors, wine, or beer by a person properly licensed pursuant to Chapter 53 on premises under the control of the Nebraska State Fair Board or any county agricultural society. Any person who violates this section shall be guilty of a Class V misdemeanor. The trial of speed of horses under direction of the society shall not be included in the term horseracing. Upon the filing of proof with the State Treasurer of a violation of this section inside the enclosure of such fair, the amount of money appropriated shall be withheld from any money appropriated for the ensuing year.

Source: Laws 1879, § 16, p. 401; Laws 1901, c. 2, § 2, p. 44; R.S.1913, § 13; C.S.1922, § 13; C.S.1929, § 2-208; Laws 1935, c. 173, § 16, p. 636; C.S.Supp.,1941, § 2-208; R.S.1943, § 2-219; Laws 1963, c. 4, § 2, p. 63; Laws 1969, c. 12, § 1, p. 150; Laws 1977, LB 40,

§ 2; Laws 1978, LB 386, § 1; Laws 1983, LB 213, § 1; Laws 1986, LB 1027, § 1; Laws 1992, LB 398, § 5; Laws 2000, LB 1086, § 1; Laws 2002, LB 1236, § 7; Laws 2021, LB371, § 1. Effective date August 28, 2021.

Cross References

Nebraska Bingo Act, see section 9-201.
Nebraska County and City Lottery Act, see section 9-601.
Nebraska Lottery and Raffle Act, see section 9-401.
Nebraska Pickle Card Lottery Act, see section 9-301.
Nebraska Racetrack Gaming Act, see section 9-1101.
Nebraska Small Lottery and Raffle Act, see section 9-501.

ARTICLE 12
HORSERACING

Section

2-1201 State Racing and Gaming Commission; creation; members; terms; qualifications; compensation; expenses; bond or insurance; personal financial interest prohibited.

(1) There hereby is created a State Racing and Gaming Commission. For purposes of sections 2-1201 to 2-1229, commission means the State Racing and Gaming Commission.

(2) The commission shall consist of seven members who shall be appointed by the Governor and subject to confirmation by a majority of the members elected to the Legislature and may be for cause removed by the Governor. One member of the commission shall be appointed from each congressional district, as such districts existed on January 1, 2010, and four members of the commission shall be appointed at large for terms as follows:

(a) The member representing the second congressional district who is appointed on or after April 1, 2010, shall serve until March 31, 2014, and until his or her successor is appointed and qualified. Thereafter the term of the member representing such district shall be four years and until his or her successor is appointed and qualified;

(b) The member representing the third congressional district who is appointed on or after April 1, 2011, shall serve until March 31, 2015, and until his or her successor is appointed and qualified. Thereafter the term of the member representing such district shall be four years and until his or her successor is appointed and qualified;

(c) The member representing the first congressional district who is appointed on or after April 1, 2012, shall serve until March 31, 2016, and until his or her successor is appointed and qualified. Thereafter the term of the member representing such district shall be four years and until his or her successor is appointed and qualified;

(d) Not later than sixty days after July 15, 2010, the Governor shall appoint one at-large member who shall serve until March 31, 2013, and until his or her successor is appointed and qualified. Thereafter the term of such member shall be four years and until his or her successor is appointed and qualified;

(e) Not later than sixty days after July 15, 2010, the Governor shall appoint one at-large member who shall serve until March 31, 2014, and until his or her successor is appointed and qualified. Thereafter the term of such member shall be four years and until his or her successor is appointed and qualified; and

(f) Not later than sixty days after May 26, 2021, the Governor shall appoint two additional at-large members who shall serve until March 31, 2025, and until their successors are appointed and qualified. One of such members shall have experience in the Nebraska gaming industry, and one shall be a member of the organization representing the majority of licensed owners and trainers of horses at racetracks in Nebraska. Thereafter the terms of such at-large members shall be four years and until their successors are appointed and qualified.

(3) Not more than four members of the commission shall belong to the same political party. No more than three of the members shall reside, when appointed, in the same congressional district. No more than two of the members shall reside in any one county. Any vacancy shall be filled by appointment by the Governor for the unexpired term. The compensation of the members of the commission shall be one thousand dollars per month, which may be adjusted every two years in an amount not to exceed the change in the Consumer Price Index for Urban Wage Earners and Clerical Workers for the period between June 30 of the first year to June 30 of the year of adjustment. The members shall be reimbursed for expenses incurred in the performance of their duties as

provided in sections 81-1174 to 81-1177. The members of the commission shall be bonded or insured as required by section 11-201.

(4) No member shall have any personal financial interest in any licensed racetrack enclosure or authorized gaming operator as defined in the Nebraska Racetrack Gaming Act for the duration of the member's term.

Source: Laws 1935, c. 173, § 1, p. 629; C.S.Supp.,1941, § 2-1501; R.S. 1943, § 2-1201; Laws 1978, LB 653, § 1; Laws 1981, LB 204, § 4; Laws 2004, LB 884, § 1; Laws 2006, LB 1111, § 1; Laws 2010, LB861, § 1; Laws 2020, LB381, § 2; Laws 2021, LB561, § 1.
Effective date May 26, 2021.

Cross References

Nebraska Racetrack Gaming Act, see section 9-1101.

2-1201.01 Commission; purposes.

The purpose of the commission is to provide statewide regulation of horseracing and games of chance as defined in the Nebraska Racetrack Gaming Act in order to prevent and eliminate corrupt practices and fraudulent behavior, and thereby maintain a high level of integrity and honesty in the horseracing industry of Nebraska and the operation of games of chance in Nebraska, and to insure that all funds received by the commission are properly distributed.

Source: Laws 1980, LB 939, § 1; Laws 2021, LB561, § 2.
Effective date May 26, 2021.

Cross References

Nebraska Racetrack Gaming Act, see section 9-1101.

2-1202 Commission; chairperson; executive director; compensation; duties; bond; personnel; duties; bonded or insured; vested with authority and power of law enforcement officer.

(1) The commission shall elect one of its members to be chairperson thereof, and it shall be authorized to employ an executive director and such other assistants and employees as may be necessary to carry out the purposes of sections 2-1201 to 2-1218, the Nebraska Racetrack Gaming Act, and sections 9-1201 to 9-1209. Such executive director shall have no other official duties. The executive director shall keep a record of the proceedings of the commission, preserve the books, records, and documents entrusted to the executive director, and perform such other duties as the commission shall prescribe; and the commission shall require the executive director to give bond in such sum as it may fix, conditioned for the faithful performance of the duties of the executive director. The commission shall be authorized to fix the compensation of the executive director, and also the compensation of its other employees, subject to the approval of the Governor. The commission shall have an office at such place within the state as it may determine and shall meet at such times and places as it shall find necessary and convenient for the discharge of its duties.

(2) The commission shall appoint or employ deputies, investigators, inspectors, agents, security personnel, and other persons as deemed necessary to administer and effectively enforce the regulation of horseracing, the Nebraska

Racetrack Gaming Act, and sections 9-1201 to 9-1209. Any appointed or employed personnel shall perform the duties assigned by the commission.

(3) All personnel appointed or employed by the commission shall be bonded or insured as required by section 11-201. As specified by the commission, certain personnel shall be vested with the authority and power of a law enforcement officer to carry out the laws of this state administered by the commission.

Source: Laws 1935, c. 173, § 2, p. 630; C.S.Supp.,1941, § 2-1502; R.S. 1943, § 2-1202; Laws 1967, c. 4, § 1, p. 72; Laws 2021, LB561, § 3.
Effective date May 26, 2021.

Cross References

Nebraska Racetrack Gaming Act, see section 9-1101.

2-1203 Commission; powers; fines; board of stewards; powers; appeal; fine.

The commission shall have power to prescribe and enforce rules and regulations governing horseraces and race meetings licensed as provided in sections 2-1201 to 2-1229 and games of chance as provided in the Nebraska Racetrack Gaming Act. Such rules and regulations shall contain criteria to be used by the commission for decisions on approving and revoking track licenses and setting racing dates.

The commission may revoke or suspend licenses issued to racing industry participants and may, in lieu of or in addition to such suspension or revocation, impose a fine in an amount not to exceed five thousand dollars upon a finding that a rule or regulation has been violated by a licensed racing industry participant. The exact amount of the fine shall be proportional to the seriousness of the violation and the extent to which the licensee derived financial gain as a result of the violation.

The commission may delegate to a board of stewards such of the commission's powers and duties as may be necessary to carry out and effectuate the purposes of sections 2-1201 to 2-1229.

Any decision or action of such board of stewards may be appealed to the commission or may be reviewed by the commission on its own initiative. The board of stewards may impose a fine not to exceed fifteen hundred dollars upon a finding that a rule or regulation has been violated.

The commission shall remit administrative fines collected under this section to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

Source: Laws 1935, c. 173, § 3, p. 630; C.S.Supp.,1941, § 2-1503; R.S. 1943, § 2-1203; Laws 1975, LB 582, § 1; Laws 1980, LB 939, § 3; Laws 1991, LB 200, § 1; Laws 1992, LB 718, § 1; Laws 1994, LB 1153, § 1; Laws 2001, LB 295, § 2; Laws 2003, LB 243, § 1; Laws 2005, LB 573, § 1; Laws 2014, LB656, § 1; Laws 2021, LB561, § 4.
Effective date May 26, 2021.

Cross References

Nebraska Racetrack Gaming Act, see section 9-1101.

2-1203.01 Commission; duties.

The commission shall:

(1) Enforce all state laws covering horseracing as required by sections 2-1201 to 2-1229 and enforce rules and regulations covering horseracing adopted and promulgated by the commission under the authority of section 2-1203;

(2) License racing industry participants, race officials, mutuel employees, concessionaires, and such other persons as deemed necessary by the commission if the license applicants meet eligibility standards established by the commission;

(3) Prescribe and enforce security provisions, including, but not limited to, the restricted access to areas within track enclosures and backstretch areas, and prohibitions against misconduct or corrupt practices;

(4) Determine or cause to be determined by chemical testing and analysis of body fluids whether or not any prohibited substance has been administered to the winning horse of each race and any other horse selected by the board of stewards;

(5) Verify the certification of horses registered as being Nebraska-bred under section 2-1213; and

(6) Collect and verify the amount of revenue received by the commission under section 2-1208.

Source: Laws 1980, LB 939, § 2; Laws 1989, LB 591, § 1; Laws 1992, LB 718, § 2; Laws 2014, LB656, § 2; Initiative Law 2020, No. 430, § 7; Laws 2021, LB561, § 5.
Effective date May 26, 2021.

2-1203.02 Licensees, administrators, and managers; application; fingerprinting and criminal history record check; costs.

(1) Any person applying for or holding a license to participate in or be employed at a horserace meeting licensed by the commission shall be subject to fingerprinting and a check of his or her criminal history record information maintained by the Identification Division of the Federal Bureau of Investigation for the purpose of determining whether the commission has a basis to deny the license application or to suspend, cancel, or revoke the person's license, except that the commission shall not require a person to be fingerprinted if such person has been previously fingerprinted in connection with a license application in this state or any other state within the last five years prior to the application for such license. Any person involved in the administration or management of a racetrack, including the governing body, shall be subject to fingerprinting and a check of his or her criminal history record information maintained by the Identification Division of the Federal Bureau of Investigation. The applicant, licensee, or person involved in the administration or management of a racetrack shall pay the actual cost of any fingerprinting or check of his or her criminal history record information. The requirements of this subsection shall not apply to employees of concessions who do not work in restricted-access areas, admissions employees whose duties involve only admissions ticket sales and verification or parking receipts sales and verification, and medical or emergency services personnel authorized to provide such services at the racetrack.

(2) If the applicant is an individual who is applying for a license to participate in or be employed at a horserace meeting, the application shall include the applicant's social security number.

Source: Laws 1991, LB 200, § 2; Laws 1994, LB 1153, § 2; Laws 1997, LB 752, § 53; Laws 2021, LB561, § 6.
Effective date May 26, 2021.

2-1204 Horseracing; licenses; applications.

The Nebraska State Fair Board, a county fair board, a county agricultural society for the improvement of agriculture organized under the County Agricultural Society Act, or a corporation or association of persons organized and carried on for civic purposes or which conducts a livestock exposition for the promotion of the livestock or horse-breeding industries of the state and which does not permit its members to derive personal profit from its activities by way of dividends or otherwise may apply to the commission for a license to conduct horseracing at a designated place within the state. Such application shall be filed with the executive director of the commission at least sixty days before the first day of the horserace meeting which such corporation or association proposes to hold or conduct, shall specify the day or days when and the exact location where it is proposed to conduct such racing, and shall be in such form and contain such information as the commission shall prescribe.

Source: Laws 1935, c. 173, § 4, p. 630; C.S.Supp.,1941, § 2-1504; R.S. 1943, § 2-1204; Laws 1997, LB 469, § 31; Laws 2002, LB 1236, § 12; Laws 2021, LB561, § 7.
Effective date May 26, 2021.

Cross References

County Agricultural Society Act, see section 2-250.

2-1207 Horseracing; parimutuel wagering; how conducted; certificate, contents; deductions; licensee; duties; person under nineteen years of age prohibited; penalty.

(1) Within the enclosure of any racetrack where a race or race meeting licensed and conducted under sections 2-1201 to 2-1218 is held or at a racetrack licensed to simulcast races or conduct interstate simulcasting, the parimutuel method or system of wagering on the results of the respective races may be used and conducted by the licensee. Under such system, the licensee may receive wagers of money from any person present at such race or racetrack receiving the simulcast race or conducting interstate simulcasting on any horse in a race selected by such person to run first in such race, and the person so wagering shall acquire an interest in the total money so wagered on all horses in such race as first winners in proportion to the amount of money wagered by him or her. Such licensee shall issue to each person so wagering a certificate on which shall be shown the number of the race, the amount wagered, and the number or name of the horse selected by such person as first winner. As each race is run, at the option of the licensee, the licensee may deduct from the total sum wagered on all horses as first winners not less than fifteen percent or more than eighteen percent from such total sum, plus the odd cents of the redistribution over the next lower multiple of ten. At the option of the licensee, the licensee may deduct up to and including twenty-five percent from the total sum wagered by exotic wagers as defined in section 2-1208.03.

The commission may authorize other levels of deduction on wagers conducted by means of interstate simulcasting. The licensee shall notify the commission in writing of the percentages the licensee intends to deduct during the live race meet conducted by the licensee and shall notify the commission at least one week in advance of any changes to such percentages the licensee intends to make. The licensee shall also deduct from the total sum wagered by exotic wagers, if any, the tax plus the odd cents of the redistribution over the next multiple of ten as provided in subsection (1) of section 2-1208.04. The balance remaining on hand shall be paid out to the holders of certificates on the winning horse in the proportion that the amount wagered by each certificate holder bears to the total amount wagered on all horses in such race to run first. The licensee may likewise receive such wagers on horses selected to run second, third, or both, or in such combinations as the commission may authorize, the method, procedure, and authority and right of the licensee, as well as the deduction allowed to the licensee, to be as specified with respect to wagers upon horses selected to run first.

(2) At all race meets held pursuant to this section, the licensee shall deduct from the total sum wagered one-third of the amount over fifteen percent deducted pursuant to subsection (1) of this section on wagers on horses selected to run first, second, or third and one percent of all exotic wagers to be used to promote agriculture and horse breeding in Nebraska and for the support and preservation of horseracing pursuant to section 2-1207.01.

(3) No person under twenty-one years of age shall be permitted to make any parimutuel wager, and there shall be no wagering on horseracing except under the parimutuel method outlined in this section. Any person, association, or corporation who knowingly aids or abets a person under twenty-one years of age in making a parimutuel wager shall be guilty of a Class I misdemeanor.

Source: Laws 1935, c. 173, § 7, p. 631; C.S.Supp.,1941, § 2-1507; R.S. 1943, § 2-1207; Laws 1959, c. 5, § 1, p. 71; Laws 1963, c. 6, § 1, p. 66; Laws 1965, c. 9, § 1, p. 123; Laws 1973, LB 76, § 1; Laws 1976, LB 519, § 5; Laws 1977, LB 40, § 12; Laws 1982, LB 631, § 1; Laws 1983, LB 365, § 1; Laws 1986, LB 1041, § 4; Laws 1987, LB 708, § 5; Laws 1989, LB 591, § 2; Laws 1990, LB 1055, § 1; Laws 1992, LB 718, § 3; Laws 1993, LB 471, § 1; Laws 1994, LB 1153, § 3; Laws 2005, LB 573, § 2; Laws 2014, LB656, § 3; Laws 2021, LB561, § 8.
Effective date May 26, 2021.

2-1207.01 Deduction from wagers; distribution; costs.

The amount deducted from wagers pursuant to subsection (2) of section 2-1207 may be used to promote agriculture and horsebreeding in Nebraska and shall be distributed as purse supplements and breeder and stallion awards for Nebraska-bred horses, as defined and registered pursuant to section 2-1213, at the racetrack where the funds were generated, except that if a racetrack does not continue to conduct live race meets, amounts deducted may be distributed as purse supplements and breeder and stallion awards at racetracks that conduct live race meets and amounts deducted pursuant to a contract with the organization representing the majority of the licensed owners and trainers at the racetrack's most recent live race meet shall be used by that organization to promote live thoroughbred horseracing in the state or as purse supplements at

racetracks that conduct live race meets in the state. Any costs incurred by the commission pursuant to this section and subsection (2) of section 2-1207 shall be separately accounted for and be deducted from such funds.

Source: Laws 1983, LB 365, § 2; Laws 1994, LB 1354, § 1; Laws 1996, LB 1255, § 1; Laws 2021, LB561, § 9.
Effective date May 26, 2021.

2-1208 Race meetings; tax; fees.

For all race meetings, every corporation or association licensed under the provisions of sections 2-1201 to 2-1218 relating to horseracing shall pay the tax imposed by section 2-1208.01 and shall also pay to the commission the sum of sixty-four one hundredths of one percent of the gross sum wagered by the parimutuel method at each licensed racetrack enclosure during the calendar year. For race meetings devoted principally to running live races, the licensee shall pay to the commission the sum of fifty dollars for each live racing day that the licensee serves as the host track for intrastate simulcasting and twenty-five dollars for any other live racing day.

No other license tax, permit tax, occupation tax, or excise tax or racing fee, except as provided in this section and in sections 2-1203 and 2-1208.01, relating to horseracing shall be levied, assessed, or collected from any such licensee by the state or by any county, township, district, city, village, or other governmental subdivision or body having power to levy, assess, or collect any such tax or fee.

Source: Laws 1935, c. 173, § 8, p. 632; C.S.Supp.,1941, § 2-1508; R.S. 1943, § 2-1208; Laws 1959, c. 5, § 2, p. 72; Laws 1980, LB 939, § 4; Laws 1992, LB 718, § 4; Laws 1994, LB 1153, § 4; Laws 1999, LB 127, § 1; Laws 2005, LB 573, § 3; Laws 2014, LB656, § 4; Laws 2021, LB561, § 10.
Effective date May 26, 2021.

2-1208.03 Exotic wagering; terms, defined.

For purposes of sections 2-1208.03 and 2-1208.04, unless the context otherwise requires:

(1) Exotic wagers shall mean daily double, exacta, quinella, trifecta, pick six, and other similar types of bets which are approved by the commission;

(2) Gross exotic daily receipts shall mean the total sum of all money wagered, on a daily basis, by means of exotic wagers at race meets;

(3) Race meet shall mean any exhibition of racing of horses at which the parimutuel or certificate method of wagering is used;

(4) Racetrack shall mean any racetrack licensed by the commission to conduct race meets; and

(5) Recipient track shall mean a racetrack with a total annual parimutuel handle, based on the previous racing year, of twelve million dollars or less.

Source: Laws 1986, LB 1041, § 1; Laws 2021, LB561, § 11.
Effective date May 26, 2021.

2-1208.04 Exotic wagering; withholding; Track Distribution Fund; created; distributed; investment.

(1) Racetracks shall separately account for their gross exotic daily receipts. For all meets commencing after July 16, 1994, any racetrack that had for its previous race meet a total parimutuel handle of less than fifty million dollars shall withhold an amount equal to one-half of one percent of such receipts and any racetrack that had for its previous race meet a total parimutuel handle of fifty million dollars or more shall withhold an amount equal to one percent of such receipts, except that for all meets commencing on or after January 1, 1995, each racetrack shall withhold an amount equal to one-fourth of one percent of such receipts, which amount shall be deducted from purses at the withholding track. Such amount withheld shall be paid to the commission on the last day of each month during each race meeting for deposit in the Track Distribution Fund, which fund is hereby created.

(2) The fund shall be distributed monthly to recipient racetracks which conduct wagering by the parimutuel method on thoroughbred horseracing. Such racetracks shall receive the percentage which the total number of days of horseraces run at such racetrack in the year of distribution bears to the total number of days of horseraces run at all such racetracks in the year of distribution. Before January 1, 1995, one-half of the amount received under this subsection by a racetrack shall be used to supplement purses at the track, and on and after January 1, 1995, the entire amount received by a racetrack shall be used to supplement purses at the track.

(3) Any money in the Track Distribution Fund available 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 fund which is not distributed at the end of the calendar year shall be available for expenditure by the commission to defray its expenses pursuant to section 2-1209.

(4) The assessment required by this section shall be in addition to the assessments, taxes, and fees required by Chapter 2, article 12.

Source: Laws 1986, LB 1041, § 2; Laws 1987, LB 467, § 2; Laws 1994, LB 1354, § 2; Laws 1995, LB 7, § 4; Laws 2021, LB561, § 12.
Effective date May 26, 2021.

Cross References

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

2-1209 Funds; disbursement.

Out of the funds received pursuant to section 2-1208, the expenses of the commissioners, the compensation and reasonable expenses of the executive director, assistants, and employees, and the other reasonable expenses of the commission related to the regulation of horseracing, including suitable furniture, equipment, supplies, and office expenses, shall first be paid. Sums paid out by the commission shall be subject to the general policy for disbursement of funds by agencies of the state, including regular audit.

Source: Laws 1935, c. 173, § 9, p. 633; C.S.Supp.,1941, § 2-1509; R.S. 1943, § 2-1209; Laws 1994, LB 1153, § 5; Laws 2021, LB561, § 13.
Effective date May 26, 2021.

2-1211 Licensees; records; reports; audit.

Every corporation or association licensed under sections 2-1201 to 2-1218 shall so keep its books and records as to clearly show the total number of admissions to races conducted by it on each racing day, including the number of admissions upon free passes or complimentary tickets, and the amount received daily from admission fees and the total amount of money wagered during the race meeting, including wagers at locations to which its races were simulcast and at races which it received via simulcast from other racetracks, and shall furnish to the commission such reports and information as it may require with respect thereto. At the end of each race meeting, the licensee shall furnish to the commission and the Governor a complete audit by a certified public accountant detailing all expenses and disbursements. Such audit shall be in the form specified by the commission and shall be filed on or before February 1 following such meet.

Source: Laws 1935, c. 173, § 11, p. 634; C.S.Supp.,1941, § 2-1511; R.S.1943, § 2-1211; Laws 1965, c. 10, § 2, p. 125; Laws 1994, LB 1153, § 6; Laws 2021, LB561, § 14.
Effective date May 26, 2021.

2-1213 Horseracing; Sunday racing forbidden; exceptions; voter disapproval; issuance of licenses limited; race of Nebraska-bred horses; commission designate registrar; fees.

(1)(a) No racing under sections 2-1201 to 2-1218 shall be permitted on Sunday except when approved by a majority of the members of the commission upon application for approval by any racetrack. Such approval shall be given after the commission has considered: (i) Whether Sunday racing at the applicant track will tend to promote and encourage agriculture and horse breeding in Nebraska; (ii) whether the applicant track operates under a license granted by the commission; (iii) whether the applicant track is in compliance with all applicable health, safety, fire, and police rules and regulations or ordinances; (iv) whether the denial of Sunday racing at the applicant track would impair such track's economic ability to continue to function under its license; and (v) whether the record of the public hearing held on the issue of Sunday racing at the applicant track shows reasonable public support. Notice of such public hearing shall be given at least ten days prior thereto by publication in a newspaper having general circulation in the county in which the applicant track is operating, and the commission shall conduct a public hearing in such county. The commission may adopt, promulgate, and enforce rules and regulations governing the application and approval for Sunday racing in addition to its powers in section 2-1203. If the commission permits racing on Sunday, the voters may prohibit such racing in the manner prescribed in section 2-1213.01. If approval by the commission for Sunday racing at the applicant track is granted, no racing shall occur on Sunday until after 1 p.m.

(b) No license shall be granted for racing on more than one racetrack in any one county, except that the commission may, in its discretion, grant a license to any county agricultural society to conduct racing during its county fair notwithstanding a license may have been issued for racing on another track in such county.

(c) Since the purpose of sections 2-1201 to 2-1218 is to encourage agriculture and horse breeding in Nebraska, every licensee shall hold at least one race on each racing day limited to Nebraska-bred horses, including thoroughbreds or

quarter horses. Three percent of the first money of every purse won by a Nebraska-bred horse shall be paid to the breeder of such horse. Beginning September 1, 2005, through January 1, 2008, each licensee who holds a license for quarter horseracing shall, for each live racing day, give preference to Nebraska-bred quarter horses in at least one race in lieu of the requirements of this subdivision.

(2) For purposes of this section, Nebraska-bred horse shall mean a horse registered with the Nebraska Thoroughbred or Quarter Horse Registry and meeting the following requirements: (a) It shall have been foaled in Nebraska; (b) its dam shall have been registered, prior to foaling, with the Nebraska Thoroughbred or Quarter Horse Registry; and (c) its dam shall have been continuously in Nebraska for ninety days immediately prior to foaling, except that such ninety-day period may be reduced to thirty days in the case of a mare in foal which is purchased at a nationally recognized thoroughbred or quarter horse blood stock sale, the name and pedigree of the mare being listed in the sale catalog, and which is brought into this state and remains in this state for thirty days immediately prior to foaling.

The requirement that a dam shall be continuously in Nebraska for either ninety days or thirty days, as specified in subdivision (2)(c) of this section, shall not apply to a dam which is taken outside of Nebraska to be placed for sale at a nationally recognized thoroughbred or quarter horse blood stock sale, the name and pedigree of the mare being listed in the sale catalog, or for the treatment of an extreme sickness or injury, if written notice of such proposed sale or treatment is provided to the secretary of the commission within three days of the date such horse is taken out of the state.

The commission may designate official registrars for the purpose of registration and to certify the eligibility of Nebraska-bred horses. An official registrar shall perform such duties in accordance with policies and procedures adopted and promulgated by the commission in the current rules and regulations of the commission. The commission may authorize the official registrar to collect specific fees as would reasonably compensate the registrar for expenses incurred in connection with registration of Nebraska-bred horses. The amount of such fee or fees shall be established by the commission and shall not be changed without commission approval. Fees shall not exceed one hundred dollars per horse.

Any decision or action taken by the official registrar shall be subject to review by the commission or may be taken up by the commission on its own initiative.

Source: Laws 1935, c. 173, § 13, p. 635; C.S.Supp.,1941, § 2-1513; R.S.1943, § 2-1213; Laws 1973, LB 178, § 1; Laws 1975, LB 342, § 1; Laws 1978, LB 867, § 1; Laws 1981, LB 136, § 1; Laws 1982, LB 839, § 1; Laws 1987, LB 708, § 6; Laws 1991, LB 334, § 1; Laws 1996, LB 1255, § 2; Laws 2005, LB 573, § 4; Laws 2021, LB561, § 15.
Effective date May 26, 2021.

2-1215 Violations; penalty.

Any person, corporation, or association holding or conducting any horserace or horserace meeting in connection with which the parimutuel system of wagering is used or to be used, without a license duly issued by the commission; or any person, corporation, or association holding or conducting horse-

races or horserace meetings in connection with which any wagering is permitted otherwise than in the manner specified in sections 2-1201 to 2-1218; or any person, corporation, or association violating any of the provisions of sections 2-1201 to 2-1218 or any of the rules and regulations prescribed by the commission, shall be guilty of a Class I misdemeanor.

Source: Laws 1935, c. 173, § 15, p. 635; C.S.Supp.,1941, § 2-1515; R.S.1943, § 2-1215; Laws 1977, LB 40, § 13; Laws 2021, LB561, § 16.
Effective date May 26, 2021.

2-1216 Parimutuel wagering legalized; fees paid, how construed.

The parimutuel system of wagering on the results of horseraces, when conducted within the racetrack enclosure at licensed horserace meetings, shall not under any circumstances be held or construed to be unlawful, any other statutes of the State of Nebraska to the contrary notwithstanding. The money inuring to the commission under sections 2-1201 to 2-1218 relating to horseracing from permit fees or from other sources shall never be considered as license money. It is the intention of the Legislature that the funds arising under such sections be construed as general revenue to be appropriated and allocated exclusively for the specific purposes set forth in such sections.

Source: Laws 1935, c. 173, § 20, p. 637; C.S.Supp.,1941, § 2-1516; R.S.1943, § 2-1216; Laws 1992, LB 718, § 5; Laws 2014, LB656, § 5; Laws 2021, LB561, § 17.
Effective date May 26, 2021.

2-1217 Drugging of horses prohibited.

It shall be unlawful for any person to use or permit to be used a narcotic of any kind to stimulate or retard any horse that is to run in a race in this state to which the provisions of sections 2-1201 to 2-1218 apply, or for a person having the control of such horse and knowledge of such stimulation or retardation to allow it to run in any such race. The owners of such horse and their agents or employees shall permit any member of the commission or any person appointed by the commission for that purpose to make such tests as the commission deems proper in order to determine whether any such animal has been so stimulated or retarded. The findings of the commission that a horse has been stimulated or retarded by a narcotic or narcotics shall be prima facie evidence of such fact.

Source: Laws 1935, c. 173, § 21, p. 638; C.S.Supp.,1941, § 2-1517; R.S.1943, § 2-1217; Laws 2021, LB561, § 18.
Effective date May 26, 2021.

2-1219 Commission; members; employees; activities prohibited; conflict of interest; penalty.

(1) When any matter comes before the commission that may cause financial benefit or detriment to a member of the commission, a member of his or her immediate family, or a business with which the member is associated, which is distinguishable from the effects of such matter on the public generally or a broad segment of the public, such member shall take the following actions as soon as he or she is aware of such potential conflict or should reasonably be aware of such potential conflict, whichever is sooner:

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

(b) Deliver a copy of the statement to the executive director of the commission; and

(c) Recuse himself or herself from taking any action or making any decision relating to such matter in the discharge of his or her official duties as a member of the commission.

(2) No horse in which any employee of the commission has any interest shall be raced at any meet under the jurisdiction of the commission.

(3) No employee of the commission shall have a pecuniary interest or engage in any private employment in a profession or business which is regulated by or interferes or conflicts with the performance or proper discharge of the duties of the commission.

(4) No employee of the commission shall wager or cause a wager to be placed on the outcome of any race at a race meeting which is under the jurisdiction and supervision of the commission.

(5) No employee of the commission shall have a pecuniary interest or engage in any private employment in a business which does business with any racing association licensed by the commission or in any business issued a concession operator license by the commission.

(6) Any commission employee violating this section shall forfeit his or her employment.

(7) The commission shall include in its rules and regulations prohibitions against actual or potential specific conflicts of interest on the part of racing officials and other individuals licensed by the commission.

Source: Laws 1965, c. 10, § 1, p. 125; Laws 1980, LB 939, § 5; Laws 2010, LB861, § 2; Laws 2021, LB561, § 19.
Effective date May 26, 2021.

2-1221 Accepting anything of value to be wagered, transmitted, or delivered for wager; delivering off-track wagers; prohibited; penalty.

Except as provided in section 2-1207, whoever directly or indirectly accepts anything of value to be wagered or to be transmitted or delivered for wager in any parimutuel system of wagering on horseraces or delivers anything of value which has been received outside of the enclosure of a racetrack holding a race meet licensed under sections 2-1201 to 2-1247 to be placed as wagers in the parimutuel pool within such enclosure shall be guilty of a Class I misdemeanor.

Source: Laws 1977, LB 273, § 1; Laws 1978, LB 748, § 1; Laws 1984, LB 915, § 1; Laws 1987, LB 1, § 10; Laws 1992, LB 718, § 6; Laws 2014, LB656, § 6; Laws 2021, LB561, § 20.
Effective date May 26, 2021.

2-1222 Racing and Gaming Commission's Cash Fund; created; use; investment.

There is hereby created the Racing and Gaming Commission's Cash Fund from which shall be appropriated such amounts as are available therefrom and as shall be considered incident to the administration of horseracing by the State Racing and Gaming Commission's office. The fund shall contain all license fees

and gross receipt taxes collected by the commission as provided under sections 2-1203, 2-1203.01, and 2-1208 relating to horseracing but shall not include taxes collected pursuant to section 2-1208.01, and such fees and taxes collected shall be remitted to the State Treasurer for credit to the Racing and Gaming Commission's Cash Fund. Money in the fund may be transferred to the General Fund at the direction of the Legislature. The State Treasurer shall transfer one hundred fifty thousand dollars from the fund to the General Fund on or before June 15, 2018, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services. Any money in the Racing and Gaming Commission's Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1980, LB 939, § 6; Laws 1992, LB 718, § 7; Laws 1994, LB 1066, § 4; Laws 2014, LB656, § 7; Laws 2017, LB331, § 16; Laws 2021, LB561, § 21.
Effective date May 26, 2021.

Cross References

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

2-1224 Simulcast; authorized; legislative findings.

(1) The Legislature finds that:

(a) The horseracing, horse breeding, and parimutuel wagering industry is an important sector of the agricultural economy of the state, provides substantial revenue for state and local governments, and employs many residents of the state;

(b) The simultaneous telecast of live audio and visual signals of horseraces conducted within the state on which parimutuel betting is permitted holds the potential to strengthen and further these economic contributions and it is in the best interest of the state to permit such live telecasts;

(c) Permitting parimutuel wagering on the results of horseracing conducted at racetracks outside the state also holds the potential to strengthen and further these economic contributions and it is in the best interest of the state to permit such wagering; and

(d) No simulcast or interstate simulcast shall be authorized which would jeopardize present live racing, horse breeding, or employment opportunities or which would infringe on current operations or markets of the racetracks which generate significant revenue for local governments in the state.

(2) The Legislature hereby authorizes the telecasts of horseraces conducted within the state on which parimutuel wagering shall be permitted and interstate simulcasting under rules and regulations adopted and promulgated by the commission in the manner and subject to the conditions provided in sections 2-1207 and 2-1224 to 2-1229.

Source: Laws 1987, LB 708, § 1; Laws 1989, LB 591, § 4; Laws 2021, LB561, § 22.
Effective date May 26, 2021.

2-1225 Terms, defined.

For purposes of sections 2-1207 and 2-1224 to 2-1229, unless the context otherwise requires:

(1) Commission shall mean the State Racing and Gaming Commission;

(2) Interstate simulcast shall mean parimutuel wagering at any licensed racetrack within the state on the results of any horserace conducted outside the state;

(3) Licensed horserace meeting shall include, but not be limited to, licensed racetracks at which simulcasts or interstate simulcasts are conducted;

(4) Operator shall mean any licensee issued a license under sections 2-1201 to 2-1223 operating a simulcast facility in accordance with sections 2-1224 to 2-1229;

(5) Receiving track shall mean any track which displays a simulcast which originates from another track or which conducts interstate simulcasts;

(6) Sending track shall mean any track from which a simulcast or interstate simulcast originates;

(7) Simulcast shall mean the telecast of live audio and visual signals of any horserace conducted in the state for the purpose of parimutuel wagering;

(8) Simulcast facility shall mean a facility within the state which is authorized to display simulcasts for parimutuel wagering purposes under sections 2-1224 to 2-1227 or to conduct interstate simulcasts under sections 2-1228 and 2-1229; and

(9) Track shall mean the grounds or enclosures within which horseraces are conducted by licensees authorized to conduct such races in accordance with sections 2-1201 to 2-1223.

Source: Laws 1987, LB 708, § 2; Laws 1989, LB 591, § 5; Laws 2021, LB561, § 23.
Effective date May 26, 2021.

2-1244 Horseracing industry participant, defined.

For purposes of sections 2-1243 to 2-1246, horseracing industry participant shall mean an individual who currently holds a valid license for purposes of conducting horseracing from the State Racing and Gaming Commission and who owns, trains, cares for, or rides horses stabled at a Nebraska-licensed racetrack for the purpose of horseracing at the live race meeting at such racetrack.

Source: Laws 1993, LB 471, § 6; Laws 2021, LB561, § 24.
Effective date May 26, 2021.

2-1246 Rules and regulations; sections; how construed.

(1) The State Racing and Gaming Commission shall adopt and promulgate rules and regulations which provide for dismissal, license revocation or suspension, fines, or other suitable penalties necessary to enforce sections 2-1243 to 2-1245.

(2) Nothing in such sections shall affect in any way the right of any horseracing industry participant to bring any action in any appropriate forum for the violation of any law of this state or any rule of racing.

Source: Laws 1993, LB 471, § 8; Laws 2021, LB561, § 25.
Effective date May 26, 2021.

2-1247 Interstate Compact on Licensure of Participants in Horse Racing with Pari-Mutuel Wagering.

The Interstate Compact on Licensure of Participants in Horse Racing with Pari-Mutuel Wagering is hereby enacted into law and entered into with all other jurisdictions legally joining therein, in the form substantially as follows:

ARTICLE I. PURPOSES

Section 1. Purposes.

The purposes of this compact are to:

1. Establish uniform requirements among the party states for the licensing of participants in live horse racing with pari-mutuel wagering, and ensure that all such participants who are licensed pursuant to this compact meet a uniform minimum standard of honesty and integrity.

2. Facilitate the growth of the horse racing industry in each party state and nationwide by simplifying the process for licensing participants in live racing, and reduce the duplicative and costly process of separate licensing by the regulatory agency in each state that conducts live horse racing with pari-mutuel wagering.

3. Authorize the Nebraska State Racing and Gaming Commission to participate in this compact.

4. Provide for participation in this compact by officials of the party states, and permit those officials, through the compact committee established by this compact, to enter into contracts with governmental agencies and nongovernmental persons to carry out the purposes of this compact.

5. Establish the compact committee created by this compact as an interstate governmental entity duly authorized to request and receive criminal history record information from the Federal Bureau of Investigation and other state and local law enforcement agencies.

ARTICLE II. DEFINITIONS

Section 2. Definitions.

''Compact committee'' means the organization of officials from the party states that is authorized and empowered by this compact to carry out the purposes of this compact.

''Official'' means the appointed, elected, designated or otherwise duly selected member of a racing commission or the equivalent thereof in a party state who represents that party state as a member of the compact committee.

''Participants in live racing'' means participants in live horse racing with pari-mutuel wagering in the party states.

''Party state'' means each state that has enacted this compact.

''State'' means each of the several states of the United States, the District of Columbia, the Commonwealth of Puerto Rico and each territory or possession of the United States.

ARTICLE III. ENTRY INTO FORCE,
ELIGIBLE PARTIES AND WITHDRAWAL

Section 3. Entry into force.

This compact shall come into force when enacted by any four (4) states. Thereafter, this compact shall become effective as to any other state upon both

(i) that state's enactment of this compact and (ii) the affirmative vote of a majority of the officials on the compact committee as provided in Section 8.

Section 4. States eligible to join compact.

Any state that has adopted or authorized horse racing with pari-mutuel wagering shall be eligible to become party to this compact.

Section 5. Withdrawal from compact and impact thereof on force and effect of compact.

Any party state may withdraw from this compact by enacting a statute repealing this compact, but no such withdrawal shall become effective until the head of the executive branch of the withdrawing state has given notice in writing of such withdrawal to the head of the executive branch of all other party states. If as a result of withdrawals participation in this compact decreases to less than three (3) party states, this compact no longer shall be in force and effect unless and until there are at least three (3) or more party states again participating in this compact.

ARTICLE IV. COMPACT COMMITTEE

Section 6. Compact committee established.

There is hereby created an interstate governmental entity to be known as the ''compact committee,'' which shall be comprised of one (1) official from the racing commission or its equivalent in each party state. The Nebraska State Racing and Gaming Commission shall designate one of its members to represent the State of Nebraska as the compact committee official. A compact committee official shall be appointed, serve and be subject to removal in accordance with the laws of the party state he represents. Pursuant to the laws of his party state, each official shall have the assistance of his state's racing commission or the equivalent thereof in considering issues related to licensing of participants in live racing and in fulfilling his responsibilities as the representative from his state to the compact committee. If an official representing the State of Nebraska is unable to perform any duty in connection with the powers and duties of the compact committee, the Nebraska State Racing and Gaming Commission shall designate another of its members or its executive director as an alternate who shall serve and represent the State of Nebraska as its official on the compact committee until the commission determines that the original representative official is able once again to perform the duties as that party state's representative official on the compact committee. The designation of an alternate shall be communicated by the Nebraska State Racing and Gaming Commission to the compact committee as the committee's bylaws may provide.

Section 7. Powers and duties of compact committee.

In order to carry out the purposes of this compact, the compact committee is hereby granted the power and duty to:

1. Determine which categories of participants in live racing, including but not limited to owners, trainers, jockeys, grooms, mutuel clerks, racing officials, veterinarians, and farriers, should be licensed by the committee, and establish the requirements for the initial licensure of applicants in each such category, the term of the license for each category, and the requirements for renewal of licenses in each category. Provided, however, that with regard to requests for criminal history record information on each applicant for a license, and with regard to the effect of a criminal record on the issuance or renewal of a license,

the compact committee shall determine for each category of participants in live racing which licensure requirements for that category are, in its judgment, the most restrictive licensure requirements of any party state for that category and shall adopt licensure requirements for that category that are, in its judgment, comparable to those most restrictive requirements.

2. Investigate applicants for a license from the compact committee and, as permitted by federal and state law, gather information on such applicants, including criminal history record information from the Federal Bureau of Investigation and relevant state and local law enforcement agencies, and, where appropriate, from the Royal Canadian Mounted Police and law enforcement agencies of other countries, necessary to determine whether a license should be issued under the licensure requirements established by the committee as provided in paragraph 1 above. Only officials on, and employees of, the compact committee may receive and review such criminal history record information, and those officials and employees may use that information only for the purposes of this compact. No such official or employee may disclose or disseminate such information to any person or entity other than another official on or employee of the compact committee. The fingerprints of each applicant for a license from the compact committee shall be taken by the compact committee, its employees, or its designee and, pursuant to Public Law 92-544 or Public Law 100-413, shall be forwarded to a state identification bureau, or to the Association of Racing Commissioners, International, an association of state officials regulating pari-mutuel wagering designated by the Attorney General of the United States, for submission to the Federal Bureau of Investigation for a criminal history record check. Such fingerprints may be submitted on a fingerprint card or by electronic or other means authorized by the Federal Bureau of Investigation or other receiving law enforcement agency.

3. Issue licenses to, and renew the licenses of, participants in live racing listed in paragraph 1 of this section who are found by the committee to have met the licensure and renewal requirements established by the committee. The compact committee shall not have the power or authority to deny a license. If it determines that an applicant will not be eligible for the issuance or renewal of a compact committee license, the compact committee shall notify the applicant that it will not be able to process his application further. Such notification does not constitute and shall not be considered to be the denial of a license. Any such applicant shall have the right to present additional evidence to, and to be heard by, the compact committee, but the final decision on issuance or renewal of the license shall be made by the compact committee using the requirements established pursuant to paragraph 1 of this section.

4. Enter into contracts or agreements with governmental agencies and with nongovernmental persons to provide personal services for its activities and such other services as may be necessary to effectuate the purposes of this compact.

5. Create, appoint, and abolish those offices, employments, and positions, including an executive director, as it deems necessary for the purposes of this compact, prescribe their powers, duties and qualifications, hire persons to fill those offices, employments and positions, and provide for the removal, term, tenure, compensation, fringe benefits, retirement benefits and other conditions of employment of its officers, employees and other positions.

6. Borrow, accept, or contract for the services of personnel from any state, the United States, or any other governmental agency, or from any person, firm, association, corporation or other entity.

7. Acquire, hold, and dispose of real and personal property by gift, purchase, lease, license, or in other similar manner, in furtherance of the purposes of this compact.

8. Charge a fee to each applicant for an initial license or renewal of a license.

9. Receive other funds through gifts, grants and appropriations.

Section 8. Voting requirements.

A. Each official shall be entitled to one (1) vote on the compact committee.

B. All action taken by the compact committee with regard to the addition of party states as provided in Section 3, the licensure of participants in live racing, and the receipt and disbursement of funds shall require a majority vote of the total number of officials (or their alternates) on the committee. All other action by the compact committee shall require a majority vote of those officials (or their alternates) present and voting.

C. No action of the compact committee may be taken unless a quorum is present. A majority of the officials (or their alternates) on the compact committee shall constitute a quorum.

Section 9. Administration and management.

A. The compact committee shall elect annually from among its members a chairman, a vice-chairman, and a secretary/treasurer.

B. The compact committee shall adopt bylaws for the conduct of its business by a two-thirds vote of the total number of officials (or their alternates) on the committee at that time and shall have the power by the same vote to amend and rescind these bylaws. The committee shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendments thereto with the secretary of state or equivalent agency of each of the party states.

C. The compact committee may delegate the day-to-day management and administration of its duties and responsibilities to an executive director and his support staff.

D. Employees of the compact committee shall be considered governmental employees.

Section 10. Immunity from liability for performance of official responsibilities and duties.

No official of a party state or employee of the compact committee shall be held personally liable for any good faith act or omission that occurs during the performance and within the scope of his responsibilities and duties under this compact.

ARTICLE V. RIGHTS AND RESPONSIBILITIES OF EACH PARTY STATE

Section 11. Rights and responsibilities of each party state.

A. By enacting this compact, each party state:

1. Agrees (i) to accept the decisions of the compact committee regarding the issuance of compact committee licenses to participants in live racing pursuant to the committee's licensure requirements, and (ii) to reimburse or otherwise pay the expenses of its official representative on the compact committee or his alternate.

2. Agrees not to treat a notification to an applicant by the compact committee under paragraph 3 of Section 7 that the compact committee will not be able to process his application further as the denial of a license, or to penalize such applicant in any other way based solely on such a decision by the compact committee.

3. Reserves the right (i) to charge a fee for the use of a compact committee license in that state, (ii) to apply its own standards in determining whether, on the facts of a particular case, a compact committee license should be suspended or revoked, (iii) to apply its own standards in determining licensure eligibility, under the laws of that party state, for categories of participants in live racing that the compact committee determines not to license and for individual participants in live racing who do not meet the licensure requirements of the compact committee, and (iv) to establish its own licensure standards for the licensure of non-racing employees at horse racetracks and employees at separate satellite wagering facilities. Any party state that suspends or revokes a compact committee license shall, through its racing commission or the equivalent thereof or otherwise, promptly notify the compact committee of that suspension or revocation.

B. No party state shall be held liable for the debts or other financial obligations incurred by the compact committee.

ARTICLE VI. CONSTRUCTION AND SEVERABILITY

Section 12. Construction and severability.

This compact shall be liberally construed so as to effectuate its purposes. The provisions of this compact shall be severable, and, if any phrase, clause, sentence or provision of this compact is declared to be contrary to the Constitution of the United States or of any party state, or the applicability of this compact to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If all or some portion of this compact is held to be contrary to the constitution of any party state, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

Source: Laws 2001, LB 295, § 1; Laws 2021, LB561, § 26.
Effective date May 26, 2021.

ARTICLE 26
PESTICIDES

Section

2-2626 Department; powers, functions, and duties.

The department shall have the following powers, functions, and duties:

(1) To administer, implement, and enforce the Pesticide Act and serve as the lead state agency for the regulation of pesticides. The department shall involve the natural resources districts and other state agencies, including the Department of Environment and Energy or the Department of Natural Resources, in matters relating to water quality. Nothing in the act shall be interpreted in any

way to affect the powers of any other state agency or of any natural resources district to regulate for ground water quality or surface water quality as otherwise provided by law;

(2) To be responsible for the development and implementation of a state management plan and pesticide management plans. The Department of Environment and Energy shall be responsible for the adoption of standards for pesticides in surface water, ground water, and drinking water. These standards shall be established as action levels in the state management plan and pesticide management plans at which prevention and mitigation measures are implemented. Such action levels may be set at or below the maximum contaminant level set for any product as set by the federal agency under the federal Safe Drinking Water Act, 42 U.S.C. 300f et seq., as the act existed on January 1, 2021. The Department of Agriculture shall cooperate with and use existing expertise in other state agencies when developing the state management plan and pesticide management plans and shall not hire a hydrologist within the department for such purpose;

(3) After notice and public hearing, to adopt and promulgate rules and regulations providing lists of state-limited-use pesticides for the entire state or for a designated area within the state, subject to the following:

(a) A pesticide shall be included on a list of state-limited-use pesticides if:

(i) The Department of Agriculture determines that the pesticide, when used in accordance with its directions for use, warnings, and cautions and for uses for which it is registered, may without additional regulatory restrictions cause unreasonable adverse effects on humans or the environment, including injury to the applicator or other persons because of acute dermal or inhalation toxicity of the pesticides;

(ii) The water quality standards set by the Department of Environment and Energy pursuant to this section are exceeded; or

(iii) The Department of Agriculture determines that the pesticide requires additional restrictions to meet the requirements of the Pesticide Act, the federal act, or any plan adopted under the Pesticide Act or the federal act;

(b) The Department of Agriculture may regulate the specific time, locations, and conditions restricting the use of a state-limited-use pesticide, including allowable quantities or concentrations, and may require that it be purchased or possessed only with permission or under the direct supervision of the department or its designee;

(c) The Department of Agriculture may require a person authorized to distribute or use a state-limited-use pesticide to maintain records of the person's distribution or use and may require that the records be kept separate from other business records;

(d) The state management plan and pesticide management plans shall be coordinated with the Department of Agriculture and other state agency plans and with other state agencies and with natural resources districts;

(e) The state management plan and pesticide management plans may impose progressively more rigorous pesticide management practices as pesticides are detected in ground water or surface water at increasing fractions of the standards adopted by the Department of Environment and Energy; and

(f) A pesticide management plan may impose progressively more rigorous pesticide management practices to address any unreasonable adverse effect of

pesticides on humans or the environment. When appropriate, a pesticide management plan may establish action levels for imposition of such progressively more rigorous management practices based upon measurable indicators of the adverse effect on humans or the environment;

(4) To adopt and promulgate such rules and regulations as are necessary for the enforcement and administration of the Pesticide Act. The regulations may include, but not be limited to, regulations providing for:

(a) The collection of samples, examination of records, and reporting of information by persons subject to the act;

(b) The safe handling, transportation, storage, display, distribution, use, and disposal of pesticides and their containers;

(c) Labeling requirements of all pesticides required to be registered under provisions of the act, except that such regulations shall not impose any requirements for federally registered labels contrary to those required pursuant to the federal act;

(d) Classes of devices which shall be subject to the Pesticide Act;

(e) Reporting and record-keeping requirements for persons distributing or using pesticide products made available under 7 U.S.C. 136i-1 of the federal act and for persons required to keep records under the Pesticide Act;

(f) Methods to be used in the application of pesticides when the Department of Agriculture finds that such regulations are necessary to carry out the purpose and intent of the Pesticide Act. Such regulations may include methods to be used in the application of a restricted-use pesticide or state-limited-use pesticide, may relate to the time, place, manner, methods, materials, amounts, and concentrations in connection with the use of the pesticide, may restrict or prohibit use of the pesticides in designated areas during specified periods of time, and may provide specific examples and technical interpretations of subdivision (4) of section 2-2646. The regulations shall encompass all reasonable factors which the department deems necessary to prevent damage or injury by drift or misapplication to (i) plants, including forage plants, or adjacent or nearby property, (ii) wildlife in the adjoining or nearby areas, (iii) fish and other aquatic life in waters in reasonable proximity to the area to be treated, (iv) surface water or ground water, and (v) humans, animals, or beneficial insects. In adopting and promulgating such regulations, the department shall give consideration to pertinent research findings and recommendations of other agencies of the state, the federal government, or other reliable sources. The department may, by regulation, require that notice of a proposed use of a pesticide be given to landowners whose property is adjacent to the property to be treated or in the immediate vicinity thereof if the department finds that such notice is necessary to carry out the purpose of the act;

(g) State-limited-use pesticides for the state or for designated areas in the state;

(h) Establishment of the amount of any fee or fine as directed by the act;

(i) Establishment of the components of any state management plan or pesticide management plan;

(j) Establishment of categories for licensed pesticide applicators in addition to those established in 40 C.F.R. part 171, as such regulations existed on January 1, 2019; and

(k) Establishment of a process for the issuance of permits for emergency-use pesticides made available under 7 U.S.C. 136p of the federal act;

(5) To enter any public or private premises at any reasonable time to:

(a) Inspect and sample any equipment authorized or required to be inspected under the Pesticide Act or to inspect the premises on which the equipment is kept or stored;

(b) Inspect or sample any area exposed or reported to be exposed to a pesticide or where a pesticide use has occurred;

(c) Inspect and sample any area where a pesticide is disposed of or stored;

(d) Observe the use and application of and sample any pesticide;

(e) Inspect and copy any records relating to the distribution or use of any pesticide or the issuance of any license, permit, or registration under the act; or

(f) Inspect, examine, or take samples from any application equipment, building, or place owned, controlled, or operated by any person engaging in an activity regulated by the act if, from probable cause, it appears that the application equipment, building, or place contains a pesticide;

(6) To sample, inspect, make analysis of, and test any pesticide found within this state;

(7) To issue and enforce a written or printed order to stop the sale, removal, or use of a pesticide if the Department of Agriculture has reason to believe that the pesticide or use of the pesticide is in violation of any provision of the act. The department shall present the order to the owner or custodian of the pesticide. The person who receives the order shall not distribute, remove, or use the pesticide until the department determines that the pesticide or its use is in compliance with the act. This subdivision shall not limit the right of the department to proceed as authorized by any other provision of the act;

(8)(a) To sue in the name of the director to enjoin any violation of the act. Venue for such action shall be in the county in which the alleged violation occurred, is occurring, or is threatening to occur; and

(b) To request the county attorney or the Attorney General to bring suit to enjoin a violation or threatened violation of the act;

(9) To impose or levy an administrative fine of not more than five thousand dollars for each violation on any person who has violated any provision, requirement, condition, limitation, or duty imposed by the act or rules and regulations adopted and promulgated pursuant to the act. A violation means each action which violates any separate or distinct provision, requirement, condition, limitation, or duty imposed by the act or rules and regulations adopted and promulgated pursuant to the act;

(10) To cause a violation warning letter to be served upon the alleged violator or violators pursuant to the act;

(11) To take reasonable measures to assess and collect all fees and fines prescribed by the act and the rules or regulations adopted under the act;

(12) To access, inspect, and copy all books, papers, records, bills of lading, invoices, and other information relating to the use, manufacture, repackaging, and distribution of pesticides necessary for the enforcement of the act;

(13) To seize, for use as evidence, without formal warrant if probable cause exists, any pesticide which is in violation of the act or is not approved by the Department of Agriculture or which is found to be used or distributed in the

violation of the act or the rules and regulations adopted and promulgated under it;

(14) To adopt classifications of restricted-use pesticides as determined by the federal agency under the federal act. In addition to the restricted-use pesticides classified by the administrator, the Department of Agriculture may also determine state-limited-use pesticides for the state or for designated areas within the state as provided in subdivision (3) of this section;

(15) To receive grants-in-aid from any federal entity, and to enter into cooperative agreements with any federal entity, any agency of this state, any subdivision of this state, any agency of another state, any Indian tribe, or any private person for the purpose of obtaining consistency with or assistance in the implementation of the Pesticide Act. The Department of Agriculture may reimburse any such entity from the Pesticide Administrative Cash Fund for the work performed under the cooperative agreement. The department may delegate its administrative responsibilities under the act to cities of the metropolitan and primary classes if it reasonably believes that such cities can perform the responsibilities in a manner consistent with the act and the rules and regulations adopted and promulgated under it;

(16) To prepare and adopt such plans as are necessary to implement any requirements of the federal agency under the federal act;

(17) To request the assistance of the Attorney General or the county attorney in the county in which a violation of the Pesticide Act has occurred with the prosecution or enforcement of any violation of the act;

(18) To enter into a settlement agreement with any person regarding the disposition of any license, permit, registration, or administrative fine;

(19) To issue a cease and desist order pursuant to section 2-2649;

(20) To deny an application or cancel, suspend, or modify the registration of a pesticide pursuant to section 2-2632;

(21) To issue, cancel, suspend, modify, or place on probation any license or permit issued pursuant to the act; and

(22) To make such reports to the federal agency as are required under the federal act.

Source: Laws 1993, LB 588, § 5; Laws 1996, LB 1044, § 38; Laws 2000, LB 900, § 50; Laws 2002, LB 93, § 1; Laws 2002, LB 436, § 5; Laws 2006, LB 874, § 3; Laws 2007, LB296, § 17; Laws 2010, LB254, § 7; Laws 2013, LB69, § 2; Laws 2019, LB302, § 11; Laws 2019, LB320, § 2; Laws 2021, LB148, § 39.
Operative date July 1, 2021.

2-2634 Registration and renewal fees; late registration fee.

(1) As a condition to registration or renewal of registration as required by sections 2-2628 to 2-2633, an applicant shall pay to the department a fee of one hundred sixty dollars for each pesticide to be registered, except that the fee may be increased or decreased by rules and regulations adopted and promulgated pursuant to the Pesticide Act. In no event shall such fee exceed two hundred ten dollars for each pesticide to be registered.

(2) All fees collected under subsection (1) of this section shall be remitted to the State Treasurer for credit as follows:

(a) Thirty dollars of such fee to the Noxious Weed Cash Fund as provided in section 2-958;

(b) Fifty dollars of such fee to the Buffer Strip Incentive Fund as provided in section 2-5106;

(c) Fifty-five dollars of such fee to the Natural Resources Water Quality Fund; and

(d) The remainder of such fee to the Pesticide Administrative Cash Fund.

(3) If a person fails to apply for renewal of registration before January 1 of any year, such person, as a condition to renewal, shall pay a late registration fee equal to twenty-five percent of the fee due and owing per month, not to exceed one hundred percent, for each product to be renewed in addition to the renewal fee. The purpose of the late registration fee is to cover the administrative costs associated with collecting fees, and all money collected as a late registration fee shall be remitted to the State Treasurer for credit to the Pesticide Administrative Cash Fund.

Source: Laws 1993, LB 588, § 13; Laws 1998, LB 1126, § 12; Laws 2001, LB 329, § 4; Laws 2006, LB 874, § 6; Laws 2013, LB69, § 4; Laws 2021, LB90, § 1.
Effective date August 28, 2021.

ARTICLE 32

NATURAL RESOURCES

Section

2-3213 Board of directors; membership; number of directors; executive committee; terms.

(1) Except as provided in subsections (2), (3), and (4) of this section, each district shall be governed by a board of directors of five, seven, nine, eleven, thirteen, fifteen, seventeen, nineteen, or twenty-one members. The board of directors shall determine the number of directors and in making such determination shall consider the complexity of the foreseeable programs and the population and land area of the district. Districts shall be political subdivisions of the state, shall have perpetual succession, and may sue and be sued in the name of the district.

(2) Except as provided by subsection (7) of this section, at least six months prior to the primary election, the board of directors of any natural resources district may change the number of directors for the district and may change subdistrict boundaries to accommodate the increase or decrease in the number of directors.

(3) The board of directors shall utilize the criteria found in subsection (1) of this section and in subsection (2) of section 2-3214 when changing the number of directors. Except as provided in subsection (6) of this section, no director's term of office shall be shortened as a result of any change in the number of directors. Any reduction in the number of directors shall be made as directors take office during the two succeeding elections or more quickly if the reduction

can be made by not filling vacancies on the board and if desired by the board. If necessary to preserve staggered terms for directors when the reduction in number is made in whole or in part through unfilled vacancies, the board may provide for a one-time election of one or more directors for a two-year term. The board of directors shall inform the Secretary of State whenever any such one-time elections have been approved. Notwithstanding subsection (1) of this section, the district may be governed by an even number of directors during the two-year transition to a board of reduced number.

(4) Whenever any change of boundaries, division, or merger results in a natural resources district director residing in a district other than the one to which such director was elected to serve, such director shall automatically become a director of the board of the district in which he or she then resides. Except as provided in subsection (6) of this section, all such directors shall continue to serve in office until the expiration of the term of office for which they were elected. Directors or supervisors of other special-purpose districts merged into a natural resources district shall not become members of the natural resources district board but may be appointed as advisors in accordance with section 2-3228. No later than six months after any change, division, or merger, each affected board, in accordance with the procedures and criteria found in this section and section 2-3214, shall determine the number of directors for the district as it then exists, the option chosen for nomination and election of directors, and, if appropriate, new subdistrict boundaries.

(5) To facilitate the task of administration of any board increased in size by a change of boundaries or merger, such board may appoint an executive committee to conduct the business of the board in the interim until board size reductions can be made in accordance with this section. An executive committee shall be empowered to act for the full board in all matters within its purview unless specifically limited by the board in the establishment and appointment of the executive committee.

(6) Notwithstanding the provisions of section 2-3214 and subsections (4) and (5) of this section, the board of directors of any natural resources district established by merging two or more districts in their entirety may provide that all directors be nominated and elected at the first primary and general elections following the year in which such merger becomes effective. In districts which have one director elected from each subdistrict, each director elected from an even-numbered subdistrict shall be elected for a two-year term and each director from an odd-numbered district and any member to be elected at large shall be elected for a four-year term. In districts which have two directors elected from each subdistrict, the four candidates receiving the highest number of votes at the primary election shall be carried over to the general election, and at such general election the candidate receiving the highest number of votes shall be elected for a four-year term and the candidate receiving the second highest number of votes shall be elected for a two-year term. Thereafter each director shall be elected for a four-year term.

(7) Following the release of the 2020 Census of Population data by the United States Department of Commerce, Bureau of the Census, as required by Public Law 94-171, any natural resources district that will have a change to the number of directors as a result of any adjustment to the boundaries of election districts shall provide to the election commissioner or county clerk (a) written notice of the need and necessity of his or her office to perform such adjustments and (b) a revised election district boundary map that has been approved

by the board of directors and subjected to all public review and challenge ordinances of the natural resources district by December 30, 2021.

Source: Laws 1969, c. 9, § 13, p. 108; Laws 1971, LB 544, § 4; Laws 1972, LB 543, § 6; Laws 1973, LB 335, § 3; Laws 1978, LB 411, § 2; Laws 1981, LB 81, § 1; Laws 1986, LB 302, § 1; Laws 1986, LB 124, § 1; Laws 1987, LB 148, § 2; Laws 1988, LB 1045, § 10; Laws 1994, LB 76, § 458; Laws 1994, LB 480, § 4; Laws 2021, LB285, § 1.
Effective date May 27, 2021.

2-3214 Board of directors; nomination; election; subdistricts; oath.

(1) District directors shall be elected as provided in section 32-513. Elections shall be conducted as provided in the Election Act. Registered voters residing within the district shall be eligible for nomination as candidates for any at-large position or, in those districts that have established subdistricts, as candidates from the subdistrict within which they reside.

(2) The board of directors may choose to: (a) Nominate candidates from subdistricts and from the district at large who shall be elected by the registered voters of the entire district; (b) nominate and elect each candidate from the district at large; or (c) nominate and elect candidates from subdistricts of substantially equal population except that any at-large candidate would be nominated and elected by the registered voters of the entire district. Unless the board of directors determines that the nomination and election of all directors will be at large, the board shall strive to divide the district into subdistricts of substantially equal population, except that no subdistrict shall have a population greater than three times the population of any other subdistrict within the district. Such subdistricts shall be consecutively numbered and shall be established with due regard to all factors including, but not limited to, the location of works of improvement and the distribution of population and taxable values within the district. Except as provided by subsection (7) of this section, the boundaries and numbering of such subdistricts shall be designated at least six months prior to the primary election. Unless the district has been divided into subdistricts with substantially equal population, all directors shall be elected by the registered voters of the entire district and all registered voters shall vote on the candidates representing each subdistrict and any at-large candidates. If a district has been divided into subdistricts with substantially equal population, the board of directors may determine that directors shall be elected only by the registered voters of the subdistrict except that an at-large director may be elected by registered voters of the entire district.

(3) Except in districts which have chosen to have a single director serve from each subdistrict, the number of subdistricts for a district shall equal a number which is one less than a majority of directors for the district. In districts which have chosen to have a single director serve from each subdistrict, the number of subdistricts shall equal a number which is equal to the total number of directors of the district or which is one less than the total number of directors for the district if there is an at-large candidate. If the number of directors to be elected exceeds the number of subdistricts or if the term of the at-large director expires in districts which have chosen to have a single director serve from each subdistrict, candidates may file as a candidate from the district at large.

Registered voters may each cast a number of votes not larger than the total number of directors to be elected.

(4) Elected directors shall take their oath of office in the same manner provided for county officials.

(5) At least six months prior to the primary election, the board of directors may choose to have a single director serve from each subdistrict.

(6) The board of directors shall certify to the Secretary of State and the election commissioners or county clerks the number of directors to be elected at each election and the length of their terms as provided in section 32-404.

(7) Following the release of the 2020 Census of Population data by the United States Department of Commerce, Bureau of the Census, as required by Public Law 94-171, any board of directors requesting the adjustment of the boundaries of election districts shall provide to the election commissioner or county clerk (a) written notice of the need and necessity of his or her office to perform such adjustments and (b) a revised election district boundary map that has been approved by the board and subjected to all public review and challenge ordinances of the natural resources district by December 30, 2021.

Source: Laws 1969, c. 9, § 14, p. 110; Laws 1972, LB 543, § 7; Laws 1974, LB 641, § 1; Laws 1986, LB 302, § 2; Laws 1987, LB 148, § 3; Laws 1994, LB 76, § 459; Laws 1994, LB 480, § 5; Laws 2021, LB285, § 2.
Effective date May 27, 2021.

Cross References

Election Act, see section 32-101.

2-3254 Improvement project areas; petition; hearing; notice; findings of board; apportionment of benefits; lien.

(1) The board shall hold a hearing upon the question of the desirability and necessity, in the interest of the public health, safety, and welfare, of the establishment of or altering the boundaries of an existing improvement project area and the undertaking of such a project, upon the question of the appropriate boundaries describing affected land, upon the propriety of the petition, and upon all relevant questions regarding such inquiries. When a hearing has been initiated by petition, such hearing shall be held within one hundred twenty days of the filing of such petition. Notice of such hearing shall be published prior thereto once each week for three consecutive weeks in a legal newspaper published or of general circulation in the district. Landowners within the limits of the territory described in the petition and all other interested parties, including any appropriate agencies of state or federal government, shall have the right to be heard. If the board finds, after consultation with such appropriate agencies of state and federal government and after the hearing, that the project conforms with all applicable law and with the district's goals, criteria, and policies, it shall enter its findings in the board's official records and shall, with the aid of such engineers, surveyors, and other assistants as it may have chosen, establish an improvement project area or alter the boundaries of an existing improvement project area, proceed to make detailed plans and cost estimates, determine the total benefits, and carry out the project as provided in subsections (2) and (3) of this section. If the board finds that the project does not so conform, the findings shall be entered in the board's records and copies of such findings shall be furnished to the petitioners and the commission.

(2) When any such special project would result in the provision of revenue-producing continuing services, the board shall, prior to commencement of construction of such project, determine, by circulation of petitions or by some other appropriate method, if such project can be reasonably expected to generate sufficient revenue to recover the reimbursable costs thereof. If it is determined that the project cannot be reasonably expected to generate sufficient revenue, the project and all work in connection therewith shall be suspended. If it is determined that the project can be reasonably expected to generate sufficient revenue, the board shall divide the total benefits of the project as provided in sections 2-3252 to 2-3254. If the proposed project involves the supply of water for any beneficial use, all plans and specifications for the project shall be filed with the secretary of the district and the Director of Natural Resources, except that if such project involves a public water system as defined in section 71-5301, the filing of the information shall be with the Department of Environment and Energy rather than the Director of Natural Resources. No construction of any such special project shall begin until the plans and specifications for such improvement have been approved by the Director of Natural Resources and the Department of Environment and Energy, if applicable, except that if such special project involves a public water system as defined in section 71-5301, only the Department of Environment and Energy shall be required to review such plans and specifications and approve the same if in compliance with the Nebraska Safe Drinking Water Act and departmental rules and regulations adopted and promulgated under the act. All prescribed conditions having been complied with, each landowner within the improvement project area shall, within any limits otherwise prescribed by law, subscribe to a number of benefit units in proportion to the extent he or she desires to participate in the benefits of the special project. As long as the capacity of the district's facilities permit, participating landowners may subscribe to additional units, within any limits otherwise prescribed by law, upon payment of a unit fee for each such unit. The unit fees made and charged pursuant to this section shall be levied and fixed by rules and regulations of the district. The service provided may be withheld during the time such charges levied upon such parcel of land are delinquent and unpaid. Such charges shall be cumulative, and the service provided by the project may be withheld until all delinquent charges for the operation and maintenance of such works of improvement are paid for past years as well as for the current year. All such charges, due and delinquent according to the rules and regulations of such district and unpaid on June 1 after becoming due and delinquent, may be certified by the governing authority of such district to the county clerk of such county in which are situated the lands against which such charges have been levied, and when so certified such charges shall be entered upon the tax list and spread upon the tax roll the same as other special assessment taxes are levied and assessed upon real estate, shall become a lien upon such real estate along with other real estate taxes, and shall be collectible at the same time, in the same manner, and in the same proceeding as other real estate taxes are levied.

(3) When the special project would not result in the provision of revenue-producing continuing services, the board shall apportion the benefits thereof accruing to the several tracts of land within the district which will be benefited thereby, on a system of units. The land least benefited shall be apportioned one unit of assessment, and each tract receiving a greater benefit shall be apportioned a greater number of units or fraction thereof, according to the benefits

received. Nothing contained in this section shall prevent the district from establishing separate areas within the improvement project area so as to permit future allocation of costs for particular portions of the work to specific subareas. This subarea method of allocation shall not be used in any improvement project area which has heretofore made a final apportionment of units of benefits and shall not thereafter be changed except by compliance with the procedure prescribed in this section.

(4) A notice shall be inserted for at least one week in a newspaper published or of general circulation in the improvement project area stating the time when and the place where the directors shall meet for the purpose of hearing all parties interested in the apportionment of benefits by reason of the improvement, at which time and place such parties may appear in person or by counsel or may file written objections thereto. The directors shall then proceed to hear and consider the same and shall make the apportionments fair and just according to benefits received from the improvement. The directors, having completed the apportionment of benefits, shall make a detailed report of the same and file such report with the county clerk. The board of directors shall include in such report a statement of the actual expenses incurred by the district to that time which relate to the proposed project and the actual cost per benefit unit thereof. Thereupon the board of directors shall cause to be published, once each week for three consecutive weeks in a newspaper published or of general circulation in the improvement project area, a notice that the report required in this subsection has been filed and notice shall also be sent to each party appearing to have a direct legal interest in such apportionment, which notice shall include the description of the lands in which each party notified appears to have such interest, the units of benefit assigned to such lands, the amount of actual costs assessable to date to such lands, and the estimated total costs of the project assessable to such lands upon completion thereof, as provided by sections 25-520.01 to 25-520.03. If the owners of record title representing more than fifty percent of the estimated total assessments file with the board within thirty days of the final publication of such notice written objections to the project proposed, such project and work in connection therewith shall be suspended, such project shall not be done in such project area, and all expenses relating to such project incurred by and accrued to the district may, at the direction of the board of directors, be assessed upon the lands which were to have been benefited by the completion of such improvement project in accordance with the apportionment of benefits determined and procedures established in this section. Upon completing the establishment of an improvement project area or altering the boundaries of an existing improvement project area as provided in this subsection and upon determining the reimbursable cost of the project and the period of time over which such cost shall be assessed, the board of directors shall determine the amount of money necessary to raise each year by special assessment within such improvement project area and apportion the same in dollars and cents to each tract benefited according to the apportionment of benefits as determined by this section. The board of directors shall also, from time to time as it deems necessary, order an additional assessment upon the lands and property benefited by the project, using the original apportionment of benefits as a basis to ascertain the assessment to each tract of land benefited, to carry out a reasonable program of operation and maintenance upon the construction or capital improvements involved in such project. The chairperson and secretary shall thereupon return

lists of such tracts with the amounts chargeable to each of the county clerks of each county in which assessed lands are located, who shall place the same on duplicate tax lists against the lands and lots so assessed. Such assessments shall be collected and accounted for by the county treasurer at the same time as general real estate taxes, and such assessments shall be and remain a perpetual lien against such real estate until paid. All provisions of law for the sale, redemption, and foreclosure in ordinary tax matters shall apply to such special assessments.

Source: Laws 1969, c. 9, § 54, p. 131; Laws 1972, LB 543, § 14; Laws 1973, LB 206, § 6; Laws 1981, LB 326, § 10; Laws 1994, LB 480, § 15; Laws 1996, LB 1044, § 39; Laws 1999, LB 436, § 10; Laws 2000, LB 900, § 58; Laws 2001, LB 136, § 3; Laws 2001, LB 667, § 1; Laws 2007, LB296, § 18; Laws 2021, LB148, § 40.
Operative date July 1, 2021.

Cross References

Nebraska Safe Drinking Water Act, see section 71-5313.

ARTICLE 41
DRY PEA AND LENTIL RESOURCES

Section
2-4108. Commission; officers; meetings; quorum.

2-4108 Commission; officers; meetings; quorum.

At the first meeting of the commission, it shall elect a chairperson from among its members. The commission shall meet at least once every year and at such other times as called by the chairperson or by any three voting members of the commission. The majority of the voting members of the commission shall constitute a quorum for transaction of business. The commission may hold meetings by virtual conferencing subject to the Open Meetings Act. No member shall vote by proxy, and the affirmative vote of the majority of all members of the commission shall be necessary for the adoption of rules and regulations.

Source: Laws 2020, LB803, § 8; Laws 2021, LB83, § 1.
Effective date April 22, 2021.

Cross References

Open Meetings Act, see section 84-1407.

CHAPTER 8
BANKS AND BANKING

Article.
1. General Provisions. 8-101.02 to 8-1,143.
2. Trust Companies. 8-201, 8-204.
3. Building and Loan Associations. 8-318, 8-355.
6. Assessments and Fees. 8-601, 8-602.
7. State-Federal Cooperation Acts; Capital Notes.
   (a) Federal Banking Act of 1933. 8-701, 8-702.
11. Securities Act of Nebraska. 8-1101 to 8-1120.
17. Commodity Code. 8-1704, 8-1707.
27. Nebraska Money Transmitters Act. 8-2724 to 8-2737.
29. Financial Exploitation of a Vulnerable Adult or Senior Adult.
   (a) Financial Institutions. 8-2903.
   (b) Nebraska Protection of Vulnerable Adults from Financial Exploitation Act. 8-2904 to 8-2909.
30. Nebraska Financial Innovation Act. 8-3001 to 8-3031.

ARTICLE 1
GENERAL PROVISIONS

Section
8-101.02. Act, how cited.
8-101.03. Terms, defined.
8-102. Department of Banking and Finance; supervision and control of specified financial institutions; declaration of public purpose.
8-113. Unauthorized use of word bank or its derivatives; penalty.
8-115. Banks; digital asset depositories; charter or grant of authority required.
8-135. Deposits; withdrawal methods authorized; lease of safe deposit box; section; how construed.
8-141. Loans; limits; exceptions.
8-143.01. Extension of credit; limits; written report; credit report; violation; penalty; powers of director.
8-148.09. Bank; financial institution; merger, acquisition, or asset acquisition; transactions authorized.
8-148.10. Digital asset depository institution; investment; conditions.
8-157.01. Establishing financial institution; automatic teller machines; use; availability; user financial institution; switch; use and access; duties.
8-163. Dividends; withdrawal of capital or surplus prohibited; not made; when.
8-183.04. State or federal savings association; mutual savings association; retention of mutual form authorized.
8-1,140. Federally chartered bank; bank organized under laws of Nebraska; rights, privileges, benefits, and immunities; exception.
8-1,141. Controllable electronic record custody; qualified custodian; requirements.
8-1,142. Controllable electronic record custody; rules and regulations.
8-1,143. Controllable electronic records; courts; jurisdiction.

8-101.02 Act, how cited.

Sections 8-101.02 to 8-1,143 shall be known and may be cited as the Nebraska Banking Act.

Source: Laws 1998, LB 1321, § 32; Laws 1999, LB 396, § 4; Laws 2009, LB327, § 1; Laws 2010, LB891, § 1; R.S.1943, (2012), § 8-101.01; Laws 2017, LB140, § 1; Laws 2021, LB649, § 32. Operative date October 1, 2021.

8-101.03 Terms, defined.

For purposes of the Nebraska Banking Act, unless the context otherwise requires:

(1) Access device means a code, a transaction card, or any other means of access to a customer's account, or any combination thereof, that may be used by a customer for the purpose of initiating an electronic funds transfer at an automatic teller machine or a point-of-sale terminal;

(2) Acquiring financial institution means any financial institution establishing a point-of-sale terminal;

(3) Automatic teller machine means a machine established and located in the State of Nebraska, whether attended or unattended, which utilizes electronic, sound, or mechanical signals or impulses, or any combination thereof, and from which electronic funds transfers may be initiated and at which banking transactions as defined in section 8-157.01 may be conducted. An unattended automatic teller machine shall not be deemed to be a branch operated by a financial institution;

(4) Automatic teller machine surcharge means a fee that an operator of an automatic teller machine imposes upon a consumer for an electronic funds transfer, if such operator is not the financial institution that holds an account of such consumer from which the electronic funds transfer is to be made;

(5) Bank or banking corporation means any incorporated banking institution which was incorporated under the laws of this state as they existed prior to May 9, 1933, and any corporation duly organized under the laws of this state for the purpose of conducting a bank within this state under the act. Bank means any such banking institution which is, in addition to the exercise of other powers, following the practice of repaying deposits upon check, draft, or order and of making loans. Bank or banking corporation includes a digital asset depository institution as defined in section 8-3003. Notwithstanding the provisions of this subdivision, a digital asset depository institution is subject to the provisions of subdivision (2)(b) of section 8-3005;

(6) Bank subsidiary corporation means a corporation which has a bank as a shareholder and which is organized for purposes of engaging in activities which are part of the business of banking or incidental to such business except for the receipt of deposits. A bank subsidiary corporation may include a corporation organized under the Nebraska Financial Innovation Act. A bank subsidiary is not to be considered a branch of its bank shareholder;

(7) Capital or capital stock means capital stock;

(8) Data processing center means a facility, wherever located, at which electronic impulses or other indicia of a transaction originating at an automatic teller machine are received and either authorized or routed to a switch or other data processing center in order to enable the automatic teller machine to perform any function for which it is designed;

(9) Department means the Department of Banking and Finance;

(10) Digital asset depository means a financial institution that securely holds liquid assets when such assets are in the form of controllable electronic records, either as a corporation organized, chartered, and operated pursuant to the Nebraska Financial Innovation Act as a digital asset depository institution, or a financial institution operating a digital asset depository business as a digital asset depository department under a grant of authority by the director;

(11) Director means the Director of Banking and Finance;

(12) Financial institution means a bank, savings bank, building and loan association, savings and loan association, or credit union, whether chartered by the United States, the department, or a foreign state agency; any other similar organization which is covered by federal deposit insurance; a trust company; or a digital asset depository that is not a digital asset depository institution;

(13) Financial institution employees includes parent holding company and affiliate employees;

(14) Foreign state agency means any duly constituted regulatory or supervisory agency which has authority over financial institutions and which is created under the laws of any other state, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Virgin Islands or which is operating under the code of law for the District of Columbia;

(15) Impulse means an electronic, sound, or mechanical impulse, or any combination thereof;

(16) Insolvent means a condition in which (a) the actual cash market value of the assets of a bank is insufficient to pay its liabilities to its depositors, (b) a bank is unable to meet the demands of its creditors in the usual and customary manner, (c) a bank, after demand in writing by the director, fails to make good any deficiency in its reserves as required by law, or (d) the stockholders of a bank, after written demand by the director, fail to make good an impairment of its capital or surplus;

(17) Making loans includes advances or credits that are initiated by means of credit card or other transaction card. Transaction card and other transactions, including transactions made pursuant to prior agreements, may be brought about and transmitted by means of an electronic impulse. Such loan transactions including transactions made pursuant to prior agreements shall be subject to sections 8-815 to 8-829 and shall be deemed loans made at the place of business of the financial institution;

(18) Order includes orders transmitted by electronic transmission;

(19) Point-of-sale terminal means an information processing terminal which utilizes electronic, sound, or mechanical signals or impulses, or any combination thereof, which are transmitted to a financial institution or which are recorded for later transmission to effectuate electronic funds transfer transactions for the purchase or payment of goods and services and which are initiated by an access device. A point-of-sale terminal is not a branch operated by a financial institution. Any terminal owned or operated by a seller of goods and services shall be connected directly or indirectly to an acquiring financial institution; and

(20) Switch means any facility where electronic impulses or other indicia of a transaction originating at an automatic teller machine are received and are routed and transmitted to a financial institution or data processing center, wherever located. A switch may also be a data processing center.

Source: Laws 1963, c. 29, § 1, p. 134; Laws 1965, c. 27, § 1, p. 198; Laws 1967, c. 19, § 1, p. 117; Laws 1975, LB 269, § 1; Laws 1976, LB 561, § 1; Laws 1987, LB 615, § 1; Laws 1988, LB 375, § 1; Laws 1993, LB 81, § 1; Laws 1994, LB 611, § 1; Laws 1995, LB 384, § 1; Laws 1997, LB 137, § 1; Laws 1998, LB 1321, § 1; Laws

2000, LB 932, § 1; Laws 2002, LB 1089, § 1; Laws 2003, LB 131, § 1; Laws 2003, LB 217, § 1; Laws 2015, LB348, § 1; R.S. Supp.,2016, § 8-101; Laws 2017, LB140, § 2; Laws 2021, LB649, § 33.
Operative date October 1, 2021.

Cross References

Nebraska Financial Innovation Act, see section 8-3001.

8-102 Department of Banking and Finance; supervision and control of specified financial institutions; declaration of public purpose.

The department shall, under the laws of this state specifically made applicable to each, have general supervision and control over banks, trust companies, credit unions, building and loan associations, savings and loan associations, and digital asset depositories, all of which are hereby declared to be quasi-public in nature and subject to regulation and control by the state.

Source: Laws 1963, c. 29, § 2, p. 134; Laws 2002, LB 1094, § 1; Laws 2003, LB 131, § 2; Laws 2017, LB140, § 3; Laws 2021, LB649, § 34.
Operative date October 1, 2021.

8-113 Unauthorized use of word bank or its derivatives; penalty.

(1) No individual, firm, company, corporation, or association doing business in the State of Nebraska, unless organized as a bank under the Nebraska Banking Act or the authority of the director or federal government, a digital asset depository that is not a digital asset depository institution, or as a building and loan association, savings and loan association, or savings bank under Chapter 8, article 3, or the authority of the federal government, shall use the word bank or any derivative thereof as any part of a title or description of any business activity.

(2) This section does not apply to:

(a) Banks, building and loan associations, savings and loan associations, or savings banks chartered and supervised by a foreign state agency;

(b) Bank holding companies registered pursuant to section 8-913 if the term holding company is also used as any part of the title or description of any business activity or if the derivative banc is used;

(c) Affiliates or subsidiaries of (i) a bank organized under the Nebraska Banking Act or the authority of the federal government or chartered and supervised by a foreign state agency, (ii) a building and loan association, savings and loan association, or savings bank organized under Chapter 8, article 3, or the authority of the federal government or chartered and supervised by a foreign state agency, or (iii) a bank holding company registered pursuant to section 8-913 if the term holding company is also used as any part of the title or description of any business activity or if the derivative banc is used;

(d) Organizations substantially owned by (i) a bank organized under the Nebraska Banking Act or the authority of the federal government or chartered and supervised by a foreign state agency, (ii) a building and loan association, savings and loan association, or savings bank organized under Chapter 8, article 3, or the authority of the federal government or chartered and super-

vised by a foreign state agency, (iii) a bank holding company registered pursuant to section 8-913 if the term holding company is also used as any part of the title or description of any business activity or if the derivative banc is used, or (iv) any combination of entities listed in subdivisions (i) through (iii) of this subdivision;

(e) Mortgage bankers licensed or registered under the Residential Mortgage Licensing Act, if the word mortgage immediately precedes the word bank or its derivative;

(f) Digital asset depository institutions chartered under the Nebraska Financial Innovation Act, if the term digital asset is also used as any part of the title or description of any business activity or if any derivative of the word bank is used in such title or description of any such business activity;

(g) Organizations which are described in section 501(c)(3) of the Internal Revenue Code as defined in section 49-801.01, which are exempt from taxation under section 501(a) of the code, and which are not providing or arranging for financial services subject to the authority of the department, a foreign state agency, or the federal government;

(h) Trade associations which are exempt from taxation under section 501(c)(6) of the code and which represent a segment of the banking or savings and loan industries, and any affiliate or subsidiary thereof;

(i) Firms, companies, corporations, or associations which sponsor incentive-based solid waste recycling programs that issue reward points or credits to persons for their participation therein; and

(j) Such other firms, companies, corporations, or associations as have been in existence and doing business prior to December 1, 1975, under a name composed in part of the word bank or some derivative thereof.

(3) This section does not apply to an individual, firm, company, corporation, or association doing business in Nebraska which uses the word bank or any derivative thereof as any part of a title or description of any business activity if such use is unlikely to mislead or confuse the public or give the impression that such individual, firm, company, corporation, or association is lawfully organized and operating as a bank under the Nebraska Banking Act or the authority of the federal government, or as a building and loan association, savings and loan association, or savings bank under Chapter 8, article 3, or the authority of the federal government.

(4) Any violation of this section is a Class V misdemeanor.

Source: Laws 1921, c. 297, § 1, p. 949; Laws 1921, c. 313, § 1, p. 1000; C.S.1922, § 7985; Laws 1929, c. 37, § 1, p. 155; C.S.1929, § 8-116; Laws 1933, c. 18, § 12, p. 141; C.S.Supp.,1941, § 8-116; R.S.1943, § 8-113; Laws 1963, c. 29, § 13, p. 139; Laws 1977, LB 40, § 38; Laws 1987, LB 2, § 2; Laws 1998, LB 1321, § 2; Laws 2004, LB 999, § 1; Laws 2005, LB 533, § 1; Laws 2007, LB124, § 2; Laws 2009, LB32, § 1; Laws 2009, LB328, § 1; Laws 2010, LB762, § 1; Laws 2017, LB140, § 14; Laws 2021, LB649, § 35. Operative date October 1, 2021.

Cross References

Residential Mortgage Licensing Act, see section 45-701.

8-115 Banks; digital asset depositories; charter or grant of authority required.

No corporation shall conduct a bank or digital asset depository in this state without having first obtained a charter or under a grant of authority in the case of a digital asset depository in the manner provided in the Nebraska Banking Act or the Nebraska Financial Innovation Act, respectively.

Source: Laws 1909, c. 10, § 11, p. 71; R.S.1913, § 290; Laws 1919, c. 190, tit. V, art. XVI, § 9, p. 689; C.S.1922, § 7990; C.S.1929, § 8-120; Laws 1933, c. 18, § 15, p. 143; C.S.Supp.,1941, § 8-120; R.S. 1943, § 8-117; Laws 1963, c. 29, § 15, p. 140; Laws 1987, LB 2, § 4; Laws 1998, LB 1321, § 4; Laws 2021, LB649, § 36.
Operative date October 1, 2021.

Cross References

Nebraska Financial Innovation Act, see section 8-3001.

8-135 Deposits; withdrawal methods authorized; lease of safe deposit box; section; how construed.

(1) All persons, regardless of age, may become depositors in any bank and shall be subject to the same duties and liabilities respecting their deposits. Whenever a deposit is accepted by any bank in the name of any person, regardless of age, the deposit may be withdrawn by the depositor by any of the following methods:

(a) Check or other instrument in writing. The check or other instrument in writing constitutes a receipt or acquittance if the check or other instrument in writing is signed by the depositor and constitutes a valid release and discharge to the bank for all payments so made; or

(b) Electronic means through:

(i) Preauthorized direct withdrawal;

(ii) An automatic teller machine;

(iii) A debit card;

(iv) A transfer by telephone;

(v) A network, including the Internet; or

(vi) Any electronic terminal, computer, magnetic tape, or other electronic means.

(2) All persons, individually or with others and regardless of age, may enter into an agreement with a bank for the lease of a safe deposit box and shall be bound by the terms of the agreement.

(3) This section shall not be construed to affect the rights, liabilities, or responsibilities of participants in an electronic fund transfer under the federal Electronic Fund Transfer Act, 15 U.S.C. 1693 et seq., as such act existed on January 1, 2021, and shall not affect the legal relationships between a minor and any person other than the bank.

Source: Laws 1963, c. 27, § 1, p. 132; Laws 1963, c. 29, § 35, p. 148; Laws 2005, LB 533, § 6; Laws 2013, LB213, § 3; Laws 2016, LB760, § 1; Laws 2017, LB140, § 33; Laws 2018, LB812, § 1;

Laws 2019, LB258, § 1; Laws 2020, LB909, § 2; Laws 2021, LB363, § 1.
Effective date March 18, 2021.

8-141 Loans; limits; exceptions.

(1) No bank shall directly or indirectly loan to any single corporation, limited liability company, firm, or individual, including in such loans all loans made to the several members or shareholders of such corporation, limited liability company, or firm, for the use and benefit of such corporation, limited liability company, firm, or individual, more than twenty-five percent of the paid-up capital, surplus, and capital notes and debentures or fifteen percent of the unimpaired capital and unimpaired surplus of such bank, whichever is greater. Such limitations shall be subject to the following exceptions:

(a) Obligations of any person, partnership, limited liability company, association, or corporation in the form of notes or drafts secured by shipping documents or instruments transferring or securing title covering livestock or giving a lien on livestock, when the market value of the livestock securing the obligation is not at any time less than one hundred fifteen percent of the face amount of the notes covered by such documents, shall be subject under this section to a limitation of ten percent of such capital, surplus, and capital notes and debentures or ten percent of such unimpaired capital and unimpaired surplus, whichever is greater, in addition to such twenty-five percent of such capital and surplus or such fifteen percent of such unimpaired capital and unimpaired surplus;

(b) Obligations of any person, partnership, limited liability company, association, or corporation secured by not less than a like amount of bonds or notes of the United States issued since April 24, 1917, or certificates of indebtedness of the United States, treasury bills of the United States, or obligations fully guaranteed both as to principal and interest by the United States shall be subject under this section to a limitation of ten percent of such capital, surplus, and capital notes and debentures or ten percent of such unimpaired capital and unimpaired surplus, whichever is greater, in addition to such twenty-five percent of such capital and surplus or such fifteen percent of such unimpaired capital and unimpaired surplus;

(c) Obligations of any person, partnership, limited liability company, association, or corporation which are secured by negotiable warehouse receipts in an amount not less than one hundred fifteen percent of the face amount of the note or notes secured by such documents shall be subject under this section to a limitation of ten percent of such capital, surplus, and capital notes and debentures or ten percent of such unimpaired capital and unimpaired surplus, whichever is greater, in addition to such twenty-five percent of such capital and surplus or such fifteen percent of such unimpaired capital and unimpaired surplus; or

(d) Obligations of any person, partnership, limited liability company, association, or corporation which are secured by readily marketable collateral having a market value, as determined by reliable and continuously available price quotations, in an amount at least equal to the face amount of the note or notes secured by such collateral, shall be subject under this section to a limitation of ten percent of such capital, surplus, and capital notes and debentures or ten percent of such unimpaired capital and unimpaired surplus, whichever is

greater, in addition to such twenty-five percent of such capital and surplus or such fifteen percent of such unimpaired capital and unimpaired surplus.

(2)(a) For purposes of this section, the discounting of bills of exchange, drawn in good faith against actually existing values, and the discounting of commercial paper actually owned by the persons negotiating the bills of exchange or commercial paper shall not be considered as the lending of money.

(b) Loans or obligations shall not be subject to any limitation under this section, based upon such capital and surplus or such unimpaired capital and unimpaired surplus, to the extent that such capital and surplus or such unimpaired capital and unimpaired surplus are secured or covered by guaranties, or by commitments or agreements to take over or to purchase such capital and surplus or such unimpaired capital and unimpaired surplus, made by any federal reserve bank or by the United States Government or any authorized agency thereof, including any corporation wholly owned directly or indirectly by the United States, or general obligations of any state of the United States or any political subdivision of the state. The phrase general obligation of any state or any political subdivision of the state means an obligation supported by the full faith and credit of an obligor possessing general powers of taxation, including property taxation, but does not include municipal revenue bonds and sanitary and improvement district warrants which are subject to the limitations set forth in this section.

(c) Any bank may subscribe to, invest in, purchase, and own single-family mortgages secured by the Federal Housing Administration or the United States Department of Veterans Affairs and mortgage-backed certificates of the Government National Mortgage Association which are guaranteed as to payment of principal and interest by the Government National Mortgage Association. Such mortgages and certificates shall not be subject under this section to any limitation based upon such capital and surplus or such unimpaired capital and unimpaired surplus.

(d) Obligations representing loans to any national banking association or to any banking institution organized under the laws of any state, when such loans are approved by the director by rule and regulation or otherwise, shall not be subject under this section to any limitation based upon such capital and surplus or such unimpaired capital and unimpaired surplus.

(e) Loans or extensions of credit secured by a segregated deposit account in the lending bank shall not be subject under this section to any limitation based on such capital and surplus or such unimpaired capital and unimpaired surplus. The director may adopt and promulgate rules and regulations governing the terms and conditions of such security interest and segregated deposit account.

(f) For the purpose of determining lending limits, partnerships shall not be treated as separate entities. Each individual shall be charged with his or her personal debt plus the debt of every partnership in which he or she is a partner, except that for purposes of this section (a) an individual shall only be charged with the debt of any limited partnership in which he or she is a partner to the extent that the terms of the limited partnership agreement provide that such individual is to be held liable for the debts or actions of such limited partnership and (b) no individual shall be charged with the debt of any general partnership in which he or she is a partner beyond the extent to which (i) his or her liability for such partnership debt is limited by the terms of a contract or

other written agreement between the bank and such individual and (ii) any personal debt of such individual is incurred for the use and benefit of such general partnership.

(3) A loan made within lending limits at the initial time the loan was made may be renewed, extended, or serviced without regard to changes in the lending limit of a bank following the initial extension of the loan if (a) the renewal, extension, or servicing of the loan does not result in the extension of funds beyond the initial amount of the loan or (b) the accrued interest on the loan is not added to the original amount of the loan in the process of renewal, extension, or servicing.

(4) Any bank may purchase or take an interest in life insurance contracts for any purpose incidental to the business of banking. A bank's purchase of any life insurance contract, as measured by its cash surrender value, from any one life insurance company shall not at any time exceed twenty-five percent of the paid-up capital, surplus, and capital notes and debentures of such bank or fifteen percent of the unimpaired capital and unimpaired surplus of such bank, whichever is greater. A bank's purchase of life insurance contracts, as measured by their cash surrender values, in the aggregate from all life insurance companies shall not at any time exceed thirty-five percent of the paid-up capital, surplus, undivided profits, and capital notes and debentures of such bank. The limitations under this subsection on a bank's purchase of life insurance contracts, in the aggregate from all life insurance companies, shall not apply to any contract purchased prior to April 5, 1994.

(5) On and after January 21, 2013, the director has the authority to determine the manner and extent to which credit exposure resulting from derivative transactions, repurchase agreements, reverse repurchase agreements, securities lending transactions, and securities borrowing transactions shall be taken into account for purposes of determining compliance with this section. In making such determinations, the director may, but is not required to, act by rule and regulation or order.

(6) For purposes of this section:

(a) Derivative transaction means any transaction that is a contract, agreement, swap, warrant, note, or option that is based, in whole or in part, on the value of, any interest in, or any quantitative measure or the occurrence of any event relating to, one or more commodities, securities, currencies, interest or other rates, indices, or other assets;

(b) Loan includes:

(i) All direct and indirect advances of funds to a person made on the basis of any obligation of that person to repay the funds or repayable from specific property pledged by or on behalf of that person;

(ii) To the extent specified by rule and regulation or order of the director, any liability of a state bank to advance funds to or on behalf of a person pursuant to a contractual commitment; and

(iii) Any credit exposure to a person arising from a derivative transaction, repurchase agreement, reverse repurchase agreement, securities lending transaction, or securities borrowing transaction between the bank and the person; and

(c) Unimpaired capital and unimpaired surplus means:

(i) For qualifying banks that have elected to use the community bank leverage ratio framework, as set forth under the Capital Adequacy Standards of the appropriate federal banking agency:

(A) The bank's tier 1 capital as reported according to the capital guidelines of the appropriate federal banking agency; and

(B) The bank's allowance for loan and lease losses or allowance for credit losses, as applicable, as reported in the most recent consolidated report of condition filed under 12 U.S.C. 1817(a)(3), as such section existed on January 1, 2021; and

(ii) For all other banks:

(A) The bank's tier 1 and tier 2 capital included in the bank's risk-based capital under the capital guidelines of the appropriate federal banking agency, based on the bank's most recent consolidated report of condition filed under 12 U.S.C. 1817(a)(3), as such section existed on January 1, 2021; and

(B) The balance of the bank's allowance for loan and lease losses not included in the bank's tier 2 capital for purposes of the calculation of risk-based capital by the appropriate federal banking agency, based on the bank's most recent consolidated report of condition filed under 12 U.S.C. 1817(a)(3), as such section existed on January 1, 2021.

(7) Notwithstanding the provisions of section 8-1,140, the director may, by order, deny or limit the inclusion of goodwill in the calculation of a bank's unimpaired capital and unimpaired surplus or in the calculation of a bank's paid-up capital and surplus.

Source: Laws 1909, c. 10, § 33, p. 81; R.S.1913, § 312; Laws 1919, c. 190, tit. V, art. XVI, § 33, p. 698; Laws 1921, c. 313, § 1, p. 1002; C.S.1922, § 8013; Laws 1923, c. 191, § 45, p. 461; C.S.1929, § 8-150; Laws 1933, c. 18, § 33, p. 151; C.S.Supp.,1941, § 8-150; Laws 1943, c. 9, § 1(1), p. 67; R.S.1943, § 8-150; Laws 1959, c. 15, § 14, p. 137; R.R.S.1943, § 8-150; Laws 1963, c. 29, § 41, p. 151; Laws 1965, c. 28, § 3, p. 201; Laws 1969, c. 35, § 1, p. 241; Laws 1972, LB 1151, § 1; Laws 1973, LB 164, § 13; Laws 1986, LB 983, § 2; Laws 1987, LB 753, § 1; Laws 1988, LB 788, § 1; Laws 1990, LB 956, § 2; Laws 1993, LB 81, § 3; Laws 1993, LB 121, § 87; Laws 1994, LB 979, § 2; Laws 1999, LB 396, § 7; Laws 2006, LB 876, § 8; Laws 2012, LB963, § 1; Laws 2017, LB140, § 38; Laws 2020, LB909, § 3; Laws 2021, LB363, § 2. Effective date March 18, 2021.

8-143.01 Extension of credit; limits; written report; credit report; violation; penalty; powers of director.

(1) No bank shall extend credit to any of its executive officers, directors, or principal shareholders or to any related interest of such persons in an amount that, when aggregated with the amount of all other extensions of credit by the bank to that person and to all related interests of that person, exceeds the higher of twenty-five thousand dollars or five percent of the bank's unimpaired capital and unimpaired surplus unless (a) the extension of credit has been approved in advance by a majority vote of the entire board of directors of the bank, a record of which shall be made and kept as a part of the records of such

bank, and (b) the interested party has abstained from participating directly or indirectly in such vote.

(2) No bank shall extend credit to any of its executive officers, directors, or principal shareholders or to any related interest of such persons in an amount that, when aggregated with the amount of all other extensions of credit by the bank to that person and to all related interests of that person, exceeds five hundred thousand dollars except by complying with the requirements of subdivisions (1)(a) and (b) of this section.

(3) No bank shall extend credit to any of its executive officers, and no such executive officer shall borrow from or otherwise become indebted to his or her bank, except in the amounts and for the purposes set forth in subsection (4) of this section.

(4) A bank shall be authorized to extend credit to any of its executive officers:

(a) In any amount to finance the education of such executive officer's children;

(b)(i) In any amount to finance or refinance the purchase, construction, maintenance, or improvement of a residence of such executive officer if the extension of credit is secured by a first lien on the residence and the residence is owned or is expected to be owned after the extension of credit by the executive officer and (ii) in the case of a refinancing, only the amount of the refinancing used to repay the original extension of credit, together with the closing costs of the refinancing, and any additional amount thereof used for any of the purposes enumerated in this subdivision are included within this category of credit;

(c) In any amount if the extension of credit is (i) secured by a perfected security interest in bonds, notes, certificates of indebtedness, or treasury bills of the United States or in other such obligations fully guaranteed as to principal and interest by the United States, (ii) secured by unconditional takeout commitments or guarantees of any department, agency, bureau, board, commission, or establishment of the United States or any corporation wholly owned directly or indirectly by the United States, or (iii) secured by a perfected security interest in a segregated deposit account in the lending bank; or

(d) For any other purpose not specified in subdivisions (a), (b), and (c) of this subsection if the aggregate amount of such other extensions of credit to such executive officer does not exceed, at any one time, the greater of two and one-half percent of the bank's unimpaired capital and unimpaired surplus or twenty-five thousand dollars, but in no event greater than one hundred thousand dollars or the amount of the bank's lending limit as prescribed in section 8-141, whichever is less.

(5)(a) Except as provided in subdivision (b) or (c) of this subsection, any executive officer shall make, on an annual basis, a written report to the board of directors of the bank of which he or she is an executive officer stating the date and amount of all loans or indebtedness on which he or she is a borrower, cosigner, or guarantor, the security therefor, and the purpose for which the proceeds have been or are to be used.

(b) Except as provided in subdivision (c) of this subsection, in lieu of the reports required by subdivision (a) of this subsection, the board of directors of a bank may obtain a credit report from a recognized credit agency, on an annual basis, for any or all of its executive officers.

(c) Subdivisions (a) and (b) of this subsection do not apply to any executive officer if such officer is excluded by a resolution of the board of directors or by the bylaws of the bank from participating in the major policymaking functions of the bank and does not actually participate in the major policymaking functions of the bank.

(6) No bank shall extend credit to any of its executive officers, directors, or principal shareholders or to any related interest of such persons in an amount that, when aggregated with the amount of all other extensions of credit by the bank to that person and to all related interests of that person, exceeds the lending limit of the bank as prescribed in section 8-141.

(7)(a) Except as provided in subdivision (b) of this subsection, no bank shall extend credit to any of its executive officers, directors, or principal shareholders or to any related interest of such persons unless the extension of credit (i) is made on substantially the same terms, including interest rates and collateral, as, and following credit-underwriting procedures that are not less stringent than, those prevailing at the time for comparable transactions by the bank with other persons that are not covered by this section and who are not employed by the bank and (ii) does not involve more than the normal risk of repayment or present other unfavorable features.

(b) Nothing in subdivision (a) of this subsection shall prohibit any extension of credit made by a bank pursuant to a benefit or compensation program under the provisions of 12 C.F.R. 215.4(a)(2), as such regulation existed on January 1, 2021.

(8) For purposes of this section:

(a) Executive officer means a person who participates or has authority to participate, other than in the capacity of director, in the major policymaking functions of the bank, whether or not the officer has an official title, the title designates such officer as an assistant, or such officer is serving without salary or other compensation. Executive officer includes the chairperson of the board of directors, the president, all vice presidents, the cashier, the corporate secretary, and the treasurer, unless the executive officer is excluded by a resolution of the board of directors or by the bylaws of the bank from participating, other than in the capacity of director, in the major policymaking functions of the bank, and the executive officer does not actually participate in such functions. A manager or assistant manager of a branch of a bank shall not be considered to be an executive officer unless such individual participates or is authorized to participate in the major policymaking functions of the bank; and

(b) Unimpaired capital and unimpaired surplus means the sum of:

(i) The total equity capital of the bank reported on its most recent consolidated report of condition filed under section 8-166;

(ii) Any subordinated notes and debentures approved as an addition to the bank's capital structure by the appropriate federal banking agency; and

(iii) Any valuation reserves created by charges to the bank's income reported on its most recent consolidated report of condition filed under section 8-166.

(9) Any executive officer, director, or principal shareholder of a bank or any other person who intentionally violates this section or who aids, abets, or assists in a violation of this section is guilty of a Class IV felony.

(10) The Director of Banking and Finance may adopt and promulgate rules and regulations to carry out this section, including rules and regulations

defining or further defining terms used in this section, consistent with the provisions of 12 U.S.C. 84 and implementing Regulation O as such section and regulation existed on January 1, 2021.

Source: Laws 1994, LB 611, § 2; Laws 1997, LB 137, § 4; Laws 1999, LB 396, § 8; Laws 2001, LB 53, § 1; Laws 2005, LB 533, § 7; Laws 2008, LB851, § 5; Laws 2017, LB140, § 40; Laws 2018, LB812, § 2; Laws 2019, LB258, § 2; Laws 2020, LB909, § 4; Laws 2021, LB363, § 3.
Effective date March 18, 2021.

8-148.09 Bank; financial institution; merger, acquisition, or asset acquisition; transactions authorized.

(1) Any bank may subscribe to, invest, buy, and own stock of another financial institution if the transaction is part of the merger or consolidation of the other financial institution with the acquiring bank, or the acquisition of substantially all of the assets of the other financial institution by the acquiring bank, and if:

(a) The merger, consolidation, or asset acquisition occurs on the same day as the acquisition of the shares of the other financial institution and the other financial institution will not be operated by the acquiring bank as a separate entity; and

(b) The transaction receives the prior approval of the director.

(2) Any bank may subscribe to, invest, buy, and own stock of a company controlling another financial institution if the transaction is part of (a) the merger or consolidation of the company controlling the other financial institution with the company controlling the acquiring bank, or the acquisition of substantially all of the assets of the company controlling the other financial institution by the company controlling the acquiring bank, and (b) the merger or consolidation of the other financial institution with the acquiring bank, or the acquisition of substantially all of the assets of the other financial institution by the acquiring bank, and if:

(i) The merger, consolidation, or asset acquisition occurs on the same day as the acquisition of the shares of the company controlling the other financial institution, and neither the company controlling the other financial institution nor the other financial institution will be operated by the acquiring bank as a separate entity; and

(ii) The transaction receives the prior approval of the director.

(3) Any bank that acquires stock of another financial institution or company controlling another financial institution pursuant to this section shall not be deemed to be a bank holding company for purposes of the Nebraska Bank Holding Company Act of 1995, so long as the conditions of subdivision (1)(a) or (2)(b)(i) of this section, as applicable, are satisfied.

(4) For purposes of this section, financial institution means a bank, savings bank, credit card bank, savings and loan association, digital asset depository institution, building and loan association, trust company, or credit union organized under the laws of any state or organized under the laws of the United States.

Source: Laws 2017, LB140, § 51; Laws 2021, LB649, § 37.
Operative date October 1, 2021.

8-148.10 Digital asset depository institution; investment; conditions.

Any financial institution as defined in section 8-3003 other than a digital asset depository institution as defined in section 8-3003 may invest not more than ten percent of its capital and surplus either in stock of a corporation operating a digital asset depository institution or directly, alone, or with others, in a digital asset depository institution. With written approval of the director, such additional percentage of its capital and surplus may be so invested as the director shall approve. Such investment is not subject to sections 8-148, 8-149, and 8-150.

Source: Laws 2021, LB649, § 39.
Operative date October 1, 2021.

8-157.01 Establishing financial institution; automatic teller machines; use; availability; user financial institution; switch; use and access; duties.

(1) Any establishing financial institution may establish and maintain any number of automatic teller machines at which all banking transactions, defined as receiving deposits of every kind and nature and crediting such to customer accounts, cashing checks and cash withdrawals, transferring funds from checking accounts to savings accounts, transferring funds from savings accounts to checking accounts, transferring funds from either checking accounts and savings accounts to accounts of other customers, transferring payments from customer accounts into accounts maintained by other customers of the financial institution or the financial institution, including preauthorized draft authority, preauthorized loans, and credit transactions, receiving payments payable at the financial institution or otherwise, account balance inquiry, and any other transaction incidental to the business of the financial institution or which will provide a benefit to the financial institution's customers or the general public, may be conducted. Any automatic teller machine owned by a nonfinancial institution third party shall be sponsored by an establishing financial institution. Neither such automatic teller machines nor the transactions conducted thereat shall be construed as the establishment of a branch or as branch banking.

(2) Any financial institution may become a user financial institution by agreeing to pay the establishing financial institution the automatic teller machine usage fee. Such agreement shall be implied by the use of such automatic teller machines.

(3)(a)(i) All automatic teller machines shall be made available on a nondiscriminating basis for use by Nebraska customers of a user financial institution and (ii) all Nebraska automatic teller machine transactions initiated by Nebraska customers of a user financial institution shall be made on a nondiscriminating basis.

(b) It shall not be deemed discrimination if (i) an automatic teller machine does not offer the same transaction services as other automatic teller machines, (ii) there are no automatic teller machine usage fees charged between affiliate financial institutions for the use of automatic teller machines, (iii) the automatic teller machine usage fees of an establishing financial institution that authorizes and directly or indirectly routes Nebraska automatic teller machine transactions to multiple switches, all of which comply with the requirements of subdivision (3)(d) of this section, differ solely based upon the fees established by the switches, (iv) automatic teller machine usage fees differ based upon wheth-

er the transaction initiated at an automatic teller machine is subject to a surcharge or provided on a surcharge-free basis, or (v) the automatic teller machines established or sponsored by an establishing financial institution are made available for use by Nebraska customers of any user financial institution which agrees to pay the automatic teller machine usage fee and which conforms to the operating rules and technical standards established by the switch to which a Nebraska automatic teller machine transaction is directly or indirectly routed.

(c) The director, upon notice and after a hearing, may terminate or suspend the use of any automatic teller machine if he or she determines that the automatic teller machine is not made available on a nondiscriminating basis or that Nebraska automatic teller machine transactions initiated at such automatic teller machine are not made on a nondiscriminating basis.

(d) A switch (i) shall provide to all financial institutions that have a main office or approved branch located in the State of Nebraska and that conform to the operating rules and technical standards established by the switch an equal opportunity to participate in the switch for the use of and access thereto; (ii) shall be capable of operating to accept and route Nebraska automatic teller machine transactions, whether receiving data from an automatic teller machine, an establishing financial institution, or a data processing center; and (iii) shall be capable of being directly or indirectly connected to every data processing center for any automatic teller machine.

(e) The director, upon notice and after a hearing, may terminate or suspend the operation of any switch with respect to all Nebraska automatic teller machine transactions if he or she determines that the switch is not being operated in the manner required under subdivision (3)(d) of this section.

(f) Subject to the requirement for a financial institution to comply with this subsection, no user financial institution or establishing financial institution shall be required to become a member of any particular switch.

(4) Any consumer initiating an electronic funds transfer at an automatic teller machine for which an automatic teller machine surcharge will be imposed shall receive notice in accordance with the provisions of 15 U.S.C. 1693b(d)(3)(A) and (B), as such section existed on January 1, 2021. Such notice shall appear on the screen of the automatic teller machine or appear on a paper notice issued from such machine after the transaction is initiated and before the consumer is irrevocably committed to completing the transaction.

(5) A point-of-sale terminal may be established at any point within this state by a financial institution, a group of two or more financial institutions, or a combination of a financial institution or financial institutions and a third party or parties. Such parties may contract with a seller of goods and services or any other third party for the operation of point-of-sale terminals.

(6) A seller of goods and services or any other third party on whose premises one or more point-of-sale terminals are established shall not be, solely by virtue of such establishment, a financial institution and shall not be subject to the laws governing, or other requirements imposed on, financial institutions, except for the requirement that it faithfully perform its obligations in connection with any transaction originated at any point-of-sale terminal on its premises.

(7) Nothing in this section shall be construed to prohibit nonbank employees from assisting in transactions originated at automatic teller machines or point-

of-sale terminals, and such assistance shall not be deemed to be engaging in the business of banking.

(8)(a) Annually by September 1, any entity operating as a switch in Nebraska shall file a notice with the department setting forth its name, address, and contact information for an officer authorized to answer inquiries related to its operations in Nebraska.

(b) Any entity intending to operate in Nebraska as a switch shall file a notice with the department setting forth its name, address, and contact information for an officer authorized to answer inquiries related to its operations in Nebraska. Such notice shall be filed at least thirty days prior to the date on which the switch commences operations, and thereafter annually by September 1.

(9) Nothing in this section prohibits ordinary clearinghouse transactions between financial institutions.

(10) Nothing in this section shall prevent any financial institution which has a main chartered office or an approved branch located in the State of Nebraska from participating in a national automatic teller machine program to allow its customers to use automatic teller machines located outside of the State of Nebraska which are established by out-of-state financial institutions or foreign financial institutions or to allow customers of out-of-state financial institutions or foreign financial institutions to use its automatic teller machines. Such participation and any automatic teller machine usage fees charged or received pursuant to the national automatic teller machine program or usage fees charged for the use of its automatic teller machines by customers of out-of-state financial institutions or foreign financial institutions shall not be considered for purposes of determining (a) if an automatic teller machine has been made available or Nebraska automatic teller machine transactions have been made on a nondiscriminating basis for use by Nebraska customers of a user financial institution or (b) if a switch complies with subdivision (3)(d) of this section.

(11) An agreement to operate or share an automatic teller machine may not prohibit, limit, or restrict the right of the operator or owner of the automatic teller machine to charge a customer conducting a transaction using an account from a foreign financial institution an access fee or surcharge not otherwise prohibited under state or federal law.

(12) Switch fees shall not be subject to this section or be regulated by the department.

(13) Nothing in this section shall prevent a group of two or more credit unions, each of which has a main chartered office or an approved branch located in the State of Nebraska, from participating in a credit union service organization organized on or before January 1, 2015, for the purpose of owning automatic teller machines, provided that all participating credit unions have an ownership interest in the credit union service organization and that the credit union service organization has an ownership interest in each of the participating credit unions' automatic teller machines. Such participation and any automatic teller machine usage fees associated with Nebraska automatic teller machine transactions initiated by customers of participating credit unions at such automatic teller machines shall not be considered for purposes of determining if such automatic teller machines have been made available on a nondiscriminating basis or if Nebraska automatic teller machine transactions initiated at such automatic teller machines have been made on a nondiscrimi-

nating basis, provided that all Nebraska automatic teller machine transactions initiated by customers of participating credit unions result in the same automatic teller machine usage fees for essentially the same service routed over the same switch.

(14) Nebraska automatic teller machine usage fees and any agreements relating to Nebraska automatic teller machine usage fees shall comply with subsection (3) of this section.

(15) For purposes of this section:

(a) Access means the ability to utilize an automatic teller machine or a point-of-sale terminal to conduct permitted banking transactions or purchase goods and services electronically;

(b) Account means a checking account, a savings account, a share account, or any other customer asset account held by a financial institution. Such an account may also include a line of credit which a financial institution has agreed to extend to its customer;

(c) Affiliate financial institution means any financial institution which is a subsidiary of the same bank holding company;

(d) Automatic teller machine usage fee means any per transaction fee established by a switch or otherwise established on behalf of an establishing financial institution and collected from the user financial institution and paid to the establishing financial institution for the use of the automatic teller machine. An automatic teller machine usage fee shall not include switch fees;

(e) Electronic funds transfer means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through a point-of-sale terminal, an automatic teller machine, or a personal terminal for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account;

(f) Essentially the same service means the same Nebraska automatic teller machine transaction offered by an establishing financial institution irrespective of the user financial institution, the Nebraska customer of which initiates the Nebraska automatic teller machine transaction. A Nebraska automatic teller machine transaction that is subject to a surcharge is not essentially the same service as the same banking transaction for which a surcharge is not imposed;

(g) Establishing financial institution means any financial institution which has a main chartered office or approved branch located in the State of Nebraska that establishes or sponsors an automatic teller machine or any out-of-state financial institution that establishes or sponsors an automatic teller machine;

(h) Financial institution means a bank, savings bank, building and loan association, savings and loan association, or credit union, whether chartered by the department, the United States, or a foreign state agency; any other similar organization which is covered by federal deposit insurance; or a subsidiary of any such entity;

(i) Foreign financial institution means a financial institution located outside the United States;

(j) Nebraska automatic teller machine transaction means a banking transaction as defined in subsection (1) of this section which is (i) initiated at an automatic teller machine established in whole or in part or sponsored by an establishing financial institution, (ii) for an account of a Nebraska customer of

a user financial institution, and (iii) processed through a switch regardless of whether it is routed directly or indirectly from an automatic teller machine;

(k) Personal terminal means a personal computer and telephone, wherever located, operated by a customer of a financial institution for the purpose of initiating a transaction affecting an account of the customer;

(l) Sponsoring an automatic teller machine means the acceptance of responsibility by an establishing financial institution for compliance with all provisions of law governing automatic teller machines and Nebraska automatic teller machine transactions in connection with an automatic teller machine owned by a nonfinancial institution third party;

(m) Switch fee means a fee established by a switch and assessed to a user financial institution or to an establishing financial institution other than an automatic teller machine usage fee; and

(n) User financial institution means any financial institution which has a main chartered office or approved branch located in the State of Nebraska which avails itself of and provides its customers with automatic teller machine services.

Source: Laws 1987, LB 615, § 3; Laws 1992, LB 470, § 2; Laws 1993, LB 81, § 8; Laws 1993, LB 423, § 2; Laws 1999, LB 396, § 9; Laws 2000, LB 932, § 3; Laws 2002, LB 1089, § 3; Laws 2003, LB 131, § 4; Laws 2004, LB 999, § 2; Laws 2009, LB75, § 1; Laws 2009, LB327, § 4; Laws 2013, LB100, § 1; Laws 2015, LB348, § 2; Laws 2016, LB760, § 2; Laws 2017, LB140, § 56; Laws 2018, LB812, § 3; Laws 2019, LB258, § 3; Laws 2019, LB603, § 1; Laws 2020, LB909, § 5; Laws 2021, LB363, § 4.
Effective date March 18, 2021.

8-163 Dividends; withdrawal of capital or surplus prohibited; not made; when.

(1) No bank shall withdraw or permit to be withdrawn, either in the form of dividends or otherwise, any part of its capital or surplus without the written permission of the director. If losses have at any time been sustained equal to or exceeding the retained net income, no dividends shall be made without the written permission of the director. No dividend shall be made by any bank in an amount greater than the retained net income without the written permission of the director.

(2) As used in this section, retained net income means the sum of the bank's net income, as reported in its most recent report of condition and income, less any dividends declared during such year, for the current and two prior calendar years. Retained net income is reduced by any net losses incurred during that year not already reported in net income and by any transfers out of undivided profits to fund the retirement of preferred stock. Transfers out of undivided profits to the surplus account will not be treated as reductions to retained net income.

Source: Laws 1909, c. 10, § 34, p. 82; R.S.1913, § 313; Laws 1919, c. 190, tit. V, art. XVI, § 34, p. 699; C.S.1922, § 8014; C.S.1929, § 8-153; Laws 1933, c. 18, § 34, p. 152; C.S.Supp.,1941, § 8-153; R.S. 1943, § 8-156; Laws 1963, c. 29, § 63, p. 160; Laws 1988, LB

996, § 3; Laws 2009, LB327, § 5; Laws 2017, LB140, § 61; Laws 2021, LB363, § 5.
Effective date March 18, 2021.

8-183.04 State or federal savings association; mutual savings association; retention of mutual form authorized.

(1) Notwithstanding any other provision of the Nebraska Banking Act or any other Nebraska law, a state or federal savings association which was formed and in operation as a mutual savings association as of July 15, 1998, may elect to retain its mutual form of corporate organization upon conversion to a state bank.

(2) All references to shareholders or stockholders for state banks shall be deemed to be references to members for such a converted savings association.

(3) The amount and type of capital required for such a converted savings association shall be as required for federal mutual savings associations in 12 C.F.R. 5.21, as such regulation existed on January 1, 2021, except that if at any time the department determines that the capital of such a converted savings association is impaired, the director may require the members to make up the capital impairment.

(4) The director may adopt and promulgate rules and regulations governing such converted mutual savings associations. In adopting and promulgating such rules and regulations, the director may consider the provisions of sections 8-301 to 8-384 governing savings associations in mutual form of corporate organization.

Source: Laws 1998, LB 1321, § 30; Laws 2005, LB 533, § 10; Laws 2010, LB890, § 5; Laws 2017, LB140, § 79; Laws 2018, LB812, § 5; Laws 2019, LB258, § 5; Laws 2020, LB909, § 7; Laws 2021, LB363, § 6.
Effective date March 18, 2021.

8-1,140 Federally chartered bank; bank organized under laws of Nebraska; rights, privileges, benefits, and immunities; exception.

Notwithstanding any of the other provisions of the Nebraska Banking Act or any other Nebraska statute, any bank incorporated under the laws of this state and organized under the provisions of the act, or under the laws of this state as they existed prior to May 9, 1933, shall directly, or indirectly through a department, a subsidiary, or subsidiaries, have all the rights, powers, privileges, benefits, and immunities which may be exercised as of January 1, 2021, by a federally chartered bank doing business in Nebraska, including the exercise of all powers and activities that are permitted for a financial subsidiary of a federally chartered bank. Such rights, powers, privileges, benefits, and immunities shall not relieve such bank from payment of state taxes assessed under any applicable laws of this state.

Source: Laws 1999, LB 396, § 5; Laws 2000, LB 932, § 4; Laws 2001, LB 53, § 2; Laws 2002, LB 957, § 7; Laws 2003, LB 217, § 9; Laws 2004, LB 999, § 3; Laws 2005, LB 533, § 11; Laws 2006, LB 876, § 12; Laws 2007, LB124, § 6; Laws 2008, LB851, § 7; Laws 2009, LB327, § 6; Laws 2010, LB890, § 6; Laws 2011, LB74, § 1; Laws 2012, LB963, § 4; Laws 2013, LB213, § 5; Laws 2014, LB712, § 1; Laws 2015, LB286, § 1; Laws 2016, LB676, § 1;

Laws 2017, LB140, § 130; Laws 2018, LB812, § 6; Laws 2019, LB258, § 6; Laws 2020, LB909, § 8; Laws 2021, LB363, § 7; Laws 2021, LB649, § 38.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB363, section 7, with LB649, section 38, to reflect all amendments.

Note: Changes made by LB363 became effective March 18, 2021. Changes made by LB649 became operative October 1, 2021.

8-1,141 Controllable electronic record custody; qualified custodian; requirements.

(1) The provisions of this section are cumulative and not exclusive as an optional framework for enhanced supervision of controllable electronic record custody.

(2) If a financial institution is authorized to provide digital asset services under this section, it shall comply with all provisions of this section.

(3) A financial institution may serve as a qualified custodian, as specified by the United States Securities and Exchange Commission in 17 C.F.R. 275.206(4)-2 or any other federal rule or regulation. In performing custodial services under this section, a financial institution shall:

(a) Implement all accounting, account statement, internal control, notice, and other standards specified by applicable state or federal law and rules for custodial services;

(b) Maintain information technology best practices relating to controllable electronic records held in custody. The director may specify required best practices by rule and regulation;

(c) Fully comply with applicable federal anti-money laundering, customer identification, and beneficial ownership requirements; and

(d) Take other actions necessary to carry out this section, which may include exercising fiduciary powers similar to those permitted to national banks and ensuring compliance with federal law governing controllable electronic records classified as commodities.

(4) A financial institution providing custodial services shall enter into an agreement with an independent public accountant to conduct an examination conforming to the requirements of 17 C.F.R. 275.206(4)-2(a)(4) and (6), at the cost of the financial institution. The accountant shall transmit the results of the examination to the director within ninety days of the examination and may file the results with the United States Securities and Exchange Commission as its rules may provide. Material discrepancies in an examination shall be reported to the director within one day. The director shall review examination results upon receipt within a reasonable time and during any regular examination conducted under section 8-108.

(5) Controllable electronic records held in custody under this section are not depository liabilities or assets of the financial institution. A financial institution or a subsidiary may register as an investment adviser, investment company, or broker dealer as necessary. A financial institution shall maintain control over a controllable electronic record while in custody. A customer shall elect, pursuant to a written agreement with the financial institution, one of the following relationships for each controllable electronic record held in custody:

(a) Custody under a bailment as a nonfungible or fungible asset. Assets held under this subdivision shall be strictly segregated from other assets; or

(b) Custody under a bailment pursuant to subsection (6) of this section.

(6) If a customer makes an election under subdivision (5)(b) of this section, the financial institution may, based only on customer instructions, undertake transactions with the controllable electronic record. A financial institution maintains control pursuant to subsection (5) of this section by entering into an agreement with the counterparty to a transaction which contains a time for return of the asset. The financial institution shall not be liable for any loss suffered with respect to a transaction under this subsection, except for liability consistent with fiduciary and trust powers as a custodian under this section.

(7) A financial institution and a customer shall agree in writing regarding the source code version the financial institution will use for each controllable electronic record and the treatment of each record under the Uniform Commercial Code, if necessary. Any ambiguity under this subsection shall be resolved in favor of the customer.

(8) A financial institution shall provide clear, written notice to each customer and require written acknowledgement of the following:

(a) Prior to the implementation of any updates, material source code updates relating to controllable electronic records held in custody, except in emergencies which may include security vulnerabilities;

(b) The heightened risk of loss from transactions under subsection (6) of this section;

(c) That some risk of loss as a pro rata creditor exists as the result of custody as a fungible asset or custody under subdivision (5)(b) of this section;

(d) That custody under subdivision (5)(b) of this section may not result in the controllable electronic records of the customer being strictly segregated from other customer assets; and

(e) That the financial institution is not liable for losses suffered under subsection (6) of this section, except for liability consistent with fiduciary and trust powers as a custodian under this section.

(9) A financial institution and a customer shall agree in writing to a time period within which the financial institution must return a controllable electronic record held in custody under this section. If a customer makes an election under subdivision (5)(b) of this section, the financial institution and the customer may also agree in writing to the form in which the controllable electronic record shall be returned.

(10) All ancillary or subsidiary proceeds relating to controllable electronic records held in custody under this section shall accrue to the benefit of the customer, except as specified by a written agreement with the customer. The financial institution may elect not to collect certain ancillary or subsidiary proceeds, as long as the election is disclosed in writing. A customer who makes an election under subdivision (5)(a) of this section may withdraw the controllable electronic record in a form that permits the collection of the ancillary or subsidiary proceeds.

(11) A financial institution shall not authorize or permit rehypothecation of controllable electronic records under this section and shall not engage in any activity to use or exercise discretionary authority relating to a controllable electronic record except based on customer instructions.

(12) A financial institution shall not take any action under this section which would likely impair the solvency or the safety and soundness of the financial

institution, as determined by the director after considering the nature of custodial services customary in the banking industry.

(13) To offset the costs of supervision and administration of this section, a financial institution which provides custodial services under this section shall pay the assessment as provided for in sections 8-601 and 8-605, which assessment shall not be less than two thousand dollars, and the costs of any examination or investigation as provided in sections 8-108 and 8-606.

(14) For purposes of this section, financial institution means a bank, savings bank, building and loan association, savings and loan association, whether chartered by the United States, the department, or a foreign state agency; or a trust company.

Source: Laws 2021, LB649, § 40.
Operative date October 1, 2021.

8-1,142 Controllable electronic record custody; rules and regulations.

The director may adopt and promulgate rules and regulations to implement sections 8-1,141 to 8-1,143.

Source: Laws 2021, LB649, § 41.
Operative date October 1, 2021.

8-1,143 Controllable electronic records; courts; jurisdiction.

The courts of Nebraska shall have jurisdiction to hear claims in both law and equity relating to controllable electronic records, including those arising under sections 8-1,141 to 8-1,143 and the Uniform Commercial Code.

Source: Laws 2021, LB649, § 42.
Operative date October 1, 2021.

ARTICLE 2

TRUST COMPANIES

Section

8-201 Charter required; exception; powers of Department of Banking and Finance; rules and regulations; fee.

The Director of Banking and Finance shall have the power to issue to corporations desiring to transact business as trust companies charters of authority to transact trust company business as defined in the Nebraska Trust Company Act. He or she shall have general supervision and control over such trust companies. Any three or more persons may adopt articles of incorporation and become a body corporate for the purpose of engaging in and conducting the business of a trust company, upon complying with the requirements of the act and the general laws of this state relating to the organization of corporations and upon obtaining a charter to transact business as a trust company from the director.

Every corporation organized for and desiring to transact a trust company business shall, before commencing such business, make under oath and transmit to the Department of Banking and Finance a complete statement including:

(1) The name of the proposed trust company;

(2) A certified copy of the articles of incorporation;

(3) The names of the stockholders;

(4) The names of the proposed members of the board of directors of the trust company, who shall be approved by the department in accordance with section 8-204;

(5) The name of the county, city, or village in which the trust company is located;

(6) The amount of paid-up capital stock; and

(7) A statement sworn to by the president and secretary, each of whom have been selected in accordance with section 8-204, that the capital stock has been paid in as provided for.

The corporation shall also pay the fee prescribed by section 8-602 for investigation of such statement.

If upon investigation the department is satisfied that the parties requesting the charter are parties of integrity and responsibility, that the corporation will apply safe and sound methods for the purpose of carrying out trust company duties, and that the public necessity, convenience, and advantage will be promoted by permitting the corporation to transact business as a trust company, the department shall issue to the corporation a charter entitling it to transact the business provided for in the act. Upon payment of the required fees, the pledging of assets required by section 8-209, and the receipt of the charter, the corporation may begin to transact business as a trust company. It shall be unlawful for any corporation, except a foreign corporate trustee to the extent authorized under section 30-3820, to engage in business as a trust company or to act in any other fiduciary capacity unless it has first obtained from the Department of Banking and Finance a charter of authority to do business.

The Department of Banking and Finance may adopt and promulgate rules and regulations to carry out the governance of trust companies under its supervision.

Source: Laws 1911, c. 31, § 1, p. 187; R.S.1913, § 738; Laws 1919, c. 190, tit. V, art. XVIII, § 1, p. 718; C.S.1922, § 8063; Laws 1927, c. 35, § 1, p. 159; C.S.1929, § 8-201; Laws 1933, c. 18, § 73, p. 171; Laws 1937, c. 20, § 3, p. 130; C.S.Supp.,1941, § 8-201; R.S.1943, § 8-201; Laws 1957, c. 10, § 2, p. 129; Laws 1975, LB 481, § 1; Laws 1993, LB 81, § 14; Laws 1998, LB 1321, § 33; Laws 2003, LB 130, § 111; Laws 2021, LB363, § 8.
Effective date March 18, 2021.

8-204 Directors; qualifications; duties; vacancies.

(1) The control of the business affairs of a trust company shall be vested in a board of directors of not less than five persons who shall be selected at such time and in such manner as may be provided by the articles of incorporation of the trust company and in conformity with the Nebraska Trust Company Act. Any vacancy on the board shall be filled within ninety days by appointment by the remaining directors, and any director so appointed shall serve until the next election of directors, except that if the vacancy leaves a minimum of five directors, appointment shall be optional. The person appointed to fill the

vacancy shall not serve as a director until the trust company obtains approval from the Department of Banking and Finance in accordance with subsection (6) of this section.

(2) The board of directors shall select a president and secretary and shall appoint trust officers and committees as it deems necessary. No person shall act as president if such person is not a member of the board of directors. The officers and committee members shall hold their positions at the discretion of the board of directors.

(3) The board of directors shall hold at least one regular meeting in each calendar quarter and shall prepare and maintain complete and accurate minutes of the proceedings at such meetings.

(4) The board of directors shall make or cause to be made each year a thorough examination of the books, records, funds, and securities held for the trust company and customer accounts. The examination may be conducted by the members of the board of directors or the board may accept an annual audit by an accountant or accounting firm approved by the Department of Banking and Finance. Any such examination or audit must comply in scope with minimum standards established by the department.

(5) Unless the department otherwise approves, a majority of the members of the board of directors of any trust company shall be residents of this state. Reasonable efforts shall be made to acquire members of the board of directors from the county in which the trust company is located. Directors of trust companies shall be persons of good moral character and known integrity, business experience, and responsibility.

(6) No person shall act as such member of the board of directors of any trust company until the corporation applies for and obtains approval from the Department of Banking and Finance.

Source: Laws 1911, c. 31, § 4, p. 188; R.S.1913, § 741; Laws 1919, c. 190, tit. V, art. XVIII, § 4, p. 718; C.S.1922, § 8065; C.S.1929, § 8-203; R.S.1943, § 8-204; Laws 1993, LB 81, § 17; Laws 2013, LB213, § 6; Laws 2021, LB363, § 9.
Effective date March 18, 2021.

ARTICLE 3

BUILDING AND LOAN ASSOCIATIONS

Section

8-318 Stock; share account; deposits; withdrawal methods authorized; investments by fiduciaries; rights; retirement plan, investments; building and loan association as trustee or custodian; powers and duties.

(1)(a) Shares of stock in any association, or in any federal savings and loan association incorporated under the provisions of the federal Home Owners' Loan Act, with its principal office and place of business in this state, may be subscribed for, held, transferred, surrendered, withdrawn, and forfeited and payments thereon received and receipted for by any person, regardless of age,

in the same manner and with the same binding effect as though such person were of the age of majority, except that a minor or his or her estate shall not be bound on his or her subscription to stock except to the extent of payments actually made thereon.

(b) Whenever a share account is accepted by any building and loan association in the name of any person, regardless of age, the deposit may be withdrawn by the shareholder by any of the following methods:

(i) Check or other instrument in writing. The check or other instrument in writing constitutes a receipt or acquittance if the check or other instrument in writing is signed by the shareholder and constitutes a valid release in discharge to the building and loan association for all payments so made; or

(ii) Electronic means through:

(A) Preauthorized direct withdrawal;

(B) An automatic teller machine;

(C) A debit card;

(D) A transfer by telephone;

(E) A network, including the Internet; or

(F) Any electronic terminal, computer, magnetic tape, or other electronic means.

(c) This section shall not be construed to affect the rights, liabilities, or responsibilities of participants in an electronic fund transfer under the federal Electronic Fund Transfer Act, 15 U.S.C. 1693 et seq., as it existed on January 1, 2021, and shall not affect the legal relationships between a minor and any person other than the building and loan association.

(2) All trustees, guardians, personal representatives, administrators, and conservators appointed by the courts of this state may invest and reinvest in, acquire, make withdrawals in whole or in part, hold, transfer, or make new or additional investments in or transfers of shares of stock in any (a) building and loan association organized under the laws of the State of Nebraska or (b) federal savings and loan association incorporated under the provisions of the federal Home Owners' Loan Act, having its principal office and place of business in this state, without an order of approval from any court.

(3) Trustees created solely by the terms of a trust instrument may invest in, acquire, hold, and transfer such shares, and make withdrawals, in whole or in part, therefrom, without any order of court, unless expressly limited, restricted, or prohibited therefrom by the terms of such trust instrument.

(4) All building and loan associations referred to in this section are qualified to act as trustee or custodian within the provisions of the federal Self-Employed Individuals Tax Retirement Act of 1962, as amended, or under the terms and provisions of section 408(a) of the Internal Revenue Code, if the provisions of such retirement plan require the funds of such trust or custodianship to be invested exclusively in shares or accounts in the association or in other associations. If any such retirement plan, within the judgment of the association, constitutes a qualified plan under the federal Self-Employed Individuals Tax Retirement Act of 1962, or under the terms and provisions of section 408(a) of the Internal Revenue Code, and the regulations promulgated thereunder at the time the trust was established and accepted by the association, is subsequently determined not to be such a qualified plan or subsequently ceases to be

such a qualified plan, in whole or in part, the association may continue to act as trustee of any deposits theretofore made under such plan and to dispose of the same in accordance with the directions of the member and beneficiaries thereof. No association, in respect to savings made under this section, shall be required to segregate such savings from other assets of the association. The association shall keep appropriate records showing in proper detail all transactions engaged in under the authority of this section.

Source: Laws 1899, c. 17, § 7, p. 88; R.S.1913, § 492; Laws 1919, c. 190, tit. V, art. XIX, § 8, p. 726; C.S.1922, § 8090; C.S.1929, § 8-308; Laws 1939, c. 4, § 1, p. 62; C.S.Supp.,1941, § 8-308; R.S.1943, § 8-318; Laws 1953, c. 11, § 1, p. 76; Laws 1955, c. 11, § 1, p. 77; Laws 1971, LB 375, § 1; Laws 1975, LB 208, § 2; Laws 1986, LB 909, § 8; Laws 1995, LB 574, § 3; Laws 2005, LB 533, § 16; Laws 2016, LB760, § 3; Laws 2017, LB140, § 133; Laws 2018, LB812, § 7; Laws 2019, LB258, § 9; Laws 2020, LB909, § 10; Laws 2021, LB363, § 10.
Effective date March 18, 2021.

8-355 Federal savings and loan; associations organized under laws of Nebraska; rights, privileges, benefits, and immunities; exception.

Notwithstanding any of the provisions of Chapter 8, article 3, or any other Nebraska statute, except as provided in section 8-345.02, any association incorporated under the laws of the State of Nebraska and organized under the provisions of such article shall have all the rights, powers, privileges, benefits, and immunities which may be exercised as of January 1, 2021, by a federal savings and loan association doing business in Nebraska. Such rights, powers, privileges, benefits, and immunities shall not relieve such association from payment of state taxes assessed under any applicable laws of this state.

Source: Laws 1971, LB 185, § 1; Laws 1972, LB 1288, § 1; Laws 1973, LB 351, § 1; Laws 1974, LB 784, § 1; Laws 1975, LB 201, § 1; Laws 1976, LB 763, § 2; Laws 1977, LB 224, § 1; Laws 1978, LB 717, § 6; Laws 1979, LB 154, § 2; Laws 1980, LB 865, § 1; Laws 1981, LB 71, § 1; Laws 1982, LB 646, § 1; Laws 1983, LB 144, § 1; Laws 1984, LB 923, § 1; Laws 1985, LB 128, § 1; Laws 1986, LB 1052, § 1; Laws 1987, LB 115, § 1; Laws 1988, LB 858, § 1; Laws 1989, LB 207, § 1; Laws 1990, LB 1016, § 1; Laws 1991, LB 98, § 1; Laws 1992, LB 470, § 4; Laws 1992, LB 985, § 1; Laws 1993, LB 288, § 1; Laws 1994, LB 876, § 1; Laws 1995, LB 41, § 1; Laws 1996, LB 949, § 1; Laws 1997, LB 35, § 1; Laws 1998, LB 1321, § 67; Laws 1999, LB 396, § 12; Laws 2000, LB 932, § 16; Laws 2001, LB 53, § 6; Laws 2002, LB 957, § 8; Laws 2003, LB 217, § 11; Laws 2004, LB 999, § 4; Laws 2005, LB 533, § 19; Laws 2006, LB 876, § 13; Laws 2007, LB124, § 7; Laws 2008, LB851, § 11; Laws 2009, LB327, § 9; Laws 2010, LB890, § 8; Laws 2011, LB74, § 2; Laws 2012, LB963, § 11; Laws 2013, LB213, § 8; Laws 2014, LB712, § 2; Laws 2015, LB286, § 2; Laws 2016, LB676, § 2; Laws 2017, LB140, § 134; Laws 2018, LB812, § 8; Laws 2019, LB258, § 11; Laws 2020, LB909, § 11; Laws 2021, LB363, § 11.
Effective date March 18, 2021.

ARTICLE 6
ASSESSMENTS AND FEES

8-601 Director of Banking and Finance; employees; financial institutions; levy of assessment authorized.

The Director of Banking and Finance may employ deputies, examiners, attorneys, and other assistants as may be necessary for the administration of the provisions and purposes of the Credit Union Act, Delayed Deposit Services Licensing Act, Interstate Branching and Merger Act, Interstate Trust Company Office Act, Nebraska Bank Holding Company Act of 1995, Nebraska Banking Act, Nebraska Financial Innovation Act, Nebraska Installment Loan Act, Nebraska Installment Sales Act, Nebraska Money Transmitters Act, Nebraska Trust Company Act, and Residential Mortgage Licensing Act; Chapter 8, articles 3, 5, 6, 7, 8, 13, 14, 15, 16, 19, 20, 24, and 25; and Chapter 45, articles 1 and 2. The director may levy upon financial institutions, namely, the banks, trust companies, building and loan associations, savings and loan associations, savings banks, digital asset depositories, and credit unions, organized under the laws of this state, and holding companies, if any, of such financial institutions, an assessment each year based upon the asset size of the financial institution, except that in determining the asset size of a holding company or digital asset depository, the assets of any financial institution or holding company otherwise assessed pursuant to this section and the assets of any nationally chartered financial institution shall be excluded. The assessment for digital asset depositories under the Nebraska Financial Innovation Act shall be in an amount to offset the costs of supervision and administration of the Nebraska Financial Innovation Act. The assessment shall be a sum determined by the director in accordance with section 8-606 and approved by the Governor.

Source: Laws 1937, c. 20, § 1, p. 128; C.S.Supp.,1941, § 8-701; R.S.1943, § 8-601; Laws 1955, c. 15, § 1, p. 83; Laws 1973, LB 164, § 20; Laws 1976, LB 561, § 2; Laws 1980, LB 966, § 2; Laws 1986, LB 910, § 1; Laws 2002, LB 1094, § 6; Laws 2003, LB 131, § 7; Laws 2007, LB124, § 8; Laws 2013, LB616, § 49; Laws 2017, LB140, § 135; Laws 2021, LB649, § 43.
Operative date October 1, 2021.

Cross References

Credit Union Act, see section 21-1701.
Delayed Deposit Services Licensing Act, see section 45-901.
Interstate Branching and Merger Act, see section 8-2101.
Interstate Trust Company Office Act, see section 8-2301.
Nebraska Bank Holding Company Act of 1995, see section 8-908.
Nebraska Banking Act, see section 8-101.02.
Nebraska Financial Innovation Act, see section 8-3001.
Nebraska Installment Loan Act, see section 45-1001.
Nebraska Installment Sales Act, see section 45-334.
Nebraska Money Transmitters Act, see section 8-2701.
Nebraska Trust Company Act, see section 8-201.01.
Residential Mortgage Licensing Act, see section 45-701.

8-602 Department of Banking and Finance; services; schedule of fees.

The Director of Banking and Finance shall charge and collect fees for certain services rendered by the Department of Banking and Finance according to the following schedule:

(1) For filing and examining articles of incorporation, articles of association, and bylaws, except credit unions, one hundred dollars, and for credit unions, fifty dollars;

(2) For filing and examining an amendment to articles of incorporation, articles of association, and bylaws, except credit unions, fifty dollars, and for credit unions, fifteen dollars;

(3) For issuing to banks, credit card banks, trust companies, and building and loan associations a charter, authority, or license to do business in this state, a sum which shall be determined on the basis of one dollar and fifty cents for each one thousand dollars of authorized capital, except that the minimum fee in each case shall be two hundred twenty-five dollars;

(4) For issuing to digital asset depositories under the Nebraska Financial Innovation Act a charter, an authority, or a license to do business in this state, the sum of fifty thousand dollars;

(5) For issuing an executive officer's or loan officer's license, fifty dollars at the time of the initial license, except credit unions for which the fee shall be twenty-five dollars at the time of the initial license;

(6) For affixing certificate and seal, five dollars;

(7) For making substitution of securities held by it and issuing a receipt, fifteen dollars;

(8) For issuing a certificate of approval to a credit union, ten dollars;

(9) For investigating the applications required by sections 8-117, 8-120, 8-331, and 8-2402 and the documents required by section 8-201, the cost of such examination, investigation, and inspection, including all legal expenses and the cost of any hearing transcript, with a minimum fee under (a) sections 8-117, 8-120, and 8-2402 of two thousand five hundred dollars, (b) section 8-331 of two thousand dollars, and (c) section 8-201 of one thousand dollars. The department may require the applicant to procure and give a surety bond in such principal amount as the department may determine and conditioned for the payment of the fees provided in this subdivision;

(10) For the handling of pledged securities as provided in sections 8-210 and 8-2727 at the time of the initial deposit of such securities, one dollar and fifty cents for each thousand dollars of securities deposited and a like amount on or before January 15 each year thereafter. The fees shall be paid by the entity pledging the securities;

(11) For investigating an application to move its location within the city or village limits of its original license or charter for banks, trust companies, and building and loan associations, two hundred fifty dollars;

(12) For investigating an application under subdivision (6) of section 8-115.01, five hundred dollars;

(13) For investigating an application for approval to establish or acquire a branch pursuant to section 8-157 or 8-2103 or to establish a mobile branch pursuant to section 8-157, two hundred fifty dollars;

(14) For investigating a notice of acquisition of control under subsection (1) of section 8-1502, five hundred dollars;

(15) For investigating an application for a cross-industry merger under section 8-1510, five hundred dollars;

(16) For investigating an application for a merger of two state banks, a merger of a state bank and a national bank in which the state bank is the surviving entity, or an interstate merger application in which the Nebraska state chartered bank is the resulting bank, five hundred dollars;

(17) For investigating an application or a notice to establish a branch trust office, five hundred dollars;

(18) For investigating an application or a notice to establish a representative trust office, five hundred dollars;

(19) For investigating an application to establish a credit union branch under section 21-1725.01, two hundred fifty dollars;

(20) For investigating an applicant under section 8-1513, five thousand dollars;

(21) For investigating a request to extend a conditional bank charter under section 8-117, one thousand dollars; and

(22) For investigating an application to establish a branch office, for a merger or an acquisition of control, or for a request to extend a conditional charter for a digital asset depository, five hundred dollars.

Source: Laws 1937, c. 20, § 2, p. 129; C.S.Supp.,1941, § 8-702; R.S.1943, § 8-602; Laws 1957, c. 10, § 5, p. 132; Laws 1961, c. 15, § 8, p. 113; Laws 1967, c. 23, § 2, p. 127; Laws 1969, c. 43, § 1, p. 252; Laws 1972, LB 1194, § 1; Laws 1973, LB 164, § 21; Laws 1976, LB 561, § 3; Laws 1987, LB 642, § 1; Laws 1992, LB 470, § 5; Laws 1992, LB 757, § 11; Laws 1993, LB 81, § 54; Laws 1995, LB 599, § 4; Laws 1998, LB 1321, § 68; Laws 1999, LB 396, § 13; Laws 2000, LB 932, § 17; Laws 2002, LB 1089, § 7; Laws 2002, LB 1094, § 7; Laws 2003, LB 131, § 8; Laws 2003, LB 217, § 14; Laws 2004, LB 999, § 5; Laws 2005, LB 533, § 20; Laws 2007, LB124, § 9; Laws 2009, LB327, § 10; Laws 2010, LB891, § 3; Laws 2011, LB74, § 3; Laws 2012, LB963, § 12; Laws 2013, LB616, § 50; Laws 2017, LB140, § 136; Laws 2019, LB258, § 12; Laws 2021, LB649, § 44.
Operative date October 1, 2021.

Cross References

Nebraska Financial Innovation Act, see section 8-3001.

ARTICLE 7

STATE-FEDERAL COOPERATION ACTS; CAPITAL NOTES

(a) FEDERAL BANKING ACT OF 1933

Section
8-701. Banking institution; definition.
8-702. Banking institutions; maintain membership in Federal Deposit Insurance Corporation; exception; automatic forfeiture of charter; prohibited acts; penalty.

(a) FEDERAL BANKING ACT OF 1933

8-701 Banking institution; definition.

For purposes of sections 8-701 to 8-709, banking institution means any bank, stock savings bank, mutual savings bank, building and loan association, digital asset depository institution under the Nebraska Financial Innovation Act, or savings and loan association, which is now or may hereafter be organized under the laws of this state.

Source: Laws 1935, c. 8, § 1, p. 72; C.S.Supp.,1941, § 8-401; R.S.1943, § 8-701; Laws 2003, LB 217, § 15; Laws 2005, LB 533, § 21; Laws 2017, LB140, § 138; Laws 2021, LB649, § 45.
Operative date October 1, 2021.

Cross References

Nebraska Financial Innovation Act, see section 8-3001.

8-702 Banking institutions; maintain membership in Federal Deposit Insurance Corporation; exception; automatic forfeiture of charter; prohibited acts; penalty.

(1) Any banking institution, except a digital asset depository institution organized, chartered, and operated pursuant to the Nebraska Financial Innovation Act, organized under the laws of this state shall, before a charter may be issued, enter into such contracts, incur such obligations, and generally do and perform any and all such acts and things whatsoever as may be necessary or appropriate in order to obtain membership in the Federal Deposit Insurance Corporation and provide for insurance of deposits in the banking institution. Any banking institution may take advantage of any and all memberships, loans, subscriptions, contracts, grants, rights, or privileges which may at any time be available or inure to banking institutions or to their depositors, creditors, stockholders, conservators, receivers, or liquidators by virtue of those provisions of section 8 of the Federal Banking Act of 1933 (section 12B of the Federal Reserve Act, as amended) which establish the Federal Deposit Insurance Corporation and provide for the insurance of deposits or of any other provisions of that or of any other act or resolution of Congress to aid, regulate, or safeguard banking institutions and their depositors, including any amendments of the same or any substitutions therefor. Any banking institution may also subscribe for and acquire any stock, debentures, bonds, or other types of securities of the Federal Deposit Insurance Corporation and comply with the lawful regulations and requirements from time to time issued or made by such corporation.

(2) The charter of any banking institution which fails to maintain membership in the Federal Deposit Insurance Corporation shall be automatically forfeited and such banking institution shall be liquidated and dissolved, either voluntarily by its board of directors under the supervision of the department or involuntarily by the department as in cases of insolvency. Any banking institution whose charter is automatically forfeited under the provisions of this subsection which continues to engage in the business for which it had been chartered after such forfeiture, as well as the directors and officers thereof, is guilty of a Class III felony.

(3) Nothing in this section shall be construed as prohibiting a digital asset depository institution organized, chartered, and operated pursuant to the Ne-

braska Financial Innovation Act from obtaining Federal Deposit Insurance Corporation insurance.

Source: Laws 1935, c. 8, § 2, p. 73; C.S.Supp.,1941, § 8-402; R.S.1943, § 8-702; Laws 1963, c. 31, § 2, p. 190; Laws 1983, LB 252, § 5; Laws 1984, LB 899, § 3; Laws 2005, LB 533, § 22; Laws 2009, LB328, § 2; Laws 2010, LB892, § 1; Laws 2011, LB75, § 1; Laws 2013, LB213, § 9; Laws 2017, LB140, § 139; Laws 2021, LB649, § 46.
Operative date October 1, 2021.

Cross References

Nebraska Financial Innovation Act, see section 8-3001.

ARTICLE 11
SECURITIES ACT OF NEBRASKA

Section
8-1101. Terms, defined.
8-1101.01. Federal rules and regulations; fair practice or ethical rules or standards; defined.
8-1108.02. Federal covered security; filing; director; powers; sales; requirements; fees; consent to service of process.
8-1120. Administration of act; Director of Banking and Finance; powers and duties; use of information for personal benefit prohibited; Securities Act Cash Fund; created; use; investment; transfers; document filed, when.

8-1101 Terms, defined.

For purposes of the Securities Act of Nebraska, unless the context otherwise requires:

(1) Agent means any individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect sales of securities, but agent does not include an individual who represents (a) an issuer in (i) effecting a transaction in a security exempted by subdivision (6), (7), or (8) of section 8-1110, (ii) effecting certain transactions exempted by section 8-1111, (iii) effecting transactions in a federal covered security as described in section 18(b)(3) of the Securities Act of 1933, or (iv) effecting transactions with existing employees, limited liability company members, partners, or directors of the issuer or any of its subsidiaries if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in this state or (b) a broker-dealer in effecting transactions described in section 15(h)(2) of the Securities Exchange Act of 1934. A partner, limited liability company member, officer, or director of a broker-dealer is an agent only if he or she otherwise comes within this definition;

(2) Broker-dealer means any person engaged in the business of effecting transactions in securities for the account of others or for his or her own account. Broker-dealer does not include (a) an issuer-dealer, agent, bank, savings institution, or trust company, (b) an issuer effecting a transaction in its own security exempted by subdivision (5)(a), (b), (c), (d), (e), or (f) of section 8-1110 or which qualifies as a federal covered security pursuant to section 18(b)(1) of the Securities Act of 1933, (c) a person who has no place of business in this state if he or she effects transactions in this state exclusively with or through the issuers of the securities involved in the transactions, other broker-

dealers, or banks, savings institutions, credit unions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees, (d) a person who has no place of business in this state if during any period of twelve consecutive months he or she does not direct more than five offers to sell or to buy into this state in any manner to persons other than those specified in subdivision (2)(c) of this section, or (e) a person who is a resident of Canada and who has no office or other physical presence in Nebraska if the following conditions are satisfied: (i) The person must be registered with, or be a member of, a securities self-regulatory organization in Canada or a stock exchange in Canada; (ii) the person must maintain, in good standing, its provisional or territorial registration or membership in a securities self-regulatory organization in Canada, or stock exchange in Canada; (iii) the person effects, or attempts to effect, (A) a transaction with or for a Canadian client who is temporarily present in this state and with whom the Canadian broker-dealer had a bona fide customer relationship before the client entered this state or (B) a transaction with or for a Canadian client in a self-directed tax advantaged retirement plan in Canada of which that client is the holder or contributor; and (iv) the person complies with all provisions of the Securities Act of Nebraska relating to the disclosure of material information in connection with the transaction;

(3) Department means the Department of Banking and Finance. Director means the Director of Banking and Finance of the State of Nebraska except as further provided in section 8-1120;

(4) Federal covered adviser means a person who is registered under section 203 of the Investment Advisers Act of 1940;

(5) Federal covered security means any security described as a covered security under section 18(b) of the Securities Act of 1933 or rules and regulations under the act;

(6) Guaranteed means guaranteed as to payment of principal, interest, or dividends;

(7) Investment adviser means any person who for compensation engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities or who for compensation and as a part of a regular business issues or promulgates analyses or reports concerning securities. Investment adviser also includes financial planners and other persons who, as an integral component of other financially related services, provide the foregoing investment advisory services to others for compensation and as part of a business or who hold themselves out as providing the foregoing investment advisory services to others for compensation. Investment adviser does not include (a) an investment adviser representative, (b) a bank, savings institution, or trust company, (c) a lawyer, accountant, engineer, or teacher whose performance of these services is solely incidental to the practice of his or her profession, (d) a broker-dealer or its agent whose performance of these services is solely incidental to its business as a broker-dealer and who receives no special compensation for them, (e) an issuer-dealer, (f) a publisher of any bona fide newspaper, news column, newsletter, news magazine, or business or financial publication or service, whether communicated in hard copy form, by

electronic means, or otherwise which does not consist of the rendering of advice on the basis of the specific investment situation of each client, (g) a person who has no place of business in this state if (i) his or her only clients in this state are other investment advisers, federal covered advisers, broker-dealers, banks, savings institutions, credit unions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees, or (ii) during the preceding twelve-month period, he or she has had five or fewer clients who are residents of this state other than those persons specified in subdivision (g)(i) of this subdivision, (h) any person that is a federal covered adviser or is excluded from the definition of investment adviser under section 202 of the Investment Adviser Act of 1940, or (i) such other persons not within the intent of this subdivision as the director may by rule and regulation or order designate;

(8) Investment adviser representative means any partner, limited liability company member, officer, or director or any person occupying a similar status or performing similar functions of a partner, limited liability company member, officer, or director or other individual, except clerical or ministerial personnel, who is employed by or associated with an investment adviser that is registered or required to be registered under the Securities Act of Nebraska or who has a place of business located in this state and is employed by or associated with a federal covered adviser, and who (a) makes any recommendations or otherwise renders advice regarding securities, (b) manages accounts or portfolios of clients, (c) determines which recommendation or advice regarding securities should be given, (d) solicits, offers, or negotiates for the sale of or sells investment advisory services, or (e) supervises employees who perform any of the foregoing;

(9) Issuer means any person who issues or proposes to issue any security, except that (a) with respect to certificates of deposit, voting-trust certificates, or collateral-trust certificates or with respect to certificates of interest or shares in an unincorporated investment trust not having a board of directors, or persons performing similar functions, or of the fixed, restricted management, or unit type, the term issuer means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement or instrument under which the security is issued and (b) with respect to a fractional or pooled interest in a viatical settlement contract, issuer means the person who creates, for the purpose of sale, the fractional or pooled interest. In the case of a viatical settlement contract that is not fractionalized or pooled, issuer means the person effecting a transaction with a purchaser of such contract;

(10) Issuer-dealer means (a) any issuer located in the State of Nebraska or (b) any issuer which registered its securities by qualification who proposes to sell to the public of the State of Nebraska the securities that it issues without the benefit of another registered broker-dealer. Such securities shall have been approved for sale in the State of Nebraska pursuant to section 8-1104;

(11) Nonissuer means not directly or indirectly for the benefit of the issuer;

(12) Person means an individual, a corporation, a partnership, a limited liability company, an association, a joint-stock company, a trust in which the interests of the beneficiaries are evidenced by a security, an unincorporated organization, a government, or a political subdivision of a government;

(13) Sale or sell includes every contract of sale of, contract to sell, or disposition of a security or interest in a security for value. Offer or offer to sell includes every attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security for value. Any security given or delivered with or as a bonus on account of any purchase of securities or any other thing is considered to constitute part of the subject of the purchase and to have been offered and sold for value. A purported gift of assessable stock shall be considered to involve an offer and sale. Every sale or offer of a warrant or right to purchase or subscribe to another security of the same or another issuer, as well as every sale or offer of a security which gives the holder a present or future right or privilege to convert into another security of the same or another issuer, shall be considered to include an offer of the other security;

(14) Securities Act of 1933, Securities Exchange Act of 1934, Investment Advisers Act of 1940, Investment Company Act of 1940, Commodity Exchange Act, and the federal Interstate Land Sales Full Disclosure Act means the acts as they existed on January 1, 2021;

(15) Security means any note, stock, treasury stock, bond, debenture, units of beneficial interest in a real estate trust, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, viatical settlement contract or any fractional or pooled interest in such contract, membership interest in any limited liability company organized under Nebraska law or any other jurisdiction unless otherwise excluded from this definition, voting-trust certificate, certificate of deposit for a security, certificate of interest or participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease, in general any interest or instrument commonly known as a security, or any certificate of interest or participation in, temporary or interim certificate for, guarantee of, or warrant or right to subscribe to or purchase any of the foregoing. Security does not include any insurance or endowment policy or annuity contract issued by an insurance company. Security also does not include a membership interest in a limited liability company when all of the following exist: (a) The member enters into a written commitment to be engaged actively and directly in the management of the limited liability company; and (b) all members of the limited liability company are actively engaged in the management of the limited liability company. For the limited purposes of determining professional malpractice insurance premiums, a security issued through a transaction that is exempted pursuant to subdivision (23) of section 8-1111 shall not be considered a security;

(16) State means any state, territory, or possession of the United States as well as the District of Columbia and Puerto Rico; and

(17) Viatical settlement contract means an agreement for the purchase, sale, assignment, transfer, devise, or bequest of all or any portion of the death benefit or ownership of a life insurance policy or contract for consideration which is less than the expected death benefit of the life insurance policy or contract. Viatical settlement contract does not include (a) the assignment, transfer, sale, devise, or bequest of a death benefit of a life insurance policy or contract made by the viator to an insurance company or to a viatical settlement provider or broker licensed pursuant to the Viatical Settlements Act, (b) the assignment of a life insurance policy or contract to a bank, savings bank, savings and loan association, credit union, or other licensed lending institution as collateral for a

loan, or (c) the exercise of accelerated benefits pursuant to the terms of a life insurance policy or contract and consistent with applicable law.

Source: Laws 1965, c. 549, § 1, p. 1763; Laws 1973, LB 167, § 1; Laws 1977, LB 263, § 1; Laws 1978, LB 760, § 1; Laws 1989, LB 60, § 1; Laws 1991, LB 305, § 2; Laws 1993, LB 216, § 1; Laws 1993, LB 121, § 96; Laws 1994, LB 884, § 10; Laws 1995, LB 119, § 1; Laws 1996, LB 1053, § 7; Laws 1997, LB 335, § 1; Laws 2001, LB 52, § 43; Laws 2001, LB 53, § 19; Laws 2011, LB76, § 1; Laws 2013, LB214, § 1; Laws 2017, LB148, § 1; Laws 2019, LB259, § 1; Laws 2020, LB909, § 12; Laws 2021, LB363, § 12.
Effective date March 18, 2021.

Cross References

Viatical Settlements Act, see section 44-1101.

8-1101.01 Federal rules and regulations; fair practice or ethical rules or standards; defined.

For purposes of the Securities Act of Nebraska:

(1) Federal rules and regulations adopted under the Investment Advisors Act of 1940 or the Securities Act of 1933 means such rules and regulations as they existed on January 1, 2021; and

(2) Fair practice or ethical rules or standards promulgated by the Securities and Exchange Commission, the Financial Industry Regulatory Authority, or a self-regulatory organization approved by the Securities and Exchange Commission means such practice, rules, or standards as they existed on January 1, 2021.

Source: Laws 2017, LB148, § 2; Laws 2019, LB259, § 2; Laws 2020, LB909, § 13; Laws 2021, LB363, § 13.
Effective date March 18, 2021.

8-1108.02 Federal covered security; filing; director; powers; sales; requirements; fees; consent to service of process.

(1) The director, by rule and regulation or order, may require the filing of any or all of the following documents with respect to a federal covered security under section 18(b)(2) of the Securities Act of 1933:

(a) Prior to the initial offer of such federal covered security in this state, all documents that are part of a federal registration statement filed with the Securities and Exchange Commission under the Securities Act of 1933, together with a consent to service of process signed by the issuer and with a filing fee as prescribed by section 8-1108.03;

(b) After the initial offer of such federal covered security in this state, all documents which are part of any amendment to the federal registration statement filed with the Securities and Exchange Commission under the Securities Act of 1933; and

(c) A sales report of the total amount of such federal covered securities offered or sold in this state, together with the filing fee prescribed by section 8-1108.03.

(2)(a) The director, by rule and regulation or order, may require the filing of any document required to be filed with the Securities and Exchange Commission under the Securities Act of 1933 with respect to a federal covered security under section 18(b)(3) of the Securities Act of 1933 together with a filing fee of two hundred dollars.

(b) The director, by rule and regulation or order, may require the filing of any document required to be filed with the Securities and Exchange Commission under the Securities Act of 1933 with respect to a federal covered security under section 18(b)(4) of the Securities Act of 1933 together with a filing fee of two hundred dollars. In addition, for federal covered securities under section 18(b)(4)(F) of the Securities Act of 1933, the director may also require the submission of a consent to service of process signed by the issuer. Such filing shall be made no later than fifteen days after the first sale of such federal covered security in this state, except that failure to give such notice may be cured by an order issued by the director at the director's discretion and upon the payment of an additional two hundred dollars as a late filing fee.

(c) In connection with filings made pursuant to subdivisions (a) and (b) of this subsection, the director, by rule and regulation or order, may require the filing of all documents which are part of any amendment which the issuer is required to file with the Securities and Exchange Commission.

(3) The director may issue a stop order suspending the offer and sale of a federal covered security, except a federal covered security under section 18(b)(1) of the Securities Act of 1933, if he or she finds that (a) the order is in the public interest and (b) there is a failure to comply with any condition established under this section or with any other applicable provision of the Securities Act of Nebraska.

(4) The director, by rule and regulation or order, may waive any or all of the provisions of this section, except that the director does not have the authority to waive the payment of fees as required by this section.

(5) No person may bring an action pursuant to section 8-1118 based on the failure of an issuer to file any notice or pay any fee required by this section.

(6) All federal covered securities offered or sold in this state must be sold through a registered agent of a broker-dealer registered under the Securities Act of Nebraska or by persons duly exempted or excluded from such registration, except that this subsection shall not apply to the offer or sale of the following, so long as no commission or other remuneration is paid directly or indirectly for soliciting any prospective buyer:

(a) A federal covered security under section 18(b)(4)(F) of the Securities Act of 1933; or

(b) A federal covered security under section 18(b)(3) of the Securities Act of 1933 which is exempt from federal registration pursuant to Tier 2 of federal Regulation A, 17 C.F.R. 230.251(a).

Source: Laws 1997, LB 335, § 9; Laws 2013, LB214, § 4; Laws 2015, LB252, § 2; Laws 2016, LB771, § 2; Laws 2019, LB259, § 4; Laws 2021, LB363, § 14.
Effective date March 18, 2021.

8-1120 Administration of act; Director of Banking and Finance; powers and duties; use of information for personal benefit prohibited; Securities Act Cash Fund; created; use; investment; transfers; document filed, when.

(1) Except as otherwise provided in this section, the Securities Act of Nebraska shall be administered by the Director of Banking and Finance who may employ such deputies, examiners, assistants, or counsel as may be reasonably necessary for the purpose thereof. The employment of any person for the administration of the act is subject to section 49-1499.07. The director may delegate to a deputy director or counsel any powers, authority, and duties imposed upon or granted to the director under the act, such as may be lawfully delegated under the common law or the statutes of this state. The director may also employ special counsel with respect to any investigation conducted by him or her under the act or with respect to any litigation to which the director is a party under the act.

(2) A security issued by and representing an interest in or a debt of, or guaranteed by, any insurance company shall be registered, pursuant to the provisions of sections 8-1104 to 8-1109, with the Director of Insurance who shall as to such registrations administer and enforce the act, and as pertains to the administration and enforcement of such registration of such securities all references in the act to director shall mean the Director of Insurance.

(3)(a) It shall be unlawful for the director or any of his or her employees to use for personal benefit any information which is filed with or obtained by the director and which is not made public. Neither the director nor any of his or her employees shall disclose any confidential information except among themselves, when necessary or appropriate in a proceeding, examination, or investigation under the act, or as authorized in subdivision (3)(b) of this subsection. No provision of the act shall either create or derogate from any privilege which exists at common law or otherwise when documentary or other evidence is sought under a subpoena directed to the director or any of his or her employees.

(b)(i) In administering the act, the director may also:

(A) Enter into agreements or relationships with other government officials, including, but not limited to, the securities administrator of a foreign state and the Securities and Exchange Commission, or self-regulatory organizations, to share resources, standardized or uniform methods or procedures, and documents, records, and information; or

(B) Accept and rely on examination or investigation reports made by other government officials, including, but not limited to, the securities administrator of a foreign state and the Securities and Exchange Commission, or self-regulatory organizations.

(ii) For purposes of this subdivision, foreign state means any state of the United States, other than the State of Nebraska, any territory of the United States, including Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Virgin Islands, and the District of Columbia.

(4) The director may adopt and promulgate rules and regulations and prescribe forms to carry out the act. No rule and regulation may be adopted and promulgated or form may be prescribed unless the director finds that the action is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and

provisions of the act. In adopting and promulgating rules and regulations and prescribing forms the director may cooperate with the securities administrators of the other states and the Securities and Exchange Commission with a view to effectuating the policy of the Securities Act of Nebraska to achieve maximum uniformity in the form and content of registration statements, applications, and reports wherever practicable. All rules and regulations and forms of the director shall be published and made available to any person upon request.

(5) No provision of the act imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule and regulation, form, or order of the director, notwithstanding that the rule and regulation or form may later be amended or rescinded or be determined by judicial or other authority to be invalid for any reason.

(6) Every hearing in an administrative proceeding shall be public unless the director in his or her discretion grants a request joined in by all the respondents that the hearing be conducted privately.

(7)(a) The Securities Act Cash Fund is created. All filing fees, registration fees, and all other fees and all money collected by or paid to the director under any of the provisions of the act shall be remitted to the State Treasurer for credit to the fund, except that registration fees collected by or paid to the Director of Insurance pursuant to the provisions of the act shall be credited to the Department of Insurance Cash Fund. The Securities Act Cash Fund shall be used for the purpose of administering and enforcing the provisions of the act, except that transfers may be made to the General Fund at the direction of the Legislature. Any money in the Securities Act 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.

(b) The State Treasurer shall transfer seven hundred twelve thousand four hundred eighty-nine dollars from the Securities Act Cash Fund to the Financial Institution Assessment Cash Fund on or before October 30, 2021, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services.

(c) The State Treasurer shall transfer three hundred ninety-seven thousand eighty-nine dollars from the Securities Act Cash Fund to the Financial Institution Assessment Cash Fund on or before October 30, 2022, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services.

(8) A document is filed when it is received by the director. The director shall keep a register of all applications for registration and registration statements which are or have ever been effective under the Securities Act of Nebraska and all denial, suspension, or revocation orders which have ever been entered under the act. The register shall be open for public inspection. The information contained in or filed with any registration statement, application, or report may be made available to the public under such conditions as the director may prescribe.

(9) The director may, by rule and regulation or order, authorize or require the filing of any document required to be filed under the act by electronic or other means, processes, or systems.

(10) Upon request and at such reasonable charges as he or she shall prescribe, the director shall furnish to any person photostatic or other copies, certified under his or her seal of office if requested, of any entry in the register

or any document which is a matter of public record. In any proceeding or prosecution under the act, any copy so certified shall be prima facie evidence of the contents of the entry or document certified.

(11) The director in his or her discretion may honor requests from interested persons for interpretative opinions.

Source: Laws 1965, c. 549, § 20, p. 1795; Laws 1969, c. 584, § 33, p. 2361; Laws 1973, LB 167, § 9; Laws 1983, LB 469, § 1; Laws 1995, LB 7, § 27; Laws 1997, LB 864, § 1; Laws 2000, LB 932, § 21; Laws 2003, LB 217, § 24; Laws 2013, LB199, § 17; Laws 2013, LB214, § 8; Laws 2017, LB148, § 18; Laws 2021, LB649, § 47.
Operative date October 1, 2021.

Cross References

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

ARTICLE 17

COMMODITY CODE

Section
8-1704. CFTC rule, defined.
8-1707. Commodity Exchange Act, defined.

8-1704 CFTC rule, defined.

CFTC rule shall mean any rule, regulation, or order of the Commodity Futures Trading Commission in effect on January 1, 2021.

Source: Laws 1987, LB 575, § 4; Laws 1993, LB 283, § 2; Laws 2011, LB76, § 4; Laws 2019, LB259, § 6; Laws 2020, LB909, § 16; Laws 2021, LB363, § 15.
Effective date March 18, 2021.

8-1707 Commodity Exchange Act, defined.

Commodity Exchange Act shall mean the act of Congress known as the Commodity Exchange Act, 7 U.S.C. 1, as amended on January 1, 2021.

Source: Laws 1987, LB 575, § 7; Laws 1993, LB 283, § 5; Laws 2011, LB76, § 5; Laws 2019, LB259, § 7; Laws 2020, LB909, § 17; Laws 2021, LB363, § 16.
Effective date March 18, 2021.

ARTICLE 27

NEBRASKA MONEY TRANSMITTERS ACT

Section
8-2724. Licensure requirement; applicability.
8-2725. License required; license not transferable or assignable.
8-2726. License; applicant; qualifications; requirements.
8-2729. License application; form; contents.
8-2734. License; renewal application; licensing fee; processing fee; report; contents.
8-2737. Examination, investigation, inquiry request for information; procedure; director; powers; administrative fine; disposition; lien; charge.

8-2724 Licensure requirement; applicability.

(1) The requirement for a license under the Nebraska Money Transmitters Act does not apply to:

(a) The United States or any department, agency, or instrumentality thereof;

(b) Any post office of the United States Postal Service;

(c) A state or any political subdivision thereof;

(d)(i) Banks, credit unions, digital asset depository institutions as defined in section 8-3003, building and loan associations, savings and loan associations, savings banks, or mutual banks organized under the laws of any state or the United States;

(ii) Subsidiaries of the institutions listed in subdivision (d)(i) of this subsection;

(iii) Bank holding companies which have a banking subsidiary located in Nebraska and whose debt securities have an investment grade rating by a national rating agency; or

(iv) Authorized delegates of the institutions and entities listed in subdivision (d)(i), (ii), or (iii) of this subsection, except that authorized delegates that are not banks, credit unions, building and loan associations, savings and loan associations, savings banks, mutual banks, subsidiaries of any of the foregoing, or bank holding companies shall comply with all requirements imposed upon authorized delegates under the act;

(e) The provision of electronic transfer of government benefits for any federal, state, or county governmental agency, as defined in Consumer Financial Protection Bureau Regulation E, 12 C.F.R. part 1005, as such regulation existed on January 1, 2013, by a contractor for and on behalf of the United States or any department, agency, or instrumentality thereof or any state or any political subdivision thereof;

(f) An operator of a payment system only to the extent that the payment system provides processing, clearing, or settlement services between or among persons who are all exempt under this section in connection with wire transfers, credit card transactions, debit card transactions, automated clearinghouse transfers, or similar fund transfers; or

(g) A person, firm, corporation, or association licensed in this state and acting within this state within the scope of a license:

(i) As a collection agency pursuant to the Collection Agency Act;

(ii) As a credit services organization pursuant to the Credit Services Organization Act; or

(iii) To engage in the debt management business pursuant to sections 69-1201 to 69-1217.

(2) An authorized delegate of a licensee or of an exempt entity, acting within the scope of its authority conferred by a written contract as described in section 8-2739, is not required to obtain a license under the Nebraska Money Transmitters Act, except that such an authorized delegate shall comply with the other provisions of the act which apply to money transmission transactions.

Source: Laws 2013, LB616, § 24; Laws 2021, LB363, § 17; Laws 2021, LB649, § 48.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB363, section 17, with LB649, section 48, to reflect all amendments.

Note: Changes made by LB363 became effective March 18, 2021. Changes made by LB649 became operative October 1, 2021.

Cross References

Collection Agency Act, see section 45-601.
Credit Services Organization Act, see section 45-801.

8-2725 License required; license not transferable or assignable.

(1) Except as otherwise provided in section 8-2724, a person shall not engage in money transmission without a license issued pursuant to the Nebraska Money Transmitters Act.

(2) A person is engaged in money transmission if the person provides money transmission services to any resident of this state even if the person providing money transmission services has no physical presence in this state or if the resident is not physically located in this state at the time when the resident enters into money transmission or otherwise receives money transmission services.

(3) If a licensee has a physical presence in this state, the licensee may conduct its business at one or more locations, directly or indirectly owned, or through one or more authorized delegates, or both, pursuant to the single license granted to the licensee.

(4) A license issued pursuant to the act is not transferable or assignable.

Source: Laws 2013, LB616, § 25; Laws 2021, LB363, § 18.
Effective date March 18, 2021.

8-2726 License; applicant; qualifications; requirements.

To qualify for a license under the Nebraska Money Transmitters Act, an applicant, at the time of filing for a license, and a licensee at all times after a license is issued, shall satisfy the following requirements:

(1) Each applicant or licensee must have a net worth of not less than fifty thousand dollars, calculated in accordance with generally accepted accounting principles;

(2) The financial condition and responsibility, financial and business experience, and character and general fitness of the applicant or licensee must reasonably warrant the belief that the applicant's or licensee's business will be conducted honestly, fairly, and in a manner commanding the confidence and trust of the community. In determining whether this requirement is met and for purposes of investigating compliance with the act, the director may review and consider the relevant business records and capital adequacy of the applicant or licensee;

(3) Each corporate applicant or licensee must be organized under the laws of any state of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, or the Northern Mariana Islands, and must be in good standing in the place of its incorporation;

(4) Each applicant or licensee must be registered or qualified to do business in the State of Nebraska; and

(5) Each applicant or licensee must maintain an office in the United States.

Source: Laws 2013, LB616, § 26; Laws 2021, LB363, § 19.
Effective date March 18, 2021.

8-2729 License application; form; contents.

Each application for a license under the Nebraska Money Transmitters Act shall be made in writing and in a form prescribed by the director. Each application shall state or contain:

(1) For all applicants:

(a) The exact name of the applicant, the applicant's principal address, any fictitious or trade name used by the applicant in the conduct of its business, and the location of the applicant's business records;

(b) The history of the applicant's criminal convictions and material litigation for the five-year period before the date of the application;

(c) A description of the activities conducted by the applicant and a history of operations;

(d) A description of the business activities in which the applicant seeks to be engaged in this state;

(e) A list identifying the applicant's proposed authorized delegates in this state, if any, at the time of the filing of the application;

(f) A sample authorized delegate contract, if applicable;

(g) A sample form of payment instrument, if applicable;

(h) The locations at which the applicant and its authorized delegates, if any, propose to conduct money transmission in this state; and

(i) The name, address, and account information of each clearing bank or banks, which shall be covered by federal deposit insurance, on which the applicant's payment instruments and funds received for transmission or otherwise will be drawn or through which the payment instruments or other funds will be payable;

(2) If the applicant is a corporation, the applicant shall also provide:

(a) The date of the applicant's incorporation and state of incorporation;

(b) A certificate of good standing from the state in which the applicant was incorporated;

(c) A certificate of authority from the Secretary of State to conduct business in this state;

(d) A description of the corporate structure of the applicant, including the identity of any parent or subsidiary of the applicant, and a disclosure of whether any parent or subsidiary is publicly traded on any stock exchange;

(e) The name, business and residence addresses, and employment history for the five-year period immediately before the date of the application of the applicant's executive officers and the officers or managers who will be in charge of the applicant's activities to be licensed under the act;

(f) The name, business and residence addresses, and employment history for the five-year period immediately before the date of the application and the most recent personal financial statement of any key shareholder of the applicant;

(g) The history of criminal convictions and material litigation for the five-year period immediately before the date of the application of every executive officer or key shareholder of the applicant;

(h) A copy of the applicant's most recent audited financial statement including balance sheet, statement of income or loss, statement of changes in shareholder equity, and statement of changes in financial position and, if available, the applicant's audited financial statements for the immediately

preceding two-year period. However, if the applicant is a wholly owned subsidiary of another corporation, the applicant may submit either the parent corporation's consolidated audited financial statements for the current year and for the immediately preceding two-year period or the parent corporation's Form 10-K reports filed with the United States Securities and Exchange Commission for the prior three years in lieu of the applicant's financial statements. If the applicant is a wholly owned subsidiary of a corporation having its principal place of business outside the United States, similar documentation filed with the parent corporation's non-United States regulator may be submitted to satisfy this subdivision; and

(i) Copies of all filings, if any, made by the applicant with the United States Securities and Exchange Commission or with a similar regulator in a country other than the United States, within the year preceding the date of filing of the application; and

(3) If the applicant is not a corporation, the applicant shall also provide:

(a) The name, business and residence addresses, personal financial statement, and employment history, for the five-year period immediately before the date of the application, of each principal of the applicant and the name, business and residence addresses, and employment history for the five-year period immediately before the date of the application of any other person or persons who will be in charge of the applicant's money transmission activities;

(b) A copy of the applicant's registration or qualification to do business in this state;

(c) The history of criminal convictions and material litigation for the five-year period immediately before the date of the application for each individual having any ownership interest in the applicant and each individual who exercises supervisory responsibility with respect to the applicant's activities; and

(d) Copies of the applicant's audited financial statements including balance sheet, statement of income or loss, and statement of changes in financial position for the current year and, if available, for the immediately preceding two-year period.

Source: Laws 2013, LB616, § 29; Laws 2021, LB363, § 20.
Effective date March 18, 2021.

8-2734 License; renewal application; licensing fee; processing fee; report; contents.

(1) Initial licenses shall remain in full force and effect until the next succeeding December 31. Each licensee shall, annually on or before December 31 of each year, file a license renewal application and pay to the director a license fee of two hundred fifty dollars and any processing fee allowed under subsection (2) of section 8-2730, both of which shall not be subject to refund.

(2) The renewal application and license fee shall be accompanied by a report, in a form prescribed by the director, which shall include:

(a) A copy of the licensee's most recent audited consolidated annual financial statement including balance sheet, statement of income or loss, statement of changes in shareholders' equity, and statement of changes in financial position, or, if a licensee is a wholly owned subsidiary of another corporation, the consolidated audited annual financial statement of the parent corporation may be filed in lieu of the licensee's audited annual financial statement;

(b) The number of payment instruments sold by the licensee in the state, the dollar amount of those instruments, and the dollar amount of payment instruments currently outstanding, for the most recent quarter for which data is available before the date of the filing of the renewal application, but in no event more than one hundred twenty days before the renewal date;

(c) Any material changes to any of the information submitted by the licensee on its original application which have not previously been reported to the director on any other report required to be filed under the Nebraska Money Transmitters Act; and

(d) A list of the licensee's permissible investments.

Source: Laws 2013, LB616, § 34; Laws 2016, LB778, § 2; Laws 2021, LB363, § 21.
Effective date March 18, 2021.

8-2737 Examination, investigation, inquiry request for information; procedure; director; powers; administrative fine; disposition; lien; charge.

(1) The director may conduct an examination of a licensee upon reasonable written notice to the licensee. The director may examine a licensee without prior notice if the director has a reasonable basis to believe that the licensee is in noncompliance with the Nebraska Money Transmitters Act.

(2) An examination may be conducted in conjunction with examinations to be performed by representatives of agencies of another state or states or departments or agencies of the United States. The director, in lieu of an examination, may accept the examination report of an agency of another state or a department or an agency of the United States or a report prepared by an independent accounting firm. Reports so accepted are considered for all purposes as an official report of the department.

(3) The director may make investigations regarding complaints of alleged violations of the Nebraska Money Transmitters Act, any rule and regulation or order under the act, or any state or federal law applicable to a licensee, an authorized delegate, or an applicant for a license, as the director deems necessary, and to the extent necessary for this purpose, the director may examine such licensee, authorized delegate, or any other person, interview officers, principals, employees, and customers of the licensee, authorized delegate, or applicant, and compel the production of all relevant books, records, accounts, and documents.

(4) The director may request financial data from a licensee in addition to that required under section 8-2734.

(5) The director may conduct an examination of any authorized delegate of a licensee within this state upon reasonable written notice to the licensee and the authorized delegate. The director may conduct an examination of any authorized delegate without prior notice to the authorized delegate or licensee only if the director has a reasonable basis to believe that the licensee or authorized delegate is in noncompliance with the Nebraska Money Transmitters Act.

(6) Upon receipt by a licensee, an authorized delegate, or any other person of a notice of investigation or inquiry request for information from the department, the licensee, authorized delegate, or other person shall respond within twenty-one calendar days. Failure to respond is a violation of the Nebraska Money Transmitters Act. Each day a licensee, authorized delegate, or other

person fails to respond as required by this subsection shall constitute a separate violation.

(7) If the director finds, after notice and opportunity for hearing in accordance with the Administrative Procedure Act, that any person has violated subsection (6) of this section, the director may order such person to pay (a) an administrative fine of not more than two thousand dollars for each separate violation and (b) the costs of investigation. The department shall remit fines collected under this subsection to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

(8) If a person fails to pay an administrative fine and the costs of investigation ordered pursuant to subsection (7) of this section, a lien in the amount of such fine and costs may be imposed upon all assets and property of such person in this state and may be recovered in a civil action by the director. The lien shall attach to the real property of such person when notice of the lien is filed and indexed against the real property in the office of the register of deeds in the county where the real property is located. The lien shall attach to any other property of such person when notice of the lien is filed against the property in the manner prescribed by law. Failure of the person to pay such fine and costs shall constitute a separate violation of the Nebraska Money Transmitters Act.

(9) For purposes of any investigation, examination, or proceeding under the Nebraska Money Transmitters Act, the director or any officer designated by the director may administer oaths and affirmations, subpoena witnesses, compel attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the director deems relevant or material to the inquiry. If any person refuses to comply with a subpoena issued under this subsection or to testify with respect to any matter relevant to the proceeding, the district court of Lancaster County may, on application of the director, issue an order requiring the person to comply with the subpoena and to testify. Failure to obey an order of the court to comply with the subpoena may be punished by the court as civil contempt.

(10) The total charge for an examination under this section shall be paid by the licensee or authorized delegate as set forth in sections 8-605 and 8-606.

Source: Laws 2013, LB616, § 37; Laws 2019, LB355, § 1; Laws 2021, LB363, § 22.
Effective date March 18, 2021.

Cross References

Administrative Procedure Act, see section 84-920.

ARTICLE 29

FINANCIAL EXPLOITATION OF A VULNERABLE ADULT OR SENIOR ADULT

(a) FINANCIAL INSTITUTIONS

Section
8-2903. Financial exploitation of a vulnerable adult or senior adult; financial institution; authority to delay, refuse, or prevent certain activity; expiration; effect; immunity.

(b) NEBRASKA PROTECTION OF VULNERABLE ADULTS FROM FINANCIAL EXPLOITATION ACT

8-2904. Act, how cited.

(a) FINANCIAL INSTITUTIONS

8-2903 Financial exploitation of a vulnerable adult or senior adult; financial institution; authority to delay, refuse, or prevent certain activity; expiration; effect; immunity.

(1) When a financial institution, or an employee of a financial institution, reasonably believes, or has received information from the department or a law enforcement agency demonstrating that it is reasonable to believe, that financial exploitation of a vulnerable adult or senior adult may have occurred, may have been attempted, is occurring, or is being attempted, the financial institution may, but is not required to:

(a) Delay or refuse a transaction with or involving the vulnerable adult or senior adult;

(b) Delay or refuse to permit the withdrawal or disbursement of funds contained in the vulnerable adult's or senior adult's account;

(c) Prevent a change in ownership of the vulnerable adult's or senior adult's account;

(d) Prevent a transfer of funds from the vulnerable adult's or senior adult's account to an account owned wholly or partially by another person;

(e) Refuse to comply with instructions given to the financial institution by an agent or a person acting for or with an agent under a power of attorney signed or purported to have been signed by the vulnerable adult or senior adult; or

(f) Prevent the designation or change the designation of beneficiaries to receive any property, benefit, or contract rights for a vulnerable adult or senior adult at death.

(2) A financial institution is not required to act under subsection (1) of this section when provided with information alleging that financial exploitation may have occurred, may have been attempted, is occurring, or is being attempted, but may use the financial institution's discretion to determine whether or not to act under subsection (1) of this section based on the information available to the financial institution at the time.

(3)(a)(i) A financial institution may notify any third party reasonably associated with a vulnerable adult or senior adult if the financial institution reasonably believes that the financial exploitation of a vulnerable adult or senior adult may have occurred, may have been attempted, is occurring, or is being attempted.

(ii) A third party reasonably associated with a vulnerable adult or senior adult includes, but is not limited to, the following: (A) A parent, spouse, adult child, sibling, or other known family member or close associate of a vulnerable adult or senior adult; (B) an authorized contact provided by a vulnerable adult or senior adult to the financial institution; (C) a co-owner, additional authorized signatory, or beneficiary on a vulnerable adult's or a senior adult's account; (D) an attorney in fact, trustee, conservator, guardian, or other fiduciary who has been selected by a vulnerable adult or senior adult, a court, or a third party to

manage some or all of the financial affairs of the vulnerable adult or senior adult; and (E) an attorney known to represent or have represented the vulnerable adult or senior adult.

(b) A financial institution may choose not to notify any third party reasonably associated with a vulnerable adult or senior adult of suspected financial exploitation of the vulnerable adult or senior adult if the financial institution reasonably believes the third party is, may be, or may have been engaged in the financial exploitation of the vulnerable adult or senior adult or if requested to refrain from making a notification by a law enforcement agency, if such notification could interfere with a law enforcement investigation.

(c) Nothing in this subsection shall prevent a financial institution from notifying the department or a law enforcement agency, if the financial institution reasonably believes that the financial exploitation of a vulnerable adult or senior adult may have occurred, may have been attempted, is occurring, or is being attempted.

(4) The authority granted the financial institution under subsection (1) of this section expires upon the sooner of: (a) Thirty business days after the date on which the financial institution first acted under subsection (1) of this section; (b) when the financial institution is satisfied that the transaction or act will not result in financial exploitation of the vulnerable adult or senior adult; or (c) upon termination by an order of a court of competent jurisdiction.

(5) Unless otherwise directed by order of a court of competent jurisdiction, a financial institution may extend the duration under subsection (4) of this section based on a reasonable belief that the financial exploitation of a vulnerable adult or senior adult may continue to occur or continue to be attempted.

(6) A financial institution and its bank holding company, if any, and any employees, agents, officers, and directors of the financial institution and its bank holding company, if any, shall be immune from any civil, criminal, or administrative liability that may otherwise exist (a) for delaying or refusing to execute a transaction, withdrawal, or disbursement, or for not delaying or refusing to execute such transaction, withdrawal, or disbursement under this section and (b) for actions taken in furtherance of determinations made under subsections (1) through (5) of this section.

(7)(a) Notwithstanding any other law to the contrary, the refusal by a financial institution to engage in a transaction as authorized under subsection (1) of this section shall not constitute the wrongful dishonor of an item under section 4-402, Uniform Commercial Code.

(b) Notwithstanding any other law to the contrary, a reasonable belief that payment of a check will facilitate the financial exploitation of a vulnerable adult or senior adult shall constitute reasonable grounds to doubt the collectability of the item for purposes of the federal Check Clearing for the 21st Century Act, 12 U.S.C. 5001 et seq., the federal Expedited Funds Availability Act, 12 U.S.C. 4001 et seq., and 12 C.F.R. part 229, as such acts and part existed on January 1, 2021.

Source: Laws 2020, LB909, § 20; Laws 2021, LB363, § 23.
Effective date March 18, 2021.

(b) NEBRASKA PROTECTION OF VULNERABLE ADULTS FROM FINANCIAL EXPLOITATION ACT

8-2904 Act, how cited.

Sections 8-2904 to 8-2909 shall be known and may be cited as the Nebraska Protection of Vulnerable Adults from Financial Exploitation Act.

Source: Laws 2021, LB297, § 1.
Effective date August 28, 2021.

8-2905 Terms, defined.

For purposes of the Nebraska Protection of Vulnerable Adults from Financial Exploitation Act, unless the context otherwise requires:

(1) Agencies means:

(a) The Adult Protective Services Division of the Department of Health and Human Services; and

(b) The Department of Banking and Finance;

(2) Agent has the same meaning as in section 8-1101;

(3) Broker-dealer has the same meaning as in section 8-1101;

(4) Eligible adult means:

(a) A senior adult as defined in section 28-366.01; or

(b) A vulnerable adult as defined in section 28-371;

(5) Financial exploitation means:

(a) The wrongful or unauthorized taking, withholding, appropriation, or use of money, assets, or other property of an eligible adult; or

(b) Any act or omission taken by a person, including through the use of a power of attorney, guardianship, or conservatorship of an eligible adult, to:

(i) Obtain control, through deception, intimidation, or undue influence, over the eligible adult's money, assets, or other property to deprive the eligible adult of the ownership, use, benefit, or possession of his or her money, assets, or other property; or

(ii) Convert money, assets, or other property of the eligible adult to deprive such eligible adult of the ownership, use, benefit, or possession of his or her money, assets, or other property;

(6) Investment adviser has the same meaning as in section 8-1101;

(7) Investment adviser representative has the same meaning as in section 8-1101; and

(8) Qualified person means any broker-dealer, investment adviser, agent, investment adviser representative, or person who serves in a supervisory, compliance, or legal capacity for a broker-dealer or investment adviser.

Source: Laws 2021, LB297, § 2.
Effective date August 28, 2021.

8-2906 Financial exploitation; qualified person; notify agencies.

If a qualified person reasonably believes that financial exploitation of an eligible adult may have occurred, may have been attempted, or is occurring or being attempted, the qualified person may notify the agencies.

Source: Laws 2021, LB297, § 3.
Effective date August 28, 2021.

8-2907 Financial exploitation; qualified person; notify third party; immunity.

(1) If a qualified person reasonably believes that financial exploitation of an eligible adult may have occurred, may have been attempted, or is occurring or being attempted, a qualified person may notify any third party previously designated by the eligible adult or any person allowed to receive notification under applicable law or any customer agreement. Notification may not be made to any designated third party that is suspected of financial exploitation or other abuse of the eligible adult.

(2) Any qualified person that in good faith and exercising reasonable care makes a notification pursuant to subsection (1) of this section shall be immune from administrative or civil liability that might otherwise arise from such notification or for any failure to notify the eligible adult of the disclosure.

Source: Laws 2021, LB297, § 4.
Effective date August 28, 2021.

8-2908 Broker-dealer; investment adviser; delay transaction or disbursement; conditions; expiration; court order; immunity.

(1) A broker-dealer or investment adviser may delay a transaction or disbursement from an account of an eligible adult or an account on which an eligible adult is a beneficiary if:

(a) The broker-dealer or investment adviser reasonably believes, after initiating an internal review of the requested transaction or disbursement, that the requested transaction or disbursement may result in financial exploitation of an eligible adult; and

(b) The broker-dealer or investment adviser:

(i) Immediately, but in no event more than two business days after the requested transaction or disbursement, provides written notification of the delay and the reason for the delay to all parties authorized to transact business on the account unless any such party is reasonably believed to have engaged in suspected or attempted financial exploitation of the eligible adult;

(ii) Immediately, but in no event more than two business days after the requested transaction or disbursement, notifies the agencies; and

(iii) Continues its internal review of the suspected or attempted financial exploitation of the eligible adult, as necessary, and reports the internal review's results to the agencies upon request.

(2) Any delay of a transaction or disbursement as authorized by this section will expire upon the sooner of:

(a) A determination by the broker-dealer or investment adviser that the transaction or disbursement will not result in financial exploitation of the eligible adult; or

(b) Fifteen business days after the date on which the broker-dealer or investment adviser first delayed the transaction or disbursement of the funds,

unless either of the agencies requests that the broker-dealer or investment adviser extend the delay, in which case the delay shall expire no more than thirty business days after the date on which the broker-dealer or investment adviser first delayed the transaction or disbursement of the funds unless sooner terminated by either of the agencies or by an order of a court of competent jurisdiction.

(3) A court of competent jurisdiction may enter an order extending the delay of the transaction or disbursement of the funds or may order other protective relief based on the petition of (a) either or both of the agencies, (b) the broker-dealer or investment adviser that initiated the delay under this section, or (c) any other interested party.

(4) Any qualified person that, in good faith and exercising reasonable care, complies with this section shall be immune from any administrative or civil liability that might otherwise arise from such delay or notification.

Source: Laws 2021, LB297, § 5.
Effective date August 28, 2021.

8-2909 Broker-dealer; investment adviser; provide access to records; immunity.

(1) A broker-dealer or investment adviser shall provide access to or copies of records that are relevant to any suspected or attempted financial exploitation of an eligible adult to (a) the Adult Protective Services Division of the Department of Health and Human Services, (b) other agencies charged with administering state adult protective services laws, and (c) law enforcement, either as part of a referral to the agencies or to law enforcement, or upon request of the agencies or law enforcement pursuant to an investigation. The records may include historical records as well as records relating to the most recent transaction or disbursement or transactions or disbursements that may comprise financial exploitation of an eligible adult.

(2) Any qualified person that, in good faith and exercising reasonable care, complies with subsection (1) of this section shall be immune from any administrative or civil liability that might otherwise arise from providing such access to records.

(3) Any records made available to agencies and law enforcement under this section shall not be considered public records subject to disclosure pursuant to sections 84-712 to 84-712.09.

(4) Nothing in this section shall limit or otherwise impede the authority of the Department of Banking and Finance to access or examine the books and records of broker-dealers and investment advisers as otherwise provided by law.

Source: Laws 2021, LB297, § 6.
Effective date August 28, 2021.

ARTICLE 30

NEBRASKA FINANCIAL INNOVATION ACT

Section
8-3001. Act, how cited.
8-3002. Legislative findings and declarations.
8-3003. Terms, defined.

Section

8-3001 Act, how cited.

Sections 8-3001 to 8-3031 shall be known and may be cited as the Nebraska Financial Innovation Act.

Source: Laws 2021, LB649, § 1.
Operative date October 1, 2021.

8-3002 Legislative findings and declarations.

The Legislature finds and declares that:

(1) Economic development initiatives demand buy-in and input from community stakeholders across multiple industries. The Legislature should send a strong message that Nebraska wants to bring high-tech jobs and digital asset operations to our state. Nebraska has an incredible opportunity to be a leader in this emerging technology;

(2) Nebraska desires to create an entrepreneurial ecosystem where young talent can be paired with private investors in order to create jobs, enhance our

quality of life, and prevent the brain drain that is particularly acute in rural Nebraska. If Nebraska does not make intentional and meaningful changes to how it recruits and retains young people, Nebraska will be left behind;

(3) The rapid innovation of blockchain and digital ledger technology, including the growing use of virtual currency, digital assets, and other controllable electronic records has complicated the development of blockchain services and products in the marketplace;

(4) Blockchain innovators are able and willing to address banking compliance challenges such as federal customer identification, anti-money laundering, and beneficial ownership requirements to comply with regulators' concerns;

(5) Compliance with federal and state laws, including, but not limited to, know-your-customer and anti-money-laundering rules and the federal Bank Secrecy Act, is critical to ensuring the future growth and reputation of the blockchain and technology industries as a whole; and

(6) Authorizing digital asset depositories in Nebraska will provide a necessary and valuable service to blockchain innovators and customers, emphasize Nebraska's partnership with the technology and financial industry, safely grow this state's ever-evolving financial sector, and afford more opportunities for Nebraska residents.

Source: Laws 2021, LB649, § 2.
Operative date October 1, 2021.

8-3003 Terms, defined.

For purposes of the Nebraska Financial Innovation Act:

(1) Blockchain means a distributed digital record of controllable electronic record transactions;

(2) Centralized finance means centralized digital asset exchanges, businesses, or organizations with a valid physical address;

(3) Control has the following meaning:

(a) A person has control of a controllable electronic record if:

(i) The following conditions are met:

(A) The controllable electronic record or the system in which it is recorded, if any, gives the person:

(I) The power to derive substantially all the benefit from the controllable electronic record;

(II) Subject to subdivision (b) of this subdivision, the exclusive power to prevent others from deriving substantially all the benefit from the controllable electronic record; and

(III) Subject to subdivision (b) of this subdivision, the exclusive power to transfer control of the controllable electronic record to another person or cause another person to obtain control of a controllable electronic record that derives from the controllable electronic record; and

(B) The controllable electronic record, a record attached to or logically associated with the controllable electronic record, or the system in which the controllable electronic record is recorded, if any, enables the person to readily identify itself as having the powers specified in subdivision (a)(i) of this subdivision; or

(ii) Another person obtains control of the controllable electronic record on behalf of the person, or having previously obtained control of the controllable electronic record, acknowledges that it has control on behalf of the person.

(b) A power specified in subdivisions (3)(a)(i)(A)(II) or (III) of this section can be exclusive, even if:

(i) The controllable electronic record or the system in which it is recorded, if any, limits the use to which the controllable electronic record may be put or has protocols that are programmed to result in a transfer of control; and

(ii) The person has agreed to share the power with another person.

(c) For the purposes of subdivision (3)(a)(i)(B) of this section, a person may be identified in any way, including by name, identifying number, cryptographic key, office, or account number;

(4) Controllable electronic borrowing means the act of receiving digital assets or the use of digital assets from a lender in exchange for the payment to the lender of digital assets, interest, fees, or rewards;

(5) Controllable electronic record means an electronic record that can be subjected to control. The term has the same meaning as digital asset and does not include electronic chattel paper, electronic documents, investment property, and transferable records under the Uniform Electronic Transactions Act;

(6) Controllable electronic record exchange means a business that allows customers to purchase, sell, convert, send, receive, or trade digital assets for other digital assets;

(7) Controllable electronic record lending means the act of providing digital assets to a borrower in exchange for digital assets, interest, fees, or rewards;

(8) Controllable electronic records staking means the act of pledging a digital asset or token with an expectation of gaining digital assets, interest, fees, or other rewards on such act;

(9) Customer means a digital asset depositor or digital asset account holder;

(10) Decentralized finance means digital asset exchanges, businesses, or organizations operating independently on blockchains;

(11) Department means the Department of Banking and Finance;

(12) Digital asset depository means a financial institution that securely holds liquid assets when such assets are in the form of controllable electronic records, either as a corporation organized, chartered, and operated pursuant to the Nebraska Financial Innovation Act as a digital asset depository institution or a financial institution operating a digital asset depository business as a digital asset depository department under a grant of authority by the director;

(13) Digital asset depository department means a financial institution operating a digital asset depository business as a digital asset depository department under a grant of authority by the director;

(14) Digital asset depository institution means a corporation operating a digital asset depository business organized and chartered pursuant to the Nebraska Financial Innovation Act;

(15) Director means the Director of Banking and Finance;

(16) Financial institution means a bank, savings bank, building and loan association, savings and loan association, whether chartered by the United States, the department, or a foreign state agency; or a trust company;

(17) Fork means a change to the protocol of a blockchain network;

(18) Independent node verification network means a shared electronic database where copies of the same information are stored on multiple computers; and

(19) Stablecoin means a cryptocurrency designed to have a stable value that is backed by a reserve asset.

Source: Laws 2021, LB649, § 3.
Operative date October 1, 2021.

8-3004 Director; powers and duties.

The director shall have the power to issue to corporations desiring to transact business as a digital asset depository institution charters of authority to transact digital asset depository business as defined in the Nebraska Financial Innovation Act. The director shall have general supervision and control over such digital asset depositories.

Source: Laws 2021, LB649, § 4.
Operative date October 1, 2021.

8-3005 Digital asset depository; powers; digital asset depository institution; organization; operating authority; demand deposits and loans; prohibited.

(1)(a) A digital asset depository may:

(i) Make contracts as a corporation under Nebraska law;

(ii) Sue and be sued;

(iii) Receive notes as permitted by federal law;

(iv) Carry on a nonlending digital asset banking business for customers, consistent with subdivision (2)(b) of this section;

(v) Provide payment services upon the request of a customer; and

(vi) Make an application to become a member bank of the federal reserve system.

(b) A digital asset depository shall maintain its main office and the primary office of its chief executive officer in Nebraska.

(c) As otherwise authorized by this section, a digital asset depository may conduct business with customers outside this state.

(2)(a) A digital asset depository institution, consistent with the Nebraska Financial Innovation Act, shall be organized as a corporation under the Nebraska Model Business Corporation Act to exercise the powers set forth in subsection (1) of this section.

(b) A digital asset depository institution shall not accept demand deposits of United States currency or United States currency that may be accessed or withdrawn by check or similar means for payment to third parties and except as otherwise provided in this subsection, a digital asset depository institution shall not make any consumer loans for personal, property or household purposes, mortgage loans, or commercial loans of any fiat currency including, but not limited to, United States currency, including the provision of temporary credit relating to overdrafts. Notwithstanding this prohibition against fiat currency lending by a digital asset depository institution, a digital asset depository institution may facilitate the provision of digital asset business services

resulting from the interaction of customers with centralized finance or decentralized finance platforms including, but not limited to, controllable electronic record exchange, staking, controllable electronic record lending, and controllable electronic record borrowing. A digital asset depository institution may purchase debt obligations specified by subdivision (2)(c) of section 8-3009.

(c) Subject to the laws of the host state, a digital asset depository institution may open a branch in another state in the manner set forth in section 8-157 or 8-2303. A digital asset depository institution, including any branch of the digital asset depository institution, may only accept digital asset deposits or provide other digital asset business services under the Nebraska Financial Innovation Act to individual customers or a customer that is a legal entity other than a natural person engaged in a bona fide business which is lawful under the laws of Nebraska, the laws of the host state if the entity is headquartered in another state, and federal law.

(3) The deposit limitations of subdivision (2)(a)(ii) of section 8-157 shall not apply to a digital asset depository.

(4) Any United States currency coming into an account established by a customer of a digital asset depository institution shall be held in a financial institution, the deposits of which are insured by the Federal Deposit Insurance Corporation, which maintained a main-chartered office in this state, any branch thereof in this state, or any branch of the financial institution which maintained the main-chartered office in this state prior to becoming a branch of such financial institution.

(5) A digital asset depository institution shall establish and maintain programs for compliance with the federal Bank Secrecy Act, in accordance with 12 C.F.R. 208.63, as the act and rule existed on January 1, 2021.

(6) A digital asset depository shall help meet the digital financial needs of the communities in which it operates, consistent with safe and sound operations, and shall maintain and update a public file and on any Internet website it maintains containing specific information about its efforts to meet community needs, including:

(a) The collection and reporting of data;

(b) Its policies and procedures for accepting and responding to consumer complaints; and

(c) Its efforts to assist with financial literacy or personal finance programs to increase knowledge and skills of Nebraska students in areas such as budgeting, credit, checking and savings accounts, loans, stocks, and insurance.

Source: Laws 2021, LB649, § 5.
Operative date October 1, 2021.

8-3006 Digital asset depository institution; subject to other provisions of law.

A digital asset depository institution shall be subject to the Interstate Branching and Merger Act, the Nebraska Bank Holding Company Act of 1995, and Chapter 8, articles 6, 8, 13, 14, 15, 16, 19, 20, 25, 26, and 29 unless otherwise limited or excluded or the context otherwise requires.

Source: Laws 2021, LB649, § 6.
Operative date October 1, 2021.

Cross References

Interstate Branching and Merger Act, see section 8-2101.
Nebraska Bank Holding Company Act of 1995, see section 8-908.

8-3007 Customers; criteria.

(1) No customer shall open or maintain an account with a digital asset depository or otherwise receive any services from the digital asset depository unless the customer meets the criteria of this subsection. A customer shall:

(a) Make sufficient evidence available to the digital asset depository to enable compliance with anti-money laundering, customer identification, and beneficial ownership requirements, as determined by the federal Bank Secrecy Act guidance and the policies and practices of the institution; and

(b) If the customer is a legal entity other than a natural person:

(i) Be in good standing with the jurisdiction in the United States in which it is incorporated or organized; and

(ii) Be engaged in a business that is lawful and bona fide in Nebraska, in the host state, if applicable, and under federal law consistent with subsection (3) of this section.

(2) A customer which meets the criteria of subsection (1) of this section may be issued a digital asset depository account and otherwise receive services from the digital asset depository, contingent on the availability of sufficient insurance under subsection (5) of section 8-3023.

(3) Consistent with subdivisions (1)(a)(iv) and (v) of section 8-3005, and in addition to any requirements specified by federal law, a digital asset depository shall require that any potential customer that is a legal entity other than a natural person provide reasonable evidence that the entity is engaged in a business that is lawful and bona fide in Nebraska, in the host state, and under federal law or is likely to open a lawful, bona fide business within a federal Bank Secrecy Act compliant time frame, as the act existed on January 1, 2021. For purposes of this subsection, reasonable evidence includes business entity filings, articles of incorporation or organization, bylaws, operating agreements, business plans, promotional materials, financing agreements, or other evidence.

Source: Laws 2021, LB649, § 7.
Operative date October 1, 2021.

8-3008 Digital asset depository account; disclosures to customer; requirements.

The terms and conditions of a customer's digital asset depository account at a digital asset depository shall be disclosed at the time the customer contracts for a digital asset business service. Such disclosure shall be full and complete, contain no material misrepresentations, be in readily understandable language, and shall include, as appropriate and to the extent applicable:

(1) A schedule of fees and charges the digital asset depository may assess, the manner by which fees and charges will be calculated if they are not set in advance and disclosed, and the timing of the fees and charges;

(2) A statement that the customer's digital asset depository account is not protected by the Federal Deposit Insurance Corporation;

(3) A statement whether there is support for forked networks of each digital asset;

(4) A statement that investment in digital assets is volatile and subject to market loss;

(5) A statement that investment in digital assets may result in total loss of value;

(6) A statement that legal, legislative, and regulatory changes may impair the value of digital assets;

(7) A statement that customers should perform research before investing in digital assets;

(8) A statement that transfers of digital assets are irrevocable, if applicable;

(9) A statement how liability for an unauthorized, mistaken, or accidental transfer shall be apportioned;

(10) A statement that digital assets are not legal tender in any jurisdiction;

(11) A statement that digital assets may be subject to cyber theft or theft and become unrecoverable;

(12) A statement about who maintains control, ownership, and access to any private key related to a digital assets customer's digital asset account; and

(13) A statement that losing private key information may result in permanent total loss of access to digital assets.

Source: Laws 2021, LB649, § 8.
Operative date October 1, 2021.

8-3009 Digital asset depository; required liquid assets.

(1) At all times, a digital asset depository shall maintain unencumbered liquid assets denominated in United States dollars valued at not less than one hundred percent of the digital assets in custody.

(2) For purposes of this section, liquid assets means:

(a) United States currency held on the premises of the digital asset depository that is not a digital asset depository institution;

(b) United States currency held for the digital asset depository by a federal reserve bank or a Federal Deposit Insurance Corporation-insured financial institution which has a main-chartered office in this state, any branch thereof in this state, or any branch of the financial institution which maintained a main-chartered office in this state prior to becoming a branch of such financial institution; or

(c) Investments which are highly liquid and obligations of the United States Treasury or other federal agency obligations, consistent with rules and regulations or order adopted by the director.

Source: Laws 2021, LB649, § 9.
Operative date October 1, 2021.

8-3010 Digital asset depository; compliance with state and federal laws; required.

A digital asset depository shall comply with all state and federal laws, including, but not limited to, those relating to anti-money laundering, customer identification, and beneficial ownership.

Source: Laws 2021, LB649, § 10.
Operative date October 1, 2021.

8-3011 Digital asset depository; notice and statement regarding insurance and risk; customer; acknowledgment.

(1) With respect to all digital asset business activities, a digital asset depository shall display and include in all advertising, in all marketing materials, on any Internet website it maintains, and at each window or place where it accepts digital asset deposits, (a) a notice conspicuously stating that digital asset deposits and digital asset accounts are not insured by the Federal Deposit Insurance Corporation, if applicable, and (b) the following conspicuous statement: Holdings of digital assets are speculative and involve a substantial degree of risk, including the risk of complete loss. There is no assurance that any digital asset will be viable, liquid, or solvent. Nothing in this communication is intended to imply that any digital asset held in custody by a digital asset depository is low-risk or risk-free. Digital assets held in custody are not guaranteed by a digital asset depository and are not FDIC insured.

(2) Upon opening a digital asset depository account, and if applicable, a digital asset depository shall require each customer to execute a statement acknowledging that all digital asset deposits at the digital asset depository are not insured by the Federal Deposit Insurance Corporation. The digital asset depository shall permanently retain this acknowledgment, whether in electronic form or as a signature card.

Source: Laws 2021, LB649, § 11.
Operative date October 1, 2021.

8-3012 Digital asset depository institution; formation; articles of incorporation; contents; filing; capital requirements; bank holding company; powers.

(1) Except as otherwise provided by subsection (5) of this section, five or more adult persons, including at least one Nebraska resident, may form a digital asset depository institution. The incorporators shall subscribe the articles of incorporation and transmit them to the director as part of an application for a charter under section 8-3015.

(2) The articles of incorporation shall include the following information:

(a) The corporate name;

(b) The object for which the corporation is organized;

(c) The term of its existence, which may be perpetual;

(d) The place in Nebraska where its main office shall be physically located and its operations conducted;

(e) The amount of capital stock and the number of shares;

(f) The name and residence of each shareholder subscribing to more than ten percent of the stock and the number of shares owned by that shareholder;

(g) The number of directors and the names of those who shall manage the affairs of the corporation for the first year; and

(h) A statement that the articles of incorporation are made to enable the incorporators to avail themselves of the advantages of the laws of the state.

(3) Copies of all amended articles of incorporation shall be filed in the same manner as the original articles of incorporation.

(4) The incorporators shall solicit capital prior to filing an application for a charter with the director, consistent with section 8-3013. In the event an

application for a charter is not filed or is denied by the director, all capital shall be promptly returned without loss.

(5) Subject to federal and state law, a bank holding company may apply to hold a digital asset depository.

Source: Laws 2021, LB649, § 12.
Operative date October 1, 2021.

8-3013 Digital asset depository institution; capital and surplus requirements.

(1) The capital stock of each digital asset depository institution chartered under the Nebraska Financial Innovation Act shall be subscribed for as paid-up stock. No digital asset depository institution shall be chartered with capital stock of less than ten million dollars.

(2) No digital asset depository institution shall commence business until the full amount of its authorized capital is subscribed and all capital stock is fully paid in. No digital asset depository institution may be chartered without a paid-up surplus fund of at least three years of estimated operating expenses in the amount disclosed pursuant to subsection (2) of section 8-3015 or in another amount required by the director.

(3) A digital asset depository institution may acquire additional capital prior to the granting of a charter and shall report this capital in its charter application.

Source: Laws 2021, LB649, § 13.
Operative date October 1, 2021.

8-3014 Financial institution; digital asset depository department; charter amendment; director; powers and duties.

(1) Any financial institution, having adopted or amended its articles of incorporation to authorize the conduct of a digital asset depository business may be further chartered by the director to transact a digital asset depository business in a digital asset depository department in connection with such financial institution.

(2) The director has the authority to issue to financial institutions amendments to their charters of authority to transact digital asset depository business and has general supervision and control over such digital asset depository departments of financial institutions.

(3) The director, before granting to any financial institution the right to operate a digital asset depository department, shall require such financial institution to make an application for amendment of its charter, setting forth such information as the director may require.

(4) A digital asset depository department of a financial institution when chartered under subsection (1) of this section shall be separate and apart from every other department of the financial institution and shall have all of the powers, duties, and obligations of a digital asset depository institution as set forth in the Nebraska Financial Innovation Act.

(5) Any financial institution authorized to transact a digital asset depository business in a digital asset depository department pursuant to subsection (1) of this section may conduct such digital asset depository business at the office of any financial institution which is a subsidiary of the same bank holding company as the authorized financial institution.

(6) A financial institution may deposit or have on deposit funds of an account controlled by the financial institution's digital asset depository department unless prohibited by applicable law.

Source: Laws 2021, LB649, § 14.
Operative date October 1, 2021.

8-3015 Digital asset depository; act as; authority or charter to operate; required; application; fee.

(1) No corporation shall act as a digital asset depository without first obtaining authority or a charter to operate from the director under the Nebraska Financial Innovation Act.

(2) The incorporators under section 8-3012 shall apply to the director for a charter. The application shall contain the digital asset depository institution's articles of incorporation, a detailed business plan, a comprehensive estimate of operating expenses for the first three years of operation, a complete proposal for compliance with the provisions of the Nebraska Financial Innovation Act, evidence of the capital required under section 8-3013, and any investors or owners holding ten percent or more equity in the digital asset depository institution. The director may prescribe the form of application.

(3) A financial institution may apply to the director for authority to operate a digital asset depository business as a department. The application shall contain a detailed business plan, a comprehensive estimate of operating expenses for the first three years of operation, and a complete proposal for compliance with the provisions of the Nebraska Financial Innovation Act. The director may prescribe the form of application.

(4) Each application for a charter or authority shall be accompanied by an application fee of fifty thousand dollars.

Source: Laws 2021, LB649, § 15.
Operative date October 1, 2021.

8-3016 Application for authority or charter; notice; hearing; director; department; powers and duties.

(1) After a substantially complete application for digital asset depository authority or a digital asset depository institution charter has been submitted, the director shall notify the applicants in writing within thirty calendar days of any deficiency in the required information or that the application has been accepted for filing. When the director is satisfied that all required information has been furnished, the director shall establish a time and place for a public hearing which shall be conducted not less than sixty days, nor more than one hundred twenty days, after notice from the director to the applicants that the application is in order.

(2) Within thirty days after receipt of notice of the time and place of the public hearing, the department shall cause notice of filing of the application and the hearing to be published at the applicants' expense in a newspaper of general circulation within the county where the proposed digital asset depository is to be located. Publication shall be made at least once a week for three consecutive weeks before the hearing, stating the proposed location of the digital asset depository, the names of the applicants for a charter, the nature of the activities to be conducted by the proposed digital asset depository, and

other information required by rule and regulation. The director shall electronically send notice of the hearing to state and national banks, federal savings and loan associations, state and federal credit unions, and other financial institutions in the state, federal agencies, and financial industry trade groups.

Source: Laws 2021, LB649, § 16.
Operative date October 1, 2021.

8-3017 Application for charter or authority to operate; hearing; how conducted.

The hearing for a charter application or for authority to operate a digital asset depository shall be conducted under the Administrative Procedure Act and shall comply with the requirements of the act.

Source: Laws 2021, LB649, § 17.
Operative date October 1, 2021.

Cross References

Administrative Procedure Act, see section 84-920.

8-3018 Application for charter or authority to operate; director; investigation and examination.

Upon receiving the application for a charter to become a digital asset depository institution, or for authority to operate a digital asset depository department, the applicable fee, and other information required by the director, the director shall make a careful investigation and examination of the following:

(1) The character, reputation, criminal record, financial standing, and ability of the shareholders owning ten percent or more equity in the applicant;

(2) The character, financial responsibility, criminal background, banking or other financial experience, and business qualifications of those proposed as officers and directors;

(3) Whether the applicant or any of its officers, directors, or shareholders owning ten percent or more equity in the applicant have ever been convicted of any (i) misdemeanor involving any aspect of a digital asset depository business or any business of a similar nature or (ii) felony;

(4) Whether the applicant or any of its officers, directors, or shareholders owning ten percent or more equity in the applicant have ever been permanently or temporarily enjoined by a court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of a digital asset depository business or any business of a similar nature;

(5) A criminal history record information check of the applicant, its officers, directors, and shareholders owning ten percent or more equity in the applicant. The direct cost of the criminal history record information check shall be paid by the applicant; and

(6) The application for a charter, or for authority to operate a digital asset depository, including the adequacy and plausibility of the business plan of the digital asset depository, the benefits to the customers, and whether the appli-

cant has offered a complete proposal for compliance with the Nebraska Financial Innovation Act.

Source: Laws 2021, LB649, § 18.
Operative date October 1, 2021.

8-3019 Application for charter or authority to operate; decision; criteria and requirements; approval; how effected.

(1) Within ninety days after receipt of the transcript of the public hearing, the director shall render a decision on the application based on the following criteria and requirements:

(a) Whether the character, reputation, criminal record, financial standing, and ability of the shareholders owning ten percent or more equity in the applicant are sufficient to afford reasonable promise of a successful operation;

(b) That the digital asset depository will be operated by officers of integrity and responsibility;

(c) Whether the character, financial responsibility, criminal background, and banking or other financial experience and business qualifications of those proposed as officers and directors are sufficient to afford reasonable promise of a successful operation;

(d) The adequacy and plausibility of the business plan of the digital asset depository institution, including the ongoing customer expectations of the digital asset depository institution as determined by the director;

(e) Compliance by the digital asset depository institution with the capital and surplus requirements of section 8-3013;

(f) Whether the digital asset depository institution is being formed for no other purpose than legitimate objectives authorized by law;

(g) That the name of the proposed digital asset depository institution includes the words ''digital asset bank'' so that it does not resemble the name of any other financial institution transacting business in the state so as to cause confusion;

(h) That the digital asset depository will be operated in a safe and sound manner to benefit its customers;

(i) That the digital asset depository shall help meet the digital financial needs of the communities in which it operates, consistent with safe and sound operations, and shall maintain and update a public file and on any Internet website it maintains containing specific information about its efforts to meet community needs, including:

(i) The collection and reporting of data;

(ii) Its policies and procedures for accepting and responding to consumer complaints; and

(iii) Its efforts to assist with financial literacy or personal finance programs to increase knowledge and skills of Nebraska students in areas such as budgeting, credit, checking and savings accounts, loans, stocks, and insurance;

(j) Whether the applicants have complied with all provisions of state law and are eligible to apply for membership in the federal reserve system; and

(k) Any other considerations in addition to statutory requirements submitted by the applicant pursuant to operational order, rules and regulations, or request of the department.

(2) The director shall approve an application upon making favorable findings on the criteria set forth in subsection (1) of this section. If necessary, the director may either conditionally approve an application by specifying conditions relating to the criteria or may disapprove the application. The director shall state findings of fact and conclusions of law as part of such decision.

(3) If the director approves the application, the director shall issue an order.

Source: Laws 2021, LB649, § 19.
Operative date October 1, 2021.

8-3020 Conditions to commence business; compliance required; failure to commence business; effect.

(1) If an application is approved and a charter or authority is granted by the director under section 8-3019, the digital asset depository shall not commence business before satisfaction of all conditions precedent contained in the director's order or conditional order.

(2) If an approved digital asset depository fails to commence business in good faith within twelve months after the issuance of a charter or an order of authority to operate by the director, the charter or authority shall expire. The director, for good cause and upon an application filed prior to the expiration of the six-month period, may extend the time within which the digital asset depository may open for business.

Source: Laws 2021, LB649, § 20.
Operative date October 1, 2021.

8-3021 Appeal.

Any decision of the department or director in approving, conditionally approving, or disapproving a charter or authority for a digital asset depository is appealable in accordance with the Administrative Procedure Act.

Source: Laws 2021, LB649, § 21.
Operative date October 1, 2021.

Cross References

Administrative Procedure Act, see section 84-920.

8-3022 Surety bond; pledge of assets; requirements; treatment.

(1) Except as otherwise provided by subsection (2) of this section, a digital asset depository shall, before transacting any business, pledge or furnish a surety bond to the director to cover costs likely to be incurred by the director in a liquidation or conservatorship of the digital asset depository. The amount of the surety bond or pledge of assets under subsection (2) of this section shall be determined by the director in an amount sufficient to defray the costs of a liquidation or conservatorship.

(2) In lieu of a bond, a digital asset depository may irrevocably pledge specified assets equivalent to a bond under subsection (1) of this section. Any assets pledged to the director under this subsection shall be held in a state or nationally chartered bank, trust company, federal reserve bank, or savings and

loan association having a principal or branch office in this state, excluding affiliated institutions. All costs associated with pledging and holding such assets are the responsibility of the digital asset depository.

(3) Assets pledged to the director shall not include money and shall be of the same nature and quality as those required under section 8-210.

(4) Surety bonds shall run to the State of Nebraska, and shall be approved under the terms and conditions required under section 8-110.

(5) The director may by order or rules and regulations establish additional investment guidelines or investment options for purposes of the pledge or surety bond required by this section.

(6) In the event of a liquidation or conservatorship of a digital asset depository pursuant to section 8-3027, the director may, without regard to priorities, preferences, or adverse claims, reduce the surety bond or assets pledged under this section to cash as soon as practicable and utilize the cash to defray the costs associated with the liquidation or conservatorship.

(7) Income from assets pledged under subsection (2) of this section shall be paid to the digital asset depository no less than annually, unless a liquidation or conservatorship takes place.

(8) Upon evidence that the current surety bond is or pledged assets are insufficient, the director may require a digital asset depository to increase its surety bond or pledged assets by providing not less than thirty days' written notice to the digital asset depository.

Source: Laws 2021, LB649, § 22.
Operative date October 1, 2021.

8-3023 Reports; director; powers; examination by department; when; assessments and costs; insurance or bond required.

(1) The director may call for reports verified under oath from a digital asset depository at any time as necessary to inform the director of the condition of the digital asset depository. Such reports shall be available to the public.

(2) All reports required of a digital asset depository by the director and all materials relating to examinations of a digital asset depository shall be subject to the provisions of sections 8-103 and 8-108.

(3) Every digital asset depository is subject to examination by the department to determine the condition and resources of a digital asset depository, the mode of managing digital asset depository affairs and conducting business, the actions of officers and directors in the investment and disposition of funds, the safety and prudence of digital asset depository management, compliance with the requirements of the Nebraska Financial Innovation Act, and such other matters as the director may require.

(4) A digital asset depository shall pay an assessment in a sum to be determined by the director in accordance with section 8-601 and approved by the Governor and the costs of any examination or investigation as provided in sections 8-108 and 8-606.

(5) A digital asset depository shall maintain appropriate insurance or a bond covering the operational risks of the digital asset depository, which shall include coverage for directors' and officers' liability, errors and omissions

liability, and information technology infrastructure and activities liability as determined by the director.

Source: Laws 2021, LB649, § 23.
Operative date October 1, 2021.

8-3024 Digital asset business activities authorized.

A digital asset depository is authorized to carry on one or more of the following digital asset business activities:

(1) Provide digital asset and cryptocurrency custody services;

(2) Issue stablecoins and hold deposits at a Federal Deposit Insurance Corporation-insured financial institution which has a main-chartered office in this state, any branch thereof in this state, or any branch of the financial institution which maintained a main-chartered office in this state prior to becoming a branch of such financial institution that serves as reserves for stablecoins; and

(3) Use independent node verification networks and stablecoins for payment activities.

Source: Laws 2021, LB649, § 24.
Operative date October 1, 2021.

8-3025 Charter or authority; suspend or revoke; grounds.

The director may suspend or revoke the charter or authority of a digital asset depository if, after notice and opportunity for a hearing, the director determines that:

(1) The digital asset depository has failed or refused to comply with an order issued under section 8-1,136, 8-2504, or 8-2743;

(2) The application for a charter or authority contained a materially false statement, misrepresentation, or omission; or

(3) An officer, a director, or an agent of the digital asset depository, in connection with an application for a charter or authority, an examination, a report, or other document filed with the director, knowingly made a materially false statement, misrepresentation, or omission to the department, the director, or the duly authorized agent of the department or director.

Source: Laws 2021, LB649, § 25.
Operative date October 1, 2021.

8-3026 Charter or authority; surrendered, suspended, or revoked; effect.

If the charter or authority of a digital asset depository is surrendered, suspended, or revoked, the digital asset depository shall continue to be subject to the provisions of the Nebraska Financial Innovation Act during any liquidation or conservatorship.

Source: Laws 2021, LB649, § 26.
Operative date October 1, 2021.

8-3027 Failure, unsafe or unsound condition, or endangerment of customers' interests; director; conduct liquidation or appoint receiver.

(1) If the director finds that a digital asset depository has failed, is operating in an unsafe or unsound condition, or is endangering the interests of customers,

and the failure, unsafe or unsound condition, or endangerment has not been remedied within the time prescribed under section 8-1,117 or as directed by order of the director issued pursuant to section 8-1,136, 8-2504, or 8-2743, the director shall conduct a liquidation or appoint a receiver as provided by sections 8-198, 8-1,100, and 8-1,102.

(2) For purposes of this section:

(a) Failed or failure means, consistent with an order or rules and regulations of the director, a circumstance when a digital asset depository has not:

(i) Complied with the requirements of section 8-3009;

(ii) Maintained capital and surplus as required by section 8-3013; or

(iii) Paid, in the manner commonly accepted by business practices, its legal obligations to customers on demand or to discharge any promissory notes, or other indebtedness when due; and

(b) Unsafe or unsound condition means, consistent with an order or rules and regulations of the director, a circumstance relating to a digital asset depository which is likely to:

(i) Cause the failure of the digital asset depository;

(ii) Cause a substantial dissipation of assets or earnings;

(iii) Substantially disrupt the services provided by the digital asset depository to customers; or

(iv) Otherwise substantially prejudice the interests of customers of the digital asset depository.

Source: Laws 2021, LB649, § 27.
Operative date October 1, 2021.

8-3028 Voluntary dissolution; procedure.

(1) A digital asset depository may voluntarily dissolve in accordance with this section. Voluntary dissolution shall be accomplished by either liquidating the digital asset depository or reorganizing the digital asset depository into an appropriate business entity that does not engage in any activity authorized only for a digital asset depository. Upon complete liquidation or completion of the reorganization, the director shall revoke the charter or authority of the digital asset depository. Thereafter, the corporation or business entity shall not use the words digital asset depository or digital asset bank in its business name or in connection with its ongoing business.

(2) A digital asset depository institution may dissolve its charter either by liquidation or reorganization. The board of directors shall file an application for dissolution with the director, accompanied by a filing fee established by an order or the rules and regulations of the director. The application shall include a comprehensive plan for dissolution setting forth the proposed disposition of all assets and liabilities in reasonable detail to effect a liquidation or reorganization, and any other plans required by the director. The plan of dissolution shall provide for the discharge or assumption of all of the known and unknown claims and liabilities of the digital asset depository institution. Additionally, the application for dissolution shall include other evidence, certifications, affidavits, documents, or information as the director may require, including demonstration of how assets and liabilities will be disposed, the timetable for effecting disposition of the assets and liabilities, and a proposal of the digital asset

depository institution for addressing any claims that are asserted after dissolution has been completed. The director shall examine the application for compliance with this section, the business entity laws applicable to the required type of dissolution, and applicable orders and rules and regulations. The director may conduct a special examination of the digital asset depository institution, consistent with subsection (3) of section 8-3023, for purposes of evaluating the application.

(3) If the director finds that the application is incomplete, the director shall return it for completion not later than sixty days after it is filed. If the application is found to be complete by the director, the director shall approve or disapprove the application not later than thirty days after it is filed. If the director approves the application, the digital asset depository institution may proceed with the dissolution pursuant to the plan outlined in the application, subject to any further conditions the director may prescribe. If the digital asset depository institution subsequently determines that the plan of dissolution needs to be amended to complete the dissolution, it shall file an amended plan with the director and obtain approval to proceed under the amended plan. If the director does not approve the application or amended plan, the digital asset depository institution may appeal the decision to the director pursuant to the Administrative Procedure Act.

(4) Upon completion of all actions required under the plan of dissolution and satisfaction of all conditions prescribed by the director, the digital asset depository institution shall submit a written report of its actions to the director. The report shall contain a certification made under oath that the report is true and correct. Following receipt of the report, the director, no later than sixty days after the filing of the report, shall examine the digital asset depository institution to determine whether the director is satisfied that all required actions have been taken in accordance with the plan of dissolution and any conditions prescribed by the director. If all requirements and conditions have been met, the director shall, within thirty days of the examination, notify the digital asset depository institution in writing that the dissolution has been completed and issue an order of dissolution.

(5) Upon receiving an order of dissolution, the digital asset depository institution shall surrender its charter to the director. The digital asset depository institution shall then file articles of dissolution and other documents required by sections 21-2,184 to 21-2,201 for a corporation with the Secretary of State. In the case of reorganization, the digital asset depository institution shall file the documents required by the Secretary of State to finalize the reorganization.

(6) If the director determines that all required actions under the plan for dissolution, or as otherwise required by the director, have not been completed, the director shall notify the digital asset depository institution, not later than thirty days after this determination, in writing, of what additional actions shall be taken in order for the institution to be eligible for a certificate of dissolution. The director shall establish a reasonable deadline of up to thirty days for the submission of evidence that additional actions have been taken and the director may extend any deadline upon good cause. If the digital asset depository institution fails to file a supplemental report showing that the additional actions have been taken before the deadline, or submits a report that is found not to be satisfactory by the director, the director shall notify the digital asset depository institution in writing that its voluntary dissolution is not approved, and the

institution may appeal the decision to the director pursuant to the Administrative Procedure Act.

Source: Laws 2021, LB649, § 28.
Operative date October 1, 2021.

Cross References

Administrative Procedure Act, see section 84-920.

8-3029 Reports; failure to submit as prescribed; fee.

If a digital asset depository fails to submit any report required by the Nebraska Financial Innovation Act or by order or rules and regulations of the director within the prescribed period, the director may impose and collect a fee of five thousand dollars for each day the report is overdue, as established by order of the director. The fee shall be remitted to the State Treasurer for credit to the Department of Banking and Finance Settlement Cash Fund.

Source: Laws 2021, LB649, § 29.
Operative date October 1, 2021.

8-3030 Digital asset depository; officer, director, employee, or agent; removal; grounds.

Each officer, director, employee, or agent of a digital asset depository, following written notice from the director, is subject to removal upon order of the director if such officer, director, employee, or agent knowingly, willfully, or negligently:

(1) Fails to perform any duty required by the Nebraska Financial Innovation Act or other applicable law;

(2) Fails to conform to any order or rules and regulations of the director; or

(3) Endangers the interest of a customer.

Source: Laws 2021, LB649, § 30.
Operative date October 1, 2021.

8-3031 Orders; rules and regulations.

The director may issue any order and adopt and promulgate any rules and regulations necessary to implement the Nebraska Financial Innovation Act.

Source: Laws 2021, LB649, § 31.
Operative date October 1, 2021.

CHAPTER 9
BINGO AND OTHER GAMBLING

Article.
1. General Provisions. 9-1,101.
8. State Lottery. 9-812, 9-836.01.
11. Nebraska Racetrack Gaming Act. 9-1101 to 9-1116.
12. Taxation of Games of Chance. 9-1201 to 9-1209.

ARTICLE 1
GENERAL PROVISIONS

Section
9-1,101. Department of Revenue; Charitable Gaming Division; created; duties; Charitable Gaming Operations Fund; created; use; investment; investigators; powers; fees authorized; administration of Nebraska Commission on Problem Gambling.

9-1,101 Department of Revenue; Charitable Gaming Division; created; duties; Charitable Gaming Operations Fund; created; use; investment; investigators; powers; fees authorized; administration of Nebraska Commission on Problem Gambling.

(1) The Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, and section 9-701 shall be administered and enforced by the Charitable Gaming Division of the Department of Revenue, which division is hereby created. The Department of Revenue shall make annual reports to the Governor, Legislature, Auditor of Public Accounts, and Attorney General on all tax revenue received, expenses incurred, and other activities relating to the administration and enforcement of such acts. The report submitted to the Legislature shall be submitted electronically.

(2) The Charitable Gaming Operations Fund 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.

(3)(a) Forty percent of the taxes collected pursuant to sections 9-239, 9-344, 9-429, and 9-648 shall be available to the Charitable Gaming Division for administering and enforcing the acts listed in subsection (1) of this section and providing administrative support for the Nebraska Commission on Problem Gambling. The remaining sixty percent shall be transferred to the General Fund. Any portion of the forty percent not used by the division in the administration and enforcement of such acts and section shall be distributed as provided in this subsection.

(b) Beginning July 1, 2019, through June 30, 2023, on or before the last day of the last month of each calendar quarter, the State Treasurer shall transfer one hundred thousand dollars from the Charitable Gaming Operations Fund to the Compulsive Gamblers Assistance Fund.

(c) Any money remaining in the Charitable Gaming Operations Fund after the transfer pursuant to subdivision (b) of this subsection not used by the Charitable Gaming Division in its administration and enforcement duties pursuant to this section may be transferred to the General Fund and the Compulsive Gamblers Assistance Fund at the direction of the Legislature.

(4) The Tax Commissioner shall employ investigators who shall be vested with the authority and power of a law enforcement officer to carry out the laws of this state administered by the Tax Commissioner or the Department of Revenue and to enforce sections 28-1101 to 28-1117 relating to possession of a gambling device. For purposes of enforcing sections 28-1101 to 28-1117, the authority of the investigators shall be limited to investigating possession of a gambling device, notifying local law enforcement authorities, and reporting suspected violations to the county attorney for prosecution.

(5) The Charitable Gaming Division may charge a fee for publications and listings it produces. The fee shall not exceed the cost of publication and distribution of such items. The division may also charge a fee for making a copy of any record in its possession equal to the actual cost per page. The division shall remit the fees to the State Treasurer for credit to the Charitable Gaming Operations Fund.

(6) For administrative purposes only, the Nebraska Commission on Problem Gambling shall be located within the Charitable Gaming Division. The division shall provide office space, furniture, equipment, and stationery and other necessary supplies for the commission. Commission staff shall be appointed, supervised, and terminated by the director of the Gamblers Assistance Program pursuant to section 9-1004.

Source: Laws 1986, LB 1027, § 185; Laws 1988, LB 1232, § 1; Laws 1989, LB 767, § 1; Laws 1990, LB 1055, § 3; Laws 1991, LB 427, § 1; Laws 1993, LB 397, § 1; Laws 1994, LB 694, § 1; Laws 1994, LB 1066, § 8; Laws 2000, LB 659, § 1; Laws 2001, LB 541, § 2; Laws 2002, LB 1310, § 2; Laws 2007, LB638, § 1; Laws 2010, LB879, § 1; Laws 2012, LB782, § 11; Laws 2013, LB6, § 8; Laws 2018, LB945, § 9; Laws 2019, LB298, § 13; Laws 2020, LB1009, § 2; Laws 2021, LB384, § 7.
Effective date April 27, 2021.

Cross References

Nebraska Bingo Act, see section 9-201.
Nebraska Capital Expansion Act, see section 72-1269.
Nebraska County and City Lottery Act, see section 9-601.
Nebraska Lottery and Raffle Act, see section 9-401.
Nebraska Pickle Card Lottery Act, see section 9-301.
Nebraska Small Lottery and Raffle Act, see section 9-501.
Nebraska State Funds Investment Act, see section 72-1260.
State Athletic Commissioner, office and duties, see section 81-8,128.

ARTICLE 8
STATE LOTTERY

Section
9-812. State Lottery Operation Trust Fund; State Lottery Operation Cash Fund; State Lottery Prize Trust Fund; created; transfers; Nebraska Education Improvement Fund; created; use; investment; recipient, subsequent recipient, or service contractor; reports required; unclaimed prize money; use.

Section
9-836.01. Division; sale of tangible personal property; distribution of profits.

9-812 State Lottery Operation Trust Fund; State Lottery Operation Cash Fund; State Lottery Prize Trust Fund; created; transfers; Nebraska Education Improvement Fund; created; use; investment; recipient, subsequent recipient, or service contractor; reports required; unclaimed prize money; use.

(1) All money received from the operation of lottery games conducted pursuant to the State Lottery Act in Nebraska shall be credited to the State Lottery Operation Trust Fund, which fund is hereby created. All payments of the costs of establishing and maintaining the lottery games shall be made from the State Lottery Operation Cash Fund. In accordance with legislative appropriations, money for payments for expenses of the division shall be transferred from the State Lottery Operation Trust Fund to the State Lottery Operation Cash Fund, which fund is hereby created. All money necessary for the payment of lottery prizes shall be transferred from the State Lottery Operation Trust Fund to the State Lottery Prize Trust Fund, which fund is hereby created. The amount used for the payment of lottery prizes shall not be less than forty percent of the dollar amount of the lottery tickets which have been sold.

(2) A portion of the dollar amount of the lottery tickets which have been sold on an annualized basis shall be transferred from the State Lottery Operation Trust Fund to the Education Innovation Fund, the Nebraska Opportunity Grant Fund, the Nebraska Education Improvement Fund, the Nebraska Environmental Trust Fund, the Nebraska State Fair Board, and the Compulsive Gamblers Assistance Fund as provided in subsection (3) of this section. The dollar amount transferred pursuant to this subsection shall equal the greater of (a) the dollar amount transferred to the funds in fiscal year 2002-03 or (b) any amount which constitutes at least twenty-two percent and no more than twenty-five percent of the dollar amount of the lottery tickets which have been sold on an annualized basis. To the extent that funds are available, the Tax Commissioner and director may authorize a transfer exceeding twenty-five percent of the dollar amount of the lottery tickets sold on an annualized basis.

(3) Of the money available to be transferred to the Education Innovation Fund, the Nebraska Opportunity Grant Fund, the Nebraska Education Improvement Fund, the Nebraska Environmental Trust Fund, the Nebraska State Fair Board, and the Compulsive Gamblers Assistance Fund:

(a) The first five hundred thousand dollars shall be transferred to the Compulsive Gamblers Assistance Fund to be used as provided in section 9-1006;

(b) Beginning July 1, 2016, forty-four and one-half percent of the money remaining after the payment of prizes and operating expenses and the initial transfer to the Compulsive Gamblers Assistance Fund shall be transferred to the Nebraska Education Improvement Fund;

(c) Forty-four and one-half percent of the money remaining after the payment of prizes and operating expenses and the initial transfer to the Compulsive Gamblers Assistance Fund shall be transferred to the Nebraska Environmental Trust Fund to be used as provided in the Nebraska Environmental Trust Act;

(d) Ten percent of the money remaining after the payment of prizes and operating expenses and the initial transfer to the Compulsive Gamblers Assistance Fund shall be transferred to the Nebraska State Fair Board if the most

populous city within the county in which the fair is located provides matching funds equivalent to ten percent of the funds available for transfer. Such matching funds may be obtained from the city and any other private or public entity, except that no portion of such matching funds shall be provided by the state. If the Nebraska State Fair ceases operations, ten percent of the money remaining after the payment of prizes and operating expenses and the initial transfer to the Compulsive Gamblers Assistance Fund shall be transferred to the General Fund; and

(e) One percent of the money remaining after the payment of prizes and operating expenses and the initial transfer to the Compulsive Gamblers Assistance Fund shall be transferred to the Compulsive Gamblers Assistance Fund to be used as provided in section 9-1006.

(4) The Nebraska Education Improvement Fund is created. The fund shall consist of money transferred pursuant to subsection (3) of this section, money transferred pursuant to section 85-1920, and any other funds appropriated by the Legislature. The fund shall be allocated, after actual and necessary administrative expenses, as provided in this section for fiscal years 2016-17 through 2023-24. A portion of each allocation may be retained by the agency to which the allocation is made or the agency administering the fund to which the allocation is made for actual and necessary expenses incurred by such agency for administration, evaluation, and technical assistance related to the purposes of the allocation, except that no amount of the allocation to the Nebraska Opportunity Grant Fund may be used for such purposes. On or before December 31, 2022, the Education Committee of the Legislature shall electronically submit recommendations to the Clerk of the Legislature regarding how the fund should be allocated to best advance the educational priorities of the state for the five-year period beginning with fiscal year 2024-25. For fiscal year 2016-17, an amount equal to ten percent of the revenue allocated to the Education Innovation Fund and to the Nebraska Opportunity Grant Fund for fiscal year 2015-16 shall be retained in the Nebraska Education Improvement Fund. For fiscal years 2017-18 through 2023-24, an amount equal to ten percent of the revenue received by the Nebraska Education Improvement Fund in the prior fiscal year shall be retained in the fund at all times plus any interest earned during the current fiscal year. For fiscal years 2016-17 through 2023-24, the remainder of the fund shall be allocated as follows:

(a) One percent of the allocated funds to the Expanded Learning Opportunity Grant Fund to carry out the Expanded Learning Opportunity Grant Program Act;

(b) Seventeen percent of the allocated funds to the Department of Education Innovative Grant Fund to be used for competitive innovation grants pursuant to section 79-1054;

(c) Nine percent of the allocated funds to the Community College Gap Assistance Program Fund to carry out the community college gap assistance program;

(d) Eight percent of the allocated funds to the Excellence in Teaching Cash Fund to carry out the Excellence in Teaching Act;

(e) Sixty-two percent of the allocated funds to the Nebraska Opportunity Grant Fund to carry out the Nebraska Opportunity Grant Act in conjunction with appropriations from the General Fund; and

(f) Three percent of the allocated funds to fund distance education incentives pursuant to section 79-1337.

(5)(a) On or before September 20, 2022, and on or before each September 20 thereafter, (i) any department or agency receiving a transfer or acting as the administrator for a fund receiving a transfer pursuant to subsection (4) of this section, (ii) any recipient or subsequent recipient of money from any such fund, and (iii) any service contractor responsible for managing any portion of any such fund or any money disbursed from any such fund on behalf of any entity shall prepare and submit an annual report to the Auditor of Public Accounts in a manner prescribed by the auditor for the immediately preceding July 1 through June 30 fiscal year detailing information regarding the use of such fund or such money.

(b) The Auditor of Public Accounts shall annually compile a summary of the annual reports received pursuant to subdivision (5)(a) of this section, any audits related to transfers pursuant to subsection (4) of this section conducted by the Auditor of Public Accounts, and any findings or recommendations related to such transfers into a consolidated annual report and shall submit such consolidated annual report electronically to the Legislature on or before January 1, 2023, and on or before each January 1 thereafter.

(c) For purposes of this subsection, recipient, subsequent recipient, or service contractor means a nonprofit entity that expends funds transferred pursuant to subsection (4) of this section to carry out a state program or function, but does not include an individual who is a direct beneficiary of such a program or function.

(6) Any money in the State Lottery Operation Trust Fund, the State Lottery Operation Cash Fund, the State Lottery Prize Trust Fund, or the Nebraska Education Improvement Fund available 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) Unclaimed prize money on a winning lottery ticket shall be retained for a period of time prescribed by rules and regulations. If no claim is made within such period, the prize money shall be used at the discretion of the Tax Commissioner for any of the purposes prescribed in this section.

Source: Laws 1991, LB 849, § 12; Laws 1992, LB 1257, § 57; Laws 1993, LB 138, § 28; Laws 1993, LB 563, § 24; Laws 1994, LB 647, § 5; Laws 1994, LB 694, § 119; Laws 1994, LB 1066, § 11; Laws 1995, LB 275, § 1; Laws 1995, LB 860, § 1; Laws 1996, LB 900, § 1015; Laws 1996, LB 1069, § 1; Laws 1997, LB 118, § 1; Laws 1997, LB 347, § 1; Laws 1997, LB 710, § 1; Laws 1997, LB 865, § 1; Laws 1998, LB 924, § 16; Laws 1998, LB 1228, § 7; Laws 1998, LB 1229, § 1; Laws 1999, LB 386, § 1; Laws 2000, LB 659, § 2; Laws 2000, LB 1243, § 1; Laws 2001, LB 797, § 1; Laws 2001, LB 833, § 1; Laws 2001, Spec. Sess., LB 3, § 1; Laws 2002, LB 1105, § 418; Laws 2002, LB 1310, § 3; Laws 2002, Second Spec. Sess., LB 1, § 1; Laws 2003, LB 367, § 1; Laws 2003, LB 574, § 21; Laws 2004, LB 1083, § 83; Laws 2004, LB 1091, § 1; Laws 2006, LB 1208, § 1; Laws 2007, LB638, § 16; Laws 2009, LB286, § 4; Laws 2009, LB545, § 1; Laws 2009, LB547, § 1; Laws 2009, First Spec. Sess., LB2, § 1; Laws 2010, LB956, § 1; Laws 2011, LB333, § 1; Laws 2011, LB575, § 7; Laws 2011,

LB637, § 22; Laws 2012, LB1079, § 9; Laws 2013, LB6, § 9; Laws 2013, LB366, § 8; Laws 2013, LB495, § 1; Laws 2013, LB497, § 1; Laws 2014, LB967, § 2; Laws 2015, LB519, § 1; Laws 2016, LB930, § 1; Laws 2016, LB1067, § 1; Laws 2017, LB512, § 5; Laws 2021, LB528, § 2.
Operative date May 26, 2021.

Cross References

Excellence in Teaching Act, see section 79-8,132.
Expanded Learning Opportunity Grant Program Act, see section 79-2501.
Nebraska Capital Expansion Act, see section 72-1269.
Nebraska Environmental Trust Act, see section 81-15,167.
Nebraska Opportunity Grant Act, see section 85-1901.
Nebraska State Funds Investment Act, see section 72-1260.

9-836.01 Division; sale of tangible personal property; distribution of profits.

The division may endorse and sell for profit tangible personal property related to the lottery. Any money received as profit by the division pursuant to this section shall be remitted to the State Treasurer for credit to the State Lottery Operation Trust Fund to be distributed to the Nebraska Opportunity Grant Fund, the Nebraska Education Improvement Fund, the Nebraska Environmental Trust Fund, and the Compulsive Gamblers Assistance Fund pursuant to the requirements of section 9-812.

Source: Laws 1994, LB 694, § 118; Laws 1998, LB 924, § 17; Laws 2003, LB 574, § 22; Laws 2010, LB956, § 2; Laws 2013, LB497, § 2; Laws 2021, LB528, § 3.
Operative date May 26, 2021.

ARTICLE 11
NEBRASKA RACETRACK GAMING ACT

Section
9-1101. Act, how cited.
9-1102. Games of chance; permitted; restrictions.
9-1103. Terms, defined.
9-1104. Authorized gaming operator; license; authorized activities; limitation on participation.
9-1105. Commission; administer act.
9-1106. Commission; powers and duties.
9-1107. Racetrack Gaming Fund; created; use; investment.
9-1108. Gaming operator license; applicant; fingerprinting and criminal history record information check; costs.
9-1109. Credit cards; prohibited; applicant or authorized gaming operator; requirements.
9-1110. Sports wagering.
9-1111. Game of chance; cheating; gaming device; manipulation; penalties.
9-1112. Participation in unlawful manner; violations; penalties.
9-1113. Gaming device; acts prohibited; penalties.
9-1114. Making false or misleading statement or entry or failure to maintain or make an entry; penalty.
9-1115. Participation prohibited; violations; penalties.
9-1116. Violations; general penalty provisions.

9-1101 Act, how cited.

Sections 9-1101 to 9-1116 shall be known and may be cited as the Nebraska Racetrack Gaming Act.

Source: Initiative Law 2020, No. 430, § 1; Laws 2021, LB561, § 27.
Effective date May 26, 2021.

9-1102 Games of chance; permitted; restrictions.

Notwithstanding any other provision of law, and to the full extent permitted by the Constitution of Nebraska, including amendments to the Constitution of Nebraska adopted contemporaneously with the enactment of the Nebraska Racetrack Gaming Act, the operation of games of chance is permitted only by authorized gaming operators within licensed racetrack enclosures as provided in the act.

Source: Initiative Law 2020, No. 430, § 2.
Operative date January 1, 2021.

9-1103 Terms, defined.

For purposes of the Nebraska Racetrack Gaming Act:

(1) Authorized gaming operator means a person or entity licensed pursuant to the act to operate games of chance within a licensed racetrack enclosure;

(2) Authorized gaming operator license means a license to operate games of chance as an authorized gaming operator at a licensed racetrack enclosure;

(3)(a) Except as otherwise provided in subdivision (b) of this subdivision, authorized sporting event means a professional sporting event, a collegiate sporting event, an international sporting event, a professional motor race event, a professional sports draft, an individual sports award, an electronic sport, or a simulated game; and

(b) Authorized sporting event does not include an instate collegiate sporting event in which an instate collegiate or university team is a participant, a parimutuel wager, a fantasy sports contest, a minor league sporting event, a sporting event at the high school level or below regardless of the age of any individual participant, or any sporting event excluded by the commission;

(4) Collegiate sporting event means an athletic event or competition of an intercollegiate sport played at the collegiate level for which eligibility requirements for participation by a student athlete are established by a national association for the promotion or regulation of collegiate athletics;

(5) Commission means the State Racing and Gaming Commission;

(6) Designated sports wagering area means an area, as approved by the commission, in which sports wagering is conducted;

(7) Game of chance means any game which has the elements of chance, prize, and consideration, including any wager on a slot machine, table game, counter game, or card game, a keno lottery conducted in accordance with the Nebraska County and City Lottery Act, or sports wagering. Game of chance does not include any game the operation of which is prohibited at a casino by federal law;

(8) Gaming device means an electronic, mechanical, or other device which plays a game of chance when activated by a player using currency, a token, or other item of value;

(9) International sporting event means an international team or individual sporting event governed by an international sports federation or sports governing body, including sporting events governed by the International Olympic Committee and the International Federation of Association Football;

(10) Licensed racetrack enclosure means premises at which licensed live horseracing is conducted in accordance with the Constitution of Nebraska and applicable Nebraska law;

(11) Limited gaming device means an electronic gaming device which (a) offers games of chance, (b) does not dispense currency, tokens, or other items of value, and (c) does not have a cash winnings hopper, mechanical or simulated spinning reel, or side handle;

(12) Prohibited participant means any individual whose participation may undermine the integrity of the wagering or the sporting event or any person who is prohibited from sports wagering for other good cause shown as determined by the commission, including, but not limited to: (a) Any individual placing a wager as an agent or proxy; (b) any person who is an athlete, a coach, a referee, or a player in any sporting event overseen by the sports governing body of such person based on publicly available information; (c) a person who holds a paid position of authority or influence sufficient to exert influence over the participants in a sporting event, including, but not limited to, any coach, manager, handler, or athletic trainer, or a person with access to certain types of exclusive information, on any sporting event overseen by the sports governing body of such person based on publicly available information; or (d) a person identified as prohibited from sports wagering by any list provided by a sports governing body to the commission;

(13) Racing license means a license issued for a licensed racetrack enclosure by the commission; and

(14) Sports wagering means the acceptance of wagers on an authorized sporting event by any system of wagering as authorized by the commission. Sports wagering does not include (a) placing a wager on the performance or nonperformance of any individual athlete participating in a single game or match of a collegiate sporting event in which a collegiate team from this state is participating, (b) placing an in-game wager on any game or match of a collegiate sporting event in which a collegiate team from this state is participating, (c) placing a wager on the performance or nonperformance of any individual athlete under eighteen years of age participating in a professional or international sporting event, or (d) placing a wager on the performance of athletes in an individual sporting event excluded by the commission.

Source: Initiative Law 2020, No. 430, § 3; Laws 2021, LB561, § 28. Effective date May 26, 2021.

Cross References

Nebraska County and City Lottery Act, see section 9-601.

9-1104 Authorized gaming operator; license; authorized activities; limitation on participation.

(1) The operation of games of chance at a licensed racetrack enclosure may be conducted by an authorized gaming operator who holds an authorized gaming operator license.

(2) No more than one authorized gaming operator license shall be granted for each licensed racetrack enclosure within the state; provided that, it shall not be a requirement that the person or entity applying for or to be granted such authorized gaming operator license hold a racing license or be the same person

or entity who operates the licensed racetrack enclosure at which such authorized gaming operator license shall be granted.

(3) Gaming devices, limited gaming devices, and all other games of chance may be operated by authorized gaming operators at a licensed racetrack enclosure.

(4) No person younger than twenty-one years of age shall play or participate in any way in any game of chance or use any gaming device or limited gaming device at a licensed racetrack enclosure.

(5) No authorized gaming operator shall permit an individual younger than twenty-one years of age to play or participate in any game of chance or use any gaming device or limited gaming device conducted or operated pursuant to the Nebraska Racetrack Gaming Act.

Source: Initiative Law 2020, No. 430, § 4.
Operative date January 1, 2021.

9-1105 Commission; administer act.

For purposes of providing the necessary licensing and regulation of the operation of games of chance by authorized gaming operators within licensed racetrack enclosures pursuant to the Nebraska Racetrack Gaming Act, the commission shall administer the Nebraska Racetrack Gaming Act. The commission shall have full jurisdiction over and shall supervise all gaming operations pursuant to the Nebraska Racetrack Gaming Act.

Source: Initiative Law 2020, No. 430, § 5; Laws 2021, LB561, § 29.
Effective date May 26, 2021.

9-1106 Commission; powers and duties.

The commission shall:

(1) License and regulate authorized gaming operators for the operation of all games of chance authorized pursuant to the Nebraska Racetrack Gaming Act, including adopting, promulgating, and enforcing rules and regulations governing such authorized gaming operators consistent with the act;

(2) Regulate the operation of games of chance in order to prevent and eliminate corrupt practices and fraudulent behavior, and thereby promote integrity, security, and honest administration in, and accurate accounting of, the operation of games of chance which are subject to the act;

(3) Establish criteria to license applicants for authorized gaming operator licenses and all other types of gaming licenses for other positions and functions incident to the operation of games of chance, including adopting, promulgating, and enforcing rules, regulations, and eligibility standards for such authorized gaming operator licenses, gaming licenses, and positions and functions incident to the operation of games of chance;

(4) Charge fees for applications for licenses and for the issuance of authorized gaming operator licenses and all other types of gaming licenses to successful applicants which shall be payable to the commission;

(5) Charge fees to authorized gaming operators in an amount necessary to offset the cost of oversight and regulatory services to be provided which shall be payable to the commission;

(6) Impose a one-time authorized gaming operator license fee of one million dollars on each authorized gaming operator for each licensed racetrack enclosure payable to the commission;

(7) Grant, deny, revoke, and suspend authorized gaming operator licenses and all other types of gaming licenses based upon reasonable criteria and procedures established by the commission to facilitate the integrity, productivity, and lawful conduct of gaming within the state;

(8) Grant or deny for cause applications for authorized gaming operator licenses of not less than twenty years in duration with no more than one such authorized gaming operator license granted for any licensed racetrack enclosure within the state;

(9) Conduct background investigations of applicants for authorized gaming operator licenses and all other types of gaming licenses;

(10) Adopt and promulgate rules and regulations for the standards of manufacture of gaming equipment;

(11) Inspect the operation of any authorized gaming operator conducting games of chance for the purpose of certifying the revenue thereof and receiving complaints from the public;

(12) Issue subpoenas for the attendance of witnesses or the production of any records, books, memoranda, documents, or other papers or things at or prior to any hearing as is necessary to enable the commission to effectively discharge its duties;

(13) Administer oaths or affirmations as necessary to carry out the act;

(14) Have the authority to impose, subject to judicial review, administrative fines not to exceed twenty-five thousand dollars for each violation of the act or any rules and regulations adopted and promulgated pursuant to the act;

(15) Collect and remit administrative fines collected under this section to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska;

(16) Adopt and promulgate rules and regulations for any gaming taxes assessed to authorized gaming operators;

(17) Collect and account for any gaming taxes assessed to authorized gaming operators and remit such taxes to the State Treasurer or county treasurer as required by Nebraska law;

(18) Promote treatment of gaming-related behavioral disorders;

(19) Establish procedures for the governance of the commission;

(20) Acquire necessary offices, facilities, counsel, and staff;

(21) Establish procedures for an applicant for a staff position to disclose conflicts of interest as part of the application for employment;

(22) Establish a process to allow a person to be voluntarily excluded from wagering in any game of chance under the act;

(23) Remit all license and application fees collected under the Nebraska Racetrack Gaming Act to the State Treasurer for credit to the Racetrack Gaming Fund; and

(24) Do all things necessary and proper to carry out its powers and duties under the Nebraska Racetrack Gaming Act, including the adoption and promul-

gation of rules and regulations and such other actions as permitted by the Administrative Procedure Act.

Source: Initiative Law 2020, No. 430, § 6; Laws 2021, LB561, § 30.
Effective date May 26, 2021.

Cross References

Administrative Procedure Act, see section 84-920.

9-1107 Racetrack Gaming Fund; created; use; investment.

The Racetrack Gaming Fund is created. The fund shall consist of all license and application fees collected under the Nebraska Racetrack Gaming Act. The fund shall be used for administration of the Nebraska Racetrack Gaming Act. Any money in the Racetrack Gaming Fund available 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 2021, LB561, § 31.
Effective date May 26, 2021.

Cross References

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

9-1108 Gaming operator license; applicant; fingerprinting and criminal history record information check; costs.

Any person applying for a gaming operator license pursuant to the Nebraska Racetrack Gaming Act shall be subject to fingerprinting and a check of such person's criminal history record information maintained by the Identification Division of the Federal Bureau of Investigation for the purpose of determining whether the commission has a basis to deny the license application or to suspend, cancel, or revoke the person's license. The applicant shall pay the actual cost of any fingerprinting or check of such person's criminal history record information.

Source: Laws 2021, LB561, § 32.
Effective date May 26, 2021.

9-1109 Credit cards; prohibited; applicant or authorized gaming operator; requirements.

Credit cards shall not be accepted by any authorized gaming operator for payment for any wager or to purchase coins, tokens, or other forms of credit to be wagered on any game of chance. An account for the purpose of participating in a game of chance under the Nebraska Racetrack Gaming Act may only be funded with cash, coins, a debit card, or a direct link to an account with a financial institution in the name of the player. The commission shall require an authorized gaming operator or applicant for an authorized gaming operator license to demonstrate in the license application and internal controls application the ability to restrict credit card transactions.

Source: Laws 2021, LB561, § 33.
Effective date May 26, 2021.

9-1110 Sports wagering.

(1) The commission may permit an authorized gaming operator to conduct sports wagering. Any sports wager shall be placed in person or at a wagering kiosk in the designated sports wagering area at the licensed racetrack enclosure.

(2) A floor plan identifying the designated sports wagering area, including the location of any wagering kiosks, shall be filed with the commission for review and approval. Modification to a previously approved plan must be submitted for approval at least ten days prior to implementation. The area shall not be accessible to persons under twenty-one years of age and shall have a sign posted to restrict access. Exceptions to this subsection must be approved in writing by the commission.

(3) The authorized gaming operator shall submit controls for approval by the commission, that include the following for operating the designated sports wagering area:

(a) Specific procedures and technology partners to fulfill the requirements set forth by the commission;

(b) Other specific controls as designated by the commission;

(c) A process to easily and prominently impose limitations or notification for wagering parameters, including, but not limited to, deposits and wagers; and

(d) An easy and obvious method for a player to make a complaint and to enable the player to notify the commission if such complaint has not been or cannot be addressed by the sports wagering operator.

(4) The commission shall develop policies and procedures to ensure a prohibited participant is unable to place a sports wager.

Source: Laws 2021, LB561, § 34.
Effective date May 26, 2021.

9-1111 Game of chance; cheating; gaming device; manipulation; penalties.

(1) Any person who knowingly cheats at any game of chance is guilty of a Class I misdemeanor.

(2) Any person who manipulates, with the intent to cheat, any component of a gaming device in a manner contrary to the designed and normal operational purpose of the component, including varying the pull of the handle of a gaming machine, with knowledge that the manipulation affects the outcome of the game or with knowledge of any event that affects the outcome of the game, is guilty of a Class I misdemeanor.

Source: Laws 2021, LB561, § 35.
Effective date May 26, 2021.

9-1112 Participation in unlawful manner; violations; penalties.

(1) Any person who, in playing any game of chance designed to be played with or to receive or to be operated by tokens approved by the commission or by lawful currency of the United States, knowingly uses tokens other than those approved by the commission, uses currency that is not lawful currency of the United States, or uses currency not of the same denomination as the currency intended to be used in that game is guilty of a Class I misdemeanor.

(2) Any person who knowingly has in such person's possession within a gaming facility any device intended to be used to violate the Nebraska Racetrack Gaming Act is guilty of a Class I misdemeanor.

(3) Any person, other than a duly authorized employee of an authorized gaming operator acting in furtherance of such person's employment within a gaming facility, who knowingly has in such person's possession within a gaming facility any key or device known by such person to have been designed for the purpose of and suitable for opening, entering, or affecting the operation of any game, any dropbox, or any electronic or mechanical device connected to the game or dropbox, is guilty of a Class I misdemeanor.

(4) Any person who knowingly and with intent to use any paraphernalia for manufacturing slugs for cheating or has such paraphernalia in such person's possession is guilty of a Class I misdemeanor. Possession of more than two items of the equipment, products, or material described in subdivision (4)(a) or (b) of this section permits a rebuttable presumption that the possessor intended to use such paraphernalia for cheating. For purposes of this subsection, paraphernalia for manufacturing slugs (a) means the equipment, products, and materials that are intended for use or designed for use in manufacturing, producing, fabricating, preparing, testing, analyzing, packaging, storing, or concealing a counterfeit facsimile of tokens approved by the commission or a lawful coin of the United States, the use of which is unlawful pursuant to the Nebraska Racetrack Gaming Act, and (b) includes: (i) Lead or lead alloy; (ii) molds, forms, or similar equipment capable of producing a likeness of a gaming token or coin; (iii) melting pots or other receptacles; (iv) torches; and (v) tongs, trimming tools, or other similar equipment.

Source: Laws 2021, LB561, § 36.
Effective date May 26, 2021.

9-1113 Gaming device; acts prohibited; penalties.

(1) A person who manufactures, sells, or distributes a device that is intended by such person to be used to violate any provision of the Nebraska Racetrack Gaming Act is guilty of a Class I misdemeanor.

(2) A person who marks, alters, or otherwise modifies any gaming device in a manner that (a) affects the result of a wager by determining win or loss or (b) alters the normal criteria of random selection that (i) affects the operation of a game of chance or (ii) determines the outcome of a game of chance is guilty of a Class I misdemeanor.

(3) A person who knowingly possesses any gaming device that has been manufactured, sold, or distributed in violation of the Nebraska Racetrack Gaming Act is guilty of a Class I misdemeanor.

Source: Laws 2021, LB561, § 37.
Effective date May 26, 2021.

9-1114 Making false or misleading statement or entry or failure to maintain or make an entry; penalty.

A person who, in an application, book, or record required to be maintained or in a report required to be submitted by the Nebraska Racetrack Gaming Act or a rule or regulation adopted and promulgated by the commission, knowingly makes a statement or entry that is false or misleading or fails to maintain or

make an entry the person knows is required to be maintained or made is guilty of a Class I misdemeanor.

Source: Laws 2021, LB561, § 38.
Effective date May 26, 2021.

9-1115 Participation prohibited; violations; penalties.

(1) A person who knowingly permits an individual whom the person knows is younger than twenty-one years of age to participate in a game of chance is guilty of a Class I misdemeanor.

(2) A person who participates in a game of chance when such person is younger than twenty-one years of age at the time of participation is guilty of a Class I misdemeanor.

Source: Laws 2021, LB561, § 39.
Effective date May 26, 2021.

9-1116 Violations; general penalty provisions.

A person who willfully violates, attempts to violate, or conspires to violate any of the provisions of the Nebraska Racetrack Gaming Act for which no other penalty is provided is guilty of a Class I misdemeanor.

Source: Laws 2021, LB561, § 40.
Effective date May 26, 2021.

ARTICLE 12

TAXATION OF GAMES OF CHANCE

Section
9-1201. Annual gaming tax.
9-1202. Terms, defined.
9-1203. Tax; amount; collection.
9-1204. Tax; proceeds; distribution.
9-1205. Tax; report.
9-1206. Tax; delinquent; penalty; interest.
9-1207. Reports; violations; penalty.
9-1208. Severability.
9-1209. Failure to pay tax or fee; lien; procedures; priority; extension; termination; release or subordination.

9-1201 Annual gaming tax.

To the full extent permitted by the Constitution of Nebraska, including amendments to the Constitution of Nebraska adopted contemporaneously with the enactment of sections 9-1201 to 9-1208, an annual gaming tax is hereby imposed on the operation of all games of chance by authorized gaming operators within licensed racetrack enclosures.

Source: Initiative Law 2020, No. 431, § 1.

9-1202 Terms, defined.

For purposes of sections 9-1201 to 9-1209:

(1) Authorized gaming operator means a person or entity licensed pursuant to the Nebraska Racetrack Gaming Act to operate games of chance within a licensed racetrack enclosure;

(2) Designated sports wagering area means an area, as designated by the gaming commission, in which sports wagering is conducted;

(3) Dollar amount collected means the total dollar amount wagered by players of games of chance less the total dollar amount returned to such players as prizes;

(4) Game of chance means any game which has the elements of chance, prize, and consideration, including any wager on a slot machine, table game, counter game, or card game, a keno lottery conducted in accordance with the Nebraska County and City Lottery Act, or sports wagering. Game of chance does not include any game the operation of which is prohibited at a casino by federal law;

(5) Gaming commission means the State Racing and Gaming Commission;

(6) Gross gaming revenue means the dollar amount collected by an authorized gaming operator from operation of all games of chance within a licensed racetrack enclosure as computed pursuant to applicable statutes, rules, and regulations less the total of (a) all federal taxes, other than income taxes, imposed on the operation of such games of chance and (b) the amount provided to players by an authorized gaming operator as promotional gaming credits, but only to the extent such promotional gaming credits are redeemed by players to play one or more games of chance being operated by the authorized gaming operator;

(7) Licensed racetrack enclosure means a premises at which licensed live horseracing is conducted in accordance with the Constitution of Nebraska and applicable Nebraska law;

(8) Promotional gaming credit means a credit, token, or other item of value provided by an authorized gaming operator to a player for the purpose of enabling the player to play a game of chance; and

(9) Sports wagering has the same meaning as in section 9-1103.

Source: Initiative Law 2020, No. 431, § 2; Laws 2021, LB561, § 41. Effective date May 26, 2021.

Cross References

Nebraska County and City Lottery Act, see section 9-601.
Nebraska Racetrack Gaming Act, see section 9-1101.

9-1203 Tax; amount; collection.

An annual gaming tax is imposed on gross gaming revenue generated by authorized gaming operators within licensed racetrack enclosures from the operation of all games of chance equal to twenty percent of such gross gaming revenue. The gaming commission shall collect the tax and shall account for and remit such tax as set forth by law.

Source: Initiative Law 2020, No. 431, § 3.

9-1204 Tax; proceeds; distribution.

Of the tax imposed by section 9-1203, seventy-five percent shall be remitted to the State Treasurer for credit as follows: Two and one-half percent to the Compulsive Gamblers Assistance Fund, two and one-half percent to the General Fund, and seventy percent to the Property Tax Credit Cash Fund. The remaining twenty-five percent of the tax shall be remitted to the county treasurer of the county in which the licensed racetrack enclosure is located to be distributed

as follows: (1) If the licensed racetrack enclosure is located completely within an unincorporated area of a county, the remaining twenty-five percent shall be distributed to the county in which such licensed racetrack enclosure is located; or (2) if the licensed racetrack enclosure is located at least partially within the limits of a city or village in such county, one-half of the remaining twenty-five percent shall be distributed to such county and one-half of the remaining twenty-five percent to the city or village in which such licensed racetrack enclosure is at least partially located.

Source: Initiative Law 2020, No. 431, § 4.

9-1205 Tax; report.

Every authorized gaming operator subject to taxation as set forth in sections 9-1201 to 9-1209 shall pay such tax and make report thereof to the gaming commission under such rules and regulations as may be prescribed by the gaming commission.

Source: Initiative Law 2020, No. 431, § 5; Laws 2021, LB561, § 43.
Effective date May 26, 2021.

9-1206 Tax; delinquent; penalty; interest.

If the tax provided for in sections 9-1201 to 9-1209 is not paid within such time as may be prescribed for payment thereof by rules and regulations prescribed by the gaming commission, the same shall become delinquent and a penalty of ten percent shall be added thereto, together with interest at the rate specified in section 45-104.02, as such rate may from time to time be adjusted, until paid.

Source: Initiative Law 2020, No. 431, § 6; Laws 2021, LB561, § 44.
Effective date May 26, 2021.

9-1207 Reports; violations; penalty.

Any authorized gaming operator that willfully fails, neglects, or refuses to make any report required by sections 9-1201 to 9-1209, or by rules and regulations adopted and promulgated under sections 9-1201 to 9-1209, or that knowingly makes any false statement in any such report, is guilty of a Class I misdemeanor.

Source: Initiative Law 2020, No. 431, § 7; Laws 2021, LB561, § 45.
Effective date May 26, 2021.

9-1208 Severability.

If any section or provision of sections 9-1201 to 9-1208 is determined by a court of competent jurisdiction to be unconstitutional or otherwise void or invalid for any reason, such determination shall not affect the validity of sections 9-1201 to 9-1208 as a whole or any part thereof, other than the part so determined to be unconstitutional or otherwise void or invalid.

Source: Initiative Law 2020, No. 431, § 8.

9-1209 Failure to pay tax or fee; lien; procedures; priority; extension; termination; release or subordination.

(1) If any person liable to pay any tax or fee under the Nebraska Racetrack Gaming Act or sections 9-1201 to 9-1208 neglects or refuses to pay such tax or

fee after demand, the amount of such tax or fee, including any interest, penalty, and additions to such tax, and such additional costs that may accrue, shall be a lien in favor of the gaming commission upon all property and rights to property, whether real or personal, then owned by such person or acquired by such person thereafter and prior to the expiration of the lien. Unless another date is specifically provided by law, such lien shall arise at the time of the assessment and shall remain in effect: (a) For three years from the time of the assessment or one year after the expiration of an agreement between the gaming commission and a taxpayer for payment of tax which is due, whichever is later, if the notice of lien is not filed for record in the office of the appropriate filing officer; (b) for ten years from the time of filing for record in the office of the appropriate filing officer; or (c) until such amounts have been paid or a judgment against such person arising out of such liability has been satisfied or has become unenforceable by reason of lapse of time, unless a continuation statement is filed prior to the lapse.

(2)(a) The gaming commission may present for filing or file for record in the office of the appropriate filing officer a notice of lien specifying the year the tax was due, the tax program, and the amount of the tax and any interest, penalty, or addition to such tax that are due. Such notice shall be filed for record in the office of the appropriate filing officer within three years after the time of assessment or within one year after the expiration of an agreement between the gaming commission and a taxpayer for payment of tax which is due, whichever is later. Such notice shall contain the name and last-known address of the taxpayer, the last four digits of the taxpayer's social security number or federal identification number, the gaming commission's serial number, and a statement to the effect that the gaming commission has complied with all provisions of the Nebraska Racetrack Gaming Act and sections 9-1201 to 9-1208 in the determination of the amount of the tax and any interest, penalty, and addition to such tax required to be paid.

(b) If the assets of the taxpayer are in the control or custody of the court in any proceeding before any court of the United States or of any state or the District of Columbia, before the end of the time period in subdivision (2)(a) of this section, the notice shall be filed for record within the time period or within six months after the assets are released by the court, whichever is later.

(3)(a) A lien imposed upon real property pursuant to the Uniform State Tax Lien Registration and Enforcement Act shall be valid against any subsequent creditor when notice of such lien and the amount due has been presented for filing by the gaming commission in the office of the Secretary of State and filed in the office of the register of deeds. A lien imposed upon personal property pursuant to the Uniform State Tax Lien Registration and Enforcement Act shall be valid against any subsequent creditor when notice of such lien and the amount due has been filed by the gaming commission in the office of the Secretary of State.

(b) In the case of any prior mortgage on real property or secured transaction covering personal property so written as to secure a present debt and future advances, the lien provided in this section, when notice thereof has been filed in the office of the appropriate filing officer, shall be subject to such prior lien unless the gaming commission has notified the lienholder in writing of the recording of such tax lien, in which case the lien of any indebtedness thereafter created under such mortgage or secured transaction shall be junior to the lien provided for in this section.

(4) The lien may, within ten years from the date of filing for record of the notice of lien in the office of the appropriate filing officer, be extended by filing for record a continuation statement. Upon timely filing of the continuation statement, the effectiveness of the original notice shall be continued for ten years after the last date to which the filing was effective. After such period the notice shall lapse in the manner prescribed in subsection (1) of this section unless another continuation statement is filed prior to such lapse.

(5) When a termination statement of any tax lien issued by the gaming commission is filed in the office where the notice of lien is filed, the appropriate filing officer shall enter such statement with the date of filing in the state tax lien index where notice of the lien so terminated is entered and shall file the termination statement with the notice of the lien.

(6) The gaming commission may at any time, upon request of any party involved, release from a lien all or any portion of the property subject to any lien provided for in the Uniform State Tax Lien Registration and Enforcement Act or subordinate a lien to other liens and encumbrances if the gaming commission determines that (a) the tax amount and any interest, penalties, and additions to such tax have been paid or secured sufficiently by a lien on other property, (b) the lien has become legally unenforceable, (c) a surety bond or other satisfactory security has been posted, deposited, or pledged with the gaming commission in an amount sufficient to secure the payment of such taxes and any interest, penalties, and additions to such taxes, or (d) the release, partial release, or subordination of the lien will not jeopardize the collection of such taxes and any interest, penalties, and additions to such taxes.

(7) A certificate by the gaming commission stating that any property has been released from the lien or the lien has been subordinated to other liens and encumbrances shall be conclusive evidence that the property has in fact been released or the lien has been subordinated pursuant to the certificate.

Source: Laws 2021, LB561, § 42.
Effective date May 26, 2021.

Cross References

Nebraska Racetrack Gaming Act, see section 9-1101.
Uniform State Tax Lien Registration and Enforcement Act, see section 77-3901.

CHAPTER 11
BONDS AND OATHS, OFFICIAL

Article.
1. Official Bonds and Oaths. 11-125.

ARTICLE 1
OFFICIAL BONDS AND OATHS

Section
11-125. Bonds; county officers; premium paid by county; conditions.

11-125 Bonds; county officers; premium paid by county; conditions.

If any county treasurer, county attorney, clerk of the district court, county clerk, county assessor, register of deeds, county sheriff, county commissioner or supervisor, or acting officer who is appointed as provided by section 32-561 furnishes a bond executed by a surety company authorized by the laws of this state to execute such bond and such bond is approved by the county board, then the county may pay the premium for such bond. Any surety bond so executed and approved shall contain a covenant to the effect that when the stated term of the bond is reduced to a shorter term by reason of the death, resignation, or removal from office of such official for a cause not imposing liability on the bond, the obligor shall refund to the county the unearned portion of the premium so paid for the term of the bond subject to a reasonable minimum premium charge.

Source: Laws 1905, c. 49, § 1, p. 294; R.S.1913, § 5731; C.S.1922, § 5060; C.S.1929, § 12-124; Laws 1935, c. 25, § 1, p. 118; Laws 1941, c. 17, § 1, p. 101; C.S.Supp.,1941, § 12-124; Laws 1943, c. 21, § 1(1), p. 112; R.S.1943, § 11-125; Laws 1972, LB 1032, § 94; Laws 1994, LB 76, § 467; Laws 1999, LB 272, § 2; Laws 2021, LB355, § 1.
Effective date August 28, 2021.

CHAPTER 12
CEMETERIES

Article.
5. Cemetery Associations. 12-501, 12-502.

ARTICLE 5
CEMETERY ASSOCIATIONS

Section
12-501. Formation; trustees; election; notice; clerk; right to establish cemetery limited.
12-502. Formation; record of proceedings; certification; effect; certified transcript as evidence; duty of county clerk; fees.

12-501 Formation; trustees; election; notice; clerk; right to establish cemetery limited.

(1) For purposes of sections 12-501 to 12-532, cemetery association means an association formed under such sections.

(2) Every cemetery, other than those owned, operated, and maintained by the state, by towns, villages, and cities, by churches, by public charitable corporations, by cemetery districts, and by fraternal and benevolent societies, shall be owned, conducted, and managed by cemetery associations organized and incorporated as provided in sections 12-501 to 12-532 except as specifically provided in sections 12-530 and 12-812.

(3) The establishment of a cemetery by any agency other than those enumerated in this section shall constitute a nuisance, and its operation may be enjoined at the suit of any taxpayer in the state.

(4) Any number of the following individuals, not less than five, may form and organize a cemetery association: (a) A resident of the county in which the cemetery association is to be formed, (b) an owner of a lot within the cemetery for which the cemetery association is formed, and (c) any family member, including, but not limited to, a parent, spouse, sibling, child, or grandchild, of an individual buried in such cemetery. Cemetery association members shall elect at least three members to serve as trustees and one member to serve as clerk, who shall continue to serve in office at the pleasure of the association. All such elections shall take place at a meeting of four or more members of such association by a majority vote of those present. A notice for such meeting shall be published in a local newspaper, or posted in three places within the precinct or township in which the cemetery is or will be located, at least fifteen days prior to the meeting.

Source: R.S.1866, c. 25, § 45, p. 205; Laws 1905, c. 38, § 1, p. 274; R.S.1913, § 679; C.S.1922, § 588; C.S.1929, § 13-501; Laws 1935, c. 27, § 1, p. 121; C.S.Supp.,1941, § 13-501; R.S.1943, § 12-501; Laws 2014, LB863, § 3; Laws 2021, LB312, § 1. Effective date August 28, 2021.

12-502 Formation; record of proceedings; certification; effect; certified transcript as evidence; duty of county clerk; fees.

The clerk of the cemetery association shall make out a true record of the proceedings of the meeting provided for by section 12-501 and certify and deliver the same to the clerk of the county in which the cemetery is located, together with the name by which such association shall be known. The county clerk, immediately upon the receipt of such certified statement, shall record the same in a book provided by the county clerk for that purpose at the expense of the county and shall be entitled to the same fees for the services as the county clerk is entitled to demand for other similar services. After the making of such record by the county clerk, the trustees and the associated members and successors shall be invested with the powers, privileges, and immunities incident to aggregate corporations. A certified transcript of the record made by the county clerk shall be deemed and taken in all courts and places whatsoever within this state as prima facie evidence of the existence of such cemetery association.

Source: R.S.1866, c. 25, § 46, p. 205; R.S.1913, § 680; C.S.1922, § 589; C.S.1929, § 13-502; R.S.1943, § 12-502; Laws 2014, LB863, § 4; Laws 2021, LB312, § 2.
Effective date August 28, 2021.

CHAPTER 13
CITIES, COUNTIES, AND OTHER POLITICAL SUBDIVISIONS

ARTICLE 5
BUDGETS

(a) NEBRASKA BUDGET ACT

(d) BUDGET LIMITATIONS

(a) NEBRASKA BUDGET ACT

13-506 Proposed budget statement; notice; contents; hearing; adoption; certify to board; file with auditor; school district; duties.

(1) Each governing body shall each year or biennial period conduct a public hearing on its proposed budget statement. Such hearing shall be held separately from any regularly scheduled meeting of the governing body and shall not be limited by time. Notice of place and time of such hearing, together with a summary of the proposed budget statement, shall be published at least four calendar days prior to the date set for hearing in a newspaper of general circulation within the governing body's jurisdiction. For purposes of such notice, the four calendar days shall include the day of publication but not the day of hearing. When the total operating budget, not including reserves, does not exceed ten thousand dollars per year or twenty thousand dollars per biennial period, the proposed budget summary may be posted at the governing body's principal headquarters. At such hearing, the governing body shall make at least three copies of the proposed budget statement available to the public and shall make a presentation outlining key provisions of the proposed budget statement, including, but not limited to, a comparison with the prior year's budget. Any member of the public desiring to speak on the proposed budget statement shall be allowed to address the governing body at the hearing and

shall be given a reasonable amount of time to do so. After such hearing, the proposed budget statement shall be adopted, or amended and adopted as amended, and a written record shall be kept of such hearing. The amount to be received from personal and real property taxation shall be certified to the levying board after the proposed budget statement is adopted or is amended and adopted as amended. If the levying board represents more than one county, a member or a representative of the governing board shall, upon the written request of any represented county, appear and present its budget at the hearing of the requesting county. The certification of the amount to be received from personal and real property taxation shall specify separately (a) the amount to be applied to the payment of principal or interest on bonds issued by the governing body and (b) the amount to be received for all other purposes. If the adopted budget statement reflects a change from that shown in the published proposed budget statement, a summary of such changes shall be published within twenty calendar days after its adoption in the manner provided in this section, but without provision for hearing, setting forth the items changed and the reasons for such changes.

(2) Upon approval by the governing body, the budget shall be filed with the auditor. The auditor may review the budget for errors in mathematics, improper accounting, and noncompliance with the Nebraska Budget Act or sections 13-518 to 13-522. If the auditor detects such errors, he or she shall immediately notify the governing body of such errors. The governing body shall correct any such error as provided in section 13-511. Warrants for the payment of expenditures provided in the budget adopted under this section shall be valid notwithstanding any errors or noncompliance for which the auditor has notified the governing body.

(3) Each school district shall include in the notice required pursuant to subsection (1) of this section the following statement: For more information on statewide receipts and expenditures, and to compare cost per pupil and performance to other school districts, go to: [Insert Internet address for the website established pursuant to section 79-302.01]. In addition, each school district shall electronically publish such statement on the school district website. Such electronic publication shall be prominently displayed with an active link to the Internet address for the website established pursuant to section 79-302.01 to allow the public access to the information.

Source: Laws 1969, c. 145, § 5, p. 672; Laws 1971, LB 129, § 2; Laws 1973, LB 95, § 1; R.S.1943, (1983), § 23-925; Laws 1993, LB 310, § 5; Laws 1996, LB 1362, § 2; Laws 1997, LB 271, § 11; Laws 1999, LB 86, § 4; Laws 2002, LB 568, § 3; Laws 2013, LB111, § 4; Laws 2017, LB151, § 1; Laws 2020, LB148, § 2; Laws 2021, LB528, § 4.
Operative date August 28, 2021.

13-508 Adopted budget statement; certified taxable valuation; levy.

(1) After publication and hearing thereon and within the time prescribed by law, each governing body shall file with and certify to the levying board or boards on or before September 30 of each year or September 30 of the final year of a biennial period and file with the auditor a copy of the adopted budget statement which complies with sections 13-518 to 13-522 or 79-1023 to 79-1030, together with the amount of the tax required to fund the adopted

budget, setting out separately (a) the amount to be levied for the payment of principal or interest on bonds issued by the governing body and (b) the amount to be levied for all other purposes. Proof of publication shall be attached to the statements. For fiscal years prior to fiscal year 2017-18, learning communities shall also file a copy of such adopted budget statement with member school districts on or before September 1 of each year. If the prime rate published by the Federal Reserve Board is ten percent or more at the time of the filing and certification required under this subsection, the governing body, in certifying the amount required, may make allowance for delinquent taxes not exceeding five percent of the amount required plus the actual percentage of delinquent taxes for the preceding tax year or biennial period and for the amount of estimated tax loss from any pending or anticipated litigation which involves taxation and in which tax collections have been or can be withheld or escrowed by court order. For purposes of this section, anticipated litigation shall be limited to the anticipation of an action being filed by a taxpayer who or which filed a similar action for the preceding year or biennial period which is still pending. Except for such allowances, a governing body shall not certify an amount of tax more than one percent greater or lesser than the amount determined under section 13-505.

(2) Each governing body shall use the certified taxable values as provided by the county assessor pursuant to section 13-509 for the current year in setting or certifying the levy. Each governing body may designate one of its members to perform any duty or responsibility required of such body by this section.

Source: Laws 1969, c. 145, § 7, p. 672; Laws 1971, LB 129, § 3; Laws 1977, LB 391, § 1; Laws 1979, LB 178, § 1; R.S.1943, (1983), § 23-927; Laws 1989, LB 643, § 1; Laws 1992, LB 1063, § 4; Laws 1992, Second Spec. Sess., LB 1, § 4; Laws 1993, LB 310, § 6; Laws 1993, LB 734, § 19; Laws 1995, LB 452, § 2; Laws 1996, LB 299, § 11; Laws 1996, LB 900, § 1018; Laws 1996, LB 1362, § 3; Laws 1997, LB 269, § 10; Laws 1998, LB 306, § 2; Laws 1998, Spec. Sess., LB 1, § 1; Laws 1999, LB 86, § 5; Laws 2002, LB 568, § 4; Laws 2006, LB 1024, § 2; Laws 2008, LB1154, § 1; Laws 2009, LB166, § 1; Laws 2013, LB111, § 5; Laws 2016, LB1067, § 2; Laws 2017, LB432, § 1; Laws 2018, LB377, § 1; Laws 2021, LB644, § 6.
Operative date January 1, 2022.

13-513 Auditor; request information; late fee; failure to provide information; auditor powers.

(1) The auditor shall, on or before August 1 each year, request information from each governing body in a form prescribed by the auditor regarding (a) trade names, corporate names, or other business names under which the governing body operates and (b) agreements to which the governing body is a party under the Interlocal Cooperation Act and the Joint Public Agency Act. Each governing body shall provide such information to the auditor on or before September 30.

(2) Information requested pursuant to this section that is not received by the auditor on or before September 30 shall be delinquent. The auditor shall notify the political subdivision by facsimile transmission, email, or first-class mail of such delinquency. Beginning on the day that such notification is sent, the

auditor may assess the political subdivision a late fee of twenty dollars per day for each calendar day the requested information remains delinquent. The total late fee assessed to a political subdivision under this section shall not exceed two thousand dollars per delinquency.

(3) The auditor shall remit to the State Treasurer for credit to the Auditor of Public Accounts Cash Fund a remedial fee sufficient to reimburse the direct costs of administering and enforcing this section, but such remedial fee shall not exceed one hundred dollars from any late fee received under this section. The auditor shall remit any late fee amount in excess of one hundred dollars received under this section to the State Treasurer to be distributed in accordance with Article VII, section 5, of the Constitution of Nebraska.

(4) If a political subdivision fails to provide the information requested under this section on or before September 30, the auditor may, at his or her discretion, audit such political subdivision. The expense of such audit shall be paid by the political subdivision.

Source: Laws 2004, LB 939, § 2; Laws 2013, LB192, § 1; Laws 2017, LB151, § 3; Laws 2021, LB644, § 7.
Operative date January 1, 2022.

Cross References

Interlocal Cooperation Act, see section 13-801.
Joint Public Agency Act, see section 13-2501.

(d) BUDGET LIMITATIONS

13-518 Terms, defined.

For purposes of sections 13-518 to 13-522:

(1) Allowable growth means (a) for governmental units other than community colleges, the percentage increase in taxable valuation in excess of the base limitation established under section 77-3446, if any, due to improvements to real property as a result of new construction, additions to existing buildings, any improvements to real property which increase the value of such property, and any increase in valuation due to annexation and any personal property valuation over the prior year and (b) for community colleges, the percentage increase in excess of the base limitation, if any, in full-time equivalent students from the second year to the first year preceding the year for which the budget is being determined;

(2) Capital improvements means (a) acquisition of real property or (b) acquisition, construction, or extension of any improvements on real property;

(3) Governing body has the same meaning as in section 13-503;

(4) Governmental unit means every political subdivision which has authority to levy a property tax or authority to request levy authority under section 77-3443 except sanitary and improvement districts which have been in existence for five years or less and school districts;

(5) Qualified sinking fund means a fund or funds maintained separately from the general fund to pay for acquisition or replacement of tangible personal property with a useful life of five years or more which is to be undertaken in the future but is to be paid for in part or in total in advance using periodic payments into the fund. The term includes sinking funds under subdivision (13) of section 35-508 for firefighting and rescue equipment or apparatus;

(6) Restricted funds means (a) property tax, excluding any amounts refunded to taxpayers, (b) payments in lieu of property taxes, (c) local option sales taxes, (d) motor vehicle taxes, (e) state aid, (f) transfers of surpluses from any user fee, permit fee, or regulatory fee if the fee surplus is transferred to fund a service or function not directly related to the fee and the costs of the activity funded from the fee, (g) any funds excluded from restricted funds for the prior year because they were budgeted for capital improvements but which were not spent and are not expected to be spent for capital improvements, (h) the tax provided in sections 77-27,223 to 77-27,227 beginning in the second fiscal year in which the county will receive a full year of receipts, and (i) any excess tax collections returned to the county under section 77-1776. Funds received pursuant to the nameplate capacity tax levied under section 77-6203 for the first five years after a renewable energy generation facility has been commissioned are nonrestricted funds; and

(7) State aid means:

(a) For all governmental units, state aid paid pursuant to sections 60-3,202 and 77-3523 and reimbursement provided pursuant to section 77-1239;

(b) For municipalities, state aid to municipalities paid pursuant to sections 39-2501 to 39-2520, 60-3,190, and 77-27,139.04 and insurance premium tax paid to municipalities;

(c) For counties, state aid to counties paid pursuant to sections 60-3,184 to 60-3,190, insurance premium tax paid to counties, and reimbursements to counties from funds appropriated pursuant to section 29-3933;

(d) For community colleges, state aid to community colleges paid pursuant to the Community College Aid Act;

(e) For educational service units, state aid appropriated under sections 79-1241.01 and 79-1241.03; and

(f) For local public health departments as defined in section 71-1626, state aid as distributed under section 71-1628.08.

Source: Laws 1996, LB 299, § 1; Laws 1997, LB 269, § 11; Laws 1998, LB 989, § 1; Laws 1998, LB 1104, § 4; Laws 1999, LB 36, § 2; Laws 1999, LB 86, § 7; Laws 1999, LB 881, § 6; Laws 2001, LB 335, § 1; Laws 2002, LB 259, § 6; Laws 2002, LB 876, § 3; Laws 2003, LB 540, § 1; Laws 2003, LB 563, § 16; Laws 2004, LB 1005, § 1; Laws 2005, LB 274, § 222; Laws 2007, LB342, § 30; Laws 2009, LB218, § 1; Laws 2009, LB549, § 1; Laws 2010, LB1048, § 1; Laws 2010, LB1072, § 1; Laws 2011, LB59, § 1; Laws 2011, LB383, § 1; Laws 2012, LB946, § 8; Laws 2015, LB259, § 4; Laws 2015, LB424, § 1; Laws 2017, LB382, § 1; Laws 2019, LB3, § 1; Laws 2021, LB509, § 1.
Effective date August 28, 2021.

Cross References

Community College Aid Act, see section 85-2231.

13-520 Limitations; not applicable to certain restricted funds.

The limitations in section 13-519 shall not apply to (1) restricted funds budgeted for capital improvements, (2) restricted funds expended from a qualified sinking fund for acquisition or replacement of tangible personal property with a useful life of five years or more, (3) restricted funds pledged to

retire bonds as defined in subdivision (1) of section 10-134 and approved according to law, (4) restricted funds used by a public airport to retire interest-free loans from the Division of Aeronautics of the Department of Transportation in lieu of bonded indebtedness at a lower cost to the public airport, (5) restricted funds budgeted in support of a service which is the subject of an agreement or a modification of an existing agreement whether operated by one of the parties to the agreement or by an independent joint entity or joint public agency, (6) restricted funds budgeted to pay for repairs to infrastructure damaged by a natural disaster which is declared a disaster emergency pursuant to the Emergency Management Act, (7) restricted funds budgeted to pay for judgments, except judgments or orders from the Commission of Industrial Relations, obtained against a governmental unit which require or obligate a governmental unit to pay such judgment, to the extent such judgment is not paid by liability insurance coverage of a governmental unit, (8) restricted funds budgeted to pay benefits under the Firefighter Cancer Benefits Act, or (9) the dollar amount by which restricted funds budgeted by a natural resources district to administer and implement ground water management activities and integrated management activities under the Nebraska Ground Water Management and Protection Act exceed its restricted funds budgeted to administer and implement ground water management activities and integrated management activities for FY2003-04.

Source: Laws 1996, LB 299, § 3; Laws 1998, LB 989, § 3; Laws 1999, LB 86, § 8; Laws 1999, LB 87, § 54; Laws 1999, LB 141, § 1; Laws 2004, LB 962, § 4; Laws 2009, LB121, § 2; Laws 2015, LB261, § 2; Laws 2017, LB339, § 73; Laws 2019, LB212, § 2; Laws 2021, LB432, § 10.
Operative date August 28, 2021.

Cross References

Emergency Management Act, see section 81-829.36.
Firefighter Cancer Benefits Act, see section 35-1002.
Nebraska Ground Water Management and Protection Act, see section 46-701.

ARTICLE 26

CONVENTION CENTER FACILITY FINANCING ASSISTANCE ACT

Section
13-2610. Convention Center Support Fund; created; use; investment; distribution to certain areas; development fund; committee; report.

13-2610 Convention Center Support Fund; created; use; investment; distribution to certain areas; development fund; committee; report.

(1) Upon the annual certification under section 13-2609, the State Treasurer shall transfer after the audit the amount certified to the Convention Center Support Fund. The Convention Center Support Fund is created. Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Convention Center Support Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2)(a) It is the intent of the Legislature to appropriate from the fund to any political subdivision for which an application for state assistance under the Convention Center Facility Financing Assistance Act has been approved an

amount not to exceed (i) seventy percent of the state sales tax revenue collected by retailers and operators doing business at such facilities on sales at such facilities, state sales tax revenue collected on primary and secondary box office sales of admissions to such facilities, and state sales tax revenue collected by associated hotels, (ii) seventy-five million dollars for any one approved project, or (iii) the total cost of acquiring, constructing, improving, or equipping the eligible facility. State assistance shall not be used for an operating subsidy or other ancillary facility.

(b) It is further the intent of the Legislature to appropriate from the fund to any city of the metropolitan class for which an application for state assistance under the Convention Center Facility Financing Assistance Act has been approved an amount not to exceed the amount of money transferred to the fund pursuant to subdivision (9)(a) of section 13-3108.

(3)(a) Ten percent of the funds appropriated to a city of the metropolitan class under subdivision (2)(a) of this section and all of the funds appropriated to a city of the metropolitan class under subdivision (2)(b) of this section shall be equally distributed to areas with a high concentration of poverty to (i) showcase important historical aspects of such areas or areas within close geographic proximity of the area with a high concentration of poverty, (ii) assist with the reduction of street and gang violence in such areas, or (iii) assist with small business and entrepreneurship growth in such areas.

(b) Each area with a high concentration of poverty that has been distributed funds under subdivision (3)(a) of this section shall establish a development fund and form a committee which shall identify and research potential projects to be completed in the area with a high concentration of poverty or in an area within close geographic proximity of such area if the project would have a significant or demonstrable impact on such area and make final determinations on the use of the funds received for such projects.

(c) A committee formed under subdivision (3)(b) of this section shall include the following members:

(i) The member of the city council whose district includes a majority of the census tracts which each contain a percentage of persons below the poverty line of greater than thirty percent, as determined by the most recent federal decennial census, within the area with a high concentration of poverty;

(ii) The commissioner of the county whose district includes a majority of the census tracts which each contain a percentage of persons below the poverty line of greater than thirty percent, as determined by the most recent federal decennial census, within the area with a high concentration of poverty;

(iii) Two residents of the area with a high concentration of poverty, appointed by the two members of the committee described in subdivisions (3)(c)(i) and (ii) of this section. Such resident members shall be appointed for four-year terms. Each time a resident member is to be appointed pursuant to this subdivision, the committee shall solicit applications from interested individuals by posting notice of the open position on the city's website and on the city's official social media accounts, if any, and by publishing the notice in a legal newspaper in or of general circulation in the area with a high concentration of poverty. Prior to making any appointment, the committee shall hold a public hearing in the area with a high concentration of poverty. Notice of the hearing shall be provided, at least seven days prior to the hearing, by posting the notice on the city's website and on the city's official social media accounts, if any, and by publishing the

notice in a legal newspaper in or of general circulation in the area with a high concentration of poverty; and

(iv) The member of the Legislature whose district includes a majority of the census tracts which each contain a percentage of persons below the poverty line of greater than thirty percent, as determined by the most recent federal decennial census, within the area with a high concentration of poverty. The member described in this subdivision shall be a nonvoting member of the committee.

(d) A committee formed under subdivision (3)(b) of this section shall solicit project ideas from the public and shall hold a public hearing in the area with a high concentration of poverty. Notice of a proposed hearing shall be provided in accordance with the procedures for notice of a public hearing pursuant to section 18-2115.01. The committee shall research potential projects and make the final determination regarding the annual distribution of funding to such projects.

(e) On or before July 1, 2022, and on or before July 1 of each year thereafter, a committee formed under subdivision (3)(b) of this section shall electronically submit a report to the Legislature which includes:

(i) A description of the projects that were funded during the most recently completed calendar year;

(ii) A description of where such projects were located;

(iii) A description of the outcomes of such projects; and

(iv) A ten-year strategic plan on how the committee plans to meet the goals described in subdivision (3)(a) of this section.

(f) For purposes of this subsection, an area with a high concentration of poverty means an area within the corporate limits of a city of the metropolitan class consisting of one or more contiguous census tracts, as determined by the most recent federal decennial census, which contain a percentage of persons below the poverty line of greater than thirty percent, and all census tracts contiguous to such tract or tracts, as determined by the most recent federal decennial census.

(4)(a) Ten percent of the funds appropriated to a city of the primary class under subdivision (2)(a) of this section may, if the city determines by consent of the city council that such funds are not currently needed for the purposes described in section 13-2604, be used as follows:

(i) For investment in the construction of qualified low-income housing projects as defined in 26 U.S.C. 42, including qualified projects receiving Nebraska affordable housing tax credits under the Affordable Housing Tax Credit Act; or

(ii) If there are no such qualified low-income housing projects as defined in 26 U.S.C. 42 being constructed or expected to be constructed within the political subdivision, for investment in areas with a high concentration of poverty to assist with low-income housing needs.

(b) For purposes of this subsection, an area with a high concentration of poverty means an area within the corporate limits of a city of the primary class consisting of one or more contiguous census tracts, as determined by the most recent American Community Survey 5-Year Estimate, which contain a percentage of persons below the poverty line of greater than thirty percent, and all

census tracts contiguous to such tract or tracts, as determined by the most recent American Community Survey 5-Year Estimate.

(5) State assistance to the political subdivision shall no longer be available upon the retirement of the bonds issued to acquire, construct, improve, or equip the facility or any subsequent bonds that refunded the original issue or when state assistance reaches the amount determined under subdivision (2)(a) of this section, whichever comes first.

(6) The remaining thirty percent of state sales tax revenue collected by retailers and operators doing business at such facilities on sales at such facilities, state sales tax revenue collected on primary and secondary box office sales of admissions to such facilities, and state sales tax revenue collected by associated hotels, shall be appropriated by the Legislature to the Civic and Community Center Financing Fund. Upon the annual certification required pursuant to section 13-2609 and following the transfer to the Convention Center Support Fund required pursuant to subsection (1) of this section, the State Treasurer shall transfer an amount equal to the remaining thirty percent from the Convention Center Support Fund to the Civic and Community Center Financing Fund.

(7) Any municipality that has applied for and received a grant of assistance under the Civic and Community Center Financing Act may not receive state assistance under the Convention Center Facility Financing Assistance Act.

Source: Laws 1999, LB 382, § 10; Laws 2007, LB551, § 6; Laws 2008, LB754, § 1; Laws 2009, LB63, § 1; Laws 2010, LB975, § 1; Laws 2011, LB297, § 1; Laws 2015, LB661, § 28; Laws 2016, LB884, § 4; Laws 2018, LB874, § 1; Laws 2021, LB39, § 1; Laws 2021, LB479, § 1.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB39, section 1, with LB479, section 1, to reflect all amendments.

Note: Changes made by LB39 became effective May 26, 2021. Changes made by LB479 became effective August 28, 2021.

Cross References

Affordable Housing Tax Credit Act, see section 77-2501.
Civic and Community Center Financing Act, see section 13-2701.
Limitation on applications, see section 13-2612.
Nebraska Capital Expansion Act, see section 72-1269.
Nebraska State Funds Investment Act, see section 72-1260.

ARTICLE 29

POLITICAL SUBDIVISIONS CONSTRUCTION ALTERNATIVES ACT

Section
13-2903. Terms, defined.
13-2904. Contracts authorized; governing body; resolution required.
13-2914. Road, street, or highway construction projects excluded; water, wastewater, utility, or sewer construction projects permitted.

13-2903 Terms, defined.

For purposes of the Political Subdivisions Construction Alternatives Act:

(1) Construction management at risk contract means a contract by which a construction manager (a) assumes the legal responsibility to deliver a construction project within a contracted price to the political subdivision, (b) acts as a construction consultant to the political subdivision during the design development phase of the project when the political subdivision's architect or engineer

designs the project, and (c) is the builder during the construction phase of the project;

(2) Construction manager means the legal entity which proposes to enter into a construction management at risk contract pursuant to the act;

(3) Design-build contract means a contract which is subject to qualification-based selection between a political subdivision and a design-builder to furnish (a) architectural, engineering, and related design services for a project pursuant to the act and (b) labor, materials, supplies, equipment, and construction services for a project pursuant to the act;

(4) Design-builder means the legal entity which proposes to enter into a design-build contract which is subject to qualification-based selection pursuant to the act;

(5) Letter of interest means a statement indicating interest to enter into a design-build contract or a construction management at risk contract for a project pursuant to the act;

(6) Performance-criteria developer means any person licensed or any organization issued a certificate of authorization to practice architecture or engineering pursuant to the Engineers and Architects Regulation Act who is selected by a political subdivision to assist the political subdivision in the development of project performance criteria, requests for proposals, evaluation of proposals, evaluation of the construction under a design-build contract to determine adherence to the performance criteria, and any additional services requested by the political subdivision to represent its interests in relation to a project;

(7) Political subdivision means a city, village, county, natural resources district, school district, community college, or state college;

(8) Project performance criteria means the performance requirements of the project suitable to allow the design-builder to make a proposal. Performance requirements include the following, if required by the project: Capacity, durability, standards, ingress and egress requirements, description of the site, surveys, soil and environmental information concerning the site, interior space requirements, material quality standards, design and construction schedules, site development requirements, provisions for utilities, storm water retention and disposal, parking requirements, applicable governmental code requirements, and other criteria for the intended use of the project;

(9) Proposal means an offer in response to a request for proposals (a) by a design-builder to enter into a design-build contract for a project pursuant to the Political Subdivisions Construction Alternatives Act or (b) by a construction manager to enter into a construction management at risk contract for a project pursuant to the act;

(10) Qualification-based selection process means a process of selecting a design-builder based first on the qualifications of the design-builder and then on the design-builder's proposed approach to the design and construction of the project;

(11) Request for letters of interest means the documentation or publication by which a political subdivision solicits letters of interest;

(12) Request for proposals means the documentation by which a political subdivision solicits proposals; and

(13) School district means any school district classified under section 79-102.

Source: Laws 2002, LB 391, § 3; R.S.1943, (2003), § 79-2003; Laws 2008, LB889, § 3; Laws 2021, LB414, § 1.
Effective date August 28, 2021.

Cross References

Engineers and Architects Regulation Act, see section 81-3401.

13-2904 Contracts authorized; governing body; resolution required.

(1) Notwithstanding the procedures for public lettings in sections 73-101 to 73-106 or any other statute relating to the letting of bids by a political subdivision, a political subdivision which follows the Political Subdivisions Construction Alternatives Act may solicit and execute a design-build contract or a construction management at risk contract.

(2) The governing body of the political subdivision shall adopt a resolution selecting the design-build contract or construction management at risk contract delivery system provided under the act prior to proceeding with the provisions of sections 13-2905 to 13-2914. The resolution shall require the affirmative vote of at least two-thirds of the governing body of the political subdivision. For a project authorized under subsection (3) of section 13-2914, the resolution shall include a statement that the political subdivision has made a determination that the design-build contract or construction management at risk contract delivery system is in the public interest based, at a minimum, on one of the following criteria: (a) Savings in cost or time or (b) requirement of specialized or complex construction methods suitable for the design-build contract or construction management at risk contract delivery system.

Source: Laws 2002, LB 391, § 4; R.S.1943, (2003), § 79-2004; Laws 2008, LB889, § 4; Laws 2021, LB414, § 2.
Effective date August 28, 2021.

13-2914 Road, street, or highway construction projects excluded; water, wastewater, utility, or sewer construction projects permitted.

(1) A political subdivision shall not use a design-build contract or construction management at risk contract under the Political Subdivisions Construction Alternatives Act for a project, in whole or in part, for road, street, or highway construction.

(2) A city of the metropolitan class may use a design-build contract or construction management at risk contract under the Political Subdivisions Construction Alternatives Act for the purpose of complying with state or federal requirements to control or minimize overflows from combined sewers.

(3) A political subdivision may use a design-build contract or construction management at risk contract under the Political Subdivisions Construction Alternatives Act for a project, in whole or in part, for water, wastewater, utility, or sewer construction.

Source: Laws 2008, LB889, § 14; Laws 2019, LB583, § 1; Laws 2021, LB414, § 3.
Effective date August 28, 2021.

ARTICLE 31

SPORTS ARENA FACILITY FINANCING ASSISTANCE ACT

Section

13-3102 Terms, defined.

For purposes of the Sports Arena Facility Financing Assistance Act:

(1) Applicant means:

(a) A political subdivision; or

(b) A political subdivision and nonprofit organization that jointly submit an application under the act;

(2) Board means a board consisting of the Governor, the State Treasurer, the chairperson of the Nebraska Investment Council, the chairperson of the Nebraska State Board of Public Accountancy, and a professor of economics on the faculty of a state postsecondary educational institution appointed to a two-year term on the board by the Coordinating Commission for Postsecondary Education. For administrative and budget purposes only, the board shall be considered part of the Department of Revenue;

(3) Bond means a general obligation bond, redevelopment bond, lease-purchase bond, revenue bond, or combination of any such bonds;

(4) Court means a rectangular hard surface primarily used indoors for competitive sports, including, but not limited to, basketball, volleyball, or tennis;

(5) Date that the project commenced means the date when a project starts as specified by a contract, resolution, or formal public announcement;

(6) Economic redevelopment area means an area in the State of Nebraska in which:

(a) The average rate of unemployment in the area during the period covered by the most recent federal decennial census or American Community Survey 5-Year Estimate by the United States Bureau of the Census is at least one hundred fifty percent of the average rate of unemployment in the state during the same period; and

(b) The average poverty rate in the area is twenty percent or more for the federal census tract in the area;

(7) Eligible sports arena facility means:

(a) Any publicly owned, enclosed, and temperature-controlled building primarily used for sports that has a permanent seating capacity of at least three thousand but no more than seven thousand seats and in which initial occupancy occurs on or after July 1, 2010, including stadiums, arenas, dressing and locker facilities, concession areas, parking facilities, and onsite administrative offices connected with operating the facilities;

(b) Any racetrack enclosure licensed by the State Racing and Gaming Commission in which initial occupancy occurs on or after July 1, 2010, including concession areas, parking facilities, and onsite administrative offices connected with operating the racetrack; and

(c) Any sports complex, including concession areas, parking facilities, and onsite administrative offices connected with operating the sports complex;

(8) General obligation bond means any bond or refunding bond issued by a political subdivision and which is payable from the proceeds of an ad valorem tax;

(9) Increase in state sales tax revenue means the amount of state sales tax revenue collected by a nearby retailer during the fiscal year for which state assistance is calculated minus the amount of state sales tax revenue collected by the nearby retailer in the fiscal year that ended immediately preceding the project completion date of the eligible sports arena facility, except that the amount of state sales tax revenue of a nearby retailer shall not be less than zero;

(10) Multipurpose field means a rectangular field of grass or synthetic turf which is primarily used for competitive field sports, including, but not limited to, soccer, football, flag football, lacrosse, or rugby;

(11) Nearby retailer means a retailer as defined in section 77-2701.32 that is located within the program area. The term includes a subsequent owner of a nearby retailer operating at the same location;

(12) New state sales tax revenue means:

(a) For any eligible sports arena facility that is not a sports complex:

(i) One hundred percent of the state sales tax revenue that (A) is collected by a nearby retailer that commenced collecting state sales tax during the period of time beginning twenty-four months prior to the project completion date of the eligible sports arena facility and ending forty-eight months after the project completion date of the eligible sports arena facility or, for applications for state assistance approved prior to October 1, 2016, forty-eight months after October 1, 2016, and (B) is sourced under sections 77-2703.01 to 77-2703.04 to the program area; and

(ii) The increase in state sales tax revenue that (A) is collected by a nearby retailer that commenced collecting state sales tax prior to twenty-four months prior to the project completion date of the eligible sports arena facility and (B) is sourced under sections 77-2703.01 to 77-2703.04 to the program area; or

(b) For any eligible sports arena facility that is a sports complex, one hundred percent of the state sales tax revenue that (i) is collected by a nearby retailer that commenced collecting state sales tax during the period of time beginning on the date that the project commenced and ending forty-eight months after the project completion date of the eligible sports arena facility and (ii) is sourced under sections 77-2703.01 to 77-2703.04 to the program area;

(13) Political subdivision means any city, village, or county;

(14) Program area means:

(a) For any eligible sports arena facility that is not a sports complex:

(i) For applications for state assistance submitted prior to October 1, 2016, the area that is located within six hundred yards of an eligible sports arena

facility, measured from any point of the exterior perimeter of the facility but not from any parking facility or other structure; or

(ii) For applications for state assistance submitted on or after October 1, 2016, the area that is located within six hundred yards of an eligible sports arena facility, measured from any point of the exterior perimeter of the facility but not from any parking facility or other structure, except that if twenty-five percent or more of such area is unbuildable property, then the program area shall be adjusted so that:

(A) It avoids as much of the unbuildable property as is practical; and

(B) It contains contiguous property with the same total amount of square footage that the program area would have contained had no adjustment been necessary; or

(b) For any eligible sports arena facility that is a sports complex, the area that is located within six hundred yards of an eligible sports arena facility, measured from any point of the exterior boundary or property line of the facility.

Approval of an application for state assistance by the board pursuant to section 13-3106 shall establish the program area as that area depicted in the map accompanying the application for state assistance as submitted pursuant to subdivision (2)(c) of section 13-3104;

(15) Project completion date means:

(a) For projects involving the acquisition or construction of an eligible sports arena facility, the date of initial occupancy of the facility following the completion of such acquisition or construction; or

(b) For all other projects, the date of completion of the project for which state assistance is received;

(16) Revenue bond means any bond or refunding bond issued by a political subdivision which is limited or special rather than a general obligation bond of the political subdivision and which is not payable from the proceeds of an ad valorem tax;

(17) Sports complex means a facility that:

(a) Includes indoor areas, outdoor areas, or both;

(b) Is primarily used for competitive sports; and

(c) Contains at least:

(i) Twelve separate sports venues if such facility is located in a city of the metropolitan class;

(ii) Six separate sports venues if such facility is located in a city of the primary class; or

(iii) Four separate sports venues if such facility is located (A) in a city of the first class, city of the second class, or village, (B) within a county but outside the corporate limits of any city or village, (C) in an economic redevelopment area, or (D) in an opportunity zone designated pursuant to the federal Tax Cuts and Jobs Act, Public Law 115-97;

(18) Sports venue includes, but is not limited to:

(a) A baseball field;

(b) A softball field;

(c) A multipurpose field;

(d) An outdoor stadium primarily used for competitive sports;

(e) An outdoor arena primarily used for competitive sports; or

(f) An enclosed, temperature-controlled building primarily used for competitive sports. If any such building contains more than one multipurpose field, court, swimming pool, or other facility primarily used for competitive sports, then each such multipurpose field, court, swimming pool, or facility shall count as a separate sports venue; and

(19) Unbuildable property means any real property that is located in a floodway, an environmentally protected area, a right-of-way, or a brownfield site as defined in 42 U.S.C. 9601 that the political subdivision determines is not suitable for the construction or location of residential, commercial, or other buildings or facilities.

Source: Laws 2010, LB779, § 8; Laws 2016, LB884, § 6; Laws 2021, LB39, § 2; Laws 2021, LB561, § 46.
Effective date May 26, 2021.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB39, section 2, with LB561, section 46, to reflect all amendments.

13-3103 State assistance; limitation.

(1) Any applicant that has (a) acquired, constructed, improved, or equipped, (b) approved a revenue bond issue or a general obligation bond issue to acquire, construct, improve, or equip, or (c) adopted a resolution authorizing the applicant to pursue a general obligation bond issue to acquire, construct, improve, or equip an eligible sports arena facility may apply to the board for state assistance. The state assistance shall only be used to pay back amounts expended or borrowed through one or more issues of bonds to be expended by the applicant to acquire, construct, improve, or equip the eligible sports arena facility.

(2) For applications for state assistance approved on or after October 1, 2016, no more than fifty percent of the final cost of the project shall be funded by state assistance received pursuant to section 13-3108.

Source: Laws 2010, LB779, § 9; Laws 2016, LB884, § 7; Laws 2021, LB39, § 3.
Effective date May 26, 2021.

13-3104 Application; contents; board; duties.

(1) All applications for state assistance under the Sports Arena Facility Financing Assistance Act shall be in writing and shall include a certified copy of the approving action of the governing body of the applicant describing the proposed project for which state assistance is requested and the anticipated financing.

(2) The application shall contain:

(a) A description of the proposed financing of the project, including the estimated principal and interest requirements for the bonds proposed to be issued in connection with the project or the amounts necessary to repay the original investment by the applicant in the project;

(b) Documentation of local financial commitment to support the project, including all public and private resources pledged or committed to the project

and including a copy of any operating agreement or lease with substantial users of the eligible sports arena facility;

(c) For applications submitted on or after October 1, 2016, a map identifying the program area, including any unbuildable property within the program area or taken into account in adjusting the program area as described in subdivision (14)(a)(ii) of section 13-3102; and

(d) Any other project information deemed appropriate by the board.

(3) Upon receiving an application for state assistance, the board shall review the application and notify the applicant of any additional information needed for a proper evaluation of the application.

(4) Any state assistance received pursuant to the act shall be used only for public purposes.

Source: Laws 2010, LB779, § 10; Laws 2016, LB884, § 8; Laws 2021, LB39, § 4.
Effective date May 26, 2021.

13-3105 Public hearing; notice.

(1) After reviewing an application submitted under section 13-3104, the board shall hold a public hearing on the application.

(2) The board shall give notice of the time, place, and purpose of the public hearing by publication three times in a newspaper of general circulation in the area where the political subdivision submitting the application is located. Such publication shall be not less than ten days prior to the hearing. The notice shall describe generally the project 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 board may seek expert testimony and may require testimony of persons whom the board desires to comment on the application. The board may accept additional evidence after conclusion of the public hearing.

Source: Laws 2010, LB779, § 11; Laws 2021, LB39, § 5.
Effective date May 26, 2021.

13-3106 Application; approval; board; findings; temporary approval; when; board; quorum.

(1) After consideration of the application and the evidence, if the board finds that the project described in the application is eligible and that state assistance is in the best interest of the state, the application shall be approved, except that an approval of an application submitted because of the requirement in subdivision (1)(c) of section 13-3103 is a temporary approval. If the general obligation bond issue is subsequently approved by the voters of the political subdivision, the approval by the board becomes permanent. If the general obligation bond issue is not approved by such voters, the temporary approval shall become void.

(2) In determining whether state assistance is in the best interest of the state, the board shall consider the fiscal and economic capacity of the applicant to finance the local share of the project.

(3) A majority of the board members constitutes a quorum for the purpose of conducting business. All actions of the board shall be by a majority vote of all the board members, one of whom must be the Governor.

Source: Laws 2010, LB779, § 12; Laws 2016, LB884, § 9; Laws 2021, LB39, § 6.
Effective date May 26, 2021.

13-3108 Sports Arena Facility Support Fund; created; investment; State Treasurer; duties; state assistance; use.

(1) The Sports Arena Facility Support 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.

(2)(a) Upon receiving the certification described in subsection (3) of section 13-3107, the State Treasurer shall transfer the amount certified to the fund.

(b) Upon receiving the quarterly certification described in subsection (4) of section 13-3107, the State Treasurer shall transfer the amount certified to the fund.

(3)(a) It is the intent of the Legislature to appropriate from the fund money to be distributed as provided in subsections (4) and (5) of this section to any political subdivision for which an application for state assistance under the Sports Arena Facility Financing Assistance Act has been approved an amount not to exceed seventy percent of the (i) state sales tax revenue collected by retailers doing business at eligible sports arena facilities on sales at such facilities, (ii) state sales tax revenue collected on primary and secondary box office sales of admissions to such facilities, and (iii) new state sales tax revenue collected by nearby retailers and sourced under sections 77-2703.01 to 77-2703.04 to the program area.

(b) The amount to be appropriated for distribution as state assistance to a political subdivision under this subsection for any one year after the tenth year shall not exceed the highest such amount appropriated under subdivision (3)(a) of this section during any one year of the first ten years of such appropriation. If seventy percent of the state sales tax revenue as described in subdivision (3)(a) of this section exceeds the amount to be appropriated under this subdivision, such excess funds shall be transferred to the General Fund.

(4) The amount certified under subsection (3) of section 13-3107 shall be distributed as state assistance on or before April 15, 2014.

(5) Beginning in 2014, quarterly distributions and associated transfers of state assistance shall be made. Such quarterly distributions and transfers shall be based on the certifications provided under subsection (4) of section 13-3107 and shall occur within fifteen days after receipt of such certification.

(6) The total amount of state assistance approved for an eligible sports arena facility shall neither (a) exceed fifty million dollars nor (b) be paid out for more than twenty years after the issuance of the first bond for the sports arena facility.

(7) State assistance to the political subdivision shall no longer be available upon the retirement of the bonds issued to acquire, construct, improve, or equip the facility or any subsequent bonds that refunded the original issue or

when state assistance reaches the amount determined under subsection (6) of this section, whichever comes first.

(8) State assistance shall not be used for an operating subsidy or other ancillary facility.

(9) The thirty percent of state sales tax revenue remaining after the appropriation and transfer in subsection (3) of this section shall be appropriated by the Legislature and transferred quarterly as follows:

(a) If the revenue relates to an eligible sports arena facility that is a sports complex and that is approved for state assistance under section 13-3106 on or after May 26, 2021, eighty-three percent of such revenue shall be transferred to the Support the Arts Cash Fund and seventeen percent of such revenue shall be transferred to the Convention Center Support Fund; and

(b) If the revenue relates to any other eligible sports arena facility, such revenue shall be transferred to the Civic and Community Center Financing Fund.

(10) Except as provided in subsection (11) of this section for a city of the primary class, any municipality that has applied for and received a grant of assistance under the Civic and Community Center Financing Act shall not receive state assistance under the Sports Arena Facility Financing Assistance Act for the same project for which the grant was awarded under the Civic and Community Center Financing Act.

(11) A city of the primary class shall not be eligible to receive a grant of assistance from the Civic and Community Center Financing Act if the city has applied for and received a grant of assistance under the Sports Arena Facility Financing Assistance Act.

Source: Laws 2010, LB779, § 14; Laws 2011, LB297, § 9; Laws 2012, LB426, § 2; Laws 2014, LB867, § 3; Laws 2015, LB170, § 1; Laws 2016, LB884, § 10; Laws 2021, LB39, § 7.
Effective date May 26, 2021.

Cross References

Civic and Community Center Financing Act, see section 13-2701.
Nebraska Capital Expansion Act, see section 72-1269.
Nebraska State Funds Investment Act, see section 72-1260.

13-3109 Bonds and refunding bonds; issuance; procedure; security; treatment.

(1) A political subdivision that applies for state assistance under the Sports Arena Facility Financing Assistance Act may issue from time to time its bonds and refunding bonds to finance and refinance the acquisition, construction, improving, and equipping of eligible sports arena facilities. The bonds may be sold by the political subdivision in such manner and for such price as the political subdivision determines, at a discount, at par, or at a premium, at private negotiated sale or at public sale, after notice published prior to the sale in a legal newspaper having general circulation in the political subdivision or in such other medium of publication as the political subdivision deems appropriate. The bonds shall have a stated maturity of twenty years or less and shall bear interest at such rate or rates and otherwise be issued in accordance with the respective procedures and with such other terms and provisions as are established, permitted, or authorized by applicable state laws and home rule charters for the type of bonds to be issued. Such bonds may be secured as to

payment in whole or in part by a pledge, as shall be determined by the political subdivision, from the income, proceeds, and revenue of the eligible sports arena facilities financed with proceeds of such bonds, from the income, proceeds, and revenue of any of its eligible sports arena facilities, or from its revenue and income, including its sales, use, or occupation tax revenue, fees, or receipts, as may be determined by the political subdivision. The political subdivision may further secure the bonds by a mortgage or deed of trust encumbering all or any portion of the eligible sports arena facilities and by a bond insurance policy or other credit support facility. No general obligation bonds, except refunding bonds, shall be issued until authorized by greater than fifty percent of the political subdivision's electors voting on the question as to their issuance at any election as defined in section 32-108. The face of the bonds shall plainly state that the bonds and the interest thereon shall not constitute nor give rise to an indebtedness, obligation, or pecuniary liability of the state nor a charge against the general credit, revenue, or taxing power of the state. Bonds of the political subdivision are declared to be issued for an essential public and governmental purpose and, together with interest thereon and income therefrom, shall be exempt from all state income taxes.

(2) All payments to political subdivisions under the Sports Arena Facility Financing Assistance Act are made subject to specific appropriation for such purpose.

Source: Laws 2010, LB779, § 15; Laws 2021, LB39, § 8.
Effective date May 26, 2021.

ARTICLE 32

PROPERTY ASSESSED CLEAN ENERGY ACT

Section
13-3211. Report; required, when; contents.

13-3211 Report; required, when; contents.

(1) Except as provided in subsection (3) of this section, any municipality that creates a clean energy assessment district under the Property Assessed Clean Energy Act shall, on or before January 31 of each year, electronically submit a report to the Urban Affairs Committee of the Legislature on the following:

(a) The number of clean energy assessment districts in the municipality and their location;

(b) The total dollar amount of energy projects undertaken pursuant to the act;

(c) The total dollar amount of outstanding bonds issued under the act;

(d) The total dollar amount of annual assessments collected as of the end of the most recently completed calendar year and the total amount of annual assessments yet to be collected pursuant to assessment contracts signed under the act; and

(e) A description of the types of energy projects undertaken pursuant to the act.

(2) If a clean energy assessment district is administered jointly by two or more municipalities, a single report submission by the cooperating municipalities is sufficient to satisfy the requirements of subsection (1) of this section.

(3) This section shall not apply to any municipality that has created a clean energy assessment district but does not have any active energy projects pursuant to the act.

Source: Laws 2016, LB1012, § 11; R.S.Supp.,2016, § 18-3211; Laws 2017, LB625, § 11; Laws 2021, LB265, § 1.
Effective date April 24, 2021.

ARTICLE 33

MUNICIPAL INLAND PORT AUTHORITY ACT

Section

13-3301 Act, how cited.

Sections 13-3301 to 13-3313 shall be known and may be cited as the Municipal Inland Port Authority Act.

Source: Laws 2021, LB156, § 1.
Effective date August 28, 2021.

13-3302 Legislative findings and declarations.

The Legislature finds and declares as follows:

(1) Nebraska is ideally situated as a potential industrial and logistical hub for multiple industries across the rest of the country. The state is home to major railroads and trucking firms, and is within a two-day drive to major cities on the east coast, west coast, Mexico, and Canada;

(2) Increasingly, major companies looking to locate their headquarters or expand operations seek large shovel-ready commercial and industrial sites, commonly referred to as mega sites;

(3) Nebraska currently lacks the economic development tools necessary to acquire and develop large shovel-ready commercial and industrial sites, and the creation of one or more inland port authorities in Nebraska could serve as a mechanism to develop such sites; and

(4) In addition to the development of large shovel-ready commercial and industrial sites, the creation of one or more inland port authorities could serve as a regional merging point for multi-modal transportation and distribution of goods to and from ports and other locations in other regions.

Source: Laws 2021, LB156, § 2.
Effective date August 28, 2021.

13-3303 Terms, defined.

For purposes of the Municipal Inland Port Authority Act:

(1) Board means the board of commissioners of an inland port authority;

(2) City means any city of the metropolitan class, city of the primary class, or city of the first class which contains an area eligible to be designated as an inland port district;

(3) Direct financial benefit means any form of financial benefit that accrues to an individual directly, including compensation, commission, or any other form of a payment or increase of money, or an increase in the value of a business or property. Direct financial benefit does not include a financial benefit that accrues to the public generally;

(4) Family member means a spouse, parent, sibling, child, or grandchild;

(5) Inland port authority means an authority created by a city, county, or a city and one or more counties under the Municipal Inland Port Authority Act to manage an inland port district;

(6) Inland port district means an area within the corporate boundaries or extraterritorial zoning jurisdiction or both of a city, within the boundaries of one or more counties, or within both the corporate boundaries or extraterritorial zoning jurisdiction or both of a city and the boundaries of one or more counties, and which meets at least two of the following criteria:

(a) Is located within one mile of a navigable river or other navigable waterway;

(b) Is located within one mile of a major rail line;

(c) Is located within two miles of any portion of the federally designated National System of Interstate and Defense Highways or any other four-lane divided highway; or

(d) Is located within two miles of a major airport;

(7) Intermodal facility means a hub or other facility for trade combining any combination of rail, barge, trucking, air cargo, or other transportation services;

(8) Major airport means an airport with commercial service as defined by the Federal Aviation Administration; and

(9) Major rail line means a rail line that is accessible to a Class I railroad as defined by the federal Surface Transportation Board.

Source: Laws 2021, LB156, § 3.
Effective date August 28, 2021.

13-3304 Inland port authority; creation; limitation; criteria; certification; procedure.

(1) Any city which encompasses an area greater than three hundred acres eligible to be designated as an inland port district may propose to create an inland port authority by ordinance, subject to the cap on the total number of inland port districts provided in subsection (4) of this section. In determining whether to propose the creation of an inland port authority, the city shall consider the following criteria:

(a) The desirability and economic feasibility of locating an inland port district within the corporate boundaries, extraterritorial zoning jurisdiction, or both of the city;

(b) The technical and economic capability of the city and any other public and private entities to plan and carry out development within the proposed inland port district;

(c) The strategic location of the proposed inland port district in proximity to existing and potential transportation infrastructure that is conducive to facilitating regional, national, and international trade and the businesses and facilities that promote and complement such trade;

(d) The potential impact that development of the proposed inland port district will have on the immediate area; and

(e) The regional and statewide economic impact of development of the proposed inland port district.

(2) Any city and one or more counties in which a city of the metropolitan class, city of the primary class, or city of the first class is located, or in which the extraterritorial zoning jurisdiction of such city is located, which encompass an area greater than three hundred acres eligible to be designated as an inland port district may enter into an agreement pursuant to the Interlocal Cooperation Act to propose joint creation of an inland port authority, subject to the cap on the total number of inland port districts provided in subsection (4) of this section. In determining whether to propose the creation of an inland port authority, the city and counties shall consider the following criteria:

(a) The desirability and economic feasibility of locating an inland port district within the corporate boundaries or extraterritorial zoning jurisdiction or both of the city, or within both the corporate boundaries or extraterritorial zoning jurisdiction or both of a city and the boundaries of one or more counties;

(b) The technical and economic capability of the city and county or counties and any other public and private entities to plan and carry out development within the proposed inland port district;

(c) The strategic location of the proposed inland port district in proximity to existing and potential transportation infrastructure that is conducive to facilitating regional, national, and international trade and the businesses and facilities that promote and complement such trade;

(d) The potential impact that development of the proposed inland port district will have on the immediate area; and

(e) The regional and statewide economic impact of development of the proposed inland port district.

(3) Any county with a population greater than twenty thousand inhabitants according to the most recent federal census or the most recent revised certified count by the United States Bureau of the Census which encompasses an area greater than three hundred acres eligible to be designated as an inland port district may propose to create an inland port authority by resolution, subject to the cap on the total number of inland port districts provided in subsection (4) of this section. In determining whether to propose the creation of an inland port authority, the county shall consider the following criteria:

(a) The desirability and economic feasibility of locating an inland port district within the county;

(b) The technical and economic capability of the county and any other public or private entities to plan and carry out development within the proposed inland port district;

(c) The strategic location of the proposed inland port district in proximity to existing and potential transportation infrastructure that is conducive to facilitating regional, national, and international trade and the businesses and facilities that promote and complement such trade;

(d) The potential impact that development of the proposed inland port district will have on the immediate area; and

(e) The regional and statewide economic impact of development of the proposed inland port district.

(4) No more than five inland port districts may be designated statewide. No inland port authority shall designate more than one inland port district, and no inland port authority may be created without also designating an inland port district.

(5) Following the adoption of an ordinance, resolution, or execution of an agreement pursuant to the Interlocal Cooperation Act proposing creation of an inland port authority, the city clerk or county clerk shall transmit a copy of such ordinance, resolution, or agreement to the Department of Economic Development. Upon receipt of such ordinance, resolution, or agreement, the department shall evaluate the proposed inland port authority to determine whether the proposal meets the criteria in subsection (1), (2), or (3) of this section, whichever is applicable. Upon a determination that the proposed inland port authority sufficiently meets such criteria, the Director of Economic Development shall certify to the city clerk or county clerk whether the proposed creation of such inland port authority exceeds the cap on the total number of inland port districts pursuant to subsection (4) of this section. If the proposed inland port authority sufficiently meets such criteria and does not exceed such cap, the inland port authority shall be deemed created. If the proposed inland port authority does not sufficiently meet such criteria or exceeds such cap, the city shall repeal such ordinance, the county shall repeal such resolution, or the city and county or counties shall rescind such agreement and the proposed inland port authority shall not be created.

Source: Laws 2021, LB156, § 4.
Effective date August 28, 2021.

Cross References

Interlocal Cooperation Act, see section 13-801.

13-3305 Designation of area; procedure.

(1) The city council of any city which has created an inland port authority pursuant to subsection (1) of section 13-3304 shall designate what areas within the corporate limits, extraterritorial zoning jurisdiction, or both of the city shall comprise the inland port district, subject to the limitations of the Municipal Inland Port Authority Act. The boundaries of any inland port district shall be filed with the city clerk and shall become effective upon approval of the city council. The city council may from time to time enlarge or reduce the area comprising any inland port district, except that such district shall not be reduced to an area less than three hundred acres. Any change of boundaries shall be filed with the city clerk and become effective upon such filing.

(2) The city council of any city and county board or boards of any county or counties which have created an inland port authority pursuant to subsection (2) of section 13-3304 shall designate what areas within the corporate limits,

extraterritorial zoning jurisdiction, or both of the city or within the county or counties shall comprise the inland port district, subject to the limitations of the Municipal Inland Port Authority Act. The boundaries of any inland port district shall be filed with the city clerk and the county clerk or clerks and shall become effective upon approval of the city council and the county board or boards. The city council and the county board or boards may from time to time enlarge or reduce the area comprising any inland port district, except that such district shall not be reduced to an area less than three hundred acres. Any change of boundaries shall be filed with the city clerk and the county clerk or clerks and become effective upon such filing.

(3) The county board of any county which has created an inland port authority pursuant to subsection (3) of section 13-3304 shall designate what areas within the county shall comprise the inland port district, subject to the limitations of the Municipal Inland Port Authority Act. The boundaries of any inland port district shall be filed with the county clerk and shall become effective upon approval of the county board. The county board may from time to time enlarge or reduce the area comprising any inland port district, except that such district shall not be reduced to an area less than three hundred acres. Any change of boundaries shall be filed with the county clerk and become effective upon such filing.

Source: Laws 2021, LB156, § 5.
Effective date August 28, 2021.

13-3306 Inland port authority; powers.

(1) An inland port authority shall have the power to:

(a) Plan, facilitate, and develop the inland port district in conjunction with the city, the county or counties, and other public and private entities, including the development of publicly-owned infrastructure and improvements within the inland port district;

(b) Engage in marketing and business recruitment activities and efforts to encourage and facilitate development of the inland port district;

(c) Apply for and take all other necessary actions for the establishment of a foreign trade zone, as provided under federal law, within the inland port district;

(d) Issue and sell revenue bonds as provided in section 13-3308;

(e) Acquire, own, lease, sell, or otherwise dispose of interest in and to any real property and improvements located thereon, and in any personal property, and construct buildings and other structures necessary to fulfill the purposes of the inland port authority;

(f) Acquire rights-of-way and property of any kind or nature within the inland port district necessary for its purposes by purchase or negotiation;

(g) Enter into lease agreements for real or personal property, either as lessee or lessor;

(h) Sue and be sued in its own name;

(i) Enter into contracts and other instruments necessary, incidental, or convenient to the performance of its duties and the exercise of its powers, including, but not limited to, agreements under the Interlocal Cooperation Act

with the city, the county or counties, or any other political subdivision of this or any other state;

(j) Borrow money from private lenders, from the state, or from the federal government as may be necessary for the operation and work of the inland port authority;

(k) Accept appropriations, including funds transferred by the Legislature pursuant to section 81-12,146, contributions, gifts, grants, or loans from the United States, the State of Nebraska, political subdivisions, or other public and private agencies, individuals, partnerships, or corporations;

(l) Employ such managerial, engineering, legal, technical, clerical, accounting, advertising, administrative, or other assistance as may be deemed advisable, or to contract with independent contractors for any such assistance;

(m) Adopt, alter, or repeal its own bylaws, rules, and regulations governing the manner in which its business may be transacted, except that such bylaws, rules, and regulations shall not exceed the powers granted to the inland port authority by the Municipal Inland Port Authority Act;

(n) Enter into agreements with private operators or public entities for the joint development, redevelopment, reclamation, and other uses of property within the inland port district;

(o) Own and operate an intermodal facility and other publicly-owned infrastructure and improvements within the boundaries of the inland port district; and

(p) Establish and charge fees to businesses and customers utilizing the services offered by the inland port authority within the inland port district as required for the proper maintenance, development, operation, and administration of the inland port authority.

(2) An inland port authority shall neither possess nor exercise the power of eminent domain.

Source: Laws 2021, LB156, § 6.
Effective date August 28, 2021.

Cross References

Interlocal Cooperation Act, see section 13-801.

13-3307 Real property; state or political subdivision; transfer, lease, contract, or agreement; effect.

The State of Nebraska and any municipality, county, or other political subdivision of the state may, in its discretion, with or without consideration, transfer or cause to be transferred to any inland port authority or place in its possession or control, by lease or other contract or agreement, either for a limited period or in fee, any real property within its inland port district. Nothing in this section shall in any way impair, alter, or change any obligations of such entities, contractual or otherwise, existing prior to August 28, 2021.

Source: Laws 2021, LB156, § 7.
Effective date August 28, 2021.

13-3308 Bonds; issuance; pledge of revenue; liability.

(1) An inland port authority created under the Municipal Inland Port Authority Act may issue and sell revenue bonds necessary to provide sufficient funds

for achieving its purposes, including the construction of intermodal facilities, buildings, and infrastructure and the financing of port improvement projects, except that such authority shall not issue or sell general obligation bonds. An inland port authority may pledge any revenue derived from the sale or lease of property of such authority to the payment of such revenue bonds.

(2) The State of Nebraska shall not be liable for any bonds of any inland port authority. Any such bonds shall not be a debt of the state and shall contain on the faces thereof a statement to such effect.

(3) No commissioner of any board of any inland port authority or any other authorized person executing inland port authority bonds shall be personally liable on such bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

Source: Laws 2021, LB156, § 8.
Effective date August 28, 2021.

13-3309 Inland port authority; bonds; exempt from taxes and assessments; exception.

No inland port authority shall be required to pay any taxes or any assessments whatsoever to the State of Nebraska or to any political subdivision of the state, except for assessments under the Nebraska Workers' Compensation Act and any combined tax due or payments in lieu of contributions as required under the Employment Security Law. The bonds of every inland port authority and the income therefrom shall, at all times, be exempt from any taxes and any assessments, except for inheritance and gift taxes and taxes on transfers.

Source: Laws 2021, LB156, § 9.
Effective date August 28, 2021.

Cross References

Employment Security Law, see section 48-601.
Nebraska Workers' Compensation Act, see section 48-1,110.

13-3310 Board; members; appointment; term; vacancy, how filled.

(1) An inland port authority shall be administered by the board which shall consist of:

(a) If created by a city of the metropolitan class, nine members;

(b) If created by a city of the primary class, seven members;

(c) If created by a city of the first class, five members;

(d) If jointly created by a city of the metropolitan class and one or more counties, eleven members;

(e) If jointly created by a city of the primary class and one or more counties, nine members;

(f) If jointly created by a city of the first class and one or more counties, seven members; or

(g) If created by a county, nine members.

(2) Upon the creation of an inland port authority under subsection (1) or (2) of section 13-3304, the mayor of the city that created the authority, with the approval of the city council, and, if the authority is created under subsection (2) of section 13-3304, with the approval of the county board or boards, shall appoint a board to govern the authority. Members of the board shall be

residents of the city, or, if the authority is created under subsection (2) of section 13-3304, members of the board shall be residents of the county or counties.

(3) Upon the creation of an inland port authority under subsection (3) of section 13-3304, the chairperson of the county board, with the approval of the county board, shall appoint a board to govern the authority. Members of the board shall be residents of the county.

(4) The members of the board of any inland port authority created under section 13-3304 shall be appointed to staggered terms of four years in such a manner to ensure that the terms of no more than three members expire in any one year.

(5) Any vacancy on the board of an inland port authority shall be filled in the same manner as the vacating board member was appointed to serve the unexpired portion of the board member's term.

Source: Laws 2021, LB156, § 10.
Effective date August 28, 2021.

13-3311 Commissioner; employee; eligibility to serve; acts prohibited.

(1) No individual may serve as a commissioner or an employee of an inland port authority if:

(a) The individual or a family member of the individual owns an interest in any real property located within the boundaries of the inland port district; or

(b) The individual or a family member of the individual owns an interest in, is directly affiliated with, or is an employee or officer of a private firm, company, or other entity that the individual reasonably believes is likely to:

(i) Participate in or receive a direct financial benefit from the development of the inland port district; or

(ii) Acquire an interest in any facility located within the inland port district.

(2) Before taking office as a commissioner or accepting employment with an inland port authority, an individual shall submit to the authority a statement verifying that the individual's service as a commissioner or an employee will not violate subsection (1) of this section.

(3) An individual shall not, at any time during the individual's service as a commissioner or an employee of an inland port authority, acquire or take any action to initiate, negotiate, or otherwise arrange for the acquisition of an interest in any real property located within the boundaries of the inland port district.

(4) A commissioner or an employee of an inland port authority shall not receive a direct financial benefit from the development of any real property located within the boundaries of the inland port district.

Source: Laws 2021, LB156, § 11.
Effective date August 28, 2021.

13-3312 Board; subject to Open Meetings Act and public records provisions.

(1) The board shall cause minutes of meetings and a record to be kept of all its proceedings. Meetings of the board shall be subject to the Open Meetings Act.

(2) An inland port authority's records and documents, except those which may be lawfully excluded, shall be considered public records for purposes of sections 84-712 to 84-712.09.

Source: Laws 2021, LB156, § 12.
Effective date August 28, 2021.

Cross References

Open Meetings Act, see section 84-1407.

13-3313 Inland port authority; dissolution; procedure.

(1) The city council of a city that created an inland port authority under subsection (1) of section 13-3304 or the county board of a county that created an inland port authority under subsection (3) of section 13-3304 may dissolve such inland port authority if such inland port authority has no outstanding obligations. The inland port authority shall be dissolved as of the date of approval by the city council or county board. All funds and other assets of the inland port authority shall be transferred upon dissolution to the city or county, as applicable.

(2) The city council of a city and the county board or boards of a county or counties that created an inland port authority under subsection (2) of section 13-3304 may dissolve such inland port authority if such inland port authority has no outstanding obligations. The inland port authority shall be dissolved as of the date of approval by the city council and the county board or boards. Upon dissolution, all funds and other assets of the inland port authority shall be transferred to the city or the county or counties as agreed upon by the city and county or counties.

Source: Laws 2021, LB156, § 13.
Effective date August 28, 2021.

CHAPTER 14
CITIES OF THE METROPOLITAN CLASS

Article.
1. General Powers. 14-137, 14-138.
18. Metropolitan Transit Authority. 14-1821.

ARTICLE 1
GENERAL POWERS

Section
14-137. Ordinances; how enacted.
14-138. Ordinances; how proved.

14-137 Ordinances; how enacted.

The enacting clause of all ordinances in a city of the metropolitan class shall be as follows: Be it ordained by the city council of the city of ..... All ordinances of the city shall be passed pursuant to such rules and regulations as the city council may prescribe. Upon the passage of all ordinances the yeas and nays shall be entered upon the record of the city council, and a majority of the votes of all the members of the city council shall be necessary to their passage. No ordinance shall be passed within a week after its introduction, except the general appropriation ordinances for salaries and wages. Ordinances of a general or permanent nature shall be read by title on three different days unless three-fourths of the city council vote to suspend this requirement, except that such requirement shall not be suspended (1) for any ordinance for the annexation of territory or the redrawing of boundaries for city council election districts or wards or (2) as otherwise provided by law.

Source: Laws 1921, c. 116, art. I, § 36, p. 418; C.S.1922, § 3524; C.S. 1929, § 14-137; R.S.1943, § 14-137; Laws 2018, LB865, § 1; Laws 2021, LB131, § 9.
Operative date August 28, 2021.

14-138 Ordinances; how proved.

All ordinances of a city of the metropolitan class may be proved by a certificate of the city clerk under the seal of the city, and when printed or published in book, pamphlet, or electronic form, and purporting to be published or printed by authority of the city council, shall be read and received in all courts and places without further proof.

Source: Laws 1921, c. 116, art. I, § 37, p. 419; C.S.1922, § 3525; C.S. 1929, § 14-138; R.S.1943, § 14-138; Laws 2021, LB159, § 1.
Effective date August 28, 2021.

ARTICLE 18
METROPOLITAN TRANSIT AUTHORITY

Section
14-1821. Metropolitan transit authority; tax request; certification; levy; collection.

14-1821 Metropolitan transit authority; tax request; certification; levy; collection.

To assist in the defraying of all character of expense of the authority and to such extent as in its discretion and judgment may be necessary, the board shall annually certify a tax request for the fiscal year commencing on the following January 1. Such tax request shall not exceed in any one year ten cents on each one hundred dollars on the taxable value of the taxable property in the city of the metropolitan class or taxable property in any county in which such city is located, adjacent county, or city or village located within such counties served by the authority. The board shall by resolution, on or before September 30 of each year, certify such tax request to the city council of such city and the governing board of any county in which such city is located, adjacent county, or city or village located within such counties served by the authority. Such county, city, or village is hereby authorized to cause such tax to be levied and to be collected as are other taxes by the treasurer of such city or village or county treasurer and paid over by him or her to the treasurer of such board subject to the order of such board and subject to section 77-3443. If in any year the full amount so certified and collected is not needed for the current purposes of such authority, the balance shall be credited to reserves of such authority to be used for acquisition of necessary property and equipment.

Source: Laws 1957, c. 23, § 21, p. 173; Laws 1972, LB 1275, § 17; Laws 1974, LB 875, § 1; Laws 1979, LB 187, § 35; Laws 1986, LB 1012, § 2; Laws 1987, LB 471, § 2; Laws 1992, LB 1063, § 6; Laws 1992, Second Spec. Sess., LB 1, § 6; Laws 1993, LB 734, § 23; Laws 1995, LB 452, § 4; Laws 1997, LB 269, § 19; Laws 2003, LB 720, § 6; Laws 2007, LB206, § 3; Laws 2021, LB644, § 8.
Operative date January 1, 2022.

CHAPTER 15
CITIES OF THE PRIMARY CLASS

ARTICLE 4
COUNCIL AND PROCEEDINGS

15-404 Ordinances; enactment; amendment; procedure.

All ordinances, resolutions, or orders for the appropriation or payment of money in a city of the primary class shall require for passage or adoption the concurrence of a majority of the members elected to the city council. Ordinances of a general or permanent nature shall be read by title on three different days unless the city council votes to suspend this requirement by a two-thirds vote of the members, except that such requirement shall not be suspended (1) for any ordinance for the annexation of territory or the redrawing of boundaries for city council election districts or wards or (2) as otherwise provided by law. No ordinance shall contain a subject which is not clearly expressed in its title. No ordinance or section thereof shall be revised or amended unless the new ordinance contains the entire ordinance or section as revised or amended and the ordinance or section so amended shall be repealed.

Source: Laws 1901, c. 16, § 73, p. 96; R.S.1913, § 4513; C.S.1922, § 3899; C.S.1929, § 15-404; R.S.1943, § 15-404; Laws 2018, LB865, § 2; Laws 2020, LB1003, § 101; Laws 2021, LB131, § 10.
Operative date August 28, 2021.

CHAPTER 16
CITIES OF THE FIRST CLASS

Article.
1. Incorporation, Extensions, Additions, Wards. 16-118, 16-129.
2. General Powers. 16-247.
4. Council and Proceedings. 16-403 to 16-405.
6. Public Improvements.
   (j) Public Buildings. 16-6,100.
   (m) Flood Control. 16-6,108.

ARTICLE 1

INCORPORATION, EXTENSIONS, ADDITIONS, WARDS

Section
16-118. Annexation of land; deemed contiguous; when; effect.
16-129. Repealed. Laws 2021, LB131, § 27.

16-118 Annexation of land; deemed contiguous; when; effect.

For purposes of sections 16-117 and 16-130:

(1) Lands, lots, tracts, streets, or highways shall be deemed contiguous although a stream, embankment, strip, or parcel of land not more than two hundred feet wide lies between the same and the corporate limits; and

(2) In counties in which at least three cities of the first class are located, lands, lots, tracts, streets, or highways shall be deemed contiguous although property owned by the federal government lies between the same and the corporate limits, so long as the lands, lots, tracts, streets, or highways sought to be annexed are adjacent to or contiguous with the property owned by the federal government. The annexation of any lands, lots, tracts, streets, or highways described in this subdivision shall not result in any change in the service area of any electric utility without the express agreement of the electric utility serving the area comprising such annexed lands, lots, tracts, streets, or highways at the time of annexation, except that at such time following the annexation of the lands, lots, tracts, streets, or highways as the city lawfully annexes sufficient intervening area so as to directly connect the lands, lots, tracts, streets, or highways to the primary area of the city, such lands, lots, tracts, streets, or highways shall, solely for the purposes of section 70-1008, be treated as if they had been annexed by the city on the date upon which the intervening area had been formally annexed.

Source: Laws 1967, c. 64, § 2, p. 214; Laws 2019, LB194, § 2; Laws 2021, LB9, § 1.
Effective date May 6, 2021.

16-129 Repealed. Laws 2021, LB131, § 27.
Operative date August 28, 2021.

ARTICLE 2
GENERAL POWERS

Section
16-247. Ordinances; revision; publication.

16-247 Ordinances; revision; publication.

A city of the first class may revise the ordinances of the city from time to time and publish the same in book, pamphlet, or electronic form. Such revision shall be by one ordinance, embracing all ordinances preserved as changed or added to and perfected by revision, and shall embrace all the ordinances of every nature preserved, and be a repeal of all ordinances in conflict with such revision; but all ordinances then in force shall continue in force after such revision for the purpose of all rights acquired, fines, penalties, forfeitures, and liabilities incurred, and actions therefor. The only title necessary for such revision and repeal shall be An ordinance to revise all the ordinances of the city of . . . . . , and sections and chapters may be used instead of numbers, and original titles need not be preserved, nor signature of the mayor required.

Source: Laws 1901, c. 18, § 48, LIV, p. 259; Laws 1903, c. 19, § 9, p. 240; R.S.1913, § 4863; C.S.1922, § 4031; C.S.1929, § 16-248; R.S. 1943, § 16-247; Laws 2016, LB704, § 44; Laws 2021, LB159, § 2.
Effective date August 28, 2021.

Cross References

For procedure generally in revision of ordinances, see sections 16-403 to 16-405.

ARTICLE 4
COUNCIL AND PROCEEDINGS

Section
16-403. City council; ordinances; passage; proof; publication.
16-404. City council; ordinances, resolutions, or orders; procedure for passage; vote of mayor, when; amendments; revision ordinances; revised election district boundaries; ordinance.
16-405. City council; ordinances; style; publication; emergency ordinances.

16-403 City council; ordinances; passage; proof; publication.

All ordinances of a city of the first class shall be passed pursuant to such rules and regulations as the city council may provide, and all such ordinances may be proved by the certificate of the city clerk under the seal of the city. When printed or published in book, pamphlet, or electronic form and purporting to be published by authority of the city, such ordinances shall be read and received in evidence in all courts and places without further proof. The passage, approval, and publication or posting of such ordinance shall be sufficiently proved by a certificate under the seal of the city from the city clerk showing that such ordinance was passed and approved, and when and in what paper the same was published, and when and by whom and where the same was posted. When ordinances are published in book, pamphlet, or electronic form, purport-

ing to be published by authority of the city council, the same need not be otherwise published and such book, pamphlet, or electronic form shall be received as evidence of the passage and legal publication of such ordinances, as of the dates mentioned in such book, pamphlet, or electronic form, in all courts without further proof.

Source: Laws 1901, c. 18, § 46, p. 244; R.S.1913, § 4896; C.S.1922, § 4064; C.S.1929, § 16-403; R.S.1943, § 16-403; Laws 2016, LB704, § 72; Laws 2019, LB194, § 24; Laws 2021, LB159, § 3. Effective date August 28, 2021.

16-404 City council; ordinances, resolutions, or orders; procedure for passage; vote of mayor, when; amendments; revision ordinances; revised election district boundaries; ordinance.

(1) All ordinances and resolutions or orders for the appropriation or payment of money in a city of the first class shall require for their passage or adoption the concurrence of a majority of all members elected to the city council. The mayor may vote on any such matter when his or her vote will provide the additional vote required to create a number of votes equal to a majority of the number of members elected to the city council, and the mayor shall, for the purpose of such vote, be deemed to be a member of the city council.

(2)(a) Ordinances of a general or permanent nature in a city of the first class shall be read by title on three different days unless three-fourths of the city council members vote to suspend this requirement, except that in a city having a commission plan of government such requirement may be suspended by a three-fifths majority vote.

(b) Regardless of the form of government, such requirement shall not be suspended (i) for any ordinance for the annexation of territory or the redrawing of boundaries for city council election districts or wards except as otherwise provided in subsection (4) of this section or (ii) as otherwise provided by law.

(c) In case such requirement is suspended, the ordinances shall be read by title or number and then moved for final passage.

(d) Three-fourths of the city council members may require a reading of any such ordinance in full before enactment under either procedure set out in this section, except that in a city having a commission plan of government, such reading may be required by a three-fifths majority vote.

(3) Ordinances in a city of the first class shall contain no subject which is not clearly expressed in the title, and, except as provided in section 19-915, no ordinance or section thereof shall be revised or amended unless the new ordinance contains the entire ordinance or section as revised or amended and the ordinance or section so amended is repealed, except that:

(a) For an ordinance revising all the ordinances of a city of the first class, the only title necessary shall be An ordinance of the city of . . . . . , revising all the ordinances of the city. Under such title all the ordinances may be revised in sections and chapters or otherwise, may be corrected, added to, and any part suppressed, and may be repealed with or without a saving clause as to the whole or any part without other title; and

(b) For an ordinance used solely to revise ordinances or code sections or to enact new ordinances or code sections in order to adopt statutory changes made by the Legislature which are specific and mandatory and bring the

ordinances or code sections into conformance with state law, the title need only state that the ordinance revises those ordinances or code sections affected by or enacts ordinances or code sections generated by legislative changes. Under such title, all such ordinances or code sections may be revised, repealed, or enacted in sections and chapters or otherwise by a single ordinance without other title.

(4) Following the release of the 2020 Census of Population data by the United States Department of Commerce, Bureau of the Census, as required by Public Law 94-171, the city council of any city of the first class requesting the adjustment of the boundaries of election districts shall provide to the election commissioner or county clerk (a) written notice of the need and necessity of his or her office to perform such adjustments and (b) a revised election district boundary map that has been approved by the requesting city council and subjected to all public review and challenge ordinances of the city by December 30, 2021. The revised election district boundary map shall be adopted by ordinance. Such ordinance shall be read by title on three different days unless three-fourths of the city council members vote to suspend this requirement.

Source: Laws 1901, c. 18, § 37, p. 240; Laws 1903, c. 19, § 5, p. 235; R.S.1913, § 4897; C.S.1922, § 4065; C.S.1929, § 16-404; R.S.1943, § 16-404; Laws 1961, c. 43, § 1, p. 174; Laws 1969, c. 108, § 2, p. 510; Laws 1972, LB 1235, § 1; Laws 1975, LB 172, § 1; Laws 1980, LB 662, § 2; Laws 1989, LB 790, § 2; Laws 1990, LB 966, § 1; Laws 1994, LB 630, § 2; Laws 2003, LB 365, § 1; Laws 2016, LB704, § 73; Laws 2018, LB865, § 3; Laws 2019, LB193, § 5; Laws 2019, LB194, § 25; Laws 2021, LB131, § 11; Laws 2021, LB285, § 3.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB131, section 11, with LB285, section 3, to reflect all amendments.

Note: Changes made by LB131 became operative August 28, 2021. Changes made by LB285 became effective May 27, 2021.

Cross References

For other provisions for revision of ordinances, see section 16-247.

16-405 City council; ordinances; style; publication; emergency ordinances.

The style of ordinances of a city of the first class shall be: ''Be it ordained by the mayor and city council of the city of .....,'' and all ordinances of a general nature shall, within fifteen days after they are passed, be published in a legal newspaper in or of general circulation within the city, or in book, pamphlet, or electronic form, to be distributed or sold, as may be provided by ordinance. Every ordinance fixing a penalty or forfeiture for its violation shall, before the ordinance takes effect, be published for at least one week in the manner prescribed in this section. In cases of riots, infectious diseases, or other impending danger, or any other emergency requiring its immediate operation, such ordinance shall take effect upon the proclamation of the mayor immediately upon its first publication as provided in this section.

Source: Laws 1901, c. 18, § 47, p. 245; R.S.1913, § 4898; C.S.1922, § 4066; C.S.1929, § 16-405; R.S.1943, § 16-405; Laws 1971, LB 282, § 1; Laws 2016, LB704, § 74; Laws 2019, LB194, § 26; Laws 2021, LB159, § 4.
Effective date August 28, 2021.

ARTICLE 6
PUBLIC IMPROVEMENTS

(j) PUBLIC BUILDINGS

(m) FLOOD CONTROL

(j) PUBLIC BUILDINGS

16-6,100 Public buildings; construction; bonds authorized; approval of electors required, when.

The mayor and city council of a city of the first class shall have the power to borrow money and pledge the property and credit of the city upon its negotiable bonds or otherwise for the purpose of acquiring, by purchasing or constructing, including site acquisition, or aiding in the acquiring of a city hall, jail, auditorium, buildings for the fire department, and other public buildings, including the acquisition of buildings authorized to be acquired by Chapter 72, article 14, and including acquisition of buildings to be leased in whole or in part by the city to any other political or governmental subdivision of the State of Nebraska authorized by law to lease such buildings. No such bonds shall be issued until after the same have been authorized by a majority vote of the electors of the city voting on the proposition of their issuance at an election called for the submission of such proposition and of which election notice of the time and place thereof shall have been given by publication in a legal newspaper in or of general circulation in the city three successive weeks prior thereto. If the buildings to be acquired are to be used by the State of Nebraska or its agency or agencies under a lease authorized by Chapter 72, article 14, or the buildings are to be leased by any other political or governmental subdivision of the State of Nebraska or other governmental agencies and if the combined area of the buildings to be leased by the state or its agency or agencies and the political or governmental subdivision of the State of Nebraska is more than fifty percent of the area of the buildings and if the cost of acquisition does not exceed five million dollars, no such vote of the electors will be required.

Source: Laws 1911, c. 15, § 1, p. 132; R.S.1913, § 4971; Laws 1915, c. 89, § 1, p. 229; Laws 1919, c. 39, § 1, p. 122; C.S.1922, § 4140; C.S.1929, § 16-670; Laws 1941, c. 23, § 1, p. 116; C.S.Supp.,1941, § 16-670; R.S.1943, § 16-6,100; Laws 1945, c. 23, § 1, p. 131; Laws 1947, c. 30, § 1, p. 138; Laws 1947, c. 28, § 2, p. 135; Laws 1969, c. 87, § 1, p. 436; Laws 1972, LB 876, § 1; Laws 2016, LB704, § 161; Laws 2019, LB194, § 75; Laws 2021, LB131, § 12.
Operative date August 28, 2021.

(m) FLOOD CONTROL

16-6,108 General obligation bonds; issuance; hearing.

The powers granted by sections 16-6,106 to 16-6,109 may be exercised in whole or in part and from time to time as the city council may in its discretion

determine but before general obligation bonds are issued for the purposes of sections 16-6,106 to 16-6,109, the city council shall hold a public hearing after three weeks' notice published in a legal newspaper in or of general circulation in such city, and the referendum provisions of the Municipal Initiative and Referendum Act shall apply to any ordinance or resolution authorizing issuance of such bonds. The program for implementation of the plan may be adopted and carried out in parts, sections, or stages.

Source: Laws 1971, LB 57, § 3; Laws 1982, LB 807, § 42; Laws 2016, LB704, § 170; Laws 2021, LB163, § 1.
Effective date August 28, 2021.

Cross References

Municipal Initiative and Referendum Act, see section 18-2501.

CHAPTER 17
CITIES OF THE SECOND CLASS AND VILLAGES

Article.
2. Laws Applicable Only to Villages. 17-209.02.
4. Change of Boundary; Additions.
(b) Annexation of Territory. 17-405.01.
(c) Detachment of Territory Within City Limits. 17-414. Repealed.
6. Elections, Officers, Ordinances.
(c) Ordinances. 17-613, 17-614.

ARTICLE 2
LAWS APPLICABLE ONLY TO VILLAGES

Section
17-209.02. Officers and employees; combine or merge office, employment, or duties.

17-209.02 Officers and employees; combine or merge office, employment, or duties.

(1)(a) The village board of trustees may, by ordinance, combine or merge any elective or appointive village office or village employment or any combination of duties of any such offices or employments, except that the office of village trustee shall not be combined or merged with any other village office or village employment except as provided in subsection (2) of this section.

(b) The village offices or village employments combined or merged shall always be construed to be separate and the effect of the combination or merger shall be limited to a consolidation of official duties only.

(2)(a) The office of village trustee shall not be combined or merged with any other village office or village employment, except that a member of the village board of trustees may receive compensation to perform seasonal or emergency work upon approval by the village board of trustees.

(b) No member of the village board of trustees shall receive compensation from the village in excess of the maximum amount provided by law.

(3) For purposes of this section, volunteer firefighters and volunteer rescue squad personnel shall not be considered village officers.

Source: Laws 1945, c. 25, § 2, p. 135; R.S.Supp.,1945, § 17-209.01; Laws 1972, LB 1032, § 106; Laws 1984, LB 368, § 3; Laws 1984, LB 682, § 8; Laws 1986, LB 548, § 9; Laws 1990, LB 756, § 3; Laws 2017, LB133, § 72; Laws 2021, LB405, § 1.
Effective date August 28, 2021.

ARTICLE 4
CHANGE OF BOUNDARY; ADDITIONS

(b) ANNEXATION OF TERRITORY

Section
17-405.01. Annexation; powers; restrictions.

(c) DETACHMENT OF TERRITORY WITHIN CITY LIMITS

17-414. Repealed. Laws 2021, LB131, § 27.

(b) ANNEXATION OF TERRITORY

17-405.01 Annexation; powers; restrictions.

(1) Except as provided in subsections (2) and (3) of this section and section 17-407, the mayor and city council of any city of the second class or the chairperson and members of the village board of trustees may by ordinance, except as provided in sections 13-1111 to 13-1118, at any time, include within the corporate limits of such city or village any contiguous or adjacent lands, lots, tracts, streets, or highways as are urban or suburban in character, and in such direction as may be deemed proper. Such grant of power shall not be construed as conferring power to extend the limits of any city of the second class or village over any agricultural lands which are rural in character.

(2) The mayor and city council of any city of the second class or the chairperson and members of the village board of trustees may, by ordinance, annex any lands, lots, tracts, streets, or highways which constitute a redevelopment project area so designated by the city or village or its community redevelopment authority in accordance with the provisions of the Community Development Law when such annexation is for the purpose of implementing a lawfully adopted redevelopment plan containing a provision dividing ad valorem taxes as provided in subsection (1) of section 18-2147 and which will involve the construction or development of an agricultural processing facility, notwithstanding that such lands, lots, tracts, streets, or highways are not contiguous or adjacent or are not urban or suburban in character. Such annexation shall comply with all other provisions of law relating to annexation generally for cities of the second class and villages. The city or village shall not, in consequence of the annexation under this subsection of any noncontiguous land, exercise the authority granted to it by law to extend its extraterritorial zoning jurisdiction beyond its corporate boundaries for purposes of planning, zoning, or subdivision development without the agreement of any other city, village, or county currently exercising zoning jurisdiction over the area surrounding the annexed redevelopment project area. The annexation of any noncontiguous land undertaken pursuant to this subsection shall not result in any change in the service area of any electric utility without the express agreement of the electric utility serving the annexed noncontiguous area at the time of annexation, except that at such time following the annexation of the noncontiguous area as the city or village lawfully annexes sufficient intervening territory so as to directly connect the noncontiguous area to the main body of the city or village, such noncontiguous area shall, solely for the purposes of section 70-1008, be treated as if it had been annexed by the city or village on the date upon which the connecting intervening territory had been formally annexed. For purposes of this subsection, agricultural processing facility means a plant or establishment where value is added to agricultural commodities through processing, fabrication, or other means and where eighty percent or more of the direct sales from the facility are to other than the ultimate consumer of the processed commodities. A facility shall not qualify as an agricultural processing facility unless its construction or development involves the investment of more than one million dollars derived from nongovernmental sources.

(3) The mayor and two-thirds of the city council of any city of the second class or the chairperson and two-thirds of the members of the village board of

trustees may, by ordinance, annex any lands, lots, tracts, streets, or highways when such annexation is for the purpose of relocating part or all of such city or village due to catastrophic flooding, notwithstanding that such lands, lots, tracts, streets, or highways are not contiguous or adjacent or are not urban or suburban in character. Such annexation shall comply with all other provisions of law relating to annexation generally for cities of the second class and villages. The city or village shall not, in consequence of the annexation under this subsection of any noncontiguous land, exercise the authority granted to it by law to extend its extraterritorial zoning jurisdiction beyond its corporate boundaries for purposes of planning, zoning, or subdivision development without the agreement of any other city, village, or county currently exercising zoning jurisdiction over the area surrounding the annexed area. The annexation of any noncontiguous land undertaken pursuant to this subsection shall not result in any change in the service area of any electric utility without the express agreement of the electric utility serving the annexed noncontiguous area at the time of annexation, except that at such time following the annexation of the noncontiguous area as the city or village lawfully annexes sufficient intervening territory so as to directly connect the noncontiguous area to the main body of the city or village, such noncontiguous area shall, solely for the purposes of section 70-1008, be treated as if it had been annexed by the city or village on the date upon which the connecting intervening territory had been formally annexed. If, within five years following an annexation undertaken pursuant to this subsection, part or all of the city or village has not been relocated to the annexed area, the city or village shall initiate detachment of such annexed area pursuant to subsection (2) of section 18-3316. For purposes of this subsection, catastrophic flooding means a flooding event that (a) results in total property damage within the city or village which exceeds forty-five percent of the total assessed value of the improvements within the city or village and (b) is declared to be a major disaster by the President of the United States or the Governor.

Source: Laws 1967, c. 74, § 1, p. 240; Laws 1997, LB 875, § 1; Laws 2009, LB495, § 6; Laws 2017, LB133, § 110; Laws 2018, LB874, § 3; Laws 2020, LB1003, § 171; Laws 2021, LB131, § 13. Operative date August 28, 2021.

Cross References

Community Development Law, see section 18-2101.

(c) DETACHMENT OF TERRITORY WITHIN CITY LIMITS

17-414 Repealed. Laws 2021, LB131, § 27.
Operative date August 28, 2021.

ARTICLE 6

ELECTIONS, OFFICERS, ORDINANCES

(c) ORDINANCES

Section
17-613. Ordinances; style; publication; proof.
17-614. Ordinances; how enacted; title; revised election district boundary; ordinance.

(c) ORDINANCES

17-613 Ordinances; style; publication; proof.

The style of all ordinances of a city of the second class or village shall be: Be it ordained by the mayor and city council of the city of ....., or the chairperson and board of trustees of the village of ..... All ordinances of a general nature shall, before they take effect, be published, within fifteen days after they are passed, (1) in a legal newspaper in or of general circulation in such city or village or (2) by publishing the same in book, pamphlet, or electronic form. In case of riot, infectious or contagious diseases, or other impending danger, failure of public utility, or any other emergency requiring its immediate operation, such ordinance shall take effect upon the proclamation of the mayor or chairperson of the village board of trustees, posted in at least three of the most public places in the city or village. Such emergency ordinance shall recite the emergency, be passed by a three-fourths vote of the city council or village board of trustees, and be entered of record on the minutes of the city or village. The passage, approval, and publication of all ordinances shall be sufficiently proved by a certificate under seal of the city or village from the city clerk or village clerk, showing that such ordinance was passed and approved and when and in what legal newspaper the ordinance was published. When ordinances are printed in book, pamphlet, or electronic form, purporting to be published by authority of the village board of trustees or city council, the ordinance need not be otherwise published, and such book, pamphlet, or electronic form shall be received as evidence of the passage and legal publication of such ordinances as of the dates mentioned in such book, pamphlet, or electronic form in all courts without further proof.

Source: Laws 1879, § 59, p. 207; Laws 1881, c. 23, § 7, p. 171; R.S.1913, § 5153; C.S.1922, § 4328; C.S.1929, § 17-519; R.S.1943, § 17-613; Laws 1951, c. 36, § 1, p. 137; Laws 1969, c. 95, § 1, p. 462; Laws 1971, LB 282, § 2; Laws 2017, LB133, § 212; Laws 2021, LB159, § 5.
Effective date August 28, 2021.

Cross References

For other provisions applicable to ordinances, see sections 18-131, 18-132, 18-1724, and 19-3701.

17-614 Ordinances; how enacted; title; revised election district boundary; ordinance.

(1)(a) All ordinances and resolutions or orders for the appropriation or payment of money shall require for their passage or adoption the concurrence of a majority of all members elected to the city council in a city of the second class or village board of trustees. The mayor of a city of the second class may vote when his or her vote would provide the additional vote required to attain the number of votes equal to a majority of the number of members elected to the city council, and the mayor shall, for the purpose of such vote, be deemed to be a member of the city council.

(b) Ordinances of a general or permanent nature shall be read by title on three different days unless three-fourths of the city council or village board of trustees vote to suspend this requirement. Such requirement shall not be suspended (i) for any ordinance for the annexation of territory or the redrawing of boundaries for city council or village board of trustees election districts or

wards except as otherwise provided in subsection (3) of this section or (ii) as otherwise provided by law.

(c) In case such requirement is suspended, the ordinances shall be read by title and then moved for final passage.

(d) Three-fourths of the city council or village board of trustees may require a reading of any such ordinance in full before enactment under either procedure set out in this section.

(2) Ordinances shall contain no subject which is not clearly expressed in the title, and, except as provided in section 19-915, no ordinance or section of such ordinance shall be revised or amended unless the new ordinance contains the entire ordinance or section as revised or amended and the ordinance or section so amended is repealed, except that:

(a) For an ordinance revising all the ordinances of the city of the second class or village, the title need only state that the ordinance revises all the ordinances of the city or village. Under such title all the ordinances may be revised in sections and chapters or otherwise, may be corrected, added to, and any part suppressed, and may be repealed with or without a saving clause as to the whole or any part without other title; and

(b) For an ordinance used solely to revise ordinances or code sections or to enact new ordinances or code sections in order to adopt statutory changes made by the Legislature which are specific and mandatory and bring the ordinances or code sections into conformance with state law, the title need only state that the ordinance revises those ordinances or code sections affected by or enacts ordinances or code sections generated by legislative changes. Under such title, all such ordinances or code sections may be revised, repealed, or enacted in sections and chapters or otherwise by a single ordinance without other title.

(3) Following the release of the 2020 Census of Population data by the United States Department of Commerce, Bureau of the Census, as required by Public Law 94-171, the city council of any city of the second class or village board of trustees requesting the adjustment of the boundaries of election districts shall provide to the election commissioner or county clerk (a) written notice of the need and necessity of his or her office to perform such adjustments and (b) a revised election district boundary map that has been approved by the requesting city council or village board of trustees and subjected to all public review and challenge ordinances of the city or village by December 30, 2021. The revised election district boundary map shall be adopted by ordinance. Such ordinance shall be read by title on three different days unless three-fourths of the members of the city council or village board of trustees vote to suspend this requirement.

Source: Laws 1879, § 79, p. 223; R.S.1913, § 5154; C.S.1922, § 4329; Laws 1929, c. 47, § 1, p. 202; C.S.1929, § 17-520; R.S.1943, § 17-614; Laws 1969, c. 108, § 3, p. 510; Laws 1972, LB 1235, § 2; Laws 1994, LB 630, § 3; Laws 2001, LB 484, § 2; Laws 2003, LB 365, § 2; Laws 2013, LB113, § 2; Laws 2017, LB133, § 213; Laws 2018, LB865, § 4; Laws 2021, LB131, § 14; Laws 2021, LB285, § 4.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB131, section 14, with LB285, section 4, to reflect all amendments.

Note: Changes made by LB131 became operative August 28, 2021. Changes made by LB285 became effective May 27, 2021.

CHAPTER 18

CITIES AND VILLAGES; LAWS APPLICABLE TO ALL

Article.
1. Ordinances. 18-131, 18-132.
2. Direct Borrowing from Financial Institution. 18-201.
3. Public Officers; Private Gain. 18-305 to 18-311.
4. Public Utilities. 18-401 to 18-413.
5. Sewer Systems. 18-501 to 18-512.
6. Subways and Viaducts. 18-601 to 18-636.
8. Regional Metropolitan Transit Authority Act. 18-822.
10. State Armories. 18-1001 to 18-1006.
11. Refunding Indebtedness. 18-1101, 18-1102.
12. Miscellaneous Taxes. 18-1201 to 18-1216.
15. Aviation Fields. 18-1501 to 18-1509.
17. Miscellaneous. 18-1701 to 18-1757.
18. Bonds. 18-1801 to 18-1804.
19. Plumbing Inspection. 18-1902 to 18-1919.
20. Street Improvements. 18-2003 to 18-2005.
21. Community Development. 18-2101.02 to 18-2147.
22. Community Antenna Television Service. 18-2201 to 18-2206.
23. Air Conditioning Air Distribution Board. 18-2301 to 18-2315.
24. Municipal Cooperative Financing. 18-2402 to 18-2476.
25. Municipal Initiative and Referendum Act. 18-2501 to 18-2538.
26. Infrastructure Redevelopment. Repealed.
27. Municipal Economic Development. 18-2705 to 18-2737.
28. Municipal Proprietary Functions. 18-2803 to 18-2807.
30. Planned Unit Development. 18-3001.
33. Corporate Limits.
(c) Detachment. 18-3316.

ARTICLE 1

ORDINANCES

Section
18-131. Publication.
18-132. Adoption of standard codes.

18-131 Publication.

Ordinances passed by cities of all classes and villages must be posted, published in a legal newspaper in or of general circulation in the respective cities or villages, or published in book, pamphlet, or electronic form, as required by their respective charters or general laws.

Source: Laws 1933, c. 111, § 1, p. 451; C.S.Supp.,1941, § 18-1501; R.S.1943, § 18-131; Laws 2021, LB159, § 6; Laws 2021, LB163, § 2.
Effective date August 28, 2021.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB159, section 6, with LB163, section 2, to reflect all amendments.

18-132 Adoption of standard codes.

(1) The city council of any city or board of trustees of any village may adopt by ordinance the conditions, provisions, limitations, and terms of a plumbing code, an electrical code, a fire prevention code, a building or construction code, and any other standard code which contains rules and regulations printed as a code in book, pamphlet, or electronic form, by reference to such code, or portions thereof, alone, without setting forth in the ordinance the conditions, provisions, limitations, and terms of such code. When any such code, or portion thereof, has been incorporated by reference into such ordinance, as provided in this section, it shall have the same force and effect as though it had been written in its entirety in such ordinance without further or additional publication thereof.

(2) Not less than one copy of such standard code, or portion thereof, shall be kept for use and examination by the public in the office of the city clerk or village clerk prior to the adoption thereof and as long as such standard code is in effect in such city or village.

(3) Any building or construction code implemented under this section shall be adopted and enforced as provided in section 71-6406.

(4) If there is no ordinance adopting a plumbing code in effect in a city or village, the 2018 Uniform Plumbing Code designated by the American National Standards Institute as an American National Standard shall serve as the plumbing code for all the area within the jurisdiction of the city or village. Nothing in this section shall be interpreted as creating an obligation for the city or village to inspect plumbing work done within its jurisdiction to determine compliance with the plumbing code.

Source: Laws 1933, c. 111, § 1, p. 451; C.S.Supp.,1941, § 18-1501; R.S.1943, § 18-132; Laws 1984, LB 748, § 1; Laws 1996, LB 1304, § 1; Laws 2012, LB42, § 1; Laws 2016, LB704, § 209; Laws 2021, LB131, § 16; Laws 2021, LB159, § 7; Laws 2021, LB163, § 3.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB131, section 16, with LB159, section 7, and LB163, section 3, to reflect all amendments.

Note: Changes made by LB131 became operative August 28, 2021. Changes made by LB159 and LB163 became effective August 28, 2021.

ARTICLE 2
DIRECT BORROWING FROM FINANCIAL INSTITUTION

Section
18-201. Direct borrowing; purposes; ordinance or resolution; public notice; limitation.

18-201 Direct borrowing; purposes; ordinance or resolution; public notice; limitation.

(1) The mayor and city council of any city or board of trustees of any village, in addition to other powers granted by law, may by ordinance or resolution provide for direct borrowing from a financial institution for the purposes outlined in this section. Loans made under this section shall not be restricted to a single year and may be repaid in installment payments for a term not to exceed seven years.

(2) The mayor and city council of any city or board of trustees of any village may borrow directly from a financial institution for the (a) purchase of real or personal property, (b) construction of improvements, (c) repair or reconstruc-

tion of real or personal property, improvements, or infrastructure damaged as a result of a calamity, (d) provision of public services temporarily disrupted or suspended as a result of a calamity, or (e) refinancing of existing indebtedness upon a certification in the ordinance or resolution authorizing the direct borrowing that:

(i) Financing the (A) purchase of real or personal property, (B) construction of improvements, (C) repair or reconstruction of real or personal property, improvements, or infrastructure damaged as a result of a calamity, (D) provision of public services temporarily disrupted or suspended as a result of a calamity, or (E) refinancing of existing indebtedness through traditional bond financing would be impractical;

(ii) Financing the (A) purchase of real or personal property, (B) construction of improvements, (C) repair or reconstruction of real or personal property, improvements, or infrastructure damaged as a result of a calamity, (D) provision of public services temporarily disrupted or suspended as a result of a calamity, or (E) refinancing of existing indebtedness through traditional bond financing could not be completed within the time restraints facing the city or village; or

(iii) Financing the (A) purchase of real or personal property, (B) construction of improvements, (C) repair or reconstruction of real or personal property, improvements, or infrastructure damaged as a result of a calamity, (D) provision of public services temporarily disrupted or suspended as a result of a calamity, or (E) refinancing of existing indebtedness through direct borrowing would generate taxpayer savings over traditional bond financing.

(3) Prior to approving direct borrowing under this section, the city council or board of trustees shall include in any public notice required for meetings a clear notation that an ordinance or resolution authorizing direct borrowing from a financial institution will appear on the agenda.

(4)(a) The total amount of indebtedness attributable to any year from direct borrowing under this section shall not exceed:

(i) For any city of the metropolitan class, city of the primary class, or city of the first class, ten percent of the municipal budget of the city; and

(ii) For any city of the second class or village, twenty percent of the municipal budget of the city or village.

(b) For purposes of this subsection, (i) the amount of any loan which shall be attributable to any year for purposes of the limitation on the total amount of indebtedness from direct borrowing is the total amount of the outstanding loan balance divided by the number of years over which the loan is to be repaid and (ii) the amount of indebtedness from any direct borrowing shall only be measured as of the date the ordinance or resolution providing for such direct borrowing is adopted.

(5) Prior to approving direct borrowing under this section, a municipality shall consider, to the extent possible, proposals from multiple financial institutions.

(6) For purposes of this section:

(a) Calamity means a disastrous event, including, but not limited to, a fire, an earthquake, a flood, a tornado, or other natural event which damages real or personal property, improvements, or infrastructure of a city or village or which

results in the temporary disruption or suspension of public services provided by a city or village; and

(b) Financial institution means a state-chartered or federally chartered bank, savings bank, building and loan association, or savings and loan association.

Source: Laws 2015, LB152, § 1; Laws 2019, LB121, § 1; Laws 2020, LB870, § 1; Laws 2021, LB163, § 4.
Effective date August 28, 2021.

ARTICLE 3

PUBLIC OFFICERS; PRIVATE GAIN

Section
18-305. Telephones; free or underpriced service to city or village officers; acceptance by officer; prohibited; penalties.
18-306. Electric or other lights; free or underpriced service to city or village officers; prohibited; penalties.
18-307. Electric or other lights; free or underpriced service; acceptance by officer; prohibited; penalty.
18-308. Water; free or underpriced service to city or village officers; acceptance by officer; prohibited; penalties.
18-309. Prosecutions for violations; evidence; immunity of witnesses.
18-310. Compensation contracts contingent upon outcome of municipal election; contrary to public policy.
18-311. Compensation contracts contingent upon outcome of municipal election; prohibited.

18-305 Telephones; free or underpriced service to city or village officers; acceptance by officer; prohibited; penalties.

It shall be unlawful for any telephone company to furnish to any elected or appointed officer of any city or village in this state a telephone free of charge, or for a price less than is charged other customers for similar service, or for any such officer to accept such telephone or telephone service free of charge, or at a price less than shall be charged to other customers for similar service. Any violation of this section by a telephone company shall be a Class III misdemeanor, and the officer or agent of any such telephone company acting or assisting in such violation shall be guilty of a Class III misdemeanor. Any violation of this section by any officer of any such city or village shall be a Class III misdemeanor, and the officer shall upon conviction forfeit the office held by him or her at the time of committing such offense.

Source: Laws 1897, c. 13, § 3, p. 137; R.S.1913, § 5218; C.S.1922, § 4419; C.S.1929, § 18-403; R.S.1943, § 18-305; Laws 1982, LB 347, § 2; Laws 2021, LB163, § 5.
Effective date August 28, 2021.

18-306 Electric or other lights; free or underpriced service to city or village officers; prohibited; penalties.

It shall be unlawful for any person, partnership, limited liability company, or corporation engaged in furnishing in any city or village in this state artificial light, such as electric light, gas light, or light from oil, to furnish light to any elected or appointed officer in any city or village in which such person, partnership, limited liability company, or corporation is engaged in furnishing such lights, free or for a price less than is charged other customers in such city or village for similar services. Any violation of this section shall be a Class III

misdemeanor. Each day any service is furnished or accepted in violation of this section shall be considered as a separate offense and punished accordingly.

Source: Laws 1897, c. 13, § 4, p. 137; R.S.1913, § 5219; C.S.1922, § 4420; C.S.1929, § 18-404; R.S.1943, § 18-306; Laws 1982, LB 347, § 3; Laws 1993, LB 121, § 137; Laws 2021, LB163, § 6. Effective date August 28, 2021.

18-307 Electric or other lights; free or underpriced service; acceptance by officer; prohibited; penalty.

If any elected or appointed officer in any city or village in this state accepts free of charge or for a price less than is charged other customers for similar services in such city or village electric services from any electric utility company or from any person, partnership, or limited liability company which provides electric service in such city or village, such officer shall be guilty of a Class III misdemeanor and shall also forfeit the office held by him or her at the date of such offense.

Source: Laws 1897, c. 13, § 5, p. 138; R.S.1913, § 5220; C.S.1922, § 4421; C.S.1929, § 18-405; R.S.1943, § 18-307; Laws 1982, LB 347, § 4; Laws 1993, LB 121, § 138; Laws 2021, LB163, § 7. Effective date August 28, 2021.

18-308 Water; free or underpriced service to city or village officers; acceptance by officer; prohibited; penalties.

Any water company engaged in furnishing water in any city or village in this state and any person, corporation, partnership, or limited liability company engaged in such services who furnishes to any elected or appointed officer in such city or village, water free of charge or for a price less than is at the time charged for similar service to other customers in such city or village shall be guilty of a Class III misdemeanor. If any officer in any such city or village accepts free of charge or for a price less than is charged to other customers in such city or village any of the services mentioned in this section, such officer shall be guilty of a Class III misdemeanor and shall also forfeit the office held by him or her at the date of such violation. Each day such service or services are furnished or accepted in violation of this section shall constitute a separate and distinct offense and shall be punished accordingly.

Source: Laws 1897, c. 13, § 6, p. 138; R.S.1913, § 5221; C.S.1922, § 4422; C.S.1929, § 18-406; R.S.1943, § 18-308; Laws 1982, LB 347, § 5; Laws 1993, LB 121, § 139; Laws 2021, LB163, § 8. Effective date August 28, 2021.

18-309 Prosecutions for violations; evidence; immunity of witnesses.

No person shall be excused from attending and testifying or producing books and papers, in any prosecution under sections 18-305 to 18-309, for the reason that the required testimony, documentary or otherwise, may tend to incriminate such person or subject such person to a penalty or forfeiture. No person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which such person may testify or produce evidence, documentary or otherwise, in any prosecution under such

sections, except that no person so testifying shall be exempt from prosecution for perjury committed in so testifying.

Source: Laws 1897, c. 13, § 8, p. 139; R.S.1913, § 5223; C.S.1922, § 4424; C.S.1929, § 18-408; R.S.1943, § 18-309; Laws 2021, LB163, § 9.
Effective date August 28, 2021.

18-310 Compensation contracts contingent upon outcome of municipal election; contrary to public policy.

The Legislature finds and declares that it is detrimental to good government and the best interests of the state to permit payment to any person, firm, or corporation of fees or compensation in any form, other than regular salaries of duly elected or appointed officers of a city or village, for services rendered to a city or village contingent or dependent upon the outcome of any municipal election.

Source: Laws 1947, c. 49, § 1, p. 168; Laws 2021, LB163, § 10.
Effective date August 28, 2021.

18-311 Compensation contracts contingent upon outcome of municipal election; prohibited.

It shall be unlawful for the mayor and city council of any city, or the chairperson and board of trustees of any village, to contract with, retain, or employ any person, firm, or corporation upon the basis that the amount of the fees or compensation to be paid shall be contingent or depend, in whole or in part, upon the outcome of any municipal election.

Source: Laws 1947, c. 49, § 2, p. 169; Laws 2021, LB163, § 11.
Effective date August 28, 2021.

ARTICLE 4

PUBLIC UTILITIES

Section

Section

18-401 Public utility districts; creation authorized; extension or enlargement of service; limitation.

In all cities, villages, or metropolitan utilities districts owning or operating a waterworks system, sanitary sewerage system, storm sewer system, gas plant, or other public utility plant and in which water, gas, or other public utility is supplied by municipal authority for domestic, mechanical, public, or other purposes, or sewage and storm water disposal, or other services furnished, the authorities having general charge, supervision, and control of all matters pertaining to the water, gas, or other public utility supplied by any city, village, or metropolitan utilities district, or the furnishing of any public service such as sewage and storm water disposal, shall have the power and authority to create a water main district, gas main district, sanitary sewer district, storm water disposal district, or other public utility district, as the case may be, either within or without the corporate limits of the city, village, or metropolitan utilities district involved, and to order and cause to be made extensions or enlargements of water mains, sanitary sewers, storm water disposal mains, gas mains, or other public utility service through such public utility district, except that nothing contained in this section shall be construed as authorizing the creation of any such public utility district outside of the corporate limits of a city of the primary class.

Source: Laws 1921, c. 110, § 1, p. 386; C.S.1922, § 4475; C.S.1929, § 18-1001; R.S.1943, § 18-401; Laws 1963, c. 79, § 1, p. 286; Laws 1992, LB 746, § 63; Laws 2021, LB163, § 12.
Effective date August 28, 2021.

18-402 Public utility districts; how created.

Any water main district, gas main district, sanitary sewer district, storm water disposal district, or other public utility district as provided in section 18-401 shall be created by ordinance if such public utility district is created by a city or village, or by resolution of the board of directors of a metropolitan utilities district if such public utility district is created by a metropolitan utilities district.

Source: Laws 1921, c. 110, § 2, p. 386; C.S.1922, § 4476; C.S.1929, § 18-1002; R.S.1943, § 18-402; Laws 2021, LB163, § 13.
Effective date August 28, 2021.

18-403 Public utility districts; creation; extension or enlargement of service; notice requirements; protests.

Upon the passage of an ordinance or resolution under section 18-402 creating a water main district, gas main district, sanitary sewer district, storm water disposal district, or other public utility district or ordering the extension or

enlargement of a water main, gas main, or other public utility service through such district, it shall be the duty of the city council or village board of trustees which passed the ordinance or of the board of directors of the metropolitan utilities district which passed the resolution to cause a notice to be published in a legal newspaper in or of general circulation in such city or village or in the principal city within the metropolitan utilities district, addressed generally to the owners of the real estate within such public utility district, notifying them of the creation of the district and of the ordering of the extension or enlargement of the water main, gas main, or other public utility service within such district and further notifying the owners of the real estate that they have thirty days from and after such publication to file with such city council, village board of trustees, or board of directors their written protest against the creation of the district and of the extension or enlargement of the water main, gas main, or other public utility service so ordered.

Source: Laws 1921, c. 110, § 3, p. 386; C.S.1922, § 4477; C.S.1929, § 18-1003; R.S.1943, § 18-403; Laws 1992, LB 746, § 64; Laws 2021, LB163, § 14.
Effective date August 28, 2021.

18-404 Public utility districts; creation; protest; effect.

If within thirty days there is filed, as provided in section 18-403, a written protest signed by the record owners of a majority of the foot frontage of taxable property in a water main district, gas main district, sanitary sewer district, storm water disposal district, or other public utility district, then the filing of such protest shall operate as a repeal or rescission of the ordinance or resolution creating such district, but if no such protest is filed within thirty days, then the city council, village board of trustees, or board of directors shall proceed to contract for and on behalf of such city, village, or metropolitan utilities district for the extension or enlargement of the main or utility service so ordered or to make such extension or enlargement.

Source: Laws 1921, c. 110, § 4, p. 387; C.S.1922, § 4478; C.S.1929, § 18-1004; R.S.1943, § 18-404; Laws 1959, c. 53, § 1, p. 244; Laws 1992, LB 746, § 65; Laws 2021, LB163, § 15.
Effective date August 28, 2021.

18-405 Public utility districts; extension or enlargement of service; cost; payment; assessment.

Upon the completion of an extension or enlargement of any water or gas main or other utility service in a water main district, gas main district, sanitary sewer district, storm water disposal district, or other public utility district created pursuant to section 18-401, the actual cost of such extension or enlargement shall be duly certified to the city council, village board of trustees, or board of directors of a metropolitan utilities district when done by contract, but when done by utilizing the equipment and employees of any such city, village, or metropolitan utilities district, the average cost, based upon the average cost per foot to such city, village, or metropolitan utilities district in the previous calendar year, of installing water or gas distribution mains, as the case may be, shall be thus certified. Such city council, village board of trustees, or board of directors shall assess, to the extent of special benefits, the cost, not exceeding the actual cost or average cost, as the case may be, of installing such

water main, gas main, or other utility service, upon all real estate in such district, in proportion to the frontage of the real estate upon the main or utility service. The cost of any such extension or enlargement in excess of the actual or average cost of installing the water main, gas main, or other utility service authorized to be assessed and levied against the real estate in such district shall be paid out of the water fund, gas fund, or other utility fund of such city, village, or metropolitan utilities district, if there is such a fund, and if such city or village has no water fund, gas fund, or other utility fund, then the costs shall be paid out of the general fund. No real estate in any city, village, or metropolitan utilities district shall be subject to more than one special tax assessment for the same extension or enlargement of water mains, gas mains, or other utility service.

Source: Laws 1921, c. 110, § 5, p. 387; C.S.1922, § 4479; C.S.1929, § 18-1005; Laws 1941, c. 27, § 1, p. 128; C.S.Supp.,1941, § 18-1005; R.S.1943, § 18-405; Laws 1959, c. 53, § 2, p. 245; Laws 1972, LB 1454, § 1; Laws 1992, LB 746, § 66; Laws 2021, LB163, § 16.
Effective date August 28, 2021.

18-406 Public utility districts; special assessments; when due; equalization; interest.

The special assessment provided in section 18-405 shall be paid in ten installments. The first installment, or one-tenth of the assessment, shall become due and delinquent fifty days after the date of levy, and one-tenth of such assessment shall become due and delinquent each year thereafter, counting from the date of levy, for nine years. The special assessment shall bear interest at a rate not to exceed the rate of interest specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, prior to delinquency, and at the rate specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, after delinquency. Prior to the levy of the special assessment as provided in section 18-405, such assessment shall be equalized in the same manner as provided by law for the equalization of special assessments levied in the city or village that levied such special assessment, or in the city of the metropolitan class within the metropolitan utilities district that levied such special assessment.

Source: Laws 1921, c. 110, § 5, p. 388; C.S.1922, § 4479; C.S.1929, § 18-1005; Laws 1941, c. 27, § 1, p. 129; C.S.Supp.,1941, § 18-1005; R.S.1943, § 18-406; Laws 1963, c. 80, § 1, p. 287; Laws 1980, LB 933, § 22; Laws 1981, LB 167, § 23; Laws 1983, LB 438, § 1; Laws 1992, LB 746, § 67; Laws 2015, LB361, § 40; Laws 2021, LB163, § 17.
Effective date August 28, 2021.

18-407 Public utility districts; creation by petition; denial.

If a petition is filed, signed by the owners of a majority of the front footage of real estate within a proposed water main district, gas main district, sanitary sewer district, storm water disposal district, or other public utility district, which petition shall contain the consent of the owners of such real estate for the installation of gas mains or water mains of sizes designated by the city council, village board of trustees, or board of directors of a metropolitan

utilities district and inserted in such petition, or of other utility service, then such water main district, gas main district, sanitary sewer district, storm water disposal district, or other public utility district shall be created, and the entire cost of laying such water main, gas main, or other utility service shall be assessed and collected as provided in sections 18-405 to 18-410. The city council, village board of trustees, or board of directors shall have the discretion to deny the formation of the proposed district when the area to be improved has not previously been improved with a water system, sewer system, and grading of streets. If the city council, village board of trustees, or board of directors should deny a requested district formation, it shall state the grounds for such denial in a written letter to interested parties.

Source: Laws 1921, c. 110, § 5, p. 388; C.S.1922, § 4479; C.S.1929, § 18-1005; Laws 1941, c. 27, § 1, p. 129; C.S.Supp.,1941, § 18-1005; R.S.1943, § 18-407; Laws 1983, LB 125, § 3; Laws 2021, LB163, § 18.
Effective date August 28, 2021.

18-408 Public utility districts; warrants; issuance.

After the levy of a special assessment and the extension of such assessment against the real estate in such water main district, gas main district, sanitary sewer district, storm water disposal district, or other public utility district, the city council, village board of trustees, or board of directors of a metropolitan utilities district having charge, supervision, and control of all matters pertaining to the water or gas supply or other utility service of such city, village, or metropolitan utilities district shall have the power to issue or cause to be issued against the fund so created special warrants payable out of the funds, which warrants shall be delivered to the contractor in payment of the money due him or her under his or her contract for the extension or enlargement of the water or gas main or other utility service, as the case may be, to cover the cost for which the special assessments were levied.

Source: Laws 1921, c. 110, § 6, p. 389; C.S.1922, § 4480; C.S.1929, § 18-1006; R.S.1943, § 18-408; Laws 1992, LB 746, § 68; Laws 2021, LB163, § 19.
Effective date August 28, 2021.

18-409 Public utility districts; extension or enlargement of service; optional procedures.

The city council, village board of trustees, or board of directors of a metropolitan utilities district in the city, village, or metropolitan utilities district in this state having general charge, supervision, and control of all matters pertaining to the water or gas supply or other utility service of such city, village, or metropolitan utilities district may by resolution elect and determine to proceed under sections 18-401 to 18-411 in the matter of ordering and making and causing to be made extensions or enlargements of water or gas mains or other utility service in such cities, villages, or metropolitan utilities districts but are not required to do so.

Source: Laws 1921, c. 110, § 7, p. 389; C.S.1922, § 4481; C.S.1929, § 18-1007; R.S.1943, § 18-409; Laws 1992, LB 746, § 69; Laws 2021, LB163, § 20.
Effective date August 28, 2021.

18-410 Metropolitan utilities districts; extension of service beyond corporate limits; procedure.

Any metropolitan utilities district is hereby given power to extend water mains, gas mains, and other utility service under its operation and management beyond the corporate limits of the city of the metropolitan class so as to include adjacent territory, sanitary and improvement districts, unincorporated areas, cities, or villages, even though in an adjoining county or counties, and may create such water main districts, gas main districts, sanitary sewer districts, storm water disposal districts, and other public utility districts within such adjacent sanitary and improvement districts, unincorporated areas, cities, and villages, even though located in an adjoining county or counties. When such water main districts, gas main districts, sanitary sewer districts, storm water disposal districts, or other public utility districts are created in an adjoining county or counties, the special assessment levy in such districts shall be certified to the county treasurer of such adjoining county or counties, as the case may be, and shall there be entered of record against the proper real estate. It shall be the duty of the county treasurer of the adjoining county or counties, as the case may be, to collect the assessments and as collected to report and transmit such assessments to the metropolitan utilities district.

Source: Laws 1921, c. 110, § 8, p. 389; C.S.1922, § 4482; C.S.1929, § 18-1008; R.S.1943, § 18-410; Laws 1992, LB 746, § 70; Laws 2001, LB 177, § 4; Laws 2021, LB163, § 21.
Effective date August 28, 2021.

18-411 Cities not in metropolitan class with home rule charters; powers not restricted.

Sections 18-401 to 18-410 shall not be construed as a restriction upon the powers of cities, other than a city of the metropolitan class, which have adopted or may hereafter adopt a home rule charter under the Constitution of Nebraska nor as a limitation upon any provision in such charter or any amendments to such charter.

Source: Laws 1921, c. 110, § 9, p. 390; C.S.1922, § 4483; C.S.1929, § 18-1009; R.S.1943, § 18-411; Laws 2021, LB163, § 22.
Effective date August 28, 2021.

18-412 Electric light and power systems; construction, acquisition, and maintenance; revenue bonds and debentures authorized; referendum petition; cities with home rule charters; powers.

Supplemental to any existing law on the subject, and in lieu of the issuance of general obligation bonds or the levy of taxes upon property as provided by law, any city or village within the State of Nebraska may construct, purchase, or otherwise acquire, maintain, extend, or enlarge, an electric light and power plant, distribution system, and transmission lines, and real and personal property needed or useful in connection therewith, and pay the cost thereof by pledging and hypothecating the revenue and earnings of any electric light and power plant, distribution system, and transmission lines, owned or to be owned by such city or village. In the exercise of the authority granted in this section, any such city or village may issue and sell revenue bonds or debentures and enter into such contracts in connection therewith as may be proper and necessary. Such revenue bonds or debentures shall be a lien only upon the

revenue and earnings of the electric light and power plant, distribution system, and transmission lines owned or to be owned by such city or village. No revenue bonds shall be issued until thirty days' notice of the proposition relating thereto shall have been given by the governing body of such city or village by publication once each week for three successive weeks in a legal newspaper in or of general circulation in such city or village, or if no such newspaper is published, then by posting in five or more public places in such city or village. If, within thirty days after the last publication of such notice or posting thereof, a referendum petition signed by qualified electors of such city or village equal in number to at least twenty percent of the vote cast at the last general municipal election held in such city or village shall be filed with the city clerk or village clerk, such bonds shall not be issued until the issuance thereof has been approved by a vote of the electors of such city or village at any general or special municipal election. If a majority of the voters voting on the issue vote against issuing such bonds, the bonds shall not be issued. If no such petitions are filed, the bonds shall be issued at the expiration of such thirty-day period. No publication of notice shall be required when revenue bonds are issued solely for the maintenance, extension, or enlargement of any electric generating plant, distribution system, or transmission lines owned by such city or village. The provisions of this section shall not restrict or limit the power or authority in the issuance of any such revenue bonds, as authorized by any home rule charter duly adopted by the electors or any city pursuant to the Constitution of Nebraska.

Source: Laws 1935, c. 38, § 1, p. 153; C.S.Supp.,1941, § 18-1601; R.S. 1943, § 18-412; Laws 1963, c. 393, § 3, p. 1250; Laws 2021, LB163, § 23.
Effective date August 28, 2021.

18-412.02 Electric system; acquisition from public power district or public power and irrigation district.

If requested to do so at any time by a city or village, any public power district or public power and irrigation district, formed after May 4, 1945, and providing electrical service at retail to a city of the metropolitan class, owning a distribution system in such city or village and also owning generating plants and transmission lines or both, shall inform the city or village of the minimum price at which the district is permitted to sell that portion of its distribution system within the corporate limits of such city or village to such city or village under the agreements of the district entered into with the holders of obligations issued by such district. For purposes of this section, the term obligations shall include all bonds, notes, and other evidences of indebtedness to the payment of which the revenue from that portion of the distribution system such city or village desires to acquire has been pledged. There shall be allowed as a credit upon such minimum price a sum that bears the same proportion thereto as the amount of such obligations that have been paid or redeemed and funded reserves established therefor by the district out of the net revenue from its operation while such city or village was within such district bears to the total amount of such obligations issued by the district since the date of its formation, excluding the amount of such obligations that have been refinanced and including the amount of the refinancing obligations. Such city or village shall reimburse the district for any costs necessarily paid by the district to independent engineers to obtain the minimum price under such agreements with the

holders of the obligations of the district. At the request of the city or village, the district shall sell and convey that portion of the distribution system which is within its corporate limits to the city or village upon payment of such minimum price, and the city or village shall contract to continue to purchase all of its power and energy requirements from the district at least until such time as all obligations of the district outstanding on the date of such sale and conveyance shall have been fully paid and retired or reserves sufficient for the redemption thereof shall have been accumulated, but such transaction shall not be consummated nor become effective until thirty days' notice of the transaction shall have been given by the city council or village board of trustees by publication once each week for three successive weeks in some legal newspaper in or of general circulation in such city or village, or if no such newspaper is published, then by posting in five or more public places in such city or village. If, within ninety days after the last publication of such notice or posting thereof, referendum petitions signed by qualified electors of such city or village equal in number to at least twenty percent of the vote cast at the last general municipal election held in such city or village shall be filed with the city clerk or village clerk, such transaction shall not become effective until it has been approved by a vote of the electors of such city or village at any general or special municipal election. If a majority of the voters voting on the issue vote against such transaction, the transaction shall not become effective. If no such petitions are filed, the transaction shall become effective at the expiration of such ninety-day period. The public power district or public power and irrigation district shall charge fair, reasonable, and nondiscriminatory rates so adjusted as, in a fair and equitable manner, to confer upon and distribute among its customers the benefits of a successful and efficient operation and conduct of the business of the district.

Source: Laws 1971, LB 195, § 1; Laws 2021, LB163, § 24.
Effective date August 28, 2021.

18-412.07 Electric facilities; joint exercise of powers with public power districts and public agencies; authority.

The Legislature finds and declares that it is in the public interest of the State of Nebraska that cities and villages of this state be empowered to participate jointly or in cooperation with public power districts and public power and irrigation districts and other public agencies in the establishment and operation of facilities for the generation or transmission of electric power and energy located within or outside this state in order to achieve economies and efficiencies in meeting the future electric energy needs of the people of the State of Nebraska. In furtherance of such need and in addition to but not in substitution for any other powers granted cities and villages of this state, each city and village which owns or operates electrical facilities shall have and may exercise its power and authority to plan, finance, acquire, construct, own, operate, maintain, improve, and decommission electric generation or transmission facilities located within or outside this state jointly and in cooperation with one or more such public power districts, public power and irrigation districts, other cities or villages of this state which own or operate electrical facilities, municipal corporations, or other governmental entities of other states which operate electrical facilities. The powers granted under this section may be exercised with respect to any electric generation or transmission facility jointly with the

powers granted under any other provision of sections 18-412.07 to 18-412.09 and 70-628.02 to 70-628.04.

Source: Laws 1976, LB 1005, § 1; Laws 1997, LB 658, § 1; Laws 2004, LB 969, § 7; Laws 2021, LB163, § 25.
Effective date August 28, 2021.

18-412.08 Electric facilities; joint exercise of powers with electric cooperatives or corporations; authority.

The Legislature finds and declares that it is in the public interest of the State of Nebraska that cities and villages of this state be empowered to participate jointly and in cooperation with one or more electric cooperatives or electric membership corporations organized under the laws of this state or any other state in the establishment and operation of facilities for the generation or transmission of electric power and energy in order to achieve economies and efficiencies in meeting the future electric energy needs of the people of the State of Nebraska. In furtherance of such end and in addition to, but not in substitution for, any other powers granted such cities and villages of this state, each city or village which owns or operates electrical facilities shall have and may exercise such power and authority to plan, finance, acquire, construct, own, operate, maintain, improve, and decommission electric generation or transmission facilities located in this state jointly and in cooperation with one or more electric cooperatives or electric membership corporations organized under the laws of this state or any other state, and each city or village shall have and may exercise such power and authority with respect to electric generation or transmission facilities located outside this state jointly or in cooperation with one or more electric cooperatives or electric membership corporations organized under the laws of this state or any other state. The powers granted under this section may be exercised with respect to any electric generation or transmission facility jointly with the powers granted under any other provisions of sections 18-412.07 to 18-412.09 and 70-628.02 to 70-628.04.

Source: Laws 1976, LB 1005, § 2; Laws 1997, LB 658, § 2; Laws 2004, LB 969, § 8; Laws 2021, LB163, § 26.
Effective date August 28, 2021.

18-412.09 Electric facilities; joint exercise of power; agreement; terms and conditions; agent; powers and duties; liability of city or village.

Any city or village participating jointly and in cooperation with others in an electric generation or transmission facility may own an undivided interest in such facility and be entitled to the share of the output or capacity of such facility attributable to such undivided interest. Such city or village may enter into an agreement or agreements with respect to each such electric generation or transmission facility with the other participants in such facility, and any such agreement shall contain such terms, conditions, and provisions consistent with the provisions of sections 18-412.07 to 18-412.10 as the governing body of such city or village shall deem to be in the interests of such city or village. The agreement may include, but not be limited to, provision for the construction, operation, maintenance, and decommissioning of such electric generation or transmission facility by any one of the participants, which shall be designated in or pursuant to such agreement as agent, on behalf of itself and the other participants or by such other means as may be determined by the participants

and provision for a uniform method of determining and allocating among participants costs of construction, operation, maintenance, renewals, replacements, decommissioning, and improvements with respect to such facility. In carrying out its functions and activities as such agent with respect to construction, operation, maintenance, and decommissioning of such a facility, including without limitation the letting of contracts therefor, such agent shall be governed by the laws and regulations applicable to such agent as a separate legal entity and not by any laws or regulations which may be applicable to any of the other participants. Notwithstanding the provisions of any other law to the contrary, pursuant to the terms of any such agreement in which or pursuant to which a public power district, a public power and irrigation district, or a city or village of this state shall be designated as the agent thereunder for the construction, operation, maintenance, and decommissioning of such a facility, each of the participants may delegate its powers and duties with respect to the construction, operation, maintenance, and decommissioning of such facility to such agent, and all actions taken by such agent in accordance with the provisions of such agreement shall be binding upon each of such participants without further action or approval by their respective boards of directors or governing bodies. Such agent shall be required to exercise all such powers and perform its duties and functions under such agreement in a manner consistent with prudent utility practice. As used in this section, prudent utility practice shall mean any of the practices, methods, and acts at a particular time which, in the exercise of reasonable judgment in the light of the facts, including, but not limited to, the practices, methods, and acts engaged in or approved by a significant portion of the electrical utility industry prior thereto, known at the time the decision was made, would have been expected to accomplish the desired result at the lowest reasonable cost consistent with reliability, safety, and expedition. Unless specifically contracted otherwise by written agreement, no city or village shall become liable for and pay for any costs, expenses, or liabilities attributable to the undivided interest of any other participant in such electric generation or transmission facility, and unless specifically contracted otherwise by written agreement, no funds of such city or village may be used for any such purpose.

Source: Laws 1976, LB 1005, § 3; Laws 2004, LB 969, § 9; Laws 2021, LB163, § 27.
Effective date August 28, 2021.

18-412.10 Electric facilities outside state; joint acquisition and maintenance; conditions.

If a city or village proposes to, and during such time as such city and village shall, plan, finance, acquire, construct, own, operate, maintain, improve, and decommission jointly and in cooperation with others as contemplated by sections 18-412.07 to 18-412.10 facilities for the generation or transmission of electric power and energy located or to be located outside this state, such city or village may comply with all laws of the United States and of the state in which the facilities are or are to be located applicable to such facilities or applicable to any of such activities or applicable to the performance of any of such activities across state boundaries or in such state, including submitting itself to any governmental body, board, commission, or agency having jurisdiction over such facilities or over any of such activities or over the performance of such activities and applying for and carrying out of all licenses, certificates,

or other approvals required by such laws in order to enable the city or village to carry out the provisions of sections 18-412.07 to 18-412.10.

Source: Laws 1976, LB 1005, § 4; Laws 2004, LB 969, § 10; Laws 2021, LB163, § 28.
Effective date August 28, 2021.

18-413 Waterworks; right-of-way outside corporate limits; purposes; conditions.

Any city or village in this state erecting, constructing, or maintaining a system of waterworks, or part of a system of waterworks, outside its corporate limits, is granted the right-of-way along any of the public roads of the state, along any of the streets and alleys of any city or village within the state, and over and through any of the lands which are the property of the state, for the laying, constructing, and maintaining of water mains, conduits, and aqueducts for the purpose of transporting or conveying water from such system of waterworks, or part of such system of waterworks, to such city or village erecting the same. Such city or village is granted such right-of-way for the further purpose of erecting and maintaining all necessary poles, wires, or conduits, for the purpose of transporting, transmitting, or conveying electric current from such city or village to such system of waterworks, or part of such system of waterworks, for power and light purposes. In constructing such water mains, conduits, and aqueducts for transporting water and such poles, wires, and conduits for transmitting electric current along the streets or alleys of any other city or village, such city or village shall construct and locate the same in accordance with existing ordinances of such other city or village pertaining thereto and shall be liable for any damage caused thereby. Such poles and wires shall be constructed so as not to interfere with the use of the public roadway, and such wires shall be placed at a height not less than twenty feet above all road crossings.

Source: Laws 1931, c. 35, § 1, p. 127; C.S.Supp.,1941, § 18-1301; R.S. 1943, § 18-413; Laws 2021, LB163, § 29.
Effective date August 28, 2021.

ARTICLE 5
SEWER SYSTEMS

Section

18-501 Construction and operation; powers; tax levies.

(1) Any city or village in this state is hereby authorized to own, construct, equip, and operate, either within or without the corporate limits of such city or

village, a sewerage system, including any storm sewer system or combination storm and sanitary sewer system, and plant or plants for the treatment, purification, and disposal in a sanitary manner of the liquid and solid wastes and sewage of such city or village or to extend or improve any existing storm sewer system, sanitary sewer system, or combination storm and sanitary sewer system.

(2) Any city or village shall have authority to acquire by gift, grant, purchase, or condemnation necessary lands for the construction of a sewerage system, either within or without the corporate limits of such city or village.

(3) For the purpose of owning, operating, constructing, maintaining, and equipping a sewage disposal plant and sewerage system, including any storm sewer system or combination storm and sanitary sewer system, referred to in subsections (1), (2), and (4) of this section, or improving or extending such existing system, any city or village is authorized and empowered to make a special levy of not to exceed three and five-tenths cents on each one hundred dollars upon the taxable value of all the taxable property within any such city or village. The proceeds of the tax may be used for any of the purposes enumerated in this section and for no other purpose.

(4) In the event the present or proposed sewage disposal system of any city or village does not comply with the provisions of any other law relating to sewer systems, sewage disposal, or water pollution, such city or village shall levy each year a tax of seven cents on each one hundred dollars of taxable valuation for such purpose until sufficient funds are available for the financing of a system in compliance with law. In the event any city or village is otherwise raising funds for such purpose, equivalent to such a levy, such city or village shall not be required, in addition thereto, to make such levy.

Source: Laws 1933, c. 146, § 1, p. 561; Laws 1937, c. 41, § 1, p. 180; Laws 1941, c. 28, § 1, p. 130; C.S.Supp.,1941, § 18-1401; R.S. 1943, § 18-501; Laws 1951, c. 19, § 1, p. 99; Laws 1953, c. 287, § 27, p. 946; Laws 1955, c. 48, § 1, p. 166; Laws 1957, c. 39, § 3, p. 212; Laws 1979, LB 187, § 67; Laws 1992, LB 719A, § 68; Laws 1996, LB 1114, § 32; Laws 2021, LB163, § 30.
Effective date August 28, 2021.

18-502 Revenue bonds; issuance; interest; not included in limit on bonds.

For the purpose of owning, operating, constructing, and equipping a sewage disposal plant or sewerage system or improving or extending such existing system as provided in section 18-501, a city or village may issue revenue bonds therefor. Such revenue bonds, as provided in this section, shall not impose any general liability upon the city or village but shall be secured only by the revenue of such utility as provided in section 18-504. Such revenue bonds shall be sold for not less than par and bear interest at a rate set by the governing body. The amount of such revenue bonds, either issued or outstanding, shall not be included in computing the maximum amount of bonds which such city or village may be authorized to issue under its charter or any statute of this state.

Source: Laws 1933, c. 146, § 2, p. 561; Laws 1937, c. 41, § 2, p. 180; C.S.Supp.,1941, § 18-1402; R.S.1943, § 18-502; Laws 1957, c. 40, § 1, p. 214; Laws 1969, c. 51, § 62, p. 311; Laws 2021, LB163, § 31.
Effective date August 28, 2021.

18-503 Rules and regulations; charges; collection.

The governing body of a city or village which owns, constructs, equips, or operates a sewage disposal plant or sewerage system pursuant to section 18-501 may make all necessary rules and regulations governing the use, operation, and control of such system. The governing body may establish just and equitable rates or charges to be paid to it for the use of such disposal plant and sewerage system by each person, firm, or corporation whose premises are served by such system. If the service charge so established is not paid when due, such sum may be recovered by the city or village in a civil action, or it may be certified to the tax assessor and assessed against the premises served, and collected or returned in the same manner as other municipal taxes are certified, assessed, collected, and returned.

Source: Laws 1933, c. 146, § 3, p. 562; C.S.Supp.,1941, § 18-1403; R.S.1943, § 18-503; Laws 1961, c. 53, § 4, p. 199; Laws 2021, LB163, § 32.
Effective date August 28, 2021.

18-504 Revenue bonds; payment; sinking fund; rates; rights of holders of bonds.

(1) Revenue bonds which are issued, as provided in section 18-502, shall not be a general obligation of the city or village, but shall be paid only out of the revenue received from the service charges as provided in section 18-503.

(2) If a service rate is charged, as a part of the revenue, as provided in subsection (1) of this section, to be paid as provided in this section, such portion of such rate as may be deemed sufficient shall be set aside as a sinking fund for the payment of the interest on such revenue bonds, and the principal of such revenue bonds at maturity.

(3) It shall be the duty of the governing body of the city or village to charge rates for the service of the sewerage system, as referred to in subsection (1) of this section, which shall be sufficient, at all times, to pay the cost of operation and maintenance of such system and to pay the principal of and interest upon all revenue bonds issued, under the provisions of section 18-502, and to carry out any covenants that may be provided in the ordinance authorizing the issuance of any such bonds.

(4) The holders of any of the revenue bonds or any of the coupons of any revenue bonds, issued under subsection (1) of this section, in any civil action, mandamus, or other proceeding may enforce and compel the performance of all duties required by this section and the covenants made by the city or village in the ordinance providing for the issuance of such bonds, including the making and collecting of sufficient rates or charges for the specified purposes and for the proper application of the income from such bonds.

Source: Laws 1933, c. 146, § 4, p. 562; C.S.Supp.,1941, § 18-1404; R.S.1943, § 18-504; Laws 1957, c. 40, § 2, p. 214; Laws 2021, LB163, § 33.
Effective date August 28, 2021.

18-505 Franchises; contracts authorized; rates.

For the purpose of providing for a sewage disposal plant and sewerage system, or improving or extending such existing system, any city or village may

also enter into a contract with any corporation organized under or authorized by the laws of this state to engage in such business, to receive and treat in the manner provided in sections 18-501 to 18-510, the sewage of such system, and to construct, and provide the facilities and services as provided in section 18-501. Such contract may also authorize the corporation to charge the owners of the premises served such a service rate therefor as the governing body of such city or village may determine to be just and reasonable, or the city or village may contract to pay such corporation a flat rate for such service, and pay therefor out of its general fund or the proceeds of any tax levy applicable to the purposes of such contract, or assess the owners of the property served a reasonable charge for such service to be collected as provided in section 18-503 and paid into a fund to be used to defray such contract charges.

Source: Laws 1933, c. 146, § 5, p. 562; Laws 1937, c. 41, § 3, p. 181; C.S.Supp.,1941, § 18-1405; R.S.1943, § 18-505; Laws 2021, LB163, § 34.
Effective date August 28, 2021.

18-506 General obligation bonds; issuance; interest; not included in limit on bonds.

For the purpose of owning, operating, constructing, and equipping any sewage disposal plant and any sanitary or storm sewer system or combination storm and sanitary sewer system, or improving or extending such existing system, or for the purpose stated in sections 18-501 to 18-505, any city or village is authorized and empowered to issue and sell the general obligation bonds of such city or village upon compliance with the provisions of section 18-506.01. Such bonds shall not be sold or exchanged for less than the par value thereof and shall bear interest which shall be payable annually or semiannually. The governing body of such city or village shall have the power to determine the denominations of such bonds, and the date, time, and manner of the payment thereof. The amount of such general obligation bonds, either issued or outstanding, shall not be included in the maximum amount of bonds which such city or village may be authorized to issue and sell under its charter or any statutes of this state.

Source: Laws 1933, c. 146, § 6, p. 563; Laws 1937, c. 41, § 4, p. 182; C.S.Supp.,1941, § 18-1406; R.S.1943, § 18-506; Laws 1951, c. 19, § 2, p. 99; Laws 1955, c. 48, § 2, p. 167; Laws 1969, c. 51, § 63, p. 312; Laws 2021, LB163, § 35.
Effective date August 28, 2021.

18-506.01 Revenue bonds; general obligation bonds; issuance; conditions.

Revenue bonds, authorized by section 18-502, may be issued by ordinance duly passed by the mayor and city council of any city or the board of trustees of any village without any other authority. General obligation bonds, authorized by section 18-506, may be issued only after the question of their issuance shall have been submitted to the electors of such city or village at a general or special election, of which three weeks' notice thereof has been published in a legal newspaper published in or of general circulation in such city or village, and more than a majority of the electors voting at the election have voted in favor of the issuance of such bonds.

Source: Laws 1951, c. 19, § 3, p. 100; Laws 1967, c. 83, § 1, p. 259; Laws 2021, LB163, § 36.
Effective date August 28, 2021.

18-507 Installation, improvement, or extension; plans and specifications; bidding requirements.

Whenever the governing body of any city or village shall have ordered the installation of a sewerage system and sewage disposal plant or the improvement or extension of an existing system, the fact that such order was issued shall be recited in the official minutes of the governing body. The governing body shall require that plans and specifications be prepared of such sewerage system and sewage disposal plant, or such improvement or extension. Upon approval of such plans, the governing body shall advertise for sealed bids for the construction of such improvements once a week for three weeks in a legal newspaper published in or of general circulation within such city or village, and the contract shall be awarded to the lowest responsible bidder.

Source: Laws 1933, c. 146, § 7, p. 563; C.S.Supp.,1941, § 18-1407; R.S.1943, § 18-507; Laws 2021, LB163, § 37.
Effective date August 28, 2021.

18-508 Service beyond corporate limits; conditions; contracts with users.

The owner of any sewerage system or sewage disposal plant, provided for in sections 18-501 to 18-507, or the city or village in which such system or plant is located, is authorized to extend such system or plant beyond the corporate limits of the city or village which it serves, under the same conditions as nearly as may be as within the corporate limits of such city or village and to charge to users of its services reasonable and fair rates consistent with those charged or which might be charged within such corporate limits and consistent with the expense of extending and maintaining such system or plant for the users thereof outside such corporate limits at a fair return to the owner thereof. The mayor and city council of any city or the board of trustees of any village shall have authority to enter into contracts with users of such sewerage system or sewage disposal plant, except that no contract shall provide for furnishing of such service for a period in excess of twenty years.

Source: Laws 1937, c. 41, § 5, p. 182; C.S.Supp.,1941, § 18-1409; R.S. 1943, § 18-508; Laws 1951, c. 19, § 4, p. 100; Laws 1957, c. 41, § 1, p. 217; Laws 2021, LB163, § 38.
Effective date August 28, 2021.

18-509 Rental and use charges; collection; use.

(1) The mayor and city council of any city or the board of trustees of any village, in addition to other sources of revenue available to the city or village, may by ordinance set up a rental or use charge, to be collected from users of any system of sewerage, and provide methods for collection of such rental or use charge. The charges shall be charged to each property served by the sewerage system, shall be a lien upon the property served, and may be collected either from the owner or the person, firm, or corporation requesting the service.

(2) All money raised from the charges referred to in subsection (1) of this section shall be used for maintenance or operation of the existing system of sewerage, for payment of principal and interest on bonds issued as is provided for in section 17-925, 18-502, 18-506, or 19-1305, or to create a reserve fund for the purpose of future maintenance or construction of a new sewer system for the city or village. Any funds raised from this charge shall be placed in a

separate fund and not be used for any other purpose or diverted to any other fund.

Source: Laws 1951, c. 19, § 5, p. 101; Laws 1957, c. 40, § 3, p. 215; Laws 1971, LB 883, § 1; Laws 2021, LB163, § 39.
Effective date August 28, 2021.

18-510 Terms, defined; applicability of sections.

The terms sewage system, sewerage system, and disposal plant or plants as used in sections 18-501 to 18-511 are defined to mean and include any system or works above or below ground which has for its purpose any or all of the following: The removal, discharge, conduction, carrying, treatment, purification, or disposal of the liquid and solid waste of a city or village. It is intended that sections 18-501 to 18-512 may be employed in connection with sewage projects which do not include the erection or enlargement of a sewage disposal plant.

Source: Laws 1951, c. 19, § 6, p. 101; Laws 1995, LB 589, § 2; Laws 2021, LB163, § 40.
Effective date August 28, 2021.

18-511 Sections, how construed.

Sections 18-501 to 18-512 shall be construed as independent, supplemental, and in addition to any other laws of the State of Nebraska relating to sewage disposal plants and sewerage systems in cities and villages. Such sections shall not be considered amendatory of or limited by any other provision of the laws of the State of Nebraska.

Source: Laws 1951, c. 19, § 7, p. 101; Laws 1969, c. 51, § 64, p. 312; Laws 2021, LB163, § 41.
Effective date August 28, 2021.

18-512 Anti-pollution-of-water measures; special levy.

For the purpose of creating a fund out of which anti-pollution-of-water measures may be financed, any city or village in this state is hereby authorized and empowered to make a special levy of not exceeding three and five-tenths cents on each one hundred dollars upon the taxable value of all the taxable property within such city or village, the proceeds of such levy to be used for such measures.

Source: Laws 1955, c. 49, § 1, p. 168; Laws 1961, c. 37, § 3, p. 164; Laws 1979, LB 187, § 68; Laws 1992, LB 719A, § 69; Laws 1996, LB 1114, § 33; Laws 2021, LB163, § 42.
Effective date August 28, 2021.

ARTICLE 6

SUBWAYS AND VIADUCTS

Section

Section
18-611. Bonds; terms; payment.
18-612. Bonds; vesting of powers.
18-613. Department of Transportation; construction contracts authorized.
18-614. Damages; payment methods.
18-617. Construction; resolution; notice.
18-618. Construction; contracts and agreements; conditions.
18-619. Inability to reach agreement; complaint; service; railroad company; duties.
18-620. Complaint; hearing.
18-621. Order; contents; filing; service; dismissal of petition.
18-622. Order; appeal; transcript; cost; standard of review.
18-623. Construction; approval by electors; ballot; appeal; effect.
18-624. Approval by electors; governing body; powers.
18-625. Approval by electors; governing body; duties.
18-626. Streets and highways; use.
18-627. Private property; condemnation; resolution; requirements; procedure.
18-633. Construction; cost; deposit; mandamus.
18-634. Construction; contract; letting.
18-635. Railroad company; obligations; sections; effect.
18-636. Sections, how construed.

18-601 Construction; federal aid; plans; assumption of liability; condemnation procedure.

Any city or village shall have power by ordinance to avail itself of federal funds for the construction within the city or village limits of subways, viaducts, and approaches thereto, over or under railroad tracks, and may authorize agreements with the Department of Transportation to construct such subways or viaducts, which shall be paid for out of funds furnished by the federal government. Such ordinance shall approve detailed plans and specifications for such construction, including a map showing the exact location that such subway or viaduct is to occupy, which shall be kept on file with the city clerk or village clerk and be open to public inspection. The ordinance shall make provision for the assumption of liability and payment of consequential damages to property owners resulting from such proposed construction and payment of damages for property taken therefor. The procedure to condemn property shall be exercised in the manner set forth in sections 76-704 to 76-724.

Source: Laws 1935, Spec. Sess., c. 34, § 1, p. 196; C.S.Supp.,1941, § 18-901; R.S.1943, § 18-601; Laws 1947, c. 47, § 1, p. 166; Laws 1951, c. 101, § 61, p. 475; Laws 2017, LB339, § 79; Laws 2021, LB163, § 43.
Effective date August 28, 2021.

18-602 Grade crossing projects; effect on railroads.

Grade crossing projects within the boundaries of a municipality shall be undertaken on a basis that will impose no involuntary contributions on the affected railroads except as provided by 23 U.S.C. 130(b) and (c), as such sections existed on January 1, 2021, and shall not interfere with the use of present railroad tracks without the consent of such railroads.

Source: Laws 1935, Spec. Sess., c. 34, § 2, p. 197; C.S.Supp.,1941, § 18-1902; R.S.1943, § 18-602; Laws 1947, c. 47, § 2, p. 166; Laws 2021, LB163, § 44.
Effective date August 28, 2021.

18-603 Streets and highways; use.

Any city or village that constructs subways or viaducts as provided in section 18-601 may appropriate an existing street or highway for such subway or viaduct and may acquire, extend, widen, or enlarge any street or highway for such purpose.

Source: Laws 1935, Spec. Sess., c. 34, § 3, p. 197; C.S.Supp.,1941, § 18-1903; R.S.1943, § 18-603; Laws 2021, LB163, § 45.
Effective date August 28, 2021.

18-604 Private property; condemnation; ordinance; requirements.

When it becomes necessary to appropriate or damage any private property for the construction of a viaduct or subway as provided in section 18-601, such appropriation shall be made by ordinance. Such ordinance shall be published once each week for three weeks in a legal newspaper published in or of general circulation in such city or village. Such publication shall be sufficient notice to the owners, occupants, and parties interested, and all parties having equitable interests therein.

Source: Laws 1935, Spec. Sess., c. 34, § 4, p. 197; C.S.Supp.,1941, § 18-1904; R.S.1943, § 18-604; Laws 2021, LB163, § 46.
Effective date August 28, 2021.

18-610 Bonds; election; notice; failure to approve; effect.

The original ordinance authorizing construction of subways or viaducts as provided in section 18-601 shall also give notice of an election to authorize issuance of bonds, for such amount as may be necessary to pay for right-of-way and damages. A majority of those voting shall be sufficient to carry authority to issue bonds, as provided in sections 18-610 to 18-612. A failure to approve the issue of bonds shall cancel all proceedings, except that in that event, the city or village shall pay the cost of survey and preparation of plans and specifications that have been filed and may levy a tax for that purpose.

Source: Laws 1935, Spec. Sess., c. 34, § 10, p. 199; C.S.Supp.,1941, § 18-1910; R.S.1943, § 18-610; Laws 1951, c. 101, § 62, p. 476; Laws 1971, LB 534, § 23; Laws 2021, LB163, § 47.
Effective date August 28, 2021.

18-611 Bonds; terms; payment.

Upon approval of the issuance of bonds pursuant to section 18-610, a city or village may, without further vote of the electors, issue negotiable bonds in such amount as may be needed to pay for acquisition, extension, or enlargement of any street or highway, and the amount of damages that may accrue by the appropriation thereof and construction of viaducts or subways pursuant to section 18-601. Such bonds shall draw interest and may be sold at not less than par, shall be payable in annual installments over a period of not to exceed twenty years, and shall be subject to retirement at the option of the city or village at any time after five years. Such bonds shall be payable out of the general fund, and the city or village shall annually make a levy and an appropriation for the payment of interest and the installment of the principal.

Source: Laws 1935, Spec. Sess., c. 34, § 11, p. 199; C.S.Supp.,1941, § 18-1911; R.S.1943, § 18-611; Laws 1969, c. 51, § 65, p. 312; Laws 2021, LB163, § 48.
Effective date August 28, 2021.

18-612 Bonds; vesting of powers.

On the approval of a bond issue pursuant to section 18-610, the mayor and city council or village board of trustees shall be vested with all the powers provided for them in sections 18-601 to 18-614, without such powers having been specifically mentioned in the ordinance authorizing construction of subways and viaducts pursuant to section 18-601.

Source: Laws 1935, Spec. Sess., c. 34, § 12, p. 199; C.S.Supp.,1941, § 18-1912; R.S.1943, § 18-612; Laws 2021, LB163, § 49.
Effective date August 28, 2021.

18-613 Department of Transportation; construction contracts authorized.

The Department of Transportation shall be authorized to enter into contracts for the construction of viaducts or subways, in accordance with plans and specifications approved under section 18-601, immediately upon the approval by the voters of the issuance of bonds under section 18-610.

Source: Laws 1935, Spec. Sess., c. 34, § 13, p. 199; C.S.Supp.,1941, § 18-1913; R.S.1943, § 18-613; Laws 2017, LB339, § 80; Laws 2021, LB163, § 50.
Effective date August 28, 2021.

18-614 Damages; payment methods.

In lieu of, or in addition to, the issuance of bonds under section 18-610, the city council or village board of trustees may issue warrants for the payment of damages, and levy taxes, if necessary, to provide funds for their payment, or may temporarily borrow any funds in the treasury belonging to any other fund, for the purpose of making the payments required under sections 18-601 to 18-615, restoring such funds within a reasonable time.

Source: Laws 1935, Spec. Sess., c. 34, § 14, p. 200; C.S.Supp.,1941, § 18-1914; R.S.1943, § 18-614; Laws 2021, LB163, § 51.
Effective date August 28, 2021.

18-617 Construction; resolution; notice.

Whenever the governing body of any city or village within the state believes the construction of a viaduct over or subway under the track or tracks of any railroad within its corporate limits is necessary for the public safety, convenience, and welfare, such governing body shall pass a resolution so declaring. The governing body shall publish a notice of the passage of such resolution six consecutive days in a legal newspaper published in or of general circulation in such city or village or, if there is no such daily legal newspaper, then two consecutive weeks in a weekly legal newspaper published in or of general circulation in such city or village. The notice of the passage of such resolution shall include an exact copy of the resolution.

Source: Laws 1949, c. 28, § 1, p. 103; Laws 2021, LB163, § 52.
Effective date August 28, 2021.

18-618 Construction; contracts and agreements; conditions.

After the passage and publication of a resolution as provided in section 18-617, a city or village shall have authority to enter into contracts and agreements with any railroad company or companies over or under whose

railroad a viaduct or subway is to be constructed providing for the construction and maintenance of such viaduct or subway and for the apportionment of the costs thereof. Such agreement or contract shall not be effective nor shall any work be commenced until after such matter is submitted to a vote of the electors as provided in section 18-623.

Source: Laws 1949, c. 28, § 2, p. 103; Laws 2021, LB163, § 53.
Effective date August 28, 2021.

18-619 Inability to reach agreement; complaint; service; railroad company; duties.

If no agreement can be reached between a city or village and a railroad company or companies for construction or the division of the costs thereof as provided in section 18-618, the city or village shall file a complaint by the city attorney or village attorney with the city clerk or village clerk on behalf of such city or village. The complaint shall allege therein (1) the passage of the resolution referred to in section 18-617, (2) the location of the proposed viaduct or subway, (3) any facts which may show or tend to show why the proposed improvement is necessary for the public safety, convenience, and welfare, and (4) that the city or village and the railroad company or companies are unable to agree as to the construction or the division of the cost thereof and ask the governing body to make an order relative to such construction and apportioning the cost thereof between the railroad company or companies and the city or village. A copy of such complaint shall be served upon the railroad company or companies affected. Thereafter, within a reasonable time to be fixed by the governing body, such railroad company or companies shall file with the city clerk or village clerk plans and specifications for such viaduct or subway requested in such complaint, together with an estimate by such railroad or railroads of the cost of construction and maintenance thereof.

Source: Laws 1949, c. 28, § 3, p. 103; Laws 2021, LB163, § 54.
Effective date August 28, 2021.

18-620 Complaint; hearing.

Upon the filing of a complaint and after the filing of plans and specifications as provided in section 18-619, the governing body shall fix a time for hearing such complaint and give notice thereof to the railroad company or companies. At the time so fixed the governing body shall sit as a board of equalization and assessment and at such hearing shall receive and hear such evidence as may be offered on the question of whether public safety, convenience, and welfare require the construction of such viaduct or subway, whether or not the cost of such viaduct or subway will exceed the benefits to be derived therefrom, and evidence on the question of the extent to which such railroad company or companies and the public will be respectively benefited by the construction of such viaduct or subway.

Source: Laws 1949, c. 28, § 4(1), p. 104; Laws 2021, LB163, § 55.
Effective date August 28, 2021.

18-621 Order; contents; filing; service; dismissal of petition.

Upon the conclusion of the hearing provided for in section 18-620, the governing body, as a board of equalization, shall make an order determining: (1) Whether or not the construction of the viaduct or subway is necessary for

the public safety, convenience, and welfare; (2) whether or not the cost of such viaduct or subway will exceed the benefits to be derived therefrom; and (3) the proportion of the total benefits from the construction of such viaduct or subway to be derived by the public and by the railroad company or companies respectively and shall apportion the cost of construction and maintenance of such viaduct or subway in the proportions found and shall apportion to the city or village and the railroad company or companies respectively such proportion of the cost of construction and maintenance of such viaduct or subway as the governing body shall find the public and railroad company or companies are respectively benefited. Such order shall include the governing body's estimate of the cost of the proposed viaduct or subway including the cost of approaches and damages caused to any property by construction thereof. A copy of such order together with the plans, specifications, and estimates made therein shall be signed by the presiding officer and a majority of the members of the governing body who concur therein, and filed with the city clerk or village clerk and a copy thereof served on the railroad company or companies, parties thereto. If the governing body shall find that construction of such viaduct or subway is not necessary for public safety, convenience, or welfare or that the cost thereof exceeds the benefits to be derived therefrom, it shall dismiss such complaint.

Source: Laws 1949, c. 28, § 4(2), p. 104; Laws 2021, LB163, § 56.
Effective date August 28, 2021.

18-622 Order; appeal; transcript; cost; standard of review.

If any railroad company is dissatisfied with an order issued as provided in section 18-621, such company may appeal such order to the district court in the county in which such city or village is situated. Such appeal shall be perfected by the railroad company filing, with the city clerk or village clerk of such city or village within ten days after such order is served, a written notice of its intention to appeal. Within twenty days after the filing of such notice of appeal, the city clerk or village clerk shall file with the clerk of the district court of such county a transcript containing the complaint and the order appealed from together with such other documents as may have been filed in such proceedings. The railroad company appealing shall pay to the city clerk or village clerk the cost of preparing such transcript. Upon such appeal the district court, without jury, shall hear and determine de novo all of the issues determined by the governing body except the question of whether or not the construction of such viaduct or subway is necessary for the public safety, convenience, and welfare. The court shall hear and determine such an appeal promptly and speedily, and the court's decision shall be subject to review by appeal or otherwise as other judgments of the district court are reviewable.

Source: Laws 1949, c. 28, § 4(3), p. 105; Laws 2021, LB163, § 57.
Effective date August 28, 2021.

18-623 Construction; approval by electors; ballot; appeal; effect.

The governing body of a city or village shall, after agreeing with a railroad company or companies as provided in section 18-618 or after an order, other than one of dismissal, of the governing body, sitting as a board of equalization as provided in sections 18-620 to 18-622, at the next general election or at a special election called for the purpose, submit to the electors of the city or

village the question of whether such city or village and railroad company or companies shall construct and maintain a viaduct or subway in accordance with any agreement made or in accordance with the order of the governing body of such city or village, and whether such city or village shall have the power to levy taxes or borrow money and pledge the property and credit of such city or village upon its negotiable bonds to pay its proportion of all costs connected therewith. The ballot shall contain concise statements, to be prepared by the city attorney or village attorney, of the original ordinance declaring the necessity and, if such viaduct or subway is to be constructed under the provisions of any agreement, a concise statement of the provisions of the agreement or, if it is to be constructed by virtue of an order of the governing body, a concise statement of such order, and in any instance a statement of the estimated amount of the costs of the construction and maintenance of such viaduct or subway, including the cost of acquisition of or damage to property to be borne by such city or village and the method by which the share of such costs of such city or village is to be obtained. The city or village may, at its option, proceed with such election notwithstanding the pendency of any appeal of any railroad company as provided in section 18-622.

Source: Laws 1949, c. 28, § 5, p. 105; Laws 2021, LB163, § 58.
Effective date August 28, 2021.

18-624 Approval by electors; governing body; powers.

If a majority of those voting on the proposition of the construction of a viaduct or subway approve such construction by their vote, the governing body of the city or village shall have the power to levy taxes, borrow money, and pledge the property and credit of such city or village upon its negotiable bonds in an amount not exceeding its proportion of the aggregate cost of the construction and maintenance of such viaduct or subway, and to pay for the acquisition of or damage to property by reason of such construction.

Source: Laws 1949, c. 28, § 6, p. 106; Laws 2021, LB163, § 59.
Effective date August 28, 2021.

18-625 Approval by electors; governing body; duties.

If the construction of a viaduct or subway is approved by the electors as provided in section 18-624, the governing body of the city or village shall (1) by resolution approve the detailed plans and specifications for such construction, including a map showing the exact location of such viaduct or subway, (2) by resolution make provision for the assumption of liability, the payment of consequential damages to property owners resulting from such proposed construction, and the payment of damages for property taken therefor, and (3) award and pay damages as provided in sections 76-704 to 76-724.

Source: Laws 1949, c. 28, § 7, p. 106; Laws 1953, c. 39, § 1, p. 133; Laws 2021, LB163, § 60.
Effective date August 28, 2021.

18-626 Streets and highways; use.

A city or village constructing a viaduct or subway as provided in sections 18-617 to 18-636 may appropriate any existing street or highway therefor and may acquire, extend, widen, or enlarge any street or highway for such purpose.

Source: Laws 1949, c. 28, § 8, p. 107; Laws 2021, LB163, § 61.
Effective date August 28, 2021.

18-627 Private property; condemnation; resolution; requirements; procedure.

When it becomes necessary to appropriate or damage any private property for the construction of a viaduct or subway as provided in sections 18-617 to 18-636, such appropriation shall be made by resolution. The resolution shall be published once each week for three weeks in a legal newspaper published in or of general circulation in such city or village. The publication shall be sufficient notice to the owners, occupants, and parties interested, and all parties having equitable interest therein. The procedure to condemn property shall be exercised in the manner set forth in sections 76-704 to 76-724.

Source: Laws 1949, c. 28, § 9, p. 107; Laws 1951, c. 101, § 63, p. 476; Laws 2021, LB163, § 62.
Effective date August 28, 2021.

18-633 Construction; cost; deposit; mandamus.

When any viaduct or subway construction project has been agreed to or when the division of costs has been otherwise finally determined and when such proposal has been approved by a vote as provided in sections 18-617 to 18-636, the railroad company or companies affected shall within ten days' notice or demand deposit with the city treasurer or village treasurer the amount of its proportionate share. The district court is hereby given jurisdiction upon the application of the governing body of the city or village to compel such deposit by mandamus together with such penalties as may be found and deemed reasonable by the court.

Source: Laws 1949, c. 28, § 15, p. 109; Laws 2021, LB163, § 63.
Effective date August 28, 2021.

18-634 Construction; contract; letting.

After a city or village has made provisions for financing its proportionate share of the costs and has complied with the provisions of sections 18-617 to 18-636, and the provisions of section 18-633 have been complied with, such city or village shall proceed to construct, in accordance with plans and specifications previously approved, the viaduct or subway, or such city or village is hereby authorized to contract for such construction in accordance with such plans and specifications. Any such contract shall be awarded as provided by law.

Source: Laws 1949, c. 28, § 16, p. 109; Laws 2021, LB163, § 64.
Effective date August 28, 2021.

18-635 Railroad company; obligations; sections; effect.

Nothing in sections 18-617 to 18-636 shall modify, change, or abrogate any obligation of any railroad company or companies to maintain, reconstruct, or keep in repair any viaduct or subway previously built or any replacement of such viaduct or subway under any agreement, statute, or ordinance previously in effect.

Source: Laws 1949, c. 28, § 17, p. 109; Laws 2021, LB163, § 65.
Effective date August 28, 2021.

18-636 Sections, how construed.

Sections 18-617 to 18-636 shall be construed as independent, supplemental, and in addition to any other laws of the State of Nebraska relating to the elimination of grade crossings, and shall be deemed to provide the entire powers, facilities, and expenditures necessary to accomplish the elimination of grade crossings in the manner provided. No other provision of law shall be effectual as a limitation upon the powers or proceedings contained in such sections, but other provisions of law may be relied upon to supplement and effectuate the purposes of such sections.

Source: Laws 1949, c. 28, § 18, p. 109; Laws 2021, LB163, § 66.
Effective date August 28, 2021.

ARTICLE 8
REGIONAL METROPOLITAN TRANSIT AUTHORITY ACT

Section
18-822. Tax levy.

18-822 Tax levy.

(1) To assist in defraying the expenses of a regional metropolitan transit authority, and to such extent as in its discretion and judgment may be necessary, the board shall annually certify a tax levy for the fiscal year commencing on the following January 1. Such levy shall not exceed in any one year ten cents on each one hundred dollars on the taxable value of the taxable property that at the time of the levy is located in or during the ensuing fiscal year will be located in any municipality in which such authority shall be deemed to have operating jurisdiction pursuant to section 18-804.

(2) The board shall by resolution, on or before September 30 of each year, certify such tax levy to the county assessor of the county or counties in which the authority operates. If in any year the full amount so certified and collected is not needed for the current purposes of such authority, the balance shall be credited to the operating fund of such authority and, as the board in its discretion deems convenient, to other reserve funds of such authority.

Source: Laws 2019, LB492, § 22; Laws 2021, LB644, § 9.
Operative date January 1, 2022.

ARTICLE 10
STATE ARMORIES

Section
18-1001. Public policy; sites; acquisition; conveyance to state; construction of buildings.
18-1002. Site; purchase; payment.
18-1003. Site; condemnation; payment.
18-1004. Armory site; conveyances.
18-1005. Tax levy; state armory site fund; use.
18-1006. Warrants; issuance; amount; fund; purpose.

18-1001 Public policy; sites; acquisition; conveyance to state; construction of buildings.

The Legislature hereby declares the public policy of the State of Nebraska to be that the acquisition of real estate sites for the construction of state armories within the corporate limits of cities or villages for the uses and purposes of the

Nebraska National Guard and State Guard is a matter of general state concern and that the use of such sites is a state use and not a city, village, or local use. One of the corporate purposes of all cities and villages is hereby declared to be to acquire real estate sites within their corporate limits and to convey such sites without consideration to the State of Nebraska for the uses and purposes of the Nebraska National Guard and State Guard, as provided in sections 18-1002 to 18-1005. Notwithstanding any more general or special law respecting armories in force and effect in this state, the governing bodies of cities or villages are hereby empowered by ordinance to acquire through the exercise of the right of eminent domain, or otherwise, real estate to be used as a site or sites for the construction of state armories to be devoted to the uses and purposes of the Nebraska National Guard and State Guard and to convey such real estate without consideration, when acquired, to the State of Nebraska to the end that through state aid, federal aid, or both, state armory buildings may be constructed on such sites without cost to such cities or villages other than the cost to such cities or villages to acquire and convey such real estate.

Source: Laws 1935, Spec. Sess., c. 10, § 1, p. 69; Laws 1941, c. 130, § 7, p. 491; C.S.Supp.,1941, § 18-1801; R.S.1943, § 18-1001; Laws 2021, LB163, § 67.
Effective date August 28, 2021.

18-1002 Site; purchase; payment.

Whenever the Nebraska National Guard and State Guard desire any city or village in this state to acquire at the cost of not to exceed ten thousand dollars to such city or village by condemnation, or otherwise, any lot, piece, or parcel of land within the corporate limits of such city or village for a state armory site, the Adjutant General shall notify the city clerk or village clerk of such city or village in writing to that effect. The city clerk or village clerk shall present the notice to the governing body at its next regular or special meeting. If a majority of the members of the governing body shall favor the acquisition of such lot, piece, or parcel of land, the governing body shall order such acquisition by resolution duly passed and approved and recorded in the minutes. The mayor or chairperson of the village board of trustees, as the case may be, shall designate a committee from the governing body to negotiate with the owner or owners of such real estate for the purchase thereof for the purposes and uses provided in this section. If the committee and the owners are able to agree on the price, value, and title of the land, the committee shall report in writing its agreement with the owners to the governing body. If the agreement is ratified, approved, and confirmed in all things by the governing body by a majority vote of its members, by ordinance upon receipt of a deed properly executed, approved as to form and substance by the city attorney or village attorney in writing, from the owner or owners, as grantors to the city or village, as the case may be, as grantee, such governing body shall direct the issuance through its proper officers of warrants upon the state armory site fund, as authorized by sections 18-1005 and 18-1006. Such warrants so issued shall be drawn payable to the owner or owners of the land.

Source: Laws 1935, Spec. Sess., c. 10, § 1, p. 70; Laws 1941, c. 130, § 7, p. 492; C.S.Supp.,1941, § 18-1801; R.S.1943, § 18-1002; Laws 2021, LB163, § 68.
Effective date August 28, 2021.

18-1003 Site; condemnation; payment.

If the owner or owners and the committee cannot agree on the price, value, or title of land as provided in section 18-1002, within a period of negotiation extending not more than ten days from the date of appointment of the committee by the governing body, the committee shall report the fact of disagreement to the mayor and city council or to the chairperson and village board of trustees, as the case may be. The city clerk or village clerk shall immediately notify in writing the Adjutant General to that effect, whereupon it shall be the duty of the Attorney General, collaborating with the city attorney or village attorney, to institute proper legal proceedings to acquire the land for state use through the exercise of the power of eminent domain. The procedure to condemn property shall be exercised in the manner set forth in sections 76-704 to 76-724. Payment of the award made or any other necessary costs or expenses incident to the condemnation suit shall be made by the city or village.

Source: Laws 1935, Spec. Sess., c. 10, § 1, p. 71; Laws 1941, c. 130, § 7, p. 493; C.S.Supp.,1941, § 18-1801; R.S.1943, § 18-1003; Laws 1951, c. 101, § 65, p. 477; Laws 1959, c. 54, § 1, p. 246; Laws 2021, LB163, § 69.
Effective date August 28, 2021.

18-1004 Armory site; conveyances.

Notwithstanding any more general or special law respecting sale or conveyance of real estate now or hereafter owned by cities and villages in force and effect in this state, the governing bodies of cities and villages are empowered to direct their proper officers to execute deeds for conveyance of any real estate of such cities or villages without consideration to the State of Nebraska for the construction of state armory buildings on such real estate. Such construction shall be made without cost to such cities or villages.

Source: Laws 1935, Spec. Sess., c. 10, § 1, p. 71; Laws 1941, c. 130, § 7, p. 493; C.S.Supp.,1941, § 18-1801; R.S.1943, § 18-1004; Laws 1988, LB 793, § 6; Laws 2021, LB163, § 70.
Effective date August 28, 2021.

18-1005 Tax levy; state armory site fund; use.

All cities or villages in the State of Nebraska shall have the power and authority to levy a special tax each year of not more than five and two-tenths cents on each one hundred dollars upon the taxable value of all the taxable property in such city or village for the acquisition of real estate by agreement with the owner or owners or by condemnation as provided in sections 18-1002 and 18-1003 to be used for state armory sites. Such special levy shall be made by the same governing body and shall be levied in the same manner as in the case of general city or village taxes. The proceeds of such levy shall be credited to the state armory site fund created by the governing body as provided in section 18-1006. Revenue raised by such special levy shall be used only for the purpose of acquiring real estate for a state armory site within the corporate limits of such city or village or in the payment of warrants as authorized by section 18-1006.

Source: Laws 1935, Spec. Sess., c. 10, § 1, p. 71; Laws 1941, c. 130, § 7, p. 493; C.S.Supp.,1941, § 18-1801; R.S.1943, § 18-1005; Laws

1953, c. 287, § 28, p. 947; Laws 1979, LB 187, § 69; Laws 1992, LB 719A, § 70; Laws 2021, LB163, § 71.
Effective date August 28, 2021.

18-1006 Warrants; issuance; amount; fund; purpose.

Any city or village may anticipate the collection of a special tax collected as provided in section 18-1005 to be budgeted and levied in its adopted budget statement and for that purpose may issue its warrants, in a sum amounting to eighty-five percent of the tax to be levied, as provided in section 18-1005, for the amount of any award issued in condemnation and for the costs and expenses incident thereto, as provided in section 18-1003. Warrants so issued shall be secured by such tax which shall be assessed and levied, as provided by law, and shall be payable only out of funds derived from such tax. In any case in which warrants are issued, as provided in this section, it shall be the duty of such city or village, on receipt of such tax when paid, to hold the same as a separate fund, to be known as the state armory site fund, to the amount of the warrants so issued, and the interest thereon, for the purpose of paying or redeeming such warrants.

Source: Laws 1935, Spec. Sess., c. 10, § 1, p. 72; Laws 1941, c. 130, § 7, p. 494; C.S.Supp.,1941, § 18-1801; R.S.1943, § 18-1006; Laws 1959, c. 54, § 2, p. 247; Laws 1969, c. 145, § 25, p. 687; Laws 2021, LB163, § 72.
Effective date August 28, 2021.

ARTICLE 11

REFUNDING INDEBTEDNESS

Section
18-1101. Refunding outstanding instruments; powers.
18-1102. Refunding instruments; how issued.

18-1101 Refunding outstanding instruments; powers.

The mayor and city council of any city or the chairperson and village board of trustees of any village of the State of Nebraska, which has issued valid pledge warrants, revenue bonds, revenue notes, or revenue debentures, which instruments are outstanding and unpaid, may take up and pay off any such outstanding instruments whenever the same can be done by lawful means by the issue and sale, or the issue and exchange therefor, of other pledge warrants, revenue bonds, revenue notes, or revenue debentures. Such instruments shall not be general obligations of such city or village. Any city or village which has issued and has outstanding valid pledge warrants, revenue bonds, revenue notes, or revenue debentures which are unpaid, some of which are secured by the pledge of the revenue and earnings of one public utility and others are secured by the pledge of the revenue and earnings of another public utility, may take up and pay off all such outstanding instruments by the issuance and sale of its combined revenue bonds or revenue notes which may be secured by the pledge of the revenue and earnings of any two or more of such public utilities. Any city or village may enter into such a contract or contracts in connection with such instruments as may be proper and necessary.

Source: Laws 1937, c. 40, § 1, p. 178; Laws 1939, c. 13, § 1, p. 88; C.S.Supp.,1941, § 18-2201; R.S.1943, § 18-1101; Laws 1945, c.

32, § 1, p. 152; Laws 1971, LB 984, § 1; Laws 1976, LB 825, § 5; Laws 2021, LB163, § 73.
Effective date August 28, 2021.

18-1102 Refunding instruments; how issued.

Whenever it is desired to issue pledge warrants, revenue bonds, or revenue debentures under section 18-1101, the city council or village board of trustees shall, by resolution recorded in the minutes of its proceedings, provide for the issuance and sale or exchange of the refunding instruments.

Source: Laws 1937, c. 40, § 2, p. 179; C.S.Supp.,1941, § 18-2202; R.S. 1943, § 18-1102; Laws 2021, LB163, § 74.
Effective date August 28, 2021.

ARTICLE 12

MISCELLANEOUS TAXES

Section

18-1201 Tax; amount; purposes.

All cities and villages in the State of Nebraska may levy a special tax each year of not more than five cents on each one hundred dollars upon the taxable value of all the taxable property in such city or village for the special purposes set forth in this section. Such special levy shall be made by the same officers or board and be levied in the same manner as general city or village taxes. Revenue raised by such a special levy may be used for purchasing and maintaining public safety equipment, including, but not limited to, vehicles or rescue or emergency first-aid equipment for a fire or police department of such city or village, for purchasing real estate for fire or police station quarters or facilities, for erecting, building, altering, or repairing fire or police station quarters or facilities, for purchasing, installing, and equipping an emergency alarm or communication system, or for paying off bonds authorized by section 18-1202. Such revenue may be accumulated in a sinking fund or sinking funds to be used for any such purpose.

Source: Laws 1915, c. 218, § 1, p. 487; C.S.1922, § 4469; C.S.1929, § 18-801; R.S.1943, § 18-1201; Laws 1945, c. 33, § 1, p. 154; Laws 1953, c. 287, § 29, p. 947; Laws 1963, c. 81, § 1, p. 289; Laws 1969, c. 102, § 1, p. 477; Laws 1979, LB 187, § 70; Laws 1988, LB 369, § 1; Laws 1992, LB 719A, § 71; Laws 1993, LB 58, § 1; Laws 2021, LB163, § 75.
Effective date August 28, 2021.

18-1202 Tax anticipation bonds; issuance; interest; redemption.

Any city or village which has levied or intends to levy a tax as authorized by section 18-1201 for the purposes stated in such section may anticipate the collection of such taxes, including the anticipation of collections from levies to be made in future years, and for such purpose may issue tax anticipation bonds which shall be payable in not exceeding twenty years and may bear interest, payable annually or semiannually, at such rate or rates as the mayor and city council or chairperson and village board of trustees may determine. The total of principal and interest payable on such bonds in any calendar year shall not exceed ninety percent of the anticipated tax collection for such calendar year on the assumption that the taxable valuation for such city or village in all succeeding years shall be the same as the taxable valuation most recently determined prior to passage of the ordinance authorizing such bonds and applying the tax levy made or agreed to be made by the city or village, but not exceeding five cents on each one hundred dollars, and using tax due and delinquency dates in effect at the time of passage of the bond ordinance. The city or village may agree in such bond ordinance to make and to continue to make a levy under section 18-1201 until such bonds and interest thereon are fully paid. Such bonds shall be secured by such tax so assessed and levied and shall be payable only out of the funds derived from such tax. It shall be the duty of such city or village on receipt of such taxes to hold the same as a separate fund to the amount of the bonds so issued and the interest thereon for the purpose of paying or redeeming such bonds.

Source: Laws 1915, c. 218, § 2, p. 487; C.S.1922, § 4470; C.S.1929, § 18-802; R.S.1943, § 18-1202; Laws 1947, c. 48, § 1, p. 167; Laws 1969, c. 51, § 66, p. 313; Laws 1972, LB 884, § 1; Laws 1979, LB 187, § 71; Laws 1988, LB 369, § 2; Laws 1992, LB 719A, § 72; Laws 1993, LB 58, § 2; Laws 2021, LB163, § 76. Effective date August 28, 2021.

18-1203 Musical and amusement organizations; tax; amount; petition for higher tax; election.

All cities and villages within the State of Nebraska are hereby expressly authorized, upon a three-fourths vote of all of the members elected to the city council or village board of trustees, to levy not to exceed two and one-tenth cents on each one hundred dollars upon the taxable value of all the taxable property in such cities or villages each year to establish and maintain a vocal, instrumental, or amusement organization for the purpose of rendering free public concerts, music festivals, and entertainments within such city or village limits for the people of such city or village. When such vote has been made and recorded by the city council or village board of trustees, a tax of not to exceed two and one-tenth cents on each one hundred dollars of the taxable value of all the taxable property of such city or village shall be levied by such city or village, in addition to all other general and special taxes, for the support, maintenance, and necessary expenses of such vocal, instrumental, or amusement organization. Any city or village may levy each year a tax of not exceeding three and five-tenths cents on each one hundred dollars upon the taxable value of all the taxable property in such municipality for the maintenance of a municipal band or other vocal, instrumental, or amusement organization for the purpose of rendering free public concerts, music festivals, and entertainments when a petition signed by ten percent of the legal voters of such city or village, as

shown by the last regular municipal election, is filed with the city clerk or village clerk and requests the following question to be submitted to the voters of the city or village: Shall a tax of not exceeding ..... cents on each one hundred dollars upon the taxable value of all the taxable property of ....., Nebraska, be levied each year for the purpose of providing a fund for the maintenance of a municipal band or other vocal, instrumental, or amusement organization for the purpose of rendering free public concerts, music festivals, and entertainments? When such petition is filed, the city council or village board of trustees shall cause the question to be submitted to the voters of the city or village at the next general municipal election, and if a majority of the votes cast at the election favor such proposition, the city council or village board of trustees shall then levy such tax to maintain such municipal band or other vocal, instrumental, or amusement organization for the purposes enumerated in this section.

Source: Laws 1915, c. 219, §§ 1, 2, p. 488; C.S.1922, §§ 4471, 4472; Laws 1927, c. 40, § 1, p. 172; C.S.1929, § 18-901; R.S.1943, § 18-1203; Laws 1953, c. 287, § 30, p. 948; Laws 1979, LB 187, § 72; Laws 1992, LB 719A, § 73; Laws 2021, LB163, § 77.
Effective date August 28, 2021.

18-1204 Musical and amusement organizations; power to tax; withdrawal; reauthorization.

When a petition signed by ten percent of the legal voters of a city or village, as shown by the last regular municipal election, is filed with the city clerk or village clerk requesting that the question be submitted to the voters of withdrawing the authority to tax under section 18-1203, the city council or village board of trustees shall submit the question of withdrawal at the next general municipal election. The question on the ballot shall be as follows: Shall the power previously granted in ....., Nebraska, to levy a tax of ..... cents on each one hundred dollars upon the taxable value of all the taxable property of such city or village for the purpose of providing a fund for the maintenance of a municipal band or other vocal, instrumental, or amusement organization for the purpose of rendering free public concerts, music festivals, and entertainments be withdrawn? If a majority of the votes cast favor such withdrawal, no further levy for the purpose shall thereafter be made until the proposition is again resubmitted to the people. After the proposition for withdrawing the right to tax has carried, no further submission of a proposition to levy the tax shall be made for at least two years.

Source: Laws 1927, c. 40, § 1, p. 173; C.S.1929, § 18-901; R.S.1943, § 18-1204; Laws 1953, c. 287, § 31, p. 949; Laws 1979, LB 187, § 73; Laws 1992, LB 719A, § 74; Laws 2021, LB163, § 78.
Effective date August 28, 2021.

18-1205 Musical and amusement organizations; tax; inclusion in appropriation ordinance.

When a city or village has voted as required by section 18-1203 to establish and maintain a vocal, instrumental, or amusement organization, there shall thereafter be included in the annual estimate of expenses of such city or village a levy of not to exceed two and one-tenth cents or three and five-tenths cents on each one hundred dollars, as the case may be, upon the taxable value of the

taxable property of such city or village for each year for such purpose. The levy so made shall be included in the appropriation ordinance.

Source: Laws 1915, c. 219, § 2, p. 488; C.S.1922, § 4472; Laws 1927, c. 40, § 2, p. 174; C.S.1929, § 18-902; R.S.1943, § 18-1205; Laws 1953, c. 287, § 32, p. 950; Laws 1979, LB 187, § 74; Laws 1992, LB 719A, § 75; Laws 2021, LB163, § 79.
Effective date August 28, 2021.

18-1206 Musical and amusement organizations; leader; employment.

Every vocal, instrumental, or amusement organization established under sections 18-1201 to 18-1207 shall be under the instruction and guidance of a leader, who may be nominated in the first instance by the organization or association but whose nomination, term of employment, and compensation shall be subject to the approval of the city council or village board of trustees of the city or village that established the organization.

Source: Laws 1915, c. 219, § 3, p. 488; C.S.1922, § 4473; C.S.1929, § 18-903; R.S.1943, § 18-1206; Laws 2021, LB163, § 80.
Effective date August 28, 2021.

18-1207 Musical and amusement organizations; rules and regulations.

The city council of each city, or village board of trustees of each village, making provision for any vocal, instrumental, or amusement organization as provided in sections 18-1201 to 18-1207, shall make and adopt all suitable and necessary rules, regulations, and bylaws concerning the government, organization, expenditures, and other necessary matters pertaining to such organization, and for that purpose shall appoint and designate three members of the city council or village board of trustees as a committee on municipal amusements and entertainments.

Source: Laws 1915, c. 219, § 4, p. 488; C.S.1922, § 4474; C.S.1929, § 18-904; R.S.1943, § 18-1207; Laws 2021, LB163, § 81.
Effective date August 28, 2021.

18-1215 Special assessment district; ordinance; file copy with register of deeds.

Whenever a municipality has enacted an ordinance creating a special assessment district, it shall be the duty of such municipality to file a copy of such ordinance in the office of the register of deeds of the county in which such municipality is located.

Source: Laws 1973, LB 373, § 2; Laws 2021, LB163, § 82.
Effective date August 28, 2021.

18-1216 Collection of special assessments; powers; notice; liability.

(1) Any municipality shall have authority to collect the special assessments which it levies and to perform all other necessary functions related thereto including foreclosure. The governing body of any municipality collecting its own special assessments shall direct that notice that special assessments are due shall be mailed or otherwise delivered to the last-known address of the person against whom such special assessments are assessed or to the lending institution or other party responsible for paying such special assessments.

Failure to receive such notice shall not relieve the taxpayer from any liability to pay such special assessments and any interest or penalties accrued thereon.

(2) A city of the second class or village collecting its own assessments under this section shall (a) file notice of the assessments and the amount of assessment being levied for each lot or tract of land to the register of deeds of the county in which the municipality is located and (b) file a release of assessment upon final payment of each assessment with the register of deeds. Such register of deeds shall index the assessment against the individual lots and tracts of land and have such information available to the public.

Source: Laws 1983, LB 391, § 3; R.S.1943, (1991), § 19-4501; Laws 1996, LB 962, § 3; Laws 2021, LB163, § 83.
Effective date August 28, 2021.

ARTICLE 15
AVIATION FIELDS

Section
18-1501. Acquisition; buildings; improvements; authorized; charges.
18-1502. Bonds; terms; interest; approval by electors.
18-1503. Tax in lieu of bonds; amount; approval by electors; limitations.
18-1504. Acquisition by lease; election unnecessary.
18-1508. Ordinances, rules, and regulations; authorized; applicability.
18-1509. Lease or disposition; when authorized.

18-1501 Acquisition; buildings; improvements; authorized; charges.

Any city or village in the State of Nebraska is authorized to acquire by lease for a term not to exceed twenty-five years, purchase, condemnation, or otherwise, the necessary land within or without such city or village for the purpose of establishing an aviation field and to erect thereon such buildings and make such improvements, as may be necessary for the purpose of adapting the field to the use of aerial traffic, and may, from time to time, fix and establish a schedule of charges for the use of such field, which charges shall be used in connection with the maintenance and operation of any such field and the activities thereof. The procedure to condemn property shall be exercised in the manner set forth in sections 76-704 to 76-724.

Source: Laws 1929, c. 35, § 1, p. 147; C.S.1929, § 19-801; Laws 1943, c. 39, § 1(1), p. 182; R.S.1943, § 19-801; Laws 1947, c. 53, § 1, p. 180; Laws 1951, c. 101, § 66, p. 478; Laws 2021, LB163, § 84.
Effective date August 28, 2021.

Cross References

Acquisition of airports and landing fields by purchase, condemnation, or otherwise, see sections 3-203 and 3-204.
Assistance from the Division of Aeronautics of the Department of Transportation, see Chapter 3, article 1.

18-1502 Bonds; terms; interest; approval by electors.

For the purpose of acquiring and improving an aviation field as authorized in section 18-1501, any city or village may issue and sell bonds of such city or village to be designated aviation field bonds to provide the necessary funds for such aviation field in an amount not to exceed seven-tenths of one percent of the taxable valuation of all the taxable property in such city or village. Such bonds shall become due in not to exceed twenty years from the date of issuance and shall draw interest payable semiannually or annually. Such bonds may not be sold for less than par and in no case without the proposition of issuing the

same having first been submitted to the legal electors of such city or village at a general or special election held in such city or village and a majority of the votes cast upon the question of issuing the bonds being in favor thereof. The authority to sell such bonds shall not be limited by any other provision of law.

Source: Laws 1929, c. 35, § 1, p. 148; C.S.1929, § 19-801; Laws 1943, c. 39, § 1(2), p. 182; R.S.1943, § 19-802; Laws 1945, c. 34, § 17, p. 170; Laws 1947, c. 15, § 12, p. 89; Laws 1947, c. 53, § 2, p. 181; Laws 1955, c. 50, § 2, p. 170; Laws 1969, c. 51, § 67, p. 313; Laws 1979, LB 187, § 76; Laws 1992, LB 719A, § 76; Laws 2021, LB163, § 85.
Effective date August 28, 2021.

Cross References

Revised Airports Act, section included, see section 3-238.

18-1503 Tax in lieu of bonds; amount; approval by electors; limitations.

For the purpose of acquiring and improving an aviation field as provided in section 18-1501, a city or village may, in lieu of issuing and selling bonds, levy an annual tax of not to exceed seven cents on each one hundred dollars upon the taxable value of all the taxable property within the corporate limits of such city or village, which tax shall not be levied or collected until the proposition of levying such tax has first been submitted to the legal electors of such city or village at a general or special election held in such city or village and the majority of votes cast upon the question of levying such tax are in favor thereof. Such levy shall be authorized for a term not exceeding ten years, and the proposition submitted to the electors shall specify the number of years for which it is proposed to levy such tax. If funds for such purposes are raised by the levy of tax, no part of the funds so accruing shall be used for any other purpose.

Source: Laws 1929, c. 35, § 1, p. 148; C.S.1929, § 19-801; Laws 1943, c. 39, § 1(3), p. 183; R.S.1943, § 19-803; Laws 1947, c. 53, § 3, p. 181; Laws 1953, c. 287, § 33, p. 950; Laws 1979, LB 187, § 77; Laws 1992, LB 719A, § 77; Laws 2021, LB163, § 86.
Effective date August 28, 2021.

18-1504 Acquisition by lease; election unnecessary.

It shall not be necessary, in order for a city or village to acquire the necessary land for an aviation field by lease, to submit the proposition of such acquisition by lease to the legal voters of such city or village.

Source: Laws 1943, c. 39, § 1(4), p. 183; R.S.1943, § 19-803.01; Laws 1947, c. 53, § 4, p. 182; Laws 2021, LB163, § 87.
Effective date August 28, 2021.

18-1508 Ordinances, rules, and regulations; authorized; applicability.

The governing body of any city or village shall have power to make and enforce such ordinances, rules, and regulations as shall lawfully be made, for the control and supervision of any airport, landing field, or airdrome acquired, established, or operated by such city or village, and for the control of aircraft and airmen, but such ordinances, rules, and regulations shall not conflict with the rules and regulations for the navigation of aircraft promulgated by the

United States Government. This power shall extend to the space above the lands and waters included within the corporate limits of such city or village and to the space above any airport, landing field, or airdrome outside such limits.

Source: Laws 1929, c. 35, § 4, p. 149; C.S.1929, § 19-804; R.S.1943, § 19-806; Laws 1955, c. 51, § 4, p. 172; Laws 2021, LB163, § 88.
Effective date August 28, 2021.

18-1509 Lease or disposition; when authorized.

The governing body of any city or village, authorized by section 18-1501 to acquire an aviation field, shall have power to lease or dispose of such aviation field or any portion thereof when doing so will not damage the public need for such airfield.

Source: Laws 1929, c. 35, § 5, p. 149; C.S.1929, § 19-805; R.S.1943, § 19-807; Laws 1955, c. 51, § 5, p. 172; Laws 2021, LB163, § 89.
Effective date August 28, 2021.

ARTICLE 17

MISCELLANEOUS

Section

18-1701 Public records; disposition and destruction.

All cities and villages may provide for the disposition or destruction of public records when such records have been determined to be of no further legal, administrative, fiscal, or historical value by the State Records Administrator pursuant to the Records Management Act. This section shall not apply to the minutes of the city clerk or village clerk, the permanent ordinance and resolution books, or any other record classified as permanent by the State Records Administrator.

Source: Laws 1955, c. 53, § 1, p. 175; Laws 1969, c. 105, § 1, p. 480; Laws 2021, LB163, § 90.
Effective date August 28, 2021.

Cross References

Records Management Act, see section 84-1220.

18-1702 Trainees; Nebraska Law Enforcement Training Center; costs and expenses.

Any city or village in the State of Nebraska may pay from municipal funds the cost of training and the expenses of trainees, designated by its governing body, to attend the Nebraska Law Enforcement Training Center.

Source: Laws 1957, c. 42, § 1, p. 218; Laws 2021, LB163, § 91.
Effective date August 28, 2021.

18-1705 Road or street improvement; avoidance of menace to travel; additional land; acquisition by purchase, gift, or eminent domain.

Whenever any city or village shall need any additional land for the purpose of avoiding a menace to travel by caving, sliding, washing, or otherwise or for the purpose of improving, maintaining, or changing any road, street, alley, or other public highway, such city or village may acquire such needed land or an easement therein by purchase, gift, or eminent domain proceedings. Such land may be so acquired regardless of whether the land is contiguous or noncontiguous to such road, street, alley, or highway, or within or without the corporate limits of such city or village. In case of eminent domain proceedings, the procedure to condemn property shall be exercised in the manner set forth in sections 76-704 to 76-724.

Source: Laws 1957, c. 43, § 1, p. 219; Laws 2021, LB163, § 92.
Effective date August 28, 2021.

18-1706 Fire, police, and emergency service; provision outside limits of city or village.

Any city or village may by resolution authorize its fire department or police department or any portion thereof to provide fire, police, and emergency

service outside of the limits of such city or village either within or without the state.

Source: Laws 1959, c. 55, § 1, p. 248; Laws 1959, c. 56, § 1, p. 249; Laws 2021, LB163, § 93.
Effective date August 28, 2021.

18-1707 Services, vehicles, and equipment; authority to contract for; requirements.

Any city or village shall have the authority to contract with other political subdivisions, government agencies, public corporations, private persons, or groups for (1) compensation for services rendered by such city or village or (2) the use of vehicles and equipment of the city or village. Such services shall be of a type which the city or village is empowered to perform and the vehicles or equipment shall be of a type which the city or village is empowered to use, as otherwise provided by law. Any person performing such services shall have completed any training requirements of his or her profession as required by law. The compensation agreed upon shall be a legal charge and collectible by the entity rendering such services in any court of competent jurisdiction.

Source: Laws 1959, c. 55, § 2, p. 248; Laws 1984, LB 782, § 1; Laws 2021, LB163, § 94.
Effective date August 28, 2021.

18-1708 City or village employees; serving outside corporate limits; regular line of duty.

All city or village employees serving outside the corporate limits of the city or village as authorized in sections 18-1706 to 18-1709 shall be considered and held as serving in their regular line of duties as fully as if they were serving within the corporate limits of the city or village which employs them.

Source: Laws 1959, c. 55, § 3, p. 249; Laws 1959, c. 56, § 2, p. 250; Laws 1988, LB 369, § 3; Laws 2021, LB163, § 95.
Effective date August 28, 2021.

18-1709 Fire protection; fire apparatus; emergency vehicles; contracts authorized.

Any city or village of this state may make arrangements and contracts with any other city or village for the purpose of fire protection and for the use of fire apparatus and emergency vehicles and equipment.

Source: Laws 1959, c. 55, § 4, p. 249; Laws 2021, LB163, § 96.
Effective date August 28, 2021.

18-1712 Fire training school; costs and expenses.

Any city or village in the State of Nebraska may pay from city or village funds the cost of training and the expenses of such members of the city or village fire department as designated by the governing body of the city or village to attend the fire training school sponsored by the State Fire Marshal and the Nebraska Emergency Management Agency.

Source: Laws 1959, c. 58, § 1, p. 251; Laws 1961, c. 53, § 5, p. 199; Laws 1963, c. 83, § 1, p. 291; Laws 1994, LB 1027, § 1; Laws 1996, LB 43, § 2; Laws 2021, LB163, § 97.
Effective date August 28, 2021.

18-1713 Fire training school; contract with city fire department; costs and expenses.

Any city or village in the State of Nebraska may enter into a contract with a fire department of any city of the metropolitan class or city of the primary class that maintains a fire training school for its own firefighters to train such firefighters as such city or village might designate and may pay from city or village funds the cost of such training and all of the expenses of such designated trainees during the time that they are undergoing such training.

Source: Laws 1959, c. 58, § 2, p. 252; Laws 2021, LB163, § 98.
Effective date August 28, 2021.

18-1714 Fire training school; approved by State Fire Marshal and Nebraska Emergency Management Agency; attendance.

Any city or village in the State of Nebraska may send any person or persons designated by its governing body to attend any fire training school operating within the State of Nebraska and that has been approved as a proper fire department training school for such purposes by the State Fire Marshal and the Nebraska Emergency Management Agency.

Source: Laws 1959, c. 58, § 3, p. 252; Laws 1996, LB 43, § 3; Laws 2021, LB163, § 99.
Effective date August 28, 2021.

18-1716 Suburban regulations; exceptions.

Any regulation of any municipality pertaining to any area outside of its corporate limits shall be subject to any lawful and existing regulation of another municipality pertaining to that same area except as otherwise provided by an agreement entered into pursuant to the Interlocal Cooperation Act or Joint Public Agency Act. However, any area annexed by any municipality shall only be subject to the ordinances of such annexing municipality after such annexation.

Source: Laws 1967, c. 75, § 6, p. 245; Laws 1998, LB 611, § 2; Laws 1999, LB 87, § 63; Laws 2021, LB163, § 100.
Effective date August 28, 2021.

Cross References

Interlocal Cooperation Act, see section 13-801.
Joint Public Agency Act, see section 13-2501.

18-1718 Annexation; contest; limitation of action.

Any action or proceeding of any kind or nature, whether legal or equitable, which is brought to contest any annexation of property made by any city or village, shall be brought within one year from the effective date of such annexation or such action or proceeding shall be forever barred. The period of time prescribed by this section for bringing an action shall not be tolled or extended by nonresidence or disability.

Source: Laws 1967, c. 82, § 2, p. 258; Laws 2021, LB163, § 101.
Effective date August 28, 2021.

18-1719 Weeds; destruction and removal within right-of-way of railroads; powers; special assessment.

Any city or village may provide for the destruction and removal of specified portions of weeds and worthless vegetation within the right-of-way of all railroads within the corporate limits of such city or village and may require the owner or owners of such right-of-way to destroy and remove the weeds or vegetation from such right-of-way. If such owner or owners fail, neglect, or refuse, after ten days' written notice to remove the weeds or vegetation, such city or village, by its proper officers, shall destroy and remove the weeds or vegetation or cause the weeds or vegetation to be destroyed or removed and shall assess the cost thereof against such property as a special assessment. No city or village shall destroy or remove or otherwise treat such specified portions until after the time has passed in which the railroad company is required to destroy or remove such vegetation.

Source: Laws 1969, c. 599, § 2, p. 2454; Laws 2015, LB361, § 41; Laws 2021, LB163, § 102.
Effective date August 28, 2021.

18-1720 Nuisances; definition; prevention; abatement; joint and cooperative action with county.

(1) All cities and villages in this state may by ordinance define, regulate, suppress, and prevent nuisances, declare what constitutes a nuisance, and abate and remove such nuisances. Every city and village may exercise such power and authority within its corporate limits and extraterritorial zoning jurisdiction.

(2) Any city or village may enter into an interlocal agreement pursuant to the Interlocal Cooperation Act with a county in which the extraterritorial zoning jurisdiction of the city or village is located to provide for joint and cooperative action to abate, remove, or prevent nuisances within such extraterritorial zoning jurisdiction. The governing body of such city or village and the county board of such county shall first approve such interlocal agreement by ordinance or resolution.

Source: Laws 1939, c. 10, § 1, p. 77; C.S.Supp.,1941, § 19-1201; R.S. 1943, § 19-1201; Laws 1969, c. 115, § 1, p. 529; Laws 2019, LB11, § 1; Laws 2021, LB163, § 103.
Effective date August 28, 2021.

Cross References

Interlocal Cooperation Act, see section 13-801.

18-1721 Comprehensive zoning ordinance; requirements for street dedication.

In order to lessen congestion on the streets and to facilitate adequate provisions for community utilities and facilities such as transportation, any city or village which has a comprehensive zoning ordinance is authorized to require that no building or structure shall be erected or enlarged upon any lot in any zoning district unless the half of the street adjacent to such lot has been dedicated to its comprehensive plan width. The maximum area of land required to be so dedicated shall not exceed twenty-five percent of the area of any such lot and the dedication shall not reduce such a lot below a width of fifty feet or an area of five thousand square feet. Any owner of such a lot may submit an application for a variance and the city or village shall provide a procedure for such application to prevent unreasonable hardship under the facts of each case.

The authority granted in this section is in addition to the authority of the city or village to require dedication of right-of-way as a condition of subdivision approval.

Source: Laws 1969, c. 99, § 1, p. 473; Laws 2021, LB163, § 104.
Effective date August 28, 2021.

18-1722.01 Property or building; unsafe or unfit for human occupancy; duties.

Whenever the governing body of a municipality has decided by resolution or other determination that a property is unsafe or unfit for human occupancy because of one or more violations of its minimum standard housing ordinance or has decided by resolution or other determination that a building is unsafe because of one or more violations of its local building or construction code, it shall be the duty of such municipality to post the property accordingly and to file a copy of such resolution or other determination in the office of the register of deeds of the county to be recorded. No fee shall be charged for such recording or for the release of such recording.

Source: Laws 1973, LB 373, § 1; Laws 1974, LB 654, § 1; Laws 2021, LB163, § 105.
Effective date August 28, 2021.

18-1723 Firefighter; police officer; presumption of death or disability; rebuttable.

Whenever any firefighter who has served a total of five years as a member of a paid fire department of any city in this state or any police officer of any city or village, including any city having a home rule charter, shall suffer death or disability as a result of hypertension or heart or respiratory defect or disease, there shall be a rebuttable presumption that such death or disability resulted from accident or other cause while in the line of duty for all purposes of the Police Officers Retirement Act, sections 15-1012 to 15-1027 and 16-1020 to 16-1042, and any firefighter's or police officer's pension plan established pursuant to any home rule charter, the Legislature specifically finding the subject of this section to be a matter of general statewide concern. The rebuttable presumption shall apply to death or disability as a result of hypertension or heart or respiratory defect or disease after the firefighter or police officer separates from his or her applicable employment if the death or disability occurs within three months after such separation. Such rebuttable presumption shall apply in any action or proceeding arising out of death or disability incurred prior to December 25, 1969, and which has not been processed to final administrative or judicial conclusion prior to such date.

Source: Laws 1969, c. 281, § 1, p. 1048; Laws 1985, LB 3, § 3; Laws 2010, LB373, § 1; Laws 2012, LB1082, § 17; Laws 2021, LB163, § 106.
Effective date August 28, 2021.

Cross References

Police Officers Retirement Act, see section 16-1001.

18-1724 Discrimination; employment, public accommodations, and housing; ordinance to prevent.

Notwithstanding any other provision of law, all cities and villages in this state shall have the power by ordinance to define, regulate, suppress, and prevent discrimination on the basis of race, color, creed, religion, ancestry, sex, marital status, national origin, familial status as defined in section 20-311, disability as defined in section 20-308.01, or age in employment, public accommodation, and housing and may provide for the enforcement of such ordinances by providing appropriate penalties for the violation thereof. It shall not be an unlawful employment practice to refuse employment based on a policy of not employing both spouses if such policy is equally applied to both sexes.

Source: Laws 1971, LB 161, § 1; Laws 1978, LB 830, § 1; Laws 1991, LB 825, § 1; Laws 2021, LB163, § 107; Laws 2021, LB540, § 1. Effective date August 28, 2021.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB163, section 107, with LB540, section 1, to reflect all amendments.

18-1729 Violations bureau; purpose; payment of penalties.

Any city or village may, by ordinance, establish a violations bureau for the collection of penalties for nonmoving traffic violations within such city or village. Such violations shall not be subject to prosecution in the courts except when payment of the penalty is not made within the time prescribed by ordinance. When payment is not made within such time, the violations may be prosecuted in the same manner as other ordinance violations.

Source: Laws 1973, LB 226, § 33; Laws 2021, LB163, § 108. Effective date August 28, 2021.

18-1741.03 Handicapped parking infraction; citation form; Supreme Court; powers.

To ensure uniformity, the Supreme Court may prescribe the form of the handicapped parking citation to be used for handicapped parking infractions. The handicapped parking citation shall include a description of the handicapped parking infraction, the time and place at which the person cited is to appear, a warning that failure to appear in accordance with the command of the citation is a punishable offense, and such other matter as the Supreme Court deems appropriate, but shall not include a place for the cited person's social security number. The handicapped parking citation shall provide space for an affidavit by a peace officer certifying that the recipient of the citation is the lawful possessor in his or her own right of a handicapped or disabled parking permit and that the peace officer has personally viewed the permit. The Supreme Court may provide that a copy of the handicapped parking citation constitutes the complaint filed in the trial court.

Source: Laws 1993, LB 632, § 3; Laws 1996, LB 1211, § 10; Laws 2002, LB 82, § 2; Laws 2011, LB163, § 10; Laws 2021, LB163, § 109. Effective date August 28, 2021.

18-1743 Building permit; duplicate; issued to county assessor; when.

Any city or village which requires that a building permit be issued for the erection, alteration, or repair of any building within its corporate limits or extraterritorial zoning jurisdiction shall, if the improvement is two thousand

five hundred dollars or more, issue a duplicate of such permit to the county assessor.

Source: Laws 1979, LB 47, § 1; Laws 2003, LB 292, § 1; Laws 2021, LB163, § 110.
Effective date August 28, 2021.

18-1748 Sewer connection line; driveway approach; owner; duty to maintain; notice; assessment for cost.

(1) Any city or village may require the owner of any property which is within such city or village and connected to the public sewers or drains to repair or replace any connection line which serves the owner's property and is broken, clogged, or otherwise in need of repair or replacement. The property owner's duty to repair or replace such a connection line shall include those portions upon the owner's property and those portions upon public property or easements up to and including the point of junction with the public main.

(2) Any city or village may require the owner of property served by a driveway approach constructed or maintained upon the street right-of-way to repair or replace any such driveway approach which is cracked, broken, or otherwise deteriorated to the extent that it is causing or is likely to cause damage to or interfere with any street structure including pavement or sidewalks.

(3) The city or village shall give the property owner notice by registered letter or certified mail, directed to the last-known address of such owner or the agent of such owner, directing the repair or replacement of such connection line or driveway approach. If within thirty days of mailing such notice the property owner fails or neglects to cause such repairs or replacements to be made, the city or village may cause such work to be done and assess the cost upon the property served by such connection or approach.

Source: Laws 1984, LB 992, § 2; Laws 2021, LB163, § 111.
Effective date August 28, 2021.

18-1750 Notes for anticipated receipts; issuance; payment; loans from federal government.

(1) Municipalities may issue notes up to seventy percent of the unexpended balance of total anticipated receipts for the current year and the following year. Total anticipated receipts for the current year and the following year shall mean a sum equal to the anticipated receipts from the current existing total levy multiplied by two.

(2) Municipalities may execute and deliver in evidence of such anticipated receipts their promissory notes, which they may make and negotiate, bearing a rate of interest set by the city council or village board of trustees and maturing not more than two years from the date thereof. Such notes, before they are negotiated, shall be presented to the city treasurer or village treasurer and registered by him or her and shall be payable out of the funds collected by such municipality in the order of their registration after the payment of prior registered warrants, but prior to the payment of any warrant subsequently registered, except that if both warrants and notes are registered, the total of such registered notes and warrants shall not exceed one hundred percent of the unexpended balance of the total anticipated receipts of such municipality for the current year and the following year. For the purpose of making such

calculation, such total anticipated receipts shall not include any anticipated receipts against which the municipality has issued notes pursuant to this section in either the current or the immediately preceding year.

(3) In addition to the provisions of subsections (1) and (2) of this section, municipalities may accept interest-free or low-interest loans from the federal government and may execute and deliver in evidence thereof their promissory notes maturing not more than twenty years from the date of execution.

Source: Laws 1986, LB 1027, § 191; Laws 2021, LB163, § 112.
Effective date August 28, 2021.

18-1751 Special improvement district; authorized; when; special assessment.

All cities and villages may create a special improvement district for the purpose of replacing, reconstructing, or repairing an existing street, alley, water line, or sewer line or any other such improvement. Except as provided in sections 19-2428 to 19-2431, the city council or village board of trustees may levy a special assessment, to the extent of such special benefits, for the costs of such improvements upon the properties found specially benefited thereby, whether or not such properties were previously assessed for the same general purpose. In creating such special improvement district, the city council or village board of trustees shall follow procedures applicable to the creation and assessment of the same type of improvement district as otherwise provided by law.

Source: Laws 1987, LB 721, § 1; Laws 2015, LB361, § 42; Laws 2021, LB163, § 113.
Effective date August 28, 2021.

18-1752 Removal of garbage or refuse; authorized; procedure; costs.

(1) Any city or village may provide for the collection and removal of garbage or refuse found upon any lot or land within its corporate limits or extraterritorial zoning jurisdiction or upon the streets, roads, or alleys abutting such lot or land which constitutes a public nuisance. The city or village may require the owner, duly authorized agent, or tenant of such lot or land to remove the garbage or refuse from such lot, land, streets, roads, or alleys.

(2) Notice that removal of garbage or refuse is necessary shall be given to each owner or owner's duly authorized agent and to the tenant if any. Such notice shall be provided by personal service or by certified mail. After providing such notice, the city or village shall, in addition to other proper remedies, remove the garbage or refuse, or cause it to be removed, from such lot, land, streets, roads, or alleys.

(3) If the mayor or city manager of such city or chairperson of the village board of trustees of such village declares that the accumulation of such garbage or refuse upon any lot or land constitutes an immediate nuisance and hazard to public health and safety, the city or village shall remove the garbage or refuse, or cause it to be removed, from such lot or land within forty-eight hours after notice by personal service or following receipt of a certified letter in accordance with subsection (2) of this section if such garbage or refuse has not been removed.

(4) Whenever any city or village removes any garbage or refuse, or causes it to be removed, from any lot or land pursuant to this section, such city or village

shall, after a hearing conducted by the city council or village board of trustees, assess the cost of the removal against such lot or land.

Source: Laws 1988, LB 934, § 1; Laws 2021, LB163, § 114.
Effective date August 28, 2021.

18-1754 Annexation report; Tax Commissioner; duties.

The Tax Commissioner shall review the report of the annexing city or village issued pursuant to section 18-1753 and its calculations as to the new population of the city or village as the result of the annexation. The Tax Commissioner shall determine if the methodology employed in determining such calculations has been made in conformity with section 18-1753 and shall, within sixty days of his or her receipt of a complete report from the annexing city or village, certify the total new population of the city or village following the annexation. The Tax Commissioner shall adopt and promulgate rules and regulations to carry out this section and section 18-1753.

Source: Laws 1993, LB 726, § 2; Laws 1994, LB 1127, § 3; Laws 2021, LB163, § 115.
Effective date August 28, 2021.

18-1755 Acquisition of real property; procedure; public right of access for recreational use.

A city or village acquiring an interest in real property by purchase or eminent domain shall do so only after the governing body of such city or village has authorized the acquisition by action taken in a public meeting after notice and public hearing. The city or village shall provide to the public a right of access for recreational use to the real property acquired for public recreational purposes. Such access shall be at designated access points and shall be equal to the right of access for recreational use held by adjacent landowners. The right of access granted to the public for recreational use shall meet or exceed such right held by a private landowner adjacent to the real property.

Source: Laws 1994, LB 188, § 3; Laws 1994, LB 441, § 1; Laws 2006, LB 1113, § 18; Laws 2021, LB163, § 116.
Effective date August 28, 2021.

18-1757 Issuance of citations for violations; procedure.

(1) The fire chief or head official of the fire department, fire inspectors as may be designated by such fire chief or head official, or inspectors charged with the enforcement of fire, health, safety, and building or construction codes of a city of the metropolitan class, city of the primary class, or city of the first class shall have the authority, after being trained by a certified law enforcement officer in the policies and procedures for issuance of citations, to issue citations for violations of fire, health, safety, and building or construction codes (a) that constitute infractions or violations of city ordinances, (b) that are violations of the fire, health, safety, or building or construction code that the official or inspector issuing the citation is charged with enforcing, and (c) in which the circumstances do not pose a danger to the official or inspector.

(2) If a city of the second class or village has adopted and is enforcing a fire, health, safety, or building or construction code, the fire chief or head official of the fire department, fire inspectors designated by such fire chief or head official, or such inspectors charged with the enforcement of the fire, health,

safety, or building or construction code shall have the authority, after being trained by a certified law enforcement officer in the policies and procedures for issuance of citations, to issue citations for violations of fire, health, safety, or building or construction codes (a) that constitute infractions or violations of city or village ordinances, (b) that are violations of the fire, health, safety, or building or construction code that the official or inspector issuing the citation is charged with enforcing, and (c) where the circumstances do not pose a danger to the official or inspector.

(3) A citation issued under this section shall be equivalent to and have the same legal effect as a citation issued in lieu of arrest or continued custody by a peace officer if the citation and procedures utilized meet the requirements of sections 29-422 to 29-429. The citation shall be on the same form prescribed under section 29-423. Failure to appear or comply with a citation issued under this section shall be punishable in the same manner as provided in section 29-426. An official or inspector issuing a citation under this section shall not have authority to take a person into custody or detain a person under this section or section 29-427.

Source: Laws 1998, LB 109, § 1; R.S.Supp.,2004, § 19-4801; Laws 2006, LB 1175, § 3; Laws 2021, LB163, § 117.
Effective date August 28, 2021.

ARTICLE 18
BONDS

Section

18-1801 Various purpose bonds; power to issue.

Whenever any city or village is authorized to issue bonds that would constitute a general obligation of the city or village and such city or village has taken all preliminary steps required for the issuance of two or more issuances of such bonds, except the enactment of an ordinance or resolution prescribing the form of such bonds, the city or village may combine all such proposed bonds into a single issue in the total amount of the aggregate of the proposed separate issues and issue and sell such bonds at not less than par. The bonds shall be known as Various Purpose Bonds of the City (or Village) of . . . . . .

Source: Laws 1961, c. 56, § 1, p. 209; Laws 2021, LB163, § 118.
Effective date August 28, 2021.

18-1802 Various purpose bonds; terms; payment.

Any various purpose bonds issued under section 18-1801 shall be authorized by an ordinance enacted by a majority vote of the governing body of the city or village. The ordinance shall state the various proposed bonds and the amount of each proposed issue which have been combined in the various purpose bonds. The various purpose bonds may mature and bear interest as the governing body may determine but the amount of each proposed separate issue included therein shall mature and bear interest within the maturity and interest limitations which would be applicable to such separate issue as if it were issued

independently. The proceeds received from the sale of such bonds shall be allocated and applied to the same purposes as the proceeds of the separate bond issues would have been applied if issued. All money collected from special assessments or other special funds which might have been applied on the payment of any bonds if issued separately shall be kept in a special account and used to pay the principal and interest on the various purpose bonds of the city or village.

Source: Laws 1961, c. 56, § 2, p. 209; Laws 1972, LB 885, § 1; Laws 2021, LB163, § 119.
Effective date August 28, 2021.

18-1803 Revenue bonds; purpose; issuance; terms, defined.

Any city or village shall have the power to issue revenue bonds for the purpose of acquiring, constructing, reconstructing, improving, extending, equipping, or furnishing any revenue-producing facility within or without its corporate limits that the city or village has power to acquire, construct, reconstruct, extend, equip, improve, or operate and for any purpose necessary or incidental to any such purpose and for the purpose of refunding any such bonds and for the purpose of refunding general obligation bonds of the city or village issued to construct part or all of such revenue-producing facilities including refunding any general obligation bonds which may have been issued to refund any bonds issued to construct part or all of such revenue-producing facilities. Cities of the primary class may also issue revenue bonds for any public purpose in connection with or related to any such revenue-producing facility. For the purposes of sections 18-1803 to 18-1805, bonds shall mean and include bonds, notes, warrants, or debentures, including notes issued pending permanent revenue bond financing. For the purposes of sections 18-1803 to 18-1805, facility means and includes, but is not limited to, all or part of a revenue-producing undertaking, such as a health care facility, waterworks plant, water system, sanitary sewer system, sewage disposal plant, gas plant, electric light and power plant, electric distribution system, or airport facility, including an ownership interest in any such undertaking, or any combination of two or more such undertakings or an interest or interests therein.

Source: Laws 1967, c. 80, § 1, p. 254; Laws 1976, LB 825, § 6; Laws 2005, LB 169, § 1; Laws 2021, LB163, § 120.
Effective date August 28, 2021.

18-1804 Revenue bonds; general provisions; enumerated.

General provisions relating to the form, sale, issuance, and other matters concerning revenue bonds issued by municipalities shall be as follows:

(1) The form, denominations, and other features of such bond issues shall be as prescribed by the governing body in the ordinance authorizing the issuance of such bonds. The official designated shall be responsible for the sale and issuance of such bonds, for their delivery, for promptly and properly depositing the proceeds from such bonds, and for other ministerial acts relating to bonds;

(2) Revenue bonds shall be issued for such terms as the ordinance authorizing such bonds shall prescribe but shall not mature later than fifty years after the date of issuance thereof and may be issued with or without an option of redemption as shall be determined by the governing body;

(3) Revenue bonds shall be sold for such price, bear interest at such rate or rates, and be payable as to principal and interest at such time or times and at such place or places within or without the state as shall be determined by the governing body;

(4) Any ordinance authorizing revenue bonds may contain such covenants and provisions to protect and safeguard the security of the holders of such bonds as shall be deemed necessary to assure the prompt payment of the principal thereof and the interest thereon. Such covenants and provisions may establish or provide for, but shall not be limited to, (a) the payment of interest on such bonds from the proceeds thereof for such period as the governing body deems advisable, the creation of reserve funds from bond proceeds, revenue of the facility for or with respect to which the bonds were issued or other available money, the creation of trust funds, and the appointment of trustees for the purpose of receiving and disbursing bond proceeds or the collection and disbursement of revenue from the facility for or with respect to which the bonds were issued, (b) the limitations or conditions upon the issuance of additional bonds payable from the revenue of the facility for or with respect to which the bonds were issued, (c) the operation, maintenance, management, accounting, and auditing procedures to be followed in the operation of the facility, and (d) the conditions under which any trustee or bondholders committee shall be entitled to the appointment of a receiver to take possession of the facility, to manage it, and to receive and apply revenue from the facility;

(5) The provisions of this section and any ordinances authorizing the issuance of revenue bonds pursuant to this section shall constitute a contract of the municipality with every holder of such bonds and shall be enforceable by any bondholder by mandamus or other appropriate action at law or in equity in any court of competent jurisdiction;

(6) Bonds issued pursuant to this section shall not be a debt of the municipality within the meaning of any constitutional, statutory, or charter limitation upon the creation of general obligation indebtedness of the municipality, and the municipality shall not be liable for the payment of such bonds out of any money of the municipality other than the revenue pledged to the payment thereof, and all bonds issued pursuant to this section shall contain a recital to that effect. The holders of all revenue bonds shall have a lien on the revenue of the facility for or with respect to which they are issued subject to conditions provided in the ordinance authorizing the issuance of such bonds;

(7) Whenever the governing body shall have issued any revenue bonds, the governing body shall establish, maintain, revise, and collect charges and rates throughout the life of the bonds at least sufficient to provide for all costs associated with the ownership, operation, maintenance, renewal, and replacement of the facility for or with respect to which the bonds were issued and the payment of the principal and interest on all indebtedness incurred with respect thereto and to provide adequate reserves therefor, to maintain such coverage for the payment of such indebtedness as the governing body may deem advisable, to maintain such other reserves as provided in the ordinances authorizing the issuance of such bonds, and to carry out the provisions of such ordinances; and

(8) Bonds issued pursuant to this section shall be signed by the mayor or chairperson of the village board of trustees and countersigned by the official designated. Signatures upon such bonds and coupons shall be in such form as

the governing body may prescribe in the bond ordinance concerned. At least one manual signature shall be affixed to each bond, but other required signatures may be affixed as facsimile signatures. The use on bonds and coupons of a printed facsimile of the municipal seal is also authorized.

Source: Laws 1967, c. 80, § 2, p. 254; Laws 1969, c. 51, § 68, p. 314; Laws 1976, LB 825, § 7; Laws 2021, LB163, § 121.
Effective date August 28, 2021.

ARTICLE 19
PLUMBING INSPECTION

Section

18-1902 Plumbing board; organization; records.

The plumbing board shall organize by selecting one member as chairperson. The plumbing inspector shall be the secretary of the board. It shall be the duty of the secretary to keep full, true, and correct minutes and records of all licenses issued by the plumbing board, together with their kinds and dates, and the names of the persons to whom issued, in books to be provided by such city or village for that purpose, which books and records shall be open for free inspection by all persons during business hours.

Source: Laws 1901, c. 21, § 2, p. 322; R.S.1913, § 5275; C.S.1922, § 4498; C.S.1929, § 19-302; R.S.1943, § 19-302; Laws 1961, c. 57, § 2, p. 211; Laws 2020, LB107, § 2; Laws 2021, LB163, § 122.
Effective date August 28, 2021.

18-1905 Assistant inspector; plumbing board members; compensation; meetings, restriction.

The assistant inspectors shall receive a salary in an amount to be determined by the city council or village board of trustees. The members of the plumbing board, not ex officio members, shall be paid an amount to be determined by the city council or village board of trustees. No meeting of the plumbing board shall be held at any time, except on the call of the chairperson of such board. All salaries shall be paid out of the general fund of the city or village, where the plumbing board is located, the same as other city or village officers are paid. Vouchers for the same shall be duly certified by the chairperson and secretary of such plumbing board to the city council, city manager, or village board of trustees.

Source: Laws 1901, c. 21, § 13, p. 325; R.S.1913, § 5278; C.S.1922, § 4501; C.S.1929, § 19-305; R.S.1943, § 19-305; Laws 1955, c.

54, § 2, p. 176; Laws 1961, c. 57, § 5, p. 212; Laws 1973, LB 103, § 3; Laws 2021, LB163, § 123.
Effective date August 28, 2021.

18-1907 License; examination; when; subject matter.

Any person desiring to do any plumbing, or to work at the business of plumbing, in any city or village which has established a plumbing board, shall make written application to the plumbing board for examination for a license, which examination shall be made at the next meeting of the plumbing board, or at an adjourned meeting. The plumbing board shall examine the applicant as to his or her practical knowledge of plumbing, house drainage, ventilation, and sanitation, which examination shall be practical as well as theoretical, and if the applicant has shown himself or herself competent, the plumbing board shall cause its chairperson and secretary to execute and deliver to the applicant a license authorizing him or her to do plumbing in such city or village and also within the area of extraterritorial zoning jurisdiction of cities of the metropolitan class.

Source: Laws 1901, c. 21, § 5, p. 323; R.S.1913, § 5280; C.S.1922, § 4503; C.S.1929, § 19-307; R.S.1943, § 19-307; Laws 1961, c. 57, § 7, p. 213; Laws 1965, c. 76, § 2, p. 310; Laws 1997, LB 752, § 76; Laws 2021, LB163, § 124.
Effective date August 28, 2021.

18-1909 License; term; revocation; suspension; grounds; notice and hearing.

All original and renewal plumbing licenses shall be good for one year or two years from the date of issuance as determined by the plumbing board, except that any license may be revoked or suspended by the plumbing board at any time upon a hearing upon sufficient written, sworn charges filed with the plumbing board showing the holder of the license to be incompetent or guilty of a willful breach of the rules, regulations, or requirements of the plumbing board or of the laws or ordinances relating thereto or of other causes sufficient for the revocation or suspension of his or her license, of which charges and hearing the holder of such license shall have written notice.

Source: Laws 1901, c. 21, § 7, p. 324; R.S.1913, § 5282; C.S.1922, § 4505; C.S.1929, § 19-309; R.S.1943, § 19-309; Laws 1990, LB 1221, § 3; Laws 1995, LB 36, § 3; Laws 2021, LB163, § 125.
Effective date August 28, 2021.

18-1910 License; required; compliance with codes; exception.

It shall be unlawful for any person to do any plumbing in any city or village, or within the area of extraterritorial zoning jurisdiction of cities of the metropolitan class, which has established a plumbing board unless the person holds a proper license. It shall be unlawful for any person to make any connection to water mains extended from within and beyond the extraterritorial zoning jurisdiction of a city of the metropolitan class which has established a plumbing board, unless the person complies with the applicable plumbing codes of the city of the metropolitan class and holds a proper license as required by such

city. The requirements of this section shall not apply to employees of the water utility of such city or village acting within the scope of their employment.

Source: Laws 1901, c. 21, § 8, p. 324; R.S.1913, § 5283; C.S.1922, § 4506; C.S.1929, § 19-310; R.S.1943, § 19-310; Laws 1961, c. 57, § 8, p. 213; Laws 1965, c. 76, § 3, p. 310; Laws 1972, LB 1257, § 1; Laws 2021, LB163, § 126.
Effective date August 28, 2021.

18-1912 Inspector; duties; assistants.

The city or village plumbing inspector shall inspect all plumbing work in process of construction, alteration, or repair within the inspector's respective jurisdiction, and for which a permit either has or has not been granted, and shall report to the plumbing board all violations of any law, ordinance, or rule or regulation of the plumbing board, in connection with the plumbing work being done, and shall perform such other appropriate duties as may be required of such inspector by the plumbing board. If necessary, the mayor, by the consent of the city council, the city manager, or the chairperson of the village board of trustees, shall employ one or more assistant inspectors, who shall be licensed plumbers, to assist in the performance of the duties of the plumbing inspector.

Source: Laws 1901, c. 21, § 10, p. 324; R.S.1913, § 5285; C.S 1922, § 4508; C.S.1929, § 19-312; R.S.1943, § 19-312; Laws 1961, c. 57, § 10, p. 214; Laws 2021, LB163, § 127.
Effective date August 28, 2021.

18-1913 Defective work; cessation; removal.

The plumbing inspector shall be required to stop any plumbing work not being done in accordance with the requirements of the rules and regulations of the plumbing board. The plumbing board shall have the power to cause plumbing to be removed, if, after notice to the owner or plumber doing the work, the plumbing board shall find the work or any part thereof to be defective.

Source: Laws 1901, c. 21, § 11, p. 325; R.S.1913, § 5286; C.S.1922, § 4509; C.S.1929, § 19-313; R.S.1943, § 19-313; Laws 2021, LB163, § 128.
Effective date August 28, 2021.

18-1915 Permit fees; inspection; provisions applicable.

The State of Nebraska shall permit cities and villages to collect permit fees and inspect all sanitary plumbing installed or repaired, except for a single-family dwelling or a farm or ranch structure, within the State of Nebraska outside of the corporate limits or extraterritorial zoning jurisdiction of cities and villages. The city or village nearest the construction site shall have jurisdiction to collect such permit fees and conduct the inspection of the sanitary plumbing. If such city or village has a plumbing ordinance in force and effect, such ordinance will govern the installation of the sanitary plumbing. If there is no plumbing ordinance in effect for such city or village, the 2018 Uniform Plumbing Code designated by the American National Standards Institute as an

American National Standard shall apply to all buildings except single-family dwellings and farm and ranch structures.

Source: Laws 1969, c. 100, § 1, p. 474; Laws 1996, LB 1304, § 2; Laws 2012, LB42, § 2; Laws 2021, LB131, § 17; Laws 2021, LB163, § 129.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB131, section 17, with LB163, section 129, to reflect all amendments.

Note: Changes made by LB131 became operative August 28, 2021. Changes made by LB163 became effective August 28, 2021.

18-1919 License requirement; exemption.

Nothing in sections 18-1915 to 18-1919 shall be construed to require an employee working for a single employer as part of such employer's full-time staff and not holding himself or herself out to the public for hire to hold a license while acting within the scope of employment for such employer.

Source: Laws 1969, c. 100, § 5, p. 475; Laws 2021, LB163, § 130. Effective date August 28, 2021.

ARTICLE 20

STREET IMPROVEMENTS

Section

18-2003 Special taxes and assessments; bonds; warrants; interest on amounts due; contractor; sinking fund.

In order to defray the costs and expenses of the improvements authorized by sections 18-2001 and 18-2002, the mayor and city council or chairperson and village board of trustees, as the case may be, may levy and collect special taxes and assessments upon the lots and parcels of real estate adjacent to or abutting upon the portion of the street or alley improved, or which may be specially benefited by such improvements, notwithstanding that such lots and parcels may be unplatted and not subdivided. The method of levying, equalizing, and collecting such special assessments, and generally financing such improvements by bond issues and other means, shall be as provided by law for paving and street improvements in such city or village. For the purpose of paying the cost of street improvements as provided in section 18-2001, the mayor and city council or chairperson and village board of trustees, as the case may be, shall have the power, after the improvements have been completed and accepted, to issue negotiable bonds of such city or village to be called Paving Bonds, payable in not exceeding fifteen years and bearing interest payable annually or semiannually, which may be sold by the city or village for not less than the par value of such bonds. For the purpose of making partial payments as the work progresses, warrants bearing interest may be issued by the city council or village board of trustees upon certificates of the engineer in charge showing the amount of work completed and materials necessarily purchased and delivered for the orderly and proper continuation of the project, in a sum not exceeding ninety-five percent of the cost thereof until the work has been completed and accepted by the city or village, at which time a warrant for the balance of the

amount may be issued, which warrants shall be redeemed and paid upon the sale of the bonds or from any other funds available. The city or village shall pay to the contractor interest at the rate of eight percent per annum on the amounts due on partial and final payments beginning forty-five days after the certification of the amounts due by the engineer in charge and approval by the city council or village board of trustees, and running until the date that the warrant is tendered to the contractor. All special assessments which may be levied upon property specially benefited by such work or improvements shall, when collected, be set aside and constitute a sinking fund for the payment of the interest and principal of such bonds. There shall be levied annually upon all taxable property in such city or village a tax which, together with such sinking fund derived from special assessments, shall be sufficient to meet payments of interest and principal as the same become due.

Source: Laws 1963, c. 76, § 3, p. 280; Laws 1965, c. 75, § 3, p. 308; Laws 1969, c. 51, § 69, p. 316; Laws 1974, LB 636, § 6; Laws 2021, LB163, § 131.
Effective date August 28, 2021.

18-2004 Sections, how construed.

Nothing in sections 18-2001 to 18-2004 shall be construed to repeal or amend any statutes except those specifically repealed, and sections 18-2001 to 18-2004 shall be supplemental to and in addition to any other laws of the State of Nebraska related to street improvements. Other statutes may be relied upon, if need be, to supplement and effectuate the purposes of sections 18-2001 to 18-2004.

Source: Laws 1965, c. 75, § 4, p. 309; Laws 2021, LB163, § 132.
Effective date August 28, 2021.

18-2005 Street; common boundary with county or other municipality; concurrent and joint jurisdiction; limitation.

The city council of any city shall have concurrent and joint jurisdiction with the county board of any county and the governing body of any other municipality over any street which is contiguous to and forms a common boundary between such city and county or municipality. The city council of such city shall have the right and authority to exercise all powers over such street as it may over streets within its corporate limits with the cooperation and concurrence of the county board or the governing body of any other municipality. Nothing in this section shall be construed as granting any power of annexation which is not otherwise granted by law.

Source: Laws 1973, LB 71, § 1; Laws 2021, LB163, § 133.
Effective date August 28, 2021.

ARTICLE 21

COMMUNITY DEVELOPMENT

Section

18-2101.02 Extremely blighted area; governing body; duties; review; public hearing.

(1) For any city that (a) intends to carry out a redevelopment project which will involve the construction of workforce housing in an extremely blighted area as authorized under subdivision (28)(g) of section 18-2103, (b) intends to prepare a redevelopment plan that will divide ad valorem taxes for a period of more than fifteen years but not more than twenty years as provided in subdivision (3)(b) of section 18-2147, (c) intends to declare an area as an extremely blighted area for purposes of funding decisions under subdivision (1)(b) of section 58-708, or (d) intends to declare an area as an extremely blighted area in order for individuals purchasing residences in such area to qualify for the income tax credit authorized in subsection (7) of section 77-2715.07, the governing body of such city shall first declare, by resolution adopted after the public hearings required under this section, such area to be an extremely blighted area.

(2) Prior to making such declaration, the governing body of the city shall conduct or cause to be conducted a study or an analysis on whether the area is extremely blighted and shall submit the question of whether such area is extremely blighted to the planning commission or board of the city for its review and recommendation. The planning commission or board shall hold a public hearing on the question after giving notice of the hearing as provided in section 18-2115.01. The planning commission or board shall submit its written recommendations to the governing body of the city within thirty days after the public hearing.

(3) Upon receipt of the recommendations of the planning commission or board, or if no recommendations are received within thirty days after the public hearing required under subsection (2) of this section, the governing body shall hold a public hearing on the question of whether the area is extremely blighted after giving notice of the hearing as provided in section 18-2115.01. At the public hearing, all interested parties shall be afforded a reasonable opportunity to express their views respecting the proposed declaration. After such hearing, the governing body of the city may make its declaration.

(4) Copies of each study or analysis conducted pursuant to subsection (2) of this section shall be posted on the city's public website or made available for public inspection at a location designated by the city.

(5) The study or analysis required under subsection (2) of this section may be conducted in conjunction with the study or analysis required under section

18-2109. The hearings required under this section may be held in conjunction with the hearings required under section 18-2109.

Source: Laws 2019, LB86, § 2; Laws 2020, LB1003, § 172; Laws 2021, LB25, § 1.
Effective date March 18, 2021.

18-2103 Terms, defined.

For purposes of the Community Development Law, unless the context otherwise requires:

(1) Area of operation means and includes the area within the corporate limits of the city and such land outside the city as may come within the purview of sections 18-2123 and 18-2123.01;

(2) Authority means any community redevelopment authority created pursuant to section 18-2102.01 and any community development agency created pursuant to section 18-2101.01 and does not include a limited community redevelopment authority;

(3) Blighted area means an area (a) which, by reason of the presence of a substantial number of deteriorated or deteriorating structures, existence of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility, or usefulness, insanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, tax or special assessment delinquency exceeding the fair value of the land, defective or unusual conditions of title, improper subdivision or obsolete platting, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, substantially impairs or arrests the sound growth of the community, retards the provision of housing accommodations, or constitutes an economic or social liability and is detrimental to the public health, safety, morals, or welfare in its present condition and use and (b) in which there is at least one of the following conditions: (i) Unemployment in the designated area is at least one hundred twenty percent of the state or national average; (ii) the average age of the residential or commercial units in the area is at least forty years; (iii) more than half of the plotted and subdivided property in an area is unimproved land that has been within the city for forty years and has remained unimproved during that time; (iv) the per capita income of the area is lower than the average per capita income of the city or village in which the area is designated; or (v) the area has had either stable or decreasing population based on the last two decennial censuses. In no event shall a city of the metropolitan, primary, or first class designate more than thirty-five percent of the city as blighted, a city of the second class shall not designate an area larger than fifty percent of the city as blighted, and a village shall not designate an area larger than one hundred percent of the village as blighted. A redevelopment project involving a formerly used defense site as authorized under section 18-2123.01 and any area declared to be an extremely blighted area under section 18-2101.02 shall not count towards the percentage limitations contained in this subdivision;

(4) Bonds means any bonds, including refunding bonds, notes, interim certificates, debentures, or other obligations issued pursuant to the Community Development Law except for bonds issued pursuant to section 18-2142.04;

(5) Business means any private business located in an enhanced employment area;

(6) City means any city or incorporated village in the state;

(7) Clerk means the clerk of the city or village;

(8) Community redevelopment area means a substandard and blighted area which the community redevelopment authority designates as appropriate for a redevelopment project;

(9) Employee means a person employed at a business as a result of a redevelopment project;

(10) Employer-provided health benefit means any item paid for by the employer in total or in part that aids in the cost of health care services, including, but not limited to, health insurance, health savings accounts, and employer reimbursement of health care costs;

(11) Enhanced employment area means an area not exceeding six hundred acres (a) within a community redevelopment area which is designated by an authority as eligible for the imposition of an occupation tax or (b) not within a community redevelopment area as may be designated under section 18-2142.04;

(12) Equivalent employees means the number of employees computed by (a) dividing the total hours to be paid in a year by (b) the product of forty times the number of weeks in a year;

(13) Extremely blighted area means a substandard and blighted area in which: (a) The average rate of unemployment in the area during the period covered by the most recent federal decennial census or American Community Survey 5-Year Estimate is at least two hundred percent of the average rate of unemployment in the state during the same period; and (b) the average poverty rate in the area exceeds twenty percent for the total federal census tract or tracts or federal census block group or block groups in the area;

(14) Federal government means the United States of America, or any agency or instrumentality, corporate or otherwise, of the United States of America;

(15) Governing body or local governing body means the city council, board of trustees, or other legislative body charged with governing the municipality;

(16) Limited community redevelopment authority means a community redevelopment authority created pursuant to section 18-2102.01 having only one single specific limited pilot project authorized;

(17) Mayor means the mayor of the city or chairperson of the board of trustees of the village;

(18) New investment means the value of improvements to real estate made in an enhanced employment area by a developer or a business;

(19) Number of new employees means the number of equivalent employees that are employed at a business as a result of the redevelopment project during a year that are in excess of the number of equivalent employees during the year immediately prior to the year that a redevelopment plan is adopted;

(20) Obligee means any bondholder, agent, or trustee for any bondholder, or lessor demising to any authority, established pursuant to section 18-2102.01, property used in connection with a redevelopment project, or any assignee or assignees of such lessor's interest or any part thereof, and the federal government when it is a party to any contract with such authority;

(21) Occupation tax means a tax imposed under section 18-2142.02;

(22) Person means any individual, firm, partnership, limited liability company, corporation, company, association, joint-stock association, or body politic and includes any trustee, receiver, assignee, or other similar representative thereof;

(23) Public body means the state or any municipality, county, township, board, commission, authority, district, or other political subdivision or public body of the state;

(24) Real property means all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage, or otherwise, and the indebtedness secured by such liens;

(25) Redeveloper means any person, partnership, or public or private corporation or agency which enters or proposes to enter into a redevelopment contract;

(26) Redevelopment contract means a contract entered into between an authority and a redeveloper for the redevelopment of an area in conformity with a redevelopment plan;

(27) Redevelopment plan means a plan, as it exists from time to time for one or more community redevelopment areas, or for a redevelopment project, which (a) conforms to the general plan for the municipality as a whole and (b) is sufficiently complete to indicate such land acquisition, demolition and removal of structures, redevelopment, improvements, and rehabilitation as may be proposed to be carried out in the community redevelopment area, zoning and planning changes, if any, land uses, maximum densities, and building requirements;

(28) Redevelopment project means any work or undertaking in one or more community redevelopment areas: (a) To acquire substandard and blighted areas or portions thereof, including lands, structures, or improvements the acquisition of which is necessary or incidental to the proper clearance, development, or redevelopment of such substandard and blighted areas; (b) to clear any such areas by demolition or removal of existing buildings, structures, streets, utilities, or other improvements thereon and to install, construct, or reconstruct streets, utilities, parks, playgrounds, public spaces, public parking facilities, sidewalks or moving sidewalks, convention and civic centers, bus stop shelters, lighting, benches or other similar furniture, trash receptacles, shelters, skywalks and pedestrian and vehicular overpasses and underpasses, enhancements to structures in the redevelopment plan area which exceed minimum building and design standards in the community and prevent the recurrence of substandard and blighted conditions, and any other necessary public improvements essential to the preparation of sites for uses in accordance with a redevelopment plan; (c) to sell, lease, or otherwise make available land in such areas for residential, recreational, commercial, industrial, or other uses, including parking or other facilities functionally related or subordinate to such uses, or for public use or to retain such land for public use, in accordance with a redevelopment plan; and may also include the preparation of the redevelopment plan, the planning, survey, and other work incident to a redevelopment project and the preparation of all plans and arrangements for carrying out a redevelopment project; (d) to dispose of all real and personal property or any interest in such property, or assets, cash, or other funds held or used in

connection with residential, recreational, commercial, industrial, or other uses, including parking or other facilities functionally related or subordinate to such uses, or any public use specified in a redevelopment plan or project, except that such disposition shall be at its fair value for uses in accordance with the redevelopment plan; (e) to acquire real property in a community redevelopment area which, under the redevelopment plan, is to be repaired or rehabilitated for dwelling use or related facilities, repair or rehabilitate the structures, and resell the property; (f) to carry out plans for a program of voluntary or compulsory repair, rehabilitation, or demolition of buildings in accordance with the redevelopment plan; and (g) in a rural community or in an extremely blighted area within a municipality that is not a rural community, to carry out construction of workforce housing;

(29) Redevelopment project valuation means the valuation for assessment of the taxable real property in a redevelopment project last certified for the year prior to the effective date of the provision authorized in section 18-2147;

(30) Rural community means any municipality in a county with a population of fewer than one hundred thousand inhabitants as determined by the most recent federal decennial census;

(31) Substandard area means an area in which there is a predominance of buildings or improvements, whether nonresidential or residential in character, which, by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, and crime, (which cannot be remedied through construction of prisons), and is detrimental to the public health, safety, morals, or welfare; and

(32) Workforce housing means:

(a) Housing that meets the needs of today's working families;

(b) Housing that is attractive to new residents considering relocation to a rural community;

(c) Owner-occupied housing units that cost not more than two hundred seventy-five thousand dollars to construct or rental housing units that cost not more than two hundred thousand dollars per unit to construct. For purposes of this subdivision (c), housing unit costs shall be updated annually by the Department of Economic Development based upon the most recent increase or decrease in the Producer Price Index for all commodities, published by the United States Department of Labor, Bureau of Labor Statistics;

(d) Owner-occupied and rental housing units for which the cost to substantially rehabilitate exceeds fifty percent of a unit's assessed value; and

(e) Upper-story housing.

Source: Laws 1951, c. 224, § 3, p. 797; R.R.S.1943, § 14-1603; Laws 1957, c. 52, § 4, p. 249; Laws 1961, c. 61, § 3, p. 227; R.R.S. 1943, § 19-2603; Laws 1965, c. 74, § 3, p. 303; Laws 1969, c. 106, § 2, p. 488; Laws 1973, LB 299, § 3; Laws 1979, LB 158, § 2; Laws 1980, LB 986, § 2; Laws 1984, LB 1084, § 2; Laws 1993, LB 121, § 143; Laws 1997, LB 875, § 5; Laws 2007, LB562, § 2; Laws 2012, LB729, § 1; Laws 2013, LB66, § 2; Laws 2014, LB1012, § 1; Laws 2018, LB496, § 2; Laws 2018,

LB874, § 7; Laws 2019, LB86, § 3; Laws 2020, LB1003, § 173; Laws 2021, LB131, § 18.
Operative date August 28, 2021.

18-2107 Authority; powers and duties.

An authority shall constitute a public body corporate and politic, exercising public and essential governmental functions and having all the powers necessary or convenient to carry out and effectuate the purposes and provisions of the Community Development Law, including the power:

(1) To sue and to be sued; to have a seal and to alter the same at pleasure; to have perpetual succession; to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority; and to make and from time to time amend and repeal bylaws, rules, and regulations not inconsistent with the Community Development Law;

(2) To prepare or cause to be prepared and recommend redevelopment plans to the governing body of the city and to undertake and carry out redevelopment projects within its area of operation;

(3) To arrange or contract for the furnishing or repair, by any person or agency, public or private, of services, privileges, works, streets, roads, public utilities, or other facilities for or in connection with a redevelopment project; and, notwithstanding anything to the contrary contained in the Community Development Law or any other provision of law, to agree to any conditions that it may deem reasonable and appropriate attached to federal financial assistance and imposed pursuant to federal law relating to the determination of prevailing salaries or wages or compliance with labor standards, in the undertaking or carrying out of a redevelopment project, and to include in any contract let in connection with such a project provisions to fulfill such federally imposed conditions as it may deem reasonable and appropriate;

(4) Within its area of operation, to purchase, lease, obtain options upon, or acquire by gift, grant, bequest, devise, eminent domain, or otherwise any real or personal property or any interest therein, together with any improvements thereon, necessary or incidental to a redevelopment project; to hold, improve, clear, or prepare for redevelopment any such property; to sell, lease for a term not exceeding ninety-nine years, exchange, transfer, assign, subdivide, retain for its own use, mortgage, pledge, hypothecate, or otherwise encumber or dispose of any real or personal property or any interest therein; to enter into contracts with redevelopers of property containing covenants, restrictions, and conditions regarding the use of such property for residential, commercial, industrial, or recreational purposes or for public purposes in accordance with the redevelopment plan and such other covenants, restrictions, and conditions as the authority may deem necessary to prevent a recurrence of substandard and blighted areas or to effectuate the purposes of the Community Development Law; to make any of the covenants, restrictions, or conditions of the foregoing contracts covenants running with the land and to provide appropriate remedies for any breach of any such covenants or conditions, including the right in the authority to terminate such contracts and any interest in the property created pursuant thereto; to borrow money, issue bonds, and provide security for loans or bonds; to establish a revolving loan fund; to insure or provide for the insurance of any real or personal property or the operation of the authority against any risks or hazards, including the power to pay premiums on any such

insurance; to enter into any contracts necessary to effectuate the purposes of the Community Development Law; and to provide grants, loans, or other means of financing to public or private parties in order to accomplish the rehabilitation or redevelopment in accordance with a redevelopment plan, except that the proceeds from indebtedness incurred for the purpose of financing a redevelopment project that includes the division of taxes as provided in section 18-2147 shall not be used to establish a revolving loan fund. No statutory provision with respect to the acquisition, clearance, or disposition of property by other public bodies shall restrict an authority exercising powers hereunder, in such functions, unless the Legislature shall specifically so state;

(5) To invest any funds held in reserves or sinking funds or any funds not required for immediate disbursement in property or securities in which savings banks or other banks may legally invest funds subject to their control; and to redeem its bonds at the redemption price established therein or to purchase its bonds at less than redemption price, and such bonds redeemed or purchased shall be canceled;

(6) To borrow money and to apply for and accept advances, loans, grants, contributions, and any other form of financial assistance from the federal government, from the state, county, municipality, or other public body, or from any sources, public or private, including charitable funds, foundations, corporations, trusts, or bequests, for purposes of the Community Development Law, to give such security as may be required, and to enter into and carry out contracts in connection therewith; and notwithstanding any other provision of law, to include in any contract for financial assistance with the federal government for a redevelopment project such conditions imposed pursuant to federal law as the authority may deem reasonable and appropriate and which are not inconsistent with the purposes of the Community Development Law;

(7) Acting through one or more members of an authority or other persons designated by the authority, to conduct examinations and investigations and to hear testimony and take proof under oath at public or private hearings on any matter material for its information; to administer oaths and to issue commissions for the examination of witnesses who are outside of the state or unable to attend before the authority or excused from attendance; and to make available to appropriate agencies or public officials, including those charged with the duty of abating or requiring the correction of nuisances or like conditions, demolishing unsafe or insanitary structures, or eliminating conditions of blight within its area of operation, its findings and recommendations with regard to any building or property where conditions exist which are dangerous to the public health, safety, morals, or welfare;

(8) Within its area of operation, to make or have made all surveys, appraisals, studies, and plans, but not including the preparation of a general plan for the community, necessary to the carrying out of the purposes of the Community Development Law and to contract or cooperate with any and all persons or agencies, public or private, in the making and carrying out of such surveys, appraisals, studies, and plans;

(9) To prepare plans and provide reasonable assistance for the relocation of families, business concerns, and others displaced from a redevelopment project area to permit the carrying out of the redevelopment project to the extent essential for acquiring possession of and clearing such area or parts thereof; and to make relocation payments to or with respect to such persons for moving

expenses and losses of property for which reimbursement or compensation is not otherwise made, including the making of such payments financed by the federal government;

(10) To make such expenditures as may be necessary to carry out the purposes of the Community Development Law; and to make expenditures from funds obtained from the federal government without regard to any other laws pertaining to the making and approval of appropriations and expenditures;

(11) To certify on or before September 30 of each year to the governing body of the city the amount of tax to be levied for the succeeding fiscal year for community redevelopment purposes, not to exceed two and six-tenths cents on each one hundred dollars upon the taxable value of the taxable property in such city, which levy is subject to allocation under section 77-3443 on and after July 1, 1998. The governing body shall levy and collect the taxes so certified at the same time and in the same manner as other city taxes are levied and collected, and the proceeds of such taxes, when due and as collected, shall be set aside and deposited in the special account or accounts in which other revenue of the authority is deposited. Such proceeds shall be employed to assist in the defraying of any expenses of redevelopment plans and projects, including the payment of principal and interest on any bonds issued to pay the costs of any such plans and projects;

(12) To exercise all or any part or combination of powers granted in this section;

(13) To plan, undertake, and carry out neighborhood development programs consisting of redevelopment project undertakings and activities in one or more community redevelopment areas which are planned and carried out on the basis of annual increments in accordance with the Community Development Law for planning and carrying out redevelopment projects;

(14) To agree with the governing body of the city for the imposition of an occupation tax for an enhanced employment area; and

(15) To demolish any structure determined by the governing body of the city to be unsafe or unfit for human occupancy in accordance with section 18-1722.01.

Source: Laws 1951, c. 224, § 5, p. 801; R.R.S.1943, § 14-1607; Laws 1957, c. 52, § 7, p. 253; Laws 1961, c. 61, § 6, p. 232; R.R.S. 1943, § 19-2607; Laws 1969, c. 106, § 3, p. 491; Laws 1979, LB 158, § 3; Laws 1979, LB 187, § 79; Laws 1980, LB 986, § 3; Laws 1985, LB 52, § 1; Laws 1992, LB 1063, § 11; Laws 1992, Second Spec. Sess., LB 1, § 11; Laws 1993, LB 734, § 28; Laws 1995, LB 452, § 5; Laws 1997, LB 269, § 20; Laws 1997, LB 875, § 7; Laws 2007, LB562, § 3; Laws 2012, LB729, § 2; Laws 2018, LB874, § 9; Laws 2021, LB644, § 10.
Operative date January 1, 2022.

18-2119 Redevelopment contract proposal; notice; considerations; acceptance; disposal of real property; contract relating to real estate within an enhanced employment area; recordation; division of taxes; certification by redeveloper; retention of documents; additional requirements.

(1) An authority shall, by public notice by publication once each week for two consecutive weeks in a legal newspaper having a general circulation in the city,

prior to the consideration of any redevelopment contract proposal relating to real estate owned or to be owned by the authority, invite proposals from, and make available all pertinent information to, private redevelopers or any persons interested in undertaking the redevelopment of an area, or any part thereof, which the governing body has declared to be in need of redevelopment. Such notice shall identify the area, and shall state that such further information as is available may be obtained at the office of the authority. The authority shall consider all redevelopment proposals and the financial and legal ability of the prospective redevelopers to carry out their proposals and may negotiate with any redevelopers for proposals for the purchase or lease of any real property in the redevelopment project area. The authority may accept such redevelopment contract proposal as it deems to be in the public interest and in furtherance of the purposes of the Community Development Law if the authority has, not less than thirty days prior thereto, notified the governing body in writing of its intention to accept such redevelopment contract proposal. Thereafter, the authority may execute such redevelopment contract in accordance with the provisions of section 18-2118 and deliver deeds, leases, and other instruments and take all steps necessary to effectuate such redevelopment contract. In its discretion, the authority may, without regard to the foregoing provisions of this section, dispose of real property in a redevelopment project area to private redevelopers for redevelopment under such reasonable competitive bidding procedures as it shall prescribe, subject to the provisions of section 18-2118.

(2) In the case of any real estate owned by a redeveloper, the authority may enter into a redevelopment contract providing for such undertakings as the authority shall determine appropriate. Any such redevelopment contract relating to real estate within an enhanced employment area shall include a statement of the redeveloper's consent with respect to the designation of the area as an enhanced employment area, shall be recorded with respect to the real estate owned by the redeveloper, and shall be binding upon all future owners of such real estate.

(3)(a) Prior to entering into a redevelopment contract pursuant to this section for a redevelopment plan that includes the division of taxes as provided in section 18-2147, the authority shall require the redeveloper to certify the following to the authority:

(i) Whether the redeveloper has filed or intends to file an application to receive tax incentives under the Nebraska Advantage Act or the ImagiNE Nebraska Act for a project located or to be located within the redevelopment project area;

(ii) Whether such application includes or will include, as one of the tax incentives, a refund of the city's local option sales tax revenue; and

(iii) Whether such application has been approved under the Nebraska Advantage Act or the ImagiNE Nebraska Act.

(b) The authority may consider the information provided under subdivision (3)(a) of this section in determining whether to enter into the redevelopment contract.

(4) A redevelopment contract for a redevelopment plan or redevelopment project that includes the division of taxes as provided in section 18-2147 shall include a provision requiring that the redeveloper retain copies of all supporting documents that are associated with the redevelopment plan or redevelopment project and that are received or generated by the redeveloper for three

years following the end of the last fiscal year in which ad valorem taxes are divided and provide such copies to the city as needed to comply with the city's retention requirements under section 18-2117.04. For purposes of this subsection, supporting document includes any cost-benefit analysis conducted pursuant to section 18-2113 and any invoice, receipt, claim, or contract received or generated by the redeveloper that provides support for receipts or payments associated with the division of taxes.

(5) A redevelopment contract for a redevelopment plan that includes the division of taxes as provided in section 18-2147 may include a provision requiring that all ad valorem taxes levied upon real property in a redevelopment project be paid before the taxes become delinquent in order for such redevelopment project to receive funds from such division of taxes.

(6) A redevelopment contract for a redevelopment plan or redevelopment project that includes the division of taxes as provided in section 18-2147 may include any additional requirements deemed necessary by the city to ensure that such plan or project complies with the city's comprehensive development plan, the city's affordable housing action plan required under section 19-5505, city zoning regulations, and any other reasonable planning requirements or goals established by the city.

Source: Laws 1951, c. 224, § 7(2), p. 809; R.R.S.1943, § 14-1619; R.R.S. 1943, § 19-2619; Laws 2007, LB562, § 6; Laws 2016, LB1059, § 1; Laws 2018, LB874, § 19; Laws 2020, LB1107, § 116; Laws 2021, LB131, § 19.
Operative date August 28, 2021.

Cross References

ImagiNE Nebraska Act, see section 77-6801.
Nebraska Advantage Act, see section 77-5701.

18-2123 Undeveloped vacant land; land outside city; acquisition, when.

Upon a determination, by resolution, of the governing body of the city in which such land is located, that the acquisition and development of undeveloped vacant land, not within a substandard and blighted area, is essential to the proper clearance or redevelopment of substandard and blighted areas or a necessary part of the general community redevelopment program of the city, or that the acquisition and development of land outside the city, but within a radius of three miles thereof, is necessary or convenient to the proper clearance or redevelopment of one or more substandard and blighted areas within the city or is a necessary adjunct to the general community redevelopment program of the city, the acquisition, planning, and preparation for development or disposal of such land shall constitute a redevelopment project which may be undertaken by the authority in the manner provided in the Community Development Law.

Source: Laws 1951, c. 224, § 9, p. 810; R.R.S.1943, § 14-1623; Laws 1957, c. 52, § 13, p. 259; Laws 1961, c. 61, § 12, p. 238; R.R.S.1943, § 19-2623; Laws 2021, LB163, § 134.
Effective date August 28, 2021.

18-2124 Bonds; issuance; sources of payment; limitations.

An authority may issue bonds from time to time in its discretion for any of its corporate purposes, including the payment of principal and interest upon any

advances for surveys and plans for redevelopment projects. An authority may also issue refunding bonds for the purpose of paying, retiring, or otherwise refinancing or in exchange for any or all of the principal or interest upon bonds previously issued by the authority. An authority may issue such types of bonds as it may determine, including, without limiting the generality of the foregoing, bonds on which the principal and interest are payable: (1) Exclusively from the income, proceeds, and revenue of the redevelopment project financed with proceeds of such bonds; (2) exclusively from the income, proceeds, and revenue of any of its redevelopment projects whether or not they are financed in whole or in part with the proceeds of such bonds; (3) exclusively from its revenue and income, including any special assessment levied pursuant to section 18-1722 and such tax revenue or receipts as may be authorized under the Community Development Law, including those which may be pledged under section 18-2150, and from such grants and loans as may be received; or (4) from all or part of the income, proceeds, and revenue enumerated in subdivisions (1), (2), and (3) of this section. Any such bonds may be additionally secured by a pledge of any loan, grant, or contributions, or parts thereof, from the federal government or other source or a mortgage of any redevelopment project or projects of the authority. The authority shall not pledge the credit or taxing power of the state or any political subdivision thereof, except such tax receipts as may be authorized under this section or pledged under section 18-2150, or place any lien or encumbrance on any property owned by the state, county, or city used by the authority.

Source: Laws 1951, c. 224, § 10(1), p. 811; R.R.S.1943, § 14-1624; Laws 1961, c. 61, § 13, p. 238; R.R.S.1943, § 19-2624; Laws 1979, LB 158, § 5; Laws 2012, LB729, § 3; Laws 2021, LB163, § 135. Effective date August 28, 2021.

18-2131 Bonds; default; causes of action.

An authority may by resolution, trust indenture, mortgage, lease, or other instrument confer upon any obligee holding or representing a specified amount in bonds, the right, in addition to all rights that may otherwise be conferred, upon the happening of an event of default as defined in such resolution or instruments, by suit, action, or proceeding in any court of competent jurisdiction: (1) To cause possession of any redevelopment project or any part thereof, title to which is in the authority, to be surrendered to any such obligee; (2) to obtain the appointment of a receiver of any redevelopment project of such authority or any part thereof, title to which is in the authority, and of the rents and profits therefrom. If such receiver be appointed, the receiver may enter and take possession of, carry out, operate, and maintain such project or any part thereof and collect and receive all fees, rents, revenue, or other charges thereafter arising from such project, and shall keep such money in a separate account or accounts and apply the same in accordance with the obligations of such authority as the court shall direct; and (3) to require the authority and the members, officers, agents, and employees thereof to account as if it and they were the trustees of an express trust.

Source: Laws 1951, c. 224, § 11(2), p. 815; R.R.S.1943, § 14-1631; R.R.S. 1943, § 19-2631; Laws 2021, LB163, § 136. Effective date August 28, 2021.

18-2133 Bonds; obligee; causes of action.

An obligee of an authority shall have the right in addition to all other rights which may be conferred upon such obligee, subject only to any contractual restrictions binding upon such obligee:

(1) By mandamus, suit, action, or proceeding at law or in equity to compel such authority and the members, officers, agents, or employees thereof to perform each and every term, provision, and covenant contained in any contract of such authority with or for the benefit of such obligee, and to require the carrying out of any or all such covenants and agreements to the authority and the fulfillment of all duties imposed upon the authority by the Community Development Law; and

(2) By suit, action, or proceeding in equity to enjoin any acts or things which may be unlawful, or the violation of any of the rights of such obligee of the authority.

Source: Laws 1951, c. 224, § 13, p. 816; R.R.S.1943, § 14-1633; R.R.S. 1943, § 19-2633; Laws 2018, LB874, § 24; Laws 2021, LB163, § 137.
Effective date August 28, 2021.

18-2135 Federal government; contract for financial assistance; default; effect of cure.

In any contract for financial assistance with the federal government, an authority may obligate itself, which obligation shall be specifically enforceable and shall not constitute a mortgage, notwithstanding any other laws, to convey to the federal government possession of or title to a redevelopment project and land therein to which such contract relates which is owned by the authority, upon the occurrence of a substantial default, as defined in such contract, with respect to the covenants or conditions to which the authority is subject. Such contract may further provide that in case of such conveyance, the federal government may complete, operate, manage, lease, convey, or otherwise deal with the redevelopment project in accordance with the terms of such contract, if the contract requires that, as soon as practicable after the federal government is satisfied that all defaults with respect to the redevelopment project have been cured and that the redevelopment project will thereafter be operated in accordance with the terms of the contract, the federal government shall reconvey to the authority the redevelopment project as then constituted.

Source: Laws 1951, c. 224, § 15, p. 817; R.R.S.1943, § 14-1635; R.R.S. 1943, § 19-2635; Laws 2021, LB163, § 138.
Effective date August 28, 2021.

18-2136 Property; exempt from execution.

All property including funds of an authority shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against such property nor shall judgment against an authority be a charge or lien upon its property. The provisions of this section shall not apply to or limit the right of obligees to foreclose or otherwise enforce any mortgage of an authority or the right of obligees to pursue any remedies for the enforcement of any pledge or lien given by an authority on its rents, fees, grants, or revenue.

Source: Laws 1951, c. 224, § 16(1), p. 817; R.R.S.1943, § 14-1636; R.R.S. 1943, § 19-2636; Laws 2021, LB163, § 139.
Effective date August 28, 2021.

18-2147 Ad valorem tax; division authorized; limitations.

(1) Any redevelopment plan as originally approved or as later modified pursuant to section 18-2117 may contain a provision that any ad valorem tax levied upon real property, or any portion thereof, in a redevelopment project for the benefit of any public body shall be divided, for the applicable period described in subsection (3) of this section, as follows:

(a) That portion of the ad valorem tax which is produced by the levy at the rate fixed each year by or for each such public body upon the redevelopment project valuation shall be paid into the funds of each such public body in the same proportion as are all other taxes collected by or for the body. When there is not a redevelopment project valuation on a parcel or parcels, the county assessor shall determine the redevelopment project valuation based upon the fair market valuation of the parcel or parcels as of January 1 of the year prior to the year that the ad valorem taxes are to be divided. The county assessor shall provide written notice of the redevelopment project valuation to the authority as defined in section 18-2103 and the owner. The authority or owner may protest the valuation to the county board of equalization within thirty days after the date of the valuation notice. All provisions of section 77-1502 except dates for filing of a protest, the period for hearing protests, and the date for mailing notice of the county board of equalization's decision are applicable to any protest filed pursuant to this section. The county board of equalization shall decide any protest filed pursuant to this section within thirty days after the filing of the protest. The county clerk shall mail a copy of the decision made by the county board of equalization on protests pursuant to this section to the authority or owner within seven days after the board's decision. Any decision of the county board of equalization may be appealed to the Tax Equalization and Review Commission, in accordance with section 77-5013, within thirty days after the date of the decision;

(b) That portion of the ad valorem tax on real property, as provided in the redevelopment contract, bond resolution, or redevelopment plan, as applicable, in the redevelopment project in excess of such amount, if any, shall be allocated to and, when collected, paid into a special fund of the authority to be used solely to pay the principal of, the interest on, and any premiums due in connection with the bonds of, loans, notes, or advances of money to, or indebtedness incurred by, whether funded, refunded, assumed, or otherwise, such authority for financing or refinancing, in whole or in part, the redevelopment project. When such bonds, loans, notes, advances of money, or indebtedness, including interest and premiums due, have been paid, the authority shall so notify the county assessor and county treasurer and all ad valorem taxes upon taxable real property in such a redevelopment project shall be paid into the funds of the respective public bodies. An authority may use a single fund for purposes of this subdivision for all redevelopment projects or may use a separate fund for each redevelopment project; and

(c) Any interest and penalties due for delinquent taxes shall be paid into the funds of each public body in the same proportion as are all other taxes collected by or for the public body.

(2) To the extent that a redevelopment plan authorizes the division of ad valorem taxes levied upon only a portion of the real property included in such redevelopment plan, any improvements funded by such division of taxes shall be related to the redevelopment plan that authorized such division of taxes.

(3)(a) For redevelopment plans that receive an expedited review under section 18-2155, ad valorem taxes shall be divided for a period not to exceed ten years after the effective date as identified in the redevelopment plan.

(b) For any redevelopment plan for which more than fifty percent of the property in the redevelopment project area has been declared an extremely blighted area in accordance with section 18-2101.02, ad valorem taxes shall be divided for a period not to exceed twenty years after the effective date as identified in the project redevelopment contract or in the resolution of the authority authorizing the issuance of bonds pursuant to section 18-2124.

(c) For all other redevelopment plans, ad valorem taxes shall be divided for a period not to exceed fifteen years after the effective date as identified in the project redevelopment contract or in the resolution of the authority authorizing the issuance of bonds pursuant to section 18-2124.

(4) The effective date of a provision dividing ad valorem taxes as provided in subsection (3) of this section shall not occur until such time as the real property in the redevelopment project is within the corporate boundaries of the city. This subsection shall not apply to a redevelopment project involving a formerly used defense site as authorized in section 18-2123.01.

(5) Beginning August 1, 2006, all notices of the provision for dividing ad valorem taxes shall be sent by the authority to the county assessor on forms prescribed by the Property Tax Administrator. The notice shall be sent to the county assessor on or before August 1 of the year of the effective date of the provision. Failure to satisfy the notice requirement of this section shall result in the taxes, for all taxable years affected by the failure to give notice of the effective date of the provision, remaining undivided and being paid into the funds for each public body receiving property taxes generated by the property in the redevelopment project. However, the redevelopment project valuation for the remaining division of ad valorem taxes in accordance with subdivisions (1)(a) and (b) of this section shall be the last certified valuation for the taxable year prior to the effective date of the provision to divide the taxes for the remaining portion of the ten-year, twenty-year, or fifteen-year period pursuant to subsection (3) of this section.

Source: Laws 1979, LB 158, § 10; Laws 1997, LB 875, § 14; Laws 1999, LB 194, § 2; Laws 2002, LB 994, § 2; Laws 2006, LB 808, § 2; Laws 2006, LB 1175, § 2; Laws 2011, LB54, § 1; Laws 2013, LB66, § 4; Laws 2018, LB874, § 34; Laws 2020, LB1021, § 15; Laws 2021, LB25, § 2.
Effective date March 18, 2021.

ARTICLE 22
COMMUNITY ANTENNA TELEVISION SERVICE

Section
18-2201. Legislative declaration; regulatory powers.
18-2202. Franchise; required; validity.
18-2203. Underground cables and equipment; map required.
18-2204. Annual occupation tax; levy; when due.
18-2206. Rate increase; approval; procedure.

18-2201 Legislative declaration; regulatory powers.

The Legislature hereby finds and declares that the furnishing of community antenna television service is a business affected with such a public interest that

it must be regulated locally. All municipalities in Nebraska are hereby authorized and empowered, by ordinance, to regulate, prohibit, and consent to the construction, installation, operation, and maintenance within their corporate limits of all persons or entities furnishing community antenna television service. All municipalities, acting through the mayor and city council or village board of trustees, shall have power to require every individual or entity offering such service, subject to reasonable rules and regulations, to furnish any person applying therefor along the lines of its wires, cables, or other conduits, with television and radio service. The mayor and city council or village board of trustees shall have power to prescribe reasonable quality standards for such service and shall regulate rate increases so as to provide reasonable and compensatory rents or rates for such service including installation charges. In the regulation of rate increases the procedure provided in section 18-2206 shall be used in any franchise granted or renewed after May 23, 1979. Such person or entity furnishing community antenna television service shall be required to carry all broadcast signals as prescribed by franchise and permitted to be carried by Federal Communications Commission regulations during the full period of the broadcast day of its stations.

Source: Laws 1959, c. 68, § 1, p. 294; R.R.S.1943, § 19-2801; Laws 1969, c. 119, § 1, p. 536; Laws 1979, LB 495, § 1; Laws 2021, LB163, § 140.
Effective date August 28, 2021.

18-2202 Franchise; required; validity.

It shall be unlawful for any person, firm, or corporation to construct, install, operate, or maintain in or along the streets, alleys, and public ways, or elsewhere within the corporate limits of any municipality, a community antenna television service without first obtaining, from such municipality involved, a franchise authorizing the community antenna television service. The governing bodies of such municipalities are hereby authorized to grant such a franchise and such franchise shall be effective and binding without submission to the electors and approval by a majority vote thereof, notwithstanding any other law or home rule charter, for a term of not to exceed twenty-five years upon such reasonable conditions as the circumstances may require.

Source: Laws 1959, c. 68, § 2, p. 294; R.R.S.1943, § 19-2802; Laws 1969, c. 119, § 2, p. 537; Laws 1979, LB 495, § 3; Laws 2021, LB163, § 141.
Effective date August 28, 2021.

18-2203 Underground cables and equipment; map required.

Municipalities may by ordinance require the filing with the city clerk or village clerk by the person, firm, or corporation constructing, installing, operating, or maintaining community antenna television service of a proper map showing the exact location of all underground cables and equipment, together with a statement showing the exact nature of such cables and equipment.

Source: Laws 1959, c. 68, § 3, p. 294; R.R.S.1943, § 19-2803; Laws 1969, c. 119, § 3, p. 537; Laws 2021, LB163, § 142.
Effective date August 28, 2021.

18-2204 Annual occupation tax; levy; when due.

Municipalities may, by appropriate ordinance, levy an annual occupation tax against any person, firm, or corporation maintaining and operating any community antenna television service within its boundaries and may levy an annual occupation tax against any persons, firms, or corporations constructing, installing, operating, or maintaining community antenna television service. Any such occupation tax so levied shall be due and payable on May 1 of each year to the city treasurer or village treasurer.

Source: Laws 1959, c. 68, § 4, p. 295; R.R.S.1943, § 19-2804; Laws 1969, c. 119, § 4, p. 538; Laws 2021, LB163, § 143.
Effective date August 28, 2021.

18-2206 Rate increase; approval; procedure.

(1) Approval of a rate increase for a person or entity furnishing community antenna television service shall be required and shall be made by the city council or village board of trustees which granted the franchise to such person or entity. Such approval shall be made by ordinance or resolution.

(2) Prior to voting on a rate increase the city council or village board of trustees shall hold at least two public meetings at which the ratepayers and the franchisee may comment on the programming content and rates of such franchisee.

(3) At least thirty days prior to the first public meeting held to examine programming content and rates, each ratepayer or subscriber shall be notified by a billing statement or other written notice when and where such public meeting shall be held. Such notice shall also provide information as to what rates are proposed by the franchisee for consideration by the city council or village board of trustees.

Source: Laws 1979, LB 495, § 2; Laws 2021, LB163, § 144.
Effective date August 28, 2021.

ARTICLE 23
AIR CONDITIONING AIR DISTRIBUTION BOARD

Section

18-2301 Terms, defined.

For purposes of sections 18-2301 to 18-2315, unless the context otherwise requires:

(1) Air conditioning air distribution means the control of any one or more of the following factors affecting both physical and chemical conditions of the atmosphere within a structure: Temperature, humidity, movement and purity;

(2) Furnace means a self-contained, flue-connected or vented, appliance intended primarily to supply heated air through ducts to spaces remote from or adjacent to the appliance location as well as to the space in which it is located;

(3) Contractor means a holder of a valid certificate of competency for air conditioning air distribution;

(4) Ventilating system means each process of removing air by natural gravity exhauster or mechanical exhaust fan from any space; and

(5) Kitchen exhaust system means a duct system or air passageway for removal of kitchen air contaminates by mechanical means.

Source: Laws 1969, c. 98, § 1, p. 468; Laws 2021, LB163, § 145.
Effective date August 28, 2021.

18-2302 Board for examination of contractors; membership; duties.

In any city or village, there may be a board for the examination of air conditioning air distribution contractors for the issuance of certificates of competency and for such other duties and responsibilities as may be prescribed by sections 18-2301 to 18-2315. Such board shall consist of not more than five members all of whom shall be appointed by the mayor, the chairperson of the village board of trustees, or the city manager with the approval of the city council or village board of trustees. All vacancies occurring on the air conditioning air distribution board by reason of death, disability, or inability of a member to serve shall be filled in the same manner as the original appointment. The qualifications for members of the air conditioning air distribution board may be prescribed by the city council or village board of trustees.

Source: Laws 1969, c. 98, § 2, p. 469; Laws 2021, LB163, § 146.
Effective date August 28, 2021.

18-2303 Officers; secretary; duties.

Members of the air conditioning air distribution board shall, within ten days after their appointments, meet in their respective city or village building or place designated by the city council, city manager, or village board of trustees and organize by the selection of one of their members as chairperson, one as vice-chairperson, and one as secretary. It shall be the duty of the secretary to keep full, true, and correct minutes and records of all meetings, applications for examinations, examinations given and results thereof, and certificates issued, which records shall be open for free inspection by all persons during business hours.

Source: Laws 1969, c. 98, § 3, p. 469; Laws 2021, LB163, § 147.
Effective date August 28, 2021.

18-2304 Members; terms; compensation.

The appointment of the air conditioning air distribution board shall be for staggered terms of three years as provided by the city council or village board of trustees with the appointments to be made in December of each year.

Compensation shall be determined by the city council or village board of trustees.

Source: Laws 1969, c. 98, § 4, p. 469; Laws 2021, LB163, § 148.
Effective date August 28, 2021.

18-2305 Meetings; certificates of competency; examination; rules.

The air conditioning air distribution board shall meet at least once a month at a fixed time as determined by the city council or village board of trustees. The board shall adopt rules for the examination at such times and places of all persons who desire a certificate of competency to engage in the business of designing, installing, altering, repairing, cleaning, or adding to any air conditioning air distribution system, furnace, restaurant appliance hood and duct system, or other exhaust or intake ventilating system within the city or village and also within the area of extraterritorial zoning jurisdiction of cities of the metropolitan class.

Source: Laws 1969, c. 98, § 5, p. 469; Laws 2021, LB163, § 149.
Effective date August 28, 2021.

18-2306 Rules and regulations; approval; plans and specifications; approval.

The air conditioning air distribution board, subject to the approval of the city council or village board of trustees, may adopt rules and regulations, not inconsistent with the laws of the state or the ordinances of the city or village, for the designing, installing, altering, inspecting, or repairing of an air conditioning air distribution and ventilating system placed in or in connection with any building in such city or village or within the area of extraterritorial zoning jurisdiction of cities of the metropolitan class describing the kind and size of materials to be used in such systems and the manner in which such work shall be done. All plans and specifications for any such system to be placed in a building shall be first submitted to the board or other body designated by the city council or village board of trustees for its approval before such system shall be installed.

Source: Laws 1969, c. 98, § 6, p. 470; Laws 2021, LB163, § 150.
Effective date August 28, 2021.

18-2307 Contractor; certificate of competency; application; examination; issuance.

(1) Any person desiring to engage in business as an air conditioning air distribution contractor in a city or village which has established an air conditioning air distribution board or within the extraterritorial zoning jurisdiction of cities of the metropolitan class if such city has such a board, shall secure a certificate of competency. Any person desiring to engage in the business, or to proceed to install, alter, repair, clean, or add to or change in any manner any air conditioning air distribution system or any furnace, restaurant appliance hood and duct system, or other exhaust or intake ventilating system within such city or village or within the extraterritorial zoning jurisdiction of cities of the metropolitan class shall be the holder of a certificate of competency or in the direct employ of a person, firm, or corporation holding such certificate.

(2) The air conditioning air distribution board shall, upon written application, examine the applicant at its next meeting or at an adjourned meeting as to his or her practical and theoretical knowledge of the designing and installing of

residential, commercial, and industrial air conditioning air distribution and ventilating systems and, if found competent, deliver to the applicant a certificate of competency.

Source: Laws 1969, c. 98, § 7, p. 470; Laws 1997, LB 752, § 77; Laws 2021, LB163, § 151.
Effective date August 28, 2021.

18-2308 Sections; exemptions.

Nothing contained in sections 18-2301 to 18-2315 shall be construed to prohibit a homeowner from personally performing air conditioning air distribution work on the property in which the homeowner resides, and the homeowner will not be required to have a certificate of competency to do such work, but the work must conform to the rules and regulations set forth by the city council or village board of trustees for such work as provided by sections 18-2301 to 18-2315.

Source: Laws 1969, c. 98, § 8, p. 471; Laws 2021, LB163, § 152.
Effective date August 28, 2021.

18-2309 Certificate of competency; applicant; bond; conditions.

All applicants who have successfully passed an examination may, prior to receiving a certificate of competency, be required by the air conditioning air distribution board to furnish a corporate surety bond in the penal sum of not more than ten thousand dollars conditioned that the applicant shall, in all material furnished by the applicant and in all work performed by the applicant and performed within the city or village or within the extraterritorial zoning jurisdiction of cities of the metropolitan class, in installing, altering, and repairing any air conditioning air distribution system or ventilating system, strictly comply with all regulations of the air conditioning air distribution board and ordinances of the city or village related thereto.

Source: Laws 1969, c. 98, § 9, p. 471; Laws 2021, LB163, § 153.
Effective date August 28, 2021.

18-2310 Certificate of competency; renewal; examination; when.

All original certificates of competency may be renewed and all renewed certificates of competency may be renewed by the air conditioning air distribution board before the dates of their expiration. Such renewal certificates shall be granted without a reexamination upon the written application of the certificate holder filed with the board and showing that the certificate holder's purposes and condition remain unchanged unless it is made to appear by affidavit before the board that the certificate holder is no longer competent or entitled to such renewal certificate, in which event the renewal certificate shall not be granted until the applicant has undergone the examination required by section 18-2307.

Source: Laws 1969, c. 98, § 10, p. 471; Laws 2021, LB163, § 154.
Effective date August 28, 2021.

18-2311 Certificate of competency; term; revocation.

All original and renewal certificates shall be good for one year from their dates, but any certificate may be revoked by the air conditioning air distribution

board at any time after a hearing upon sufficient notice after sworn charges are filed with the board showing the holder of the certificate to be then incompetent, guilty of willful breach of the rules, regulations, or requirements of the board or of the laws or ordinances relating thereto, or of other causes sufficient for the revocation of the certificate as determined by the city council or village board of trustees of which charges and hearing the holder of such certificate shall have written notice.

Source: Laws 1969, c. 98, § 11, p. 472; Laws 2021, LB163, § 155.
Effective date August 28, 2021.

18-2312 Certificate of competency; requirement.

It shall be unlawful for any person to engage in business as an air conditioning air distribution contractor or to engage in the business of installing, altering, repairing, cleaning, adding to, or changing in any manner any air conditioning air distribution system or any furnace, any restaurant appliance hood or its duct system, or any other exhaust or intake ventilating system within a city or village having an air conditioning air distribution board or within the extraterritorial zoning jurisdiction of cities of the metropolitan class having such a board unless such person holds a certificate or is employed by a person, firm, or corporation holding such a certificate.

Source: Laws 1969, c. 98, § 12, p. 472; Laws 2021, LB163, § 156.
Effective date August 28, 2021.

18-2313 Certificate of competency; permit; fees.

Fees for the original certificates, renewal certificates, and permits shall be fixed by the city council or village board of trustees of each city or village having an air conditioning air distribution board. The fee for the original or renewal certificate shall in no event be more than fifty dollars.

Source: Laws 1969, c. 98, § 13, p. 472; Laws 2021, LB163, § 157.
Effective date August 28, 2021.

18-2314 Inspectors; employment authorized; noncomplying system; correction or removal.

Any city or village having an air conditioning air distribution board shall be authorized to employ inspectors who shall inspect all parts of any air conditioning air distribution system or ventilating or exhaust system in process of construction, alteration, or repair within the respective jurisdiction of such city or village. Any such system found not to comply with the regulations of the air conditioning air distribution board or ordinances of the city or village shall be reported to the board and if not corrected in accordance with requirements of the rules and regulations of the board and ordinances of the city or village shall be removed, if, after notice to the owner or contractor or certificate holder doing the work, the board shall find the work or any part of such work to be defective or not in compliance with such rules and regulations or ordinances.

Source: Laws 1969, c. 98, § 14, p. 472; Laws 2021, LB163, § 158.
Effective date August 28, 2021.

18-2315 Violations; penalties.

Any person violating sections 18-2301 to 18-2315 or any rules or regulations adopted or ordinances passed pursuant to such sections shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be fined not more than five hundred dollars, or be imprisoned not more than six months, or be both so fined and imprisoned, and as a part of such punishment such person's license may be revoked.

Source: Laws 1969, c. 98, § 15, p. 473; Laws 2021, LB163, § 159.
Effective date August 28, 2021.

ARTICLE 24

MUNICIPAL COOPERATIVE FINANCING

Section
18-2402. Legislative declarations.
18-2409. Governing body, defined.
18-2443. Construction and other contracts; bids; advertisement.
18-2476. Resolution or other proceeding; publication.

18-2402 Legislative declarations.

The Legislature hereby finds and declares (1) that cooperative action by municipalities of this state in the fields of the supplying, treatment, and distribution of water, the generation, transmission, and distribution of electric power and energy, and the collection, treatment, and disposal of sewerage and solid waste is in the public interest; (2) that there is a need in order to insure the stability and continued viability of such systems to provide for a means by which municipalities may cooperate with one another in the financing, acquisition, and operation of such facilities and interests therein and rights thereto in all ways possible; (3) that the creation of agencies through which the municipalities of this state may act cooperatively is in the best interest of this state and the inhabitants thereof and is for a public use and public purpose; and (4) that the necessity in the public interest for the provisions included in the Municipal Cooperative Financing Act is declared as a matter of legislative determination. It is further declared that the intent of the act is to replace competition between participating municipalities in connection with the projects described in the act by allowing such municipalities to combine and cooperate in connection with the acquisition, construction, operation, financing, and all other functions authorized by the act with respect to such projects.

Source: Laws 1981, LB 132, § 2; Laws 1984, LB 686, § 1; Laws 2021, LB163, § 160.
Effective date August 28, 2021.

18-2409 Governing body, defined.

Governing body shall mean the city council in the case of a city, the village board of trustees in the case of a village, the equivalent body in the case of a municipality incorporated under the laws of another state, and the board in the case of an agency primarily comprised of municipalities.

Source: Laws 1981, LB 132, § 9; Laws 1987, LB 324, § 2; Laws 2020, LB858, § 1; Laws 2021, LB163, § 161.
Effective date August 28, 2021.

18-2443 Construction and other contracts; bids; advertisement.

Prior to advertisement for sealed bids, plans and specifications for the proposed work or materials shall be prepared and filed at the principal office or place of business of the agency. Such advertisement shall be made in three issues, not less than seven days between issues, in one or more legal newspapers in or of general circulation in the municipality or county where the principal office or place of business of the agency is located, and in such additional newspapers or trade or technical periodicals as may be selected by the board in order to give proper notice of the receiving of bids. Such advertisement shall designate the nature of the work proposed to be done or materials proposed to be purchased and that the plans and specifications therefor may be inspected at the office of the agency, giving the location thereof, and shall designate the time within which bids shall be filed and the date, hour, and place such bids shall be opened.

Source: Laws 1981, LB 132, § 43; Laws 2021, LB163, § 162.
Effective date August 28, 2021.

18-2476 Resolution or other proceeding; publication.

The board may provide for the publication of any resolution or other proceeding adopted by it pursuant to the Municipal Cooperative Financing Act in a legal newspaper published in or of general circulation in the municipality or county where the principal office or place of business of the agency is located.

Source: Laws 1981, LB 132, § 76; Laws 2021, LB163, § 163.
Effective date August 28, 2021.

ARTICLE 25
MUNICIPAL INITIATIVE AND REFERENDUM ACT

Section

Section
18-2533. Petitions; illegal acts; penalty.
18-2534. Signing of petition; illegal acts; penalty.
18-2535. City clerk; illegal acts; penalty.
18-2536. Election Act; applicability.
18-2537. Municipal Initiative and Referendum Act; inapplicability.
18-2538. Declaratory judgment; procedure; effect.

18-2501 Act, how cited; initiative and referendum; powers; use; provisions governing.

(1) Sections 18-2501 to 18-2538 shall be known and may be cited as the Municipal Initiative and Referendum Act.

(2) The powers of initiative and referendum are hereby reserved to the qualified electors of each municipality in the state. The Municipal Initiative and Referendum Act shall govern the use of initiative to enact and the use of referendum to amend or repeal measures affecting the governance of all municipalities in the state, except those operating under home rule charter and as specified in section 18-2537.

(3) Cities operating under home rule charter shall provide, by charter provision or ordinance, for the exercise of the powers of initiative and referendum within such cities. Nothing in the Municipal Initiative and Referendum Act shall be construed to prevent such cities from adopting any or all of the provisions of the act.

Source: Laws 1982, LB 807, § 1; Laws 2021, LB163, § 164.
Effective date August 28, 2021.

18-2502 Definitions, where found.

For purposes of the Municipal Initiative and Referendum Act, the definitions in sections 18-2502.01 to 18-2511, unless the context otherwise requires, shall apply.

Source: Laws 1982, LB 807, § 2; Laws 1984, LB 1010, § 1; Laws 2021, LB163, § 165.
Effective date August 28, 2021.

18-2502.01 Chief executive officer, defined.

Chief executive officer means the mayor, the city manager, or the chairperson of the board of trustees of a municipality.

Source: Laws 2021, LB163, § 166.
Effective date August 28, 2021.

18-2504 City clerk, defined.

City clerk means the city clerk, village clerk, or other municipal official in charge of elections.

Source: Laws 1982, LB 807, § 4; Laws 2021, LB163, § 167.
Effective date August 28, 2021.

18-2505 Governing body, defined.

Governing body means the city council or village board of trustees of any municipality subject to the Municipal Initiative and Referendum Act.

Source: Laws 1982, LB 807, § 5; Laws 2021, LB163, § 168.
Effective date August 28, 2021.

18-2506 Measure, defined.

Measure means an ordinance, charter provision, or resolution which is within the legislative authority of the governing body of a municipality to pass and which is not excluded from the operation of referendum by the exceptions in section 18-2528. Measure does not include any action permitted by the Nebraska Advantage Transformational Tourism and Redevelopment Act.

Source: Laws 1982, LB 807, § 6; Laws 1984, LB 1010, § 2; Laws 2010, LB1018, § 36; Laws 2021, LB163, § 169.
Effective date August 28, 2021.

Cross References

Nebraska Advantage Transformational Tourism and Redevelopment Act, see section 77-1001.

18-2507 Municipality, defined.

Municipality means all cities and villages, not operating under home rule charters, including those functioning under the commission and city manager plans of government.

Source: Laws 1982, LB 807, § 7; Laws 2019, LB193, § 9; Laws 2021, LB163, § 170.
Effective date August 28, 2021.

18-2518 Petition; filed; signature verification; costs; time limitation.

(1) Signed petitions shall be filed with the city clerk for signature verification. Upon the filing of a petition, a municipality, upon passage of a resolution by the governing body of such municipality, and the county clerk or election commissioner of the county in which such municipality is located may by mutual agreement provide that the county clerk or election commissioner shall ascertain whether the petition is signed by the requisite number of voters. The municipality shall reimburse the county for any costs incurred by the county clerk or election commissioner. When the verifying official has determined that one hundred percent of the necessary signatures required by the Municipal Initiative and Referendum Act have been obtained, he or she shall notify the governing body of the municipality of that fact and shall immediately forward to the governing body a copy of the petition.

(2) In order for an initiative or referendum proposal to be submitted to the governing body and the voters, the necessary signatures shall be on file with the city clerk within six months from the date the prospective petition was authorized for circulation. If the necessary signatures are not obtained by such date, the petition shall be void.

Source: Laws 1982, LB 807, § 18; Laws 2021, LB163, § 171.
Effective date August 28, 2021.

18-2520 Measure submitted to voters by municipality; procedure; approval.

(1) Except as provided in subsection (2) of this section, the chief executive officer and governing body of a municipality may at any time, by resolution,

provide for the submission to a direct vote of the electors of any measure pending before it, passed by it, including an override of any veto, if necessary, or enacted by the electors under the Municipal Initiative and Referendum Act and may provide in such resolution that such measure shall be submitted at a special election or the next regularly scheduled primary or general election. Immediately upon the passage of any such resolution for submission, the city clerk shall cause such measure to be submitted to a direct vote of the electors, at the time specified in such resolution and in the manner provided in the Municipal Initiative and Referendum Act for submission of measures upon proposals and petitions filed by voters. Such matter shall become law if approved by a majority of the votes cast.

(2) The chief executive officer and governing body of a municipality shall not submit to a direct vote of the electors the question of whether the municipality should initiate proceedings for the condemnation of a natural gas system.

Source: Laws 1982, LB 807, § 20; Laws 1984, LB 1010, § 12; Laws 2002, LB 384, § 26; Laws 2021, LB163, § 172.
Effective date August 28, 2021.

18-2521 Elections; when held; city clerk; duties.

Elections under the Municipal Initiative and Referendum Act, either at a special election or regularly scheduled primary or general election, shall be called by the city clerk. Any special election to be conducted by the election commissioner or county clerk shall be subject to section 32-405.

The city clerk shall cause notice of every such election to be printed in one or more legal newspapers in or of general circulation in such municipality at least once not less than thirty days prior to such election and also posted in the office of the city clerk and in at least three conspicuous places in such municipality at least thirty days prior to such election.

The city clerk shall make available for photocopying a copy in pamphlet form of measures initiated or referred. Such notice provided in this section shall designate where such a copy in pamphlet form may be obtained.

Source: Laws 1982, LB 807, § 21; Laws 1984, LB 1010, § 13; Laws 1994, LB 76, § 502; Laws 2003, LB 521, § 2; Laws 2021, LB163, § 173.
Effective date August 28, 2021.

18-2522 Ballots; preparation; form.

All ballots for use in special elections under the Municipal Initiative and Referendum Act shall be prepared by the city clerk and furnished by the governing body, unless the governing body contracts with the county for such service, and shall be in form the same as provided by law for election of the chief executive officer and governing body of such municipality. When ordinances under the Municipal Initiative and Referendum Act are submitted to the electors at a regularly scheduled primary or general election, they shall be placed upon the official ballots as provided in the Municipal Initiative and Referendum Act.

Source: Laws 1982, LB 807, § 22; Laws 1984, LB 1010, § 14; Laws 2021, LB163, § 174.
Effective date August 28, 2021.

18-2523 Initiative powers; scope.

(1) The power of initiative allows citizens the right to enact measures affecting the governance of each municipality in the state. An initiative proposal shall not have as its primary or sole purpose the repeal or modification of existing law except if such repeal or modification is ancillary to and necessary for the adoption and effective operation of the initiative measure.

(2) An initiative shall not be effective if the direct or indirect effect of the passage of such initiative measure shall be to repeal or alter an existing law, or portion thereof, which is not subject to referendum or subject only to limited referendum pursuant to section 18-2528.

(3) The power of initiative shall extend to a measure to provide for the condemnation of an investor-owned natural gas system by a municipality when the condemnation would, if initiated by the governing body of the municipality, be governed by the provisions of the Municipal Natural Gas System Condemnation Act.

(4) An initiative measure to provide for the condemnation of an investor-owned natural gas system by a municipality shall be a measure to require the municipality to initiate and pursue condemnation proceedings subject to the provisions of the Municipal Natural Gas System Condemnation Act.

Source: Laws 1982, LB 807, § 23; Laws 2002, LB 384, § 27; Laws 2021, LB163, § 175.
Effective date August 28, 2021.

Cross References

Municipal Natural Gas System Condemnation Act, see section 19-4624.

18-2524 Initiative petition; failure of governing body to pass; effect; regular or special election.

Whenever an initiative petition bearing signatures equal in number to at least fifteen percent of the qualified electors of a municipality has been filed with the city clerk and verified pursuant to section 18-2518, it shall be the duty of the governing body of such municipality to consider passage of the measure contained in the petition, including an override of any veto, if necessary. If the governing body fails to pass the measure without amendment, including an override of any veto, if necessary, within thirty days from the date it received notification pursuant to section 18-2518, the city clerk shall cause the measure to be submitted to a vote of the people at the next regularly scheduled primary or general election held within the municipality. If the governing body desires to submit the measure to a vote of the people at a special election prior to the next regularly scheduled primary or general election held within the municipality, the governing body shall, by resolution, direct the city clerk to cause the measure to be submitted at a special election. Such resolution shall not be subject to referendum or limited referendum.

Source: Laws 1982, LB 807, § 24; Laws 1984, LB 1010, § 15; Laws 2021, LB163, § 176.
Effective date August 28, 2021.

18-2525 Initiative petition; request for special election; failure of governing body to pass; effect.

Whenever an initiative petition bearing signatures equal in number to at least twenty percent of the qualified electors of a municipality, which petition requests that a special election be called to submit the initiative measure to a vote of the people, has been filed with the city clerk and verified pursuant to section 18-2518, it shall be the duty of the governing body of such municipality to consider passage of the measure contained in the petition, including an override of any veto, if necessary. If the governing body fails to pass the measure, without amendment, including an override of any veto, if necessary, within thirty days from the date it received notification pursuant to section 18-2518, the city clerk shall cause the measure to be submitted to a vote of the people at a special election called for such purpose. Subject to the provisions of section 18-2521, the date of such election shall be set during the first available month that complies with sections 32-405 and 32-559.

Source: Laws 1982, LB 807, § 25; Laws 1984, LB 1010, § 16; Laws 1994, LB 76, § 503; Laws 2021, LB163, § 177.
Effective date August 28, 2021.

18-2526 Adopted initiative measure; when effective; amendment or repeal; restrictions.

If a majority of the voters voting on an initiative measure pursuant to the Municipal Initiative and Referendum Act shall vote in favor of such measure, it shall become a valid and binding measure of the municipality thirty days after certification of the election results, unless the governing body by resolution orders an earlier effective date or the measure itself provides for a later effective date, which resolution shall not be subject to referendum or limited referendum. A measure passed by such method shall not be amended or repealed except by two-thirds majority of the members of the governing body. No such attempt to amend or repeal shall be made within one year from the passage of the measure by the electors.

Source: Laws 1982, LB 807, § 26; Laws 1984, LB 1010, § 17; Laws 2021, LB163, § 178.
Effective date August 28, 2021.

18-2527 Referendum powers; scope.

The power of referendum allows citizens the right to repeal or amend existing measures, or portions thereof, affecting the governance of each municipality in the state.

Source: Laws 1982, LB 807, § 27; Laws 2021, LB163, § 179.
Effective date August 28, 2021.

18-2528 Referendum; measures excluded; measures subject to limited referendum; procedure.

(1) The following measures shall not be subject to referendum or limited referendum:

(a) Measures necessary to carry out contractual obligations, including, but not limited to, those relating to the issuance of or provided for in bonds, notes, warrants, or other evidences of indebtedness, for projects previously approved by a measure which was, or is, subject to referendum or limited referendum or previously approved by a measure adopted prior to July 17, 1982;

(b) Measures relating to any industrial development projects, subsequent to measures giving initial approval to such projects;

(c) Measures adopting proposed budget statements following compliance with procedures set forth in the Nebraska Budget Act;

(d) Measures relating to the immediate preservation of the public peace, health, or safety which have been designated as urgent measures by unanimous vote of those present and voting of the governing body of the municipality and approved by its chief executive officer;

(e) Measures relating to projects for which notice has been given as provided for in subsection (4) of this section and for which a sufficient referendum petition was not filed within the time limit stated in such notice or which received voter approval after the filing of such petition;

(f) Resolutions directing the city clerk to cause measures to be submitted to a vote of the people at a special election as provided in sections 18-2524 and 18-2529;

(g) Resolutions ordering an earlier effective date for measures enacted by initiative as provided in section 18-2526;

(h) Measures relating to any facility or system adopted or enacted pursuant to the Integrated Solid Waste Management Act by municipalities and which are necessary to carry out contractual obligations provided for in previously issued bonds, notes, warrants, or other evidence of indebtedness;

(i) Measures that amend, supplement, change, modify, or repeal a zoning regulation, restriction, or boundary and are subject to protest as provided in section 14-405 or 19-905;

(j) Measures relating to personnel issues, including, but not limited to, establishment, modification, or elimination of any personnel position, policy, salary, or benefit and any hiring, promotion, demotion, or termination of personnel; and

(k) Measures relating to matters subject to the provisions of the Municipal Natural Gas System Condemnation Act.

(2) The following measures shall be subject to limited referendum:

(a) Measures in furtherance of a policy of the municipality or relating to projects previously approved by a measure which was subject to referendum or which was enacted by initiative or has been approved by the voters at an election, except that such measures shall not be subject to referendum or limited referendum for a period of one year after any such policy or project was approved at a referendum election, enacted by initiative, or approved by the voters at an election;

(b) Measures relating to the acquisition, construction, installation, improvement, or enlargement, including the financing or refinancing of the costs, of public ways, public property, utility systems, and other capital projects and measures giving initial approval for industrial development projects;

(c) Measures setting utility system rates and charges, except for measures necessary to carry out contractual obligations provided for in previously issued bonds, notes, warrants, or other evidences of indebtedness, and pay rates and salaries for municipal employees other than the members of the governing body and the chief executive officer; and

(d) Measures relating to any facility or system adopted or enacted pursuant to the Integrated Solid Waste Management Act by municipalities except for measures necessary to carry out contractual obligations provided for in previously issued bonds, notes, warrants, or other evidence of indebtedness.

(3) Measures subject to limited referendum shall ordinarily take effect thirty days after their passage by the governing body, including an override of any veto, if necessary. Referendum petitions directed at measures subject to limited referendum shall be filed for signature verification pursuant to section 18-2518 within thirty days after such measure's passage by the governing body, including an override of any veto, if necessary, or after notice is first published pursuant to subdivision (4)(c) of this section. If the necessary number of signatures as provided in section 18-2529 or 18-2530 has been obtained within the time limitation, the effectiveness of the measure shall be suspended unless approved by the voters.

(4) For any measure relating to the acquisition, construction, installation, improvement, or enlargement of public ways, public property, utility systems, or other capital projects or any measure relating to any facility or system adopted or enacted pursuant to the Integrated Solid Waste Management Act, a municipality may exempt all subsequent measures relating to the same project from the referendum and limited referendum procedures provided for in the Municipal Initiative and Referendum Act by the following procedure:

(a) By holding a public hearing on the project, the time and place of such hearing being published at least once not less than five days prior to the date set for hearing in a legal newspaper in or of general circulation within the municipality;

(b) By passage of a measure approving the project, including an override of a veto if necessary, at a meeting held on any date subsequent to the date of hearing; and

(c) After passage of such measure, including an override of a veto if necessary, by giving notice as follows: (i) For those projects for which applicable statutes require an ordinance or resolution of necessity, creating a district or otherwise establishing the project, notice shall be given for such project by including either as part of such ordinance or resolution or as part of any publicized notice concerning such ordinance or resolution a statement that the project as described in the ordinance or resolution is subject to limited referendum for a period of thirty days after the first publication of such notice and that, after such thirty-day period, the project and measures related to it will not be subject to any further right of referendum; and (ii) for projects for which applicable statutes do not require an ordinance or resolution of necessity, notice shall be given by publication of a notice concerning such projects stating in general terms the nature of the project and the engineer's estimate of costs of such project and stating that the project described in the notice is subject to limited referendum for a period of thirty days after the first publication of such notice and that, after such thirty-day period, the project and measures related to it will not be subject to any further right of referendum. The notice required by subdivision (c)(ii) of this subsection shall be published in at least one legal newspaper in or of general circulation within the municipality and shall be published not later than fifteen days after passage by the governing body, including an override of a veto, if necessary, of a measure approving the project.

The right of a municipality to hold such a hearing prior to passage of the measure by the governing body and give such notice after passage of such measure by the governing body to obtain exemption for any particular project in a manner described in this subsection is optional, and no municipality shall be required to hold such a hearing or give such notice for any particular project.

(5) Nothing in subsections (2) and (4) of this section shall be construed as subjecting to limited referendum any measure related to matters subject to the provisions of the Municipal Natural Gas System Condemnation Act.

(6) All measures, except as provided in subsections (1), (2), and (4) of this section, shall be subject to the referendum procedure at any time after such measure has been passed by the governing body, including an override of a veto, if necessary, or enacted by the voters by initiative.

Source: Laws 1982, LB 807, § 28; Laws 1984, LB 1010, § 18; Laws 1992, LB 1257, § 65; Laws 1994, LB 76, § 504; Laws 2000, LB 582, § 1; Laws 2002, LB 384, § 28; Laws 2021, LB163, § 180.
Effective date August 28, 2021.

Cross References

Integrated Solid Waste Management Act, see section 13-2001.
Municipal Natural Gas System Condemnation Act, see section 19-4624.
Nebraska Budget Act, see section 13-501.

18-2529 Referendum petition; failure of governing body to act; effect; special election.

Whenever a referendum petition bearing signatures equal in number to at least fifteen percent of the qualified electors of a municipality has been filed with the city clerk and verified pursuant to section 18-2518, it shall be the duty of the governing body of the municipality to reconsider the measure or portion of such measure which is the object of the referendum. If the governing body fails to repeal or amend the measure or portion thereof in the manner proposed by the referendum, including an override of any veto, if necessary, within thirty days from the date the governing body receives notification pursuant to section 18-2518, the city clerk shall cause the measure to be submitted to a vote of the people at the next regularly scheduled primary or general election held within the municipality. If the governing body desires to submit the measure to a vote of the people at a special election prior to the next regularly scheduled primary or general election held within the municipality, the governing body shall, by resolution, direct the city clerk to cause the measure to be submitted at a special election. Such resolution shall not be subject to referendum or limited referendum.

Source: Laws 1982, LB 807, § 29; Laws 1984, LB 1010, § 19; Laws 2021, LB163, § 181.
Effective date August 28, 2021.

18-2530 Referendum petition; request for special election; failure of governing body to act; effect.

Whenever a referendum petition bearing signatures equal in number to at least twenty percent of the qualified voters of a municipality, which petition requests that a special election be called to submit the referendum measure to a vote of the people, has been filed with the city clerk and verified pursuant to

section 18-2518, it shall be the duty of the governing body of the municipality to reconsider the measure or portion of such measure which is the object of the referendum. If the governing body fails to repeal or amend the measure or portion thereof, in the manner proposed by the referendum, including an override of any veto, if necessary, the city clerk shall cause the measure to be submitted to a vote of the people at a special election called for such purpose within thirty days from the date the governing body received notification pursuant to section 18-2518. Subject to the provisions of section 18-2521, the date of such special election shall be set during the first available month that complies with sections 32-405 and 32-559.

Source: Laws 1982, LB 807, § 30; Laws 1984, LB 1010, § 20; Laws 1994, LB 76, § 505; Laws 2021, LB163, § 182.
Effective date August 28, 2021.

18-2532 False affidavit; false oath; penalty.

Whoever knowingly or willfully makes a false affidavit or takes a false oath regarding the qualifications of any person to sign petitions under the Municipal Initiative and Referendum Act shall be guilty of a Class I misdemeanor with a fine not to exceed three hundred dollars.

Source: Laws 1982, LB 807, § 32; Laws 2021, LB163, § 183.
Effective date August 28, 2021.

18-2533 Petitions; illegal acts; penalty.

Whoever falsely makes or willfully destroys a petition or any part thereof, or signs a false name thereto, or signs or files any petition knowing the same or any part thereof to be falsely made, or suppresses any petition, or any part thereof, which has been duly filed, pursuant to the Municipal Initiative and Referendum Act shall be guilty of a Class I misdemeanor with a fine not to exceed five hundred dollars.

Source: Laws 1982, LB 807, § 33; Laws 2021, LB163, § 184.
Effective date August 28, 2021.

18-2534 Signing of petition; illegal acts; penalty.

Whoever signs any petition under the Municipal Initiative and Referendum Act, knowing that he or she is not a registered voter in the place where such petition is made, aids or abets any other person in doing any of the acts mentioned in this section, bribes or gives or pays any money or thing of value to any person directly or indirectly to induce him or her to sign such petition, or engages in any deceptive practice intended to induce any person to sign a petition, shall be guilty of a Class I misdemeanor with a fine not to exceed three hundred dollars.

Source: Laws 1982, LB 807, § 34; Laws 2021, LB163, § 185.
Effective date August 28, 2021.

18-2535 City clerk; illegal acts; penalty.

Any city clerk who willfully refuses to comply with the Municipal Initiative and Referendum Act or who willfully causes unreasonable delay in the execution of his or her duties under the Municipal Initiative and Referendum Act

shall be guilty of a Class I misdemeanor, but imprisonment shall not be included as part of the punishment.

Source: Laws 1982, LB 807, § 35; Laws 1984, LB 1010, § 21; Laws 2021, LB163, § 186.
Effective date August 28, 2021.

18-2536 Election Act; applicability.

The Election Act, so far as applicable and when not in conflict with the Municipal Initiative and Referendum Act, shall apply to voting on ordinances by the registered voters pursuant to the Municipal Initiative and Referendum Act.

Source: Laws 1982, LB 807, § 36; Laws 1994, LB 76, § 506; Laws 2021, LB163, § 187.
Effective date August 28, 2021.

Cross References

Election Act, see section 32-101.

18-2537 Municipal Initiative and Referendum Act; inapplicability.

Nothing in the Municipal Initiative and Referendum Act shall apply to procedures for initiatives or referendums provided in sections 14-210 to 14-212 relating to cities of the metropolitan class, sections 18-412 and 18-412.02 relating to municipal light and power plants, sections 70-504 and 70-650.01 relating to public power districts, and sections 80-203 to 80-205 relating to soldiers and sailors monuments.

Source: Laws 1982, LB 807, § 37; Laws 2021, LB163, § 188.
Effective date August 28, 2021.

18-2538 Declaratory judgment; procedure; effect.

The municipality or any chief petitioner may seek a declaratory judgment regarding any questions arising under the Municipal Initiative and Referendum Act, as it may be from time to time amended, including, but not limited to, determining whether a measure is subject to referendum or limited referendum or whether a measure may be enacted by initiative. If a chief petitioner seeks a declaratory judgment, the municipality shall be served as provided in section 25-510.02. If the municipality seeks a declaratory judgment, only the chief petitioner or chief petitioners shall be required to be served. Any action brought for declaratory judgment for purposes of determining whether a measure is subject to limited referendum or referendum, or whether a measure may be enacted by initiative, may be filed in the district court at any time after the filing of a referendum or initiative petition with the city clerk for signature verification until forty days from the date the governing body received notification pursuant to section 18-2518. If the municipality does not bring an action for declaratory judgment to determine whether the measure is subject to limited referendum or referendum, or whether the measure may be enacted by initiative until after it has received notification pursuant to section 18-2518, it shall be required to proceed with the initiative or referendum election in accordance with the Municipal Initiative and Referendum Act. If the municipality does file such an action prior to receiving notification pursuant to section 18-2518, it shall not be required to proceed to hold such election until a final

decision has been rendered in the action. Any action for a declaratory judgment shall be governed generally by sections 25-21,149 to 25-21,164, as amended from time to time, except that only the municipality and each chief petitioner shall be required to be made parties. The municipality, city clerk, governing body, or any other officers of the municipality shall be entitled to rely on any order rendered by the court in any such proceeding. Any action brought for declaratory judgment pursuant to this section shall be given priority in scheduling hearings and in disposition as determined by the court. When an action is brought to determine whether the measure is subject to limited referendum or referendum, or whether a measure may be enacted by initiative, a decision shall be rendered by the court no later than five days prior to the election. The provisions of this section relating to declaratory judgments shall not be construed as limiting, but construed as supplemental and additional to other rights and remedies conferred by law.

Source: Laws 1984, LB 1010, § 8; Laws 2021, LB163, § 189.
Effective date August 28, 2021.

ARTICLE 26
INFRASTRUCTURE REDEVELOPMENT

Section
18-2601. Repealed. Laws 2021, LB509, § 25.
18-2602. Repealed. Laws 2021, LB509, § 25.
18-2603. Repealed. Laws 2021, LB509, § 25.
18-2604. Repealed. Laws 2021, LB509, § 25.
18-2605. Repealed. Laws 2021, LB509, § 25.
18-2606. Repealed. Laws 2021, LB509, § 25.
18-2607. Repealed. Laws 2021, LB509, § 25.
18-2608. Repealed. Laws 2021, LB509, § 25.
18-2609. Repealed. Laws 2021, LB509, § 25.

18-2601 Repealed. Laws 2021, LB509, § 25.

18-2602 Repealed. Laws 2021, LB509, § 25.

18-2603 Repealed. Laws 2021, LB509, § 25.

18-2604 Repealed. Laws 2021, LB509, § 25.

18-2605 Repealed. Laws 2021, LB509, § 25.

18-2606 Repealed. Laws 2021, LB509, § 25.

18-2607 Repealed. Laws 2021, LB509, § 25.

18-2608 Repealed. Laws 2021, LB509, § 25.

18-2609 Repealed. Laws 2021, LB509, § 25.

ARTICLE 27
MUNICIPAL ECONOMIC DEVELOPMENT

Section
18-2705. Economic development program, defined.
18-2708. Local sources of revenue, defined.
18-2709. Qualifying business, defined.
18-2717. Appropriations; restrictions.

Section
18-2722. Continuation of program; election; procedure.
18-2737. Economic development program approved prior to June 1, 1993; bond issuance; authorized; procedure.

18-2705 Economic development program, defined.

(1) Economic development program means any project or program utilizing funds derived from local sources of revenue for the purpose of providing direct or indirect financial assistance to a qualifying business or the payment of related costs and expenses or both, without regard to whether that business is identified at the time the project or program is initiated or is to be determined by specified means at some time in the future.

(2) An economic development program may include, but shall not be limited to, the following activities: Direct loans or grants to qualifying businesses for fixed assets or working capital or both; loan guarantees for qualifying businesses; grants for public works improvements which are essential to the location or expansion of, or the provision of new services by, a qualifying business; grants or loans to qualifying businesses for job training; the purchase of real estate, options for such purchases, and the renewal or extension of such options; grants or loans to qualifying businesses to provide relocation incentives for new residents; the issuance of bonds as provided for in the Local Option Municipal Economic Development Act; and payments for salaries and support of city staff to implement the economic development program or the contracting of such to an outside entity.

(3) For cities of the first class, cities of the second class, and villages, an economic development program may also include:

(a) Grants or loans for the construction or rehabilitation for sale or lease of housing for persons of low or moderate income;

(b) Grants, loans, or funds for rural infrastructure development as defined in section 66-2102;

(c) Grants or loans for the construction or rehabilitation for sale or lease of housing as part of a workforce housing plan; or

(d) Grants, loans, or funds for early childhood infrastructure development.

(4) An economic development program may be conducted jointly by two or more cities after the approval of the program by the voters of each participating city.

Source: Laws 1991, LB 840, § 6; Laws 1993, LB 732, § 17; Laws 1995, LB 207, § 3; Laws 2001, LB 827, § 13; Laws 2012, LB1115, § 8; Laws 2013, LB295, § 1; Laws 2015, LB150, § 1; Laws 2016, LB1059, § 4; Laws 2019, LB160, § 1; Laws 2021, LB163, § 190. Effective date August 28, 2021.

18-2708 Local sources of revenue, defined.

Local sources of revenue means the city's property tax, the city's local option sales tax, or any other general tax levied by the city or generated from municipally owned utilities or grants, donations, or state and federal funds received by the city subject to any restrictions of the grantor, donor, or state or federal law. Funds generated from municipally owned utilities shall be used for utility-related purposes or activities associated with the economic development program as determined by the governing body, including, but not limited to,

load management, energy efficiency, energy conservation, incentives for load growth, line extensions, land purchase, site development, and demand side management measures.

Source: Laws 1991, LB 840, § 9; Laws 2011, LB471, § 1; Laws 2021, LB163, § 191.
Effective date August 28, 2021.

18-2709 Qualifying business, defined.

(1) Qualifying business means any corporation, partnership, limited liability company, or sole proprietorship which derives its principal source of income from any of the following: The manufacture of articles of commerce; the conduct of research and development; the processing, storage, transport, or sale of goods or commodities which are sold or traded in interstate commerce; the sale of services in interstate commerce; headquarters facilities relating to eligible activities as listed in this section; telecommunications activities, including services providing advanced telecommunications capability; tourism-related activities; or the production of films, including feature, independent, and documentary films, commercials, and television programs.

(2) Qualifying business also means:

(a) In cities of the first class, cities of the second class, and villages, a business that derives its principal source of income from the construction or rehabilitation of housing;

(b) In cities of the first class, cities of the second class, and villages, a business that derives its principal source of income from early childhood care and education programs;

(c) A business that derives its principal source of income from retail trade, except that no more than forty percent of the total revenue generated pursuant to the Local Option Municipal Economic Development Act for an economic development program in any twelve-month period and no more than twenty percent of the total revenue generated pursuant to the act for an economic development program in any five-year period, commencing from the date of municipal approval of an economic development program, shall be used by the city for or devoted to the use of retail trade businesses. For purposes of this subdivision, retail trade means a business which is principally engaged in the sale of goods or commodities to ultimate consumers for their own use or consumption and not for resale; and

(d) In cities with a population of two thousand five hundred inhabitants or less as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census, a business shall be a qualifying business even though it derives its principal source of income from activities other than those set out in this section.

(3) If a business which would otherwise be a qualifying business employs people and carries on activities in more than one city in Nebraska or will do so at any time during the first year following its application for participation in an economic development program, it shall be a qualifying business only if, in each such city, it maintains employment for the first two years following the date on which such business begins operations in the city as a participant in its economic development program at a level not less than its average employment in such city over the twelve-month period preceding participation.

(4) A qualifying business need not be located within the territorial boundaries of the city from which it is or will be receiving financial assistance.

(5) Qualifying business does not include a political subdivision, a state agency, or any other governmental entity, except as allowed for cities of the first class, cities of the second class, and villages for rural infrastructure development as provided for in subdivision (3)(b) of section 18-2705.

Source: Laws 1991, LB 840, § 10; Laws 1993, LB 121, § 145; Laws 1993, LB 732, § 18; Laws 1994, LB 1188, § 1; Laws 1995, LB 207, § 4; Laws 2001, LB 827, § 14; Laws 2011, LB471, § 2; Laws 2012, LB863, § 2; Laws 2015, LB150, § 2; Laws 2017, LB113, § 22; Laws 2019, LB160, § 2; Laws 2021, LB163, § 192.
Effective date August 28, 2021.

18-2717 Appropriations; restrictions.

(1) No city of the metropolitan class or primary class shall appropriate from funds derived directly from local sources of revenue more than five million dollars for all approved economic development programs in any one year, no city of the first class shall appropriate from funds derived directly from local sources of revenue more than four million dollars for all approved economic development programs in any one year, and no city of the second class or village shall appropriate from funds derived directly from local sources of revenue more than three million dollars for all approved economic development programs in any one year.

(2) Notwithstanding the provisions of subsection (1) of this section, no city shall appropriate from funds derived directly from local sources of revenue an amount for an economic development program in excess of the total amount approved by the voters at the election or elections in which the economic development program was submitted or amended.

(3) The restrictions on the appropriation of funds from local sources of revenue as set out in subsections (1) and (2) of this section shall apply only to the appropriation of funds derived directly from local sources of revenue. Sales tax collections in excess of the amount which may be appropriated as a result of the restrictions set out in such subsections shall be deposited in the city's economic development fund and invested as provided for in section 18-2718. Any funds in the city's economic development fund not otherwise restricted from appropriation by reason of the city's ordinance governing the economic development program or this section may be appropriated and spent for the purposes of the economic development program in any amount and at any time at the discretion of the governing body of the city subject only to section 18-2716.

(4) The restrictions on the appropriation of funds from local sources of revenue shall not apply to the reappropriation of funds which were appropriated but not expended during previous fiscal years.

Source: Laws 1991, LB 840, § 18; Laws 1992, LB 719A, § 79; Laws 1993, LB 732, § 24; Laws 2000, LB 1258, § 1; Laws 2011, LB471, § 4; Laws 2018, LB614, § 1; Laws 2021, LB163, § 193.
Effective date August 28, 2021.

18-2722 Continuation of program; election; procedure.

(1) The registered voters of any city that has established an economic development program shall, at any time after one year following the original vote on the program, have the right to vote on the continuation of the economic development program. The question shall be submitted to the voters whenever petitions calling for its submission, signed by registered voters of the city in number equal to at least twenty percent of the number of persons voting in the city at the last preceding general election, are presented to the governing body of the city.

(2) Upon the receipt of the petitions, the governing body of the city shall submit the question at a special election to be held not less than thirty days nor more than forty-five days after receipt of the petitions, except that if any other election is to be held in such city within ninety days of the receipt of the petitions, the governing body may provide for holding the election on the same date.

(3) Notwithstanding the provisions of subsection (2) of this section, if two-thirds of the members of the governing body of the city vote to repeal the ordinance establishing the economic development program within fifteen days of the receipt of the petitions for an election, the economic development program shall end and the election shall not be held.

(4) The governing body shall give notice of the submission of the question of whether to continue the economic development program not more than twenty days nor less than ten days prior to the election by publication one time in one or more legal newspapers published in or of general circulation in the city in which the question is to be submitted. Such notice shall be in addition to any other notice required by the election laws of the state.

(5) The question on the ballot shall generally set out the basic terms and provisions of the economic development program as required for the initial submission, except that the question shall be: ''Shall the city of (name of the city) continue its economic development program?''.

(6) A majority of the registered voters voting on the question at the election shall determine the question. The final vote shall be binding on the city, and the governing body of the city shall act within sixty days of the certification of the vote by the county clerk or the election commissioner to repeal the ordinance establishing the economic development program if a majority of the voters voting on the question vote to discontinue the program.

(7) The repeal of the ordinance and the discontinuation of the economic development program shall be subject only to the provisions of any contracts related to the economic development program and the rights of any third parties arising from those contracts existing on the date of the election. Any funds collected by the city under the economic development program and unexpended for that program on the date of its repeal and any funds received by the city on account of the operation of the economic development program thereafter shall be deposited in the general fund of the city.

Source: Laws 1991, LB 840, § 23; Laws 2021, LB163, § 194.
Effective date August 28, 2021.

18-2737 Economic development program approved prior to June 1, 1993; bond issuance; authorized; procedure.

(1) Any city which has received voter approval to conduct an economic development program pursuant to the Local Option Municipal Economic Development Act prior to June 1, 1993, may, subject to subsection (2) of this section, issue bonds as provided by the act even though the proposed plan prepared pursuant to section 18-2710 did not contemplate or provide for the issuance of bonds and the question on the ballot approved by the voters did not set out that the city proposed to issue bonds to provide funds to carry out the economic development program.

(2) The governing body of any city proposing to issue bonds pursuant to the authority granted by subsection (1) of this section shall adopt a resolution expressing the intent of the city to issue bonds from time to time pursuant to the act to provide funds to carry out the economic development program. Such resolution shall set a date for a public hearing on the issue of exercising such authority, and notice of such hearing shall be published in a legal newspaper in or of general circulation in the city at least seven days prior to the date of such hearing. Following such hearing, the governing body of the city shall amend or incorporate into the ordinance adopted pursuant to section 18-2714 a provision authorizing the governing body to exercise, in the manner set forth in the act, the authority granted by the act to issue bonds to provide funds to carry out the economic development program.

(3) Any city desiring to exercise the authority granted by this section which complies with the provisions of subsection (2) of this section may exercise the authority to issue bonds as provided in the act.

Source: Laws 1993, LB 732, § 14; Laws 2021, LB163, § 195.
Effective date August 28, 2021.

ARTICLE 28

MUNICIPAL PROPRIETARY FUNCTIONS

Section
18-2803. Terms, defined.
18-2806. Proposed proprietary budget statement; hearing; procedure; adopted statement; filing.
18-2807. Proprietary function reconciliation statement; when adopted; filing; public hearing; when.

18-2803 Terms, defined.

For purposes of the Municipal Proprietary Function Act:

(1) Fiscal year shall mean the twelve-month period established by each governing body for each proprietary function of municipal government for determining and carrying on its financial affairs for each proprietary function;

(2) Governing body shall mean the city council in the case of a city of any class, including any city with a home rule charter, and the village board of trustees in the case of a village;

(3) Municipal budget statement shall mean a budget statement adopted by a governing body for nonproprietary functions of the municipality under the Nebraska Budget Act;

(4) Proprietary budget statement shall mean a budget adopted by a governing body for each proprietary function pursuant to the Municipal Proprietary Function Act; and

(5) Proprietary function shall mean a water supply or distribution utility, a wastewater collection or treatment utility, an electric generation, transmission, or distribution utility, a gas supply, transmission, or distribution utility, an integrated solid waste management collection, disposal, or handling utility, or a hospital or a nursing home owned by a municipality.

Source: Laws 1993, LB 734, § 3; Laws 2021, LB163, § 196.
Effective date August 28, 2021.

Cross References

Nebraska Budget Act, see section 13-501.

18-2806 Proposed proprietary budget statement; hearing; procedure; adopted statement; filing.

(1) After a proposed proprietary budget statement is filed with the municipal clerk, the governing body shall conduct a public hearing on such statement. Notice of the time and place of the hearing, a summary of the proposed proprietary budget statement, and notice that the full proposed proprietary budget statement is available for public review with the municipal clerk during normal business hours shall be published one time at least five days prior to the hearing in a legal newspaper in or of general circulation within the governing body's jurisdiction or by mailing to each resident within the governing body's jurisdiction.

(2) After such hearing, the proposed proprietary budget statement shall be adopted or amended and adopted as amended, and a written record shall be kept of such hearing. If the adopted proprietary budget statement reflects a change from the proposed proprietary budget statement presented at the hearing, a copy of the adopted proprietary budget statement shall be filed with the municipal clerk within twenty days after its adoption and published in a legal newspaper in or of general circulation within the governing body's jurisdiction or by mailing to each resident within the governing body's jurisdiction.

Source: Laws 1993, LB 734, § 6; Laws 2021, LB163, § 197.
Effective date August 28, 2021.

18-2807 Proprietary function reconciliation statement; when adopted; filing; public hearing; when.

If the actual expenditures for a proprietary function exceed the estimated expenditures in the proprietary budget statement during its fiscal year, the governing body shall adopt a proprietary function reconciliation statement within ninety days after the end of such fiscal year which reflects any difference between the adopted proprietary budget statement for the previous fiscal year and the actual expenditures and revenue for such fiscal year. After adoption of a proprietary function reconciliation statement, it shall be filed with the municipal clerk and published in a legal newspaper in or of general circulation within the governing body's jurisdiction or by mailing to each resident within the governing body's jurisdiction. If the difference between the adopted proprietary budget for the previous fiscal year and the actual expenditures and

revenue for such fiscal year is greater than ten percent, the proprietary function reconciliation statement shall only be adopted following a public hearing.

Source: Laws 1993, LB 734, § 7; Laws 2021, LB163, § 198.
Effective date August 28, 2021.

ARTICLE 30
PLANNED UNIT DEVELOPMENT

Section
18-3001. Planned unit development ordinance; authorized; planned unit development approval; conditions.

18-3001 Planned unit development ordinance; authorized; planned unit development approval; conditions.

(1) Except as provided in subsection (5) of this section and notwithstanding any provisions of Chapter 14, article 4, Chapter 15, article 9, or Chapter 19, article 9, or of any home rule charter to the contrary, every city or village may include within its zoning ordinance provisions authorizing and regulating planned unit developments within such city or village or within the extraterritorial zoning jurisdiction of such city or village. As used in this section, planned unit development includes any development of a parcel of land or an aggregation of contiguous parcels of land to be developed as a single project which proposes density transfers, density increases, and mixing of land uses, or any combination thereof, based upon the application of site planning criteria. The purpose of such ordinance shall be to permit flexibility in the regulation of land development, to encourage innovation in land use and variety in design, layout, and type of structures constructed, to achieve economy and efficiency in the use of land, natural resources, and energy and the provision of public services and utilities, to encourage the preservation and provision of useful open space, and to provide improved housing, employment, or shopping opportunities particularly suited to the needs of an area.

(2) An ordinance authorizing and regulating planned unit developments shall establish criteria relating to the review of proposed planned unit developments to ensure that the land use or activity proposed through a planned unit development shall be compatible with adjacent uses of land and the capacities of public services and utilities affected by such planned unit development and to ensure that the approval of such planned unit development is consistent with the public health, safety, and general welfare of the city or village and is in accordance with the comprehensive plan.

(3) Within a planned unit development, regulations relating to the use of land, including permitted uses, lot sizes, setbacks, height limits, required facilities, buffers, open spaces, roadway and parking design, and land-use density shall be determined in accordance with the planned unit development regulations specified in the zoning ordinance. The planned unit development regulations need not be uniform with regard to each type of land use.

(4) The approval of planned unit developments, as authorized under a planned unit development ordinance, shall be generally similar to the procedures established for the approval of zone changes. In approving any planned unit development, a city or village may, either as a condition of the ordinance approving a planned unit development, by covenant, by separate agreement, or otherwise, impose reasonable conditions as deemed necessary to ensure that a

planned unit development shall be compatible with adjacent uses of land, will not overburden public services and facilities, and will not be detrimental to the public health, safety, and welfare. Such conditions or agreements may provide for dedications of land for public purposes.

(5) Except as provided in subsection (6) of this section, a city of the second class or village located in a county that has adopted a comprehensive development plan which meets the requirements of section 23-114.02 and is enforcing subdivision regulations shall not finally approve a planned unit development upon property located outside of the corporate boundaries of the city or village until the plans for the planned unit development have been submitted to, reviewed, and approved by the county's planning commission pursuant to subsection (4) of section 17-1002.

(6) A city of the second class or village located in whole or in part within the boundaries of a county having a population in excess of one hundred thousand inhabitants but less than two hundred fifty thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census that has adopted a comprehensive development plan which meets the requirements of section 23-114.02 and is enforcing subdivision regulations shall not finally approve a planned unit development upon property located outside of the corporate boundaries of the city or village until the plans for the planned unit development have been submitted to the county's planning department and public works department for review.

Source: Laws 1983, LB 135, § 1; R.S.1943, (2007), § 19-4401; Laws 2011, LB146, § 1; Laws 2016, LB875, § 1; Laws 2017, LB74, § 4; Laws 2021, LB163, § 199.
Effective date August 28, 2021.

ARTICLE 33
CORPORATE LIMITS

(c) DETACHMENT

Section
18-3316. Detachment of property from corporate limits; procedure.

(c) DETACHMENT

18-3316 Detachment of property from corporate limits; procedure.

(1) Any person owning real property located within and adjacent to the corporate limits of a city of the first class, city of the second class, or village seeking to have such property detached from the corporate limits of such city or village may file a request with the city council or village board of trustees asking that such property be detached. The request shall contain the legal description of the property sought to be detached. If the city council or village board of trustees determines that the property meets the requirements of this section and that all or a part of such property ought to be detached, the city council or village board of trustees shall adopt an ordinance by a majority vote of its members to order such property detached from the corporate limits of the city or village. The city clerk or village clerk shall file a certified copy of such ordinance in the office of the register of deeds and of the election commissioner or county clerk of the county in which such property is located.

(2) A city of any class or village may initiate detachment of any real property located within and adjacent to the corporate limits of such city or village by first publishing notice in a legal newspaper in or of general circulation in the city or village of the intention of the city or village to detach such property. Such notice shall include a legal description of the property to be detached and shall provide the date, time, and place of the meeting at which the ordinance ordering such property to be detached will be voted on by the city council or village board of trustees. If, by a majority vote of its members, the city council or village board of trustees adopts the ordinance ordering such property detached from the corporate limits of the city or village, the city clerk or village clerk shall file a certified copy of such ordinance in the office of the register of deeds and of the election commissioner or county clerk of the county in which such property is located.

Source: Laws 2021, LB131, § 15.
Operative date August 28, 2021.

CHAPTER 19
CITIES AND VILLAGES; LAWS APPLICABLE TO MORE THAN ONE AND LESS THAN ALL CLASSES

ARTICLE 55
MUNICIPAL DENSITY AND MISSING MIDDLE HOUSING ACT

19-5505 Affordable housing action plan; required; failure to adopt; effect.

(1) On or before January 1, 2023, each city with a population of fifty thousand or more inhabitants shall adopt an affordable housing action plan. On or before January 1, 2024, each city with a population of less than fifty thousand inhabitants shall adopt an affordable housing action plan. Such action plan shall include, but not be limited to:

(a) Goals for the construction of new affordable housing units, including multifamily housing and middle housing, with specific types and numbers of units, geographic locations, and specific actions to encourage the development of affordable housing, middle housing, and workforce housing;

(b) Goals for a percentage of areas in the city zoned for residential use which permit the construction of multifamily housing and middle housing;

(c) Plans for the use of federal, state, and local incentives to encourage affordable housing, middle housing, and workforce housing, including the Affordable Housing Trust Fund, the Local Option Municipal Economic Development Act, tax-increment financing, federal community development block grants, density bonuses, and other nonmonetary regulatory relief; and

(d) Updates to the city's zoning codes, ordinances, and regulations to incentivize affordable housing.

(2) An affordable housing action plan required under subsection (1) of this section may be adopted as part of a city's comprehensive plan or as a separate plan.

(3) Any city which fails to adopt an affordable housing action plan as required under subsection (1) of this section shall be required to allow the development of:

(a) Middle housing in all areas in the city zoned for residential use that allow for the development of detached single-family dwellings; and

(b) A duplex on each lot or parcel zoned for residential use that allows for the development of detached single-family dwellings.

(4) A city shall amend any building zoning ordinances or regulations as needed to comply with subsection (3) of this section.

Source: Laws 2020, LB866, § 5; Laws 2021, LB44, § 1.
Effective date August 28, 2021.

Cross References

Local Option Municipal Economic Development Act, see section 18-2701.

ARTICLE 56
MUNICIPAL NATURAL GAS SYSTEM EMERGENCY ASSISTANCE ACT

Section
19-5601. Act, how cited.
19-5602. Act; purpose.
19-5603. Terms, defined.
19-5604. Extreme weather event; extraordinary costs; grant; application.
19-5605. Municipal Natural Gas System Emergency Assistance Fund; created; use; investment.
19-5606. Report.
19-5607. Rules and regulations.
19-5608. Act; termination; transfer unobligated money.

19-5601 Act, how cited.

Sections 19-5601 to 19-5608 shall be known and may be cited as the Municipal Natural Gas System Emergency Assistance Act.

Source: Laws 2021, LB131, § 1.
Operative date May 26, 2021.
Termination date June 30, 2023.

19-5602 Act; purpose.

The purpose of the Municipal Natural Gas System Emergency Assistance Act is to assist municipalities which own and operate a natural gas plant or natural gas system in addressing extraordinary costs due to extreme weather events.

Source: Laws 2021, LB131, § 2.
Operative date May 26, 2021.
Termination date June 30, 2023.

19-5603 Terms, defined.

For purposes of the Municipal Natural Gas System Emergency Assistance Act:

(1) Extraordinary costs means expenses that exceed the usual, average, or budgeted costs related to procuring and delivering natural gas, including the purchase of spot or incremental natural gas, costs related to propane injection, and pipeline charges beyond the scope of normal and customary charges;

(2) Extreme weather event means a weather event occurring on or after January 1, 2021, including, but not limited to, snow, rain, drought, flood, storm, extreme heat, or extreme cold, that generates extraordinary costs related to such event; and

(3) Municipality means any city of the first class, city of the second class, or village which owns or operates a natural gas plant or natural gas system.

Source: Laws 2021, LB131, § 3.
Operative date May 26, 2021.
Termination date June 30, 2023.

19-5604 Extreme weather event; extraordinary costs; grant; application.

A municipality may apply to the State Treasurer for a grant under the Municipal Natural Gas System Emergency Assistance Act to cover up to eighty percent of the extraordinary costs incurred by such municipality as a result of an extreme weather event. Applications shall be submitted on a form prescribed by the State Treasurer. Each application shall include the amount of grant funds requested, the date or dates of the extreme weather event, and documentation of the extraordinary costs incurred as a result of such extreme weather event. The State Treasurer shall consider applications in the order in which they are received and may approve applications within the limits of available appropriations. The State Treasurer shall not be required to verify the information provided in the application.

Source: Laws 2021, LB131, § 4.
Operative date May 26, 2021.
Termination date June 30, 2023.

19-5605 Municipal Natural Gas System Emergency Assistance Fund; created; use; investment.

The Municipal Natural Gas System Emergency Assistance Fund is created. The fund shall be used by the State Treasurer to make grants to municipalities under the Municipal Natural Gas System Emergency Assistance Act and to defray any administrative expenses incurred by the State Treasurer in carrying out the act. The fund shall consist of appropriations made by the Legislature, transfers authorized by the Legislature, and any federal funds which may become available for the purposes of the act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2021, LB131, § 5.
Operative date May 26, 2021.
Termination date June 30, 2023.

Cross References

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

19-5606 Report.

On or before December 31 of each year, the State Treasurer shall electronically submit a report to the Urban Affairs Committee of the Legislature documenting the grants approved under the Municipal Natural Gas System Emergency Assistance Act during the calendar year.

Source: Laws 2021, LB131, § 6.
Operative date May 26, 2021.
Termination date June 30, 2023.

19-5607 Rules and regulations.

The State Treasurer may adopt and promulgate rules and regulations to carry out the Municipal Natural Gas System Emergency Assistance Act.

Source: Laws 2021, LB131, § 7.
Operative date May 26, 2021.
Termination date June 30, 2023.

19-5608 Act; termination; transfer unobligated money.

The Municipal Natural Gas System Emergency Assistance Act terminates on June 30, 2023. The State Treasurer shall transfer any unobligated money remaining in the Municipal Natural Gas System Emergency Assistance Fund on such date to the General Fund.

Source: Laws 2021, LB131, § 8.
Operative date May 26, 2021.
Termination date June 30, 2023.

CHAPTER 20
CIVIL RIGHTS

Article.
1. Individual Rights.
   (a) General Provisions. 20-113.
   (b) Persons with Disabilities. 20-126 to 20-131.04.
   (c) Public Accommodations. 20-132 to 20-139.
3. Housing. 20-301 to 20-325.

ARTICLE 1
INDIVIDUAL RIGHTS

(a) GENERAL PROVISIONS

Section
20-113. Protection of civil rights; incorporated cities; ordinances; county; resolutions; powers; jurisdiction; revocation of liquor license, when.

(b) PERSONS WITH DISABILITIES

20-126. Statement of policy.
20-126.01. Disability, defined.
20-127. Rights enumerated.
20-128. Pedestrian using cane or service animal; driver of vehicle; duties; violation; damages.
20-129. Denying or interfering with admittance to public facilities; penalty.
20-130. White Cane Safety Day; proclamation; Governor issue.
20-131.01. Full and equal enjoyment of housing accommodations; statement of policy.
20-131.02. Housing accommodations; terms, defined.
20-131.04. Service animal; access to housing accommodations; terms and conditions.

(c) PUBLIC ACCOMMODATIONS

20-132. Full and equal enjoyment of accommodations.
20-134. Discriminatory practices; violation; penalty.
20-139. Nebraska Fair Housing Act, free speech, and public accommodations law; administered by Equal Opportunity Commission; powers.

(a) GENERAL PROVISIONS

20-113 Protection of civil rights; incorporated cities; ordinances; county; resolutions; powers; jurisdiction; revocation of liquor license, when.

Any incorporated city may enact ordinances and any county may adopt resolutions which are substantially equivalent to the Age Discrimination in Employment Act, the Nebraska Fair Employment Practice Act, the Nebraska Fair Housing Act, and sections 20-126 to 20-143 and 48-1219 to 48-1227 or which are more comprehensive than such acts and sections in the protection of civil rights. No such ordinance or resolution shall place a duty or liability on any person, other than an employer, employment agency, or labor organization, for acts similar to those prohibited by section 48-1115. Such ordinance or resolution may include authority for a local agency to seek an award of damages or other equitable relief on behalf of the complainant by the filing of a petition in the district court in the county with appropriate jurisdiction. The local agency shall have within its authority jurisdiction substantially equivalent

to or more comprehensive than the Equal Opportunity Commission or other enforcement agencies provided under such acts and sections and shall have authority to order backpay and other equitable relief or to enforce such orders or relief in the district court with appropriate jurisdiction. Certified copies of such ordinances or resolutions shall be transmitted to the commission. When the commission determines that any such city or county has enacted an ordinance or adopted a resolution that is substantially equivalent to such acts and sections or is more comprehensive than such acts and sections in the protection of civil rights and has established a local agency to administer such ordinance or resolution, the commission may thereafter refer all complaints arising in such city or county to the appropriate local agency. All complaints arising within a city shall be referred to the appropriate agency in such city when both the city and the county in which the city is located have established agencies pursuant to this section. When the commission refers a complaint to a local agency, it shall take no further action on such complaint if the local agency proceeds promptly to handle such complaint pursuant to the local ordinance or resolution. If the commission determines that a local agency is not handling a complaint with reasonable promptness or that the protection of the rights of the parties or the interests of justice require such action, the commission may regain jurisdiction of the complaint and proceed to handle it in the same manner as other complaints which are not referred to local agencies. In cases of conflict between this section and section 20-332, for complaints subject to the Nebraska Fair Housing Act, section 20-332 shall control.

Any club which has been issued a license by the Nebraska Liquor Control Commission to sell, serve, or dispense alcoholic liquor shall have that license revoked if the club discriminates because of race, color, religion, sex, familial status as defined in section 20-311, disability as defined in section 20-308.01, or national origin in the sale, serving, or dispensing of alcoholic liquor to any person who is a guest of a member of such club. The procedure for revocation shall be as prescribed in sections 53-134.04, 53-1,115, and 53-1,116.

Source: Laws 1969, c. 120, § 9, p. 544; Laws 1974, LB 681, § 1; Laws 1979, LB 438, § 2; Laws 1991, LB 344, § 1; Laws 1991, LB 825, § 46; Laws 2007, LB265, § 2; Laws 2021, LB540, § 2.
Effective date August 28, 2021.

Cross References

Age Discrimination in Employment Act, see section 48-1001.
Nebraska Fair Employment Practice Act, see section 48-1125.
Nebraska Fair Housing Act, see section 20-301.

(b) PERSONS WITH DISABILITIES

20-126 Statement of policy.

It is the policy of this state to encourage and enable persons with disabilities to participate fully in the social and economic life of the state and to engage in remunerative employment.

Source: Laws 1971, LB 496, § 1; R.S.Supp.,1971, § 43-633; Laws 1980, LB 932, § 1; Laws 1997, LB 254, § 2; Laws 2019, LB248, § 1; Laws 2021, LB540, § 3.
Effective date August 28, 2021.

20-126.01 Disability, defined.

For purposes of sections 20-126 to 20-131, disability has the same meaning as in 42 U.S.C. 12102, as such section existed on January 1, 2021.

Source: Laws 1997, LB 254, § 1; Laws 2008, LB806, § 5; Laws 2021, LB540, § 4.
Effective date August 28, 2021.

20-127 Rights enumerated.

(1) A person with a disability has the same right as any other person to the full and free use of the streets, highways, sidewalks, walkways, public buildings, public facilities, and other public places.

(2) A person with a disability is entitled to full and equal accommodations, advantages, facilities, and privileges of all common carriers, airplanes, motor vehicles, railroad trains, motor buses, street cars, boats, any other public conveyances or modes of transportation, hotels, lodging places, places of public accommodation, amusement, or resort, and other places to which the general public is invited, subject only to the conditions and limitations established by law and applicable alike to all persons.

(3) A person with a disability has the right to be accompanied by a service animal, especially trained for the purpose, and a bona fide trainer of a service animal has the right to be accompanied by such animal in training in any of the places listed in subsection (2) of this section without being required to pay an extra charge for the service animal. Such person shall be liable for any damage done to the premises or facilities or to any person by such animal.

(4) A person who is totally or partially blind has the right to make use of a white cane in any of the places listed in subsection (2) of this section.

Source: Laws 1971, LB 496, § 2; R.S.Supp.,1971, § 43-634; Laws 1980, LB 932, § 2; Laws 1997, LB 254, § 3; Laws 2003, LB 667, § 1; Laws 2008, LB806, § 6; Laws 2021, LB540, § 5.
Effective date August 28, 2021.

20-128 Pedestrian using cane or service animal; driver of vehicle; duties; violation; damages.

In addition to the provisions of sections 28-1313 and 28-1314, the driver of a vehicle approaching a pedestrian who is totally or partially blind and carrying a cane predominantly white or metallic in color or using a service animal or a pedestrian who is deaf or hard of hearing or a pedestrian with a disability who is using a service animal shall take all necessary precautions to avoid injury to such pedestrian, and any driver who fails to take such precautions shall be liable in damages for any injury caused such pedestrian. A pedestrian who is totally or partially blind and not carrying such a cane or using a service animal or a pedestrian who is deaf or hard of hearing or a pedestrian with a disability who is not using a service animal in any of the places, accommodations, or conveyances listed in section 20-127 shall have all of the rights and privileges conferred by law upon other persons, and the failure of a pedestrian who is totally or partially blind to carry such a cane or to use a service animal or of a pedestrian who is deaf or hard of hearing or of a pedestrian with a disability to

use a service animal in any such places, accommodations, or conveyances does not constitute and is not evidence of contributory negligence.

Source: Laws 1971, LB 496, § 3; R.S.Supp.,1971, § 43-635; Laws 1978, LB 748, § 2; Laws 1980, LB 932, § 3; Laws 1997, LB 254, § 4; Laws 2008, LB806, § 7; Laws 2019, LB248, § 2; Laws 2021, LB540, § 6.
Effective date August 28, 2021.

20-129 Denying or interfering with admittance to public facilities; penalty.

(1) Any person or agent of such person who denies or interferes with admittance to or enjoyment of the public facilities enumerated in section 20-127 or otherwise interferes with the rights of a person who is totally or partially blind, who is deaf or hard of hearing, or who has a disability under section 20-127 or sections 20-131.01 to 20-131.04 is guilty of a Class III misdemeanor.

(2) Any person or agent of such person who denies or interferes with admittance to or enjoyment of the public facilities enumerated in section 20-127 or otherwise interferes with the rights of a bona fide trainer of a service animal when training such animal under section 20-127 is guilty of a Class III misdemeanor.

Source: Laws 1971, LB 496, § 4; R.S.Supp.,1971, § 43-636; Laws 1975, LB 83, § 5; Laws 1977, LB 40, § 76; Laws 1980, LB 932, § 4; Laws 1997, LB 254, § 5; Laws 2003, LB 667, § 2; Laws 2008, LB806, § 8; Laws 2021, LB540, § 7.
Effective date August 28, 2021.

20-130 White Cane Safety Day; proclamation; Governor issue.

Each year, the Governor shall take suitable public notice of October 15 as White Cane Safety Day and issue a proclamation:

(1) Commenting upon the significance of the white cane;

(2) Calling upon the citizens of the state to observe the provisions of sections 20-126 to 20-131 and to take precautions necessary to the safety of people with disabilities;

(3) Reminding the citizens of the state of the policies with respect to people with disabilities set forth in sections 20-126 to 20-131 and urging the citizens to cooperate in giving effect to them; and

(4) Emphasizing the need of the citizens to be aware of the presence of people with disabilities in the community and to keep safe and functional for people with disabilities the streets, highways, sidewalks, walkways, public buildings, public facilities, other public places, places of public accommodation, amusement, and resort, and other places to which the public is invited.

Source: Laws 1971, LB 496, § 5; R.S.Supp.,1971, § 43-637; Laws 2021, LB540, § 8.
Effective date August 28, 2021.

20-131.01 Full and equal enjoyment of housing accommodations; statement of policy.

It is the intent of the Legislature that persons with disabilities shall be entitled to full and equal access to all housing accommodations offered for rent, lease, or compensation in this state.

Source: Laws 1975, LB 83, § 1; Laws 1980, LB 932, § 5; Laws 2019, LB248, § 3; Laws 2021, LB540, § 9.
Effective date August 28, 2021.

20-131.02 Housing accommodations; terms, defined.

For purposes of sections 20-131.01 to 20-131.04, unless the context otherwise requires:

(1) Housing accommodations means any real property which is used or occupied or is intended, arranged, or designed to be used or occupied as the home, residence, or sleeping place of one or more human beings. Housing accommodations does not include any single-family residence in which the owner lives and in which any room is rented, leased, or provided for compensation to persons other than the owner or primary tenant; and

(2) Disability has the same meaning as in 42 U.S.C. 12102, as such section existed on January 1, 2021.

Source: Laws 1975, LB 83, § 2; Laws 1997, LB 254, § 6; Laws 2008, LB806, § 9; Laws 2021, LB540, § 10.
Effective date August 28, 2021.

20-131.04 Service animal; access to housing accommodations; terms and conditions.

Every person with a disability who has a service animal or obtains a service animal shall have full and equal access to all housing accommodations with such animal as prescribed in sections 20-131.01 to 20-131.04. Such person shall not be required to pay extra compensation for such animal. Such person shall be liable for any damage done to such premises by such animal. Any person who rents, leases, or provides housing accommodations for compensation to any person with a disability who has or obtains a service animal shall not charge an additional deposit for such animal.

Source: Laws 1975, LB 83, § 4; Laws 1980, LB 932, § 6; Laws 1997, LB 254, § 7; Laws 2008, LB806, § 10; Laws 2019, LB248, § 4; Laws 2021, LB540, § 11.
Effective date August 28, 2021.

(c) PUBLIC ACCOMMODATIONS

20-132 Full and equal enjoyment of accommodations.

All persons within this state shall be entitled to a full and equal enjoyment of any place of public accommodation, as defined in sections 20-132 to 20-143, without discrimination or segregation on the grounds of race, color, sex, religion, national origin, disability, or ancestry.

Source: Laws 1969, c. 120, § 18, p. 550; R.R.S.1943, § 20-122; Laws 1973, LB 112, § 1; Laws 2021, LB540, § 12.
Effective date August 28, 2021.

20-134 Discriminatory practices; violation; penalty.

Any person who directly or indirectly refuses, withholds from, denies, or attempts to refuse, withhold, or deny, to any other person any of the accommodations, advantages, facilities, services, or privileges, or who segregates any person in a place of public accommodation on the basis of race, creed, color, sex, religion, national origin, disability, or ancestry, shall be guilty of discriminatory practice and shall be subject to the penalties of sections 20-132 to 20-143.

Source: Laws 1973, LB 112, § 3; Laws 1974, LB 681, § 2; Laws 2021, LB540, § 13.
Effective date August 28, 2021.

20-139 Nebraska Fair Housing Act, free speech, and public accommodations law; administered by Equal Opportunity Commission; powers.

The Nebraska Fair Housing Act and sections 20-123, 20-124, and 20-132 to 20-143 shall be administered by the Equal Opportunity Commission, except that the State Fire Marshal shall administer the act and sections as they relate to accessibility standards and specifications set forth in sections 81-5,147 and 81-5,148. The county attorneys are granted the authority to enforce such act and sections 20-123, 20-124, and 20-132 to 20-143 and shall possess the same powers and duties with respect thereto as the commission. If a complaint is filed with the county attorney, the commission shall be notified. Powers granted to and duties imposed upon the commission pursuant to such act and sections shall be in addition to the provisions of the Nebraska Fair Employment Practice Act and shall not be construed to amend or restrict those provisions. In carrying out the Nebraska Fair Housing Act and sections 20-123, 20-124, and 20-132 to 20-143, the commission shall have the power to:

(1) Seek to eliminate and prevent discrimination in places of public accommodation because of race, color, sex, religion, national origin, familial status as defined in section 20-311, disability as defined in section 20-308.01, or ancestry;

(2) Effectuate the purposes of sections 20-132 to 20-143 by conference, conciliation, and persuasion so that persons may be guaranteed their civil rights and goodwill may be fostered;

(3) Formulate policies to effectuate the purposes of sections 20-132 to 20-143 and make recommendations to agencies and officers of the state or local subdivisions of government in aid of such policies and purposes;

(4) Adopt and promulgate rules and regulations to carry out the powers granted by the Nebraska Fair Housing Act and sections 20-123, 20-124, and 20-132 to 20-143, subject to the provisions of the Administrative Procedure Act. The commission shall, not later than one hundred eighty days after September 6, 1991, issue draft rules and regulations to implement subsection (3) of section 20-336, which regulations may incorporate regulations of the Department of Housing and Urban Development as applicable;

(5) Designate one or more members of the commission or a member of the commission staff to conduct investigations of any complaint alleging discrimination because of race, color, sex, religion, national origin, familial status, disability, or ancestry, attempt to resolve such complaint by conference, conciliation, and persuasion, and conduct such conciliation meetings and conferences as are deemed necessary to resolve a particular complaint, which meetings shall be held in the county in which the complaint arose;

(6) Determine that probable cause exists for crediting the allegations of a complaint;

(7) Determine that a complaint cannot be resolved by conference, conciliation, or persuasion, such determination to be made only at a meeting where a quorum is present;

(8) Dismiss a complaint when it is determined there is not probable cause to credit the allegations;

(9) Hold hearings, subpoena witnesses and compel their attendance, administer oaths, take the testimony of any person under oath, and in connection therewith require for examination any books or papers relating to any matter under investigation or in question before the commission; and

(10) Issue publications and the results of studies and research which will tend to promote goodwill and minimize or eliminate discrimination because of race, color, sex, religion, national origin, familial status, disability, or ancestry.

Source: Laws 1973, LB 112, § 8; Laws 1991, LB 825, § 47; Laws 1998, LB 1073, § 4; Laws 2002, LB 93, § 2; Laws 2021, LB540, § 14.
Effective date August 28, 2021.

Cross References

Administrative Procedure Act, see section 84-920.
Nebraska Fair Employment Practice Act, see section 48-1125.
Nebraska Fair Housing Act, see section 20-301.

ARTICLE 3

HOUSING

Section

20-301 Act, how cited.

Sections 20-301 to 20-344 shall be known and may be cited as the Nebraska Fair Housing Act.

Source: Laws 1969, c. 120, § 23, p. 553; R.S.1943, (1987), § 20-125; Laws 1991, LB 825, § 2; Laws 2021, LB540, § 15.
Effective date August 28, 2021.

20-303 Definitions, where found.

For purposes of the Nebraska Fair Housing Act, the definitions found in sections 20-304 to 20-317 shall be used.

Source: Laws 1991, LB 825, § 4; Laws 2021, LB540, § 16.
Effective date August 28, 2021.

20-308.01 Disability, defined.

Disability has the same meaning as in 42 U.S.C. 12102, as such section existed on January 1, 2021.

Disability shall not include current, illegal use of or addiction to a controlled substance as defined in section 28-401.

Source: Laws 1991, LB 825, § 14; R.S.1943, (2012), § 20-313; Laws 2021, LB540, § 17.
Effective date August 28, 2021.

20-313 Transferred to section 20-308.01.

20-317 Restrictive covenant, defined.

Restrictive covenant shall mean any specification limiting the transfer, rental, or lease of any housing because of race, creed, religion, color, national origin, sex, disability, familial status, or ancestry.

Source: Laws 1991, LB 825, § 18; Laws 2021, LB540, § 18.
Effective date August 28, 2021.

20-318 Unlawful acts enumerated.

Except as exempted by section 20-322, it shall be unlawful to:

(1) Refuse to sell or rent after the making of a bona fide offer, refuse to negotiate for the sale or rental of or otherwise make unavailable or deny, refuse to show, or refuse to receive and transmit an offer for a dwelling to any person because of race, color, religion, national origin, disability, familial status, or sex;

(2) Discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection therewith because of race, color, religion, national origin, disability, familial status, or sex;

(3) Make, print, publish, or cause to be made, printed, or published any notice, statement, or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, national origin, disability, familial status, or sex or an intention to make any such preference, limitation, or discrimination;

(4) Represent to any person because of race, color, religion, national origin, disability, familial status, or sex that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available;

(5) Cause to be made any written or oral inquiry or record concerning the race, color, religion, national origin, disability, familial status, or sex of a person seeking to purchase, rent, or lease any housing;

(6) Include in any transfer, sale, rental, or lease of housing any restrictive covenants or honor or exercise or attempt to honor or exercise any restrictive covenant pertaining to housing;

(7) Discharge or demote an employee or agent or discriminate in the compensation of such employee or agent because of such employee's or agent's compliance with the Nebraska Fair Housing Act; and

(8) Induce or attempt to induce, for profit, any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, national origin, disability, familial status, or sex.

Source: Laws 1969, c. 120, § 3, p. 540; Laws 1979, LB 80, § 64; R.S.1943, (1987), § 20-107; Laws 1991, LB 825, § 19; Laws 2021, LB540, § 19.
Effective date August 28, 2021.

20-319 Person with a disability; discriminatory practices prohibited; design and construction standards; enforcement of act.

(1) Except as exempted by section 20-322, it shall be unlawful to:

(a) Discriminate in the sale or rental of or otherwise make unavailable or deny a dwelling to any buyer or renter because of a disability of:

(i) The buyer or renter;

(ii) Any person associated with the buyer or renter; or

(iii) A person residing in or intending to reside in the dwelling after it is so sold, rented, or made available; or

(b) Discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with a dwelling because of a disability of:

(i) Such person;

(ii) Any person associated with such person; or

(iii) A person residing in or intending to reside in the dwelling after it is so sold, rented, or made available.

(2) For purposes of this section, discrimination shall include:

(a) A refusal to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications may be necessary to afford the person full enjoyment of the premises, except that in the case of a rental, the landlord may, when it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;

(b) A refusal to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford the person with a disability equal opportunity to use and enjoy a dwelling; and

(c) In connection with the design and construction of covered multifamily dwellings for first occupancy after September 1, 1991, a failure to design and construct the dwellings in such a manner that:

(i) The public use and common use portions of the dwellings are readily accessible to and usable by people with disabilities;

(ii) All the doors designed to allow passage into and within all premises within the dwellings are sufficiently wide to allow passage by people using wheelchairs; and

(iii) All premises within the dwellings contain the following features of adaptive design:

(A) An accessible route into and through the dwelling;

(B) Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

(C) Reinforcements in bathroom walls to allow later installation of grab bars; and

(D) Kitchens and bathrooms such that a person in a wheelchair can maneuver about the space.

(3) Compliance with the appropriate requirements of the American National Standards Institute standard for buildings and facilities providing accessibility and usability for people with disabilities, ANSI A117.1, shall satisfy the requirements of subdivision (2)(c)(iii) of this section.

(4)(a) If a political subdivision has incorporated into its laws the design and construction requirements set forth in subdivision (2)(c) of this section, compliance with such laws shall be deemed to satisfy the requirements.

(b) A political subdivision may review and approve new constructed covered multifamily dwellings for the purpose of making determinations as to whether the design and construction requirements are met.

(c) The commission shall encourage but may not require political subdivisions to include in their existing procedures for the review and approval of new constructed covered multifamily dwellings determinations as to whether the design and construction of the dwellings are consistent with the design and construction requirements and shall provide technical assistance to political subdivisions and other persons to implement the requirements.

(d) Nothing in this section shall be construed to require the commission to review or approve the plans, designs, or construction of all covered multifamily dwellings to determine whether the design and construction of the dwellings are consistent with the design and construction requirements.

(5)(a) Nothing in subsection (4) of this section shall be construed to affect the authority and responsibility of the commission or a local agency certified pursuant to section 20-332 to receive and process complaints or otherwise engage in enforcement activities under the Nebraska Fair Housing Act.

(b) Determinations by the commission or a political subdivision under subdivision (4)(a) or (b) of this section shall not be conclusive in enforcement proceedings under the act.

(6) For purposes of this section, covered multifamily dwellings shall mean:

(a) Buildings consisting of four or more units if such buildings have one or more elevators; and

(b) Ground floor units in other buildings consisting of four or more units.

(7) Nothing in this section shall be construed to invalidate or limit any law of a political subdivision or other jurisdiction in which this section is effective that requires dwellings to be designed and constructed in a manner that affords people with disabilities greater access than is required by this section.

(8) Nothing in this section shall require that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or

safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

Source: Laws 1991, LB 825, § 20; Laws 1998, LB 1073, § 5; Laws 2021, LB540, § 20.
Effective date August 28, 2021.

20-320 Transaction related to residential real estate; discriminatory practices prohibited.

(1) It shall be unlawful for any person or other entity whose business includes engaging in transactions related to residential real estate to discriminate against any person in making available such a transaction or in the terms or conditions of such a transaction because of race, color, religion, sex, disability, familial status, or national origin.

(2) For purposes of this section, transaction related to residential real estate shall mean any of the following:

(a) The making or purchasing of loans or providing other financial assistance:

(i) For purchasing, constructing, improving, repairing, or maintaining a dwelling; or

(ii) Secured by residential real estate; or

(b) The selling, brokering, or appraising of residential real property.

(3) Nothing in this section shall prohibit a person engaged in the business of furnishing appraisals of real property from taking into consideration factors other than race, color, religion, national origin, sex, disability, or familial status.

Source: Laws 1991, LB 825, § 21; Laws 2021, LB540, § 21.
Effective date August 28, 2021.

20-321 Multiple listing service; other service, organization, or facility; discriminatory practices prohibited.

It shall be unlawful to deny any person access to or membership or participation in any multiple listing service, real estate brokers organization, or other service, organization, or facility relating to the business of selling or renting dwellings or to discriminate against any person in the terms or conditions of such access, membership, or participation on account of race, color, religion, national origin, disability, familial status, or sex.

Source: Laws 1969, c. 120, § 5, p. 542; Laws 1979, LB 80, § 66; R.S.1943, (1987), § 20-109; Laws 1991, LB 825, § 22; Laws 2021, LB540, § 22.
Effective date August 28, 2021.

20-322 Religious organization, private home, private club, or housing for older persons; restricting use not prohibited; local restrictions; how treated; controlled substances; illegal activities; effect.

(1) Nothing in the Nebraska Fair Housing Act shall prohibit a religious organization, association, or society or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society from limiting the sale, rental, or occupancy of a dwelling which it owns or operates for other than commercial purposes to

persons of the same religion or from giving preferences to such persons unless membership in such religion is restricted on account of race, color, national origin, disability, familial status, or sex.

(2) Nothing in the act shall prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than commercial purposes, from limiting the rental or occupancy of such lodging to its members or from giving preference to its members.

(3) Nothing in the act shall prohibit or limit the right of any person or his or her authorized representative to refuse to rent a room or rooms in his or her own home for any reason or for no reason or to change tenants in his or her own home as often as desired, except that this exception shall not apply to any person who makes available for rental or occupancy more than four sleeping rooms to a person or family within his or her own home.

(4)(a) Nothing in the act shall limit the applicability of any reasonable local restrictions regarding the maximum number of occupants permitted to occupy a dwelling, and nothing in the act regarding familial status shall apply with respect to housing for older persons.

(b) For purposes of this subsection, housing for older persons shall mean housing:

(i) Provided under any state program that the commission determines is specifically designed and operated to assist elderly persons as defined in the program;

(ii) Intended for and solely occupied by persons sixty-two years of age or older; or

(iii) Intended and operated for occupancy by at least one person fifty-five years of age or older per unit. In determining whether housing qualifies as housing for older persons under this subdivision, the commission shall develop regulations which require at least the following factors:

(A) The existence of significant facilities and services specifically designed to meet the physical or social needs of older persons or, if the provision of such facilities and services is not practicable, that such housing is necessary to provide important housing opportunities for older persons;

(B) That at least eighty percent of the units are occupied by at least one person fifty-five years of age or older per unit; and

(C) The publication of and adherence to policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons fifty-five years of age or older.

(c) Housing shall not fail to meet the requirements for housing for older persons by reason of:

(i) Persons residing in the housing as of September 6, 1991, who do not meet the age requirements of subdivision (b)(ii) or (iii) of this subsection if succeeding occupants of the housing meet the age requirements; or

(ii) Unoccupied units if the units are reserved for occupancy by persons who meet the age requirements.

(5) Nothing in the act shall prohibit conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal

manufacture or distribution of a controlled substance as defined in section 28-401.

Source: Laws 1969, c. 120, § 6, p. 542; Laws 1979, LB 80, § 67; R.S.1943, (1987), § 20-110; Laws 1991, LB 825, § 23; Laws 2021, LB540, § 23.
Effective date August 28, 2021.

20-325 Commission; duties.

The commission shall:

(1) Make studies with respect to the nature and extent of discriminatory housing practices in representative urban, suburban, and rural communities throughout the state;

(2) Publish and disseminate reports, recommendations, and information derived from such studies, including an annual report to the Legislature to be submitted electronically:

(a) Specifying the nature and extent of progress made statewide in eliminating discriminatory housing practices and furthering the purposes of the Nebraska Fair Housing Act, obstacles remaining to achieving equal housing opportunity, and recommendations for further legislative or executive action; and

(b) Containing tabulations of the number of instances and the reasons therefor in the preceding year in which:

(i) Investigations have not been completed as required by subdivision (1)(b) of section 20-326;

(ii) Determinations have not been made within the time specified in section 20-333; and

(iii) Hearings have not been commenced or findings and conclusions have not been made as required by section 20-337;

(3) Cooperate with and render technical assistance to state, local, and other public or private agencies, organizations, and institutions which are formulating or carrying on programs to prevent or eliminate discriminatory housing practices;

(4) Electronically submit an annual report to the Legislature and make available to the public data on the age, race, color, religion, national origin, disability, familial status, and sex of persons and households who are applicants for, participants in, or beneficiaries or potential beneficiaries of programs administered by the commission. In order to develop the data to be included and made available to the public under this subdivision, the commission shall, without regard to any other provision of law, collect such information relating to those characteristics as the commission determines to be necessary or appropriate;

(5) Adopt and promulgate rules and regulations, subject to the approval of the members of the commission, regarding the investigative and conciliation process that provide for testing standards, fundamental due process, and notice to the parties of their rights and responsibilities; and

(6) Have authority to enter into agreements with the United States Department of Housing and Urban Development in cooperative agreements under the Fair Housing Assistance Program. The commission shall further have the authority to enter into agreements with testing organizations to assist in

investigative activities. The commission shall not enter into any agreements under which compensation to the testing organization is partially or wholly based on the number of conciliations, settlements, and reasonable cause determinations.

Source: Laws 1991, LB 825, § 26; Laws 2005, LB 361, § 25; Laws 2012, LB782, § 20; Laws 2021, LB540, § 24.
Effective date August 28, 2021.

CHAPTER 21
CORPORATIONS AND OTHER COMPANIES

ARTICLE 1
NEBRASKA UNIFORM LIMITED LIABILITY COMPANY ACT

(l) FEES

(l) FEES

21-192 Fees.

(1) The filing fee for all filings under the Nebraska Uniform Limited Liability Company Act, including amendments and name reservation, shall be thirty dollars if the filing is submitted in writing and twenty-five dollars if the filing is submitted electronically pursuant to section 84-511, except that:

(a) The filing fee for filing a certificate of organization under section 21-117 and for filing an application for a certificate of authority to transact business in this state as a foreign limited liability company under section 21-156 shall be one hundred ten dollars if the filing is submitted in writing and one hundred dollars if the filing is submitted electronically pursuant to section 84-511, and ten dollars for a certificate; and

(b) The filing fee for filing a protected-series designation under section 21-509 or a statement of designation under section 21-532 shall be one hundred ten dollars if the filing is submitted in writing and one hundred dollars if the filing is submitted electronically pursuant to section 84-511, for each protected series stated, and ten dollars for a certificate and the filing fee for an application for a certificate of authority to do business in this state as a foreign protected series under section 21-537 shall be one hundred ten dollars if the filing is submitted in writing and one hundred dollars if the filing is submitted electronically pursuant to section 84-511, and ten dollars for a certificate.

(2) The filing fee for filing a statement of change of address for an agent for service of process under section 21-114 shall be thirty dollars if the filing is submitted in writing and twenty-five dollars if the filing is submitted electronically pursuant to section 84-511 for each limited liability company or foreign limited liability company for which the agent is designated.

(3) The filing fee for filing a statement of designation change under section 21-509 or 21-510 shall be thirty dollars if the filing is submitted in writing and

twenty-five dollars if the filing is submitted electronically pursuant to section 84-511 for each protected series designation changed by the filing.

(4) The filing fee for the filing of a biennial report under section 21-514 shall be thirty dollars if the filing is submitted in writing and twenty-five dollars if the filing is submitted electronically pursuant to section 84-511 for the series limited liability company and thirty dollars if the filing is submitted in writing and twenty-five dollars if the filing is submitted electronically pursuant to section 84-511 for each of the series limited liability company's protected series.

(5) The fee for an application for reinstatement more than five years after the effective date of an administrative dissolution shall be five hundred dollars.

(6) The fee for filing a certificate of registration pursuant to section 21-186 shall be thirty dollars if the certificate is submitted in writing and twenty-five dollars if the certificate is submitted electronically pursuant to section 84-511. In lieu of filing such certificate, the fee for application for electronic access to records pursuant to section 21-186 is fifty-five dollars if submitted in writing or fifty dollars if submitted electronically pursuant to section 84-511.

(7) A fee of one dollar per page plus ten dollars per certificate shall be paid for a certified copy of any document on file under the act.

(8) The fees for filings under the act shall be paid to the Secretary of State. The Secretary of State shall remit the fees to the State Treasurer. The State Treasurer shall credit sixty percent of the fees to the General Fund and forty percent of the fees to the Secretary of State Cash Fund.

Source: Laws 2010, LB888, § 92; Laws 2014, LB753, § 2; Laws 2015, LB279, § 2; Laws 2019, LB78, § 2; Laws 2020, LB910, § 4; Laws 2021, LB253, § 1.
Operative date July 1, 2021.

ARTICLE 5

NEBRASKA UNIFORM PROTECTED SERIES ACT

(a) GENERAL PROVISIONS

(a) GENERAL PROVISIONS

21-504 Powers and duration of protected series.

(a) A protected series of a series limited liability company has the capacity to sue and be sued in its own name.

(b) Except as otherwise provided in subsections (c) and (d) of this section, a protected series of a series limited liability company has the same powers and purposes as the company.

(c) A protected series of a series limited liability company ceases to exist not later than when the company completes its winding up.

(d) A protected series of a series limited liability company may not:

(1) be a member of the company;

(2) establish a protected series;

(3) render a professional service; or

(4) except as permitted by law of this state other than the Nebraska Uniform Protected Series Act, have a purpose or power that the law of this state other than the Nebraska Uniform Protected Series Act prohibits a limited liability company from doing or having.

Source: Laws 2018, LB1121, § 5; Laws 2021, LB253, § 2.
Operative date July 1, 2021.

ARTICLE 17
CREDIT UNIONS

(a) CREDIT UNION ACT

(a) CREDIT UNION ACT

21-17,115 Credit union organized under laws of Nebraska; rights, powers, privileges, and immunities of federal credit union; exception.

Notwithstanding any of the other provisions of the Credit Union Act or any other Nebraska statute, any credit union incorporated under the laws of the State of Nebraska and organized under the provisions of the act shall have all the rights, powers, privileges, benefits, and immunities which may be exercised as of January 1, 2021, by a federal credit union doing business in Nebraska on the condition that such rights, powers, privileges, benefits, and immunities shall not relieve such credit union from payment of state taxes assessed under any applicable laws of this state.

Source: Laws 1977, LB 246, § 5; Laws 1978, LB 772, § 1; Laws 1979, LB 307, § 1; Laws 1980, LB 793, § 1; Laws 1981, LB 60, § 1; Laws 1982, LB 775, § 2; Laws 1983, LB 143, § 1; Laws 1984, LB 643, § 1; Laws 1985, LB 430, § 1; Laws 1986, LB 963, § 1; Laws 1987, LB 197, § 1; Laws 1988, LB 957, § 1; Laws 1989, LB 126, § 1; Laws 1990, LB 1017, § 1; Laws 1991, LB 97, § 1; Laws 1992, LB 984, § 1; Laws 1993, LB 122, § 1; Laws 1994, LB 878, § 1; Laws 1995, LB 76, § 1; R.S.Supp.,1995, § 21-17,120.01; Laws 1996, LB 948, § 115; Laws 1997, LB 152, § 1; Laws 1998, LB 1321, § 75; Laws 1999, LB 278, § 1; Laws 2000, LB 932, § 27; Laws 2001, LB 53, § 26; Laws 2002, LB 957, § 20; Laws 2003, LB 217, § 32; Laws 2004, LB 999, § 21; Laws 2005, LB 533, § 32; Laws 2006, LB 876, § 24; Laws 2007, LB124, § 21; Laws 2008, LB851, § 17; Laws 2009, LB327, § 15; Laws 2010, LB890, § 14; Laws 2011, LB74, § 5; Laws 2012, LB963, § 22; Laws 2013, LB213, § 13; Laws 2014, LB712, § 3; Laws 2015, LB286, § 3; Laws 2016, LB676, § 3; Laws 2017, LB140, § 149; Laws 2018, LB812, § 9; Laws 2019, LB258, § 13; Laws 2020, LB909, § 21; Laws 2021, LB363, § 24.
Effective Date March 18, 2021.

CHAPTER 23
COUNTY GOVERNMENT AND OFFICERS

ARTICLE 1
GENERAL PROVISIONS

(e) COUNTY ZONING

(e) COUNTY ZONING

23-172 Standard codes; adoption; copy; area where applicable.

(1) The county board may adopt by resolution, which shall have the force and effect of law, the conditions, provisions, limitations, and terms of a building or construction code, a plumbing code, an electrical code, a fire prevention code, or any other code relating to building or relating to the erection, construction, reconstruction, alteration, repair, conversion, maintenance, placing, or using of any building, structure, automobile trailer, house trailer, or cabin trailer. For this purpose, the county board may adopt any standard code which contains rules or regulations printed as a code in book or pamphlet form by reference to such code or portions thereof without setting forth in the resolution the conditions, provisions, limitations, or terms of such code. When such code or any such standard code or portion thereof is incorporated by reference into such resolution, it shall have the same force and effect as though it had been written in its entirety in such resolution without further or additional publication.

(2) Not less than one copy of such code or such standard code or portion thereof shall be kept for use and examination by the public in the office of the clerk of such county prior to the adoption thereof and as long as such standard code is in effect in such county.

(3) Any building or construction code implemented under this section shall be adopted and enforced as provided in section 71-6406.

(4) If there is no county resolution adopting a plumbing code in effect for such county, the 2018 Uniform Plumbing Code designated by the American National Standards Institute as an American National Standard shall apply to all buildings.

(5) Any code adopted and approved by the county board, as provided in this section, or if there is no county resolution adopting a plumbing code in effect for such county, the 2018 Uniform Plumbing Code designated by the American National Standards Institute as an American National Standard, and the building permit requirements or occupancy permit requirements imposed by such code or by sections 23-114.04 and 23-114.05, shall apply to all of the county except within the limits of any incorporated city or village and except within an unincorporated area where a city or village has been granted zoning jurisdiction and is exercising such jurisdiction.

(6) Nothing in this section shall be interpreted as creating an obligation for the county to inspect plumbing work done within its jurisdiction to determine compliance with the plumbing code.

Source: Laws 1941, c. 131, § 19, p. 515; C.S.Supp.,1941, § 26-159; R.S.1943, § 23-172; Laws 1961, c. 87, § 6, p. 302; Laws 1963, c. 57, § 5, p. 241; Laws 1967, c. 117, § 12, p. 375; Laws 1975, LB 410, § 28; Laws 1993, LB 35, § 1; Laws 1996, LB 1304, § 3; Laws 2012, LB42, § 3; Laws 2014, LB802, § 2; Laws 2016, LB704, § 212; Laws 2021, LB131, § 20.
Operative date August 28, 2021.

ARTICLE 2

COUNTIES UNDER TOWNSHIP ORGANIZATION

(a) ADOPTION OF TOWNSHIP ORGANIZATION; GENERAL PROVISIONS

Section
23-259. Tax; amount authorized; when paid.

(a) ADOPTION OF TOWNSHIP ORGANIZATION; GENERAL PROVISIONS

23-259 Tax; amount authorized; when paid.

The money necessary to defray the town charges of each town shall be levied on the taxable property in such town in the manner prescribed by the Nebraska Budget Act. The rate of taxes for town purposes shall not exceed twenty-eight cents on each one hundred dollars upon the taxable value of the taxable property in such township for all purposes subject to approval of the county board. The proceeds of such tax shall be paid by the county treasurer to the town treasurer on or before the fifteenth day of each month or more frequently as provided in section 77-1759.

Source: Laws 1895, c. 28, § 58, p. 147; Laws 1905, c. 53, § 1, p. 298; R.S.1913, § 1043; C.S.1922, § 945; Laws 1927, c. 170, § 1, p. 504; C.S.1929, § 26-259; R.S.1943, § 23-259; Laws 1947, c. 65, § 1, p. 214; Laws 1953, c. 52, § 3, p. 181; Laws 1953, c. 287, § 40, p. 954; Laws 1957, c. 63, § 1, p. 282; Laws 1973, LB 75, § 14; Laws 1979, LB 187, § 95; Laws 1992, LB 1063, § 17; Laws 1992, Second Spec. Sess., LB 1, § 17; Laws 1996, LB 1114, § 40; Laws 2021, LB41, § 1.
Effective date August 28, 2021.

Cross References

Nebraska Budget Act, see section 13-501.

ARTICLE 9
BUDGET

(a) APPLICABLE ONLY TO COUNTIES

Section
23-909. Budget; when adopted; duty of county board.

(a) APPLICABLE ONLY TO COUNTIES

23-909 Budget; when adopted; duty of county board.

On or before September 30 of each year, the county board shall adopt the budget and appropriate the several amounts specified in the budget for the several departments, offices, activities, and funds of the county for the period to which the budget applies as provided hereinbefore.

Source: Laws 1937, c. 56, § 7, p. 227; Laws 1939, c. 24, § 5, p. 128; C.S.Supp.,1941, § 26-2107; R.S.1943, § 23-909; Laws 1945, c. 45, § 8, p. 216; Laws 1993, LB 734, § 30; Laws 1995, LB 452, § 6; Laws 2021, LB644, § 11.
Operative date January 1, 2022.

ARTICLE 13
COUNTY CLERK

Section
23-1302. County clerk; duties.

23-1302 County clerk; duties.

It shall be the general duty of the county clerk:

(1) To record in a book provided for that purpose all proceedings of the board. If the county clerk or his or her deputy is unable to be present for any proceeding of the board, the county clerk may appoint a designee to record such proceedings;

(2) To make regular entries of its resolutions and decisions in all questions concerning the raising of money;

(3) To countersign all warrants issued by the board and signed by its chairperson;

(4) To preserve and file all accounts acted upon by the board, with its action thereon, and perform such special duties as are required by law. Such special duties do not include budget-making duties performed under section 23-906. In a county having a county comptroller, all accounts acted upon by the board shall remain on file in the office of such comptroller; and the county clerk shall certify to the county treasurer as of June 30 and December 31 of each year the total amount of unpaid claims of the county; and

(5) To prepare and file with the county board the annual inventory statement of county personal property in his or her custody and possession, and to perform the duties enjoined upon him or her by sections 23-346 to 23-350.

Source: Laws 1879, § 74, p. 374; Laws 1907, c. 33, § 1, p. 166; R.S.1913, § 5606; C.S.1922, § 4925; C.S.1929, § 26-1002; Laws 1935, c. 53,

§ 1, p. 183; Laws 1939, c. 28, § 7, p. 147; C.S.Supp.,1941, § 26-1002; R.S.1943, § 23-1302; Laws 2002, LB 1018, § 2; Laws 2005, LB 762, § 1; Laws 2021, LB105, § 1.
Effective date August 28, 2021.

Cross References

Distribute political accountability and disclosure forms, see section 49-14,139.

ARTICLE 16
COUNTY TREASURER

Section
23-1601. County treasurer; general duties; continuing education; requirements.

23-1601 County treasurer; general duties; continuing education; requirements.

(1) It is the duty of the county treasurer to receive all money belonging to the county, from whatsoever source derived and by any method of payment provided by section 77-1702, and all other money which is by law directed to be paid to him or her. All money received by the county treasurer for the use of the county shall be paid out by him or her only on warrants issued by the county board according to law, except when special provision for payment of county money is otherwise made by law.

(2) The county treasurer shall prepare and file the required annual inventory statement of county personal property in his or her custody or possession as provided in sections 23-346 to 23-350.

(3) The county treasurer, at the direction of the city or village, shall invest the bond fund money collected for each city or village located within each county. The bond fund money shall be invested by the county treasurer and any investment income shall accrue to the bond fund. The county treasurer shall notify the city or village when the bonds have been retired.

(4)(a) On or before the fifteenth day of each month, the county treasurer (i) shall pay to each city, village, school district, educational service unit, county agricultural society, rural or suburban fire protection district, and township located within the county the amount of all funds collected or received for the city, village, school district, educational service unit, county agricultural society, rural or suburban fire protection district, and township the previous calendar month, including bond fund money when requested by any city of the first class under section 16-731, and (ii) on forms provided by the Auditor of Public Accounts, shall include with the payment a statement indicating the source of all such funds received or collected and an accounting of any expense incurred in the collection of ad valorem taxes, except that the Auditor of Public Accounts shall, upon request of a county, approve the use and reproduction of a county's general ledger or other existing forms if such ledger or other forms clearly indicate the sources of all funds received or collected and an accounting of any expenses incurred in the collection of ad valorem taxes.

(b) If all such funds received or collected are less than twenty-five dollars, the county treasurer may hold such funds until such time as they are equal to or exceed twenty-five dollars. In no case shall such funds be held by the county treasurer longer than six months.

(c) If a school district treasurer has not filed an official bond pursuant to section 11-107 or evidence of equivalent insurance coverage, the county treasurer may hold funds collected or received for the school district until such time as the bond or evidence of equivalent insurance coverage has been filed.

(5) Notwithstanding subsection (4) of this section, the county treasurer of any county in which a city of the metropolitan class or a Class V school district is located shall pay to the city of the metropolitan class and to the Class V school district on a weekly basis the amount of all current year funds as they become available for the city or the school district.

(6) The county treasurer shall annually complete continuing education through a program approved by the Auditor of Public Accounts, and proof of completion of such program shall be submitted to the Auditor of Public Accounts.

Source: Laws 1879, § 91, p. 379; R.S.1913, § 5637; C.S.1922, § 4964; C.S.1929, § 26-1301; Laws 1939, c. 28, § 14, p. 153; C.S.Supp.,1941, § 26-1301; R.S.1943, § 23-1601; Laws 1978, LB 847, § 1; Laws 1983, LB 391, § 1; Laws 1995, LB 122, § 1; Laws 1996, LB 604, § 2; Laws 1997, LB 70, § 1; Laws 1997, LB 85, § 1; Laws 1999, LB 287, § 1; Laws 2007, LB334, § 3; Laws 2012, LB823, § 2; Laws 2020, LB781, § 6; Laws 2021, LB41, § 2.
Effective date August 28, 2021.

ARTICLE 17

SHERIFF

(a) GENERAL PROVISIONS

Section
23-1701.01. Candidate for sheriff; requirements; sheriff; attend Sheriff's Certification Course; exception; continuing education; violation; penalty.

(a) GENERAL PROVISIONS

23-1701.01 Candidate for sheriff; requirements; sheriff; attend Sheriff's Certification Course; exception; continuing education; violation; penalty.

(1) Any candidate for the office of sheriff who does not have a law enforcement officer certificate or diploma issued by the Nebraska Commission on Law Enforcement and Criminal Justice shall submit with the candidate filing form required by section 32-607 a standardized letter issued by the director of the Nebraska Law Enforcement Training Center certifying that the candidate has:

(a) Within one calendar year prior to the deadline for filing the candidate filing form, passed a background investigation performed by the Nebraska Law Enforcement Training Center based on a check of his or her criminal history record information maintained by the Federal Bureau of Investigation through the Nebraska State Patrol. The candidate who has not passed a background investigation shall apply for the background investigation at least thirty days prior to the filing deadline for the candidate filing form; and

(b) Received a minimum combined score on the reading comprehension and English language portions of an adult basic education examination designated by the Nebraska Law Enforcement Training Center.

(2) Each sheriff shall attend the Nebraska Law Enforcement Training Center and receive a certificate attesting to satisfactory completion of the Sheriff's Certification Course within eight months after taking office unless such sheriff has already been awarded a certificate by the Nebraska Commission on Law Enforcement and Criminal Justice attesting to satisfactory completion of such course or unless such sheriff can demonstrate to the Nebraska Police Standards Advisory Council that his or her previous training and education is such that he or she will professionally discharge the duties of the office. Any sheriff in office prior to July 19, 1980, shall not be required to obtain a certificate attesting to satisfactory completion of the Sheriff's Certification Course but shall otherwise be subject to this section.

(3) Each sheriff shall attend continuing education as provided in section 81-1414.07 each year following the first year of such sheriff's term of office.

(4) Unless a sheriff is able to show good cause for not complying with subsection (2) or (3) of this section or obtains a waiver of the training requirements from the council, any sheriff who violates subsection (2) or (3) of this section shall be punished by a fine equal to such sheriff's monthly salary. Each month in which such violation occurs shall constitute a separate offense.

Source: Laws 1980, LB 628, § 1; Laws 1994, LB 971, § 2; Laws 2004, LB 75, § 1; Laws 2012, LB817, § 1; Laws 2020, LB924, § 2; Laws 2021, LB51, § 1.
Effective date August 28, 2021.

ARTICLE 19

COUNTY SURVEYOR AND ENGINEER

Section
23-1901.01. County surveyor; residency; appointment; when; qualifications; term.

23-1901.01 County surveyor; residency; appointment; when; qualifications; term.

(1) A person need not be a resident of the county when he or she files for election as county surveyor, but if elected as county surveyor, such person shall reside in a county for which he or she holds office.

(2) In a county having a population of less than one hundred fifty thousand inhabitants in which the voters have voted against the election of a county surveyor pursuant to section 32-525 or in which no county surveyor has been elected and qualified, the county board of such county shall appoint a competent registered land surveyor who is registered pursuant to the Land Surveyors Regulation Act either on a full-time or part-time basis to such office. In making such appointment, the county board shall negotiate a contract with the surveyor, such contract shall specify the responsibility of the appointee to carry out the statutory duties of the office of county surveyor and shall specify the compensation of the surveyor for the performance of such duties, which compensation shall not be subject to section 33-116. A county surveyor appointed under this subsection shall serve the same term as that of an elected surveyor.

(3) A person appointed to the office of county surveyor in any county shall not be required to reside in the county of appointment.

Source: Laws 1951, c. 45, § 1, p. 161; Laws 1979, LB 115, § 1; Laws 1982, LB 127, § 3; Laws 1986, LB 812, § 7; Laws 1996, LB 1085, § 35; Laws 2014, LB946, § 2; Laws 2021, LB224, § 1.
Effective date August 28, 2021.

Cross References

Land Surveyors Regulation Act, see section 81-8,108.01.

ARTICLE 35
MEDICAL AND MULTIUNIT FACILITIES

(b) HOSPITAL DISTRICTS

Section
23-3552. Hospital district; board of directors; budget statement; tax; levy; limitation; additional annual tax; election; collection.

(b) HOSPITAL DISTRICTS

23-3552 Hospital district; board of directors; budget statement; tax; levy; limitation; additional annual tax; election; collection.

(1) The board of directors may, after the adoption of the budget statement, levy and collect an annual tax which the district requires under the adopted budget statement to be received from taxation for the ensuing fiscal year not to exceed three and five-tenths cents on each one hundred dollars of the taxable value of the taxable property within such district. On and after July 1, 1998, the tax levy provided in this subsection is subject to section 77-3443.

(2) In addition to the levy authorized in subsection (1) of this section, the board of directors of a hospital district may authorize an additional annual tax not to exceed three and five-tenths cents on each one hundred dollars of the taxable value of the taxable property within such district. On and after July 1, 1998, the tax levy provided in this subsection is subject to section 77-3443. Such tax shall not be authorized until the question of such additional tax has been submitted to the qualified electors of the district at a primary or general election or a special election called for that purpose and a majority of those voting approve the additional tax. Notice of the time and place of the special election shall be given by publication at least once each week in a legal newspaper of general circulation in the district for three successive weeks immediately preceding such election.

(3) Until July 1, 1998, the taxes authorized by subsections (1) and (2) of this section shall not be included within the levy limitations for general county purposes prescribed in section 23-119 or Article VIII, section 5, of the Constitution of Nebraska. On and after July 1, 1998, the taxes authorized by subsections (1) and (2) of this section shall not be included within the levy limitations for general county purposes prescribed in section 77-3442 or Article VIII, section 5, of the Constitution of Nebraska. On and after July 1, 1998, for purposes of section 77-3443, the county board of each of the counties having land embraced within the district shall approve the tax levy.

(4) The taxes authorized by subsections (1) and (2) of this section shall not be used to support or supplement the operations of health care services or facilities located outside the geographic boundaries of the district.

(5) The board shall annually, on or before September 30, certify the taxes authorized by this section to the county clerk of each of the counties having land embraced within such district. The county clerk shall extend such levies on the tax list, and the county treasurer shall collect the tax in the same manner as county taxes and shall remit the taxes collected to the county treasurer of the county in which the petition for the formation of the district was filed. The county treasurer shall credit the local hospital district with the amount thereof and make disbursements therefrom on warrants of the district signed by the chairperson and secretary-treasurer of the board of directors.

Source: Laws 1959, c. 83, § 27, p. 383; Laws 1969, c. 145, § 29, p. 690; Laws 1979, LB 187, § 111; Laws 1986, LB 753, § 1; R.S.1943, (1987), § 23-343.46; Laws 1992, LB 1063, § 23; Laws 1992, LB 1019, § 28; Laws 1992, Second Spec. Sess., LB 1, § 23; Laws 1993, LB 734, § 34; Laws 1995, LB 452, § 7; Laws 1996, LB 1114, § 50; Laws 1997, LB 28, § 2; Laws 2021, LB644, § 12. Operative date January 1, 2022.

CHAPTER 24
COURTS

Article.
2. Supreme Court.
   (a) Organization. 24-201.01 to 24-201.04.
   (l) Report Regarding Eviction Proceedings. 24-232.
3. District Court.
   (e) Uncalled-for Funds; Disposition. 24-345.
7. Judges, General Provisions.
   (a) Judges Retirement. 24-701 to 24-710.
12. Judicial Resources Commission. 24-1204.

ARTICLE 2
SUPREME COURT

(a) ORGANIZATION

Section
24-201.01. Supreme Court judges; salary; amount; restriction on other employment of judges.
24-201.02. Supreme Court judicial districts; numbers; boundaries; established by maps; Clerk of Legislature; Secretary of State; duties.
24-201.04. Supreme Court judicial districts; population figures and maps; basis.

(l) REPORT REGARDING EVICTION PROCEEDINGS

24-232. Eviction proceedings; annual report; contents.

(a) ORGANIZATION

24-201.01 Supreme Court judges; salary; amount; restriction on other employment of judges.

On July 1, 2020, the salary of the Chief Justice and the judges of the Supreme Court shall be one hundred eighty-seven thousand thirty-six dollars and one cent. On July 1, 2021, the salary of the Chief Justice and the judges of the Supreme Court shall be one hundred ninety-two thousand six hundred forty-seven dollars and nine cents. On July 1, 2022, the salary of the Chief Justice and the judges of the Supreme Court shall be one hundred ninety-eight thousand four hundred twenty-six dollars and fifty-one cents.

The Chief Justice and the judges of the Supreme Court shall hold no other public office of profit or trust during their terms of office nor accept any public appointment or employment under the authority of the government of the United States for which they receive compensation for their services. Such salaries shall be payable in equal monthly installments.

Source: Laws 1947, c. 345, § 1, p. 1089; Laws 1951, c. 58, § 1, p. 191; Laws 1955, c. 77, § 1, p. 231; Laws 1959, c. 93, § 1, p. 406; Laws 1963, c. 127, § 1, p. 480; Laws 1963, c. 534, § 1, p. 1676; Laws 1967, c. 136, § 1, p. 421; Laws 1969, c. 173, § 1, p. 754; Laws 1969, c. 174, § 1, p. 755; Laws 1972, LB 1293, § 2; Laws 1974, LB 923, § 1; Laws 1976, LB 76, § 1; Laws 1978, LB 672, § 1; Laws 1979, LB 398, § 1; Laws 1983, LB 269, § 1; Laws 1986, LB

43, § 1; Laws 1987, LB 564, § 1; Laws 1990, LB 42, § 1; Laws 1995, LB 189, § 1; Laws 1997, LB 362, § 1; Laws 1999, LB 350, § 1; Laws 2001, LB 357, § 1; Laws 2005, LB 348, § 1; Laws 2007, LB377, § 1; Laws 2009, LB414, § 1; Laws 2012, LB862, § 1; Laws 2013, LB306, § 1; Laws 2015, LB663, § 1; Laws 2017, LB647, § 1; Laws 2019, LB300, § 1; Laws 2021, LB386, § 1.
Operative date July 1, 2021.

24-201.02 Supreme Court judicial districts; numbers; boundaries; established by maps; Clerk of Legislature; Secretary of State; duties.

(1) Based on the 2020 Census of Population by the United States Department of Commerce, Bureau of the Census, the State of Nebraska is hereby divided into six Supreme Court judicial districts. Each district shall be entitled to one Supreme Court judge.

(2) The numbers and boundaries of the districts are designated and established by maps identified and labeled as maps SUP21-39001, SUP21-39001-1, SUP21-39001-2, SUP21-39001-3, SUP21-39001-3A, SUP21-39001-4, SUP21-39001-5, and SUP21-39001-6, filed with the Clerk of the Legislature, and incorporated by reference as part of Laws 2021, LB6, One Hundred Seventh Legislature, First Special Session.

(3)(a) The Clerk of the Legislature shall transfer possession of the maps referred to in subsection (2) of this section to the Secretary of State on October 1, 2021.

(b) When questions of interpretation of district boundaries arise, the maps referred to in subsection (2) of this section in possession of the Secretary of State shall serve as the indication of the legislative intent in drawing the district boundaries.

(c) Each election commissioner or county clerk shall obtain copies of the maps referred to in subsection (2) of this section for the election commissioner's or clerk's county from the Secretary of State.

(d) The Secretary of State shall also have available for viewing on his or her website the maps referred to in subsection (2) of this section identifying the boundaries for the districts.

Source: Laws 1971, LB 545, § 1; Laws 1981, LB 552, § 1; R.S.1943, (1987), § 5-109; Laws 1990, LB 822, § 9; Laws 1991, LB 616, § 1; Laws 2001, LB 853, § 1; Laws 2011, LB699, § 1; Laws 2021, First Spec. Sess., LB6, § 1.
Effective date October 1, 2021.

Cross References

Constitutional provisions, see Article V, section 5, Constitution of Nebraska.

24-201.04 Supreme Court judicial districts; population figures and maps; basis.

For purposes of section 24-201.02, the Legislature adopts the official population figures and maps from the 2020 Census Redistricting (Public Law 94-171) TIGER/Line Shapefiles published by the United States Department of Commerce, Bureau of the Census.

Source: Laws 1991, LB 616, § 2; Laws 2001, LB 853, § 2; Laws 2011, LB699, § 2; Laws 2021, First Spec. Sess., LB6, § 2.
Effective date October 1, 2021.

(l) REPORT REGARDING EVICTION PROCEEDINGS

24-232 Eviction proceedings; annual report; contents.

(1) On or before January 15, 2022, and July 15, 2022, and on or before each January 15 and July 15 thereafter, the Supreme Court shall electronically submit a report to the Clerk of the Legislature that includes, for the preceding six months the following information pertaining to eviction proceedings, broken down by county:

(a) The number of eviction proceedings initiated;

(b) The number of tenants represented by counsel;

(c) The number of landlords represented by counsel;

(d) The number of orders granting restitution of the premises entered by default; and

(e) The number of orders granting restitution of the premises entered, broken down by the specific statutory authority under which possession was sought.

(2) For purposes of this section:

(a) Eviction proceeding means an action involving a claim for forcible entry and detainer involving a residential tenancy under sections 25-21,219 to 25-21,235, the Uniform Residential Landlord and Tenant Act, or the Mobile Home Landlord and Tenant Act;

(b) Landlord includes a landlord as defined in section 76-1410 and a landlord as defined in section 76-1462;

(c) Residential tenancy means a tenancy subject to the Uniform Residential Landlord and Tenant Act or the Mobile Home Landlord and Tenant Act or any other tenancy involving a dwelling unit as defined in section 76-1410;

(d) Tenant means a tenant or former tenant of a residential tenancy; and

(e) When reference in this section is made to a definition found in both the Uniform Residential Landlord and Tenant Act and the Mobile Home Landlord and Tenant Act, the definition relevant to the type of tenant at issue applies for purposes of this section.

Source: Laws 2021, LB320, § 14.
Effective date August 28, 2021.

Cross References

Mobile Home Landlord and Tenant Act, see section 76-1450.
Uniform Residential Landlord and Tenant Act, see section 76-1401.

ARTICLE 3
DISTRICT COURT

(e) UNCALLED-FOR FUNDS; DISPOSITION

(e) UNCALLED-FOR FUNDS; DISPOSITION

24-345 Funds uncalled for; payment to State Treasurer; clerk's liability discharged.

All money, other than witness fees, fines, penalties, forfeitures and license money, that comes into the possession of the clerk of the district court for any county in the State of Nebraska by virtue of his or her office and remains in the custody of the clerk of the district court, uncalled for by the party or parties entitled to the money for a period of three years following the close of litigation in relation to the money, shall be remitted by the clerk of the district court to the State Treasurer on the first Tuesday in January, April, July, or October, respectively, following the expiration of the three-year period, for deposit in the Unclaimed Property Trust Fund pursuant to section 69-1317. Such payment shall release the bond of the clerk of the district court making such payment from all liability for the money so paid in compliance with this section.

Source: Laws 1933, c. 33, § 1, p. 214; C.S.Supp.,1941, § 27-342; R.S. 1943, § 24-345; Laws 1980, LB 572, § 1; Laws 1992, Third Spec. Sess., LB 26, § 1; Laws 2019, LB406, § 1; Laws 2021, LB532, § 1.
Effective date August 28, 2021.

Cross References

Filing of claim to property delivered to state, see section 69-1318.

ARTICLE 7
JUDGES, GENERAL PROVISIONS

(a) JUDGES RETIREMENT

(a) JUDGES RETIREMENT

24-701 Terms, defined.

For purposes of the Judges Retirement Act, unless the context otherwise requires:

(1)(a) Actuarial equivalence means the equality in value of the aggregate amounts expected to be received under different forms of payment.

(b) For a judge hired prior to July 1, 2017, the determinations are to be based on the 1994 Group Annuity Mortality Table reflecting sex-distinct factors

blended using seventy-five percent of the male table and twenty-five percent of the female table. An interest rate of eight percent per annum shall be reflected in making these determinations.

(c) For a judge hired on or after July 1, 2017, or rehired on or after July 1, 2017, after termination of employment and being paid a retirement benefit, the determinations shall be based on a unisex mortality table and an interest rate specified by the board. Both the mortality table and the interest rate shall be recommended by the actuary and approved by the board following an actuarial experience study, a benefit adequacy study, or a plan valuation. The mortality table, interest rate, and actuarial factors in effect on the judge's retirement date will be used to calculate actuarial equivalency of any retirement benefit. Such interest rate may be, but is not required to be, equal to the assumed rate of return;

(2) Beneficiary means a person so designated by a judge in the last designation of beneficiary on file with the board or, if no designated person survives or if no designation is on file, the estate of such judge;

(3) Board means the Public Employees Retirement Board;

(4)(a) Compensation means the statutory salary of a judge or the salary being received by such judge pursuant to law. Compensation does not include compensation for unused sick leave or unused vacation leave converted to cash payments, insurance premiums converted into cash payments, reimbursement for expenses incurred, fringe benefits, per diems, or bonuses for services not actually rendered, including, but not limited to, early retirement inducements, cash awards, and severance pay, except for retroactive salary payments paid pursuant to court order, arbitration, or litigation and grievance settlements. Compensation includes overtime pay, member retirement contributions, and amounts contributed by the member to plans under sections 125 and 457 of the Internal Revenue Code as defined in section 49-801.01 or any other section of the code which defers or excludes such amounts from income.

(b) Compensation in excess of the limitations set forth in section 401(a)(17) of the Internal Revenue Code as defined in section 49-801.01 shall be disregarded. For an employee who was a member of the retirement system before the first plan year beginning after December 31, 1995, the limitation on compensation shall not be less than the amount which was allowed to be taken into account under the retirement system as in effect on July 1, 1993;

(5) Creditable service means the total number of years served as a judge, including prior service, military service, and current service, computed to the nearest one-twelfth year. For current service prior to the time that the member has contributed the required percentage of salary until the maximum benefit as limited by section 24-710 has been earned, creditable service does not include current service for which member contributions are not made or are withdrawn and not repaid;

(6) Current benefit means the initial benefit increased by all adjustments made pursuant to the Judges Retirement Act;

(7)(a) Current service means the period of service (i) any judge of the Supreme Court or judge of the district court serves in such capacity from and after January 3, 1957, (ii)(A) any judge of the Nebraska Workmen's Compensation Court served in such capacity from and after September 20, 1957, and prior to July 17, 1986, and (B) any judge of the Nebraska Workers' Compensation Court serves in such capacity on and after July 17, 1986, (iii) any county

judge serves in such capacity from and after January 5, 1961, (iv) any judge of a separate juvenile court serves in such capacity, (v) any judge of the municipal court served in such capacity subsequent to October 23, 1967, and prior to July 1, 1985, (vi) any judge of the county court or associate county judge serves in such capacity subsequent to January 4, 1973, (vii) any clerk magistrate, who was an associate county judge and a member of the fund at the time of appointment as a clerk magistrate, serves in such capacity from and after July 1, 1986, and (viii) any judge of the Court of Appeals serves in such capacity on or after September 6, 1991.

(b) Current service shall not be deemed to be interrupted by (i) temporary or seasonal suspension of service that does not terminate the employee's employment, (ii) leave of absence authorized by the employer for a period not exceeding twelve months, (iii) leave of absence because of disability, or (iv) military service, when properly authorized by the board. Current service does not include any period of disability for which disability retirement benefits are received under section 24-709;

(8) Final average compensation for a judge who becomes a member prior to July 1, 2015, means the average monthly compensation for the three twelve-month periods of service as a judge in which compensation was the greatest or, in the event of a judge serving less than three twelve-month periods, the average monthly compensation for such judge's period of service. Final average compensation for a judge who becomes a member on and after July 1, 2015, means the average monthly compensation for the five twelve-month periods of service as a judge in which compensation was the greatest or, in the event of a judge serving less than five twelve-month periods, the average monthly compensation for such judge's period of service;

(9) Fund means the Nebraska Retirement Fund for Judges;

(10) Future member means a judge who first served as a judge on or after December 25, 1969, or means a judge who first served as a judge prior to December 25, 1969, who elects to become a future member on or before June 30, 1970, as provided in section 24-710.01;

(11) Hire date or date of hire means the first day of compensated service subject to retirement contributions;

(12) Initial benefit means the retirement benefit calculated at the time of retirement;

(13) Judge means and includes (a) all duly elected or appointed Chief Justices or judges of the Supreme Court and judges of the district courts of Nebraska who serve in such capacity on and after January 3, 1957, (b)(i) all duly appointed judges of the Nebraska Workmen's Compensation Court who served in such capacity on and after September 20, 1957, and prior to July 17, 1986, and (ii) judges of the Nebraska Workers' Compensation Court who serve in such capacity on and after July 17, 1986, (c) judges of separate juvenile courts, (d) judges of the county courts of the respective counties who serve in such capacity on and after January 5, 1961, (e) judges of the county court and clerk magistrates who were associate county judges and members of the fund at the time of their appointment as clerk magistrates, (f) judges of municipal courts established by Chapter 26, article 1, who served in such capacity on and after October 23, 1967, and prior to July 1, 1985, and (g) judges of the Court of Appeals;

(14) Member means a judge eligible to participate in the retirement system established under the Judges Retirement Act;

(15) Military service means active service of (a) any judge of the Supreme Court or judge of the district court in any of the armed forces of the United States during a war or national emergency prior or subsequent to September 18, 1955, if such service commenced while such judge was holding the office of judge, (b) any judge of the Nebraska Workmen's Compensation Court or the Nebraska Workers' Compensation Court in any of the armed forces of the United States during a war or national emergency prior or subsequent to September 20, 1957, if such service commenced while such judge was holding the office of judge, (c) any judge of the municipal court in any of the armed forces of the United States during a war or national emergency prior or subsequent to October 23, 1967, and prior to July 1, 1985, if such service commenced while such judge was holding the office of judge, (d) any judge of the county court or associate county judge in any of the armed forces of the United States during a war or national emergency prior or subsequent to January 4, 1973, if such service commenced while such judge was holding the office of judge, (e) any clerk magistrate, who was an associate county judge and a member of the fund at the time of appointment as a clerk magistrate, in any of the armed forces of the United States during a war or national emergency on or after July 1, 1986, if such service commenced while such clerk magistrate was holding the office of clerk magistrate, and (f) any judge of the Court of Appeals in any of the armed forces of the United States during a war or national emergency on or after September 6, 1991, if such service commenced while such judge was holding the office of judge. The board shall have the power to determine when a national emergency exists or has existed for the purpose of applying this definition and provision;

(16) Normal form annuity means a series of equal monthly payments payable at the end of each calendar month during the life of a retired judge as provided in sections 24-707 and 24-710, except as provided in section 42-1107. The first payment shall include all amounts accrued since the effective date of the award of the annuity. The last payment shall be at the end of the calendar month in which such judge dies. If at the time of death the amount of annuity payments such judge has received is less than contributions to the fund made by such judge, plus regular interest, the difference shall be paid to the beneficiary or estate;

(17) Normal retirement date means the first day of the month following attainment of age sixty-five;

(18) Original member means a judge who first served as a judge prior to December 25, 1969, who does not elect to become a future member pursuant to section 24-710.01, and who was retired on or before December 31, 1992;

(19) Plan year means the twelve-month period beginning on July 1 and ending on June 30 of the following year;

(20) Prior service means all the periods of time any person has served as a (a) judge of the Supreme Court or judge of the district court prior to January 3, 1957, (b) judge of the county court prior to January 5, 1961, (c) judge of the Nebraska Workmen's Compensation Court prior to September 20, 1957, (d) judge of the separate juvenile court, or (e) judge of the municipal court prior to October 23, 1967;

(21) 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;

(22) Required beginning date means, for purposes of the deferral of distributions, April 1 of the year following the calendar year in which a member has:

(a)(i) Terminated employment with the State of Nebraska; and

(ii)(A) Attained at least seventy and one-half years of age for a member who attained seventy and one-half years of age on or before December 31, 2019; or

(B) Attained at least seventy-two years of age for a member who attained seventy and one-half years of age on or after January 1, 2020; or

(b)(i) Terminated employment with the State of Nebraska; and

(ii) Otherwise reached the date specified by section 401(a)(9) of the Internal Revenue Code and the regulations issued thereunder;

(23) Retirement application means the form approved and provided by the retirement system for acceptance of a member's request for either regular or disability retirement;

(24) Retirement date means (a) the first day of the month following the date upon which a member's request for retirement is received on a retirement application if the member is eligible for retirement and has terminated employment or (b) the first day of the month following termination of employment if the member is eligible for retirement and has filed an application but has not yet terminated employment;

(25) Retirement system or system means the Nebraska Judges Retirement System as provided in the Judges Retirement Act;

(26) 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 the qualified domestic relations order are less than the value of benefits entitled to the surviving spouse, the spouse married to the member on the date of the member's death shall be the surviving spouse for the balance of the benefits; and

(27) Termination of employment occurs on the date on which the State Court Administrator's office determines that the judge's employer-employee relationship with the State of Nebraska is dissolved. The State Court Administrator's office shall notify the board of the date on which such a termination has occurred. Termination of employment does not include ceasing employment as a judge if the judge returns to regular employment as a judge or is employed on a regular basis by another agency of the State of Nebraska and there are less than one hundred twenty days between the date when the judge's employer-employee relationship ceased and the date when the employer-employee relationship recommences. It is the responsibility of the employer that is involved in the termination of employment to notify the board of such change in employment and provide the board with such information as the board deems necessary. If the board determines that termination of employment has not

occurred and a retirement benefit has been paid to a member of the retirement system pursuant to section 24-710, the board shall require the member who has received such benefit to repay the benefit to the retirement system.

Source: Laws 1955, c. 83, § 1, p. 244; Laws 1957, c. 78, § 1, p. 315; Laws 1957, c. 79, § 1, p. 318; Laws 1959, c. 95, § 1, p. 409; Laws 1959, c. 189, § 13, p. 687; Laws 1965, c. 115, § 1, p. 440; Laws 1969, c. 178, § 1, p. 759; Laws 1971, LB 987, § 4; Laws 1972, LB 1032, § 120; Laws 1973, LB 226, § 10; Laws 1974, LB 905, § 3; Laws 1983, LB 223, § 1; Laws 1984, LB 13, § 32; Laws 1984, LB 750, § 1; Laws 1986, LB 92, § 1; Laws 1986, LB 311, § 9; Laws 1986, LB 351, § 1; Laws 1986, LB 529, § 17; Laws 1986, LB 811, § 12; Laws 1989, LB 506, § 2; Laws 1991, LB 549, § 15; Laws 1991, LB 732, § 36; Laws 1992, LB 682, § 1; Laws 1994, LB 833, § 12; Laws 1996, LB 700, § 1; Laws 1996, LB 847, § 11; Laws 1996, LB 1076, § 8; Laws 1996, LB 1273, § 19; Laws 1997, LB 624, § 9; Laws 1999, LB 674, § 1; Laws 2000, LB 1192, § 4; Laws 2001, LB 408, § 6; Laws 2003, LB 451, § 14; Laws 2011, LB6, § 1; Laws 2012, LB916, § 14; Laws 2013, LB263, § 10; Laws 2015, LB468, § 1; Laws 2016, LB790, § 2; Laws 2017, LB415, § 18; Laws 2020, LB1054, § 5; Laws 2021, LB17, § 1.
Effective date May 6, 2021.

Cross References

Spousal Pension Rights Act, see section 42-1101.

24-703 Judges; contributions; deductions; fees taxed as costs; payment; late fees; funding of retirement system; actuarial valuation; transfer of funds; adjustments.

(1) Each original member shall contribute monthly four percent of his or her monthly compensation to the fund until the maximum benefit as limited in subsection (1) of section 24-710 has been earned. It shall be the duty of the Director of Administrative Services in accordance with subsection (7) of this section to make a deduction of four percent on the monthly payroll of each original member who is a judge of the Supreme Court, a judge of the Court of Appeals, a judge of the district court, a judge of a separate juvenile court, a judge of the county court, a clerk magistrate of the county court who was an associate county judge and a member of the fund at the time of his or her appointment as a clerk magistrate, or a judge of the Nebraska Workers' Compensation Court showing the amount to be deducted and its credit to the fund. The Director of Administrative Services and the State Treasurer shall credit the four percent as shown on the payroll and the amounts received from the various counties to the fund and remit the same to the director in charge of the judges retirement system who shall keep an accurate record of the contributions of each judge.

(2)(a) In addition to the contribution required under subdivision (c) of this subsection, beginning on July 1, 2004, each future member who became a member prior to July 1, 2015, and who has not elected to make contributions and receive benefits as provided in section 24-703.03 shall contribute monthly six percent of his or her monthly compensation to the fund until the maximum benefit as limited in subsection (2) of section 24-710 has been earned. After the maximum benefit as limited in subsection (2) of section 24-710 has been

earned, such future member shall make no further contributions to the fund, except that (i) any time the maximum benefit is changed, a future member who has previously earned the maximum benefit as it existed prior to the change shall contribute monthly six percent of his or her monthly compensation to the fund until the maximum benefit as changed and as limited in subsection (2) of section 24-710 has been earned and (ii) such future member shall continue to make the contribution required under subdivision (c) of this subsection.

(b) In addition to the contribution required under subdivision (c) of this subsection, beginning on July 1, 2004, a judge who became a member prior to July 1, 2015, and who first serves as a judge on or after July 1, 2004, or a future member who became a member prior to July 1, 2015, and who elects to make contributions and receive benefits as provided in section 24-703.03 shall contribute monthly eight percent of his or her monthly compensation to the fund until the maximum benefit as limited by subsection (2) of section 24-710 has been earned. In addition to the contribution required under subdivision (c) of this subsection, after the maximum benefit as limited in subsection (2) of section 24-710 has been earned, such judge or future member shall contribute monthly four percent of his or her monthly compensation to the fund for the remainder of his or her active service.

(c) Beginning on July 1, 2009, a member or judge described in subdivisions (a) and (b) of this subsection shall contribute monthly an additional one percent of his or her monthly compensation to the fund.

(d) Beginning on July 1, 2015, a judge who first serves as a judge on or after such date shall contribute monthly ten percent of his or her monthly compensation to the fund.

(e) It shall be the duty of the Director of Administrative Services to make a deduction on the monthly payroll of each such future member who is a judge of the Supreme Court, a judge of the Court of Appeals, a judge of the district court, a judge of a separate juvenile court, a judge of the county court, a clerk magistrate of the county court who was an associate county judge and a member of the fund at the time of his or her appointment as a clerk magistrate, or a judge of the Nebraska Workers' Compensation Court showing the amount to be deducted and its credit to the fund. This shall be done each month. The Director of Administrative Services and the State Treasurer shall credit the amount as shown on the payroll and the amounts received from the various counties to the fund and remit the same to the director in charge of the judges retirement system who shall keep an accurate record of the contributions of each judge.

(3)(a) Except as otherwise provided in this subsection, a Nebraska Retirement Fund for Judges fee of six dollars through June 30, 2021, eight dollars beginning July 1, 2021, through June 30, 2022, nine dollars beginning July 1, 2022, through June 30, 2023, ten dollars beginning July 1, 2023, through June 30, 2024, eleven dollars beginning July 1, 2024, through June 30, 2025, and twelve dollars beginning July 1, 2025, shall be taxed as costs in each (i) civil cause of action, criminal cause of action, traffic misdemeanor or infraction, and city or village ordinance violation filed in the district courts, the county courts, and the separate juvenile courts, (ii) filing in the district court of an order, award, or judgment of the Nebraska Workers' Compensation Court or any judge thereof pursuant to section 48-188, (iii) appeal or other proceeding filed in the Court of Appeals, and (iv) original action, appeal, or other proceeding

filed in the Supreme Court. In county courts a sum shall be charged which is equal to ten percent of each fee provided by sections 33-125, 33-126.02, 33-126.03, and 33-126.06, rounded to the nearest even dollar. No judges retirement fee shall be charged for filing a report pursuant to sections 33-126.02 and 33-126.06.

(b) The fee increases described in subdivision (a) of this subsection shall not be taxed as a cost in any criminal cause of action, traffic misdemeanor or infraction, or city or village ordinance violation filed in the district court or the county court. The fee on such criminal causes of action, traffic misdemeanors or infractions, or city or village ordinance violations shall remain six dollars on and after July 1, 2021.

(c) When collected by the clerk of the district or county court, such fees shall be remitted to the State Treasurer within ten days after the close of each calendar month for credit to the Nebraska Retirement Fund for Judges. In addition, information regarding collection of court fees shall be submitted to the director in charge of the judges retirement system by the State Court Administrator within ten days after the close of each calendar month.

(d) The board may charge a late administrative processing fee not to exceed twenty-five dollars if the information is not timely received or the money is delinquent. In addition, the board may charge a late fee of thirty-eight thousandths of one percent of the amount required to be submitted pursuant to this section for each day such amount has not been received. Such late fees shall be remitted to the director who shall promptly thereafter remit such fees to the State Treasurer for credit to the fund.

(e) No Nebraska Retirement Fund for Judges fee which is uncollectible for any reason shall be waived by a county judge as provided in section 29-2709.

(4) All expenditures from the fund shall be authorized by voucher in the manner prescribed in section 24-713. The fund shall be used for the payment of all annuities and other benefits to members and their beneficiaries and for the expenses of administration.

(5)(a) Prior to July 1, 2021:

(i) Beginning July 1, 2013, and each fiscal year thereafter, the board shall cause an annual actuarial valuation to be performed that will value the plan assets for the year and ascertain the contributions required for such fiscal year. The actuary for the board shall perform an actuarial valuation of the system on the basis of actuarial assumptions recommended by the actuary, approved by the board, and kept on file with the board using the entry age actuarial cost method. Under this method, the actuarially required funding rate is equal to the normal cost rate, plus the contribution rate necessary to amortize the unfunded actuarial accrued liability on a level percentage of salary basis. The normal cost under this method shall be determined for each individual member on a level percentage of salary basis. The normal cost amount is then summed for all members;

(ii) Beginning July 1, 2006, any existing unfunded liabilities shall be reinitialized and amortized over a thirty-year period, and during each subsequent actuarial valuation through June 30, 2021, changes in the unfunded actuarial accrued liability due to changes in benefits, actuarial assumptions, the asset valuation method, or actuarial gains or losses shall be measured and amortized over a thirty-year period beginning on the valuation date of such change;

(iii) If the unfunded actuarial accrued liability under the entry age actuarial cost method is zero or less than zero on an actuarial valuation date, then all prior unfunded actuarial accrued liabilities shall be considered fully funded and the unfunded actuarial accrued liability shall be reinitialized and amortized over a thirty-year period as of the actuarial valuation date; and

(iv) If the actuarially required contribution rate exceeds the rate of all contributions required pursuant to the Judges 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 Judges Retirement Act.

(b) Beginning July 1, 2021, and each fiscal year thereafter:

(i) The board shall cause an annual actuarial valuation to be performed that will value the plan assets for the year and ascertain the contributions required for such fiscal year. The actuary for the board shall perform an actuarial valuation of the system on the basis of actuarial assumptions recommended by the actuary, approved by the board, and kept on file with the board using the entry age actuarial cost method. Under such method, the actuarially required funding rate is equal to the normal cost rate, plus the contribution rate necessary to amortize the unfunded actuarial accrued liability on a level percentage of salary basis. The normal cost under such method shall be determined for each individual member on a level percentage of salary basis. The normal cost amount is then summed for all members;

(ii) Any changes in the unfunded actuarial accrued liability due to changes in benefits, actuarial assumptions, the asset valuation method, or actuarial gains or losses shall be measured and amortized over a twenty-five-year period beginning on the valuation date of such change;

(iii) If the unfunded actuarial accrued liability under the entry age actuarial cost method is zero or less than zero on an actuarial valuation date, then all prior unfunded actuarial accrued liabilities shall be considered fully funded and the unfunded actuarial accrued liability shall be reinitialized and amortized over a twenty-five-year period as of the actuarial valuation date; and

(iv) If the actuarially required contribution rate exceeds the rate of all contributions required pursuant to the Judges Retirement Act, there shall be a supplemental appropriation sufficient to pay for the differences between the actuarially required contribution rate and the rate of all contributions required pursuant to the act.

(c) Upon the recommendation of the actuary to the board, and after the board notifies the Nebraska Retirement Systems Committee of the Legislature, the board may combine or offset certain amortization bases to reduce future volatility of the actuarial contribution rate. Such notification to the committee shall be in writing and include, at a minimum, the actuary's projection of the contributions to fund the plan if the combination or offset were not implemented, the actuary's projection of the contributions to fund the plan if the combination or offset were implemented, and the actuary's explanation of why the combination or offset is in the best interests of the plan at the proposed time.

(d) For purposes of this subsection, the rate of all contributions required pursuant to the Judges Retirement Act includes (i) member contributions, (ii) state contributions pursuant to subsection (6) of this section which shall be considered as a contribution for the plan year ending the prior June 30, (iii)

court fees as provided in subsection (3) of this section, and (iv) all fees pursuant to sections 25-2804, 33-103, 33-103.01, 33-106.02, 33-123, 33-124, 33-125, 33-126.02, 33-126.03, and 33-126.06, as directed to be remitted to the fund.

(6)(a) In addition to the contributions otherwise required by this section, beginning July 1, 2023, and on July 1 of each year thereafter, or as soon thereafter as administratively possible, the State Treasurer shall transfer from the General Fund to the Nebraska Retirement Fund for Judges an amount equal to five percent of the total annual compensation of all members of the retirement system except as otherwise provided in this subsection and as such rate shall be adjusted or terminated by the Legislature. No adjustment may cause the total contribution rate established in this subsection to exceed five percent. For purposes of this subsection, (i) total annual compensation is based on the total member compensation reported in the most recent annual actuarial valuation report for the retirement system produced for the board pursuant to section 84-1503 and (ii) the contribution described in this subsection shall be considered as a contribution for the plan year ending the prior June 30.

(b) If the funded ratio on the actuarial value of assets is at or above one hundred percent for two consecutive years as reported in the annual actuarial valuation report, the actuary shall assess whether the percentage of the state contribution rate should be adjusted based on projected annual actuarial valuation report results including the funded ratio, actuarial contribution, and expected revenue sources using several assumed investment return scenarios that the actuary deems to be reasonable, and shall make a recommendation to the board as part of the annual actuarial valuation report.

(c) If the state contribution rate has been adjusted to less than five percent and the funded ratio on the actuarial value of assets is below one hundred percent for two consecutive years as reported in the annual actuarial valuation report, the actuary shall assess whether the percentage of the state contribution rate should be adjusted based on projected annual actuarial valuation report results including the funded ratio, actuarial contribution, and expected revenue sources using several assumed investment return scenarios that the actuary deems to be reasonable, and shall make a recommendation to the board as part of the annual actuarial valuation report.

(d) If an annual actuarial valuation report includes a recommendation from the actuary to adjust the contribution rate as described in subdivision (b) or (c) of this subsection, the board shall provide written notice electronically to the Nebraska Retirement Systems Committee of the Legislature, to the Governor, and to the Supreme Court of such recommendation within seven business days after voting to approve an annual actuarial valuation report. The notice shall include the actuary's recommendation and analysis regarding such adjustment.

(e) Following receipt of the actuary's recommendation and analysis pursuant to this subsection, the Nebraska Retirement Systems Committee of the Legislature shall determine the amount of any adjustment of the contribution rate and, if necessary, shall propose any such adjustment to the Legislature.

(7) The state or county shall pick up the member contributions required by this section for all compensation paid on or after January 1, 1985, and the contributions so picked up shall be treated as employer contributions pursuant to section 414(h)(2) of the Internal Revenue Code in determining federal tax treatment under the code and shall not be included as gross income of the member until such time as they are distributed or made available. The contribu-

tions, although designated as member contributions, shall be paid by the state or county in lieu of member contributions. The state or county shall pay these member contributions from the same source of funds which is used in paying earnings to the member. The state or county shall pick up these contributions by a compensation deduction through a reduction in the compensation of the member. Member contributions picked up shall be treated for all purposes of the Judges Retirement Act in the same manner and to the extent as member contributions made prior to the date picked up.

Source: Laws 1955, c. 83, § 3, p. 246; Laws 1957, c. 79, § 2, p. 321; Laws 1959, c. 95, § 2, p. 411; Laws 1959, c. 189, § 14, p. 689; Laws 1963, c. 137, § 1, p. 513; Laws 1965, c. 115, § 2, p. 442; Laws 1965, c. 116, § 2, p. 446; Laws 1967, c. 140, § 1, p. 428; Laws 1969, c. 178, § 2, p. 957; Laws 1971, LB 987, § 5; Laws 1972, LB 1032, § 121; Laws 1972, LB 1471, § 1; Laws 1973, LB 226, § 11; Laws 1974, LB 228, § 1; Laws 1977, LB 344, § 2; Laws 1977, LB 467, § 1; Laws 1981, LB 459, § 3; Laws 1984, LB 13, § 33; Laws 1984, LB 218, § 2; Laws 1986, LB 92, § 2; Laws 1986, LB 529, § 18; Laws 1989, LB 233, § 1; Laws 1989, LB 506, § 3; Laws 1991, LB 549, § 16; Laws 1991, LB 732, § 37; Laws 1992, LB 672, § 31; Laws 1992, LB 682, § 2; Laws 1994, LB 833, § 14; Laws 1995, LB 574, § 34; Laws 2001, LB 408, § 9; Laws 2002, LB 407, § 13; Laws 2003, LB 320, § 1; Laws 2003, LB 760, § 4; Laws 2004, LB 1097, § 11; Laws 2005, LB 348, § 2; Laws 2005, LB 364, § 7; Laws 2006, LB 1019, § 5; Laws 2009, LB414, § 2; Laws 2013, LB263, § 11; Laws 2013, LB306, § 2; Laws 2013, LB553, § 1; Laws 2015, LB468, § 3; Laws 2021, LB17, § 2. Effective date May 6, 2021.

24-710 Judges; retirement annuity; amount; how computed; cost-of-living adjustment.

(1) The retirement annuity of a judge who is an original member, who has not made the election provided for in section 24-710.01, and who retires under section 24-708 or 24-709 shall be computed as follows: Each such judge shall be entitled to receive an annuity, each monthly payment of which shall be in an amount equal to three and one-third percent of his or her final average compensation as such judge, multiplied by the number of his or her years of creditable service. The amount stated in this section shall be supplemental to any benefits received by such judge under the Nebraska and federal old age and survivors' insurance acts at the date of retirement, but the monthly combined benefits received thereunder and by the Judges Retirement Act shall not exceed sixty-five percent of the final average compensation such judge was receiving when he or she last served as such judge. The amount of retirement annuity of a judge who retires under section 24-708 or 24-709 shall not be less than twenty-five dollars per month if he or she has four years or more of service credit.

(2) The retirement annuity of a judge who is a future member and who retires after July 1, 1986, under section 24-708 or 24-709 shall be computed as follows: Each such judge shall be entitled to receive an annuity, each monthly payment of which shall be in an amount equal to three and one-half percent of his or her final average compensation as such judge, multiplied by the number of his or her years of creditable service, except that prior to an actuarial factor adjust-

ment for purposes of calculating an optional form of annuity benefits under subsection (3) of this section, the monthly benefits received under this subsection shall not exceed seventy percent of the final average compensation such judge was receiving when he or she last served as such judge.

(3) Except as provided in section 42-1107, any member may, when filing an application as provided by the retirement system, elect to receive, in lieu of the normal form annuity benefits to which the member or his or her beneficiary may otherwise be entitled under the Judges Retirement Act, an optional form of annuity benefits which the board may by rules and regulations provide, the value of which, determined by accepted actuarial methods and on the basis of actuarial assumptions recommended by the actuary, approved by the board, and kept on file in the office of the director, is equal to the value of the benefit replaced. The board may (a) adopt and promulgate appropriate rules and regulations to establish joint and survivorship annuities, with and without reduction on the death of the first annuitant, and such other forms of annuities as may in its judgment be appropriate and establishing benefits as provided in sections 24-707 and 24-707.01, (b) prescribe appropriate forms for making the election by the members, and (c) provide for the necessary actuarial services to make the required valuations.

(4) A one-time cost-of-living adjustment shall be made for each retired judge and each surviving beneficiary who is receiving a retirement annuity as provided for in this section. The annuity shall be adjusted by the increase in the cost of living or wage levels between the effective date of retirement and June 30, 1992, except that such increases shall not exceed three percent per year of retirement and the total increase shall not exceed two hundred fifty dollars per month.

Source: Laws 1955, c. 83, § 10, p. 249; Laws 1957, c. 79, § 4, p. 323; Laws 1959, c. 95, § 4, p. 413; Laws 1965, c. 116, § 3, p. 448; Laws 1965, c. 117, § 1, p. 489; Laws 1969, c. 178, § 4, p. 766; Laws 1973, LB 478, § 2; Laws 1974, LB 740, § 1; Laws 1975, LB 49, § 1; Laws 1977, LB 467, § 2; Laws 1977, LB 344, § 5; Laws 1981, LB 459, § 4; Laws 1981, LB 462, § 4; Laws 1986, LB 92, § 5; Laws 1986, LB 311, § 13; Laws 1989, LB 506, § 7; Laws 1991, LB 549, § 18; Laws 1992, LB 672, § 32; Laws 1992, LB 682, § 3; Laws 1994, LB 833, § 22; Laws 1996, LB 1273, § 21; Laws 1997, LB 624, § 15; Laws 2004, LB 1097, § 15; Laws 2011, LB509, § 11; Laws 2018, LB1005, § 15; Laws 2021, LB17, § 3. Effective date May 6, 2021.

ARTICLE 12

JUDICIAL RESOURCES COMMISSION

Section
24-1204. Existence of judicial vacancy; determination.

24-1204 Existence of judicial vacancy; determination.

In the event of the death, retirement, resignation, or removal of a district, county, or separate juvenile judge or the failure of a district, county, or separate juvenile judge to be retained in office or upon the request of a majority of the members of the Judicial Resources Commission, the commission shall, after holding a public hearing, determine whether a judicial vacancy exists in the

affected district or any other judicial district or whether a new judgeship or change in number of judicial districts or boundaries is appropriate. If the commission determines a vacancy exists in a district or county court district, the commission may also make a recommendation to the Supreme Court of the site for a primary office location. The public hearing may include virtual conferencing or, if the judicial workload statistics compiled pursuant to section 24-1007 indicate a need for a number of judges equal to or greater than the number currently authorized by law, the commission may conduct a hearing by telephone conference. If a telephone conference is used, a recording shall be made of the telephone conference and maintained by the commission for at least one year, and the commission shall only determine whether a judicial vacancy exists in the affected district and make no other determinations.

Source: Laws 1995, LB 189, § 6; Laws 1997, LB 229, § 4; Laws 1999, LB 47, § 1; Laws 2021, LB83, § 2.
Effective date April 22, 2021.

CHAPTER 25
COURTS; CIVIL PROCEDURE

ARTICLE 5
COMMENCEMENT OF ACTIONS; PROCESS

(c) CONSTRUCTIVE SERVICE

(c) CONSTRUCTIVE SERVICE

25-520.01 Service by publication; mailing of published notice; requirements; waiver; when mailing not required.

(1) Except as provided in subsection (3) of this section, in any action or proceeding of any kind or nature, as defined in section 25-520.02, where a notice by publication is given as authorized by law, a party instituting or maintaining the action or proceeding with respect to notice or such party's attorney shall within five days after the first publication of notice send by United States mail a copy of such published notice or, if applicable, the notice described in subsection (4) of this section, to each and every party appearing to have a direct legal interest in such action or proceeding whose name and post office address are known to such party or attorney.

(2) Proof by affidavit of the mailing of such notice shall be made by the party or such party's attorney and shall be filed with the officer with whom filings are required to be made in such action or proceeding within ten days after mailing of such notice. Such affidavit of mailing of notice shall further be required to state that such party and such party's attorney, after diligent investigation and inquiry, were unable to ascertain and do not know the post office address of any other party appearing to have a direct legal interest in such action or proceeding other than those to whom notice has been mailed in writing.

(3) It shall not be necessary to serve the notice prescribed by this section upon any competent person, fiduciary, partnership, or corporation, who has waived notice in writing, has entered a voluntary appearance, or has been personally served with summons or notice in such proceeding.

(4) In the case of a lien for a special assessment imposed by any city or village, in lieu of sending a copy of published notice, the city or village may instead send by United States mail, to each and every party appearing to have a direct legal interest in such action or proceeding whose name and post office address are known to the city or village or its attorney, a notice containing the amount owed, the date due, and the date the board of equalization meets in case of an appeal.

Source: Laws 1957, c. 80, § 1, p. 325; Laws 1959, c. 97, § 1, p. 416; Laws 2021, LB58, § 1.
Effective date August 28, 2021.

ARTICLE 10

PROVISIONAL REMEDIES

(e) REPLEVIN

(e) REPLEVIN

25-1093.03 Affidavit; temporary order; notice; hearing; summons; service.

If filed at the commencement of suit, such affidavit and request for delivery and such temporary order containing the notice of hearing shall be served by the sheriff or other officer with the summons. If filed after the commencement of suit but before answer, they shall be served separately from the summons, but as soon after their filing and issuance as practicable. The summons shall be served within three days, excluding nonjudicial days, after the date of issuance.

Source: Laws 1973, LB 474, § 4; Laws 2021, LB355, § 2.
Effective date August 28, 2021.

ARTICLE 13

JUDGMENTS

(i) UNIFORM FOREIGN-COUNTRY MONEY JUDGMENTS RECOGNITION ACT

(j) UNIFORM REGISTRATION OF CANADIAN MONEY JUDGMENTS ACT

(i) UNIFORM FOREIGN-COUNTRY MONEY JUDGMENTS RECOGNITION ACT

25-1337 Short title.

Sections 25-1337 to 25-1348 shall be known and may be cited as the Uniform Foreign-Country Money Judgments Recognition Act.

Source: Laws 2021, LB501, § 1.
Effective date August 28, 2021.

25-1338 Definitions.

In the Uniform Foreign-Country Money Judgments Recognition Act:

(1) Foreign country means a government other than:

(A) the United States;

(B) a state, district, commonwealth, territory, or insular possession of the United States; or

(C) any other government with regard to which the decision in this state as to whether to recognize a judgment of that government's courts is initially subject to determination under the Full Faith and Credit Clause of the United States Constitution.

(2) Foreign-country judgment means a judgment of a court of a foreign country.

Source: Laws 2021, LB501, § 2.
Effective date August 28, 2021.

25-1339 Applicability.

(a) Except as otherwise provided in subsection (b) of this section, the Uniform Foreign-Country Money Judgments Recognition Act applies to a foreign-country judgment to the extent that the judgment:

(1) grants or denies recovery of a sum of money; and

(2) under the law of the foreign country where rendered, is final, conclusive, and enforceable.

(b) The Uniform Foreign-Country Money Judgments Recognition Act does not apply to a foreign-country judgment, even if the judgment grants or denies recovery of a sum of money, to the extent that the judgment is:

(1) a judgment for taxes;

(2) a fine or other penalty; or

(3) a judgment for divorce, support, or maintenance, or other judgment rendered in connection with domestic relations.

(c) A party seeking recognition of a foreign-country judgment has the burden of establishing that the Uniform Foreign-Country Money Judgments Recognition Act applies to the foreign-country judgment.

Source: Laws 2021, LB501, § 3.
Effective date August 28, 2021.

25-1340 Standards for recognition of foreign-country judgment.

(a) Except as otherwise provided in subsections (b) and (c) of this section, a court of this state shall recognize a foreign-country judgment to which the Uniform Foreign-Country Money Judgments Recognition Act applies.

(b) A court of this state may not recognize a foreign-country judgment if:

(1) the judgment was rendered under a judicial system that does not provide impartial tribunals or procedures compatible with the requirements of due process of law;

(2) the foreign court did not have personal jurisdiction over the defendant; or

(3) the foreign court did not have jurisdiction over the subject matter.

(c) A court of this state need not recognize a foreign-country judgment if:

(1) the defendant in the proceeding in the foreign court did not receive notice of the proceeding in sufficient time to enable the defendant to defend;

(2) the judgment was obtained by fraud that deprived the losing party of an adequate opportunity to present its case;

(3) the judgment or the cause of action or claim for relief on which the judgment is based is repugnant to the public policy of this state or of the United States;

(4) the judgment conflicts with another final and conclusive judgment;

(5) the proceeding in the foreign court was contrary to an agreement between the parties under which the dispute in question was to be determined otherwise than by proceedings in that foreign court;

(6) in the case of jurisdiction based only on personal service, the foreign court was a seriously inconvenient forum for the trial of the action;

(7) the judgment was rendered in circumstances that raise substantial doubt about the integrity of the rendering court with respect to the judgment; or

(8) the specific proceeding in the foreign court leading to the judgment was not compatible with the requirements of due process of law.

(d) A party resisting recognition of a foreign-country judgment has the burden of establishing that a ground for nonrecognition stated in subsection (b) or (c) of this section exists.

Source: Laws 2021, LB501, § 4.
Effective date August 28, 2021.

25-1341 Personal jurisdiction.

(a) A foreign-country judgment may not be refused recognition for lack of personal jurisdiction if:

(1) the defendant was served with process personally in the foreign country;

(2) the defendant voluntarily appeared in the proceeding, other than for the purpose of protecting property seized or threatened with seizure in the proceeding or of contesting the jurisdiction of the court over the defendant;

(3) the defendant, before the commencement of the proceeding, had agreed to submit to the jurisdiction of the foreign court with respect to the subject matter involved;

(4) the defendant was domiciled in the foreign country when the proceeding was instituted or was a corporation or other form of business organization that had its principal place of business in, or was organized under the laws of, the foreign country;

(5) the defendant had a business office in the foreign country and the proceeding in the foreign court involved a cause of action or claim for relief arising out of business done by the defendant through that office in the foreign country; or

(6) the defendant operated a motor vehicle or airplane in the foreign country and the proceeding involved a cause of action or claim for relief arising out of that operation.

(b) The list of bases for personal jurisdiction in subsection (a) of this section is not exclusive. The courts of this state may recognize bases of personal jurisdiction other than those listed in subsection (a) of this section as sufficient to support a foreign-country judgment.

Source: Laws 2021, LB501, § 5.
Effective date August 28, 2021.

25-1342 Procedure for recognition of foreign-country judgment.

(a) If recognition of a foreign-country judgment is sought as an original matter, the issue of recognition shall be raised by filing an action seeking recognition of the foreign-country judgment.

(b) If recognition of a foreign-country judgment is sought in a pending action, the issue of recognition may be raised by counterclaim, cross-claim, or affirmative defense.

Source: Laws 2021, LB501, § 6.
Effective date August 28, 2021.

25-1343 Effect of recognition of foreign-country judgment.

If the court in a proceeding under section 25-1342 finds that the foreign-country judgment is entitled to recognition under the Uniform Foreign-Country Money Judgments Recognition Act then, to the extent that the foreign-country judgment grants or denies recovery of a sum of money, the foreign-country judgment is:

(1) conclusive between the parties to the same extent as the judgment of a sister state entitled to full faith and credit in this state would be conclusive; and

(2) enforceable in the same manner and to the same extent as a judgment rendered in this state.

Source: Laws 2021, LB501, § 7.
Effective date August 28, 2021.

25-1344 Stay of proceedings pending appeal of foreign-country judgment.

If a party establishes that an appeal from a foreign-country judgment is pending or will be taken, the court may stay any proceedings with regard to the foreign-country judgment until the appeal is concluded, the time for appeal expires, or the appellant has had sufficient time to prosecute the appeal and has failed to do so.

Source: Laws 2021, LB501, § 8.
Effective date August 28, 2021.

25-1345 Statute of limitations.

An action to recognize a foreign-country judgment must be commenced within the earlier of the time during which the foreign-country judgment is effective in the foreign country or fifteen years from the date that the foreign-country judgment became effective in the foreign country.

Source: Laws 2021, LB501, § 9.
Effective date August 28, 2021.

25-1346 Uniformity of interpretation.

In applying and construing the Uniform Foreign-Country Money Judgments Recognition Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Source: Laws 2021, LB501, § 10.
Effective date August 28, 2021.

25-1347 Saving clause.

The Uniform Foreign-Country Money Judgments Recognition Act does not prevent the recognition under principles of comity or otherwise of a foreign-country judgment not within the scope of the Uniform Foreign-Country Money Judgments Recognition Act.

Source: Laws 2021, LB501, § 11.
Effective date August 28, 2021.

25-1348 Act; applicability.

The Uniform Foreign-Country Money Judgments Recognition Act applies to all actions commenced on or after August 28, 2021, in which the issue of recognition of a foreign-country judgment is raised.

Source: Laws 2021, LB501, § 12.
Effective date August 28, 2021.

(j) UNIFORM REGISTRATION OF CANADIAN MONEY JUDGMENTS ACT

25-1349 Short title.

Sections 25-1349 to 25-1359 shall be known and may be cited as the Uniform Registration of Canadian Money Judgments Act.

Source: Laws 2021, LB501, § 13.
Effective date August 28, 2021.

25-1350 Definitions.

In the Uniform Registration of Canadian Money Judgments Act:

(1) Canada means the sovereign nation of Canada and its provinces and territories. Canadian has a corresponding meaning.

(2) Canadian judgment means a judgment of a court of Canada, other than a judgment that recognizes the judgment of another foreign country.

Source: Laws 2021, LB501, § 14.
Effective date August 28, 2021.

25-1351 Applicability.

(a) The Uniform Registration of Canadian Money Judgments Act applies to a Canadian judgment to the extent the judgment is within the scope of section 25-1339, if recognition of the judgment is sought to enforce the judgment.

(b) A Canadian judgment that grants both recovery of a sum of money and other relief may be registered under the Uniform Registration of Canadian Money Judgments Act, but only to the extent of the grant of recovery of a sum of money.

(c) A Canadian judgment regarding subject matter both within and not within the scope of the Uniform Registration of Canadian Money Judgments Act may be registered under the act, but only to the extent the judgment is with regard to subject matter within the scope of the act.

Source: Laws 2021, LB501, § 15.
Effective date August 28, 2021.

25-1352 Registration of Canadian judgment.

(a) A person seeking recognition of a Canadian judgment described in section 25-1351 to enforce the judgment may register the judgment in the office of the clerk of a court in which an action for recognition of the judgment could be filed under section 25-1342.

(b) A registration under subsection (a) of this section must be executed by the person registering the judgment or the person's attorney and include:

(1) a copy of the Canadian judgment authenticated in the same manner as a copy of a foreign judgment is authenticated in an action under section 25-1342 as an accurate copy by the court that entered the judgment;

(2) the name and address of the person registering the judgment;

(3) if the person registering the judgment is not the person in whose favor the judgment was rendered, a statement describing the interest the person registering the judgment has in the judgment which entitles the person to seek its recognition and enforcement;

(4) the name and last-known address of the person against whom the judgment is being registered;

(5) if the judgment is of the type described in subsection (b) or (c) of section 25-1351, a description of the part of the judgment being registered;

(6) the amount of the judgment or part of the judgment being registered, identifying:

(A) the amount of interest accrued as of the date of registration on the judgment or part of the judgment being registered, the rate of interest, the part of the judgment to which interest applies, and the date when interest began to accrue;

(B) costs and expenses included in the judgment or part of the judgment being registered, other than an amount awarded for attorney's fees; and

(C) the amount of an award of attorney's fees included in the judgment or part of the judgment being registered;

(7) the amount, as of the date of registration, of postjudgment costs, expenses, and attorney's fees claimed by the person registering the judgment or part of the judgment;

(8) the amount of the judgment or part of the judgment being registered which has been satisfied as of the date of registration;

(9) a statement that:

(A) the judgment is final, conclusive, and enforceable under the law of the Canadian jurisdiction in which it was rendered;

(B) the judgment or part of the judgment being registered is within the scope of the Uniform Registration of Canadian Money Judgments Act; and

(C) if a part of the judgment is being registered, the amounts stated in the registration under subdivisions (6), (7), and (8) of this subsection relate to the part;

(10) if the judgment is not in English, a certified translation of the judgment into English; and

(11) a registration fee determined by the Supreme Court.

(c) On receipt of a registration that includes the documents, information, and registration fee required by subsection (b) of this section, the clerk shall file the registration, assign a docket number, and enter the Canadian judgment in the court's docket.

(d) A registration substantially in the following form complies with the registration requirements under subsection (b) of this section if the registration includes the attachments specified in the form:

REGISTRATION OF CANADIAN MONEY JUDGMENT

Complete and file this form, together with the documents required by Part V of this form, with the Clerk of Court. When stating an amount of money, identify the currency in which the amount is stated.

PART I. IDENTIFICATION OF CANADIAN JUDGMENT

Canadian Court Rendering the Judgment: . . . . . .

Case/Docket Number in Canadian Court: . . . . . .

Name of Plaintiff(s): . . . . . .

Name of Defendant(s): . . . . . .

The Canadian Court entered the judgment on . . . . . [Date] in . . . . . [City] in . . . . . [Province or Territory]. The judgment includes an award for the payment of money in favor of . . . . . in the amount of . . . . . .

If only part of the Canadian judgment is subject to registration (see subsections (b) and (c) of section 25-1351), describe the part of the judgment being registered: . . . . . .

PART II. IDENTIFICATION OF PERSON REGISTERING JUDGMENT AND PERSON AGAINST WHOM JUDGMENT IS BEING REGISTERED

Provide the following information for all persons seeking to register the judgment under this registration and all persons against whom the judgment is being registered under this registration.

Name of Person(s) Registering Judgment: . . . . . .

If a person registering the judgment is not the person in whose favor the judgment was rendered, describe the interest the person registering the judgment has in the judgment which entitles the person to seek its recognition and enforcement: . . . . . .

Address of Person(s) Registering Judgment: . . . . . .

Additional Contact Information for Person(s) Registering Judgment (Optional): . . . . . .

Telephone Number: . . . . . .

FAX Number: . . . . . .

Email Address: . . . . . .

Name of Attorney for Person(s) Registering Judgment, if any: . . . . . .

Address: . . . . . .

Telephone Number: . . . . . .

FAX Number: . . . . . .

Email Address: . . . . . .

Name of Person(s) Against Whom Judgment is Being Registered: . . . . . .

Address of Person(s) Against Whom Judgment is Being Registered: . . . . . (provide the most recent address known)

Additional Contact Information for Person(s) Against Whom Judgment is Being Registered (Optional) (provide most recent information known):

Telephone Number: . . . . . .

FAX Number: . . . . . .

Email Address: . . . . . .

PART III. CALCULATION OF AMOUNT FOR WHICH ENFORCEMENT IS SOUGHT

Identify the currency or currencies in which each amount is stated.

The amount of the Canadian judgment or part of the judgment being registered is . . . . . .

The amount of interest accrued as of the date of registration on the part of the judgment being registered is . . . . . .

The applicable rate of interest is . . . . . .

The date when interest began to accrue is . . . . . .

The part of the judgment to which the interest applies is . . . . . .

The Canadian Court awarded costs and expenses relating to the part of the judgment being registered in the amount of . . . . . (exclude any amount included in the award of costs and expenses which represents an award of attorney's fees).

The person registering the Canadian judgment claims postjudgment costs and expenses in the amount of . . . . . and postjudgment attorney's fees in the amount of . . . . . relating to the part of the judgment being registered (include only costs, expenses, and attorney's fees incurred before registration).

The Canadian Court awarded attorney's fees relating to the part of the judgment being registered in the amount of . . . . . .

The amount of the part of the judgment being registered which has been satisfied as of the date of registration is . . . . . .

The total amount for which enforcement of the part of the judgment being registered is sought is . . . . . .

PART IV. STATEMENT OF PERSON REGISTERING JUDGMENT

I, ... [Person Registering Judgment or Attorney for Person Registering Judgment] state:

1. The Canadian judgment is final, conclusive, and enforceable under the law of the Canadian jurisdiction in which it was rendered.

2. The Canadian judgment or part of the judgment being registered is within the scope of the Uniform Registration of Canadian Money Judgments Act.

3. If only a part of the Canadian judgment is being registered, the amounts stated in Part III of this form relate to that part.

PART V. ITEMS REQUIRED TO BE INCLUDED WITH REGISTRATION

Attached are (check to signify required items are included):

. . . . . A copy of the Canadian judgment authenticated in the same manner a copy of a foreign judgment is authenticated in an action under section 25-1342 as an accurate copy by the Canadian court that entered the judgment.

. . . . . If the Canadian judgment is not in English, a certified translation of the judgment into English.

. . . . . A registration fee determined by the Supreme Court.

I declare that the information provided on this form is true and correct to the best of my knowledge and belief.

Submitted by: . . . . . .

Signature of [Person Registering Judgment]

[Attorney for Person Registering Judgment]

[specify whether signer is the person registering the judgment or that person's attorney]

Date of submission: . . . . . .

Source: Laws 2021, LB501, § 16.
Effective date August 28, 2021.

25-1353 Effect of registration.

(a) Subject to subsection (b) of this section, a Canadian judgment registered under section 25-1352 has the same effect provided in section 25-1343 for a judgment a court determines to be entitled to recognition.

(b) A Canadian judgment registered under section 25-1352 may not be enforced by sale or other disposition of property, or by seizure of property or garnishment, until thirty-one days after notice under section 25-1354 of regis-

tration is served. The court for cause may provide for a shorter or longer time. This subsection does not preclude use of relief available under law of this state other than the Uniform Registration of Canadian Money Judgments Act to prevent dissipation, disposition, or removal of property.

Source: Laws 2021, LB501, § 17.
Effective date August 28, 2021.

25-1354 Notice of registration.

(a) A person that registers a Canadian judgment under section 25-1352 shall cause notice of registration to be served on the person against whom the judgment has been registered.

(b) Notice under this section must be served in the same manner that a summons and complaint must be served in an action seeking recognition under section 25-1342 of a foreign-country money judgment.

(c) Notice under this section must include:

(1) the date of registration and court in which the judgment was registered;

(2) the docket number assigned to the registration;

(3) the name and address of:

(A) the person registering the judgment; and

(B) the person's attorney, if any;

(4) a copy of the registration, including the documents required under subsection (b) of section 25-1352; and

(5) a statement that:

(A) the person against whom the judgment has been registered, not later than thirty days after the date of service of notice, may motion the court to vacate the registration; and

(B) the court for cause may provide for a shorter or longer time.

(d) Proof of service of notice under this section must be filed with the clerk of the court.

Source: Laws 2021, LB501, § 18.
Effective date August 28, 2021.

25-1355 Motion to vacate registration.

(a) Not later than thirty days after notice under section 25-1354 is served, the person against whom the judgment was registered may motion the court to vacate the registration. The court for cause may provide for a shorter or longer time for filing the motion.

(b) A motion under this section may assert only:

(1) a ground that could be asserted to deny recognition of the judgment under the Uniform Foreign-Country Money Judgments Recognition Act; or

(2) a failure to comply with a requirement of the Uniform Registration of Canadian Money Judgments Act for registration of the judgment.

(c) A motion filed under this section does not itself stay enforcement of the registered judgment.

(d) If the court grants a motion under this section, the registration is vacated, and any act under the registration to enforce the registered judgment is void.

(e) If the court grants a motion under this section on a ground under subdivision (b)(1) of this section, the court also shall render a judgment denying recognition of the Canadian judgment. A judgment rendered under this subsection has the same effect as a judgment denying recognition to a judgment on the same ground under the Uniform Foreign-Country Money Judgments Recognition Act.

Source: Laws 2021, LB501, § 19.
Effective date August 28, 2021.

Cross References

Uniform Foreign-Country Money Judgments Recognition Act, see section 25-1337.

25-1356 Stay of enforcement of judgment pending determination of motion.

A person that files a motion under subsection (a) of section 25-1355 to vacate registration of a Canadian judgment may request the court to stay enforcement of the judgment pending determination of the motion. The court shall grant the stay if the person establishes a likelihood of success on the merits with regard to a ground listed in subsection (b) of section 25-1355 for vacating a registration. The court may require the person to provide security in an amount determined by the court as a condition of granting the stay.

Source: Laws 2021, LB501, § 20.
Effective date August 28, 2021.

25-1357 Relationship to Uniform Foreign-Country Money Judgments Recognition Act.

(a) The Uniform Registration of Canadian Money Judgments Act supplements the Uniform Foreign-Country Money Judgments Recognition Act and that act, other than section 25-1342, applies to a registration under the Uniform Registration of Canadian Money Judgments Act.

(b) A person may seek recognition of a Canadian judgment described in section 25-1351 either:

(1) by registration under the Uniform Registration of Canadian Money Judgments Act; or

(2) under section 25-1342.

(c) Subject to subsection (d) of this section, a person may not seek recognition in this state of the same judgment or part of a judgment described in subsection (b) or (c) of section 25-1351 with regard to the same person under both the Uniform Registration of Canadian Money Judgments Act and section 25-1342.

(d) If the court grants a motion to vacate a registration solely on a ground under subdivision (b)(2) of section 25-1355, the person seeking registration may:

(1) if the defect in the registration can be cured, file a new registration under the Uniform Registration of Canadian Money Judgments Act; or

(2) seek recognition of the judgment under section 25-1342.

Source: Laws 2021, LB501, § 21.
Effective date August 28, 2021.

Cross References

Uniform Foreign-Country Money Judgments Recognition Act, see section 25-1337.

25-1358 Uniformity of application and interpretation.

In applying and construing the Uniform Registration of Canadian Money Judgments Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Source: Laws 2021, LB501, § 22.
Effective date August 28, 2021.

25-1359 Act; applicability.

The Uniform Registration of Canadian Money Judgments Act applies to the registration of a Canadian judgment entered in a proceeding that is commenced in Canada on or after August 28, 2021.

Source: Laws 2021, LB501, § 23.
Effective date August 28, 2021.

ARTICLE 21

ACTIONS AND PROCEEDINGS IN PARTICULAR CASES

(w) FORCIBLE ENTRY AND DETAINER

(w) FORCIBLE ENTRY AND DETAINER

25-21,219 Forcible entry and detainer; jurisdiction; exceptions.

The district and county courts shall have jurisdiction over complaints of unlawful and forcible entry into lands and tenements and the detention of the same and of complaints against those who, having a lawful and peaceable entry into lands or tenements, unlawfully and by force hold the same. If the court finds that an unlawful and forcible entry has been made and that the same lands or tenements are held by force or that the same, after a lawful entry, are held unlawfully, the court shall cause the party complaining to have restitution thereof. The court or the jury, as the situation warrants, shall inquire into the matters between the two litigants such as the amount of rent owing the plaintiff and the amount of damage caused by the defendant to the premises while they were occupied by him or her and render a judgment or verdict accordingly. This section shall not apply to actions for possession of any premises subject to the provisions of the Uniform Residential Landlord and Tenant Act or the Mobile Home Landlord and Tenant Act.

Source: Laws 1929, c. 82, § 117, p. 309; C.S.1929, § 22-1201; R.S.1943, § 26-1,118; Laws 1965, c. 129, § 1, p. 468; R.R.S.1943, § 26-1,118; Laws 1972, LB 1032, § 68; Laws 1974, LB 293, § 48; Laws 1984, LB 13, § 27; Laws 1984, LB 1113, § 1; R.S.1943, (1985), § 24-568; Laws 2021, LB320, § 1.
Effective date August 28, 2021.

Cross References

Mobile Home Landlord and Tenant Act, see section 76-1450.
Uniform Residential Landlord and Tenant Act, see section 76-1401.

ARTICLE 27
PROVISIONS APPLICABLE TO COUNTY COURTS

(c) UNCLAIMED FUNDS

(c) UNCLAIMED FUNDS

25-2717 Unclaimed funds; payment to State Treasurer; disposition.

If any fees, money, condemnation awards, legacies, devises, sums due creditors, or costs due or belonging to any heir, legatee, or other person or persons have not been paid to or demanded by the person or persons entitled to the funds within three years from the date the funds were paid to the county judge or his or her predecessors in office, it shall be the duty of the county judge to notify the State Treasurer of the fees, money, condemnation awards, legacies, devises, sums due creditors, or costs remaining. When directed by the State Treasurer, the county judge shall remit the fees, money, condemnation awards, legacies, devises, sums due creditors, or costs to the State Treasurer for deposit in the Unclaimed Property Trust Fund pursuant to section 69-1317. Such payment shall release the bond of the county judge making such payment of all liability for such fees, money, condemnation awards, legacies, devises, sums due creditors, and costs due to heirs, legatees, or other persons paid in compliance with this section.

Source: Laws 1909, c. 40, § 2, p. 227; R.S.1913, § 1243; Laws 1921, c. 105, § 1, p. 376; C.S.1922, § 1166; C.S.1929, § 27-546; R.S.1943, § 24-553; Laws 1949, c. 49, § 1, p. 157; Laws 1967, c. 139, § 4, p. 427; R.R.S.1943, § 24-553; Laws 1972, LB 1032, § 63; Laws 1978, LB 860, § 1; R.S.1943, (1985), § 24-563; Laws 1992, Third Spec. Sess., LB 26, § 2; Laws 2019, LB406, § 2; Laws 2021, LB532, § 2.
Effective date August 28, 2021.

Cross References

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

ARTICLE 28
SMALL CLAIMS COURT

25-2804 Actions; how commenced; fee; hearing; notice; setoff or counterclaim; limitations; default judgment; actions authorized.

(1) Actions in the Small Claims Court shall be commenced by the plaintiff by filing a claim personally, by mail, or by another method established by Supreme Court rules.

(2) At the time of the filing of the claim, the plaintiff shall pay a fee of six dollars and twenty-five cents to the clerk. One dollar and twenty-five cents of such fee shall be remitted to the State Treasurer for credit to the Nebraska

Retirement Fund for Judges through June 30, 2021. Beginning July 1, 2021, two dollars of such fee shall be remitted to the State Treasurer for credit to the Nebraska Retirement Fund for Judges.

(3) Upon filing of a claim in the Small Claims Court, the court shall set a time for hearing and shall cause notice to be served upon the defendant. Notice shall be served not less than five days before the time set for hearing. Notice shall consist of a copy of the complaint and a summons directing the defendant to appear at the time set for hearing and informing the defendant that if he or she fails to appear, judgment will be entered against him or her. Notice shall be served in the manner provided for service of a summons in a civil action. If the notice is to be served by certified mail, the clerk shall provide the plaintiff with written instructions, prepared and provided by the State Court Administrator, regarding the proper procedure for service by certified mail. The cost of service shall be paid by the plaintiff, but such cost and filing fee shall be added to any judgment given the plaintiff.

(4) The defendant may file a setoff or counterclaim. Any setoff or counterclaim shall be filed and a copy delivered to the plaintiff at least two days prior to the time of trial. If the setoff or counterclaim exceeds the jurisdictional limits of the Small Claims Court as established pursuant to section 25-2802, the court shall cause the entire matter to be transferred to the regular county court docket and set for trial.

(5) No prejudgment actions for attachment, garnishment, replevin, or other provisional remedy may be filed in the Small Claims Court.

(6) All forms that may be required by this section shall be prescribed by the Supreme Court.

(7) For a default judgment rendered by a Small Claims Court (a) the default judgment may be appealed as provided in section 25-2807, (b) if a motion for a new trial, by the procedure provided in sections 25-1142, 25-1144, and 25-1144.01, is filed ten days or less after entry of the default judgment, the court may act upon the motion without a hearing, or (c) if more than ten days have passed since the entry of the default judgment, the court may set aside, vacate, or modify the default judgment as provided in section 25-2720.01. Parties may be represented by attorneys for the purpose of filing a motion for a new trial or to set aside, vacate, or modify a default judgment.

Source: Laws 1972, LB 1032, § 24; Laws 1973, LB 226, § 7; Laws 1975, LB 283, § 1; Laws 1979, LB 117, § 2; Laws 1980, LB 892, § 1; Laws 1982, LB 928, § 17; Laws 1983, LB 447, § 14; Laws 1984, LB 13, § 14; Laws 1985, LB 373, § 3; Laws 1986, LB 125, § 1; Laws 1987, LB 77, § 2; R.S.Supp.,1988, § 24-524; Laws 2000, LB 921, § 28; Laws 2005, LB 348, § 4; Laws 2010, LB712, § 6; Laws 2020, LB1028, § 5; Laws 2021, LB17, § 4; Laws 2021, LB355, § 3.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB17, section 4, with LB355, section 3, to reflect all amendments.

Note: Changes made by LB17 became effective May 6, 2021. Changes made by LB355 became effective August 28, 2021.

ARTICLE 36
COVID-19 LIABILITY ACT

Section
25-3601. Act, how cited.

Section
25-3602. Terms, defined.
25-3603. Exposure or potential exposure to COVID-19; civil action; when permitted.
25-3604. Act; how construed.

25-3601 Act, how cited.

Sections 25-3601 to 25-3604 shall be known and may be cited as the COVID-19 Liability Act.

Source: Laws 2021, LB139, § 1.
Effective date May 26, 2021.

Cross References

Health Care Crisis Protocol Act, see section 71-2701.

25-3602 Terms, defined.

For purposes of the COVID-19 Liability Act:

(1) COVID-19 means the novel coronavirus identified as SARS-CoV-2, the disease caused by the novel coronavirus SARS-CoV-2 or a virus mutating therefrom, and the health conditions or threats associated with the disease caused by the novel coronavirus SARS-CoV-2 or a virus mutating therefrom;

(2) Federal public health guidance means and includes written or oral guidance related to COVID-19 issued by any of the following:

(a) The Centers for Disease Control and Prevention of the United States Department of Health and Human Services;

(b) The Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services; or

(c) The federal Occupational Safety and Health Administration; and

(3)(a) Person means:

(i) Any natural person;

(ii) Any sole proprietorship, partnership, limited liability partnership, corporation, limited liability company, business trust, estate, trust, unincorporated association, or joint venture;

(iii) The State of Nebraska and any political subdivision of the state;

(iv) Any school, college, university, institution of higher education, religious organization, or charitable organization; or

(v) Any other legal or commercial entity.

(b) Person includes an employee, director, governing board, officer, agent, independent contractor, or volunteer of a person listed in subdivision (3)(a) of this section.

Source: Laws 2021, LB139, § 2.
Effective date May 26, 2021.

Cross References

Health Care Crisis Protocol Act, see section 71-2701.

25-3603 Exposure or potential exposure to COVID-19; civil action; when permitted.

A person may not bring or maintain a civil action seeking recovery for any injuries or damages sustained from exposure or potential exposure to CO-

VID-19 on or after May 26, 2021, if the act or omission alleged to violate a duty of care was in substantial compliance with any federal public health guidance that was applicable to the person, place, or activity at issue at the time of the alleged exposure or potential exposure.

Source: Laws 2021, LB139, § 3.
Effective date May 26, 2021.

Cross References

Health Care Crisis Protocol Act, see section 71-2701.

25-3604 Act; how construed.

The COVID-19 Liability Act shall not be construed to:

(1) Create, recognize, or ratify a claim or cause of action of any kind;

(2) Eliminate or satisfy a required element of a claim or cause of action of any kind;

(3) Affect rights or coverage limits under the Nebraska Workers' Compensation Act;

(4) Abrogate, amend, repeal, alter, or affect any statutory or common law immunity or limitation of liability; or

(5) Constitute a waiver of the sovereign immunity of the State of Nebraska or any political subdivision of the state.

Source: Laws 2021, LB139, § 4.
Effective date May 26, 2021.

Cross References

Health Care Crisis Protocol Act, see section 71-2701.
Nebraska Workers' Compensation Act, see section 48-1,110.

CHAPTER 27
COURTS; RULES OF EVIDENCE

Article.
8. Hearsay. 27-803.

ARTICLE 8
HEARSAY

Section
27-803. Rule 803. Hearsay exceptions; enumerated; availability of declarant immaterial.

27-803 Rule 803. Hearsay exceptions; enumerated; availability of declarant immaterial.

Subject to the provisions of section 27-403, the following are not excluded by the hearsay rule, even though the declarant is available as a witness:

(1) A statement describing or explaining an event or condition, made while or immediately after the declarant perceived it;

(2) A statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition;

(3) A statement of the declarant's then existing state of mind, emotion, sensation, or physical condition (such as intent, plan, motive, design, mental feeling, pain, and bodily health), but not including a statement of memory or belief to prove the fact remembered or believed unless it relates to the execution, revocation, identification, or terms of declarant's will;

(4) Statements made for purposes of medical diagnosis or treatment and describing medical history, or past or present symptoms, pain, or sensations, or the inception or general character of the cause or external source thereof insofar as reasonably pertinent to diagnosis or treatment;

(5) A memorandum or record concerning a matter about which a witness once had knowledge but now has insufficient recollection to enable him or her to testify fully and accurately, shown to have been made or adopted by the witness when the matter was fresh in his or her memory and to reflect that knowledge correctly. If admitted, the memorandum or record may be read into evidence but may not itself be received as an exhibit unless offered by an adverse party;

(6)(a) A memorandum, report, record, or data compilation, in any form, of acts, events, or conditions, other than opinions or diagnoses, made at or near the time of such acts, events, or conditions, in the course of a regularly conducted activity, if it was the regular course of such activity to make such memorandum, report, record, or data compilation at the time of such act, event, or condition, or within a reasonable time thereafter, as shown by the testimony of the custodian or other qualified witness unless the source of information or method or circumstances of preparation indicate lack of trustworthiness. The circumstances of the making of such memorandum, report,

record, or data compilation, including lack of personal knowledge by the entrant or maker, may be shown to affect its weight.

(b) A memorandum, report, record, or data compilation, in any form, of acts, events, or conditions, other than opinions or diagnoses, that was received or acquired in the regular course of business by an entity from another entity and has been incorporated into and kept in the regular course of business of the receiving or acquiring entity; that the receiving or acquiring entity typically relies upon the accuracy of the contents of the memorandum, report, record, or data compilation; and that the circumstances otherwise indicate the trustworthiness of the memorandum, report, record, or data compilation, as shown by the testimony of the custodian or other qualified witness. Subdivision (6)(b) of this section shall not apply in any criminal proceeding;

(7) Evidence that a matter is not included in the memoranda, reports, records, or data compilations, in any form, kept in accordance with the provisions of subdivision (6) of this section to prove the nonoccurrence or nonexistence of the matter, if the matter was of a kind of which a memorandum, report, record, or data compilation was regularly made and preserved, unless the sources of information or other circumstances indicate a lack of trustworthiness;

(8) Upon reasonable notice to the opposing party prior to trial, records, reports, statements, or data compilations made by a public official or agency of facts required to be observed and recorded pursuant to a duty imposed by law, unless the sources of information or the method or circumstances of the investigation are shown by the opposing party to indicate a lack of trustworthiness;

(9) Records or data compilations, in any form, of births, fetal deaths, deaths, or marriages, if the report thereof was made to a public office pursuant to requirements of law;

(10) To prove the absence of a record, report, statement, or data compilation, in any form, or the nonoccurrence or nonexistence of a matter of which a record, report, statement, or data compilation, in any form, was regularly made and preserved by a public office or agency, evidence in the form of a certification in accordance with section 27-902, or testimony, that diligent search failed to disclose the record, report, statement, or data compilation or entry;

(11) Statements of births, marriages, divorces, deaths, legitimacy, ancestry, relationship by blood or marriage, or other similar facts of personal or family history, contained in a regularly kept record of a religious organization;

(12) Statements of fact contained in a certificate that the maker performed a marriage or other ceremony or administered a sacrament, made by a member of the clergy, public official, or other person authorized by the rules or practices of a religious organization or by law to perform the act certified, and purporting to have been issued at the time of the act or within a reasonable time thereafter;

(13) Statements of births, marriages, divorces, deaths, legitimacy, ancestry, relationship by blood or marriage, or other similar facts of personal or family history contained in family Bibles, genealogies, charts, engravings on rings, inscriptions on family portraits, engravings on urns, crypts, or tombstones or the like;

(14) The record of a document purporting to establish or affect an interest in property, as proof of the content of the original recorded document and its execution and delivery by each person by whom it purports to have been executed, if the record is a record of a public office and an applicable statute authorized the recording of documents of that kind in that office;

(15) A statement contained in a document purporting to establish or affect an interest in property if the matter stated was relevant to the purpose of the document, unless dealings with the property since the document was made have been inconsistent with the truth of the statement or the purport of the document;

(16) Statements in a document in existence thirty years or more whose authenticity is established;

(17) Market quotations, tabulations, lists, directories, or other published compilations, generally used and relied upon by the public or by persons in particular occupations;

(18) Statements contained in published treatises, periodicals, or pamphlets on a subject of history, medicine, or other science or art, established as a reliable authority by the testimony or admission of the witness or by other expert testimony or by judicial notice, to the extent called to the attention of an expert witness upon cross-examination or relied upon by the expert witness in direct examination. If admitted, the statements may be read into evidence but may not be received as exhibits;

(19) Reputation among members of his or her family by blood, adoption, or marriage, or among his or her associates, or in the community, concerning a person's birth, adoption, marriage, divorce, death, legitimacy, relationship by blood, adoption, or marriage, ancestry, or other similar fact of his or her personal or family history;

(20) Reputation in a community, arising before the controversy, as to boundaries of or customs affecting lands in the community, and reputation as to events of general history important to the community or state or nation in which located;

(21) Reputation of a person's character among his or her associates or in the community;

(22) Evidence of a final judgment, entered after a trial or upon a plea of guilty (but not upon a plea of nolo contendere), adjudging a person guilty of a crime punishable by death or imprisonment in excess of one year, to prove any fact essential to sustain the judgment, but not including, when offered by the government in a criminal prosecution for purposes other than impeachment, judgments against a person other than the accused. The pendency of an appeal may be shown but does not affect admissibility;

(23) Judgments as proof of matters of personal, family, or general history, or boundaries, essential to the judgment, if the same would be provable by evidence of reputation; and

(24) A statement not specifically covered by any of the foregoing exceptions but having equivalent circumstantial guarantees of trustworthiness, if the court determines that (a) the statement is offered as evidence of a material fact, (b) the statement is more probative on the point for which it is offered than any other evidence which the proponent can procure through reasonable efforts, and (c) the general purposes of these rules and the interests of justice will best

be served by admission of the statement into evidence. A statement may not be admitted under this exception unless the proponent of it makes known to the adverse party, sufficiently in advance of the trial or hearing to provide the adverse party with a fair opportunity to prepare to meet it, his or her intention to offer the statement and the particulars of it, including the name and address of the declarant.

Source: Laws 1975, LB 279, § 57; Laws 1999, LB 64, § 1; Laws 2014, LB788, § 7; Laws 2021, LB57, § 1.
Effective date August 28, 2021.

CHAPTER 28
CRIMES AND PUNISHMENTS

Article.
4. Drugs and Narcotics. 28-401 to 28-414.01.
9. Offenses Involving Integrity and Effectiveness of Government Operation. 28-934.
11. Gambling. 28-1101 to 28-1113.
12. Offenses against Public Health and Safety. 28-1202 to 28-1253.
14. Noncode Provisions.
(a) Offenses Relating to Property. 28-1402 to 28-1405.

ARTICLE 4
DRUGS AND NARCOTICS

Section
28-401. Terms, defined.
28-405. Controlled substances; schedules; enumerated.
28-414. Controlled substance; Schedule II; prescription; requirements; contents.
28-414.01. Controlled substance; Schedule III, IV, or V; medical order, required; prescription; requirements; contents; pharmacist; authority to adapt prescription; duties.

28-401 Terms, defined.

As used in the Uniform Controlled Substances Act, unless the context otherwise requires:

(1) Administer means to directly apply a controlled substance by injection, inhalation, ingestion, or any other means to the body of a patient or research subject;

(2) Agent means an authorized person who acts on behalf of or at the direction of another person but does not include a common or contract carrier, public warehouse keeper, or employee of a carrier or warehouse keeper;

(3) Administration means the Drug Enforcement Administration of the United States Department of Justice;

(4) Controlled substance means a drug, biological, substance, or immediate precursor in Schedules I through V of section 28-405. Controlled substance does not include distilled spirits, wine, malt beverages, tobacco, hemp, or any nonnarcotic substance if such substance may, under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301 et seq., as such act existed on January 1, 2014, and the law of this state, be lawfully sold over the counter without a prescription;

(5) Counterfeit substance means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person or persons who in fact manufactured, distributed, or dispensed such substance and which thereby falsely purports or is represented to be the product of, or to have been distributed by, such other manufacturer, distributor, or dispenser;

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

(7) Division of Drug Control means the personnel of the Nebraska State Patrol who are assigned to enforce the Uniform Controlled Substances Act;

(8) Dispense means to deliver a controlled substance to an ultimate user or a research subject pursuant to a medical order issued by a practitioner authorized to prescribe, including the packaging, labeling, or compounding necessary to prepare the controlled substance for such delivery;

(9) Distribute means to deliver other than by administering or dispensing a controlled substance;

(10) Prescribe means to issue a medical order;

(11) Drug means (a) articles recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, official National Formulary, or any supplement to any of them, (b) substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or animals, and (c) substances intended for use as a component of any article specified in subdivision (a) or (b) of this subdivision, but does not include devices or their components, parts, or accessories;

(12) Deliver or delivery means the actual, constructive, or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship;

(13) Hemp has the same meaning as in section 2-503;

(14)(a) Marijuana means all parts of the plant of the genus cannabis, whether growing or not, the seeds thereof, and every compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seeds.

(b) Marijuana does not include the mature stalks of such plant, hashish, tetrahydrocannabinols extracted or isolated from the plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks, the sterilized seed of such plant which is incapable of germination, or cannabidiol contained in a drug product approved by the federal Food and Drug Administration.

(c) Marijuana does not include hemp.

(d) When the weight of marijuana is referred to in the Uniform Controlled Substances Act, it means its weight at or about the time it is seized or otherwise comes into the possession of law enforcement authorities, whether cured or uncured at that time.

(e) When industrial hemp as defined in section 2-5701 is in the possession of a person as authorized under section 2-5701, it is not considered marijuana for purposes of the Uniform Controlled Substances Act;

(15) Manufacture means the production, preparation, propagation, conversion, or processing of a controlled substance, either directly or indirectly, by extraction from substances of natural origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. Manufacture does not include the preparation or compounding of a controlled substance by an individual for his or her own use, except for the preparation or compounding of components or ingredients used for or intended to be used for the manufacture of methamphetamine, or the preparation, compounding, conversion, packaging, or labeling of a controlled substance: (a) By a practitioner as an incident to his or her prescribing,

administering, or dispensing of a controlled substance in the course of his or her professional practice; or (b) by a practitioner, or by his or her authorized agent under his or her supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale;

(16) Narcotic drug means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis: (a) Opium, opium poppy and poppy straw, coca leaves, and opiates; (b) a compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or opiates; or (c) a substance and any compound, manufacture, salt, derivative, or preparation thereof which is chemically equivalent to or identical with any of the substances referred to in subdivisions (a) and (b) of this subdivision, except that the words narcotic drug as used in the Uniform Controlled Substances Act does not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecgonine, or isoquinoline alkaloids of opium;

(17) Opiate means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. Opiate does not include the dextrorotatory isomer of 3-methoxy-n methylmorphinan and its salts. Opiate includes its racemic and levorotatory forms;

(18) Opium poppy means the plant of the species Papaver somniferum L., except the seeds thereof;

(19) Poppy straw means all parts, except the seeds, of the opium poppy after mowing;

(20) Person means any corporation, association, partnership, limited liability company, or one or more persons;

(21) Practitioner means a physician, a physician assistant, a dentist, a veterinarian, a pharmacist, a podiatrist, an optometrist, a certified nurse midwife, a certified registered nurse anesthetist, a nurse practitioner, a scientific investigator, a pharmacy, a hospital, or any other person licensed, registered, or otherwise permitted to distribute, dispense, prescribe, conduct research with respect to, or administer a controlled substance in the course of practice or research in this state, including an emergency medical service as defined in section 38-1207;

(22) Production includes the manufacture, planting, cultivation, or harvesting of a controlled substance;

(23) Immediate precursor means a substance which is the principal compound commonly used or produced primarily for use and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit such manufacture;

(24) State means the State of Nebraska;

(25) Ultimate user means a person who lawfully possesses a controlled substance for his or her own use, for the use of a member of his or her household, or for administration to an animal owned by him or her or by a member of his or her household;

(26) Hospital has the same meaning as in section 71-419;

(27) Cooperating individual means any person, other than a commissioned law enforcement officer, who acts on behalf of, at the request of, or as agent for a law enforcement agency for the purpose of gathering or obtaining evidence of offenses punishable under the Uniform Controlled Substances Act;

(28)(a) Hashish or concentrated cannabis means (i) the separated resin, whether crude or purified, obtained from a plant of the genus cannabis or (ii) any material, preparation, mixture, compound, or other substance which contains ten percent or more by weight of tetrahydrocannabinols.

(b) When resins extracted from (i) industrial hemp as defined in section 2-5701 are in the possession of a person as authorized under section 2-5701 or (ii) hemp as defined in section 2-503 are in the possession of a person as authorized under the Nebraska Hemp Farming Act, they are not considered hashish or concentrated cannabis for purposes of the Uniform Controlled Substances Act.

(c) Hashish or concentrated cannabis does not include cannabidiol contained in a drug product approved by the federal Food and Drug Administration;

(29) Exceptionally hazardous drug means (a) a narcotic drug, (b) thiophene analog of phencyclidine, (c) phencyclidine, (d) amobarbital, (e) secobarbital, (f) pentobarbital, (g) amphetamine, or (h) methamphetamine;

(30) Imitation controlled substance means a substance which is not a controlled substance or controlled substance analogue but which, by way of express or implied representations and consideration of other relevant factors including those specified in section 28-445, would lead a reasonable person to believe the substance is a controlled substance or controlled substance analogue. A placebo or registered investigational drug manufactured, distributed, possessed, or delivered in the ordinary course of practice or research by a health care professional shall not be deemed to be an imitation controlled substance;

(31)(a) Controlled substance analogue means a substance (i) the chemical structure of which is substantially similar to the chemical structure of a Schedule I or Schedule II controlled substance as provided in section 28-405 or (ii) which has a stimulant, depressant, analgesic, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, analgesic, or hallucinogenic effect on the central nervous system of a Schedule I or Schedule II controlled substance as provided in section 28-405. A controlled substance analogue shall, to the extent intended for human consumption, be treated as a controlled substance under Schedule I of section 28-405 for purposes of the Uniform Controlled Substances Act; and

(b) Controlled substance analogue does not include (i) a controlled substance, (ii) any substance generally recognized as safe and effective within the meaning of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301 et seq., as such act existed on January 1, 2014, (iii) any substance for which there is an approved new drug application, or (iv) with respect to a particular person, any substance if an exemption is in effect for investigational use for that person, under section 505 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 355, as such section existed on January 1, 2014, to the extent conduct with respect to such substance is pursuant to such exemption;

(32) Anabolic steroid means any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, and corticosteroids), that promotes muscle growth and includes any controlled

substance in Schedule III(d) of section 28-405. Anabolic steroid does not include any anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and has been approved by the Secretary of Health and Human Services for such administration, but if any person prescribes, dispenses, or distributes such a steroid for human use, such person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of this subdivision;

(33) Chart order means an order for a controlled substance issued by a practitioner for a patient who is in the hospital where the chart is stored or for a patient receiving detoxification treatment or maintenance treatment pursuant to section 28-412. Chart order does not include a prescription;

(34) Medical order means a prescription, a chart order, or an order for pharmaceutical care issued by a practitioner;

(35) Prescription means an order for a controlled substance issued by a practitioner. Prescription does not include a chart order;

(36) Registrant means any person who has a controlled substances registration issued by the state or the Drug Enforcement Administration of the United States Department of Justice;

(37) Reverse distributor means a person whose primary function is to act as an agent for a pharmacy, wholesaler, manufacturer, or other entity by receiving, inventorying, and managing the disposition of outdated, expired, or otherwise nonsaleable controlled substances;

(38) Signature means the name, word, or mark of a person written in his or her own hand with the intent to authenticate a writing or other form of communication or a digital signature which complies with section 86-611 or an electronic signature;

(39) Facsimile means a copy generated by a system that encodes a document or photograph into electrical signals, transmits those signals over telecommunications lines, and reconstructs the signals to create an exact duplicate of the original document at the receiving end;

(40) Electronic signature has the definition found in section 86-621;

(41) Electronic transmission means transmission of information in electronic form. Electronic transmission includes computer-to-computer transmission or computer-to-facsimile transmission;

(42) Long-term care facility means an intermediate care facility, an intermediate care facility for persons with developmental disabilities, a long-term care hospital, a mental health substance use treatment center, a nursing facility, or a skilled nursing facility, as such terms are defined in the Health Care Facility Licensure Act;

(43) Compounding has the same meaning as in section 38-2811;

(44) Cannabinoid receptor agonist means any chemical compound or substance that, according to scientific or medical research, study, testing, or analysis, demonstrates the presence of binding activity at one or more of the CB1 or CB2 cell membrane receptors located within the human body. Cannabinoid receptor agonist does not include cannabidiol contained in a drug product approved by the federal Food and Drug Administration; and

(45) Lookalike substance means a product or substance, not specifically designated as a controlled substance in section 28-405, that is either portrayed

in such a manner by a person to lead another person to reasonably believe that it produces effects on the human body that replicate, mimic, or are intended to simulate the effects produced by a controlled substance or that possesses one or more of the following indicia or characteristics:

(a) The packaging or labeling of the product or substance suggests that the user will achieve euphoria, hallucination, mood enhancement, stimulation, or another effect on the human body that replicates or mimics those produced by a controlled substance;

(b) The name or packaging of the product or substance uses images or labels suggesting that it is a controlled substance or produces effects on the human body that replicate or mimic those produced by a controlled substance;

(c) The product or substance is marketed or advertised for a particular use or purpose and the cost of the product or substance is disproportionately higher than other products or substances marketed or advertised for the same or similar use or purpose;

(d) The packaging or label on the product or substance contains words or markings that state or suggest that the product or substance is in compliance with state and federal laws regulating controlled substances;

(e) The owner or person in control of the product or substance uses evasive tactics or actions to avoid detection or inspection of the product or substance by law enforcement authorities;

(f) The owner or person in control of the product or substance makes a verbal or written statement suggesting or implying that the product or substance is a synthetic drug or that consumption of the product or substance will replicate or mimic effects on the human body to those effects commonly produced through use or consumption of a controlled substance;

(g) The owner or person in control of the product or substance makes a verbal or written statement to a prospective customer, buyer, or recipient of the product or substance implying that the product or substance may be resold for profit; or

(h) The product or substance contains a chemical or chemical compound that does not have a legitimate relationship to the use or purpose claimed by the seller, distributor, packer, or manufacturer of the product or substance or indicated by the product name, appearing on the product's packaging or label or depicted in advertisement of the product or substance.

Source: Laws 1977, LB 38, § 61; Laws 1978, LB 276, § 1; Laws 1980, LB 696, § 1; Laws 1985, LB 323, § 1; Laws 1985, LB 406, § 2; Laws 1988, LB 273, § 3; Laws 1988, LB 537, § 1; Laws 1992, LB 1019, § 30; Laws 1993, LB 121, § 175; Laws 1996, LB 1044, § 68; Laws 1996, LB 1108, § 1; Laws 1997, LB 307, § 3; Laws 1999, LB 379, § 1; Laws 2001, LB 398, § 1; Laws 2002, LB 1105, § 428; Laws 2003, LB 200, § 1; Laws 2005, LB 117, § 1; Laws 2005, LB 256, § 16; Laws 2005, LB 382, § 1; Laws 2007, LB247, § 1; Laws 2007, LB296, § 35; Laws 2007, LB463, § 1119; Laws 2009, LB195, § 1; Laws 2013, LB23, § 4; Laws 2014, LB811, § 2; Laws 2014, LB1001, § 2; Laws 2015, LB390, § 2; Laws 2016, LB1009, § 2; Laws 2017, LB487, § 3; Laws 2018, LB1034, § 1; Laws 2019, LB657, § 22; Laws 2021, LB236, § 1.
Effective date August 28, 2021.

Cross References

Health Care Facility Licensure Act, see section 71-401.
Nebraska Hemp Farming Act, see section 2-501.

28-405 Controlled substances; schedules; enumerated.

The following are the schedules of controlled substances referred to in the Uniform Controlled Substances Act, unless specifically contained on the list of exempted products of the Drug Enforcement Administration of the United States Department of Justice as the list existed on January 31, 2021:

Schedule I

(a) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

(1) Acetylmethadol;

(2) Allylprodine;

(3) Alphacetylmethadol, except levo-alphacetylmethadol which is also known as levo-alpha-acetylmethadol, levomethadyl acetate, and LAAM;

(4) Alphameprodine;

(5) Alphamethadol;

(6) Benzethidine;

(7) Betacetylmethadol;

(8) Betameprodine;

(9) Betamethadol;

(10) Betaprodine;

(11) Clonitazene;

(12) Dextromoramide;

(13) Difenoxin;

(14) Diampromide;

(15) Diethylthiambutene;

(16) Dimenoxadol;

(17) Dimepheptanol;

(18) Dimethylthiambutene;

(19) Dioxaphetyl butyrate;

(20) Dipipanone;

(21) Ethylmethylthiambutene;

(22) Etonitazene;

(23) Etoxeridine;

(24) Furethidine;

(25) Hydroxypethidine;

(26) Ketobemidone;

(27) Levomoramide;

(28) Levophenacylmorphan;

(29) Morpheridine;

(30) Noracymethadol;

(31) Norlevorphanol;

(32) Normethadone;

(33) Norpipanone;

(34) Phenadoxone;

(35) Phenampromide;

(36) Phenomorphan;

(37) Phenoperidine;

(38) Piritramide;

(39) Proheptazine;

(40) Properidine;

(41) Propiram;

(42) Racemoramide;

(43) Trimeperidine;

(44) Alpha-methylfentanyl, N-(1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl) propionanilide, 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine;

(45) Tilidine;

(46) 3-Methylfentanyl, N-(3-methyl-1-(2-phenylethyl)-4-piperidyl)-N-phenylpropanamide, its optical and geometric isomers, salts, and salts of isomers;

(47) 1-methyl-4-phenyl-4-propionoxypiperidine (MPPP), its optical isomers, salts, and salts of isomers;

(48) PEPAP, 1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine, its optical isomers, salts, and salts of isomers;

(49) Acetyl-alpha-methylfentanyl, N-(1-(1-methyl-2-phenethyl)-4-piperidinyl)-N-phenylacetamide, its optical isomers, salts, and salts of isomers;

(50) Alpha-methylthiofentanyl, N-(1-methyl-2-(2-thienyl)ethyl-4-piperidinyl)-N-phenylpropanamide, its optical isomers, salts, and salts of isomers;

(51) Benzylfentanyl, N-(1-benzyl-4-piperidyl)-N-phenylpropanamide, its optical isomers, salts, and salts of isomers;

(52) Beta-hydroxyfentanyl, N-(1-(2-hydroxy-2-phenethyl)-4-piperidinyl)-N-phenylpropanamide, its optical isomers, salts, and salts of isomers;

(53) Beta-hydroxy-3-methylfentanyl, (other name: N-(1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl)-N-phenylpropanamide), its optical and geometric isomers, salts, and salts of isomers;

(54) 3-methylthiofentanyl, N-(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl)-N-phenylpropanamide, its optical and geometric isomers, salts, and salts of isomers;

(55) N-(1-(2-thienyl)methyl-4-piperidyl)-N-phenylpropanamide (thenylfentanyl), its optical isomers, salts, and salts of isomers;

(56) Thiofentanyl, N-phenyl-N-(1-(2-thienyl)ethyl-4-piperidinyl)-propanamide, its optical isomers, salts, and salts of isomers;

(57) Para-fluorofentanyl, N-(4-fluorophenyl)-N-(1-(2-phenethyl)-4-piperidinyl)propanamide, its optical isomers, salts, and salts of isomers;

(58) U-47700, 3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide;

(59) 4-Fluoroisobutyryl Fentanyl;

(60) Acetyl Fentanyl;

(61) Acyrloylfentanyl;

(62) AH-7921; 3, 4-dichloro-N-[(1-dimethylamino) cyclohexylmethyl] benzamide;

(63) Butyryl fentanyl;

(64) Cyclopentyl fentanyl;

(65) Cyclopropyl fentanyl;

(66) Furanyl fentanyl;

(67) Isobutyryl fentanyl;

(68) Isotonitazene;

(69) Methoxyacetyl fentanyl;

(70) MT-45; 1-cycloxhenxyl-4-(1,2-diphenylethyl) piperazine;

(71) Tetrahydrofuranyl fentanyl;

(72) 2-fluorofentanyl; N-(2-fluorohenyl)-N-(1-phenethylpiperidin-4-yl) propionamide;

(73) Ocfentanil;

(74) Ortho-Fluorofentanyl;

(75) Para-chloroisobutyryl fentanyl;

(76) Para-Fluorobutyryl Fentanyl; and

(77) Valeryl fentanyl.

(b) Any of the following opium derivatives, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Acetorphine;

(2) Acetyldihydrocodeine;

(3) Benzylmorphine;

(4) Codeine methylbromide;

(5) Codeine-N-Oxide;

(6) Cyprenorphine;

(7) Desomorphine;

(8) Dihydromorphine;

(9) Drotebanol;

(10) Etorphine, except hydrochloride salt;

(11) Heroin;

(12) Hydromorphinol;

(13) Methyldesorphine;

(14) Methyldihydromorphine;

(15) Morphine methylbromide;

(16) Morphine methylsulfonate;

(17) Morphine-N-Oxide;

(18) Myrophine;

(19) Nicocodeine;

(20) Nicomorphine;

(21) Normorphine;

(22) Pholcodine; and

(23) Thebacon.

(c) Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, and, for purposes of this subdivision only, isomer shall include the optical, position, and geometric isomers:

(1) Bufotenine. Trade and other names shall include, but are not limited to: 3-(beta-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N,N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; and mappine;

(2) 4-bromo-2,5-dimethoxyamphetamine. Trade and other names shall include, but are not limited to: 4-bromo-2,5-dimethoxy-alpha-methylphenethylamine; and 4-bromo-2,5-DMA;

(3) 4-methoxyamphetamine. Trade and other names shall include, but are not limited to: 4-methoxy-alpha-methylphenethylamine; and paramethoxyamphetamine, PMA;

(4) 4-methyl-2,5-dimethoxyamphetamine. Trade and other names shall include, but are not limited to: 4-methyl-2,5-dimethoxy-alpha-methylphenethylamine; DOM; and STP;

(5) Ibogaine. Trade and other names shall include, but are not limited to: 7-Ethyl-6,6beta,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido (1',2':1,2) azepino (5,4-b) indole; and Tabernanthe iboga;

(6) Lysergic acid diethylamide;

(7) Marijuana;

(8) Mescaline;

(9) Peyote. Peyote shall mean all parts of the plant presently classified botanically as Lophophora williamsii Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant or its seeds or extracts;

(10) Psilocybin;

(11) Psilocyn;

(12) Tetrahydrocannabinols, including, but not limited to, synthetic equivalents of the substances contained in the plant or in the resinous extractives of cannabis, sp. or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following: Delta 1 cis or trans tetrahydrocannabinol and their optical isomers, excluding dronabinol in a drug product approved by the federal Food and Drug Administration; Delta 6 cis or trans tetrahydrocannabinol and their optical isomers; and Delta 3,4 cis or trans tetrahydrocannabinol and its optical isomers. Since nomenclature of these substances is not internationally standardized, compounds of these structures shall be included regardless of the numerical

designation of atomic positions covered. Tetrahydrocannabinols does not include cannabidiol contained in a drug product approved by the federal Food and Drug Administration;

(13) N-ethyl-3-piperidyl benzilate;

(14) N-methyl-3-piperidyl benzilate;

(15) Thiophene analog of phencyclidine. Trade and other names shall include, but are not limited to: 1-(1-(2-thienyl)-cyclohexyl)-piperidine; 2-thienyl analog of phencyclidine; TPCP; and TCP;

(16) Hashish or concentrated cannabis;

(17) Parahexyl. Trade and other names shall include, but are not limited to: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo(b,d)pyran; and Synhexyl;

(18) Ethylamine analog of phencyclidine. Trade and other names shall include, but are not limited to: N-ethyl-1-phenylcyclohexylamine; (1-phenylcyclohexyl)ethylamine; N-(1-phenylcyclohexyl)ethylamine; cyclohexamine; and PCE;

(19) Pyrrolidine analog of phencyclidine. Trade and other names shall include, but are not limited to: 1-(1-phenylcyclohexyl)-pyrrolidine; PCPy; and PHP;

(20) Alpha-ethyltryptamine. Some trade or other names: etryptamine; Monase; alpha-ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; alpha-ET; and AET;

(21) 2,5-dimethoxy-4-ethylamphet-amine; and DOET;

(22) 1-(1-(2-thienyl)cyclohexyl)pyrrolidine; and TCPy;

(23) Alpha-methyltryptamine, which is also known as AMT;

(24) Salvia divinorum or Salvinorin A. Salvia divinorum or Salvinorin A includes all parts of the plant presently classified botanically as Salvia divinorum, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, derivative, mixture, or preparation of such plant, its seeds, or its extracts, including salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation;

(25) Any material, compound, mixture, or preparation containing any quantity of synthetically produced cannabinoids as listed in subdivisions (A) through (L) of this subdivision, including their salts, isomers, salts of isomers, and nitrogen, oxygen, or sulfur-heterocyclic analogs, unless specifically excepted elsewhere in this section. Since nomenclature of these synthetically produced cannabinoids is not internationally standardized and may continually evolve, these structures or compounds of these structures shall be included under this subdivision, regardless of their specific numerical designation of atomic positions covered, so long as it can be determined through a recognized method of scientific testing or analysis that the substance contains properties that fit within one or more of the following categories:

(A) Tetrahydrocannabinols: Meaning tetrahydrocannabinols naturally contained in a plant of the genus cannabis (cannabis plant), as well as synthetic equivalents of the substances contained in the plant, or in the resinous extractives of cannabis, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the

following: Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers; Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; Delta 3,4 cis or trans tetrahydrocannabinol, and its optical isomers. This subdivision does not include cannabidiol contained in a drug product approved by the federal Food and Drug Administration;

(B) Naphthoylindoles: Any compound containing a 3-(1-naphthoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, halobenzyl, benzyl, cycloalkylmethyl, cycloalkylethyl, 2-(4-morpholinyl)ethyl group, cyanoalkyl, 1-(N-methyl-2-piperidinyl)methyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or tetrahydropyranylmethyl group, whether or not further substituted in or on any of the listed ring systems to any extent;

(C) Naphthylmethylindoles: Any compound containing a 1 H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, halobenzyl, benzyl, cycloalkylmethyl, cycloalkylethyl, 2-(4-morpholinyl)ethyl group, cyanoalkyl, 1-(N-methyl-2-piperidinyl)methyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or tetrahydropyranylmethyl group, whether or not further substituted in or on any of the listed ring systems to any extent;

(D) Naphthoylpyrroles: Any compound containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl, halobenzyl, benzyl, cycloalkylmethyl, cycloalkylethyl, 2-(4-morpholinyl)ethyl group, cyanoalkyl, 1-(N-methyl-2-piperidinyl)methyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or tetrahydropyranylmethyl group, whether or not further substituted in or on any of the listed ring systems to any extent;

(E) Naphthylideneindenes: Any compound containing a naphthylideneindene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, alkenyl, halobenzyl, benzyl, cycloalkylmethyl, cycloalkylethyl, 2-(4-morpholinyl)ethyl group, cyanoalkyl, 1-(N-methyl-2-piperidinyl)methyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or tetrahydropyranylmethyl group, whether or not further substituted in or on any of the listed ring systems to any extent;

(F) Phenylacetylindoles: Any compound containing a 3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, halobenzyl, benzyl, cycloalkylmethyl, cycloalkylethyl, 2-(4-morpholinyl)ethyl group, cyanoalkyl, 1-(N-methyl-2-piperidinyl)methyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or tetrahydropyranylmethyl group, whether or not further substituted in or on any of the listed ring systems to any extent;

(G) Cyclohexylphenols: Any compound containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, alkenyl, halobenzyl, benzyl, cycloalkylmethyl, cycloalkylethyl, 2-(4-morpholinyl)ethyl group, cyanoalkyl, 1-(N-methyl-2-piperidinyl)methyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or tetrahydropyranylmethyl group, whether or not substituted in or on any of the listed ring systems to any extent;

(H) Benzoylindoles: Any compound containing a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, halobenzyl, benzyl, cycloalkylmethyl, cycloalkylethyl, 2-(4-morpholi-

nyl)ethyl group, cyanoalkyl, 1-(N-methyl-2-piperidinyl)methyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or tetrahydropyranylmethyl group, whether or not further substituted in or on any of the listed ring systems to any extent;

(I) Adamantoylindoles: Any compound containing a 3-adamantoylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, halobenzyl, benzyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or tetrahydropyranylmethyl group, whether or not further substituted in or on any of the listed ring systems to any extent;

(J) Tetramethylcyclopropanoylindoles: Any compound containing a 3-tetramethylcyclopropanoylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, halobenzyl, benzyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or tetrahydropyranylmethyl group, whether or not further substituted in or on any of the listed ring systems to any extent;

(K) Indole carboxamides: Any compound containing a 1-indole-3-carboxamide structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, halobenzyl, benzyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or tetrahydropyranylmethyl group, substitution at the carboxamide group by an alkyl, methoxy, benzyl, propionaldehyde, adamantyl, 1-naphthyl, phenyl, aminooxoalkyl group, or quinolinyl group, whether or not further substituted in or on any of the listed ring systems to any extent or to the adamantyl, 1-mapthyl, phenyl, aminooxoalkyl, benzyl, or propionaldehyde groups to any extent;

(L) Indole carboxylates: Any compound containing a 1-indole-3-carboxylate structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, halobenzyl, benzyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or tetrahydropyranylmethyl group, substitution at the carboxylate group by an alkyl, methoxy, benzyl, propionaldehyde, adamantyl, 1-naphthyl, phenyl, aminooxoalkyl group, or quinolinyl group, whether or not further substituted in or on any of the listed ring systems to any extent or to the adamantyl, 1-mapthyl, phenyl, aminooxoalkyl, benzyl, or propionaldehyde groups to any extent; and

(M) Any nonnaturally occurring substance, chemical compound, mixture, or preparation, not specifically listed elsewhere in these schedules and which is not approved for human consumption by the federal Food and Drug Administration, containing or constituting a cannabinoid receptor agonist as defined in section 28-401;

(26) Any material, compound, mixture, or preparation containing any quantity of a substituted phenethylamine as listed in subdivisions (A) through (C) of this subdivision, unless specifically excepted, listed in another schedule, or specifically named in this schedule, that is structurally derived from phenylethan-2-amine by substitution on the phenyl ring with a fused methylenedioxy ring, fused furan ring, or a fused tetrahydrofuran ring; by substitution with two alkoxy groups; by substitution with one alkoxy and either one fused furan,

tetrahydrofuran, or tetrahydropyran ring system; or by substitution with two fused ring systems from any combination of the furan, tetrahydrofuran, or tetrahydropyran ring systems, whether or not the compound is further modified in any of the following ways:

(A) Substitution of the phenyl ring by any halo, hydroxyl, alkyl, trifluoromethyl, alkoxy, or alkylthio groups; (B) substitution at the 2-position by any alkyl groups; or (C) substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, hydroxybenzyl or methoxybenzyl groups, and including, but not limited to:

(i) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine, which is also known as 2C-C or 2,5-Dimethoxy-4-chlorophenethylamine;

(ii) 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine, which is also known as 2C-D or 2,5-Dimethoxy-4-methylphenethylamine;

(iii) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine, which is also known as 2C-E or 2,5-Dimethoxy-4-ethylphenethylamine;

(iv) 2-(2,5-Dimethoxyphenyl)ethanamine, which is also known as 2C-H or 2,5-Dimethoxyphenethylamine;

(v) 2-(4-lodo-2,5-dimethoxyphenyl)ethanamine, which is also known as 2C-I or 2,5-Dimethoxy-4-iodophenethylamine;

(vi) 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine, which is also known as 2C-N or 2,5-Dimethoxy-4-nitrophenethylamine;

(vii) 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine, which is also known as 2C-P or 2,5-Dimethoxy-4-propylphenethylamine;

(viii) 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine, which is also known as 2C-T-2 or 2,5-Dimethoxy-4-ethylthiophenethylamine;

(ix) 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine, which is also known as 2C-T-4 or 2,5-Dimethoxy-4-isopropylthiophenethylamine;

(x) 2-(4-bromo-2,5-dimethoxyphenyl)ethanamine, which is also known as 2C-B or 2,5-Dimethoxy-4-bromophenethylamine;

(xi) 2-(2,5-dimethoxy-4-(methylthio)phenyl)ethanamine, which is also known as 2C-T or 4-methylthio-2,5-dimethoxyphenethylamine;

(xii) 1-(2,5-dimethoxy-4-iodophenyl)-propan-2-amine, which is also known as DOI or 2,5-Dimethoxy-4-iodoamphetamine;

(xiii) 1-(4-Bromo-2,5-dimethoxyphenyl)-2-aminopropane, which is also known as DOB or 2,5-Dimethoxy-4-bromoamphetamine;

(xiv) 1-(4-chloro-2,5-dimethoxy-phenyl)propan-2-amine, which is also known as DOC or 2,5-Dimethoxy-4-chloroamphetamine;

(xv) 2-(4-bromo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine, which is also known as 2C-B-NBOMe; 25B-NBOMe or 2,5-Dimethoxy-4-bromo-N-(2-methoxybenzyl)phenethylamine;

(xvi) 2-(4-iodo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine, which is also known as 2C-I-NBOMe; 25I-NBOMe or 2,5-Dimethoxy-4-iodo-N-(2-methoxybenzyl)phenethylamine;

(xvii) N-(2-Methoxybenzyl)-2-(3,4,5-trimethoxyphenyl)ethanamine, which is also known as Mescaline-NBOMe or 3,4,5-trimethoxy-N-(2-methoxybenzyl)phenethylamine;

(xviii) 2-(4-chloro-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine, which is also known as 2C-C-NBOMe; or 25C-NBOMe or 2,5-Dimethoxy-4-chloro-N-(2-methoxybenzyl)phenethylamine;

(xix) 2-(7-Bromo-5-methoxy-2,3-dihydro-1-benzofuran-4-yl)ethanamine, which is also known as 2CB-5-hemiFLY;

(xx) 2-(8-bromo-2,3,6,7-tetrahydrofuro [2,3-f][1]benzofuran-4-yl)ethanamine, which is also known as 2C-B-FLY;

(xxi) 2-(10-Bromo-2,3,4,7,8,9-hexahydropyrano[2,3-g]chromen-5-yl)ethanamine, which is also known as 2C-B-butterFLY;

(xxii) N-(2-Methoxybenzyl)-1-(8-bromo-2,3,6,7- tetrahydrobenzo[1,2-b:4,5-b']difuran-4-yl)-2-aminoethane, which is also known as 2C-B-FLY-NBOMe;

(xxiii) 1-(4-Bromofuro[2,3-f][1]benzofuran-8-yl)propan-2-amine, which is also known as bromo-benzodifuranylisopropylamine or bromo-dragonFLY;

(xxiv) N-(2-Hydroxybenzyl)-4-iodo-2,5-dimethoxyphenethylamine, which is also known as 2C-INBOH or 25I-NBOH;

(xxv) 5-(2-Aminopropyl)benzofuran, which is also known as 5-APB;

(xxvi) 6-(2-Aminopropyl)benzofuran, which is also known as 6-APB;

(xxvii) 5-(2-Aminopropyl)-2,3-dihydrobenzofuran, which is also known as 5-APDB;

(xxviii) 6-(2-Aminopropyl)-2,3-dihydrobenzofuran, which is also known as 6-APDB;

(xxix) 2,5-dimethoxy-amphetamine, which is also known as 2, 5-dimethoxy-a-methylphenethylamine; 2, 5-DMA;

(xxx) 2,5-dimethoxy-4-ethylamphetamine, which is also known as DOET;

(xxxi) 2,5-dimethoxy-4-(n)-propylthiophenethylamine, which is also known as 2C-T-7;

(xxxii) 5-methoxy-3,4-methylenedioxy-amphetamine;

(xxxiii) 4-methyl-2,5-dimethoxy-amphetamine, which is also known as 4-methyl-2,5-dimethoxy-amethylphenethylamine; DOM and STP;

(xxxiv) 3,4-methylenedioxy amphetamine, which is also known as MDA;

(xxxv) 3,4-methylenedioxymethamphetamine, which is also known as MDMA;

(xxxvi) 3,4-methylenedioxy-N-ethylamphetamine, which is also known as N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, MDE, MDEA;

(xxxvii) 3,4,5-trimethoxy amphetamine; and

(xxxviii) n-hydroxy-3,4-Methlenedioxyamphetamine, which is also known as N-hydroxyMDA;

(27) Any material, compound, mixture, or preparation containing any quantity of a substituted tryptamine unless specifically excepted, listed in another schedule, or specifically named in this schedule, that is structurally derived from 2-(1H-indol-3-yl)ethanamine, which is also known as tryptamine, by mono- or di-substitution of the amine nitrogen with alkyl or alkenyl groups or by inclusion of the amino nitrogen atom in a cyclic structure whether or not the compound is further substituted at the alpha position with an alkyl group or whether or not further substituted on the indole ring to any extent with any

alkyl, alkoxy, halo, hydroxyl, or acetoxy groups, and including, but not limited to:

(A) 5-methoxy-N,N-diallyltryptamine, which is also known as 5-MeO-DALT;

(B) 4-acetoxy-N,N-dimethyltryptamine, which is also known as 4-AcO-DMT or OAcetylpsilocin;

(C) 4-hydroxy-N-methyl-N-ethyltryptamine, which is also known as 4-HO-MET;

(D) 4-hydroxy-N,N-diisopropyltryptamine, which is also known as 4-HO-DIPT;

(E) 5-methoxy-N-methyl-N-isopropyltryptamine, which is also known as 5-MeOMiPT;

(F) 5-Methoxy-N,N-Dimethyltryptamine, which is also known as 5-MeO-DMT;

(G) 5-methoxy-N,N-diisopropyltryptamine, which is also known as 5-MeO-DiPT;

(H) Diethyltryptamine, which is also known as N,N-Diethyltryptamine, DET; and

(I) Dimethyltryptamine, which is also known as DMT; and

(28)(A) Any substance containing any quantity of the following materials, compounds, mixtures, or structures:

(i) 3,4-methylenedioxymethcathinone, or bk-MDMA, or methylone;

(ii) 3,4-methylenedioxypyrovalerone, or MDPV;

(iii) 4-methylmethcathinone, or 4-MMC, or mephedrone;

(iv) 4-methoxymethcathinone, or bk-PMMA, or PMMC, or methedrone;

(v) Fluoromethcathinone, or FMC;

(vi) Naphthylpyrovalerone, or naphyrone; or

(vii) Beta-keto-N-methylbenzodioxolylpropylamine or bk-MBDB or butylone; or

(B) Unless listed in another schedule, any substance which contains any quantity of any material, compound, mixture, or structure, other than bupropion, that is structurally derived by any means from 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl, or thiophene ring systems, whether or not the compound is further modified in any of the following ways:

(i) Substitution in the ring system to any extent with alkyl, alkoxy, alkylenedioxy, haloalkyl, hydroxyl, or halide substituents, whether or not further substituted in the ring system by one or more other univalent substituents;

(ii) Substitution at the 3-position with an acyclic alkyl substituent; or

(iii) Substitution at the 2-amino nitrogen atom with alkyl or dialkyl groups, or by inclusion of the 2-amino nitrogen atom in a cyclic structure.

(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Mecloqualone;

(2) Methaqualone; and

(3) Gamma-Hydroxybutyric Acid. Some other names include: GHB; Gamma-hydroxybutyrate; 4-Hydroxybutyrate; 4-Hydroxybutanoic Acid; Sodium Oxybate; and Sodium Oxybutyrate.

(e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

(1) Fenethylline;

(2) N-ethylamphetamine;

(3) Aminorex; aminoxaphen; 2-amino-5-phenyl-2-oxazoline; or 4,5-dihydro-5-phenyl-2-oxazolamine;

(4) Cathinone; 2-amino-1-phenyl-1-propanone; alpha-aminopropiophenone; 2-aminopropiophenone; and norephedrone;

(5) Methcathinone, its salts, optical isomers, and salts of optical isomers. Some other names: 2-(methylamino)-propiophenone; alpha-(methylamino)propiophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; methylcathinone; monomethylpropion; ephedrone; N-methylcathinone; AL-464; AL-422; AL-463; UR1432; and 4-MEC;

(6) (+/-)cis-4-methylaminorex; and (+/-)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine;

(7) N,N-dimethylamphetamine; N,N-alpha-trimethyl-benzeneethanamine; and N,N-alpha-trimethylphenethylamine; and

(8) Benzylpiperazine, 1-benzylpiperazine.

(f) Any controlled substance analogue to the extent intended for human consumption.

Schedule II

(a) Any of the following substances except those narcotic drugs listed in other schedules whether produced directly or indirectly by extraction from substances of vegetable origin, independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, buprenorphine, thebaine-derived butorphanol, dextrorphan, nalbuphine, nalmefene, naloxone, and naltrexone and their salts, but including the following:

(A) Raw opium;

(B) Opium extracts;

(C) Opium fluid;

(D) Powdered opium;

(E) Granulated opium;

(F) Tincture of opium;

(G) Codeine;

(H) Ethylmorphine;

(I) Etorphine hydrochloride;

(J) Hydrocodone;

(K) Hydromorphone;

(L) Metopon;

(M) Morphine;

(N) Oxycodone;

(O) Oxymorphone;

(P) Oripavine;

(Q) Thebaine; and

(R) Dihydroetorphine;

(2) Any salt, compound, derivative, or preparation thereof which is chemically equivalent to or identical with any of the substances referred to in subdivision (1) of this subdivision, except that these substances shall not include the isoquinoline alkaloids of opium;

(3) Opium poppy and poppy straw;

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent to or identical with any of these substances, including cocaine or ecgonine and its salts, optical isomers, and salts of optical isomers, except that the substances shall not include decocainized coca leaves or extractions which do not contain cocaine or ecgonine; and

(5) Concentrate of poppy straw, the crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrene alkaloids of the opium poppy.

(b) Unless specifically excepted or unless in another schedule any of the following opiates, including their isomers, esters, ethers, salts, and salts of their isomers, esters, and ethers whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation, dextrorphan excepted:

(1) Alphaprodine;

(2) Anileridine;

(3) Bezitramide;

(4) Diphenoxylate;

(5) Fentanyl;

(6) Isomethadone;

(7) Levomethorphan;

(8) Levorphanol;

(9) Metazocine;

(10) Methadone;

(11) Methadone-intermediate, 4-cyano-2-dimethylamino-4,4-diphenyl butane;

(12) Moramide-intermediate, 2-methyl-3-morpholino-1,1-diphenylpropane-carboxylic acid;

(13) Norfentanyl (N-phenyl-N-peperidin-4-yl) propionamide;

(14) Oliceridine;

(15) Pethidine or meperidine;

(16) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;

(17) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;

(18) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;

(19) Phenazocine;

(20) Piminodine;

(21) Racemethorphan;

(22) Racemorphan;

(23) Dihydrocodeine;

(24) Bulk Propoxyphene in nondosage forms;

(25) Sufentanil;

(26) Alfentanil;

(27) Levo-alphacetylmethadol which is also known as levo-alpha-acetylmethadol, levomethadyl acetate, and LAAM;

(28) Carfentanil;

(29) Remifentanil;

(30) Tapentadol; and

(31) Thiafentanil.

(c) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

(1) Amphetamine, its salts, optical isomers, and salts of its optical isomers;

(2) Phenmetrazine and its salts;

(3) Methamphetamine, its salts, isomers, and salts of its isomers;

(4) Methylphenidate; and

(5) Lisdexamfetamine, its salts, isomers, and salts of its isomers.

(d) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system, including their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designations:

(1) Amobarbital;

(2) Secobarbital;

(3) Pentobarbital;

(4) Phencyclidine; and

(5) Glutethimide.

(e) Hallucinogenic substances known as:

(1) Nabilone. Another name for nabilone: (+/-)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-Hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzo(b,d)pyran-9-one; and

(2) Dronabinol in an oral solution in a drug product approved by the federal Food and Drug Administration.

(f) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

(1) Immediate precursor to amphetamine and methamphetamine: Phenylacetone. Trade and other names shall include, but are not limited to: Phenyl-2-propanone; P2P; benzyl methyl ketone; and methyl benzyl ketone;

(2) Immediate precursors to phencyclidine, PCP:

(A) 1-phenylcyclohexylamine; or

(B) 1-piperidinocyclohexanecarbonitrile, PCC; or

(3) Immediate precursor to fentanyl; 4-anilino-N-phenethylpiperidine (ANPP).

Schedule III

(a) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system, including their salts, isomers, whether optical, position, or geometric, and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Benzphetamine;

(2) Chlorphentermine;

(3) Clortermine; and

(4) Phendimetrazine.

(b) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

(1) Any substance which contains any quantity of a derivative of barbituric acid or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other schedules of this section;

(2) Aprobarbital;

(3) Butabarbital;

(4) Butalbital;

(5) Butethal;

(6) Butobarbital;

(7) Chlorhexadol;

(8) Embutramide;

(9) Lysergic acid;

(10) Lysergic acid amide;

(11) Methyprylon;

(12) Perampanel;

(13) Secbutabarbital;

(14) Sulfondiethylmethane;

(15) Sulfonethylmethane;

(16) Sulfonmethane;

(17) Nalorphine;

(18) Talbutal;

(19) Thiamylal;

(20) Thiopental;

(21) Vinbarbital;

(22) Any compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule;

(23) Any suppository dosage form containing amobarbital, secobarbital, pentobarbital, or any salt of any of these drugs and approved by the federal Food and Drug Administration for marketing only as a suppository;

(24) Any drug product containing gamma-hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is approved under section 505 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 355, as such section existed on January 1, 2014;

(25) Ketamine, its salts, isomers, and salts of isomers. Some other names for ketamine: (+/-)-2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone; and

(26) Tiletamine and zolazepam or any salt thereof. Trade or other names for a tiletamine-zolazepam combination product shall include, but are not limited to: telazol. Trade or other names for tiletamine shall include, but are not limited to: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone. Trade or other names for zolazepam shall include, but are not limited to: 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-(3,4-e) (1,4)-diazepin-7(1H)-one, and flupyrazapon.

(c) Unless specifically excepted or unless listed in another schedule:

(1) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(A) Not more than one and eight-tenths grams of codeine per one hundred milliliters or not more than ninety milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(B) Not more than one and eight-tenths grams of codeine per one hundred milliliters or not more than ninety milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(C) Not more than one and eight-tenths grams of dihydrocodeine per one hundred milliliters or not more than ninety milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(D) Not more than three hundred milligrams of ethylmorphine per one hundred milliliters or not more than fifteen milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(E) Not more than five hundred milligrams of opium per one hundred milliliters or per one hundred grams, or not more than twenty-five milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts; and

(F) Not more than fifty milligrams of morphine per one hundred milliliters or per one hundred grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts; and

(2) Any material, compound, mixture, or preparation containing any of the following narcotic drug or its salts, as set forth below:

(A) Buprenorphine.

(d) Unless contained on the list of exempt anabolic steroids of the Drug Enforcement Administration of the United States Department of Justice as the list existed on January 31, 2021, any anabolic steroid, which shall include any material, compound, mixture, or preparation containing any quantity of the

following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts of isomers is possible within the specific chemical designation:

(1) 3-beta,17-dihydroxy-5a-androstane;

(2) 3-alpha,17-beta-dihydroxy-5a-androstane;

(3) 5-alpha-androstan-3,17-dione;

(4) 1-androstenediol (3-beta,17-beta-dihydroxy-5-alpha-androst-1-ene);

(5) 1-androstenediol (3-alpha,17-beta-dihydroxy-5-alpha-androst-1-ene);

(6) 4-androstenediol (3-beta,17-beta-dihydroxy-androst-5-ene);

(7) 5-androstenediol (3-beta,17-beta-dihydroxy-androst-5-ene);

(8) 1-androstenedione ([5-alpha]-androst-1-en-3,17-dione);

(9) 4-androstenedione (androst-4-en-3,17-dione);

(10) 5-androstenedione (androst-5-en-3,17-dione);

(11) Bolasterone (7-alpha,17-alpha-dimethyl-17-beta-hydroxyandrost-4-en-3-one);

(12) Boldenone (17-beta-hydroxyandrost-1,4-diene-3-one);

(13) Boldione (androsta-1,4-diene-3,17-3-one);

(14) Calusterone (7-beta,17-alpha-dimethyl-17-beta-hydroxyandrost-4-en-3-one);

(15) Clostebol (4-chloro-17-beta-hydroxyandrost-4-en-3-one);

(16) Dehydrochloromethyltestosterone (4-chloro-17-beta-hydroxy-17-alpha-methyl-androst-1,4-dien-3-one);

(17) Desoxymethyltestosterone (17-alpha-methyl-5-alpha-androst-2-en-17-beta-ol) (a.k.a. 'madol');

(18) Delta-1-Dihydrotestosterone (a.k.a. '1-testosterone')(17-beta-hydroxy-5-alpha-androst-1-en-3-one);

(19) 4-Dihydrotestosterone (17-beta-hydroxy-androstan-3-one);

(20) Drostanolone (17-beta-hydroxy-2-alpha-methyl-5-alpha-androstan-3-one);

(21) Ethylestrenol (17-alpha-ethyl-17-beta-hydroxyestr-4-ene);

(22) Fluoxymesterone (9-fluoro-17-alpha-methyl-11-beta,17-beta-dihydroxyandrost-4-en-3-one);

(23) Formebulone (formebolone); (2-formyl-17-alpha-methyl-11-alpha,17-beta-dihydroxyandrost-1,4-dien-3-one);

(24) Furazabol (17-alpha-methyl-17-beta-hydroxyandrostano[2,3-c]-furazan);

(25) 13-beta-ethyl-17-beta-hydroxygon-4-en-3-one;

(26) 4-hydroxytestosterone (4,17-beta-dihydroxy-androst-4-en-3-one);

(27) 4-hydroxy-19-nortestosterone (4,17-beta-dihydroxy-estr-4-en-3-one);

(28) Mestanolone (17-alpha-methyl-17-beta-hydroxy-5-androstan-3-one);

(29) Mesterolone (17-alpha-methyl-17-beta-hydroxy-5-androstan-3-one);

(30) Methandienone (17-alpha-methyl-17-beta-hydroxyandrost-1,4-dien-3-one);

(31) Methandriol (17-alpha-methyl-3-beta,17-beta-dihydroxyandrost-5-ene);

(32) Methasterone (2-alpha,17-alpha-dimethyl-5-alpha-androstan-17-beta-ol-3-one);

(33) Methenolone (1-methyl-17-beta-hydroxy-5-alpha-androst-1-en-3-one);

(34) 17-alpha-methyl-3-beta,17-beta-dihydroxy-5a-androstane;

(35) 17-alpha-methyl-3-alpha,17-beta-dihydroxy-5a-androstane;

(36) 17-alpha-methyl-3-beta,17-beta-dihydroxyandrost-4-ene;

(37) 17-alpha-methyl-4-hydroxynandrolone (17-alpha-methyl-4-hydroxy-17-beta-hydroxyestr-4-en-3-one);

(38) Methyldienolone (17-alpha-methyl-17-beta-hydroxyestra-4,9(10)-dien-3-one);

(39) Methyltrienolone (17-alpha-methyl-17-beta-hydroxyestra-4,9,11-trien-3-one);

(40) Methyltestosterone (17-alpha-methyl-17-beta-hydroxyandrost-4-en-3-one);

(41) Mibolerone (7-alpha,17-alpha-dimethyl-17-beta-hydroxyestr-4-en-3-one);

(42) 17-alpha-methyl-delta-1-dihydrotestosterone (17-beta-hydroxy-17-alpha-methyl-5-alpha-androst-1-en-3-one) (a.k.a. '17-alpha-methyl-1-testosterone');

(43) Nandrolone (17-beta-hydroxyestr-4-en-3-one);

(44) 19-nor-4-androstenediol (3-beta, 17-beta-dihydroxyestr-4-ene);

(45) 19-nor-4-androstenediol (3-alpha, 17-beta-dihydroxyestr-4-ene);

(46) 19-nor-5-androstenediol (3-beta, 17-beta-dihydroxyestr-5-ene);

(47) 19-nor-5-androstenediol (3-alpha, 17-beta-dihydroxyestr-5-ene);

(48) 19-nor-4,9(10)-androstadienedione (estra-4,9(10)-diene-3,17-dione);

(49) 19-nor-4-androstenedione (estr-4-en-3,17-dione);

(50) 19-nor-5-androstenedione (estr-5-en-3,17-dione);

(51) Norbolethone (13-beta, 17-alpha-diethyl-17-beta-hydroxygon-4-en-3-one);

(52) Norclostebol (4-chloro-17-beta-hydroxyestr-4-en-3-one);

(53) Norethandrolone (17-alpha-ethyl-17-beta-hydroxyestr-4-en-3-one);

(54) Normethandrolone (17-alpha-methyl-17-beta-hydroxyestr-4-en-3-one);

(55) Oxandrolone (17-alpha-methyl-17-beta-hydroxy-2-oxa-[5-alpha]-androstan-3-one);

(56) Oxymesterone (17-alpha-methyl-4,17-beta-dihydroxyandrost-4-en-3-one);

(57) Oxymetholone (17-alpha-methyl-2-hydroxymethylene-17-beta-hydroxy-[5-alpha]-androstan-3-one);

(58) Prostanozol (17-beta-hydroxy-5-alpha-androstano[3,2-c]pyrazole);

(59) Stanozolol (17-alpha-methyl-17-beta-hydroxy-[5-alpha]-androst-2-eno[3,2-c]-pyrazole);

(60) Stenbolone (17-beta-hydroxy-2-methyl-[5-alpha]-androst-1-en-3-one);

(61) Testolactone (13-hydroxy-3-oxo-13,17-secoandrosta-1,4-dien-17-oic acid lactone);

(62) Testosterone (17-beta-hydroxyandrost-4-en-3-one);

(63) Tetrahydrogestrinone (13-beta, 17-alpha-diethyl-17-beta-hydroxygon-4,9,11-trien-3-one);

(64) Trenbolone (17-beta-hydroxyestr-4,9,11-trien-3-one);

(65) [3,2-c]-furazan-5 alpha-androstane-17 beta-ol;

(66) [3,2-c]pyrazole-androst-4-en-17 beta-ol;

(67) 17 alpha-methyl-androst-ene-3,17 beta-diol;

(68) 17 alpha-methyl-androsta-1,4-diene-3,17 beta-diol;

(69) 17 alpha-methyl-androstan-3-hydroxyimine-17 beta-ol;

(70) 17 beta-hydroxy-androstano[2,3-d]isoxazole;

(71) 17 beta-hydroxy-androstano[3,2-c]isoxazole;

(72) 18a-homo-3-hydroxy-estra-2,5(10)-dien-17-one;

(73) 2 alpha, 3 alpha-epithio-17 alpha-methyl-5 alpha-androstan-17 beta-ol;

(74) 4-chloro-17 alpha-methyl-17 beta-hydroxy-androst-4-en-3-one;

(75) 4-chloro-17 alpha-methyl-17 beta-hydroxy-androst-4-en-3,11-dione;

(76) 4-chloro-17 alpha-methyl-androst-4-ene-3 beta,17 beta-diol;

(77) 4-chloro-17 alpha-methyl-androsta-1,4,diene-3,17 beta-diol;

(78) 4-hydroxy-androst-4-ene-3,17-dione;

(79) 5 alpha-Androstan-3,6,17-trione;

(80) 6-bromo-androst-1,4-diene-3,17-dione;

(81) 6-bromo-androstan-3,17-dione;

(82) 6 alpha-methyl-androst-4-ene-3,17-dione;

(83) Delta 1-dihydrotestosterone;

(84) Estra-4,9,11-triene-3,17-dione; and

(85) Any salt, ester, or ether of a drug or substance described or listed in this subdivision if the salt, ester, or ether promotes muscle growth.

(e) Hallucinogenic substances known as:

(1) Dronabinol, synthetic, in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the federal Food and Drug Administration. Some other names for dronabinol are (6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo (b,d)pyran-1-ol or (-)-delta-9-(trans)-tetrahydrocannabinol.

Schedule IV

(a) Any material, compound, mixture, or preparation which contains any quantity of the following substances, including their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Barbital;

(2) Chloral betaine;

(3) Chloral hydrate;

(4) Chlordiazepoxide, but not including librax (chlordiazepoxide hydrochloride and clindinium bromide) or menrium (chlordiazepoxide and water soluble esterified estrogens);

(5) Clonazepam;

(6) Clorazepate;

(7) Diazepam;

(8) Ethchlorvynol;

(9) Ethinamate;

(10) Flurazepam;
(11) Mebutamate;
(12) Meprobamate;
(13) Methohexital;
(14) Methylphenobarbital;
(15) Oxazepam;
(16) Paraldehyde;
(17) Petrichloral;
(18) Phenobarbital;
(19) Prazepam;
(20) Alprazolam;
(21) Bromazepam;
(22) Camazepam;
(23) Clobazam;
(24) Clotiazepam;
(25) Cloxazolam;
(26) Delorazepam;
(27) Estazolam;
(28) Ethyl loflazepate;
(29) Fludiazepam;
(30) Flunitrazepam;
(31) Halazepam;
(32) Haloxazolam;
(33) Ketazolam;
(34) Loprazolam;
(35) Lorazepam;
(36) Lormetazepam;
(37) Medazepam;
(38) Nimetazepam;
(39) Nitrazepam;
(40) Nordiazepam;
(41) Oxazolam;
(42) Pinazepam;
(43) Temazepam;
(44) Tetrazepam;
(45) Triazolam;
(46) Midazolam;
(47) Quazepam;
(48) Zolpidem;
(49) Dichloralphenazone;
(50) Zaleplon;

(51) Zopiclone;

(52) Fospropofol;

(53) Alfaxalone;

(54) Suvorexant;

(55) Carisoprodol;

(56) Brexanolone; 3 alpha-hydroxy-5 alpha-pregnan-20-one;

(57) Lemborexant;

(58) Solriamfetol; 2-amino-3-phenylpropyl carbamate; and

(59) Remimazolam.

(b) Any material, compound, mixture, or preparation which contains any quantity of the following substance, including its salts, isomers, whether optical, position, or geometric, and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible: Fenfluramine.

(c) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers, whether optical, position, or geometric, and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Diethylpropion;

(2) Phentermine;

(3) Pemoline, including organometallic complexes and chelates thereof;

(4) Mazindol;

(5) Pipradrol;

(6) SPA, ((-)-1-dimethylamino- 1,2-diphenylethane);

(7) Cathine. Another name for cathine is ((+)-norpseudoephedrine);

(8) Fencamfamin;

(9) Fenproporex;

(10) Mefenorex;

(11) Modafinil; and

(12) Sibutramine.

(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following narcotic drugs, or their salts or isomers calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(1) Propoxyphene in manufactured dosage forms;

(2) Not more than one milligram of difenoxin and not less than twenty-five micrograms of atropine sulfate per dosage unit; and

(3) 2-[(dimethylamino)methyl]-1-(3-methoxyphenyl)cyclohexanol, its salts, optical and geometric isomers, and salts of these isomers to include: Tramadol.

(e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substance, including its salts:

(1) Pentazocine; and

(2) Butorphanol (including its optical isomers).

(f) Any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible: Lorcaserin.

(g)(1) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substance, including its salts, optical isomers, and salts of such optical isomers: Ephedrine.

(2) The following drug products containing ephedrine, its salts, optical isomers, and salts of such optical isomers, are excepted from subdivision (g)(1) of Schedule IV if they (A) are stored behind a counter, in an area not accessible to customers, or in a locked case so that a customer needs assistance from an employee to access the drug product; (B) are sold by a person, eighteen years of age or older, in the course of his or her employment to a customer eighteen years of age or older with the following restrictions: No customer shall be allowed to purchase, receive, or otherwise acquire more than three and six-tenths grams of ephedrine base during a twenty-four-hour period; no customer shall purchase, receive, or otherwise acquire more than nine grams of ephedrine base during a thirty-day period; and the customer shall display a valid driver's or operator's license, a Nebraska state identification card, a military identification card, an alien registration card, or a passport as proof of identification; (C) are labeled and marketed in a manner consistent with the pertinent OTC Tentative Final or Final Monograph; (D) are manufactured and distributed for legitimate medicinal use in a manner that reduces or eliminates the likelihood of abuse; and (E) are not marketed, advertised, or represented in any manner for the indication of stimulation, mental alertness, euphoria, ecstasy, a buzz or high, heightened sexual performance, or increased muscle mass:

(i) Primatene Tablets; and

(ii) Bronkaid Dual Action Caplets.

Schedule V

(a) Any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs or salts calculated as the free anhydrous base or alkaloid, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) Not more than two hundred milligrams of codeine per one hundred milliliters or per one hundred grams;

(2) Not more than one hundred milligrams of dihydrocodeine per one hundred milliliters or per one hundred grams;

(3) Not more than one hundred milligrams of ethylmorphine per one hundred milliliters or per one hundred grams;

(4) Not more than two and five-tenths milligrams of diphenoxylate and not less than twenty-five micrograms of atropine sulfate per dosage unit;

(5) Not more than one hundred milligrams of opium per one hundred milliliters or per one hundred grams; and

(6) Not more than five-tenths milligram of difenoxin and not less than twenty-five micrograms of atropine sulfate per dosage unit.

(b) Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers: Pyrovalerone.

(c) Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers:

(1) Ezogabine (N-(2-amino-4-(4-fluorobenzylamino)-phenyl)-carbamic acid ethyl ester);

(2) Lacosamide ((R)-2-acetoamido-N-benzyl-3-methoxy-propionamide);

(3) Pregabalin ((S)-3-(aminomethyl)-5-methylhexanoic acid);

(4) Brivaracetam ((2S)-2-[(4R)-2-oxo-4-propylpyrrolidin-1-yl] butanamide) (also referred to as BRV; UCB-34714; Briviact), including its salts;

(5) Cenobamate; and

(6) Lasmiditan.

Source: Laws 1977, LB 38, § 65; Laws 1978, LB 748, § 50; Laws 1980, LB 696, § 2; Laws 1985, LB 323, § 2; Laws 1985, LB 406, § 3; Laws 1986, LB 1160, § 1; Laws 1987, LB 473, § 1; Laws 1990, LB 571, § 6; Laws 1992, LB 1019, § 32; Laws 1994, LB 1210, § 3; Laws 1995, LB 406, § 5; Laws 1996, LB 1213, § 4; Laws 1998, LB 1073, § 8; Laws 1999, LB 594, § 1; Laws 2000, LB 1115, § 2; Laws 2001, LB 113, § 10; Laws 2002, LB 500, § 1; Laws 2003, LB 245, § 1; Laws 2005, LB 382, § 2; Laws 2007, LB247, § 2; Laws 2008, LB902, § 1; Laws 2009, LB123, § 1; Laws 2009, LB151, § 1; Laws 2010, LB792, § 1; Laws 2011, LB19, § 1; Laws 2012, LB670, § 1; Laws 2013, LB298, § 1; Laws 2014, LB811, § 4; Laws 2015, LB390, § 4; Laws 2017, LB487, § 5; Laws 2018, LB906, § 1; Laws 2021, LB236, § 2.
Effective date August 28, 2021.

28-414 Controlled substance; Schedule II; prescription; requirements; contents.

(1) Except as otherwise provided in this section or section 28-412 or when administered directly by a practitioner to an ultimate user, a controlled substance listed in Schedule II of section 28-405 shall not be dispensed without a prescription from a practitioner authorized to prescribe. Beginning January 1, 2022, all such prescriptions shall be subject to section 38-1,146, except that all such prescriptions issued by a practitioner who is a dentist shall be subject to section 38-1,146 beginning January 1, 2024. No prescription for a controlled substance listed in Schedule II of section 28-405 shall be filled more than six months from the date of issuance. A prescription for a controlled substance listed in Schedule II of section 28-405 shall not be refilled.

(2) A prescription for controlled substances listed in Schedule II of section 28-405 must contain the following information prior to being filled by a pharmacist or dispensing practitioner: (a) Patient's name and address, (b) name of the drug, device, or biological, (c) strength of the drug or biological, if

applicable, (d) dosage form of the drug or biological, (e) quantity of the drug, device, or biological prescribed, (f) directions for use, (g) date of issuance, (h) prescribing practitioner's name and address, and (i) Drug Enforcement Administration number of the prescribing practitioner. If the prescription is a written paper prescription, the paper prescription must contain the prescribing practitioner's manual signature. If the prescription is an electronic prescription, the electronic prescription must contain all of the elements in subdivisions (a) through (i) of this subsection, must be digitally signed, and must be transmitted to and received by the pharmacy electronically to meet all of the requirements of the Controlled Substances Act, 21 U.S.C. 801 et seq., as it existed on January 1, 2014, pertaining to electronic prescribing of controlled substances.

(3)(a) In emergency situations, a controlled substance listed in Schedule II of section 28-405 may be dispensed pursuant to an oral prescription reduced to writing in accordance with subsection (2) of this section, except for the prescribing practitioner's signature, and bearing the word ''emergency''.

(b) For purposes of this section, emergency situation means a situation in which a prescribing practitioner determines that (i) immediate administration of the controlled substance is necessary for proper treatment of the patient, (ii) no appropriate alternative treatment is available, including administration of a drug which is not a controlled substance listed in Schedule II of section 28-405, and (iii) it is not reasonably possible for the prescribing practitioner to provide a signed, written or electronic prescription to be presented to the person dispensing the controlled substance prior to dispensing.

(4)(a) In nonemergency situations:

(i) A controlled substance listed in Schedule II of section 28-405 may be dispensed pursuant to a facsimile of a written, signed paper prescription if the original written, signed paper prescription is presented to the pharmacist for review before the controlled substance is dispensed, except as provided in subdivision (a)(ii) or (iii) of this subsection;

(ii) A narcotic drug listed in Schedule II of section 28-405 may be dispensed pursuant to a facsimile of a written, signed paper prescription (A) to be compounded for direct parenteral administration to a patient for the purpose of home infusion therapy or (B) for administration to a patient enrolled in a hospice care program and bearing the words ''hospice patient''; and

(iii) A controlled substance listed in Schedule II of section 28-405 may be dispensed pursuant to a facsimile of a written, signed paper prescription for administration to a resident of a long-term care facility.

(b) For purposes of subdivisions (a)(ii) and (iii) of this subsection, a facsimile of a written, signed paper prescription shall serve as the original written prescription and shall be maintained in accordance with subsection (1) of section 28-414.03.

(5)(a) A prescription for a controlled substance listed in Schedule II of section 28-405 may be partially filled if the pharmacist does not supply the full quantity prescribed and he or she makes a notation of the quantity supplied on the face of the prescription or in the electronic record. The remaining portion of the prescription may be filled no later than thirty days after the date on which the prescription is written. The pharmacist shall notify the prescribing practitioner if the remaining portion of the prescription is not or cannot be filled within such period. No further quantity may be supplied after such period without a new written, signed paper prescription or electronic prescription.

(b) A prescription for a controlled substance listed in Schedule II of section 28-405 written for a patient in a long-term care facility or for a patient with a medical diagnosis documenting a terminal illness may be partially filled. Such prescription shall bear the words ''terminally ill'' or ''long-term care facility patient'' on its face or in the electronic record. If there is any question whether a patient may be classified as having a terminal illness, the pharmacist shall contact the prescribing practitioner prior to partially filling the prescription. Both the pharmacist and the prescribing practitioner have a corresponding responsibility to assure that the controlled substance is for a terminally ill patient. For each partial filling, the dispensing pharmacist shall record on the back of the prescription or on another appropriate record, uniformly maintained and readily retrievable, the date of the partial filling, quantity dispensed, remaining quantity authorized to be dispensed, and the identification of the dispensing pharmacist. The total quantity of controlled substances listed in Schedule II which is dispensed in all partial fillings shall not exceed the total quantity prescribed. A prescription for a Schedule II controlled substance for a patient in a long-term care facility or a patient with a medical diagnosis documenting a terminal illness is valid for sixty days from the date of issuance or until discontinuance of the prescription, whichever occurs first.

Source: Laws 1977, LB 38, § 74; Laws 1988, LB 273, § 5; Laws 1995, LB 406, § 7; Laws 1996, LB 1108, § 4; Laws 1997, LB 307, § 8; Laws 1999, LB 594, § 4; Laws 2000, LB 819, § 65; Laws 2001, LB 398, § 12; Laws 2004, LB 1005, § 2; Laws 2005, LB 382, § 3; Laws 2007, LB463, § 1122; Laws 2009, LB195, § 3; Laws 2011, LB179, § 1; Laws 2014, LB811, § 6; Laws 2017, LB166, § 3; Laws 2021, LB583, § 1.
Operative date January 1, 2022.

28-414.01 Controlled substance; Schedule III, IV, or V; medical order, required; prescription; requirements; contents; pharmacist; authority to adapt prescription; duties.

(1) Except as otherwise provided in this section or when administered directly by a practitioner to an ultimate user, a controlled substance listed in Schedule III, IV, or V of section 28-405 shall not be dispensed without a written, oral, or electronic medical order. Such medical order is valid for six months after the date of issuance. Original prescription information for any controlled substance listed in Schedule III, IV, or V of section 28-405 may be transferred between pharmacies for purposes of refill dispensing pursuant to section 38-2871.

(2) A prescription for controlled substances listed in Schedule III, IV, or V of section 28-405 must contain the following information prior to being filled by a pharmacist or dispensing practitioner: (a) Patient's name and address, (b) name of the drug, device, or biological, (c) strength of the drug or biological, if applicable, (d) dosage form of the drug or biological, (e) quantity of the drug, device, or biological prescribed, (f) directions for use, (g) date of issuance, (h) number of refills, including pro re nata or PRN refills, not to exceed five refills within six months after the date of issuance, (i) prescribing practitioner's name and address, and (j) Drug Enforcement Administration number of the prescribing practitioner. Beginning January 1, 2022, all such prescriptions shall be subject to section 38-1,146, except that all such prescriptions issued by a practitioner who is a dentist shall be subject to section 38-1,146 beginning

January 1, 2024. If the prescription is a written paper prescription, the paper prescription must contain the prescribing practitioner's manual signature. If the prescription is an electronic prescription, the electronic prescription must contain all of the elements in subdivisions (a) through (j) of this subsection, must be digitally signed, and must be transmitted to and received by the pharmacy electronically to meet all of the requirements of 21 C.F.R. 1311, as the regulation existed on January 1, 2014, pertaining to electronic prescribing of controlled substances.

(3)(a) A pharmacist who is exercising reasonable care and who has obtained patient consent may do the following:

(i) Change the quantity of a drug prescribed if:

(A) The prescribed quantity or package size is not commercially available; or

(B) The change in quantity is related to a change in dosage form;

(ii) Change the dosage form of the prescription if it is in the best interest of the patient and if the directions for use are also modified to equate to an equivalent amount of drug dispensed as prescribed;

(iii) Dispense multiple months' supply of a drug if a prescription is written with sufficient refills; and

(iv) Substitute any chemically equivalent drug product for a prescribed drug to comply with a drug formulary which is covered by the patient's health insurance plan unless the prescribing practitioner specifies ''no substitution'', ''dispense as written'', or ''D.A.W.'' to indicate that substitution is not permitted. If a pharmacist substitutes any chemically equivalent drug product as permitted under this subdivision, the pharmacist shall provide notice to the prescribing practitioner or the prescribing practitioner's designee. If drug product selection occurs involving a generic substitution, the drug product selection shall comply with section 38-28,111.

(b) A pharmacist who adapts a prescription in accordance with this subsection shall document the adaptation in the patient's pharmacy record.

(4) A controlled substance listed in Schedule III, IV, or V of section 28-405 may be dispensed pursuant to a facsimile of a written, signed paper prescription. The facsimile of a written, signed paper prescription shall serve as the original written prescription for purposes of this subsection and shall be maintained in accordance with subsection (2) of section 28-414.03.

(5) A prescription for a controlled substance listed in Schedule III, IV, or V of section 28-405 may be partially filled if (a) each partial filling is recorded in the same manner as a refilling, (b) the total quantity dispensed in all partial fillings does not exceed the total quantity prescribed, and (c) each partial filling is dispensed within six months after the prescription was issued.

Source: Laws 2014, LB811, § 7; Laws 2017, LB166, § 4; Laws 2020, LB1052, § 1; Laws 2021, LB583, § 2.
Operative date January 1, 2022.

ARTICLE 9

OFFENSES INVOLVING INTEGRITY AND EFFECTIVENESS OF GOVERNMENT OPERATION

Section
28-934. Assault with a bodily fluid against a public safety officer; penalty; order to collect evidence.

28-934 Assault with a bodily fluid against a public safety officer; penalty; order to collect evidence.

(1) Any person who knowingly and intentionally strikes any public safety officer with any bodily fluid is guilty of assault with a bodily fluid against a public safety officer.

(2) Except as provided in subsection (3) of this section, assault with a bodily fluid against a public safety officer is a Class I misdemeanor.

(3) Assault with a bodily fluid against a public safety officer is a Class IIIA felony if the person committing the offense strikes with a bodily fluid the eyes, mouth, or skin of a public safety officer and knew the source of the bodily fluid was infected with the human immunodeficiency virus, hepatitis B, or hepatitis C at the time the offense was committed.

(4) Upon a showing of probable cause by affidavit to a judge of this state that an offense as defined in subsection (1) of this section has been committed and that identifies the probable source of the bodily fluid or bodily fluids used to commit the offense, the judge shall grant an order or issue a search warrant authorizing the collection of any evidence, including any bodily fluid or medical records or the performance of any medical or scientific testing or analysis, that may assist with the determination of whether or not the person committing the offense or the person from whom the person committing the offense obtained the bodily fluid or bodily fluids is infected with the human immunodeficiency virus, hepatitis B, or hepatitis C.

(5) As used in this section:

(a) Bodily fluid means any naturally produced secretion or waste product generated by the human body and shall include, but not be limited to, any quantity of human blood, urine, saliva, mucus, vomitus, seminal fluid, or feces; and

(b) Public safety officer includes any of the following persons who are engaged in the performance of their official duties at the time of the offense: A peace officer; a probation officer; a firefighter; an emergency care provider as defined in section 28-929.01; a health care professional as defined in section 28-929.01; an employee of a county, city, or village jail; an employee of the Department of Correctional Services; an employee of the secure youth confinement facility operated by the Department of Correctional Services, if the person committing the offense is committed to such facility; an employee of a youth rehabilitation and treatment center; or an employee of the Department of Health and Human Services if the person committing the offense is committed as a dangerous sex offender under the Sex Offender Commitment Act.

Source: Laws 2011, LB226, § 2; Laws 2014, LB811, § 22; Laws 2018, LB913, § 2; Laws 2020, LB1002, § 10; Laws 2021, LB273, § 1. Effective date August 28, 2021.

Cross References

Sex Offender Commitment Act, see section 71-1201.

ARTICLE 11
GAMBLING

Section
28-1101. Terms, defined.
28-1105. Possession of gambling records; penalty.
28-1113. Article, how construed.

28-1101 Terms, defined.

As used in this article, unless the context otherwise requires:

(1) A person advances gambling activity if, acting other than as a player, he or she engages in conduct that materially aids any form of gambling activity. Conduct of this nature includes, but shall not be limited to, conduct directed toward (a) the creation or establishment of the particular game, contest, scheme, device, or activity involved, (b) the acquisition or maintenance of premises, paraphernalia, equipment, or apparatus therefor, or (c) engaging in the procurement, sale, or offering for sale within this state of any chance, share, or interest in a lottery of another state or government whether or not such chance, share, or interest is an actual lottery ticket, receipt, contingent promise to pay, order to purchase, or other record of such interest except as provided in the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, the State Lottery Act, the Nebraska Racetrack Gaming Act, or section 9-701;

(2) Bookmaking shall mean advancing gambling activity by unlawfully accepting bets from members of the public as a business upon the outcome of future contingent events;

(3) A person profits from gambling activity if, other than as a player, he or she accepts or receives money or other property pursuant to an agreement or understanding with any person whereby he or she participates or is to participate in the proceeds of gambling activity;

(4) A person engages in gambling if he or she bets something of value upon the outcome of a future event, which outcome is determined by an element of chance, or upon the outcome of a game, contest, or election, or conducts or participates in any bingo, lottery by the sale of pickle cards, lottery, raffle, gift enterprise, or other scheme not authorized or conducted in accordance with the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, the State Lottery Act, the Nebraska Racetrack Gaming Act, or section 9-701, but a person does not engage in gambling by:

(a) Entering into a lawful business transaction;

(b) Playing an amusement device or a coin-operated mechanical game which confers as a prize an immediate, unrecorded right of replay not exchangeable for something of value;

(c) Conducting or participating in a prize contest; or

(d) Conducting or participating in any bingo, lottery by the sale of pickle cards, lottery, raffle, game of chance, or gift enterprise conducted in accordance with the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the

Nebraska Small Lottery and Raffle Act, the State Lottery Act, the Nebraska Racetrack Gaming Act, or section 9-701;

(5) Gambling device shall mean any device, machine, paraphernalia, writing, paper, instrument, article, or equipment that is used or usable for engaging in gambling, whether that activity consists of gambling between persons or gambling by a person involving the playing of a machine. Gambling device shall also include any mechanical gaming device, computer gaming device, electronic gaming device, or video gaming device which has the capability of awarding something of value, free games redeemable for something of value, instant-win tickets which also provide the possibility of participating in a subsequent drawing or event, or tickets or stubs redeemable for something of value, except as authorized in the furtherance of parimutuel wagering. Supplies, equipment, cards, tickets, stubs, and other items used in any bingo, lottery by the sale of pickle cards, other lottery, raffle, game of chance, or gift enterprise conducted in accordance with the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, the State Lottery Act, the Nebraska Racetrack Gaming Act, or section 9-701 are not gambling devices within this definition;

(6) Something of value shall mean any money or property, any token, object, or article exchangeable for money or property, or any form of credit or promise directly or indirectly contemplating transfer of money or property or of any interest therein, or involving extension of a service or entertainment; and

(7) Prize contest shall mean any competition in which one or more competitors are awarded something of value as a consequence of winning or achieving a certain result in the competition and (a) the value of such awards made to competitors participating in the contest does not depend upon the number of participants in the contest or upon the amount of consideration, if any, paid for the opportunity to participate in the contest or upon chance and (b) the value or identity of such awards to be made to competitors is published before the competition begins.

Source: Laws 1977, LB 38, § 217; Laws 1978, LB 900, § 1; Laws 1979, LB 152, § 1; Laws 1983, LB 259, § 36; Laws 1983, LB 374, § 1; Laws 1984, LB 744, § 1; Laws 1984, LB 949, § 72; Laws 1986, LB 1027, § 192; Laws 1991, LB 849, § 64; Laws 1993, LB 138, § 66; Laws 1995, LB 343, § 6; Initiative Law 2020, No. 430, § 8. Operative date January 1, 2021.

Cross References

Constitutional provisions, see Article III, section 24, Constitution of Nebraska.
Nebraska Bingo Act, see section 9-201.
Nebraska County and City Lottery Act, see section 9-601.
Nebraska Lottery and Raffle Act, see section 9-401.
Nebraska Pickle Card Lottery Act, see section 9-301.
Nebraska Racetrack Gaming Act, see section 9-1101.
Nebraska Small Lottery and Raffle Act, see section 9-501.
State Lottery Act, see section 9-801.

28-1105 Possession of gambling records; penalty.

(1) A person commits the offense of possession of gambling records if, other than as a player, he or she knowingly possesses any writing, paper, instrument, or article which is:

(a) Of a kind commonly used in the operation or promotion of a bookmaking scheme or enterprise and such writing, paper, instrument, or article has been used for the purpose of recording, memorializing, or registering any bet, wager, or other gambling information; or

(b) Of a kind commonly used in the operation, promotion, or playing of a lottery or mutuel scheme or enterprise or other scheme not conducted pursuant to the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, the State Lottery Act, the Nebraska Racetrack Gaming Act, or section 9-701 and such writing, paper, instrument, or article has been used for the purpose of recording, memorializing, or registering any bet, wager, or other gambling information not permitted by such acts or section.

(2) Possession of gambling records in the first degree is a Class II misdemeanor.

Source: Laws 1977, LB 38, § 221; Laws 1979, LB 152, § 5; Laws 1983, LB 259, § 37; Laws 1985, LB 408, § 39; Laws 1986, LB 1027, § 193; Laws 1991, LB 849, § 65; Laws 1993, LB 138, § 67; Initiative Law 2020, No. 430, § 9.
Operative date January 1, 2021.

Cross References

Nebraska Bingo Act, see section 9-201.
Nebraska County and City Lottery Act, see section 9-601.
Nebraska Lottery and Raffle Act, see section 9-401.
Nebraska Pickle Card Lottery Act, see section 9-301.
Nebraska Racetrack Gaming Act, see section 9-1101.
Nebraska Small Lottery and Raffle Act, see section 9-501.
State Lottery Act, see section 9-801.

28-1113 Article, how construed.

Nothing in this article shall be construed to:

(1) Apply to or prohibit wagering on the results of horseraces by the parimutuel or certificate method when conducted by licensees within the racetrack enclosure at licensed horserace meetings;

(2) Prohibit or punish the conducting or participating in any bingo, lottery by the sale of pickle cards, lottery, raffle, or gift enterprise when conducted in accordance with the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, the State Lottery Act, or section 9-701; or

(3) Apply to or prohibit the operation of games of chance, whether using a gambling device or otherwise, by authorized gaming operators within licensed racetrack enclosures or the participation or playing of such games of chance, whether participated in or played using a gambling device or otherwise, by individuals twenty-one years of age or older within licensed racetrack enclosures as provided in the Nebraska Racetrack Gaming Act.

Source: Laws 1977, LB 38, § 229; Laws 1979, LB 164, § 19; Laws 1983, LB 259, § 38; Laws 1984, LB 949, § 73; Laws 1986, LB 1027, § 195; Laws 1991, LB 849, § 66; Laws 1993, LB 138, § 68; Initiative Law 2020, No. 430, § 10.
Operative date January 1, 2021.

Cross References

Nebraska Bingo Act, see section 9-201.
Nebraska County and City Lottery Act, see section 9-601.
Nebraska Lottery and Raffle Act, see section 9-401.
Nebraska Pickle Card Lottery Act, see section 9-301.
Nebraska Racetrack Gaming Act, see section 9-1101.
Nebraska Small Lottery and Raffle Act, see section 9-501.
State Lottery Act, see section 9-801.

ARTICLE 12

OFFENSES AGAINST PUBLIC HEALTH AND SAFETY

Section

28-1202 Carrying concealed weapon; penalty; affirmative defense; applicability of provisions.

(1)(a) Except as otherwise provided in this section, any person who carries a weapon or weapons concealed on or about his or her person, such as a handgun, a knife, brass or iron knuckles, or any other deadly weapon, commits the offense of carrying a concealed weapon.

(b) It is an affirmative defense that the defendant was engaged in any lawful business, calling, or employment at the time he or she was carrying any weapon or weapons and the circumstances in which such person was placed at the time were such as to justify a prudent person in carrying the weapon or weapons for the defense of his or her person, property, or family.

(2) This section does not apply to a person who is the holder of a valid permit issued under the Concealed Handgun Permit Act if the concealed weapon the defendant is carrying is a handgun.

(3)(a) This section does not apply to storing or transporting a firearm in a motor vehicle for any lawful purpose or to transporting a firearm directly to or from a motor vehicle to or from any place where such firearm may be lawfully possessed or carried by such person, if such firearm is unloaded, kept separate from ammunition, and enclosed in a case. This subsection shall not apply to any person prohibited by state or federal law from possessing, carrying, transporting, shipping, or receiving a firearm.

(b) For purposes of this subsection, case means (i) a hard-sided or soft-sided box, container, or receptacle intended or designed for the primary purpose of storing or transporting a firearm or (ii) the firearm manufacturer's original packaging.

(4) Carrying a concealed weapon is a Class I misdemeanor.

(5) In the case of a second or subsequent conviction under this section, carrying a concealed weapon is a Class IV felony.

Source: Laws 1977, LB 38, § 234; Laws 1984, LB 1095, § 1; Laws 2006, LB 454, § 22; Laws 2009, LB63, § 10; Laws 2021, LB236, § 3. Effective date August 28, 2021.

Cross References

Concealed Handgun Permit Act, see section 69-2427.

28-1241 Fireworks; definitions.

As used in sections 28-1239.01 and 28-1241 to 28-1252, unless the context otherwise requires:

(1) 1.3G explosives, also known as display fireworks or Class B fireworks or by United Nations shipping classification number UN0335, means any items classified as 1.3G explosives by the United States Department of Transportation in Title 49 of the Code of Federal Regulations, as such regulations existed on January 1, 2021;

(2) 1.4G explosives, also known as consumer fireworks or Class C fireworks or by United Nations shipping classification number UN0336, means any items classified as 1.4G explosives by the United States Department of Transportation in Title 49 of the Code of Federal Regulations, as such regulations existed on January 1, 2021;

(3) Distributor means any person engaged in the business of making sales of fireworks at wholesale in this state to any person engaged in the business of making sales of fireworks either as a jobber or as a retailer or both;

(4) Jobber means any person engaged in the business of making sales of fireworks at wholesale to any other person engaged in the business of making sales at retail;

(5) Retailer means any person engaged in the business of making sales of fireworks at retail to consumers or to persons other than distributors or jobbers;

(6) Sale includes barter, exchange, or gift or offer therefor and each such transaction made by any person, whether as principal, proprietor, agent, servant, or employee;

(7) Fireworks means any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation and which meets the definition of consumer or special fireworks set forth by the United States Department of Transportation in Title 49 of the Code of Federal Regulations;

(8)(a) Consumer fireworks means any device that (i) meets the requirements set forth in 16 C.F.R. parts 1500 and 1507, as such regulations existed on January 1, 2021, and (ii) is tested and approved by a nationally recognized testing facility or by the State Fire Marshal.

(b) 1.4G explosives shall be considered consumer fireworks.

(c) Consumer fireworks does not include:

(i) Wire sparklers; or

(ii) Fireworks that have been tested by the State Fire Marshal as a response to complaints and have been deemed to be unsafe; and

(9) Display fireworks means those materials manufactured exclusively for use in public exhibitions or displays of fireworks designed to produce visible or audible effects by combustion, deflagration, or detonation. Display fireworks includes, but is not limited to, firecrackers containing more than one hundred thirty milligrams of explosive composition, aerial shells containing more than forty grams of explosive composition, and other display pieces which exceed the limits for classification as consumer fireworks. 1.3G explosives shall be considered display fireworks. Display fireworks shall be considered an explosive as defined in section 28-1213 and shall be subject to sections 28-1213 to

28-1239, except that display fireworks may be purchased, received, and discharged by the holder of an approved display permit issued pursuant to section 28-1239.01.

Source: Laws 1977, LB 38, § 273; Laws 1986, LB 969, § 2; Laws 1988, LB 893, § 3; Laws 2006, LB 1007, § 2; Laws 2010, LB880, § 3; Laws 2021, LB152, § 1.
Effective date May 6, 2021.

28-1243 Fireworks item deemed unsafe; quarantined; testing; test results; effect.

(1) If the State Fire Marshal deems any fireworks item to be unsafe pursuant to subdivision (8)(c)(ii) of section 28-1241, such fireworks item shall be quarantined from other fireworks. Any licensed distributor, jobber, or retailer may request, at the distributor's, jobber's, or retailer's expense, that such fireworks item be tested by an independent, nationally recognized testing facility to determine if such fireworks item meets the requirements set forth by the United States Consumer Product Safety Commission for 1.4G explosives. A copy of the results of all testing done pursuant to this section shall be provided to the State Fire Marshal.

(2) If such fireworks item is in compliance with such requirements and otherwise permitted under section 28-1241, such fireworks item that was determined to be unsafe pursuant to subdivision (8)(c)(ii) of section 28-1241 shall be deemed a consumer firework and be permitted for retail sale or distribution.

(3) If such fireworks item is in compliance with such requirements but is otherwise not deemed consumer fireworks, such fireworks item shall not be sold at retail or distributed to retailers for sale in this state, but a distributor, jobber, or retailer may sell such fireworks item to another distributor or retailer in a state that permits the sale of such fireworks item.

(4) If such fireworks item is not in compliance with such requirements, then the distributor, jobber, or retailer shall destroy such fireworks item under the supervision of the State Fire Marshal. If such fireworks item is not destroyed under the supervision of the State Fire Marshal, notarized documentation shall be provided to the State Fire Marshal detailing and confirming the fireworks item's destruction.

Source: Laws 2010, LB880, § 4; Laws 2021, LB152, § 2.
Effective date May 6, 2021.

28-1253 Liquefied petroleum gas; prohibited acts; violation; penalty; enforcement.

(1) The distribution, sale, or use of refrigerants containing liquefied petroleum gas for use in mobile air conditioning systems is prohibited.

(2) For purposes of this section:

(a) Liquefied petroleum gas means material composed predominantly of any of the following hydrocarbons or mixtures of such hydrocarbons: Propane, propylene, butanes (normal butane or isobutane), and butylenes;

(b) Mobile air conditioning system means mechanical vapor compression equipment which is used to cool the driver or passenger compartment of any motor vehicle; and

(c) Motor vehicle has the same meaning as in section 60-638.

(3) Any person violating this section is guilty of a Class IV misdemeanor.

(4) The State Fire Marshal may adopt and promulgate rules and regulations for enforcement of this section and, together with peace officers of the state and its political subdivisions, is charged with enforcement of this section.

Source: Laws 1999, LB 163, § 2; Laws 2021, LB37, § 1.
Effective date August 28, 2021.

ARTICLE 14

NONCODE PROVISIONS

(a) OFFENSES RELATING TO PROPERTY

(a) OFFENSES RELATING TO PROPERTY

28-1402 Repealed. Laws 2021, LB169, § 1.

28-1403 Repealed. Laws 2021, LB169, § 1.

28-1404 Repealed. Laws 2021, LB169, § 1.

28-1405 Repealed. Laws 2021, LB169, § 1.

CHAPTER 29
CRIMINAL PROCEDURE

ARTICLE 2
POWERS AND DUTIES OF CERTAIN OFFICERS

29-215 Law enforcement officers; jurisdiction; powers; contracts authorized.

(1) A law enforcement officer has the power and authority to enforce the laws of this state and of the political subdivision which employs the law enforcement officer or otherwise perform the functions of that office anywhere within his or her primary jurisdiction.

(2) Any law enforcement officer who is within this state, but beyond his or her primary jurisdiction, has the power and authority to enforce the laws of this state or any legal ordinance of any city or incorporated village or otherwise perform the functions of his or her office, including the authority to arrest and detain suspects, as if enforcing the laws or performing the functions within his or her primary jurisdiction in the following cases:

(a) Any such law enforcement officer, if in a fresh attempt to apprehend a person suspected of committing a felony, may follow such person into any other jurisdiction in this state and there arrest and detain such person and return such person to the law enforcement officer's primary jurisdiction;

(b) Any such law enforcement officer, if in a fresh attempt to apprehend a person suspected of committing a misdemeanor or a traffic infraction, may follow such person anywhere in an area within twenty-five miles of the boundaries of the law enforcement officer's primary jurisdiction and there arrest and detain such person and return such person to the law enforcement officer's primary jurisdiction;

(c) Any such law enforcement officer shall have such enforcement and arrest and detention authority when responding to a call in which a local, state, or federal law enforcement officer is in need of assistance. A law enforcement officer in need of assistance shall mean (i) a law enforcement officer whose life is in danger or (ii) a law enforcement officer who needs assistance in making an arrest and the suspect (A) will not be apprehended unless immediately arrested, (B) may cause injury to himself or herself or others or damage to property unless immediately arrested, or (C) may destroy or conceal evidence of the commission of a crime; and

(d) Any municipality or county may, under the provisions of the Interlocal Cooperation Act or the Joint Public Agency Act, enter into a contract with any other municipality or county for law enforcement services or joint law enforcement services. Under such an agreement, law enforcement personnel may have such enforcement authority within the jurisdiction of each of the participating political subdivisions if provided for in the agreement. Unless otherwise provided in the agreement, each participating political subdivision shall provide liability insurance coverage for its own law enforcement personnel as provided in section 13-1802.

(3) When probable cause exists to believe that a person is operating or in the actual physical control of any motor vehicle, motorboat, personal watercraft, or aircraft while under the influence of alcoholic liquor or of any drug or otherwise in violation of section 28-1465, 28-1466, 28-1472, 37-1254.01, 37-1254.02, 60-4,163, 60-4,164, 60-6,196, 60-6,197, 60-6,211.01, or 60-6,211.02, the law enforcement officer has the power and authority to do any of the following or any combination thereof:

(a) Transport such person to a facility outside of the law enforcement officer's primary jurisdiction for appropriate chemical testing of the person;

(b) Administer outside of the law enforcement officer's primary jurisdiction any post-arrest test advisement to the person; or

(c) With respect to such person, perform other procedures or functions outside of the law enforcement officer's primary jurisdiction which are directly and solely related to enforcing the laws that concern a person operating or being in the actual physical control of any motor vehicle, motorboat, personal watercraft, or aircraft while under the influence of alcoholic liquor or of any other drug or otherwise in violation of section 28-1465, 28-1466, 28-1472, 37-1254.01, 37-1254.02, 60-4,163, 60-4,164, 60-6,196, 60-6,197, 60-6,211.01, or 60-6,211.02.

(4) For purposes of this section:

(a) Class I railroad has the same meaning as in section 81-1401;

(b) Law enforcement officer has the same meaning as peace officer as defined in section 49-801 and also includes conservation officers of the Game and Parks Commission and Class I railroad police officers; and

(c) Primary jurisdiction means the geographic area within the territorial limits of the state or political subdivision which employs the law enforcement officer.

Source: Laws 1994, LB 254, § 1; Laws 1999, LB 87, § 68; Laws 2003, LB 17, § 9; Laws 2011, LB667, § 5; Laws 2021, LB51, § 2.
Effective date August 28, 2021.

Cross References

Interlocal Cooperation Act, see section 13-801.
Joint Public Agency Act, see section 13-2501.
Motor vehicle pursuit, see section 29-211.
Uniform Act on Fresh Pursuit, see section 29-421.

ARTICLE 9
BAIL

Section
29-901. Bail; personal recognizance; appointment of counsel; conditions; pretrial release program; conditions.

29-901 Bail; personal recognizance; appointment of counsel; conditions; pretrial release program; conditions.

(1) Except as provided in subsection (2) of this section, any bailable defendant shall be ordered released from custody pending judgment on his or her personal recognizance unless the judge determines in the exercise of his or her discretion that such a release will not reasonably assure the appearance of the defendant as required or that such a release could jeopardize the safety and maintenance of evidence or the safety of victims, witnesses, or other persons in the community.

(2)(a) This subsection applies to any bailable defendant who is charged with one or more Class IIIA, IV, or V misdemeanors or violations of city or county ordinances, except when:

(i) The victim is an intimate partner as defined in section 28-323; or

(ii) The defendant is charged with one or more violations of section 60-6,196 or 60-6,197 or city or village ordinances enacted in conformance with section 60-6,196 or 60-6,197.

(b) Any bailable defendant described in this subsection shall be ordered released from custody pending judgment on his or her personal recognizance or under other conditions of release, other than payment of a bond, unless:

(i) The defendant has previously failed to appear in the instant case or any other case in the previous six months;

(ii) The judge determines in the exercise of his or her discretion that such a release will not reasonably assure the appearance of the defendant as required or that such a release could jeopardize the safety and maintenance of evidence or the safety of the defendant, victims, witnesses, or other persons; and

(iii) The defendant was arrested pursuant to a warrant.

(3) The court shall consider all methods of bond and conditions of release to avoid pretrial incarceration. If the judge determines that the defendant shall not be released on his or her personal recognizance, the judge shall consider the defendant's financial ability to pay a bond and shall impose the least onerous of the following conditions that will reasonably assure the defendant's appearance or that will eliminate or minimize the risk of harm to others or the public at large:

(a) Place the defendant in the custody of a designated person or organization agreeing to supervise the defendant;

(b) Place restrictions on the travel, association, or place of abode of the defendant during the period of such release; or

(c) Require, at the option of any bailable defendant, either of the following:

(i) The execution of an appearance bond in a specified amount and the deposit with the clerk of the court in cash of a sum not to exceed ten percent of the amount of the bond, ninety percent of such deposit to be returned to the defendant upon the performance of the appearance or appearances and ten percent to be retained by the clerk as appearance bond costs, except that when no charge is subsequently filed against the defendant or if the charge or charges which are filed are dropped before the appearance of the defendant which the bond was to assure, the entire deposit shall be returned to the defendant. If the bond is subsequently reduced by the court after the original bond has been

posted, no additional appearance bond costs shall be retained by the clerk. The difference in the appearance bond costs between the original bond and the reduced bond shall be returned to the defendant. In no event shall the deposit be less than twenty-five dollars. Whenever jurisdiction is transferred from a court requiring an appearance bond under this subdivision to another state court, the transferring court shall transfer the ninety percent of the deposit remaining after the appearance bond costs have been retained. No further costs shall be levied or collected by the court acquiring jurisdiction; or

(ii) The execution of a bail bond with such surety or sureties as shall seem proper to the judge or, in lieu of such surety or sureties, at the option of such person, a cash deposit of such sum so fixed, conditioned for his or her appearance before the proper court, to answer the offense with which he or she may be charged and to appear at such times thereafter as may be ordered by the proper court. The cash deposit shall be returned to the defendant upon the performance of all appearances.

(4) If the court requires the defendant to execute an appearance bond requiring the defendant to post money or requires the defendant to execute a bail bond, the court shall appoint counsel for the defendant if the court finds the defendant is financially unable to pay the amount required and is indigent.

(5) If the amount of bail is deemed insufficient by the court before which the offense is pending, the court may order an increase of such bail and the defendant shall provide the additional undertaking, written or cash, to secure his or her release. All recognizances in criminal cases shall be in writing and be continuous from term to term until final judgment of the court in such cases and shall also extend, when the court has suspended execution of sentence for a limited time, as provided in section 29-2202, or, when the court has suspended execution of sentence to enable the defendant to apply for a writ of error to the Supreme Court or Court of Appeals, as provided in section 29-2301, until the period of suspension has expired. When two or more indictments or informations are returned against the same person at the same term of court, the recognizance given may be made to include all offenses charged therein. Each surety on such recognizance shall be required to justify under oath in a sum twice the amount of such recognizance and give the description of real estate owned by him or her of a value above encumbrance equal to the amount of such justification and shall name all other cases pending in which he or she is a surety. No one shall be accepted as surety on recognizance aggregating a sum in excess of his or her equity in the real estate, but such recognizance shall not constitute a lien on the real estate described therein until judgment is entered thereon against such surety.

(6) In order to assure compliance with the conditions of release referred to in subsection (3) of this section, the court may order a defendant to be supervised by a person, an organization, or a pretrial services program approved by the county board. A court shall waive any fees or costs associated with the conditions of release or supervision if the court finds the defendant is unable to pay for such costs. Eligibility for release or supervision by such pretrial release program shall under no circumstances be conditioned upon the defendant's ability to pay. While under supervision of an approved entity, and in addition to the conditions of release referred to in subsection (3) of this section, the court may impose the following conditions:

(a) Periodic telephone contact by the defendant with the organization or pretrial services program;

(b) Periodic office visits by the defendant to the organization or pretrial services program;

(c) Periodic visits to the defendant's home by the organization or pretrial services program;

(d) Mental health or substance abuse treatment for the defendant, including residential treatment, if the defendant consents or agrees to the treatment;

(e) Periodic alcohol or drug testing of the defendant;

(f) Domestic violence counseling for the defendant, if the defendant consents or agrees to the counseling;

(g) Electronic or global-positioning monitoring of the defendant;

(h) Participation in a 24/7 sobriety program under the 24/7 Sobriety Program Act; and

(i) Any other supervision techniques shown by research to increase court appearance and public safety rates for defendants released on bond.

(7) The incriminating results of any drug or alcohol test or any information learned by a representative of an organization or program shall not be admissible in any proceeding, except for a proceeding relating to revocation or amendment of conditions of bond release.

Source: G.S.1873, c. 58, §§ 346 to 348, p. 802; R.S.1913, § 9003; Laws 1921, c. 203, § 1, p. 733; C.S.1922, § 10027; C.S.1929, § 29-901; R.S.1943, § 29-901; Laws 1951, c. 87, § 1, p. 250; Laws 1953, c. 90, § 1, p. 261; Laws 1961, c. 132, § 1, p. 384; Laws 1972, LB 1032, § 174; Laws 1974, LB 828, § 1; Laws 1975, LB 284, § 2; Laws 1984, LB 773, § 1; Laws 1991, LB 732, § 74; Laws 1999, LB 51, § 1; Laws 2009, LB63, § 23; Laws 2010, LB771, § 15; Laws 2017, LB259, § 2; Laws 2020, LB881, § 14; Laws 2021, LB271, § 7.
Operative date July 1, 2022.

Cross References

Appeals, suspension of sentence, see section 29-2301.
Forfeiture of recognizance, see sections 29-1105 to 29-1110.
Suspension of sentence, see section 29-2202.
24/7 Sobriety Program Act, see section 60-701.

ARTICLE 13

VENUE

Section
29-1301. Venue; change; when allowed.
29-1301.04. Venue; crime committed using an electronic communication device.

29-1301 Venue; change; when allowed.

All criminal cases shall be tried in the county where the offense was committed, except as otherwise provided in section 25-412.03 or sections 29-1301.01 to 29-1301.04, or unless it shall appear to the court by affidavits that a fair and impartial trial cannot be had therein. In such case the court,

upon motion of the defendant, shall transfer the proceeding to any other district or county in the state as determined by the court.

Source: G.S.1873, c. 58, § 455, p. 823; R.S.1913, § 9024; C.S.1922, § 10048; C.S.1929, § 29-1301; R.S.1943, § 29-1301; Laws 1957, c. 103, § 1, p. 363; Laws 1975, LB 97, § 7; Laws 1978, LB 562, § 1; Laws 2021, LB500, § 1.
Effective date August 28, 2021.

Cross References

Change of venue, criminal case pending in county with population of four thousand or less without adequate facilities for jury trials, see section 25-412.01.
Trial, agreements under Interlocal Cooperation Act, see section 25-412.03.

29-1301.04 Venue; crime committed using an electronic communication device.

(1) If a person uses an electronic communication device to commit any element of an offense, such person may be tried in the county where the electronic communication was initiated or where the electronic communication was received.

(2) For purposes of this section:

(a) Electronic communication has the same meaning as in section 28-1310; and

(b) Electronic communication device has the same meaning as in section 28-833.

Source: Laws 2021, LB500, § 2.
Effective date August 28, 2021.

ARTICLE 18

MOTIONS AND ISSUES ON INDICTMENT

Section
29-1816. Arraignment of accused; when considered waived; accused younger than eighteen years of age; move court to waive jurisdiction to juvenile court; findings for decision; transfer to juvenile court; effect; appeal.

29-1816 Arraignment of accused; when considered waived; accused younger than eighteen years of age; move court to waive jurisdiction to juvenile court; findings for decision; transfer to juvenile court; effect; appeal.

(1)(a) The accused may be arraigned in county court or district court:

(i) If the accused was eighteen years of age or older when the alleged offense was committed;

(ii) If the accused was younger than eighteen years of age and was fourteen years of age or older when an alleged offense punishable as a Class I, IA, IB, IC, ID, II, or IIA felony was committed;

(iii) If the alleged offense is a traffic offense as defined in section 43-245; or

(iv) Until January 1, 2017, if the accused was seventeen years of age when an alleged offense described in subdivision (1) of section 43-247 was committed.

(b) Arraignment in county court or district court shall be by reading to the accused the complaint or information, unless the reading is waived by the accused when the nature of the charge is made known to him or her. The accused shall then be asked whether he or she is guilty or not guilty of the

offense charged. If the accused appears in person and by counsel and goes to trial before a jury regularly impaneled and sworn, he or she shall be deemed to have waived arraignment and a plea of not guilty shall be deemed to have been made.

(2) At the time of the arraignment, the county court or district court shall advise the accused, if the accused was younger than eighteen years of age at the time the alleged offense was committed, that the accused may move the county court or district court at any time not later than thirty days after arraignment, unless otherwise permitted by the court for good cause shown, to waive jurisdiction in such case to the juvenile court for further proceedings under the Nebraska Juvenile Code. This subsection does not apply if the case was transferred to county court or district court from juvenile court.

(3) For motions to transfer a case from the county court or district court to juvenile court:

(a) The county court or district court shall schedule a hearing on such motion within fifteen days. The customary rules of evidence shall not be followed at such hearing. The accused shall be represented by an attorney. The criteria set forth in section 43-276 shall be considered at such hearing. After considering all the evidence and reasons presented by both parties, the case shall be transferred to juvenile court unless a sound basis exists for retaining the case in county court or district court; and

(b) The county court or district court shall make a decision on such motion within thirty days after the hearing and shall set forth findings for the reason for its decision. If the county court or district court determines that the accused should be transferred to the juvenile court, the complete file in the county court or district court shall be transferred to the juvenile court and the complaint, indictment, or information may be used in place of a petition therein. The county court or district court making a transfer shall order the accused to be taken forthwith to the juvenile court and designate where the juvenile shall be kept pending determination by the juvenile court. The juvenile court shall then proceed as provided in the Nebraska Juvenile Code.

(c) An order granting or denying transfer of the case from county or district court to juvenile court shall be considered a final order for the purposes of appeal. Upon entry of an order, any party may appeal to the Court of Appeals within ten days. Such review shall be advanced on the court docket without an extension of time granted to any party except upon a showing of exceptional cause. Appeals shall be submitted, assigned, and scheduled for oral argument as soon as the appellee's brief is due to be filed. The Court of Appeals shall conduct its review in an expedited manner and shall render the judgment and opinion, if any, as speedily as possible. During the pendency of an appeal from an order transferring the case to juvenile court, the juvenile court may enter temporary orders in the best interests of the juvenile.

(4) When the accused was younger than eighteen years of age when an alleged offense was committed, the county attorney or city attorney shall proceed under section 43-274.

Source: G.S.1873, c. 58, § 448, p. 822; R.S.1913, § 9092; C.S.1922, § 10117; Laws 1925, c. 105, § 1, p. 294; C.S.1929, § 29-1815; R.S.1943, § 29-1816; Laws 1947, c. 103, § 1(1), p. 291; Laws 1974, LB 620, § 6; Laws 1975, LB 288, § 2; Laws 1987, LB 34, § 1; Laws 2008, LB1014, § 16; Laws 2010, LB800, § 5; Laws

2014, LB464, § 4; Laws 2015, LB265, § 1; Laws 2015, LB605, § 59; Laws 2017, LB11, § 1; Laws 2021, LB307, § 1.
Effective date August 28, 2021.

Cross References

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

ARTICLE 22
JUDGMENT ON CONVICTION

(c) PROBATION

Section
29-2264. Probation; completion; conviction may be set aside; conditions; retroactive effect.

(c) PROBATION

29-2264 Probation; completion; conviction may be set aside; conditions; retroactive effect.

(1) Whenever any person is placed on probation by a court and satisfactorily completes the conditions of his or her probation for the entire period or is discharged from probation prior to the termination of the period of probation, the sentencing court shall issue an order releasing the offender from probation. Such order in all felony cases shall provide notice that the person's voting rights are restored two years after completion of probation. The order shall include information on restoring other civil rights through the pardon process, including application to and hearing by the Board of Pardons.

(2) Whenever any person is convicted of an offense and is placed on probation by the court, is sentenced to a fine only, or is sentenced to community service, he or she may, after satisfactory fulfillment of the conditions of probation for the entire period or after discharge from probation prior to the termination of the period of probation and after payment of any fine and completion of any community service, petition the sentencing court to set aside the conviction.

(3)(a) Except as provided in subdivision (3)(b) of this section, whenever any person is convicted of an offense and is sentenced other than as provided in subsection (2) of this section, but is not sentenced to a term of imprisonment of more than one year, such person may, after completion of his or her sentence, petition the sentencing court to set aside the conviction.

(b) A petition under subdivision (3)(a) of this section shall be denied if filed:

(i) By any person with a criminal charge pending in any court in the United States or in any other country;

(ii) During any period in which the person is required to register under the Sex Offender Registration Act;

(iii) For any misdemeanor or felony motor vehicle offense under section 28-306 or the Nebraska Rules of the Road; or

(iv) Within two years after a denial of a petition to set aside a conviction under this subsection.

(4) In determining whether to set aside the conviction, the court shall consider:

(a) The behavior of the offender after sentencing;

(b) The likelihood that the offender will not engage in further criminal activity; and

(c) Any other information the court considers relevant.

(5) The court may grant the offender's petition and issue an order setting aside the conviction when in the opinion of the court the order will be in the best interest of the offender and consistent with the public welfare. The order shall:

(a) Nullify the conviction;

(b) Remove all civil disabilities and disqualifications imposed as a result of the conviction; and

(c) Notify the offender that he or she should consult with an attorney regarding the effect of the order, if any, on the offender's ability to possess a firearm under state or federal law.

(6) The setting aside of a conviction in accordance with the Nebraska Probation Administration Act shall not:

(a) Require the reinstatement of any office, employment, or position which was previously held and lost or forfeited as a result of the conviction;

(b) Preclude proof of a plea of guilty whenever such plea is relevant to the determination of an issue involving the rights or liabilities of someone other than the offender;

(c) Preclude proof of the conviction as evidence of the commission of the offense whenever the fact of its commission is relevant for the purpose of impeaching the offender as a witness, except that the order setting aside the conviction may be introduced in evidence;

(d) Preclude use of the conviction for the purpose of determining sentence on any subsequent conviction of a criminal offense;

(e) Preclude the proof of the conviction as evidence of the commission of the offense in the event an offender is charged with a subsequent offense and the penalty provided by law is increased if the prior conviction is proved;

(f) Preclude the proof of the conviction to determine whether an offender is eligible to have a subsequent conviction set aside in accordance with the Nebraska Probation Administration Act;

(g) Preclude use of the conviction as evidence of commission of the offense for purposes of determining whether an application filed or a license issued under sections 71-1901 to 71-1906.01, the Child Care Licensing Act, or the Children's Residential Facilities and Placing Licensure Act or a certificate issued under sections 79-806 to 79-815 should be denied, suspended, or revoked;

(h) Preclude use of the conviction as evidence of serious misconduct or final conviction of or pleading guilty or nolo contendere to a felony or misdemeanor for purposes of determining whether an application filed or a certificate issued under sections 81-1401 to 81-1414.19 should be denied, suspended, or revoked;

(i) Preclude proof of the conviction as evidence whenever the fact of the conviction is relevant to a determination of the registration period under section 29-4005;

(j) Relieve a person who is convicted of an offense for which registration is required under the Sex Offender Registration Act of the duty to register and to comply with the terms of the act;

(k) Preclude use of the conviction for purposes of section 28-1206;

(l) Affect the right of a victim of a crime to prosecute or defend a civil action;

(m) Affect the assessment or accumulation of points under section 60-4,182; or

(n) Affect eligibility for, or obligations relating to, a commercial driver's license.

(7) For purposes of this section, offense means any violation of the criminal laws of this state or any political subdivision of this state including, but not limited to, any felony, misdemeanor, infraction, traffic infraction, violation of a city or village ordinance, or violation of a county resolution.

(8) Except as otherwise provided for the notice in subsection (1) of this section, changes made to this section by Laws 2005, LB 713, shall be retroactive in application and shall apply to all persons, otherwise eligible in accordance with the provisions of this section, whether convicted prior to, on, or subsequent to September 4, 2005.

(9) The changes made to this section by Laws 2018, LB146, and Laws 2020, LB881, shall apply to all persons otherwise eligible under this section, without regard to the date of the conviction sought to be set aside.

Source: Laws 1971, LB 680, § 19; Laws 1993, LB 564, § 1; Laws 1994, LB 677, § 1; Laws 1995, LB 401, § 1; Laws 1997, LB 310, § 1; Laws 1998, Spec. Sess., LB 1, § 3; Laws 2002, LB 1054, § 6; Laws 2003, LB 685, § 2; Laws 2004, LB 1005, § 3; Laws 2005, LB 53, § 3; Laws 2005, LB 713, § 3; Laws 2009, LB285, § 2; Laws 2012, LB817, § 2; Laws 2013, LB265, § 30; Laws 2018, LB146, § 1; Laws 2020, LB881, § 24; Laws 2021, LB51, § 3. Effective date August 28, 2021.

Cross References

Child Care Licensing Act, see section 71-1908.
Children's Residential Facilities and Placing Licensure Act, see section 71-1924.
Nebraska Rules of the Road, see section 60-601.
Sex Offender Registration Act, see section 29-4001.

CHAPTER 30
DECEDENTS' ESTATES; PROTECTION OF PERSONS AND PROPERTY

ARTICLE 24
PROBATE OF WILLS AND ADMINISTRATION

PART 13
SUCCESSION TO REAL PROPERTY BY AFFIDAVIT FOR SMALL ESTATES

PART 13

SUCCESSION TO REAL PROPERTY BY AFFIDAVIT FOR SMALL ESTATES

30-24,129 Succession to real property by affidavit.

(a) Thirty days after the death of a decedent, any person claiming as successor to the decedent's interest in real property in this state may file or cause to be filed on his or her behalf, with the register of deeds office of a county in which the real property of the decedent that is the subject of the affidavit is located, an affidavit describing the real property owned by the decedent and the interest of the decedent in the property. The affidavit shall be signed by all persons claiming as successors or by parties legally acting on their behalf and shall be prima facie evidence of the facts stated in the affidavit. The affidavit shall state:

(1) the value of the decedent's interest in all real property in the decedent's estate located in this state does not exceed fifty thousand dollars. The value of the decedent's interest shall be determined from the value of the property shown on the assessment rolls for the year in which the decedent died less real estate taxes and interest thereon if any is due at the time of death;

(2) thirty days have elapsed since the death of the decedent as shown in a certified or authenticated copy of the decedent's death certificate attached to the affidavit;

(3) no application or petition for the appointment of a personal representative is pending or has been granted in the State of Nebraska;

(4) the claiming successor is entitled to the real property either by reason of the homestead allowance, exempt property allowance, or family allowance, by intestate succession, or by devise under the will of the decedent. If claiming by devise under the will of the decedent, a copy of such will shall be attached to the affidavit;

(5) the claiming successor has made an investigation and has been unable to determine any subsequent will;

(6) no other person has a right to the interest of the decedent in the described property;

(7) the claiming successor's relationship to the decedent and the value of the entire estate of the decedent subject to probate; and

(8) the person or persons claiming as successors under the affidavit swear or affirm that all statements in the affidavit are true and material and further acknowledge that any false statement may subject the person or persons to penalties relating to perjury under section 28-915.

(b) The recorded affidavit and certified or authenticated copy of the decedent's death certificate shall also be recorded by the claiming successor in any other county in this state in which the real property of the decedent that is the subject of the affidavit is located.

Source: Laws 1999, LB 100, § 2; Laws 2009, LB35, § 23; Laws 2014, LB693, § 1; Laws 2021, LB501, § 62.
Effective date August 28, 2021.

ARTICLE 43

NEBRASKA UNIFORM DIRECTED TRUST ACT

Section
30-4305. (UDTA 5) Exclusions.

30-4305 (UDTA 5) Exclusions.

(UDTA 5) (a) In this section, power of appointment means a power that enables a person acting in a nonfiduciary capacity to designate a recipient of an ownership interest in or another power of appointment over trust property.

(b) The Nebraska Uniform Directed Trust Act does not apply to a:

(1) power of appointment;

(2) power to appoint or remove a trustee or trust director;

(3) power of a settlor over a trust to the extent the settlor has a power to revoke the trust;

(4) power of a beneficiary over a trust to the extent the exercise or nonexercise of the power affects the beneficial interest of:

(A) the beneficiary; or

(B) the beneficial interest of another beneficiary represented by the beneficiary under sections 30-3822 to 30-3826 with respect to the exercise or nonexercise of the power;

(5) power over a trust if:

(A) the terms of the trust provide that the power is held in a nonfiduciary capacity; and

(B) the power must be held in a nonfiduciary capacity to achieve the settlor's tax objectives under the Internal Revenue Code of 1986 as defined in section 49-801.01; or

(6) power over a trust if:

(A) the terms of the trust provide that the power is held in a nonfiduciary capacity; and

(B) the power must be held in a nonfiduciary capacity to correct a mistake of the scrivener in order to conform the terms of the trust with the intention of a settlor. The correction must not reform the trust in any material respect.

(c) Unless the terms of a trust provide otherwise, a power granted to a person to designate a recipient of an ownership interest in or power of appointment over trust property which is exercisable while the person is not serving as a trustee is a power of appointment and not a power of direction.

Source: Laws 2019, LB536, § 5; Laws 2021, LB248, § 1.
Effective date August 28, 2021.

ARTICLE 46

UNIFORM POWERS OF APPOINTMENT ACT

PART 1

GENERAL PROVISIONS

Section
30-4601. Short title.
30-4602. Definitions.
30-4603. Governing law.
30-4604. Common law and principles of equity.

PART 2

CREATION, REVOCATION, AND AMENDMENT OF POWER OF APPOINTMENT

30-4605. Creation of power of appointment.
30-4606. Nontransferability.
30-4607. Presumption of unlimited authority.
30-4608. Exception to presumption of unlimited authority.
30-4609. Rules of classification.
30-4610. Power to revoke or amend.

PART 3

EXERCISE OF POWER OF APPOINTMENT

30-4611. Requisites for exercise of power of appointment.
30-4612. Intent to exercise: Determining intent from residuary clause.
30-4613. Intent to exercise: After-acquired power.
30-4614. Substantial compliance with donor-imposed formal requirement.
30-4615. Permissible appointment.
30-4616. Appointment to deceased appointee or permissible appointee's descendant.
30-4617. Impermissible appointment.
30-4618. Selective allocation doctrine.
30-4619. Capture doctrine: Disposition of ineffectively appointed property under general power.
30-4620. Disposition of unappointed property under released or unexercised general power.
30-4621. Disposition of unappointed property under released or unexercised nongeneral power.
30-4622. Disposition of unappointed property if partial appointment to taker in default.

PART 1

GENERAL PROVISIONS

30-4601 Short title.

Sections 30-4601 to 30-4638 shall be known and may be cited as the Uniform Powers of Appointment Act.

Source: Laws 2021, LB501, § 24.
Effective date August 28, 2021.

30-4602 Definitions.

In the Uniform Powers of Appointment Act:

(1) Appointee means a person to which a powerholder makes an appointment of appointive property.

(2) Appointive property means the property or property interest subject to a power of appointment.

(3) Blanket exercise clause means a clause in an instrument which exercises a power of appointment and is not a specific exercise clause. The term includes a clause that:

(A) expressly uses the words ''any power'' in exercising any power of appointment the powerholder has;

(B) expressly uses the words ''any property'' in appointing any property over which the powerholder has a power of appointment; or

(C) disposes of all property subject to disposition by the powerholder.

(4) Donor means a person that creates a power of appointment.

(5) Exclusionary power of appointment means a power of appointment exercisable in favor of any one or more of the permissible appointees to the exclusion of the other permissible appointees.

(6) General power of appointment means a power of appointment exercisable in favor of the powerholder, the powerholder's estate, a creditor of the powerholder, or a creditor of the powerholder's estate.

(7) Gift in default clause means a clause identifying a taker in default of appointment.

(8) Impermissible appointee means a person that is not a permissible appointee.

(9) Instrument means a record.

(10) Nongeneral power of appointment means a power of appointment that is not a general power of appointment.

(11) Permissible appointee means a person in whose favor a powerholder may exercise a power of appointment.

(12) Person means an individual, estate, trust, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

(13) Power of appointment means a power that enables a powerholder acting in a nonfiduciary capacity to designate a recipient of an ownership interest in or another power of appointment over the appointive property. The term does not include a power of attorney.

(14) Powerholder means a person in which a donor creates a power of appointment.

(15) Presently exercisable power of appointment means a power of appointment exercisable by the powerholder at the relevant time. The term:

(A) includes a power of appointment not exercisable until the occurrence of a specified event, the satisfaction of an ascertainable standard, or the passage of a specified time only after:

(i) the occurrence of the specified event;

(ii) the satisfaction of the ascertainable standard; or

(iii) the passage of the specified time; and

(B) does not include a power exercisable only at the powerholder's death.

(16) 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.

(17) Specific exercise clause means a clause in an instrument which specifically refers to and exercises a particular power of appointment.

(18) Taker in default of appointment means a person that takes all or part of the appointive property to the extent the powerholder does not effectively exercise the power of appointment.

(19) Terms of the instrument means the manifestation of the intent of the maker of the instrument regarding the instrument's provisions as expressed in the instrument or as may be established by other evidence that would be admissible in a legal proceeding.

Source: Laws 2021, LB501, § 25.
Effective date August 28, 2021.

30-4603 Governing law.

Unless the terms of the instrument creating a power of appointment manifest a contrary intent:

(1) the creation, revocation, or amendment of the power is governed by the law of the donor's domicile at the relevant time; and

(2) the exercise, release, renunciation, or disclaimer of the power, or the revocation or amendment of the exercise, release, renunciation, or disclaimer of the power, is governed by the law of the powerholder's domicile at the relevant time.

Source: Laws 2021, LB501, § 26.
Effective date August 28, 2021.

30-4604 Common law and principles of equity.

The common law and principles of equity supplement the Uniform Powers of Appointment Act except to the extent modified by the Uniform Powers of Appointment Act or law of this state other than the Uniform Powers of Appointment Act.

Source: Laws 2021, LB501, § 27.
Effective date August 28, 2021.

PART 2

CREATION, REVOCATION, AND AMENDMENT OF POWER OF APPOINTMENT

30-4605 Creation of power of appointment.

(a) A power of appointment is created only if:

(1) the instrument creating the power:

(A) is valid under applicable law; and

(B) except as otherwise provided in subsection (b) of this section, transfers the appointive property; and

(2) the terms of the instrument creating the power manifest the donor's intent to create in a powerholder a power of appointment over the appointive property exercisable in favor of a permissible appointee.

(b) Subdivision (a)(1)(B) of this section does not apply to the creation of a power of appointment by the exercise of a power of appointment.

(c) A power of appointment may not be created in a deceased individual.

(d) Subject to an applicable rule against perpetuities, a power of appointment may be created in an unborn or unascertained powerholder.

Source: Laws 2021, LB501, § 28.
Effective date August 28, 2021.

30-4606 Nontransferability.

A powerholder may not transfer a power of appointment. If a powerholder dies without exercising or releasing a power, the power lapses.

Source: Laws 2021, LB501, § 29.
Effective date August 28, 2021.

30-4607 Presumption of unlimited authority.

Subject to section 30-4609, and unless the terms of the instrument creating a power of appointment manifest a contrary intent, the power is:

(1) presently exercisable;

(2) exclusionary; and

(3) except as otherwise provided in section 30-4609, general.

Source: Laws 2021, LB501, § 30.
Effective date August 28, 2021.

30-4608 Exception to presumption of unlimited authority.

Unless the terms of the instrument creating a power of appointment manifest a contrary intent, the power is nongeneral if:

(1) the power is exercisable only at the powerholder's death; and

(2) the permissible appointees of the power are a defined and limited class that does not include the powerholder's estate, the powerholder's creditors, or the creditors of the powerholder's estate.

Source: Laws 2021, LB501, § 31.
Effective date August 28, 2021.

30-4609 Rules of classification.

(a) In this section, adverse party means a person with a substantial beneficial interest in property which would be affected adversely by a powerholder's exercise or nonexercise of a power of appointment in favor of the powerholder, the powerholder's estate, a creditor of the powerholder, or a creditor of the powerholder's estate.

(b) If a powerholder may exercise a power of appointment only with the consent or joinder of an adverse party, the power is nongeneral.

(c) If the permissible appointees of a power of appointment are not defined and limited, the power is exclusionary.

Source: Laws 2021, LB501, § 32.
Effective date August 28, 2021.

30-4610 Power to revoke or amend.

A donor may revoke or amend a power of appointment only to the extent that:

(1) the instrument creating the power is revocable by the donor; or

(2) the donor reserves a power of revocation or amendment in the instrument creating the power of appointment.

Source: Laws 2021, LB501, § 33.
Effective date August 28, 2021.

PART 3

EXERCISE OF POWER OF APPOINTMENT

30-4611 Requisites for exercise of power of appointment.

A power of appointment is exercised only:

(1) if the instrument exercising the power is valid under applicable law;

(2) if the terms of the instrument exercising the power:

(A) manifest the powerholder's intent to exercise the power; and

(B) subject to section 30-4614, satisfy the requirements of exercise, if any, imposed by the donor; and

(3) to the extent the appointment is a permissible exercise of the power.

Source: Laws 2021, LB501, § 34.
Effective date August 28, 2021.

30-4612 Intent to exercise: Determining intent from residuary clause.

(a) In this section:

(1) Residuary clause does not include a residuary clause containing a blanket exercise clause or a specific exercise clause.

(2) Will includes a codicil and a testamentary instrument that revises another will.

(b) A residuary clause in a powerholder's will, or a comparable clause in the powerholder's revocable trust, manifests the powerholder's intent to exercise a power of appointment only if:

(1) the terms of the instrument containing the residuary clause do not manifest a contrary intent;

(2) the power is a general power exercisable in favor of the powerholder's estate;

(3) there is no gift in default clause or the clause is ineffective; and

(4) the powerholder did not release the power.

Source: Laws 2021, LB501, § 35.
Effective date August 28, 2021.

30-4613 Intent to exercise: After-acquired power.

Unless the terms of the instrument exercising a power of appointment manifest a contrary intent:

(1) except as otherwise provided in subdivision (2) of this section, a blanket exercise clause extends to a power acquired by the powerholder after executing the instrument containing the clause; and

(2) if the powerholder is also the donor of the power, the clause does not extend to the power unless there is no gift in default clause or the gift in default clause is ineffective.

Source: Laws 2021, LB501, § 36.
Effective date August 28, 2021.

30-4614 Substantial compliance with donor-imposed formal requirement.

A powerholder's substantial compliance with a formal requirement of appointment imposed by the donor, including a requirement that the instrument exercising the power of appointment make reference or specific reference to the power, is sufficient if:

(1) the powerholder knows of and intends to exercise the power; and

(2) the powerholder's manner of attempted exercise of the power does not impair a material purpose of the donor in imposing the requirement.

Source: Laws 2021, LB501, § 37.
Effective date August 28, 2021.

30-4615 Permissible appointment.

(a) A powerholder of a general power of appointment that permits appointment to the powerholder or the powerholder's estate may make any appointment, including an appointment in trust or creating a new power of appointment, that the powerholder could make in disposing of the powerholder's own property.

(b) A powerholder of a general power of appointment that permits appointment only to the creditors of the powerholder or of the powerholder's estate may appoint only to those creditors.

(c) Unless the terms of the instrument creating a power of appointment manifest a contrary intent, the powerholder of a nongeneral power may:

(1) make an appointment in any form, including an appointment in trust, in favor of a permissible appointee;

(2) create a general power in a permissible appointee;

(3) create a nongeneral power in any person to appoint to one or more of the permissible appointees of the original nongeneral power; or

(4) create a nongeneral power in a permissible appointee to appoint to one or more persons if the permissible appointees of the new nongeneral power include the permissible appointees of the original nongeneral power.

Source: Laws 2021, LB501, § 38.
Effective date August 28, 2021.

30-4616 Appointment to deceased appointee or permissible appointee's descendant.

(a) Subject to section 30-2343, an appointment to a deceased appointee is ineffective.

(b) Unless the terms of the instrument creating a power of appointment manifest a contrary intent, a powerholder of a nongeneral power may exercise the power in favor of, or create a new power of appointment in, a descendant of a deceased permissible appointee whether or not the descendant is described by the donor as a permissible appointee.

Source: Laws 2021, LB501, § 39.
Effective date August 28, 2021.

30-4617 Impermissible appointment.

(a) Except as otherwise provided in section 30-4616, an exercise of a power of appointment in favor of an impermissible appointee is ineffective.

(b) An exercise of a power of appointment in favor of a permissible appointee is ineffective to the extent the appointment is a fraud on the power.

Source: Laws 2021, LB501, § 40.
Effective date August 28, 2021.

30-4618 Selective allocation doctrine.

If a powerholder exercises a power of appointment in a disposition that also disposes of property the powerholder owns, the owned property and the appointive property must be allocated in the permissible manner that best carries out the powerholder's intent.

Source: Laws 2021, LB501, § 41.
Effective date August 28, 2021.

30-4619 Capture doctrine: Disposition of ineffectively appointed property under general power.

To the extent a powerholder of a general power of appointment, other than a power to withdraw property from, revoke, or amend a trust, makes an ineffective appointment:

(1) the gift in default clause controls the disposition of the ineffectively appointed property; or

(2) if there is no gift in default clause or to the extent the clause is ineffective, the ineffectively appointed property:

(A) passes to:

(i) the powerholder if the powerholder is a permissible appointee and living; or

(ii) if the powerholder is an impermissible appointee or deceased, the powerholder's estate if the estate is a permissible appointee; or

(B) if there is no taker under subdivision (A) of this subdivision, passes under a reversionary interest to the donor or the donor's transferee or successor in interest.

Source: Laws 2021, LB501, § 42.
Effective date August 28, 2021.

30-4620 Disposition of unappointed property under released or unexercised general power.

To the extent a powerholder releases or fails to exercise a general power of appointment other than a power to withdraw property from, revoke, or amend a trust:

(1) the gift in default clause controls the disposition of the unappointed property; or

(2) if there is no gift in default clause or to the extent the clause is ineffective:

(A) except as otherwise provided in subdivision (B) of this subdivision, the unappointed property passes to:

(i) the powerholder if the powerholder is a permissible appointee and living; or

(ii) if the powerholder is an impermissible appointee or deceased, the powerholder's estate if the estate is a permissible appointee; or

(B) to the extent the powerholder released the power, or if there is no taker under subdivision (A) of this subdivision, the unappointed property passes under a reversionary interest to the donor or the donor's transferee or successor in interest.

Source: Laws 2021, LB501, § 43.
Effective date August 28, 2021.

30-4621 Disposition of unappointed property under released or unexercised nongeneral power.

To the extent a powerholder releases, ineffectively exercises, or fails to exercise a nongeneral power of appointment:

(1) the gift in default clause controls the disposition of the unappointed property; or

(2) if there is no gift in default clause or to the extent the clause is ineffective, the unappointed property:

(A) passes to the permissible appointees if:

(i) the permissible appointees are defined and limited; and

(ii) the terms of the instrument creating the power do not manifest a contrary intent; or

(B) if there is no taker under subdivision (A) of this subdivision, passes under a reversionary interest to the donor or the donor's transferee or successor in interest.

Source: Laws 2021, LB501, § 44.
Effective date August 28, 2021.

30-4622 Disposition of unappointed property if partial appointment to taker in default.

Unless the terms of the instrument creating or exercising a power of appointment manifest a contrary intent, if the powerholder makes a valid partial appointment to a taker in default of appointment, the taker in default of appointment may share fully in unappointed property.

Source: Laws 2021, LB501, § 45.
Effective date August 28, 2021.

30-4623 Appointment to taker in default.

If a powerholder makes an appointment to a taker in default of appointment and the appointee would have taken the property under a gift in default clause had the property not been appointed, the power of appointment is deemed not to have been exercised and the appointee takes under the clause.

Source: Laws 2021, LB501, § 46.
Effective date August 28, 2021.

30-4624 Powerholder's authority to revoke or amend exercise.

A powerholder may revoke or amend an exercise of a power of appointment only to the extent that:

(1) the powerholder reserves a power of revocation or amendment in the instrument exercising the power of appointment and, if the power is nongeneral, the terms of the instrument creating the power of appointment do not prohibit the reservation; or

(2) the terms of the instrument creating the power of appointment provide that the exercise is revocable or amendable.

Source: Laws 2021, LB501, § 47.
Effective date August 28, 2021.

PART 4

DISCLAIMER OR RELEASE; CONTRACT TO APPOINT OR NOT TO APPOINT

30-4625 Disclaimer.

As provided by section 30-2352:

(1) A powerholder may renounce all or part of a power of appointment.

(2) A permissible appointee, appointee, or taker in default of appointment may renounce all or part of an interest in appointive property.

Source: Laws 2021, LB501, § 48.
Effective date August 28, 2021.

30-4626 Authority to release.

A powerholder may release a power of appointment, in whole or in part, except to the extent the terms of the instrument creating the power prevent the release.

Source: Laws 2021, LB501, § 49.
Effective date August 28, 2021.

30-4627 Method of release.

A powerholder of a releasable power of appointment may release the power in whole or in part:

(1) by substantial compliance with a method provided in the terms of the instrument creating the power; or

(2) if the terms of the instrument creating the power do not provide a method or the method provided in the terms of the instrument is not expressly made exclusive, by a record manifesting the powerholder's intent by clear and convincing evidence.

Source: Laws 2021, LB501, § 50.
Effective date August 28, 2021.

30-4628 Revocation or amendment of release.

A powerholder may revoke or amend a release of a power of appointment only to the extent that:

(1) the instrument of release is revocable by the powerholder; or

(2) the powerholder reserves a power of revocation or amendment in the instrument of release.

Source: Laws 2021, LB501, § 51.
Effective date August 28, 2021.

30-4629 Power to contract: Presently exercisable power of appointment.

A powerholder of a presently exercisable power of appointment may contract:

(1) not to exercise the power; or

(2) to exercise the power if the contract when made does not confer a benefit on an impermissible appointee.

Source: Laws 2021, LB501, § 52.
Effective date August 28, 2021.

30-4630 Power to contract: Power of appointment not presently exercisable.

A powerholder of a power of appointment that is not presently exercisable may contract to exercise or not to exercise the power only if the powerholder:

(1) is also the donor of the power; and

(2) has reserved the power in a revocable trust.

Source: Laws 2021, LB501, § 53.
Effective date August 28, 2021.

30-4631 Remedy for breach of contract to appoint or not to appoint.

The remedy for a powerholder's breach of a contract to appoint or not to appoint appointive property is limited to damages payable out of the appointive property or, if appropriate, specific performance of the contract.

Source: Laws 2021, LB501, § 54.
Effective date August 28, 2021.

PART 5

RIGHTS OF POWERHOLDER'S CREDITORS IN APPOINTIVE PROPERTY

30-4632 Creditor claim: General power created by powerholder.

(a) In this section, power of appointment created by the powerholder includes a power of appointment created in a transfer by another person to the extent the powerholder contributed value to the transfer.

(b) Appointive property subject to a general power of appointment created by the powerholder is subject to a claim of a creditor of the powerholder or of the powerholder's estate to the extent provided in the Uniform Voidable Transactions Act.

(c) Subject to subsection (b) of this section, appointive property subject to a general power of appointment created by the powerholder is not subject to a claim of a creditor of the powerholder or the powerholder's estate to the extent the powerholder irrevocably appointed the property in favor of a person other than the powerholder or the powerholder's estate.

(d) Subject to subsections (b) and (c) of this section, and notwithstanding the presence of a spendthrift provision or whether the claim arose before or after the creation of the power of appointment, appointive property subject to a general power of appointment created by the powerholder is subject to a claim of a creditor of:

(1) the powerholder, to the same extent as if the powerholder owned the appointive property, if the power is presently exercisable; and

(2) the powerholder's estate, to the extent the estate is insufficient to satisfy the claim and subject to the right of a decedent to direct the source from which liabilities are paid, if the power is exercisable at the powerholder's death.

Source: Laws 2021, LB501, § 55.
Effective date August 28, 2021.

Cross References

Uniform Voidable Transactions Act, see section 36-801.

30-4633 Creditor claim: General power not created by powerholder.

(a) Except as otherwise provided in subsection (b) of this section, appointive property subject to a general power of appointment created by a person other than the powerholder is subject to a claim of a creditor of:

(1) the powerholder, to the extent the powerholder's property is insufficient, if the power is presently exercisable; and

(2) the powerholder's estate, to the extent the estate is insufficient, subject to the right of a decedent to direct the source from which liabilities are paid.

(b) Subject to subsection (c) of section 30-4635, a power of appointment created by a person other than the powerholder which is subject to an ascertainable standard relating to an individual's health, education, support, or maintenance within the meaning of 26 U.S.C. 2041(b)(1)(A) or 26 U.S.C. 2514(c)(1), as such sections existed on January 1, 2021, is treated for purposes of the Uniform Powers of Appointment Act as a nongeneral power.

Source: Laws 2021, LB501, § 56.
Effective date August 28, 2021.

30-4634 Power to withdraw.

(a) For purposes of the Uniform Powers of Appointment Act, and except as otherwise provided in subsection (b) of this section, a power to withdraw property from a trust is treated, during the time the power may be exercised, as a presently exercisable general power of appointment to the extent of the property subject to the power to withdraw.

(b) On the lapse, release, or waiver of a power to withdraw property from a trust, the power is treated as a presently exercisable general power of appointment only to the extent the value of the property affected by the lapse, release, or waiver exceeds the greater of the amount specified in 26 U.S.C. 2041(b)(2) and 26 U.S.C. 2514(e) or the amount specified in 26 U.S.C. 2503(b), as such sections existed on January 1, 2021.

Source: Laws 2021, LB501, § 57.
Effective date August 28, 2021.

30-4635 Creditor claim: Nongeneral power.

(a) Except as otherwise provided in subsections (b) and (c) of this section, appointive property subject to a nongeneral power of appointment is exempt from a claim of a creditor of the powerholder or the powerholder's estate.

(b) Appointive property subject to a nongeneral power of appointment is subject to a claim of a creditor of the powerholder or the powerholder's estate to the extent that the powerholder owned the property and, reserving the nongeneral power, transferred the property in violation of the Uniform Voidable Transactions Act.

(c) If the initial gift in default of appointment is to the powerholder or the powerholder's estate, a nongeneral power of appointment is treated for purposes of the Uniform Powers of Appointment Act as a general power.

Source: Laws 2021, LB501, § 58.
Effective date August 28, 2021.

Cross References

Uniform Voidable Transactions Act, see section 36-801.

PART 6

MISCELLANEOUS PROVISIONS

30-4636 Uniformity of application and construction.

In applying and construing the Uniform Powers of Appointment Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Source: Laws 2021, LB501, § 59.
Effective date August 28, 2021.

30-4637 Relation to Electronic Signatures in Global and National Commerce Act.

The Uniform Powers of Appointment Act modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001 et seq., but does not modify, limit, or supersede section 101(c) of that act, 15 U.S.C. 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. 7003(b).

Source: Laws 2021, LB501, § 60.
Effective date August 28, 2021.

30-4638 Application to existing relationships.

(a) Except as otherwise provided in the Uniform Powers of Appointment Act, on and after August 28, 2021:

(1) the Uniform Powers of Appointment Act applies to a power of appointment created before, on, or after August 28, 2021;

(2) the Uniform Powers of Appointment Act applies to a judicial proceeding concerning a power of appointment commenced on or after August 28, 2021;

(3) the Uniform Powers of Appointment Act applies to a judicial proceeding concerning a power of appointment commenced before August 28, 2021, unless the court finds that application of a particular provision of the Uniform Powers of Appointment Act would interfere substantially with the effective conduct of the judicial proceeding or prejudice a right of a party, in which case the particular provision of the Uniform Powers of Appointment Act does not apply and the superseded law applies;

(4) a rule of construction or presumption provided in the Uniform Powers of Appointment Act applies to an instrument executed before August 28, 2021, unless there is a clear indication of a contrary intent in the terms of the instrument; and

(5) except as otherwise provided in subdivisions (1) through (4) of this subsection, an action done before August 28, 2021, is not affected by the Uniform Powers of Appointment Act.

(b) If a right is acquired, extinguished, or barred on the expiration of a prescribed period that commenced under law of this state other than the

Uniform Powers of Appointment Act before August 28, 2021, the law continues to apply to the right.

Source: Laws 2021, LB501, § 61.
Effective date August 28, 2021.

CHAPTER 31
DRAINAGE

Article.
3. Drainage Districts Organized by Proceedings in District Court. 31-333.
5. Sanitary Drainage Districts in Municipalities. 31-513.
7. Sanitary and Improvement Districts.
(b) Districts Formed under Act of 1949. 31-727 to 31-749.

ARTICLE 3
DRAINAGE DISTRICTS ORGANIZED BY PROCEEDINGS IN DISTRICT COURT

Section
31-333. Drainage tax; levy; certificate; form; extension on tax books; collection.

31-333 Drainage tax; levy; certificate; form; extension on tax books; collection.

The board of supervisors shall annually thereafter determine, order, and levy the amount of the installment of the tax hereinbefore named which shall become due and be collected during the year at the same time that county taxes are due and collected, and in case bonds are issued, the amount of the interest which will accrue on such bonds shall be included and added to the tax. The annual installment and levy shall be evidenced and certified by the board, on or before September 30, to the county clerk of each county in which lands of the district are situated, which certificate shall be substantially in the following form:

State of Nebraska,)
) ss.
County of . . . . .)

To . . . . . county clerk of the county:

This is to certify that by virtue of the provisions of sections 31-330 to 31-333, the board of supervisors of . . . . . drainage district, including lands and property in the counties of . . . . . in the State of Nebraska, have determined to and do hereby levy the annual installment of the total tax, heretofore certified to you under the direction of such sections, on the lands and property situated in your county described in the following table in which are (1) the names of the owners of such lands and properties as they appeared in the decree of the district court organizing the district or as shown by the certificate heretofore filed showing the total assessment against the property, (2) the description of the lands and property opposite the names of owners, and (3) the amount of the annual installment and interest levied on each tract of land or piece of property: (Here insert table). The installments of tax shall be collectible and payable the present year at the same time that county taxes are due and collected. Witness the signature of the chairperson of the board of

supervisors and attested by the seal of the district and the signature of the secretary of the board this .... day of .... A.D. 20....

....		....
Secretary	(Seal)	Chairperson

The certificate shall be filed in the office of the clerk, and the annual installment of the total tax so certified shall be extended by the county clerk on the tax books of the county against the real property, right-of-way, road, or property to be benefited, situated in such drainage district, in the same manner that other taxes are extended on the tax books of the county in a column under the heading of Drainage Tax, and the taxes shall be collected by the treasurer of the county in which the real property is situated on which the tax is levied at the same time and in the same manner that the county taxes on such property are collected. The county clerk shall be allowed the same fees as he or she receives for like services in other cases.

Source: Laws 1907, c. 152, § 3, p. 469; Laws 1909, c. 147, § 8, p. 518; R.S.1913, § 1828; C.S.1922, § 1775; C.S.1929, § 31-432; R.S. 1943, § 31-333; Laws 1961, c. 138, § 3, p. 397; Laws 1972, LB 1053, § 3; Laws 1992, LB 1063, § 24; Laws 1992, Second Spec. Sess., LB 1, § 24; Laws 1993, LB 734, § 35; Laws 1995, LB 452, § 8; Laws 1995, LB 589, § 7; Laws 2004, LB 813, § 14; Laws 2021, LB644, § 13.
Operative date January 1, 2022.

ARTICLE 5

SANITARY DRAINAGE DISTRICTS IN MUNICIPALITIES

31-513 Annual tax levy; limit; certification to county clerk; collection; disbursement of funds.

(1) The board of trustees may levy and collect annually taxes for corporate purposes upon property within the limits of such sanitary district to the amount of not more than three and five-tenths cents on each one hundred dollars upon the taxable value of the taxable property of such district.

(2) The board of trustees shall, on or before September 30 of each year, certify the amount of tax to be levied to the county clerk who shall place the proper levy upon the county tax list, and the tax shall be collected by the county treasurer in the same manner as county taxes.

(3) The tax money collected by the levy shall be used exclusively for the purpose or purposes set forth in subsection (1) of this section. The county treasurer shall disburse the taxes on warrants of the board of trustees, and in respect to such fund, the county treasurer shall be ex officio treasurer of the sanitary district.

Source: Laws 1891, c. 36, § 9, p. 290; R.S.1913, § 1932; C.S.1922, § 1873; C.S.1929, § 31-611; Laws 1943, c. 73, § 1, p. 255; R.S.1943, § 31-513; Laws 1947, c. 113, § 1, p. 308; Laws 1951,

c. 97, § 1, p. 266; Laws 1953, c. 287, § 51, p. 960; Laws 1955, c. 114, § 1, p. 305; Laws 1969, c. 248, § 2, p. 907; Laws 1969, c. 145, § 32, p. 692; Laws 1979, LB 187, § 136; Laws 1992, LB 1063, § 28; Laws 1992, Second Spec. Sess., LB 1, § 28; Laws 1993, LB 734, § 36; Laws 1995, LB 452, § 9; Laws 2021, LB644, § 14.

Operative date January 1, 2022.

ARTICLE 7

SANITARY AND IMPROVEMENT DISTRICTS

(b) DISTRICTS FORMED UNDER ACT OF 1949

Section

(b) DISTRICTS FORMED UNDER ACT OF 1949

31-727 Sanitary and improvement district; organized by proceedings in district court; purposes; powers; articles of association; contents; filing; real estate; conditions; terms, defined.

(1)(a) A majority of the owners having an interest in the real property within the limits of a proposed sanitary and improvement district, situated in one or more counties in this state, may form a sanitary and improvement district for the purposes of installing electric service lines and conduits, a sewer system, a water system, an emergency management warning system, a system of sidewalks, public roads, streets, and highways, public waterways, docks, or wharfs, and related appurtenances, contracting for water for fire protection and for resale to residents of the district, contracting for police protection and security services, contracting for solid waste collection services, contracting for access to the facilities and use of the services of the library system of one or more neighboring cities or villages, and contracting for gas and for electricity for street lighting for the public streets and highways within such proposed district, constructing and contracting for the construction of dikes and levees for flood protection for the district, acquiring, improving, and operating public parks, playgrounds, and recreational facilities, and acquiring, purchasing, leasing, owning, erecting, constructing, equipping, operating, or maintaining all or a

portion of offstreet motor vehicle public parking facilities located in the district to serve business.

(b) The sanitary and improvement district may also contract with a county within which all or a portion of such sanitary and improvement district is located or a city within whose zoning jurisdiction such sanitary and improvement district is located for any public purpose specifically authorized in this section.

(c) Sanitary and improvement districts located in any county which has a city of the metropolitan class within its boundaries or in any adjacent county which has adopted a comprehensive plan may contract with other sanitary and improvement districts to acquire, build, improve, and operate public parks, playgrounds, and recreational facilities for the joint use of the residents of the contracting districts.

(d) Nothing in this section shall authorize districts to purchase electric service and resell the same.

(e) The district, in lieu of establishing its own water system, may contract with any utilities district, municipality, or corporation for the installation of a water system and for the provision of water service for fire protection and for the use of the residents of the district.

(f) For the purposes listed in this section, such majority of the owners may make and sign articles of association in which shall be stated (i) the name of the district, (ii) that the district will have perpetual existence, (iii) the limits of the district, (iv) the names and places of residence of the owners of the land in the proposed district, (v) the description of the several tracts of land situated in the district owned by those who may organize the district, (vi) the name or names and the description of the real estate owned by such owners as do not join in the organization of the district but who will be benefited thereby, and (vii) whether the purpose of the corporation is installing gas and electric service lines and conduits, installing a sewer system, installing a water system, installing a system of public roads, streets, and highways, public waterways, docks, or wharfs, and related appurtenances, contracting for water for fire protection and for resale to residents of the district, contracting for police protection and security services, contracting for solid waste collection services, contracting for access to the facilities and use of the services of the library system of one or more neighboring cities or villages, contracting for street lighting for the public streets and highways within the proposed district, constructing or contracting for the construction of dikes and levees for flood protection of the proposed district, acquiring, improving, and operating public parks, playgrounds, and recreational facilities, acquiring, purchasing, leasing, owning, erecting, constructing, equipping, operating, or maintaining all or a portion of offstreet motor vehicle public parking facilities located in the district to serve business, or, when permitted by this section, contracting with other sanitary and improvement districts to acquire, build, improve, and operate public parks, playgrounds, and recreational facilities for the joint use of the residents of the contracting districts, contracting for any public purpose specifically authorized in this section, or combination of any one or more of such purposes, or all of such purposes. Such owners of real estate as are unknown may also be set out in the articles as such.

(g) No sanitary and improvement district may own or hold land in excess of ten acres, unless such land so owned and held by such district is actually used

for a public purpose, as provided in this section, within three years of its acquisition. Any sanitary and improvement district which has acquired land in excess of ten acres in area and has not devoted the same to a public purpose, as set forth in this section, within three years of the date of its acquisition, shall devote the same to a use set forth in this section or shall divest itself of such land. When a district divests itself of land pursuant to this section, it shall do so by sale at public auction to the highest bidder after notice of such sale has been given by publication at least three times for three consecutive weeks prior to the date of sale in a legal newspaper of general circulation within the area of the district.

(2) The articles of association shall further state that the owners of real estate so forming the district for such purposes are willing and obligate themselves to pay the tax or taxes which may be levied against all the property in the district and special assessments against the real property benefited which may be assessed against them to pay the expenses that may be necessary to install a sewer or water system or both a sewer and water system, the cost of water for fire protection, the cost of grading, changing grade, paving, repairing, graveling, regraveling, widening, or narrowing sidewalks and roads, resurfacing or relaying existing pavement, or otherwise improving any public roads, streets, or highways within the district, including protecting existing sidewalks, streets, highways, and roads from floods or erosion which has moved within fifteen feet from the edge of such sidewalks, streets, highways, or roads, regardless of whether such flooding or erosion is of natural or artificial origin, the cost of constructing public waterways, docks, or wharfs, and related appurtenances, the cost of constructing or contracting for the construction of dikes and levees for flood protection for the district, the cost of contracting for water for fire protection and for resale to residents of the district, the cost of contracting for police protection and security services, the cost of contracting for solid waste collection services, the cost of contracting for access to the facilities and use of the services of the library system of one or more neighboring cities or villages, the cost of electricity for street lighting for the public streets and highways within the district, the cost of installing gas and electric service lines and conduits, the cost of acquiring, improving, and operating public parks, playgrounds, and recreational facilities, the cost of acquiring, purchasing, leasing, owning, erecting, constructing, equipping, operating, or maintaining all or a portion of offstreet motor vehicle public parking facilities located in the district to serve business, and, when permitted by this section, the cost of contracting for building, acquiring, improving, and operating public parks, playgrounds, and recreational facilities, and the cost of contracting for any public purpose specifically authorized in this section, as provided by law.

(3) The articles shall propose the names of five or more trustees who are (a) owners of real estate located in the proposed district or (b) designees of the owners if the real estate is owned by a limited partnership, a general partnership, a limited liability company, a public, private, or municipal corporation, an estate, or a trust. These five trustees shall serve as a board of trustees until their successors are elected and qualified if such district is organized. No corporation formed or hereafter formed shall perform any new functions, other than those for which the corporation was formed, without amending its articles of association to include the new function or functions.

(4) After the articles are signed, the same shall be filed in the office of the clerk of the district court of the county in which such sanitary and improve-

ment district is located or, if such sanitary and improvement district is composed of tracts or parcels of land in two or more different counties, in the office of the clerk of the district court for the county in which the greater portion of such proposed sanitary and improvement district is located, together with a petition praying that the same may be declared a sanitary and improvement district under sections 31-727 to 31-762.

(5) Notwithstanding the repeal of sections 31-701 to 31-726.01 by Laws 1996, LB 1321:

(a) Any sanitary and improvement district organized pursuant to such sections and in existence on July 19, 1996, shall, after August 31, 2003, be treated for all purposes as if formed and organized pursuant to sections 31-727 to 31-762;

(b) Any act or proceeding performed or conducted by a sanitary and improvement district organized pursuant to such repealed sections shall be deemed lawful and within the authority of such sanitary and improvement district to perform or conduct after August 31, 2003; and

(c) Any trustees of a sanitary and improvement district organized pursuant to such repealed sections and lawfully elected pursuant to such repealed sections or in conformity with the provisions of sections 31-727 to 31-762 shall be deemed for all purposes, on and after August 31, 2003, to be lawful trustees of such sanitary and improvement district for the term provided by such sections. Upon the expiration of the term of office of a trustee or at such time as there is a vacancy in the office of any such trustee prior to the expiration of his or her term, his or her successors or replacement shall be elected pursuant to sections 31-727 to 31-762.

(6)(a) A sanitary and improvement district that meets the requirements of this subsection shall have the additional powers provided for in subdivision (b) of this subsection, subject to the approval and restrictions established by the city council or village board within whose zoning jurisdiction the sanitary and improvement district is located and the county board in which a majority of the sanitary and improvement district is located. The sanitary and improvement district shall be (i) located in a county with a population less than one hundred thousand inhabitants, (ii) located predominately in a county different from the county of the municipality within whose zoning jurisdiction such sanitary and improvement district is located, (iii) unable to incorporate due to its close proximity to a municipality, and (iv) unable to be annexed by a municipality with zoning jurisdiction because the sanitary and improvement district is not adjacent or contiguous to such municipality.

(b) Any sanitary and improvement district that meets the requirements of subdivision (6)(a) of this section shall have only the following additional powers, subject to the approval and restrictions of the city council or village board within whose zoning jurisdiction such sanitary and improvement district is located and the county board in which a majority of the sanitary and improvement district is located. Such sanitary and improvement district shall have the power to (i) regulate and license dogs and other animals, (ii) regulate and provide for streets and sidewalks, including the removal of obstructions and encroachments, (iii) regulate parking on public roads and rights-of-way relating to snow removal and access by emergency vehicles, and (iv) regulate the parking of abandoned motor vehicles.

(7) For the purposes of sections 31-727 to 31-762 and 31-771 to 31-780, unless the context otherwise requires:

(a) Public waterways means artificially created boat channels dedicated to public use and providing access to navigable rivers or streams;

(b) Operation and maintenance expenses means and includes, but is not limited to, salaries, cost of materials and supplies for operation and maintenance of the district's facilities, cost of ordinary repairs, replacements, and alterations, cost of surety bonds and insurance, cost of audits and other fees, and taxes;

(c) Capital outlay means expenditures for construction or reconstruction of major permanent facilities having an expected long life, including, but not limited to, street paving and curbs, storm and sanitary sewers, and other utilities;

(d) Warrant means an investment security under article 8, Uniform Commercial Code, in the form of a short-term, interest-bearing order payable on a specified date issued by the board of trustees or administrator of a sanitary and improvement district to be paid from funds expected to be received in the future, and includes, but is not limited to, property tax collections, special assessment collections, and proceeds of sale of general obligation bonds;

(e) General obligation bond means an investment security under article 8, Uniform Commercial Code, in the form of a long-term, written promise to pay a specified sum of money, referred to as the face value or principal amount, at a specified maturity date or dates in the future, plus periodic interest at a specified rate; and

(f) Administrator means the person appointed by the Auditor of Public Accounts pursuant to section 31-771 to manage the affairs of a sanitary and improvement district and to exercise the powers of the board of trustees during the period of the appointment to the extent prescribed in sections 31-727 to 31-780.

Source: Laws 1949, c. 78, § 1, p. 194; Laws 1955, c. 117, § 1, p. 310; Laws 1961, c. 142, § 1, p. 409; Laws 1967, c. 189, § 1, p. 518; Laws 1969, c. 250, § 1, p. 909; Laws 1969, c. 251, § 1, p. 918; Laws 1973, LB 245, § 1; Laws 1974, LB 757, § 7; Laws 1976, LB 313, § 1; Laws 1977, LB 228, § 1; Laws 1982, LB 868, § 1; Laws 1985, LB 207, § 1; Laws 1994, LB 501, § 1; Laws 1996, LB 43, § 5; Laws 2003, LB 721, § 1; Laws 2008, LB768, § 1; Laws 2015, LB324, § 1; Laws 2021, LB81, § 1.
Effective date August 28, 2021.

31-727.02 District; board of trustees; notice of meetings; minutes; clerk or administrator of district; duties.

(1) Except as provided in subsection (5) of section 84-1411, the clerk or administrator of each sanitary and improvement district shall notify any municipality or county within whose zoning jurisdiction such district is located of all meetings of the district board of trustees or called by the administrator by sending a notice of such meeting to the clerk of the municipality or county not less than seven days prior to the date set for any meeting. In the case of meetings called by the administrator, notice shall be provided to the clerk of the district not less than seven days prior to the date set for any meeting.

(2) Except as provided in subsection (5) of section 84-1411, within thirty days after any meeting of a sanitary and improvement district board of trustees or called by the administrator, the clerk or administrator of the district shall transmit to the municipality or county within whose zoning jurisdiction the sanitary and improvement district is located a copy of the minutes of such meeting.

Source: Laws 1976, LB 313, § 11; Laws 1982, LB 868, § 2; Laws 2021, LB83, § 3.
Effective date April 22, 2021.

31-728 District; summons; notice to landowners, counties, and cities affected; contents.

Immediately after the petition and articles of association shall have been filed, as provided for by subsection (4) of section 31-727, the clerk of the district court for the county where same are filed shall issue a summons, as now provided by law, returnable as any other summons in a civil action filed in said court, and directed to the several owners of real estate in the proposed district who may be alleged in such petition to be benefited thereby, but who have not signed the articles of association, which shall be served as summonses in civil cases. In case any owner or owners of real estate in the proposed district are unknown, or are nonresidents, they shall be notified in the same manner as nonresident defendants are now notified according to law in actions in the district courts of this state, setting forth in such notice (1) that the articles of association have been filed, (2) the purpose thereof, (3) that the real estate of such owner or owners situated in the district, describing the same, will be affected thereby and rendered liable to taxation and special assessment in accordance with law for the purpose of installing and maintaining such sewer or water system, or both, and maintaining the district, for constructing and maintaining a system of sidewalks, public roads, streets, and highways, public waterways, docks or wharfs, and related appurtenances, for the furnishing of water for fire protection, for contracting for gas and for electricity for street lighting for the public streets and highways within the district, for constructing or contracting for the construction of dikes and levees for flood protection for the district, for installing electric service lines and conduits, for the acquisition, improvement, and operation of public parks, playgrounds, and recreational facilities, for acquiring, purchasing, leasing, owning, erecting, constructing, equipping, operating, or maintaining all or a portion of offstreet motor vehicle public parking facilities located in the district to serve business, and, where permitted by section 31-727, for the contracting with other sanitary and improvement districts for acquiring, building, improving, and operating public parks, playgrounds, and recreational facilities for the joint use of the residents of the contracting districts, (4) the names of the proposed trustees, and (5) that a petition has been made to have the district declared a sanitary and improvement district.

Within five days after the filing of the petition the clerk of the district court shall send notice of such petition to each county in which all or a portion of the proposed district lies and to each city in whose zoning jurisdiction all or a portion of the proposed district lies.

Source: Laws 1949, c. 78, § 2, p. 196; Laws 1955, c. 117, § 2, p. 312; Laws 1961, c. 142, § 2, p. 411; Laws 1967, c. 189, § 2, p. 520;

Laws 1969, c. 250, § 2, p. 911; Laws 1973, LB 245, § 2; Laws 1974, LB 757, § 8; Laws 1980, LB 933, § 26; Laws 2021, LB81, § 2.
Effective date August 28, 2021.

Cross References

Methods of service, see sections 25-505.01, 25-506.01, and 25-540.
Return date of summons, see section 25-507.01.
Service on unknown defendants, see section 25-321.

31-729 District; formation; objections.

All owners of real estate situated in the proposed district who have not signed the articles of association and who may object to the organization of the district or to any one or more of the proposed trustees shall, on or before the time in which they are required to answer, file any such objection in writing, stating (1) why such sanitary and improvement district should not be organized and declared a public corporation in this state, (2) why their land will not be benefited by the installation of a sewer or water system, or both a sewer and water system, a system of sidewalks, public roads, streets, and highways, public waterways, docks or wharfs, and related appurtenances, and gas and electricity for street lighting for the public streets and highways within the district, by the contracting for solid waste collection services, by the construction or contracting for the construction of dikes and levees for flood protection for the district, gas or electric service lines and conduits, and water for fire protection and the health and property of the owners protected, by the acquisition, improvement and operation of public parks, playgrounds, and recreational facilities, by acquiring, purchasing, leasing, owning, erecting, constructing, equipping, operating, or maintaining all or a portion of offstreet motor vehicle public parking facilities located in the district to serve business, and, where permitted by section 31-727, by the contracting with other sanitary and improvement districts for the building, acquisition, improvement, and operation of public parks, playgrounds, and recreational facilities for the joint use of the residents of the contracting districts, (3) why their land should not be embraced in the limits of such district, and (4) their objections if any to any one or more of the proposed trustees.

Source: Laws 1949, c. 78, § 3, p. 196; Laws 1955, c. 117, § 3, p. 312; Laws 1961, c. 142, § 3, p. 412; Laws 1967, c. 189, § 3, p. 521; Laws 1969, c. 250, § 3, p. 912; Laws 1973, LB 245, § 3; Laws 1974, LB 757, § 9; Laws 2015, LB324, § 3; Laws 2021, LB81, § 3.
Effective date August 28, 2021.

31-739 District; bonds; interest; tax levies; restrictions; treasurer; duties; collection of charges other than taxes; disbursement of funds.

(1) The district may borrow money for corporate purposes and issue its general obligation bonds therefor and shall annually levy a tax on the taxable value of the taxable property in the district sufficient to pay the interest and principal on the bonds. Such levy shall be known as the bond tax levy of the district. The district shall also annually levy a tax on the taxable value of the taxable property in the district for the purpose of creating a sinking fund for the maintenance and repairing of any sewer or water system or electric lines and conduits in the district, for the payment of any hydrant rentals, for the

maintenance and repairing of any sidewalks, public roads, streets, and highways, public waterways, docks, or wharfs, and related appurtenances in the district, for the cost of operating any street lighting system for the public streets and highways within the district, for the building, construction, improvement, or replacement of facilities or systems when necessary to remove or alleviate an existing threat to public health and safety affecting no more than one hundred existing homes, for the cost of building, acquiring, maintaining, and operating public parks, playgrounds, and recreational facilities, for the cost of acquiring, purchasing, leasing, owning, erecting, constructing, equipping, operating, or maintaining all or a portion of offstreet motor vehicle public parking facilities located in the district to serve business, or, when permitted by section 31-727, for contracting with other sanitary and improvement districts for building, acquiring, maintaining, and operating public parks, playgrounds, and recreational facilities for the joint use of the residents of the contracting districts, or for the cost of any other services for which the district has contracted or to make up any deficiencies caused by the nonpayment of any special assessments. Such levy shall be known as the operating levy of the district. On or before September 30 of each year, the clerk of the board shall certify the tax to the county clerk of the counties in which such district is located in order that the tax may be extended upon the county tax list. Nothing contained in this section shall authorize any district which has been annexed by a city or village to levy any taxes within or upon the annexed area after the effective date of the annexation if the effective date of the annexation is prior to such levy certification date of the district for the year in which such annexation occurs.

(2) The county treasurer of the county in which the greater portion of the area of the district is located shall be ex officio treasurer of the sanitary and improvement district and shall be responsible for all funds of the district coming into his or her hands. He or she shall collect all taxes and special assessments levied by the district and deposit the same in a bond sinking fund for the payment of principal and interest on any bonds outstanding.

(3) Except as provided in subsection (5) of this section, the trustees or administrator of the district may authorize the clerk or appoint an independent agent to collect service charges and all items other than taxes, connection charges, special assessments, and funds from sale of bonds and warrants, but all funds so collected shall, at least once each month, be remitted to the treasurer to be held in a fund, separate from the general fund or construction fund of the district, which shall be known as the service fee fund of the district. The trustees or administrator may direct the district's treasurer to disburse funds held in the service fee fund to maintain and operate any service for which the funds have been collected or to deposit such funds into the general fund of the district.

(4) The treasurer of the district shall not be responsible for such funds until they are received by him or her. The treasurer shall disburse the funds of the district only on warrants authorized by the trustees or the administrator and signed by the chairperson and clerk or the administrator.

(5) If the average weekly balance in the service fee fund of a district for a full budget year does not exceed five thousand dollars, the trustees or administrator of the district may authorize the clerk to establish an interest-bearing checking account in the name of the district to be maintained as the district service fee fund and the district's treasurer shall disburse the balance of funds held in the service fee fund of the district to the clerk for deposit into the district service

fee fund. Following the creation of the district service fee fund, all funds required to be deposited into the service fee fund shall be deposited into the district service fee fund and all disbursements which may lawfully be made from the service fee fund may be made from the district service fee fund as directed or approved by the trustees or the administrator.

Source: Laws 1949, c. 78, § 13, p. 200; Laws 1955, c. 117, § 4, p. 313; Laws 1961, c. 142, § 4, p. 412; Laws 1967, c. 189, § 4, p. 521; Laws 1969, c. 252, § 1, p. 921; Laws 1969, c. 250, § 4, p. 913; Laws 1969, c. 51, § 98, p. 334; Laws 1973, LB 245, § 4; Laws 1974, LB 757, § 11; Laws 1979, LB 187, § 143; Laws 1982, LB 868, § 7; Laws 1985, LB 207, § 2; Laws 1992, LB 1063, § 30; Laws 1992, Second Spec. Sess., LB 1, § 30; Laws 1993, LB 734, § 38; Laws 1995, LB 452, § 11; Laws 1996, LB 1362, § 5; Laws 1997, LB 531, § 1; Laws 2003, LB 721, § 3; Laws 2021, LB81, § 4; Laws 2021, LB644, § 15.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB81, section 4, with LB644, section 15, to reflect all amendments.

Note: Changes made by LB81 became effective August 28, 2021. Changes made by LB644 became operative January 1, 2022.

31-740 District; trustees or administrator; powers; plans or contracts; approval required; hearing; contracts authorized; audit; failure to perform audit; effect; connection with city sewerage system; rental or use charge; levy; special assessment.

(1) The board of trustees or the administrator of any district organized under sections 31-727 to 31-762 shall have power to provide for establishing, maintaining, and constructing gas and electric service lines and conduits, an emergency management warning system, water mains, sewers, and disposal plants and disposing of drainage, waste, and sewage of such district in a satisfactory manner; for establishing, maintaining, and constructing sidewalks, public roads, streets, and highways, including grading, changing grade, paving, repaving, graveling, regraveling, widening, or narrowing roads, resurfacing or relaying existing pavement, or otherwise improving any road, street, or highway within the district, including protecting existing sidewalks, streets, highways, and roads from floods or erosion which has moved within fifteen feet from the edge of such sidewalks, streets, highways, or roads, regardless of whether such flooding or erosion is of natural or artificial origin; for establishing, maintaining, and constructing public waterways, docks, or wharfs, and related appurtenances; and for constructing and contracting for the construction of dikes and levees for flood protection for the district.

(2) The board of trustees or the administrator of any district may contract for access to the facilities and use of the services of the library system of one or more neighboring cities or villages, for solid waste collection services, and for electricity for street lighting for the public streets and highways within the district and shall have power to provide for building, acquisition, improvement, maintenance, and operation of public parks, playgrounds, and recreational facilities, for acquiring, purchasing, leasing, owning, erecting, constructing, equipping, operating, or maintaining all or a portion of offstreet motor vehicle public parking facilities located in the district to serve business, and, when permitted by section 31-727, for contracting with other sanitary and improvement districts for the building, acquisition, improvement, maintenance, and operation of public parks, playgrounds, and recreational facilities for the joint

use of the residents of the contracting districts, and for contracting for any public purpose specifically authorized in this section. Power to construct clubhouses and similar facilities for the giving of private parties within the zoning jurisdiction of any city or village is not included in the powers granted in this section. Any sewer system established shall be approved by the Department of Health and Human Services. Any contract entered into on or after August 30, 2015, for solid waste collection services shall include a provision that, in the event the district is annexed in whole or in part by a city or village, the contract shall be canceled and voided upon such annexation as to the annexed areas.

(3) Prior to the installation of any of the improvements or services provided for in this section, the plans or contracts for such improvements or services, other than for public parks, playgrounds, and recreational facilities, whether a district acts separately or jointly with other districts as permitted by section 31-727, shall be approved by the public works department of any municipality when such improvements or any part thereof or services are within the area of the zoning jurisdiction of such municipality. If such improvements or services are without the area of the zoning jurisdiction of any municipality, plans for such improvements shall be approved by the county board of the county in which such improvements are located. Plans and exact costs for public parks, playgrounds, and recreational facilities shall be approved by resolution of the governing body of such municipality or county after a public hearing. Purchases of public parks, playgrounds, and recreational facilities so approved may be completed and shall be valid notwithstanding any interest of any trustee of the district in the transaction. Such approval shall relate to conformity with the master plan and the construction specifications and standards established by such municipality or county. When no master plan and construction specifications and standards have been established, such approval shall not be required. When such improvements are within the area of the zoning jurisdiction of more than one municipality, such approval shall be required only from the most populous municipality, except that when such improvements are furnished to the district by contract with a particular municipality, the necessary approval shall in all cases be given by such municipality. The municipality or county shall be required to approve plans for such improvements and shall enforce compliance with such plans by action in equity.

(4) The district may construct its sewage disposal plant and other sewerage or water improvements, or both, in whole or in part, inside or outside the boundaries of the district and may contract with corporations or municipalities for disposal of sewage and use of existing sewerage improvements and for a supply of water for fire protection and for resale to residents of the district. It may also contract with any company, public power district, electric membership or cooperative association, or municipality for access to the facilities and use of the services of the library system of one or more neighboring cities or villages, for solid waste collection services, for the installation, maintenance, and cost of operating a system of street lighting upon the public streets and highways within the district, for installation, maintenance, and operation of a water system, for the installation, maintenance, and operation of electric service lines and conduits, or for the acquisition, purchase, lease, ownership, erection, construction, equipping, operation, or maintenance of all or a portion of offstreet motor vehicle public parking facilities located in the district to serve business, and to provide water service for fire protection and use by the

residents of the district. It may also contract with any company, municipality, or other sanitary and improvement district, as permitted by section 31-727, for building, acquiring, improving, and operating public parks, playgrounds, and recreational facilities for the joint use of the residents of the contracting parties. It may also contract with a county within which all or a portion of such sanitary and improvement district is located or a city within whose zoning jurisdiction the sanitary and improvement district is located for intersection and traffic control improvements, which improvements serve or benefit the district and which may be within or without the corporate boundaries of the district, and for any public purpose specifically authorized in this section.

(5) Each sanitary and improvement district shall have the books of account kept by the board of trustees of the district examined and audited by a certified public accountant or a public accountant for the year ending June 30 and shall file a copy of the audit with the office of the Auditor of Public Accounts by December 31 of the same year. Such audits may be waived by the Auditor of Public Accounts upon proper showing by the district that the audit is unnecessary. Such examination and audit shall show (a) the gross income of the district from all sources for the previous year, (b) the amount spent for access to the facilities and use of the services of the library system of one or more neighboring cities or villages, (c) the amount spent for solid waste collection services, (d) the amount spent for sewage disposal, (e) the amount expended on water mains, (f) the gross amount of sewage processed in the district, (g) the cost per thousand gallons of processing sewage, (h) the amount expended each year for (i) maintenance and repairs, (ii) new equipment, (iii) new construction work, and (iv) property purchased, (i) a detailed statement of all items of expense, (j) the number of employees, (k) the salaries and fees paid employees, (l) the total amount of taxes levied upon the property within the district, and (m) all other facts necessary to give an accurate and comprehensive view of the cost of carrying on the activities and work of such sanitary and improvement district. The reports of all audits provided for in this section shall be and remain a part of the public records in the office of the Auditor of Public Accounts. The expense of such audits shall be paid out of the funds of the district. The Auditor of Public Accounts shall be given access to all books and papers, contracts, minutes, bonds, and other documents and memoranda of every kind and character of such district and be furnished all additional information possessed by any present or past officer or employee of any such district, or by any other person, that is essential to the making of a comprehensive and correct audit.

(6) If any sanitary and improvement district fails or refuses to cause such annual audit to be made of all of its functions, activities, and transactions for the fiscal year within a period of six months following the close of such fiscal year, unless such audit has been waived, the Auditor of Public Accounts shall, after due notice and a hearing to show cause by such district, appoint a certified public accountant or public accountant to conduct the annual audit of the district and the fee for such audit shall become a lien against the district.

(7) Whenever the sanitary sewer system or any part thereof of a sanitary and improvement district is directly or indirectly connected to the sewerage system of any city, such city, without enacting an ordinance or adopting any resolution for such purpose, may collect such city's applicable rental or use charge from the users in the sanitary and improvement district and from the owners of the property served within the sanitary and improvement district. The charges of such city shall be charged to each property served by the city sewerage system,

shall be a lien upon the property served, and may be collected from the owner or the person, firm, or corporation using the service. If the city's applicable rental or service charge is not paid when due, such sum may be recovered by the municipality in a civil action or it may be assessed against the premises served as a special assessment and may be assessed by such city and collected and returned in the same manner as other municipal special assessments are enforced and collected. When any such assessment is levied, it shall be the duty of the city clerk to deliver a certified copy of the ordinance to the county treasurer of the county in which the premises assessed are located and such county treasurer shall collect the assessment as provided by law and return the assessment to the city treasurer. Funds of such city raised from such charges shall be used by it in accordance with laws applicable to its sewer service rental or charges. The governing body of any city may make all necessary rules and regulations governing the direct or indirect use of its sewerage system by any user and premises within any sanitary and improvement district and may establish just and equitable rates or charges to be paid to such city for use of any of its disposal plants and sewerage system. The board of trustees may, in connection with the issuance of any warrants or bonds of the district, agree to make a specified minimum levy on taxable property in the district to pay, or to provide a sinking fund to pay, principal and interest on warrants and bonds of the district for such number of years as the board may establish at the time of making such agreement and may agree to enforce, by foreclosure or otherwise as permitted by applicable laws, the collection of special assessments levied by the district. Such agreements may contain provisions granting to creditors and others the right to enforce and carry out the agreements on behalf of the district and its creditors.

(8) The board of trustees or administrator shall have power to sell and convey real and personal property of the district on such terms as it or he or she shall determine, except that real estate shall be sold to the highest bidder at public auction after notice of the time and place of the sale has been published for three consecutive weeks prior to the sale in a newspaper of general circulation in the county. The board of trustees or administrator may reject such bids and negotiate a sale at a price higher than the highest bid at the public auction at such terms as may be agreed.

Source: Laws 1949, c. 78, § 14, p. 200; Laws 1955, c. 117, § 5, p. 314; Laws 1961, c. 142, § 5, p. 413; Laws 1963, c. 170, § 1, p. 585; Laws 1965, c. 158, § 1, p. 507; Laws 1967, c. 188, § 2, p. 515; Laws 1971, LB 188, § 4; Laws 1972, LB 1387, § 2; Laws 1973, LB 245, § 5; Laws 1974, LB 629, § 1; Laws 1974, LB 757, § 12; Laws 1976, LB 313, § 3; Laws 1979, LB 187, § 144; Laws 1982, LB 868, § 8; Laws 1985, LB 207, § 3; Laws 1994, LB 501, § 3; Laws 1996, LB 43, § 6; Laws 1996, LB 1044, § 92; Laws 1997, LB 589, § 1; Laws 1997, LB 874, § 10; Laws 2002, LB 176, § 2; Laws 2007, LB296, § 50; Laws 2008, LB768, § 2; Laws 2015, LB324, § 4; Laws 2015, LB361, § 52; Laws 2021, LB81, § 5. Effective date August 28, 2021.

31-744 District; trustees or administrator; improvements and facilities authorized; resolution; construction; acquisition; contracting; approval; cost; assessment.

Whenever the board of trustees or the administrator deems it advisable or necessary (1) to build, reconstruct, purchase, or otherwise acquire a water system, an emergency management warning system, a sanitary sewer system, a sanitary and storm sewer or sewage disposal plant, pumping stations, sewer outlets, gas or electric service lines and conduits constructed or to be constructed in whole or in part inside or outside of the district, a system of sidewalks, public roads, streets, and highways wholly within the district, public waterways, docks, or wharfs, and related appurtenances, wholly within the district, or a public park or parks, playgrounds, and recreational facilities wholly within the district, (2) to acquire, purchase, lease, own, erect, construct, equip, operate, or maintain all or a portion of offstreet motor vehicle public parking facilities located in the district to serve business, (3) to contract as permitted by section 31-740 with the county or city within whose zoning jurisdiction the sanitary and improvement district is located for intersection and traffic control improvements which serve or benefit the district and are located within or without the corporate boundaries of the district, (4) to contract, as permitted by section 31-727, with other sanitary and improvement districts for acquiring, building, improving, and operating public parks, playgrounds, and recreational facilities for the joint use of the residents of the contracting districts, or (5) to contract for the installation and operation of a water system, the board of trustees shall declare the advisability and necessity therefor in a proposed resolution, which resolution, in the case of pipe sewer construction, shall state the kinds of pipe proposed to be used, shall include cement concrete pipe and vitrified clay pipe and any other material deemed suitable, shall state the size or sizes and kinds of sewers proposed to be constructed, and shall designate the location and terminal points thereof. If it is proposed to construct a water system, disposal plants, pumping stations, outlet sewers, gas or electric service lines and conduits, or a system of sidewalks, public roads, streets, or highways or public waterways, docks, or wharfs, to construct or contract for the construction of dikes and levees for flood protection for the district, to construct or contract for the construction of public parks, playgrounds, or recreational facilities, to construct or contract for the construction of all or a portion of offstreet motor vehicle public parking facilities located in the district to serve business, or to contract, as permitted by section 31-727, with other sanitary and improvement districts for acquiring, building, improving, and operating public parks, playgrounds, and recreational facilities for the joint use of the residents of the contracting districts, the resolution shall refer to the plans and specifications thereof which have been made and filed before the publication of such resolution by the engineer employed for such purpose. If it is proposed to purchase or otherwise acquire a water system, a sanitary sewer system, a sanitary or storm water sewer, sewers, sewage disposal plant, pumping stations, sewer outlets, gas or electric service lines and conduits, public parks, playgrounds, or recreational facilities, offstreet motor vehicle public parking facilities as described in this section, or to contract, as permitted by section 31-727, with other sanitary and improvement districts for acquiring, building, improving, and operating public parks, playgrounds, and recreational facilities for the joint use of the residents of the contracting districts, the resolution shall state the price and conditions of the purchase or how such facility is being acquired. If it is proposed to contract for the installation and operation of a water system for fire protection and for the use of the residents of the district, to contract for the construction of dikes and levees for flood protection for the district or gas or electric service lines and conduits, to contract with a county

within which all or a portion of such sanitary and improvement district is located or a city within whose zoning jurisdiction the sanitary and improvement district is located for any public purpose specifically authorized in this section, or to contract, as permitted by section 31-727, with other sanitary and improvement districts for acquiring, building, improving, and operating public parks, playgrounds, and recreational facilities for the joint use of the residents of the contracting districts, the resolution shall state the principal terms of the proposed agreement and how the cost thereof is to be paid. When gas or electric service lines and conduits are among the improvements that are proposed to be constructed, purchased, or otherwise acquired or contracted for, and no construction specifications and standards therefor have been established by the municipality having zoning jurisdiction over the area where such improvements are to be located, or when such service lines and conduits are not to be located within any municipality's area of zoning jurisdiction, the plans and specifications for and the method of construction of such service lines and conduits shall be approved by the supplier of gas or electricity within whose service or customer area they are to be located. The engineer shall also make and file, prior to the publication of such resolution, an estimate of the total cost of the proposed improvement. The proposed resolution shall state the amount of such estimated cost.

The board of trustees or the administrator shall assess, to the extent of special benefits, the cost of such improvements upon properties specially benefited thereby, except that if the improvement consists of the replacement of an existing facility, system, or improvement that poses an existing threat to public health and safety affecting no more than one hundred existing homes, the cost of such improvements may be paid for by an issue of general obligation bonds under section 31-755. The resolution shall state the outer boundaries of the district or districts in which it is proposed to make special assessments.

Source: Laws 1949, c. 78, § 18, p. 202; Laws 1955, c. 117, § 7, p. 315; Laws 1961, c. 142, § 6, p. 414; Laws 1967, c. 189, § 5, p. 522; Laws 1969, c. 250, § 5, p. 914; Laws 1973, LB 245, § 6; Laws 1974, LB 757, § 13; Laws 1976, LB 313, § 4; Laws 1982, LB 868, § 12; Laws 1985, LB 207, § 4; Laws 1994, LB 501, § 4; Laws 1996, LB 43, § 7; Laws 1997, LB 531, § 2; Laws 1997, LB 589, § 2; Laws 1997, LB 874, § 11; Laws 2021, LB81, § 6.
Effective date August 28, 2021.

31-749 Improvements; engineer; certificate of acceptance; cost; statement; special assessment; notices; hearing; appeal; hearing in district court.

After (1) the completion of any work or purchase, (2) acquiring a sewer or water system, or both, or public parks, playgrounds, or recreational facilities, (3) completing, acquiring, purchasing, erecting, constructing, or equipping all or a portion of offstreet motor vehicle public parking facilities located in the district to serve business, (4) contracting, as permitted by section 31-727, with other sanitary and improvement districts to acquire public parks, playgrounds, and recreational facilities for the joint use of the residents of the contracting districts, or gas or electric service lines or conduits, or (5) completion of the work on (a) a system of sidewalks, public roads, streets, highways, public waterways, docks, or wharfs and related appurtenances or (b) levees for flood protection for the district, the engineer shall file with the clerk of the district a certificate of acceptance which shall be approved by the board of trustees or

the administrator by resolution. The board of trustees or administrator shall then require the engineer to make a complete statement of all the costs of any such improvements, a plat of the property in the district, and a schedule of the amount proposed to be assessed against each separate piece of property in such district. The statement, plat, and schedule shall be filed with the clerk of the district within sixty days after the date of acceptance of: The work, purchase, or acquisition of a sewer or water system, or both; the work on a system of sidewalks, public roads, streets, highways, public waterways, docks, or wharfs and related appurtenances, or dikes and levees for flood protection for the district; the acquisition, purchase, erection, construction, or equipping of all or a portion of offstreet motor vehicle public parking facilities located in the district to serve business; or as permitted by section 31-727, the acquisition of public parks, playgrounds, and recreational facilities whether acquired separately or jointly with other districts. The board of trustees or administrator shall then order the clerk to give notice that such statement, plat, and schedules are on file in his or her office and that all objections thereto or to prior proceedings on account of errors, irregularities, or inequalities not made in writing and filed with the clerk of the district within twenty days after the first publication of such notice shall be deemed to have been waived. Such notice shall be given by publication the same day each week two consecutive weeks in a newspaper of general circulation published in the county where the district was organized and by handbills posted along the line of the work. Such notice shall state the time and place where any objections, filed as provided in this section, shall be considered by the board of trustees or administrator. The cost of such improvements in the district which are within the area of the zoning jurisdiction of any municipality shall be levied as special assessments to the extent of special benefits to the property and to the extent the costs of such improvements are assessed in such municipality. The complete statement of costs and the schedule of proposed special assessments for such improvements which are within the zoning jurisdiction of such municipality against each separate piece of property in districts located within the zoning jurisdiction of such municipality shall be given to such municipality within seven days after the first publication of notice of statement, plat, and schedules. When such improvements are within the area of the zoning jurisdiction of more than one municipality, such proposed special assessments schedule and statement need be given only to the most populous municipality. Such municipality shall have the right to be heard, and it shall have the right of appeal from a final determination by the board of trustees or administrator against objections which such city has filed. Notice of the proposed special assessments for such improvements against each separate piece of property shall be given to each owner of record thereof within five days after the first publication of notice of statement, plat, and schedules and, within five days after the first publication of such notice, a copy thereof, along with statements of costs and schedules of proposed special assessments, shall be given to each person or company who, pursuant to written contract with the district, has acted as underwriter or fiscal agent for the district in connection with the sale or placement of warrants or bonds issued by the district. Each owner shall have the right to be heard, and shall have the right of appeal from the final determination made by the board of trustees or administrator. Any person or any such municipality feeling aggrieved may appeal to the district court by petition within twenty days after such a final determination. The court shall hear and determine such appeal in a summary manner as in a case in equity and without a jury and shall increase or reduce the special assessments

as the same may be required to provide that the special assessments shall be to the full extent of special benefits, and to make the apportionment of benefits equitable.

Source: Laws 1949, c. 78, § 23, p. 204; Laws 1955, c. 117, § 9, p. 317; Laws 1961, c. 142, § 7, p. 415; Laws 1965, c. 157, § 1, p. 504; Laws 1967, c. 190, § 1, p. 524; Laws 1971, LB 188, § 5; Laws 1973, LB 245, § 7; Laws 1974, LB 757, § 14; Laws 1976, LB 313, § 5; Laws 1979, LB 252, § 4; Laws 1982, LB 868, § 17; Laws 2015, LB361, § 53; Laws 2021, LB81, § 7.
Effective date August 28, 2021.

CHAPTER 32
ELECTIONS

ARTICLE 3
REGISTRATION OF VOTERS

32-329 Registration list; maintenance; voter registration register; verification; training; procedure; voter registration systems; information exempt from disclosure, when; Secretary of State; report.

(1) The Secretary of State with the assistance of the election commissioners and county clerks shall perform list maintenance with respect to the computerized statewide voter registration list on a regular basis. The list maintenance shall be conducted in a manner that ensures that:

(a) The name of each registered voter appears in the computerized list;

(b) Only persons who have been entered into the register in error or who are not eligible to vote are removed from the computerized list; and

(c) Duplicate names are eliminated from the computerized list.

(2) The election commissioner or county clerk shall verify the voter registration register by using (a) the National Change of Address program of the United States Postal Service and a confirmation notice pursuant to subsection (3) of this section or (b) the biennial mailing of a nonforwardable notice to each registered voter. The Secretary of State shall provide biennial training for the election commissioners and county clerks responsible for maintaining voter registration lists. No name shall be removed from the voter registration register for the sole reason that such person has not voted for any length of time.

(3) When an election commissioner or county clerk receives information from the National Change of Address program of the United States Postal Service that a registered voter has moved from the address at which he or she is registered to vote, the election commissioner or county clerk shall update the voter registration register to indicate that the voter may have moved and mail a confirmation notice by forwardable first-class mail. If a nonforwardable notice

under subdivision (2)(b) of this section is returned as undeliverable, the election commissioner or county clerk shall mail a confirmation notice by forwardable first-class mail. The confirmation notice shall include a confirmation letter and a preaddressed, postage-paid confirmation card. The confirmation letter shall contain statements substantially as follows:

(a) The election commissioner or county clerk has received information that you have moved to a different residence address from that appearing on the voter registration register;

(b) If you have not moved or you have moved to a new residence within this county, you should return the enclosed confirmation card by the regular registration deadline prescribed in section 32-302. If you fail to return the card by the deadline, you will be required to affirm or confirm your address prior to being allowed to vote. If you are required to affirm or confirm your address, it may result in a delay at your polling place; and

(c) If you have moved out of the county, you must reregister to be eligible to vote. This can be accomplished by mail or in person. For further information, contact your local election commissioner or county clerk.

(4) The election commissioner or county clerk shall maintain for a period of not less than two years a record of each confirmation letter indicating the date it was mailed and the person to whom it was mailed.

(5) If information from the National Change of Address program or the nonforwardable notice under subdivision (2)(b) of this section indicates that the voter has moved outside the jurisdiction and the election commissioner or county clerk receives no response to the confirmation letter and the voter does not offer to vote at any election held prior to and including the second statewide federal general election following the mailing of the confirmation notice, the voter's registration shall be canceled and his or her name shall be deleted from the voter registration register.

(6)(a) In the event that the Secretary of State becomes a member of a nongovernmental entity whose sole purpose is to share and exchange information in order to improve the accuracy and efficiency of voter registration systems, information received by the Secretary of State from such nongovernmental entity is exempt from disclosure as a public record pursuant to sections 84-712 to 84-712.09 and any other provision of law, except that the Secretary of State may provide such information to the election commissioners and county clerks to conduct voter registration list maintenance activities.

(b) If the Secretary of State becomes a member of a nongovernmental entity as described in subdivision (6)(a) of this section, the Secretary of State shall submit an annual report electronically to the Clerk of the Legislature by February 1 encompassing the preceding calendar year. The report shall describe the terms of membership in the nongovernmental entity and provide information on the total number of voters removed from the voter registration register as a result of information received by such membership and the reasons for the removal of such voters.

Source: Laws 1994, LB 76, § 91; Laws 1997, LB 764, § 44; Laws 1999, LB 234, § 7; Laws 2003, LB 357, § 8; Laws 2005, LB 566, § 29; Laws 2010, LB325, § 2; Laws 2021, LB285, § 5.
Effective date May 27, 2021.

32-330 Voter registration register; public record; exception; examination; lists of registered voters; availability.

(1) Except as otherwise provided in subsection (3) of section 32-301, the voter registration register shall be a public record. Any person may examine the register at the office of the election commissioner or county clerk, but no person other than the Secretary of State, the election commissioner, the county clerk, or law enforcement shall be allowed to make copies of the register. Copies of the register shall only be used for list maintenance as provided in section 32-329 or law enforcement purposes. The electronic records of the original voter registrations created pursuant to section 32-301 may constitute the voter registration register. The Secretary of State, election commissioner, or county clerk shall withhold information in the register designated as confidential under section 32-331. No portion of the register made available to the public and no list distributed pursuant to this section shall include the digital signature of any voter.

(2) The Secretary of State, election commissioner, or county clerk shall make available a list of registered voters that contains no more than the information authorized in subsection (3) of this section and, if requested, a list that only contains such information for registered voters who have voted in an election held more than thirty days prior to the request for the list. The Secretary of State, election commissioner, or county clerk shall establish the price of the lists at a rate that fairly covers the actual production cost of the lists, not to exceed three cents per name. Lists shall be used solely for purposes related to elections, political activities, voter registration, law enforcement, or jury selection. Lists shall not be posted, displayed, or used for commercial purposes or made accessible on the Internet.

(3)(a) The Secretary of State, election commissioner, or county clerk shall withhold from any list of registered voters distributed pursuant to subsection (2) of this section any information in the voter registration records which is designated as confidential under section 32-331 or marked private on the voter registration application or voter registration record.

(b) Except as otherwise provided in subdivision (a) of this subsection, a list of registered voters distributed pursuant to subsection (2) of this section shall contain no more than the following information:

(i) The registrant's name;

(ii) The registrant's residential address;

(iii) The registrant's mailing address;

(iv) The registrant's telephone number;

(v) The registrant's voter registration status;

(vi) The registrant's voter identification number;

(vii) The registrant's date of birth;

(viii) The registrant's date of voter registration;

(ix) The registrant's voting precinct;

(x) The registrant's polling site;

(xi) The registrant's political party affiliation;

(xii) The political subdivisions in which the registrant resides; and

(xiii) The registrant's voter history.

(4) Any person who acquires a list of registered voters under subsection (2) of this section shall provide his or her name, address, telephone number, email address, and campaign committee name or organization name, if applicable, and the state of organization, if applicable, and shall take and subscribe to an oath in substantially the following form:

I hereby swear that I will use the list of registered voters of . . . . . County, Nebraska, (or the State of Nebraska) only for the purposes prescribed in section 32-330 and for no other purpose, that I will not permit the use or copying of such list for unauthorized purposes, and that I will not post, display, or make such list accessible on the Internet.

I hereby declare under the penalty of election falsification that the statements above are true to the best of my knowledge.

The penalty for election falsification is a Class IV felony.

. . . . . .
(Signature of person acquiring list)

Subscribed and sworn to before me this . . . . . day of . . . . . 20. . . .

. . . . . .
(Signature of officer)

. . . . . .
(Name and official title of officer)

(5) The Secretary of State, election commissioner, or county clerk shall provide, upon request and free of charge, a complete and current listing of all registered voters and their addresses to the Clerk of the United States District Court for the District of Nebraska. Such list shall be provided no later than December 31 of each even-numbered year.

(6) The Secretary of State, election commissioner, or county clerk shall provide, upon request and free of charge, a complete and current listing of all registered voters containing only the information authorized under subsection (3) of this section to the state party headquarters of each political party and to the county chairperson of each political party.

(7) Nothing in this section shall prevent a political party or candidate from using the list of registered voters for campaign activities.

Source: Laws 1994, LB 76, § 92; Laws 1995, LB 514, § 2; Laws 1997, LB 764, § 45; Laws 1999, LB 234, § 8; Laws 2015, LB575, § 10; Laws 2018, LB1065, § 5; Laws 2019, LB411, § 36; Laws 2021, LB285, § 6.
Effective date May 27, 2021.

ARTICLE 4
TIME OF ELECTIONS

Section
32-404. Political subdivisions; elections; how held; notice of filing deadlines; certifications required; forms.

32-404 Political subdivisions; elections; how held; notice of filing deadlines; certifications required; forms.

(1) When any political subdivision holds an election in conjunction with the statewide primary or general election, the election shall be held as provided in

the Election Act. Any other election held by a political subdivision shall be held as provided in the act unless otherwise provided by the charter, code, or bylaws of the political subdivision.

(2) No later than December 1 of each odd-numbered year, the Secretary of State, election commissioner, or county clerk shall give notice to each political subdivision of the filing deadlines for the statewide primary election. No later than January 5 of each even-numbered year, the governing board of each political subdivision which will hold an election in conjunction with a statewide primary election shall certify to the Secretary of State, the election commissioner, or the county clerk the name of the subdivision, the number of officers to be elected, the length of the terms of office, the vacancies to be filled by election and length of remaining term, and the number of votes to be cast by a registered voter for each office.

(3) No later than June 15 of each even-numbered year, the governing board of each reclamation district, county weed district, village, county under township organization, public power district receiving annual gross revenue of less than forty million dollars, or educational service unit which will hold an election in conjunction with a statewide general election shall certify to the Secretary of State, the election commissioner, or the county clerk the name of the subdivision, the number of officers to be elected, the length of the terms of office, the vacancies to be filled by election and length of remaining term, and the number of votes to be cast by a registered voter for each office.

(4) The Secretary of State shall prescribe the forms to be used for certification to him or her, and the election commissioner or county clerk shall prescribe the forms to be used for certification to him or her.

Source: Laws 1994, LB 76, § 96; Laws 1997, LB 764, § 46; Laws 2004, LB 927, § 1; Laws 2017, LB451, § 6; Laws 2021, LB285, § 7. Effective date May 27, 2021.

ARTICLE 5

OFFICERS AND ISSUES

(a) OFFICES AND OFFICEHOLDERS

(a) OFFICES AND OFFICEHOLDERS

32-504 Congressional districts; numbers; boundaries; established by maps; Clerk of Legislature; Secretary of State; duties.

(1) Based on the 2020 Census of Population by the United States Department of Commerce, Bureau of the Census, the State of Nebraska is hereby divided into three districts for electing Representatives in the Congress of the United States, and each district shall be entitled to elect one representative.

(2) The numbers and boundaries of the districts are designated and established by maps identified and labeled as maps CONG21-39002,

CONG21-39002-1, CONG21-39002-2, and CONG21-39002-3, filed with the Clerk of the Legislature, and incorporated by reference as part of Laws 2021, LB1, One Hundred Seventh Legislature, First Special Session.

(3)(a) The Clerk of the Legislature shall transfer possession of the maps referred to in subsection (2) of this section to the Secretary of State on October 1, 2021.

(b) When questions of interpretation of district boundaries arise, the maps referred to in subsection (2) of this section in possession of the Secretary of State shall serve as the indication of the legislative intent in drawing the district boundaries.

(c) Each election commissioner or county clerk shall obtain copies of the maps referred to in subsection (2) of this section for the election commissioner's or clerk's county from the Secretary of State.

(d) The Secretary of State shall also have available for viewing on his or her website the maps referred to in subsection (2) of this section identifying the boundaries for the districts.

Source: Laws 1994, LB 76, § 100; Laws 2001, LB 851, § 1; Laws 2011, LB704, § 1; Laws 2021, First Spec. Sess., LB1, § 1.
Effective date October 1, 2021.

32-505 Congressional districts; population figures and maps; basis.

For purposes of section 32-504, the Legislature adopts the official population figures and maps from the 2020 Census Redistricting (Public Law 94-171) TIGER/Line Shapefiles published by the United States Department of Commerce, Bureau of the Census.

Source: Laws 1994, LB 76, § 101; Laws 2001, LB 851, § 2; Laws 2011, LB704, § 2; Laws 2021, First Spec. Sess., LB1, § 2.
Effective date October 1, 2021.

(b) LOCAL ELECTIONS

32-552 Election districts; adjustment of boundaries; when; procedure; Class IV school district; Class V school district; districts.

(1) Except as provided by subsection (4) of this section, at least five months prior to an election, the governing board of any political subdivision requesting the adjustment of the boundaries of election districts shall provide to the election commissioner or county clerk (a) written notice of the need and necessity of his or her office to perform such adjustments and (b) a revised election district boundary map that has been approved by the requesting political subdivision's governing board and subjected to all public review and challenge ordinances of the political subdivision.

(2) After the next federal decennial census, the election commissioner of the county in which the greater part of a Class IV school district is situated shall, subject to review by the school board, divide the school district into seven numbered districts, substantially equal in population as determined by the most recent federal decennial census. The election commissioner shall consider the location of schools within the district and their boundaries. The election

commissioner shall adjust the boundaries of the election districts, subject to final review and adjustment by the school board, to conform to changes in the territory and population of the school district and also following each federal decennial census. Except when specific procedures are otherwise provided, section 32-553 shall apply to all Class IV school districts.

(3) For purposes of election of members to the board of education of a Class V school district:

(a)(i) The Legislature hereby divides such school district into nine numbered election districts of compact and contiguous territory and of as nearly equal population as may be practical. Each election district shall be entitled to one member on the board of education of such Class V school district. The Legislature adopts the official population figures and maps from the 2010 Census Redistricting (Public Law 94-171) TIGER/Line Shapefiles published by the United States Department of Commerce, Bureau of the Census. The numbers and boundaries of the election districts are designated and established by a map identified and labeled as OPS-13-002, filed with the Clerk of the Legislature, and incorporated by reference as part of Laws 2013, LB125. Such districts are drawn using the boundaries of the Class V school district as they existed on February 12, 2013; (ii) the Clerk of the Legislature shall transfer possession of the map referred to in subdivision (a)(i) of this subsection to the Secretary of State and the election commissioner of the county in which the greater part of the school district is situated on February 12, 2013; (iii) when questions of interpretation of such election district boundaries arise, the map referred to in subdivision (a)(i) of this subsection in possession of such election commissioner shall serve as the indication of the legislative intent in drawing the election district boundaries; and (iv) the Secretary of State and such election commissioner shall also have available for viewing on his or her website the map referred to in subdivision (a)(i) of this subsection identifying the boundaries for such election districts; and

(b) After the next federal decennial census, the election commissioner of the county in which the greater part of a Class V school district is situated shall divide the school district into nine numbered districts of compact and contiguous territory and of as nearly equal population as may be practical. The election commissioner shall adjust the boundaries of such districts, subject to final review and adjustment by the school board, to conform to changes in the territory of the school district and also following each federal decennial census.

(4) Following the release of the 2020 Census of Population data by the United States Department of Commerce, Bureau of the Census, as required by Public Law 94-171, the governing board of any political subdivision requesting the adjustment of the boundaries of election districts shall provide to the election commissioner or county clerk (a) written notice of the need and necessity of his or her office to perform such adjustments and (b) a revised election district boundary map that has been approved by the requesting political subdivision's governing board and subjected to all public review and challenge ordinances of the political subdivision by December 30, 2021.

(5) The Secretary of State may grant additional days upon request of the political subdivision if precinct maps are not delivered to the political subdivision by November 1, 2021, or for an extraordinary circumstance.

Source: Laws 1994, LB 76, § 148; Laws 1997, LB 764, § 49; Laws 2002, LB 935, § 5; Laws 2013, LB125, § 2; Laws 2019, LB411, § 37; Laws 2020, LB1055, § 8; Laws 2021, LB285, § 8.
Effective date May 27, 2021.

32-553 Political subdivision; redistrict; when; procedure.

(1)(a) When any political subdivision except a public power district nominates or elects members of the governing board by districts, such districts shall be substantially equal in population as determined by the most recent federal decennial census.

(b) Except as provided by subdivision (c) of this subsection, (i) any such political subdivision which has districts in place on the date the census figures used in drawing district boundaries for the Legislature are required to be submitted to the state by the United States Department of Commerce, Bureau of the Census, shall, if necessary to maintain substantial population equality as required by this subsection, have new district boundaries drawn within six months after the passage and approval of the legislative bill providing for reestablishing legislative districts and (ii) any such political subdivision in existence on the date the census figures used in drawing district boundaries for the Legislature are required to be submitted to the state by the United States Department of Commerce, Bureau of the Census, and which has not established any district boundaries shall establish district boundaries pursuant to this section within six months after such date.

(c) Following the release of the 2020 Census of Population data by the United States Department of Commerce, Bureau of the Census, as required by Public Law 94-171, any such political subdivision which has districts in place on the date the census figures used in drawing district boundaries for the Legislature are required to be submitted to the state by the United States Department of Commerce, Bureau of the Census, shall, if necessary to maintain substantial population equality as required by this subsection, have new district boundaries drawn and submitted to the election commissioner or county clerk by December 30, 2021, after the passage and approval of the legislative bill providing for reestablishing legislative districts. Any such political subdivision in existence on the date the census figures used in drawing district boundaries for the Legislature are required to be submitted to the state by the United States Department of Commerce, Bureau of the Census, and which has not established any district boundaries shall establish district boundaries and submit the boundaries to the election commissioner or county clerk pursuant to this section by December 30, 2021.

(d) The Secretary of State may grant additional days upon request of the political subdivision if precinct maps are not delivered to the political subdivision by November 1, 2021, or for an extraordinary circumstance.

(e) If the deadline for drawing or redrawing district boundary lines imposed by this section is not met, the procedures set forth in section 32-555 shall be followed.

(2) The governing board of each such political subdivision shall be responsible for drawing its own district boundaries and shall, as nearly as possible, follow the precinct lines created by the election commissioner or county clerk after each federal decennial census, except that the election commissioner of any county in which a Class IV or V school district is located shall draw district boundaries for such school district as provided in this section and section 32-552.

Source: Laws 1994, LB 76, § 149; Laws 1997, LB 595, § 2; Laws 2001, LB 71, § 3; Laws 2021, LB285, § 9.
Effective date May 27, 2021.

ARTICLE 6
FILING AND NOMINATION PROCEDURES

Section
32-606. Candidate filing form; filing period.
32-608. Filing fees; payment; amount; not required; when; refund; when allowed.

32-606 Candidate filing form; filing period.

(1) Any candidate may place his or her name on the primary election ballot by filing a candidate filing form prescribed by the Secretary of State as provided in section 32-607. Except as otherwise provided in subsection (4) of this section, if a candidate for an elective office is an incumbent of any elective office, the filing period for filing the candidate filing form shall be between January 5 and February 15 prior to the date of the primary election. No incumbent who resigns from elective office prior to the expiration of his or her term shall file for any office after February 15 of that election year. All other candidates shall file for office between January 5 and March 1 prior to the date of the primary election. A candidate filing form and a copy of payment of the filing fee, if applicable, may be transmitted by facsimile for the offices listed in subdivision (1) of section 32-607 if (a) the transmission is received in the office of the filing officer by the filing deadline and (b) the original filing form and payment of the filing fee, if applicable, is mailed to the filing officer with a legible postmark bearing a date on or prior to the filing deadline and is in the office of the filing officer no later than seven days after the filing deadline.

(2) Any candidate for a township office in a county under township organization, the board of trustees of a village, the board of directors of a reclamation district, the county weed district board, the board of directors of a public power district receiving annual gross revenue of less than forty million dollars, or the board of an educational service unit may place his or her name on the general election ballot by filing a candidate filing form prescribed by the Secretary of State as provided in section 32-607. Except as otherwise provided in subsection (4) of this section, if a candidate for an elective office is an incumbent of any elective office, the filing period for filing the candidate filing form shall be between January 5 and July 15 prior to the date of the general election. No incumbent who resigns from elective office prior to the expiration of his or her term shall file for any office after July 15 of that election year. All other candidates shall file for office between January 5 and August 1 prior to the date of the general election. A candidate filing form may be transmitted by facsimile for the offices listed in subdivision (1) of section 32-607 if (a) the transmission is received in the office of the filing officer by the filing deadline and (b) the original filing form is mailed to the filing officer with a legible postmark bearing a date on or prior to the filing deadline and is in the office of the filing officer no later than seven days after the filing deadline.

(3) Any city having a home rule charter may provide for filing deadlines for any person desiring to be a candidate for the office of council member or mayor.

(4) If a candidate for an elective office was appointed to an elective office to fill a vacancy after the deadline for an incumbent to file a candidate filing form in subsection (1) or (2) of this section but before the deadline for all other

candidates, the candidate may file a candidate filing form for any office on or before the deadline for all other candidates.

Source: Laws 1994, LB 76, § 174; Laws 1996, LB 967, § 2; Laws 1997, LB 764, § 54; Laws 1999, LB 802, § 12; Laws 2007, LB641, § 3; Laws 2009, LB392, § 7; Laws 2011, LB449, § 4; Laws 2011, LB550, § 1; Laws 2013, LB125, § 4; Laws 2018, LB377, § 3; Laws 2020, LB1055, § 9; Laws 2021, LB285, § 10.
Effective date May 27, 2021.

32-608 Filing fees; payment; amount; not required; when; refund; when allowed.

(1) Except as provided in subsection (4) or (5) of this section, a filing fee shall be paid by or on behalf of each candidate prior to filing for office. For candidates who file in the office of the Secretary of State as provided in subdivision (1) of section 32-607, the filing fee shall be paid to the Secretary of State who shall remit the fee to the State Treasurer for credit to the Election Administration Fund. For candidates for any city or village office, the filing fee shall be paid to the city or village treasurer of the city or village in which the candidate resides. For candidates who file in the office of the election commissioner or county clerk, the filing fee shall be paid to the election commissioner or county clerk in the county in which the office is sought. The election commissioner or county clerk shall remit the fee to the county treasurer. The fee shall be placed in the general fund of the county, city, or village. No candidate filing forms shall be filed until the proper payment or the proper receipt showing the payment of such filing fee is presented to the filing officer. On the day of the filing deadline, the city or village treasurer's office shall remain open to receive filing fees until the hour of the filing deadline.

(2) Except as provided in subsection (4) or (5) of this section, the filing fees shall be as follows:

(a) For the office of United States Senator, state officers, including members of the Legislature, Representatives in Congress, county officers, and city or village officers, except the mayor or council members of cities having a home rule charter, a sum equal to one percent of the annual salary as of November 30 of the year preceding the election for the office for which he or she files as a candidate;

(b) For directors of public power and irrigation districts in districts receiving annual gross revenue of forty million dollars or more, twenty-five dollars, and in districts receiving annual gross revenue of less than forty million dollars, ten dollars;

(c) For directors of reclamation districts, ten dollars; and

(d) For Regents of the University of Nebraska, members of the State Board of Education, and directors of metropolitan utilities districts, twenty-five dollars.

(3) All declared write-in candidates shall pay the filing fees that are required for the office at the time that they present the write-in affidavit to the filing officer.

(4) No filing fee shall be required for any candidate filing for an office in which a per diem is paid rather than a salary or for which there is a salary of less than five hundred dollars per year. No filing fee shall be required for any candidate for membership on a school board, on the board of an educational

service unit, on the board of governors of a community college area, on the board of directors of a natural resources district, or on the board of trustees of a sanitary and improvement district.

(5) No filing fee shall be required of any candidate completing an affidavit requesting to file for elective office in forma pauperis. A pauper shall mean a person whose income and other resources for maintenance are found under assistance standards to be insufficient for meeting the cost of his or her requirements and whose reserve of cash or other available resources does not exceed the maximum available resources that an eligible individual may own. Available resources shall include every type of property or interest in property that an individual owns and may convert into cash except:

(a) Real property used as a home;

(b) Household goods of a moderate value used in the home; and

(c) Assets to a maximum value of three thousand dollars used by a recipient in a planned effort directed towards self-support.

(6) If any candidate dies prior to an election, the spouse of the candidate may file a claim for refund of the filing fee with the proper governing body prior to the date of the election. Upon approval of the claim by the proper governing body, the filing fee shall be refunded.

Source: Laws 1994, LB 76, § 176; Laws 1997, LB 764, § 56; Laws 1998, LB 896, § 9; Laws 1998, LB 1161, § 12; Laws 1999, LB 272, § 16; Laws 1999, LB 802, § 13; Laws 2003, LB 537, § 1; Laws 2004, LB 323, § 2; Laws 2014, LB946, § 12; Laws 2021, LB285, § 11.
Effective date May 27, 2021.

ARTICLE 7
POLITICAL PARTIES

Section
32-716. New political party; formation; petition; requirements.
32-717. New political party; validity of petition signatures; certification of establishment; copy of constitution and bylaws; filed.

32-716 New political party; formation; petition; requirements.

(1) Any person, group, or association desiring to form a new political party shall present to the Secretary of State petitions containing signatures totaling not less than one percent of the total votes cast for Governor at the most recent general election for such office. The signatures of registered voters on such petitions shall be so distributed as to include registered voters totaling at least one percent of the votes cast for Governor in the most recent gubernatorial election in each of the three congressional districts in this state. Petition signers and petition circulators shall conform to the requirements of sections 32-629 and 32-630. The petitions shall be filed with the Secretary of State no later than January 15 before any statewide primary election for the new political party to be entitled to have ballot position in the primary election of that year. If the new political party desires to be established and have ballot position for the general election and not in the primary election of that year, the petitions shall be filed with the Secretary of State on or before July 15 of that year. Prior to the circulation of petitions to form a new political party, a sample copy of the petitions shall be filed with the Secretary of State by the person, group, or

association seeking to establish the new party. The sample petition shall be accompanied by the name and address of the person or the names and addresses of the members of the group or association sponsoring the petition to form a new political party. The sponsor or sponsors of the petition shall file, as one instrument, all petition papers comprising a new political party petition for signature verification with the Secretary of State. All signed petitions in circulation but not filed with the Secretary of State shall become invalid after July 15 in the year of the statewide general election.

(2) The petition shall conform to the requirements of section 32-628. The Secretary of State shall prescribe the form of the petition for the formation of a new political party. The petition shall be addressed to and filed with the Secretary of State and shall state its purpose and the name of the party to be formed. Such name shall not be or include the name of any political party then in existence or any word forming any part of the name of any political party then in existence, and in order to avoid confusion regarding party affiliation of a candidate or registered voter, the name of the party to be formed shall not include the word ''independent'' or ''nonpartisan''. The petition shall contain a statement substantially as follows:

We, the undersigned registered voters of the State of Nebraska and the county of . . . . . , being severally qualified to sign this petition, respectfully request that the above-named new political party be formed in the State of Nebraska, and each for himself or herself says: I have personally signed this petition on the date opposite my name; I am a registered voter of the State of Nebraska and county of . . . . . and am qualified to sign this petition; and my date of birth and city, village, or post office address and my street and number or voting precinct are correctly written after my name.

Source: Laws 1994, LB 76, § 216; Laws 1997, LB 460, § 4; Laws 2006, LB 940, § 1; Laws 2021, LB285, § 12.
Effective date May 27, 2021.

32-717 New political party; validity of petition signatures; certification of establishment; copy of constitution and bylaws; filed.

Within twenty business days after all the petitions to form a new political party which contain signatures are filed with the Secretary of State, he or she shall determine the validity and sufficiency of such petitions and signatures. Clerical and technical errors in a petition shall be disregarded if the forms prescribed by the Secretary of State are substantially followed. If the petitions are determined to be sufficient and valid, the Secretary of State shall issue a certification establishing the new political party. Copies of such certification shall be issued to the person, group, or association forming the new political party. Within twenty days after the certification of establishment of the new political party by the Secretary of State, the person, group, or association forming the new political party or its new officers shall file with the Secretary of State the constitution and bylaws of such party along with a certified list of the names and addresses of the officers of the new political party.

Source: Laws 1994, LB 76, § 217; Laws 2021, LB285, § 13.
Effective date May 27, 2021.

ARTICLE 8

NOTICE, PUBLICATION, AND PRINTING OF BALLOTS

Section
32-816. Official ballots; write-in space provided; exceptions; requirements.

32-816 Official ballots; write-in space provided; exceptions; requirements.

(1) A blank space shall be provided at the end of each office division on the ballot for registered voters to fill in the name of any person for whom they wish to vote and whose name is not printed upon the ballot. A square or oval shall be printed opposite each write-in space similar to the square or oval placed opposite other candidates and issues on the ballot. The square or oval shall be marked to vote for a write-in candidate whose name appears in the write-in space provided.

(2) The Secretary of State shall approve write-in space for optical-scan ballots and any other voting system authorized for use under the Election Act. Adequate provision shall be made for write-in votes sufficient to allow one write-in space for each office to be elected at any election except offices for which write-in votes are specifically prohibited. The write-in ballot shall clearly identify the office for which such write-in vote is cast. The write-in space shall be a part of the official ballot, may be on the envelope or a separate piece of paper from the printed portion of the ballot, and shall allow the voter adequate space to fill in the name of the candidate for whom he or she desires to cast his or her ballot.

Source: Laws 1994, LB 76, § 237; Laws 1997, LB 764, § 79; Laws 2001, LB 252, § 2; Laws 2003, LB 358, § 14; Laws 2010, LB852, § 1; Laws 2019, LB411, § 42; Laws 2021, LB285, § 14.
Effective date May 27, 2021.

ARTICLE 9

VOTING AND ELECTION PROCEDURES

Section
32-903. Precincts; creation; requirements; election commissioner or county clerk; powers and duties.

32-903 Precincts; creation; requirements; election commissioner or county clerk; powers and duties.

(1) The election commissioner or county clerk shall create precincts composed of compact and contiguous territory within the boundary lines of legislative districts. The precincts shall contain not less than seventy-five nor more than one thousand seven hundred fifty registered voters based on the number of voters voting at the last statewide general election, except that a precinct may contain less than seventy-five registered voters if in the judgment of the election commissioner or county clerk it is necessary to avoid creating an undue hardship on the registered voters in the precinct. The election commissioner or county clerk shall create precincts based on the number of votes cast at the immediately preceding presidential election or the current list of registered voters for the precinct. The election commissioner or county clerk shall revise and rearrange the precincts and increase or decrease them at such times as may be necessary to make the precincts contain as nearly as practicable not

less than seventy-five nor more than one thousand seven hundred fifty registered voters voting at the last statewide general election. The election commissioner or county clerk shall, when necessary and possible, readjust precinct boundaries to coincide with the boundaries of cities, villages, and school districts which are divided into districts or wards for election purposes. The election commissioner or county clerk shall not make any precinct changes in precinct boundaries or divide precincts into two or more parts between the statewide primary and general elections unless he or she has been authorized to do so by the Secretary of State. If changes are authorized, the election commissioner or county clerk shall notify each state and local candidate affected by the change.

(2) The election commissioner or county clerk may alter and divide the existing precincts, except that when any city of the first class by ordinance divides any ward of such city into two or more voting districts or polling places, the election commissioner or county clerk shall establish precincts or polling places in conformity with such ordinance. No such alteration or division shall take place between the statewide primary and general elections except as provided in subsection (1) of this section.

(3) Following the release of the 2020 Census of Population data by the United States Department of Commerce, Bureau of the Census, as required by Public Law 94-171, the election commissioner or county clerk shall create, revise, or rearrange precincts in compliance with subsections (1) and (2) of this section and deliver maps of the updated precinct boundaries to all applicable political subdivisions within the jurisdiction of the election commissioner or county clerk by November 1, 2021.

(4) The Secretary of State may grant additional days for election commissioners and county clerks to meet the requirements of subsection (3) of this section for an extraordinary circumstance.

Source: Laws 1994, LB 76, § 246; Laws 1997, LB 764, § 80; Laws 2003, LB 358, § 18; Laws 2005, LB 401, § 3; Laws 2011, LB449, § 8; Laws 2019, LB411, § 44; Laws 2021, LB285, § 15.
Effective date May 27, 2021.

ARTICLE 10

COUNTING AND CANVASSING BALLOTS

Section

32-1005 Write-in vote; when valid.

If the last name or a reasonably close spelling of the last name of a person engaged in or pursuing a write-in campaign pursuant to section 32-615 or 32-633 is written or printed on a line provided for that purpose and the square or oval opposite such line has been marked with a cross or other clear, intelligible mark, the vote shall be valid and the ballot shall be counted. A write-

in vote for a person who is not engaged in or pursuing a write-in campaign pursuant to section 32-615 or 32-633 shall not be counted.

Source: Laws 1994, LB 76, § 299; Laws 1999, LB 571, § 9; Laws 2003, LB 358, § 31; Laws 2013, LB349, § 4; Laws 2021, LB285, § 16. Effective date May 27, 2021.

32-1006 Repealed. Laws 2021, LB285, § 21.

CHAPTER 33
FEES AND SALARIES

Section

33-106.02 Clerk of the district court; fees; report; disposition.

(1) The clerk of the district court of each county shall not retain for his or her own use any fees, revenue, perquisites, or receipts, fixed, enumerated, or provided in this or any other section of the statutes of the State of Nebraska or any fees authorized by federal law to be collected or retained by a county official. The clerk shall on or before the fifteenth day of each month make a report to the county board, under oath, showing the different items of such fees, revenue, perquisites, or receipts received, from whom, at what time, and for what service, and the total amount received by such officer since the last report, and also the amount received for the current year.

(2) The clerk shall account for and pay any fees, revenue, perquisites, or receipts not later than the fifteenth day of the month following the calendar month in which such fees, revenue, perquisites, or receipts were received in the following manner:

(a) Of the forty-two-dollar docket fee imposed pursuant to section 33-106, one dollar shall be remitted to the State Treasurer for credit to the General Fund and six dollars shall be remitted to the State Treasurer for credit to the Nebraska Retirement Fund for Judges through June 30, 2021. Beginning July 1, 2021, seven dollars of such forty-two-dollar docket fee shall be remitted to the State Treasurer for credit to the Nebraska Retirement Fund for Judges;

(b) Of the twenty-seven-dollar docket fee imposed for appeal of a criminal case to the district court pursuant to section 33-106, two dollars shall be remitted to the State Treasurer for credit to the Nebraska Retirement Fund for Judges; and

(c) The remaining fees, revenue, perquisites, or receipts shall be credited to the general fund of the county.

Source: R.S.1866, c. 19, § 3, p. 157; Laws 1877, § 5, p. 217; Laws 1899, c. 31, § 1, p. 164; Laws 1905, c. 68, § 1, p. 363; Laws 1909, c. 55, § 1, p. 280; R.S.1913, §§ 2421, 2429; Laws 1917, c. 40, § 1, p. 119; Laws 1919, c. 82, § 1, p. 204; C.S.1922, §§ 2362, 2369; Laws 1925, c. 81, § 1, p. 255; Laws 1927, c. 118, § 1, p. 328; C.S.1929, §§ 33-101, 33-108; R.S.1943, § 33-106; Laws 1947, c. 120, § 1, p.

353; Laws 1949, c. 94, § 1(3), p. 254; Laws 1983, LB 617, § 5; Laws 1989, LB 4, § 3; Laws 2005, LB 348, § 8; Laws 2006, LB 823, § 1; Laws 2016, LB803, § 1; Laws 2021, LB17, § 5.
Effective date May 6, 2021.

33-123 County court; civil matters; fees.

The county court shall be entitled to the following fees in civil matters:

(1) Twenty dollars for any and all services rendered up to and including the judgment or dismissal of the action other than for a domestic relations matter. Of such twenty-dollar fee, the following amounts shall be remitted to the State Treasurer for credit to the Nebraska Retirement Fund for Judges: (a) Six dollars through June 30, 2021, (b) beginning July 1, 2021, through June 30, 2022, eight dollars, (c) beginning July 1, 2022, through June 30, 2023, nine dollars, (d) beginning July 1, 2023, through June 30, 2024, ten dollars, (e) beginning July 1, 2024, through June 30, 2025, eleven dollars, and (f) beginning July 1, 2025, twelve dollars;

(2) For any and all services rendered up to and including the judgment or dismissal of a domestic relations matter, forty dollars;

(3) For filing a foreign judgment or a judgment transferred from another court in this state, fifteen dollars; and

(4) For writs of execution, writs of restitution, garnishment, and examination in aid of execution, five dollars each.

Source: R.S.1866, c. 19, § 8, p. 164; Laws 1887, c. 41, § 1, p. 458; Laws 1907, c. 56, § 1, p. 229; Laws 1909, c. 58, § 1, p. 286; R.S.1913, § 2449; Laws 1915, c. 39, § 1, p. 110; Laws 1917, c. 45, § 1, p. 125; Laws 1921, c. 95, § 1, p. 357; C.S.1922, § 2388; Laws 1925, c. 98, § 1, p. 284; C.S.1929, § 33-127; Laws 1931, c. 64, § 1, p. 171; Laws 1937, c. 86, § 1, p. 283; C.S.Supp.,1941, § 33-127; R.S.1943, § 33-123; Laws 1945, c. 74, § 1, p. 276; Laws 1972, LB 1032, § 220; Laws 1974, LB 739, § 2; Laws 1981, LB 99, § 2; Laws 1982, LB 928, § 29; Laws 1983, LB 617, § 6; Laws 1989, LB 233, § 2; Laws 1995, LB 270, § 2; Laws 1996, LB 1296, § 7; Laws 2005, LB 348, § 10; Laws 2015, LB468, § 7; Laws 2021, LB17, § 6.
Effective date May 6, 2021.

33-124 County court; criminal cases; fee.

In criminal matters, including preliminary and juvenile hearings, the county court shall receive, for any and all services rendered up to and including the judgment or dismissal of the action and the issuance of mittimus or discharge to the jailer, a fee of twenty dollars. Of such twenty-dollar fee, the following amounts shall be remitted to the State Treasurer for credit to the Nebraska Retirement Fund for Judges: (a) Six dollars through June 30, 2021, (b) beginning July 1, 2021, through June 30, 2022, eight dollars, (c) beginning July 1, 2022, through June 30, 2023, nine dollars, (d) beginning July 1, 2023, through June 30, 2024, ten dollars, (e) beginning July 1, 2024, through June 30, 2025, eleven dollars, and (f) beginning July 1, 2025, twelve dollars.

Source: Laws 1915, c. 39, § 1, p. 110; Laws 1917, c. 45, § 1, p. 126; Laws 1921, c. 95, § 1, p. 359; C.S.1922, § 2388; Laws 1925, c. 98, § 1,

p. 285; C.S.1929, § 33-127; Laws 1931, c. 64, § 1, p. 172; Laws 1937, c. 86, § 1, p. 284; C.S.Supp.,1941, § 33-127; R.S.1943, § 33-124; Laws 1945, c. 74, § 2, p. 276; Laws 1972, LB 1032, § 221; Laws 1981, LB 99, § 3; Laws 1982, LB 928, § 30; Laws 1983, LB 617, § 7; Laws 1989, LB 233, § 3; Laws 2005, LB 348, § 11; Laws 2015, LB468, § 8; Laws 2021, LB17, § 7.
Effective date May 6, 2021.

33-125 County court; probate fees; how determined.

(1) In probate matters the county court shall be entitled to receive the following fees:

(a)(i) Twenty-two dollars for probate proceedings commenced and closed informally. Of such twenty-two-dollar fee, the following amounts shall be remitted to the State Treasurer for credit to the Nebraska Retirement Fund for Judges: (A) Six dollars through June 30, 2021, (B) beginning July 1, 2021, through June 30, 2022, eight dollars, (C) beginning July 1, 2022, through June 30, 2023, nine dollars, (D) beginning July 1, 2023, through June 30, 2024, ten dollars, (E) beginning July 1, 2024, through June 30, 2025, eleven dollars, and (F) beginning July 1, 2025, twelve dollars;

(ii) Twenty-two dollars for each subsequent petition or application filed within an informal proceeding, not including the fee for a petition for determination of inheritance tax as provided in section 33-126.03. Of the twenty-two-dollar fee described in this subdivision (ii), the following amounts shall be remitted to the State Treasurer for credit to the Nebraska Retirement Fund for Judges: (A) Six dollars through June 30, 2021, (B) beginning July 1, 2021, through June 30, 2022, eight dollars, (C) beginning July 1, 2022, through June 30, 2023, nine dollars, (D) beginning July 1, 2023, through June 30, 2024, ten dollars, (E) beginning July 1, 2024, through June 30, 2025, eleven dollars, and (F) beginning July 1, 2025, twelve dollars; and

(iii) Twenty-two dollars for any other proceeding under the Nebraska Probate Code for which no court fee is established by statute. Of such twenty-two-dollar fee, the following amounts shall be remitted to the State Treasurer for credit to the Nebraska Retirement Fund for Judges: (A) Six dollars through June 30, 2021, (B) beginning July 1, 2021, through June 30, 2022, eight dollars, (C) beginning July 1, 2022, through June 30, 2023, nine dollars, (D) beginning July 1, 2023, through June 30, 2024, ten dollars, (E) beginning July 1, 2024, through June 30, 2025, eleven dollars, and (F) beginning July 1, 2025, twelve dollars.

The fees assessed under this subdivision (a) shall not exceed the fees which would be assessed for a formal probate under subdivision (b) of this subsection; and

(b) For probate proceedings commenced or closed formally:

(i) When the value does not exceed one thousand dollars, twenty-two dollars;

(ii) When the value exceeds one thousand dollars and is not more than two thousand dollars, thirty dollars;

(iii) When the value exceeds two thousand dollars and is not more than five thousand dollars, fifty dollars;

(iv) When the value exceeds five thousand dollars and is not more than ten thousand dollars, seventy dollars;

(v) When the value exceeds ten thousand dollars and is not more than twenty-five thousand dollars, eighty dollars;

(vi) When the value exceeds twenty-five thousand dollars and is not more than fifty thousand dollars, one hundred dollars;

(vii) When the value exceeds fifty thousand dollars and is not more than seventy-five thousand dollars, one hundred twenty dollars;

(viii) When the value exceeds seventy-five thousand dollars and is not more than one hundred thousand dollars, one hundred sixty dollars;

(ix) When the value exceeds one hundred thousand dollars and is not more than one hundred twenty-five thousand dollars, two hundred twenty dollars;

(x) When the value exceeds one hundred twenty-five thousand dollars and is not more than one hundred fifty thousand dollars, two hundred fifty dollars;

(xi) When the value exceeds one hundred fifty thousand dollars and is not more than one hundred seventy-five thousand dollars, two hundred seventy dollars;

(xii) When the value exceeds one hundred seventy-five thousand dollars and is not more than two hundred thousand dollars, three hundred dollars;

(xiii) When the value exceeds two hundred thousand dollars and is not more than three hundred thousand dollars, three hundred fifty dollars;

(xiv) When the value exceeds three hundred thousand dollars and is not more than four hundred thousand dollars, four hundred dollars;

(xv) When the value exceeds four hundred thousand dollars and is not more than five hundred thousand dollars, five hundred dollars;

(xvi) When the value exceeds five hundred thousand dollars and is not more than seven hundred fifty thousand dollars, six hundred dollars;

(xvii) When the value exceeds seven hundred fifty thousand dollars and is not more than one million dollars, seven hundred dollars;

(xviii) When the value exceeds one million dollars and is not more than two million five hundred thousand dollars, eight hundred dollars;

(xix) When the value exceeds two million five hundred thousand dollars and is not more than five million dollars, one thousand dollars; and

(xx) On all estates when the value exceeds five million dollars, one thousand five hundred dollars.

(2) The fees prescribed in subdivision (1)(b) of this section shall be based on the gross value of the estate, including both real and personal property in the State of Nebraska at the time of death. The gross value shall mean the actual value of the estate less liens and joint tenancy property. Formal fees shall be charged in full for all services performed by the court, and no additional fees shall be charged for petitions, hearing, and orders in the course of such administration. The court shall provide one certified copy of letters of appointment without charge. In other cases when it is necessary to copy instruments, the county court shall be allowed the fees provided in section 33-126.05. In all cases when a petition for probate of will or appointment of an administrator, special administrator, personal representative, guardian, or trustee or any other

petition for an order in probate matters is filed and no appointment is made or order entered and the cause is dismissed, the fee shall be ten dollars.

Source: R.S.1866, c. 19, § 8, p. 164; Laws 1887, c. 41, § 1, p. 459; Laws 1907, c. 56, § 1, p. 230; Laws 1909, c. 58, § 1, p. 287; R.S.1913, § 2449; Laws 1915, c. 39, § 1, p. 111; Laws 1917, c. 45, § 1, p. 126; Laws 1921, c. 95, § 1, p. 358; C.S.1922, § 2388; Laws 1925, c. 98, § 1, p. 285; C.S.1929, § 33-127; Laws 1931, c. 64, § 1, p. 172; Laws 1937, c. 86, § 1, p. 284; C.S.Supp.,1941, § 33-127; R.S.1943, § 33-125; Laws 1945, c. 74, § 3, p. 277; Laws 1963, c. 187, § 1, p. 629; Laws 1975, LB 481, § 22; Laws 1982, LB 928, § 31; Laws 1983, LB 2, § 1; Laws 1984, LB 373, § 2; Laws 1984, LB 492, § 1; Laws 1989, LB 233, § 4; Laws 2005, LB 348, § 12; Laws 2015, LB468, § 9; Laws 2021, LB17, § 8.
Effective date May 6, 2021.

Cross References

Nebraska Probate Code, see section 30-2201.

33-126.02 County court; guardianships; conservatorships; fees; how determined.

In matters of guardianship and conservatorship, the county court shall be entitled to receive the following fees: Upon the filing of a petition for the appointment of a guardian, twenty-two dollars; upon the filing of a petition for the appointment of a conservator, twenty-two dollars; upon the filing of one petition for a consolidated appointment of both a guardian and conservator, twenty-two dollars; for the appointment of a successor guardian or conservator, twenty-two dollars; for the appointment of a temporary guardian or temporary or special conservator, twenty-two dollars; and for proceedings for a protective order in the absence of a guardianship or conservatorship, twenty-two dollars. If there is more than one ward listed in a petition for appointment of a guardian or conservator or both, only one filing fee shall be assessed. Two dollars of each twenty-two-dollar fee shall be remitted to the State Treasurer for credit to the Nebraska Retirement Fund for Judges through June 30, 2021. Beginning July 1, 2021, four dollars of each twenty-two-dollar fee shall be remitted to the State Treasurer for credit to the Nebraska Retirement Fund for Judges. While such guardianship or conservatorship is pending, the court shall receive five dollars for filing and recording each report. When the appointment of a custodian as provided for in the Nebraska Uniform Transfers to Minors Act is made, the county court shall be entitled to receive a fee of twenty dollars.

Source: R.S.1866, c. 19, § 8, p. 164; Laws 1887, c. 41, § 1, p. 460; Laws 1907, c. 56, § 1, p. 231; Laws 1909, c. 58, § 1, p. 288; R.S.1913, § 2449; Laws 1915, c. 39, § 1, p. 111; Laws 1917, c. 45, § 1, p. 127; Laws 1921, c. 95, § 1, p. 359; C.S.1922, § 2388; Laws 1925, c. 98, § 1, p. 286; C.S.1929, § 33-127; Laws 1931, c. 64, § 1, p. 173; Laws 1937, c. 86, § 1, p. 286; C.S.Supp.,1941, § 33-127; R.S.1943, § 33-126; Laws 1945, c. 74, § 4, p. 278; Laws 1949, c. 95, § 1(2), p. 255; Laws 1951, c. 103, § 1, p. 508; Laws 1963, c. 189, § 1, p. 633; Laws 1975, LB 481, § 23; Laws 1982, LB 928, § 33; Laws 1984, LB 492, § 2; Laws 1988, LB 790, § 5; Laws

1989, LB 233, § 5; Laws 1992, LB 907, § 27; Laws 2005, LB 348, § 13; Laws 2021, LB17, § 9.
Effective date May 6, 2021.

Cross References

Nebraska Uniform Transfers to Minors Act, see section 43-2701.

33-126.03 County court; inheritance tax proceedings; fees; by whom paid.

In all matters for the determination of inheritance tax under Chapter 77, article 20, the county court shall be entitled to receive fees of twenty-two dollars. Fees under this section shall not be charged if fees have been imposed pursuant to subdivision (1)(b) of section 33-125. Except in cases instituted by the county attorney, such fee shall be paid by the person petitioning for such determination. Two dollars of such fee shall be remitted to the State Treasurer for credit to the Nebraska Retirement Fund for Judges through June 30, 2021. Beginning July 1, 2021, four dollars of such fee shall be remitted to the State Treasurer for credit to the Nebraska Retirement Fund for Judges.

Source: R.S.1866, c. 19, § 8, p. 164; Laws 1887, c. 41, § 1, p. 460; Laws 1907, c. 56, § 1, p. 231; Laws 1909, c. 58, § 1, p. 288; R.S.1913, § 2449; Laws 1915, c. 39, § 1, p. 111; Laws 1917, c. 45, § 1, p. 127; Laws 1921, c. 95, § 1, p. 359; C.S.1922, § 2388; Laws 1925, c. 98, § 1, p. 286; C.S.1929, § 33-127; Laws 1931, c. 64, § 1, p. 173; Laws 1937, c. 86, § 1, p. 286; C.S.Supp.,1941, § 33-127; R.S.1943, § 33-126; Laws 1945, c. 74, § 4, p. 278; Laws 1949, c. 95, § 1(3), p. 256; Laws 1959, c. 376, § 1, p. 1316; Laws 1975, LB 481, § 24; Laws 1982, LB 928, § 34; Laws 1984, LB 373, § 3; Laws 1989, LB 233, § 6; Laws 2005, LB 348, § 14; Laws 2021, LB17, § 10.
Effective date May 6, 2021.

33-126.06 County court; matters relating to trusts; fees.

The county court shall be entitled to collect the following fees: For the registration of any trust, whether testamentary or not, twenty-two dollars; for each proceeding initiated in county court concerning the administration and distribution of trusts, the declaration of rights, and the determination of other matters involving trustees and beneficiaries of trusts, twenty-two dollars; for the appointment of a successor trustee, twenty-two dollars; and for filing and recording each report, five dollars. Two dollars of each twenty-two-dollar fee shall be remitted to the State Treasurer for credit to the Nebraska Retirement Fund for Judges through June 30, 2021. Beginning July 1, 2021, four dollars of each twenty-two-dollar fee shall be remitted to the State Treasurer for credit to the Nebraska Retirement Fund for Judges.

Source: Laws 1975, LB 481, § 27; Laws 1982, LB 928, § 37; Laws 1989, LB 233, § 9; Laws 2005, LB 348, § 16; Laws 2021, LB17, § 11.
Effective date May 6, 2021.

CHAPTER 35
FIRE COMPANIES AND FIREFIGHTERS

ARTICLE 5
RURAL AND SUBURBAN FIRE PROTECTION DISTRICTS

35-509 District; budget; tax to support; limitation; how levied; county treasurer; duties.

(1) The board of directors shall have the power and duty to determine a general fire protection and rescue policy for the district and shall annually fix the amount of money for the proposed budget statement as may be deemed sufficient and necessary in carrying out such contemplated program for the ensuing fiscal year, including the amount of principal and interest upon the indebtedness of the district for the ensuing year.

(2)(a) For any rural or suburban fire protection district that has levy authority pursuant to subsection (10) of section 77-3442, after the adoption of the budget statement, the president and secretary of the district shall certify the amount of tax to be levied which the district requires for the adopted budget statement for the ensuing year to the proper county clerk or county clerks on or before September 30 of each year. The county board shall levy a tax not to exceed ten and one-half cents on each one hundred dollars upon the taxable value of all the taxable property in such district for the maintenance of the fire protection district for the fiscal year, plus such levy as is authorized to be made under subdivision (13)(a) of section 35-508, all such levies being subject to subsection (10) of section 77-3442. The tax shall be collected as other taxes are collected in the county, deposited with the county treasurer, and placed to the credit of the rural or suburban fire protection district so authorizing the same on or before the fifteenth day of each month or more frequently as provided in section 77-1759 or be remitted to the county treasurer of the county in which the greatest portion of the valuation of the district is located as is provided for by subsection (3) of this section.

(b) For any rural or suburban fire protection district that does not have levy authority pursuant to subsection (10) of section 77-3442, after the adoption of the budget statement, the president and secretary of the district shall request the amount of tax to be levied which the district requires for the adopted budget statement for the ensuing year to the proper county clerk or county clerks on or before August 1 of each year pursuant to subsection (3) of section 77-3443. The county board shall levy a tax not to exceed ten and one-half cents

on each one hundred dollars upon the taxable value of all the taxable property in such district for the maintenance of the fire protection district for the fiscal year, plus such levy as is authorized to be made under subdivision (13)(b) of section 35-508, all such levies being subject to section 77-3443. The tax shall be collected as other taxes are collected in the county, deposited with the county treasurer, and placed to the credit of the rural or suburban fire protection district so authorizing the same on or before the fifteenth day of each month or more frequently as provided in section 77-1759 or be remitted to the county treasurer of the county in which the greatest portion of the valuation of the district is located as is provided for by subsection (3) of this section. For purposes of section 77-3443, the county board of the county in which the greatest portion of the valuation of the district is located shall approve the levy.

(3) All such taxes collected or received for the district by the treasurer of any other county than the one in which the greatest portion of the valuation of the district is located shall be remitted to the treasurer of the county in which the greatest portion of the valuation of the district is located at least quarterly. All such taxes collected or received shall be placed to the credit of such district in the treasury of the county in which the greatest portion of the valuation of the district is located.

(4) In no case shall the amount of tax levy exceed the amount of funds to be received from taxation according to the adopted budget statement of the district.

Source: Laws 1939, c. 38, § 5, p. 193; C.S.Supp.,1941, § 35-605; R.S. 1943, § 35-405; Laws 1947, c. 128, § 1, p. 368; Laws 1949, c. 98, § 9, p. 266; Laws 1953, c. 121, § 1, p. 383; Laws 1953, c. 287, § 54, p. 962; Laws 1955, c. 127, § 1, p. 360; Laws 1955, c. 128, § 4, p. 365; Laws 1969, c. 145, § 34, p. 693; Laws 1972, LB 849, § 3; Laws 1975, LB 375, § 2; Laws 1979, LB 187, § 150; Laws 1990, LB 918, § 3; Laws 1992, LB 719A, § 131; Laws 1996, LB 1114, § 55; Laws 1998, LB 1120, § 12; Laws 2007, LB334, § 5; Laws 2015, LB325, § 4; Laws 2019, LB63, § 2; Laws 2021, LB644, § 16.
Operative date January 1, 2022.

ARTICLE 10

DEATH OR DISABILITY

(b) FIREFIGHTER CANCER BENEFITS ACT

Section
35-1002. Act, how cited.
35-1003. Terms, defined.
35-1004. Benefits; entitled, when.
35-1005. Enhanced cancer benefits; provide and maintain; minimum benefits; additional payment upon death; conditions.
35-1006. Benefits; maximum amount.
35-1007. Firefighter; cessation of status; eligibility for benefits; rural or suburban fire protection district, airport authority, city, village, or nonprofit corporation; responsible for payment of premiums or other costs.
35-1008. Benefits; proof of insurance coverage or ability to pay; documentation.
35-1009. Reports; requirements.
35-1010. Rules and regulations.

(b) FIREFIGHTER CANCER BENEFITS ACT

35-1002 Act, how cited.

Sections 35-1002 to 35-1010 shall be known and may be cited as the Firefighter Cancer Benefits Act.

Source: Laws 2021, LB432, § 1.
Operative date January 1, 2022.

35-1003 Terms, defined.

For purposes of the Firefighter Cancer Benefits Act:

(1) Cancer means:

(a) A disease (i) caused by an uncontrolled division of abnormal cells in a part of the body or a malignant growth or tumor resulting from the division of abnormal cells and (ii) affecting the prostate, breast, or lung or the lymphatic, hematological, digestive, urinary, neurological, or reproductive system; or

(b) Melanoma; and

(2) Firefighter means:

(a) A firefighter or firefighter-paramedic who is a member of a paid fire department of a municipality or a rural or suburban fire protection district in this state, including a municipality having a home rule charter or a municipal authority created pursuant to a home rule charter that has its own paid fire department;

(b) A firefighter or firefighter-paramedic who is a member of a paid fire department of an airport authority; or

(c) A volunteer firefighter who has been deemed an employee under subdivision (3) of section 48-115.

Source: Laws 2021, LB432, § 2.
Operative date January 1, 2022.

35-1004 Benefits; entitled, when.

Before any firefighter is entitled to benefits under the Firefighter Cancer Benefits Act, such firefighter shall (1) have successfully passed a physical examination which failed to reveal any evidence of cancer, (2) have served at least twenty-four consecutive months as a firefighter at any fire station within the State of Nebraska, (3) have been actively engaged in fire suppression at an actual fire or fire training event, and (4) wear all available personal protective equipment when fighting any fire, including a self-contained breathing apparatus when fighting structure fires. After serving at least twenty-four consecutive months as a firefighter, the firefighter shall be deemed to be in compliance with subdivision (2) of this section even with a break in service, so long as such break does not exceed six months.

Source: Laws 2021, LB432, § 3.
Operative date January 1, 2022.

35-1005 Enhanced cancer benefits; provide and maintain; minimum benefits; additional payment upon death; conditions.

(1) Beginning on and after January 1, 2022, any rural or suburban fire protection district, airport authority, city, village, or nonprofit corporation may

provide and maintain enhanced cancer benefits. If such benefits are provided, they shall include, at a minimum, the following:

(a) A lump-sum benefit of twenty-five thousand dollars for each diagnosis payable to a firefighter upon acceptable proof to the insurance carrier or other payor of a diagnosis by a board-certified physician in the medical specialty appropriate for the type of cancer diagnosed that there are one or more malignant tumors characterized by the uncontrollable and abnormal growth and spread of malignant cells with invasion of normal tissue, and that either:

(i) There is metastasis and:

(A) Surgery, radiotherapy, or chemotherapy is medically necessary; or

(B) There is a tumor of the prostate, provided that it is treated with radical prostatectomy or external beam therapy; or

(ii) Such firefighter has terminal cancer, his or her life expectancy is twenty-four months or less from the date of diagnosis, and he or she will not benefit from, or has exhausted, curative therapy;

(b) A lump-sum benefit of six thousand two hundred fifty dollars for each diagnosis payable to a firefighter upon acceptable proof to the insurance carrier or other payor of a diagnosis by a board-certified physician in the medical specialty appropriate for the type of cancer involved that either:

(i) There is carcinoma in situ such that surgery, radiotherapy, or chemotherapy has been determined to be medically necessary;

(ii) There are malignant tumors which are treated by endoscopic procedures alone; or

(iii) There are malignant melanomas; and

(c)(i) A monthly benefit of one thousand five hundred dollars payable to a firefighter, of which the first payment shall be made six months after total disability and submission of acceptable proof of such disability to the insurance carrier or other payor that such disability is caused by cancer and that such cancer precludes the firefighter from serving as a firefighter. Such benefit shall continue for up to thirty-six consecutive monthly payments.

(ii) Such monthly benefit shall be subordinate to any other benefit actually paid to the firefighter solely for such disability from any other source, not including private insurance purchased solely by the firefighter, and shall be limited to the difference between the amount of such other pay benefit and the amount specified in this section.

(iii) Any firefighter receiving such monthly benefit may be required to have his or her condition reevaluated. In the event any such reevaluation reveals that such person has regained the ability to perform duties as a firefighter, then his or her monthly benefits shall cease the last day of the month of the reevaluation.

(iv) In the event that there is a subsequent reoccurrence of a disability caused by cancer which precludes the firefighter from serving as a firefighter, he or she shall be entitled to receive any remaining monthly benefits.

(2) A firefighter shall also be entitled to an additional payment of enhanced cancer death benefits in the amount of fifty thousand dollars payable to his or her beneficiary or, if no beneficiary is named, to such firefighter's estate upon acceptable proof by a board-certified physician that such firefighter's death resulted from complications associated with cancer.

(3) A firefighter shall be ineligible for benefits under the Firefighter Cancer Benefits Act if he or she is already provided paid firefighter cancer benefits pursuant to section 35-1001.

Source: Laws 2021, LB432, § 4.
Operative date January 1, 2022.

35-1006 Benefits; maximum amount.

The combined total of all benefits received by any firefighter pursuant to subdivisions (1)(a) and (b) of section 35-1005 during his or her lifetime shall not exceed fifty thousand dollars.

Source: Laws 2021, LB432, § 5.
Operative date January 1, 2022.

35-1007 Firefighter; cessation of status; eligibility for benefits; rural or suburban fire protection district, airport authority, city, village, or nonprofit corporation; responsible for payment of premiums or other costs.

A firefighter shall remain eligible for benefits pursuant to subsections (1) and (2) of section 35-1005 for thirty-six months after the formal cessation of the firefighter's status as a firefighter. If a firefighter has a physical examination during the thirty-six months of eligibility that reveals evidence of cancer, the firefighter shall be eligible for benefits under subsections (1) and (2) of section 35-1005 even if such benefits are paid after the thirty-six-month eligibility period ends. The rural or suburban fire protection district, airport authority, city, village, or nonprofit corporation for which such firefighter served shall be responsible for payment of all premiums or other costs associated with benefits that may be provided under subsections (1) and (2) of section 35-1005 throughout the duration of the firefighter's coverage.

Source: Laws 2021, LB432, § 6.
Operative date January 1, 2022.

35-1008 Benefits; proof of insurance coverage or ability to pay; documentation.

A rural or suburban fire protection district, airport authority, city, village, or nonprofit corporation, if it provides benefits pursuant to subsections (1) and (2) of section 35-1005, shall maintain proof of insurance coverage that meets the requirements of the Firefighter Cancer Benefits Act or shall maintain satisfactory proof of the ability to pay such compensation to ensure adequate coverage for all firefighters. Sufficient documentation of satisfactory proof of the ability to pay such compensation to ensure adequate coverage for all firefighters shall be required and shall comply with rules and regulations adopted and promulgated by the State Fire Marshal. Such coverage shall remain in effect until thirty-six months after the rural or suburban fire protection district, airport authority, city, village, or nonprofit corporation no longer has any firefighters who could qualify for benefits under the act.

Source: Laws 2021, LB432, § 7.
Operative date January 1, 2022.

35-1009 Reports; requirements.

(1) Any rural or suburban fire protection district, airport authority, city, village, or nonprofit corporation that has had a firefighter file a claim for or receive cancer benefits under the Firefighter Cancer Benefits Act shall report such claims filed, claims paid, and types of claims to the State Fire Marshal. On or before December 1, 2023, and on or before December 1 of each year thereafter, the State Fire Marshal shall submit electronically an annual report to the Legislature and Governor stating the number of firefighters who have filed claims pursuant to the act and the number of firefighters who have received benefits under the act.

(2) If the firefighters in a fire department are being provided cancer benefits under the Firefighter Cancer Benefits Act, the fire chief of such fire department, or his or her designee, shall submit an annual report to the governing body of the rural or suburban fire protection district, airport authority, city, or village served by such fire department listing the total number of fire suppression incidents occurring during the most recently completed calendar year. Such report shall be submitted on or before February 15, 2023, and on or before February 15 of each year thereafter.

Source: Laws 2021, LB432, § 8.
Operative date January 1, 2022.

35-1010 Rules and regulations.

The State Fire Marshal may adopt and promulgate rules and regulations necessary to carry out the Firefighter Cancer Benefits Act.

Source: Laws 2021, LB432, § 9.
Operative date January 1, 2022.

ARTICLE 12
MUTUAL FINANCE ASSISTANCE ACT

Section
35-1206. Distributions from fund; amount; disqualification; when.

35-1206 Distributions from fund; amount; disqualification; when.

(1)(a) Rural and suburban fire protection districts or mutual finance organizations which qualify for assistance under section 35-1205 shall receive ten dollars times the assumed population of the fire protection district or mutual finance organization as calculated in subsection (3) of such section plus the population of any city of the first class that is part of the district or mutual finance organization, not to exceed three hundred thousand dollars for any one district or mutual finance organization;

(b) Each village or city of the second class that is a member of a mutual finance organization which qualifies for assistance under section 35-1205 shall receive ten thousand dollars; and

(c) Each rural or suburban fire protection district which qualifies for assistance under section 35-1205 shall receive ten thousand dollars, regardless of whether such district is a member in a mutual finance organization which qualifies for assistance under section 35-1205.

(2) If the district or mutual finance organization is located in more than one county and meets the threshold for qualification in subsection (1) or (2) of section 35-1205 in one of such counties, the district or mutual finance organiza-

tion shall receive assistance under this section for all of its assumed population, including that which is assumed population in counties for which the threshold is not reached by the district or mutual finance organization.

(3) If a mutual finance organization qualifies for assistance under this section and one or more rural or suburban fire protection districts or cities or villages fail to levy a tax rate that complies with subsection (1) of section 35-1204, as required under the mutual finance organization agreement, the mutual finance organization shall be disqualified for assistance in the following year and each subsequent year until the year following any year for which all districts and cities and villages in the mutual finance organization levy a tax rate that complies with subsection (1) of section 35-1204, as required by a mutual finance organization agreement.

Source: Laws 1998, LB 1120, § 6; Laws 1999, LB 141, § 8; Laws 2019, LB63, § 4; Laws 2021, LB664, § 1.
Effective date August 28, 2021.

Note: The Revisor of Statutes, as authorized by section 49-705(1)(g), has corrected a manifest clerical error in Laws 2021, LB664, section 1, by changing two references to section 32-1205 which should have been section 35-1205 in subdivision (1)(c) of section 35-1206.

CHAPTER 37
GAME AND PARKS

Article.
1. Game and Parks Commission. 37-111, 37-112.
2. Game Law General Provisions. 37-201.
3. Commission Powers and Duties.
   (b) Funds. 37-327.02.
4. Permits and Licenses.
   (a) General Permits. 37-438.
   (b) Special Permits and Licenses. 37-448 to 37-456.01.
12. State Boat Act. 37-1285.01.

ARTICLE 1
GAME AND PARKS COMMISSION

Section
37-111. Water safety education; grants; powers and duties.
37-112. Josh the Otter-Be Safe Around Water Cash Fund; created; use; investment.

37-111 Water safety education; grants; powers and duties.

The Game and Parks Commission shall create a program for the purpose of providing financial support for the education of persons about water safety in general and specifically for the education of children about staying away from water unless accompanied by an adult. The commission shall use the Josh the Otter-Be Safe Around Water Cash Fund to award grants to nonprofit organizations that are dedicated to educating children about water safety. The grants shall be used by the recipient organization to support educating persons about water safety in general and specifically for the education of children about water safety.

Source: Laws 2021, LB166, § 9.
Effective date August 28, 2021.

37-112 Josh the Otter-Be Safe Around Water Cash Fund; created; use; investment.

The Josh the Otter-Be Safe Around Water Cash Fund is created for the purpose of funding the program set forth in section 37-111. The fund shall consist of any money credited to the fund pursuant to section 60-3,258. The fund may also receive gifts, bequests, grants, or other contributions or donations from public or private entities. The state investment officer shall invest any money in the fund available for investment pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2021, LB166, § 10.
Effective date August 28, 2021.

Cross References

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

ARTICLE 2
GAME LAW GENERAL PROVISIONS

Section
37-201. Law, how cited.

37-201 Law, how cited.

Sections 37-201 to 37-811 and 37-1501 to 37-1510 and the State Park System Construction Alternatives Act shall be known and may be cited as the Game Law.

Source: Laws 1929, c. 112, I, § 2, p. 408; C.S.1929, § 37-102; R.S.1943, § 37-102; Laws 1989, LB 34, § 2; Laws 1989, LB 251, § 1; Laws 1991, LB 403, § 2; Laws 1993, LB 830, § 7; Laws 1994, LB 1088, § 2; Laws 1994, LB 1165, § 6; Laws 1995, LB 274, § 1; Laws 1996, LB 923, § 2; Laws 1997, LB 19, § 2; R.S.Supp.,1997, § 37-102; Laws 1998, LB 922, § 11; Laws 1999, LB 176, § 2; Laws 2000, LB 788, § 2; Laws 2002, LB 1003, § 14; Laws 2003, LB 305, § 1; Laws 2004, LB 826, § 1; Laws 2005, LB 121, § 2; Laws 2005, LB 162, § 1; Laws 2007, LB504, § 1; Laws 2009, LB105, § 2; Laws 2010, LB743, § 3; Laws 2010, LB836, § 1; Laws 2012, LB391, § 1; Laws 2012, LB928, § 1; Laws 2014, LB699, § 1; Laws 2014, LB814, § 1; Laws 2015, LB142, § 1; Laws 2016, LB474, § 1; Laws 2018, LB775, § 1; Laws 2019, LB374, § 1; Laws 2020, LB287, § 1; Laws 2021, LB507, § 1. Effective date May 6, 2021.

Cross References

State Park System Construction Alternatives Act, see section 37-1701.

ARTICLE 3
COMMISSION POWERS AND DUTIES

(b) FUNDS

Section
37-327.02. Game and Parks Commission Capital Maintenance Fund; created; use; investment; projects; report.

(b) FUNDS

37-327.02 Game and Parks Commission Capital Maintenance Fund; created; use; investment; projects; report.

(1) The Game and Parks Commission Capital Maintenance Fund is created. The fund shall consist of money credited to the fund pursuant to section 77-27,132, transfers authorized by the Legislature, and any gifts, grants, bequests, or donations to the fund. The fund shall be administered by the commission and shall be used to build, repair, renovate, rehabilitate, restore, modify, or improve any infrastructure within the statutory authority and administration of the commission. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) On or before December 1, 2021, and on or before December 1 of each year thereafter through 2027, the commission shall electronically submit a

report to the Clerk of the Legislature and the Revenue Committee of the Legislature. The report shall include (a) a list of each project that received funding from the Game and Parks Commission Capital Maintenance Fund under subsection (1) of this section during the most recently completed fiscal year and (b) a list of projects that will receive such funding during the current fiscal year.

(3) Transfers may be made from the Game and Parks Commission Capital Maintenance Fund to the General Fund at the direction of the Legislature through June 30, 2019. The State Treasurer shall transfer four million five hundred thousand dollars from the Game and Parks Commission Capital Maintenance Fund to the General Fund between June 1, 2018, and June 30, 2018, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services. The State Treasurer shall transfer eight million five hundred thousand dollars from the Game and Parks Commission Capital Maintenance Fund to the General Fund between June 1, 2019, and June 30, 2019, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services.

Source: Laws 2014, LB814, § 2; Laws 2017, LB331, § 22; Laws 2018, LB945, § 10; Laws 2021, LB595, § 1.
Operative date August 28, 2021.

Cross References

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

ARTICLE 4
PERMITS AND LICENSES

(a) GENERAL PERMITS

Section
37-438. Annual, temporary, and disabled veteran permits; fees.

(b) SPECIAL PERMITS AND LICENSES

37-448. Special deer, antelope, and elk depredation season; extension of existing hunting season; permit; issuance; fees.
37-456. Limited antelope or elk permit; issuance; limitation.
37-456.01. Free-earned landowner elk permit; issuance; conditions.

(a) GENERAL PERMITS

37-438 Annual, temporary, and disabled veteran permits; fees.

(1) The commission shall devise annual, temporary, and disabled veteran permits.

(2) The annual permit may be purchased by any person and shall be valid through December 31 in the year for which the permit is issued. The fee for the annual permit for a resident motor vehicle shall be not more than thirty-five dollars per permit. The fee for the annual permit for a nonresident motor vehicle shall be two times the fee for a resident motor vehicle or sixty dollars, whichever is greater. The commission shall establish such fees by the adoption and promulgation of rules and regulations.

(3) A temporary permit may be purchased by any person and shall be valid until noon of the day following the date of issue. The fee for the temporary

permit for a resident motor vehicle shall be not more than seven dollars. The fee for the temporary permit for a nonresident motor vehicle shall be two times the fee for a resident motor vehicle or twelve dollars, whichever is greater. The commission shall establish such fees by the adoption and promulgation of rules and regulations. The commission may issue temporary permits which are either valid for any area or valid for a single area.

(4)(a) A veteran who is a resident of Nebraska shall, upon application and without payment of any fee, be issued one disabled veteran permit for a resident motor vehicle if the veteran:

(i) Was discharged or separated with a characterization of honorable or general (under honorable conditions); and

(ii)(A) Is rated by the United States Department of Veterans Affairs as fifty percent or more disabled as a result of service in the armed forces of the United States; or

(B) Is receiving a pension from the United States Department of Veterans Affairs as a result of total and permanent disability, which disability was not incurred in the line of duty in the military service.

(b) All disabled veteran permits issued pursuant to this subsection shall be perpetual and shall become void only upon termination of eligibility as provided in this subsection.

(c) The commission may adopt and promulgate rules and regulations necessary to carry out this subsection.

(5) The commission may offer permits or combinations of permits at temporarily reduced rates for specific events or during specified timeframes.

Source: Laws 1977, LB 81, § 5; Laws 1978, LB 742, § 7; Laws 1980, LB 723, § 3; Laws 1981, LB 74, § 1; Laws 1983, LB 199, § 1; Laws 1993, LB 235, § 32; R.S.1943, (1993), § 37-1105; Laws 1998, LB 922, § 148; Laws 1999, LB 176, § 35; Laws 2003, LB 122, § 1; Laws 2005, LB 162, § 14; Laws 2008, LB1162, § 3; Laws 2011, LB421, § 1; Laws 2016, LB745, § 10; Laws 2020, LB287, § 10; Laws 2020, LB770, § 1; Laws 2021, LB336, § 1.
Effective date August 28, 2021.

(b) SPECIAL PERMITS AND LICENSES

37-448 Special deer, antelope, and elk depredation season; extension of existing hunting season; permit; issuance; fees.

(1) Subject to rules and regulations adopted and promulgated by the commission, the secretary of the commission may designate, by order, special deer, antelope, and elk depredation seasons or extensions of existing hunting seasons. The secretary may designate a depredation season or an extension of an existing hunting season whenever he or she determines that deer, antelope, or elk are causing excessive property damage. The secretary shall specify the number of permits to be issued, the species, sex, and number or quota of animals allowed to be taken, the bag limit for such species, the beginning and ending dates for the depredation season or hunting season extension, shooting hours, the length of the depredation season or hunting season extension, and the geographic area in which hunting will be permitted. The rules and regulations shall allow use of any weapon permissible for use during the regular deer, antelope, or elk season.

(2) The depredation season may commence not less than five days after the first public announcement that the depredation season has been established. Permits shall be issued in an impartial manner at a location determined by the secretary. The commission shall, pursuant to section 37-327, establish and charge a fee of not more than twenty-five dollars for a resident special depredation season permit and a fee of not more than seventy-five dollars for a nonresident special depredation season permit. The commission shall, pursuant to section 37-327, establish and charge a fee of not more than ten dollars for a landowner special depredation season permit for the taking of deer and antelope for any person owning or operating at least twenty acres of farm or ranch land within the geographic area in which hunting will be permitted and to any member of the immediate family of any such person as defined in subdivision (2)(a) of section 37-455, and for the taking of elk for any person owning or operating at least eighty acres of farm or ranch land within the geographic area in which hunting will be permitted and to any member of the immediate family of such person as defined in subdivision (2)(a) of section 37-455. A special depredation season permit shall be valid only within such area and only during the designated depredation season. The commission shall use the income from the sale of special depredation season permits for abatement of damage caused by deer, antelope, and elk. Receipt of a depredation season permit shall not in any way affect a person's eligibility for a permit issued under section 37-447, 37-449, 37-450, or 37-455.

Source: Laws 1998, LB 922, § 158; Laws 2008, LB1162, § 4; Laws 2010, LB836, § 2; Laws 2012, LB928, § 3; Laws 2013, LB499, § 6; Laws 2021, LB507, § 2.
Effective date May 6, 2021.

37-456 Limited antelope or elk permit; issuance; limitation.

The issuance of limited antelope permits pursuant to section 37-455 in any management unit shall not exceed seventy-five percent of the regular permits authorized for such antelope management unit. The issuance of limited elk permits pursuant to section 37-455 in any management unit shall not exceed seventy-five percent of the regular permits authorized for such elk management unit.

Source: Laws 1974, LB 865, § 2; Laws 1975, LB 270, § 2; Laws 1985, LB 557, § 7; Laws 1996, LB 584, § 8; R.S.Supp.,1996, § 37-215.08; Laws 1998, LB 922, § 166; Laws 2009, LB105, § 21; Laws 2021, LB507, § 3.
Effective date May 6, 2021.

37-456.01 Free-earned landowner elk permit; issuance; conditions.

(1) The commission may issue one free-earned landowner elk permit for the taking of either sex of elk to any person owning or leasing at least eighty acres of farm or ranch land used for agricultural purposes, or to any member of the immediate family of such person as defined in subdivision (2)(a) of section 37-455, when the qualifying number of antlerless elk have been harvested on such land by hunters with a permit issued under section 37-448 or 37-450. Such permit shall be limited to hunting on the lands owned or leased by the qualifying landowner. Receipt of a free-earned landowner elk permit shall not

in any way affect a person's eligibility for a permit issued under section 37-450 or 37-455.

(2) The commission shall adopt and promulgate rules and regulations prescribing procedures, forms, and requirements for documentation by landowners or lessees as described in subsection (1) of this section to annually report antlerless elk harvested on their property for eligibility, and the number of antlerless elk required to be harvested on such property to qualify for a free-earned landowner elk permit. The number of antlerless elk harvested to qualify shall accumulate each year until such time as a free-earned landowner elk permit is awarded.

Source: Laws 2021, LB507, § 4.
Effective date May 6, 2021.

ARTICLE 12
STATE BOAT ACT

Section
37-1285.01. Electronic certificate of title; changes authorized.

37-1285.01 Electronic certificate of title; changes authorized.

Beginning on the implementation date designated by the Director of Motor Vehicles pursuant to subsection (2) of section 60-1508, if a motorboat certificate of title is an electronic certificate of title record, upon application by an owner or a lienholder and payment of the fee prescribed in section 37-1287, the following changes may be made to a certificate of title electronically and without printing a certificate of title:

(1) Changing the name of an owner to reflect a legal change of name;

(2) Removing the name of an owner with the consent of all owners and lienholders;

(3) Adding an additional owner with the consent of all owners and lienholders; or

(4) Beginning on an implementation date designated by the director on or before January 1, 2022, adding, changing, or removing a transfer-on-death beneficiary designation.

Source: Laws 2017, LB263, § 3; Laws 2018, LB909, § 5; Laws 2021, LB113, § 1.
Operative date August 28, 2021.

CHAPTER 38
HEALTH OCCUPATIONS AND PROFESSIONS

Article.
1. Uniform Credentialing Act. 38-101 to 38-1,146.
3. Alcohol and Drug Counseling Practice Act. 38-316.
5. Audiology and Speech-Language Pathology Practice Act. 38-513 to 38-520.
10. Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act. 38-10,109.
11. Dentistry Practice Act. 38-1124.
15. Hearing Instrument Specialists Practice Act. 38-1509.
18. Medical Nutrition Therapy Practice Act. 38-1813.
26. Optometry Practice Act. 38-2613, 38-2616.
28. Pharmacy Practice Act. 38-2870, 38-2891.
31. Psychology Practice Act. 38-3106.
41. Audiology and Speech-Language Pathology Interstate Compact. 38-4101.

ARTICLE 1
UNIFORM CREDENTIALING ACT

Section
38-101. Act, how cited.
38-108. Board, defined; no board established by statute; effect.
38-121. Practices; credential required.
38-129.01. Temporary credential to military spouse; issuance; period valid.
38-129.02. Credential; additional method of issuance based on reciprocity; eligibility; requirements; applicability.
38-151. Credentialing system; administrative costs; how paid; patient safety fee.
38-155. Credentialing fees; establishment and collection.
38-157. Professional and Occupational Credentialing Cash Fund; created; use; investment.
38-158. Boards; appointment; vacancy.
38-167. Boards; designated; change in name; effect.
38-170. Board; business; how transacted.
38-179. Disciplinary actions; unprofessional conduct, defined.
38-1,107. Violations; department; Attorney General; powers and duties; applicability of section.
38-1,115. Prima facie evidence of practice without being credentialed; conditions.
38-1,119. Certain professions and businesses; sections applicable; initial credential; renewal of credential; denial or refusal to renew; department; powers.
38-1,143. Telehealth; provider-patient relationship; prescription authority; applicability of section.
38-1,146. Prescription; issuance; requirements; applicability.

38-101 Act, how cited.

Sections 38-101 to 38-1,146 and the following practice acts shall be known and may be cited as the Uniform Credentialing Act:

(1) The Advanced Practice Registered Nurse Practice Act;

(2) The Alcohol and Drug Counseling Practice Act;

(3) The Athletic Training Practice Act;

(4) The Audiology and Speech-Language Pathology Practice Act;

(5) The Certified Nurse Midwifery Practice Act;

(6) The Certified Registered Nurse Anesthetist Practice Act;

(7) The Chiropractic Practice Act;

(8) The Clinical Nurse Specialist Practice Act;

(9) The Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act;

(10) The Dentistry Practice Act;

(11) The Dialysis Patient Care Technician Registration Act;

(12) The Emergency Medical Services Practice Act;

(13) The Environmental Health Specialists Practice Act;

(14) The Funeral Directing and Embalming Practice Act;

(15) The Genetic Counseling Practice Act;

(16) The Hearing Instrument Specialists Practice Act;

(17) The Licensed Practical Nurse-Certified Practice Act until November 1, 2017;

(18) The Massage Therapy Practice Act;

(19) The Medical Nutrition Therapy Practice Act;

(20) The Medical Radiography Practice Act;

(21) The Medicine and Surgery Practice Act;

(22) The Mental Health Practice Act;

(23) The Nurse Practice Act;

(24) The Nurse Practitioner Practice Act;

(25) The Nursing Home Administrator Practice Act;

(26) The Occupational Therapy Practice Act;

(27) The Optometry Practice Act;

(28) The Perfusion Practice Act;

(29) The Pharmacy Practice Act;

(30) The Physical Therapy Practice Act;

(31) The Podiatry Practice Act;

(32) The Psychology Practice Act;

(33) The Respiratory Care Practice Act;

(34) The Surgical First Assistant Practice Act; and

(35) The Veterinary Medicine and Surgery Practice Act.

If there is any conflict between any provision of sections 38-101 to 38-1,146 and any provision of a practice act, the provision of the practice act shall prevail except as otherwise specifically provided in section 38-129.02.

Source: Laws 1927, c. 167, § 1, p. 454; C.S.1929, § 71-101; R.S.1943, § 71-101; Laws 1972, LB 1067, § 1; Laws 1984, LB 481, § 5; Laws 1986, LB 277, § 2; Laws 1986, LB 286, § 23; Laws 1986, LB 355, § 8; Laws 1986, LB 579, § 15; Laws 1986, LB 926, § 1; Laws 1987, LB 473, § 3; Laws 1988, LB 557, § 12; Laws 1988, LB 1100, § 4; Laws 1989, LB 323, § 2; Laws 1989, LB 344, § 4; Laws 1991, LB 456, § 4; Laws 1993, LB 48, § 1; Laws 1993, LB 187, § 3; Laws 1993, LB 429, § 1; Laws 1993, LB 536, § 43; Laws 1993, LB 669, § 2; Laws 1994, LB 900, § 1; Laws 1994, LB

1210, § 9; Laws 1994, LB 1223, § 2; Laws 1995, LB 406, § 10; Laws 1996, LB 1044, § 371; Laws 1997, LB 622, § 77; Laws 1999, LB 178, § 1; Laws 1999, LB 366, § 7; Laws 1999, LB 828, § 7; Laws 2001, LB 25, § 1; Laws 2001, LB 209, § 1; Laws 2001, LB 270, § 1; Laws 2001, LB 398, § 19; Laws 2002, LB 1021, § 4; Laws 2002, LB 1062, § 11; Laws 2003, LB 242, § 13; Laws 2004, LB 1005, § 8; Laws 2004, LB 1083, § 103; Laws 2005, LB 306, § 1; Laws 2006, LB 994, § 79; R.S.Supp.,2006, § 71-101; Laws 2007, LB236, § 1; Laws 2007, LB247, § 23; Laws 2007, LB247, § 58; Laws 2007, LB296, § 296; Laws 2007, LB463, § 1; Laws 2007, LB481, § 1; Laws 2008, LB928, § 2; Laws 2009, LB195, § 5; Laws 2012, LB831, § 26; Laws 2015, LB264, § 1; Laws 2016, LB721, § 18; Laws 2016, LB750, § 1; Laws 2017, LB88, § 28; Laws 2017, LB255, § 8; Laws 2017, LB417, § 3; Laws 2018, LB701, § 1; Laws 2019, LB29, § 1; Laws 2019, LB112, § 1; Laws 2019, LB556, § 1; Laws 2021, LB148, § 41; Laws 2021, LB390, § 1; Laws 2021, LB583, § 3.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB148, section 41, with LB390, section 1, and LB583, section 3, to reflect all amendments.

Note: Changes made by LB148 became operative July 1, 2021. Changes made by LB390 became effective August 28, 2021. Changes made by LB583 became operative January 1, 2022.

Cross References

Advanced Practice Registered Nurse Practice Act, see section 38-201.
Alcohol and Drug Counseling Practice Act, see section 38-301.
Athletic Training Practice Act, see section 38-401.
Audiology and Speech-Language Pathology Practice Act, see section 38-501.
Certified Nurse Midwifery Practice Act, see section 38-601.
Certified Registered Nurse Anesthetist Practice Act, see section 38-701.
Chiropractic Practice Act, see section 38-801.
Clinical Nurse Specialist Practice Act, see section 38-901.
Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act, see section 38-1001.
Dentistry Practice Act, see section 38-1101.
Dialysis Patient Care Technician Registration Act, see section 38-3701.
Emergency Medical Services Practice Act, see section 38-1201.
Environmental Health Specialists Practice Act, see section 38-1301.
Funeral Directing and Embalming Practice Act, see section 38-1401.
Genetic Counseling Practice Act, see section 38-3401.
Hearing Instrument Specialists Practice Act, see section 38-1501.
Licensed Practical Nurse-Certified Practice Act, see section 38-1601.
Massage Therapy Practice Act, see section 38-1701.
Medical Nutrition Therapy Practice Act, see section 38-1801.
Medical Radiography Practice Act, see section 38-1901.
Medicine and Surgery Practice Act, see section 38-2001.
Mental Health Practice Act, see section 38-2101.
Nurse Practice Act, see section 38-2201.
Nurse Practitioner Practice Act, see section 38-2301.
Nursing Home Administrator Practice Act, see section 38-2401.
Occupational Therapy Practice Act, see section 38-2501.
Optometry Practice Act, see section 38-2601.
Perfusion Practice Act, see section 38-2701.
Pharmacy Practice Act, see section 38-2801.
Physical Therapy Practice Act, see section 38-2901.
Podiatry Practice Act, see section 38-3001.
Psychology Practice Act, see section 38-3101.
Respiratory Care Practice Act, see section 38-3201.
Surgical First Assistant Practice Act, see section 38-3501.
Veterinary Medicine and Surgery Practice Act, see section 38-3301.

38-108 Board, defined; no board established by statute; effect.

Board means one of the boards appointed by the State Board of Health pursuant to section 38-158 or appointed by the Governor pursuant to the Emergency Medical Services Practice Act. For professions for which there is no

board established by statute, the duties normally carried out by a board are the responsibility of the department.

Source: Laws 2007, LB463, § 8; Laws 2021, LB148, § 42.
Operative date July 1, 2021.

Cross References

Emergency Medical Services Practice Act, see section 38-1201.

38-121 Practices; credential required.

(1) No individual shall engage in the following practices unless such individual has obtained a credential under the Uniform Credentialing Act:

(a) Acupuncture;

(b) Advanced practice nursing;

(c) Alcohol and drug counseling;

(d) Asbestos abatement, inspection, project design, and training;

(e) Athletic training;

(f) Audiology;

(g) Speech-language pathology;

(h) Body art;

(i) Chiropractic;

(j) Cosmetology;

(k) Dentistry;

(l) Dental hygiene;

(m) Electrology;

(n) Emergency medical services;

(o) Esthetics;

(p) Funeral directing and embalming;

(q) Genetic counseling;

(r) Hearing instrument dispensing and fitting;

(s) Lead-based paint abatement, inspection, project design, and training;

(t) Licensed practical nurse-certified until November 1, 2017;

(u) Massage therapy;

(v) Medical nutrition therapy;

(w) Medical radiography;

(x) Medicine and surgery;

(y) Mental health practice;

(z) Nail technology;

(aa) Nursing;

(bb) Nursing home administration;

(cc) Occupational therapy;

(dd) Optometry;

(ee) Osteopathy;

(ff) Perfusion;

(gg) Pharmacy;

(hh) Physical therapy;

(ii) Podiatry;

(jj) Psychology;

(kk) Radon detection, measurement, and mitigation;

(ll) Respiratory care;

(mm) Surgical assisting; and

(nn) Veterinary medicine and surgery.

(2) No individual shall hold himself or herself out as any of the following until such individual has obtained a credential under the Uniform Credentialing Act for that purpose:

(a) Registered environmental health specialist;

(b) Certified marriage and family therapist;

(c) Certified professional counselor;

(d) Social worker; or

(e) Dialysis patient care technician.

(3) No business shall operate for the provision of any of the following services unless such business has obtained a credential under the Uniform Credentialing Act:

(a) Body art;

(b) Cosmetology;

(c) Emergency medical services;

(d) Esthetics;

(e) Funeral directing and embalming;

(f) Massage therapy; or

(g) Nail technology.

Source: Laws 1927, c. 167, § 2, p. 455; C.S.1929, § 71-201; Laws 1935, c. 142, § 27, p. 529; C.S.Supp.,1941, § 71-201; R.S.1943, § 71-102; Laws 1957, c. 298, § 5, p. 1076; Laws 1961, c. 337, § 3, p. 1051; Laws 1971, LB 587, § 1; Laws 1978, LB 406, § 1; Laws 1980, LB 94, § 2; Laws 1984, LB 481, § 6; Laws 1985, LB 129, § 1; Laws 1986, LB 277, § 3; Laws 1986, LB 286, § 24; Laws 1986, LB 355, § 9; Laws 1986, LB 579, § 16; Laws 1988, LB 557, § 13; Laws 1988, LB 1100, § 5; Laws 1989, LB 342, § 4; Laws 1993, LB 669, § 3; Laws 1995, LB 406, § 11; Laws 1996, LB 1044, § 372; Laws 2001, LB 270, § 2; Laws 2004, LB 1083, § 104; R.S.Supp.,2006, § 71-102; Laws 2007, LB236, § 2; Laws 2007, LB247, § 59; Laws 2007, LB296, § 297; Laws 2007, LB463, § 21; Laws 2009, LB195, § 6; Laws 2012, LB831, § 27; Laws 2016, LB721, § 19; Laws 2017, LB88, § 31; Laws 2017, LB255, § 9; Laws 2021, LB148, § 43.
Operative date July 1, 2021.

38-129.01 Temporary credential to military spouse; issuance; period valid.

(1) The department, with the recommendation of the appropriate board, shall issue a temporary credential to a military spouse who complies with and meets

the requirements of this section pending issuance of the applicable credential under the Uniform Credentialing Act. This section shall not apply to a license to practice dentistry, including a temporary license under section 38-1123.

(2) A military spouse shall submit the following with his or her application for the applicable credential:

(a) A copy of his or her military dependent identification card which identifies him or her as the spouse of an active duty member of the United States Armed Forces;

(b) A copy of his or her spouse's military orders reflecting an active-duty assignment in Nebraska;

(c) A copy of his or her credential from another jurisdiction and the applicable statutes, rules, and regulations governing the credential; and

(d) A copy of his or her fingerprints for a criminal background check if required under section 38-131.

(3) If the department, with the recommendation of the appropriate board, determines that the applicant is the spouse of an active duty member of the United States Armed Forces who is assigned to a duty station in Nebraska, holds a valid credential in another jurisdiction which has similar standards for the profession to the Uniform Credentialing Act and the rules and regulations adopted and promulgated under the act, and has submitted fingerprints for a criminal background check if required under section 38-131, the department shall issue a temporary credential to the applicant. The applicant shall not be required to pay any fees pursuant to the Uniform Credentialing Act for the temporary credential or the initial regular credential except the actual cost of the fingerprinting and criminal background check for an initial license under section 38-131.

(4) A temporary credential issued under this section shall be valid until the application for the regular credential is approved or rejected, not to exceed one year.

Source: Laws 2017, LB88, § 33; Laws 2019, LB112, § 7; Laws 2021, LB390, § 2.
Effective date August 28, 2021.

38-129.02 Credential; additional method of issuance based on reciprocity; eligibility; requirements; applicability.

(1) This section provides an additional method of issuing a credential based on reciprocity and is supplemental to the methods of credentialing found in the various practice acts within the Uniform Credentialing Act. Any person required to be credentialed under any of the various practice acts who meets the requirements of this section shall be issued a credential subject to the provisions of this section.

(2) A person who has a credential that is current and valid in another state, a territory of the United States, or the District of Columbia may apply to the department for the equivalent credential under the Uniform Credentialing Act. The department, with the recommendation of the board with jurisdiction over the equivalent credential, shall determine the appropriate level of credential for which the applicant qualifies under this section. The department shall determine the documentation required to comply with subsection (3) of this section. The department shall issue the credential if the applicant meets the require-

ments of subsections (3) and (4) of this section and section 38-129 and submits the appropriate fees for issuance of the credential, including fees for a criminal background check if required for the profession. A credential issued under this section shall not be valid for purposes of an interstate compact or for reciprocity provisions of any practice act under the Uniform Credentialing Act.

(3) The applicant shall provide documentation of the following:

(a) The credential held in the other state, territory, or District of Columbia, the level of such credential, and the profession for which credentialed;

(b) Such credential is valid and current and has been valid for at least one year;

(c) Educational requirements;

(d) The minimum work experience and clinical supervision requirements, if any, required for such credential and verification of the applicant's completion of such requirements;

(e) The passage of an examination for such credential if such passage is required to obtain the credential in the other jurisdiction;

(f) Such credential is not and has not been subject to revocation or any other disciplinary action or voluntarily surrendered while the applicant was under investigation for unprofessional conduct or any other conduct which would be subject to section 38-178 if the conduct occurred in Nebraska;

(g) Such credential has not been subject to disciplinary action. If another jurisdiction has taken disciplinary action against the applicant on any credential the applicant has held, the appropriate board under the Uniform Credentialing Act shall determine if the cause for the disciplinary action was corrected and the matter resolved. If the matter has not been resolved, the applicant is not eligible for a credential under this section until the matter is resolved; and

(h) Receipt of a passing score on a credentialing examination specific to the laws of Nebraska if required by the appropriate board under the Uniform Credentialing Act.

(4) An applicant who obtains a credential upon compliance with subsections (2) and (3) of this section shall establish residency in Nebraska within one hundred eighty days after the issuance of the credential and shall provide proof of residency in a manner and within the time period required by the department. The department shall automatically revoke the credential of any credential holder who fails to comply with this subsection.

(5) In addition to failure to submit the required documentation in subsection (3) of this section, an applicant shall not be eligible for a credential under this section if:

(a) The applicant had a credential revoked, subject to any other disciplinary action, or voluntarily surrendered due to an investigation in any jurisdiction for unprofessional conduct or any other conduct which would be subject to section 38-178 if the conduct occurred in Nebraska;

(b) The applicant has a complaint, allegation, or investigation pending before any jurisdiction that relates to unprofessional conduct or any other conduct which would be subject to section 38-178 if the conduct occurred in Nebraska. If the matter has not been resolved, the applicant is not eligible for a credential under this section until the matter is resolved; or

(c) The person has a disqualifying criminal history as determined by the appropriate board pursuant to the Uniform Credentialing Act and rules and regulations adopted and promulgated under the act.

(6) A person who holds a credential under this section shall be subject to the Uniform Credentialing Act and other laws of this state relating to the person's practice under the credential and shall be subject to the jurisdiction of the appropriate board.

(7) This section applies to credentials for:

(a) Professions governed by the Advanced Practice Registered Nurse Practice Act, the Certified Nurse Midwifery Practice Act, the Certified Registered Nurse Anesthetist Practice Act, the Clinical Nurse Specialist Practice Act, the Dentistry Practice Act, the Dialysis Patient Care Technician Registration Act, the Emergency Medical Services Practice Act, the Medical Nutrition Therapy Practice Act, the Medical Radiography Practice Act, the Nurse Practitioner Practice Act, the Optometry Practice Act, the Perfusion Practice Act, the Pharmacy Practice Act, the Psychology Practice Act, and the Surgical First Assistant Practice Act; and

(b) Physician assistants and acupuncturists credentialed pursuant to the Medicine and Surgery Practice Act.

Source: Laws 2021, LB390, § 3.
Effective date August 28, 2021.

Cross References

Advanced Practice Registered Nurse Practice Act, see section 38-201.
Certified Nurse Midwifery Practice Act, see section 38-601.
Certified Registered Nurse Anesthetist Practice Act, see section 38-701.
Clinical Nurse Specialist Practice Act, see section 38-901.
Dentistry Practice Act, see section 38-1101.
Dialysis Patient Care Technician Registration Act, see section 38-3701.
Emergency Medical Services Practice Act, see section 38-1201.
Medical Nutrition Therapy Practice Act, see section 38-1801.
Medical Radiography Practice Act, see section 38-1901.
Medicine and Surgery Practice Act, see section 38-2001.
Nurse Practitioner Practice Act, see section 38-2301.
Optometry Practice Act, see section 38-2601.
Perfusion Practice Act, see section 38-2701.
Pharmacy Practice Act, see section 38-2801.
Psychology Practice Act, see section 38-3101.
Surgical First Assistant Practice Act, see section 38-3501.

38-151 Credentialing system; administrative costs; how paid; patient safety fee.

(1) It is the intent of the Legislature that the revenue to cover the cost of the credentialing system administered by the department is to be derived from General Funds, cash funds, federal funds, gifts, grants, or fees from individuals or businesses seeking credentials except as otherwise provided in section 38-155. The credentialing system includes the totality of the credentialing infrastructure and the process of issuance and renewal of credentials, examinations, inspections, investigations, continuing competency, compliance assurance, the periodic review under section 38-128, and the activities conducted under the Nebraska Regulation of Health Professions Act, for individuals and businesses that provide health services, health-related services, and environmental services.

(2) The department shall determine the cost of the credentialing system for such individuals and businesses by calculating the total of the base costs, the variable costs, and any adjustments as provided in sections 38-152 to 38-154.

(3) When fees are to be established pursuant to section 38-155 for individuals or businesses, the department, with the recommendation of the appropriate board if applicable, shall base the fees on the cost of the credentialing system and shall include usual and customary cost increases, a reasonable reserve, and the cost of any new or additional credentialing activities. All such fees shall be used as provided in section 38-157.

(4) In addition to the fees established under section 38-155, each applicant for the initial issuance and renewal of a credential to practice as a physician or an osteopathic physician under the Medicine and Surgery Practice Act shall pay a patient safety fee of fifty dollars and to practice as a physician assistant under the Medicine and Surgery Practice Act shall pay a patient safety fee of twenty dollars, which fee shall be collected biennially with the initial or renewal fee for the credential. Revenue from such fee shall be remitted to the State Treasurer for credit to the Patient Safety Cash Fund. The patient safety fee shall terminate on January 1, 2026, unless extended by the Legislature.

Source: Laws 1927, c. 167, § 61, p. 469; C.S.1929, § 71-701; Laws 1935, c. 142, § 34, p. 531; Laws 1937, c. 157, § 1, p. 615; Laws 1941, c. 141, § 1, p. 555; C.S.Supp.,1941, § 71-701; Laws 1943, c. 150, § 16, p. 545; R.S.1943, § 71-162; Laws 1953, c. 238, § 3, p. 825; Laws 1955, c. 270, § 2, p. 850; Laws 1957, c. 292, § 1, p. 1048; Laws 1957, c. 298, § 12, p. 1080; Laws 1959, c. 318, § 2, p. 1166; Laws 1961, c. 337, § 8, p. 1054; Laws 1963, c. 409, § 1, p. 1314; Laws 1965, c. 412, § 1, p. 1319; Laws 1967, c. 438, § 4, p. 1350; Laws 1967, c. 439, § 17, p. 1364; Laws 1969, c. 560, § 6, p. 2281; Laws 1969, c. 562, § 1, p. 2288; Laws 1971, LB 300, § 1; Laws 1971, LB 587, § 9; Laws 1973, LB 515, § 3; Laws 1975, LB 92, § 1; Laws 1978, LB 689, § 1; Laws 1978, LB 406, § 12; Laws 1979, LB 4, § 6; Laws 1979, LB 428, § 3; Laws 1981, LB 451, § 8; Laws 1982, LB 263, § 1; Laws 1982, LB 448, § 2; Laws 1982, LB 449, § 2; Laws 1982, LB 450, § 2; Laws 1984, LB 481, § 22; Laws 1985, LB 129, § 12; Laws 1986, LB 277, § 8; Laws 1986, LB 286, § 72; Laws 1986, LB 579, § 64; Laws 1986, LB 926, § 36; Laws 1986, LB 355, § 14; Laws 1987, LB 473, § 18; Laws 1988, LB 1100, § 26; Laws 1988, LB 557, § 20; Laws 1989, LB 342, § 12; Laws 1990, LB 1064, § 9; Laws 1991, LB 703, § 17; Laws 1992, LB 1019, § 39; Laws 1993, LB 187, § 7; Laws 1993, LB 669, § 12; Laws 1994, LB 1210, § 46; Laws 1994, LB 1223, § 9; Laws 1995, LB 406, § 18; Laws 1997, LB 622, § 80; Laws 1999, LB 828, § 54; Laws 2001, LB 270, § 7; Laws 2003, LB 242, § 23; Laws 2004, LB 906, § 2; Laws 2004, LB 1005, § 10; Laws 2004, LB 1083, § 113; Laws 2006, LB 994, § 81; R.S.Supp.,2006, § 71-162; Laws 2007, LB236, § 6; Laws 2007, LB283, § 1; Laws 2007, LB463, § 51; Laws 2012, LB834, § 1; Laws 2019, LB25, § 1; Laws 2019, LB112, § 8; Laws 2021, LB148, § 44.
Operative date July 1, 2021.

Cross References

Fees of state boards, see sections 33-151 and 33-152.
Medicine and Surgery Practice Act, see section 38-2001.
Nebraska Regulation of Health Professions Act, see section 71-6201.

38-155 Credentialing fees; establishment and collection.

(1) Subject to subsection (3) of this section, the department, with the recommendation of the appropriate board if applicable, shall adopt and promulgate rules and regulations to establish and collect the fees for the following credentials:

(a) Initial credentials, which include, but are not limited to:

(i) Licensure, certification, or registration;

(ii) Add-on or specialty credentials;

(iii) Temporary, provisional, or training credentials; and

(iv) Supervisory or collaborative relationship credentials;

(b) Applications to renew licenses, certifications, and registrations;

(c) Approval of continuing education courses and other methods of continuing competency; and

(d) Inspections and reinspections.

(2) When a credential will expire within one hundred eighty days after its initial issuance date or its reinstatement date and the initial credentialing or renewal fee is twenty-five dollars or more, the department shall collect twenty-five dollars or one-fourth of the initial credentialing or renewal fee, whichever is greater, for the initial or reinstated credential. The initial or reinstated credential shall be valid until the next subsequent renewal date.

(3) All fees for initial credentials under the Uniform Credentialing Act for low-income individuals, military families, and young workers shall be waived except the actual cost of the fingerprinting and criminal background check for an initial license under section 38-131.

Source: Laws 2003, LB 242, § 27; R.S.1943, (2003), § 71-162.04; Laws 2007, LB463, § 55; Laws 2012, LB773, § 1; Laws 2019, LB112, § 10; Laws 2021, LB148, § 45.
Operative date July 1, 2021.

38-157 Professional and Occupational Credentialing Cash Fund; created; use; investment.

(1) The Professional and Occupational Credentialing Cash Fund is created. Except as provided in section 71-17,113, the fund shall consist of all fees, gifts, grants, and other money, excluding fines and civil penalties, received or collected by the department under sections 38-151 to 38-156 and the Nebraska Regulation of Health Professions Act.

(2) The department shall use the fund for the administration and enforcement of such laws regulating the individuals and businesses listed in section 38-121. Transfers may be made from the fund to the General Fund at the direction of the Legislature. The State Treasurer shall transfer any money in the Professional and Occupational Credentialing Cash Fund for licensing activities under the Water Well Standards and Contractors' Practice Act on July 1, 2021, to the Water Well Standards and Contractors' Licensing Fund.

(3) Any money in the Professional and Occupational Credentialing 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 1927, c. 167, § 62, p. 471; C.S.1929, § 71-702; R.S.1943, § 71-163; Laws 1986, LB 926, § 37; Laws 1988, LB 1100, § 27; Laws 1994, LB 1210, § 47; Laws 2003, LB 242, § 30; Laws 2005, LB 146, § 10; R.S.Supp.,2006, § 71-163; Laws 2007, LB463, § 57; Laws 2009, First Spec. Sess., LB3, § 19; Laws 2012, LB834, § 2; Laws 2021, LB148, § 46.
Operative date July 1, 2021.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.
Nebraska Regulation of Health Professions Act, see section 71-6201.
Nebraska State Funds Investment Act, see section 72-1260.
Water Well Standards and Contractors' Practice Act, see section 46-1201.

38-158 Boards; appointment; vacancy.

(1) The State Board of Health shall appoint members to the boards designated in section 38-167 except the Board of Emergency Medical Services.

(2) Any vacancy in the membership of a board caused by death, resignation, removal, or otherwise shall be filled for the unexpired term in the same manner as original appointments are made.

Source: Laws 1927, c. 167, § 11, p. 457; C.S.1929, § 71-301; R.S.1943, § 71-111; Laws 1979, LB 427, § 4; Laws 1981, LB 451, § 2; Laws 1986, LB 286, § 31; Laws 1986, LB 579, § 23; Laws 1987, LB 473, § 6; Laws 1989, LB 342, § 7; Laws 1994, LB 1210, § 17; Laws 1999, LB 828, § 13; Laws 2001, LB 270, § 4; Laws 2002, LB 1021, § 6; R.S.1943, (2003), § 71-111; Laws 2007, LB463, § 58; Laws 2021, LB148, § 47.
Operative date July 1, 2021.

38-167 Boards; designated; change in name; effect.

(1) Boards shall be designated as follows:

(a) Board of Advanced Practice Registered Nurses;

(b) Board of Alcohol and Drug Counseling;

(c) Board of Athletic Training;

(d) Board of Audiology and Speech-Language Pathology;

(e) Board of Chiropractic;

(f) Board of Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art;

(g) Board of Dentistry;

(h) Board of Emergency Medical Services;

(i) Board of Registered Environmental Health Specialists;

(j) Board of Funeral Directing and Embalming;

(k) Board of Hearing Instrument Specialists;

(l) Board of Massage Therapy;

(m) Board of Medical Nutrition Therapy;

(n) Board of Medical Radiography;

(o) Board of Medicine and Surgery;

(p) Board of Mental Health Practice;

(q) Board of Nursing;

(r) Board of Nursing Home Administration;

(s) Board of Occupational Therapy Practice;

(t) Board of Optometry;

(u) Board of Pharmacy;

(v) Board of Physical Therapy;

(w) Board of Podiatry;

(x) Board of Psychology;

(y) Board of Respiratory Care Practice; and

(z) Board of Veterinary Medicine and Surgery.

(2) Any change made by the Legislature of the names of boards listed in this section shall not change the membership of such boards or affect the validity of any action taken by or the status of any action pending before any of such boards. Any such board newly named by the Legislature shall be the direct and only successor to the board as previously named.

Source: Laws 1927, c. 167, § 12, p. 457; C.S.1929, § 71-302; Laws 1935, c. 142, § 30, p. 530; C.S.Supp.,1941, § 71-302; Laws 1943, c. 150, § 4, p. 540; R.S.1943, § 71-112; Laws 1957, c. 298, § 8, p. 1078; Laws 1961, c. 337, § 6, p. 1053; Laws 1978, LB 406, § 4; Laws 1979, LB 427, § 5; Laws 1981, LB 451, § 3; Laws 1984, LB 481, § 9; Laws 1985, LB 129, § 5; Laws 1986, LB 277, § 5; Laws 1986, LB 286, § 32; Laws 1986, LB 355, § 11; Laws 1986, LB 579, § 24; Laws 1988, LB 557, § 16; Laws 1988, LB 1100, § 8; Laws 1989, LB 342, § 8; Laws 1993, LB 187, § 5; Laws 1993, LB 669, § 6; Laws 1995, LB 406, § 14; Laws 1999, LB 828, § 14; Laws 2000, LB 833, § 1; Laws 2001, LB 270, § 5; Laws 2002, LB 1021, § 7; Laws 2004, LB 1083, § 107; R.S.Supp.,2006, § 71-112; Laws 2007, LB236, § 5; Laws 2007, LB463, § 67; Laws 2009, LB195, § 7; Laws 2021, LB148, § 48.
Operative date July 1, 2021.

38-170 Board; business; how transacted.

The department shall, as far as practicable, provide for the conducting of the business of the boards by mail and may hold meetings by virtual conferencing subject to the Open Meetings Act. Any official action or vote of the members of a board taken by mail shall be preserved in the records of the department and shall be recorded in the board's minutes by the department.

Source: Laws 1927, c. 167, § 21, p. 459; C.S.1929, § 71-311; Laws 1943, c. 150, § 9, p. 541; R.S.1943, § 71-121; Laws 1978, LB 406, § 8; Laws 1979, LB 427, § 11; Laws 1985, LB 129, § 9; Laws 1986, LB 926, § 8; Laws 1988, LB 1100, § 12; Laws 1997, LB 307, § 114; Laws 1999, LB 828, § 25; Laws 2004, LB 821, § 16;

R.S.Supp.,2006, § 71-121; Laws 2007, LB463, § 70; Laws 2021, LB83, § 4.
Effective date April 22, 2021.

Cross References

Open Meetings Act, see section 84-1407.

38-179 Disciplinary actions; unprofessional conduct, defined.

For purposes of section 38-178, unprofessional conduct means any departure from or failure to conform to the standards of acceptable and prevailing practice of a profession or the ethics of the profession, regardless of whether a person, consumer, or entity is injured, or conduct that is likely to deceive or defraud the public or is detrimental to the public interest, including, but not limited to:

(1) Receipt of fees on the assurance that an incurable disease can be permanently cured;

(2) Division of fees, or agreeing to split or divide the fees, received for professional services with any person for bringing or referring a consumer other than (a) with a partner or employee of the applicant or credential holder or his or her office or clinic, (b) with a landlord of the applicant or credential holder pursuant to a written agreement that provides for payment of rent based on gross receipts, or (c) with a former partner or employee of the applicant or credential holder based on a retirement plan or separation agreement;

(3) Obtaining any fee for professional services by fraud, deceit, or misrepresentation, including, but not limited to, falsification of third-party claim documents;

(4) Cheating on or attempting to subvert the credentialing examination;

(5) Assisting in the care or treatment of a consumer without the consent of such consumer or his or her legal representative;

(6) Use of any letters, words, or terms, either as a prefix, affix, or suffix, on stationery, in advertisements, or otherwise, indicating that such person is entitled to practice a profession for which he or she is not credentialed;

(7) Performing, procuring, or aiding and abetting in the performance or procurement of a criminal abortion;

(8) Knowingly disclosing confidential information except as otherwise permitted by law;

(9) Commission of any act of sexual abuse, misconduct, or exploitation related to the practice of the profession of the applicant or credential holder;

(10) Failure to keep and maintain adequate records of treatment or service;

(11) Prescribing, administering, distributing, dispensing, giving, or selling any controlled substance or other drug recognized as addictive or dangerous for other than a medically accepted therapeutic purpose;

(12) Prescribing any controlled substance to (a) oneself or (b) except in the case of a medical emergency (i) one's spouse, (ii) one's child, (iii) one's parent, (iv) one's sibling, or (v) any other person living in the same household as the prescriber;

(13) Failure to comply with any federal, state, or municipal law, ordinance, rule, or regulation that pertains to the applicable profession;

(14) Disruptive behavior, whether verbal or physical, which interferes with consumer care or could reasonably be expected to interfere with such care; and

(15) Such other acts as may be defined in rules and regulations.

Nothing in this section shall be construed to exclude determination of additional conduct that is unprofessional by adjudication in individual contested cases.

Source: Laws 1927, c. 167, § 47, p. 466; C.S.1929, § 71-602; Laws 1935, c. 141, § 1, p. 518; C.S.Supp.,1941, § 71-602; Laws 1943, c. 146, § 11, p. 542; R.S.1943, § 71-148; Laws 1979, LB 95, § 2; Laws 1981, LB 466, § 1; Laws 1986, LB 286, § 46; Laws 1986, LB 579, § 38; Laws 1986, LB 926, § 25; Laws 1987, LB 473, § 16; Laws 1988, LB 273, § 9; Laws 1988, LB 1100, § 17; Laws 1991, LB 425, § 11; Laws 1991, LB 456, § 11; Laws 1993, LB 536, § 45; Laws 1994, LB 1210, § 27; Laws 1997, LB 23, § 5; R.S.1943, (2003), § 71-148; Laws 2007, LB463, § 79; Laws 2021, LB148, § 49.
Operative date July 1, 2021.

38-1,107 Violations; department; Attorney General; powers and duties; applicability of section.

(1) Except as provided in subsection (2) of this section, the department shall provide the Attorney General with a copy of all complaints it receives and advise the Attorney General of investigations it makes which may involve any possible violation of statutes or rules and regulations by a credential holder. The Attorney General shall then determine which, if any, statutes, rules, or regulations the credential holder has violated and the appropriate legal action to take. The Attorney General may (a) elect to file a petition under section 38-186 or not to file a petition, (b) negotiate a voluntary surrender or voluntary limitation pursuant to section 38-1,109, or (c) in cases involving a minor or insubstantial violation, refer the matter to the appropriate board for the opportunity to resolve the matter by recommending to the Attorney General that he or she enter into an assurance of compliance with the credential holder in lieu of filing a petition. An assurance of compliance shall not constitute discipline against a credential holder.

(2) This section does not apply to the following professions or businesses: Asbestos abatement, inspection, project design, and training; lead-based paint abatement, inspection, project design, and training; medical radiography; and radon detection, measurement, and mitigation.

Source: Laws 1984, LB 481, § 2; Laws 1986, LB 286, § 76; Laws 1986, LB 579, § 68; Laws 1991, LB 456, § 25; Laws 1994, LB 1210, § 52; Laws 1999, LB 828, § 58; R.S.1943, (2003), § 71-171.01; Laws 2007, LB463, § 107; Laws 2021, LB148, § 50.
Operative date July 1, 2021.

38-1,115 Prima facie evidence of practice without being credentialed; conditions.

It shall be prima facie evidence of practice without being credentialed when any of the following conditions exist:

(1) The person admits to engaging in practice;

(2) Staffing records or other reports from the employer of the person indicate that the person was engaged in practice;

(3) Billing or payment records document the provision of service, care, or treatment by the person;

(4) Service, care, or treatment records document the provision of service, care, or treatment by the person;

(5) Appointment records indicate that the person was engaged in practice;

(6) Government records indicate that the person was engaged in practice; and

(7) The person opens a business or practice site and announces or advertises that the business or site is open to provide service, care, or treatment.

Source: Laws 2007, LB463, § 115; Laws 2021, LB148, § 51.
Operative date July 1, 2021.

38-1,119 Certain professions and businesses; sections applicable; initial credential; renewal of credential; denial or refusal to renew; department; powers.

(1) Sections 38-1,119 to 38-1,123 apply to the following professions and businesses: Asbestos abatement, inspection, project design, and training; lead-based paint abatement, inspection, project design, and training; medical radiography; and radon detection, measurement, and mitigation.

(2) If an applicant for an initial credential to practice a profession or operate a business does not meet all of the requirements for the credential, the department shall deny issuance of the credential. If an applicant for an initial credential or a credential holder applying for renewal of the credential has committed any of the acts set out in section 38-178 or 38-182, as applicable, the department may deny issuance or refuse renewal of the credential or may issue or renew the credential subject to any of the terms imposed under section 38-196 in order to protect the public.

Source: Laws 2007, LB463, § 119; Laws 2021, LB148, § 52.
Operative date July 1, 2021.

38-1,143 Telehealth; provider-patient relationship; prescription authority; applicability of section.

(1) Except as otherwise provided in subsection (4) of this section, any credential holder under the Uniform Credentialing Act may establish a provider-patient relationship through telehealth.

(2) Any credential holder under the Uniform Credentialing Act who is providing a telehealth service to a patient may prescribe the patient a drug if the credential holder is authorized to prescribe under state and federal law.

(3) The department may adopt and promulgate rules and regulations pursuant to section 38-126 that are consistent with this section.

(4) This section does not apply to a credential holder under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act, the Dialysis Patient Care Technician Registration Act, the Environmental Health Specialists Practice Act, the Funeral Directing and Embalming Practice Act, the Massage Therapy Practice Act, the Medical Radiography Practice Act, the Nursing Home

Administrator Practice Act, the Perfusion Practice Act, the Surgical First Assistant Practice Act, or the Veterinary Medicine and Surgery Practice Act.

Source: Laws 2019, LB29, § 2; Laws 2021, LB148, § 53.
Operative date July 1, 2021.

Cross References

Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act, see section 38-1001.
Dialysis Patient Care Technician Registration Act, see section 38-3701.
Environmental Health Specialists Practice Act, see section 38-1301.
Funeral Directing and Embalming Practice Act, see section 38-1401.
Massage Therapy Practice Act, see section 38-1701.
Medical Radiography Practice Act, see section 38-1901.
Nursing Home Administrator Practice Act, see section 38-2401.
Perfusion Practice Act, see section 38-2701.
Surgical First Assistant Practice Act, see section 38-3501.
Veterinary Medicine and Surgery Practice Act, see section 38-3301.

38-1,146 Prescription; issuance; requirements; applicability.

(1) For purposes of this section, prescriber means a health care practitioner authorized to prescribe controlled substances in the practice for which credentialed under the Uniform Credentialing Act.

(2) Except as otherwise provided in subsection (3) or (6) of this section, no prescriber shall, in this state, issue any prescription as defined in section 38-2840 for a controlled substance as defined in section 28-401 unless such prescription is issued (a) using electronic prescription technology, (b) from the prescriber issuing the prescription to a pharmacy, and (c) in accordance with all requirements of state law and the rules and regulations adopted and promulgated pursuant to such state law.

(3) The requirements of subsection (2) of this section shall not apply to prescriptions:

(a) Issued by veterinarians;

(b) Issued in circumstances where electronic prescribing is not available due to temporary technological or electrical failure;

(c) Issued when the prescriber and the dispenser are the same entity;

(d) Issued that include elements that are not supported by the Prescriber/Pharmacist Interface SCRIPT Standard of the National Council for Prescription Drug Programs as such standard existed on January 1, 2021;

(e) Issued for a drug for which the federal Food and Drug Administration requires the prescription to contain certain elements that are not able to be accomplished with electronic prescribing;

(f) Issued for dispensing a non-patient-specific prescription which is (i) an approved protocol for drug therapy or (ii) in response to a public health emergency;

(g) Issued for a drug for purposes of a research protocol;

(h) Issued under circumstances in which, notwithstanding the prescriber's ability to make an electronic prescription as required by this section, such prescriber reasonably determines (i) that it would be impractical for the patient to obtain substances prescribed by electronic prescription in a timely manner and (ii) that such delay would adversely impact the patient's medical condition; or

(i) Issued for drugs requiring compounding.

(4) A pharmacist who receives a written, oral, or faxed prescription is not required to verify that the prescription falls under one of the exceptions listed in subsection (3) of this section. A pharmacist may continue to dispense medication from any otherwise valid written, oral, or faxed prescription consistent with the law and rules and regulations as they existed prior to January 1, 2022.

(5) A violation of this section shall not be grounds for disciplinary action under the Uniform Credentialing Act.

(6) A dentist shall not be subject to this section until January 1, 2024.

Source: Laws 2021, LB583, § 4.
Operative date January 1, 2022.

ARTICLE 3

ALCOHOL AND DRUG COUNSELING PRACTICE ACT

Section
38-316. Alcohol and drug counselor; license requirements.

38-316 Alcohol and drug counselor; license requirements.

(1) To be licensed to practice as an alcohol and drug counselor, an applicant shall meet the requirements for licensure as a provisional alcohol and drug counselor under section 38-314, shall receive a passing score on an examination approved by the board, and shall have six thousand hours of supervised clinical work experience providing alcohol and drug counseling services to alcohol and other drug clients for remuneration. The experience shall be polydrug counseling experience.

(2) The experience shall include carrying a client caseload as the primary alcohol and drug counselor performing the core functions of assessment, treatment planning, counseling, case management, referral, reports and record keeping, and consultation with other professionals for those clients. The experience shall also include responsibility for performance of the five remaining core functions although these core functions need not be performed by the applicant with each client in their caseload.

(3) Experience that shall not count towards licensure shall include, but not be limited to:

(a) Providing services to individuals who do not have a diagnosis of alcohol and drug abuse or dependence such as prevention, intervention, and codependency services or other mental health disorder counseling services, except that this shall not exclude counseling services provided to a client's significant others when provided in the context of treatment for the diagnosed alcohol or drug client; and

(b) Providing services when the experience does not include primary case responsibility for alcohol or drug treatment or does not include responsibility for the performance of all of the core functions.

(4) The maximum number of hours of experience that may be accrued are forty hours per week or two thousand hours per year.

(5)(a) A postsecondary educational degree may be substituted for part of the supervised clinical work experience. The degree shall be from an accredited postsecondary educational institution or the educational program.

(b) An associate's degree in addictions or chemical dependency may be substituted for one thousand hours of supervised clinical work experience.

(c) A bachelor's degree with a major in counseling, addictions, social work, sociology, or psychology may be substituted for two thousand hours of supervised clinical work experience.

(d) A master's degree or higher in counseling, addictions, social work, sociology, or psychology may be substituted for four thousand hours of supervised clinical work experience.

(e) A substitution shall not be made for more than one degree.

Source: Laws 2004, LB 1083, § 121; R.S.Supp.,2006, § 71-1,357; Laws 2007, LB463, § 167; Laws 2021, LB528, § 6.
Operative date August 28, 2021.

Cross References

Credentialing, general requirements and issuance procedures, see section 38-121 et seq.

ARTICLE 5
AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY PRACTICE ACT

Section
38-513. Licensed professional; nonresident; practice of audiology or speech-language pathology; act, how construed.
38-515. Practice of audiology or speech-language pathology; license or privilege to practice; applicant; requirements.
38-518. Practice of audiology or speech-language pathology; temporary license; granted; when.
38-520. Audiologist or speech-language pathology assistant; supervision; termination.

38-513 Licensed professional; nonresident; practice of audiology or speech-language pathology; act, how construed.

Nothing in the Audiology and Speech-Language Pathology Practice Act shall be construed to prevent or restrict (1) a qualified person licensed in this state from engaging in the profession for which he or she is licensed if he or she does not present himself or herself to be an audiologist or speech-language pathologist or (2) the performance of audiology or speech-language pathology services in this state by any person not a resident of this state who is not licensed either under the act or in a member state of the Audiology and Speech-Language Pathology Interstate Compact, if (a) such services are performed for not more than thirty days in any calendar year, (b) such person meets the qualifications and requirements for application for licensure under the act, (c) such person is working under the supervision of a person licensed in Nebraska to practice speech-language pathology or audiology or under the supervision of a person licensed in a member state practicing speech-language pathology or audiology in Nebraska under the compact privilege, and (d) such person registers with the board prior to initiation of professional services.

Source: Laws 1978, LB 406, § 15; Laws 1985, LB 129, § 16; Laws 1990, LB 828, § 2; R.S.1943, (2003), § 71-1,188; Laws 2007, LB463, § 198; Laws 2021, LB14, § 1.
Effective date August 28, 2021.

Cross References

Audiology and Speech-Language Pathology Interstate Compact, see section 38-4101.

38-515 Practice of audiology or speech-language pathology; license or privilege to practice; applicant; requirements.

(1) Every applicant for a license to practice audiology shall (a)(i) for applicants graduating prior to September 1, 2007, present proof of a master's degree, a doctoral degree, or the equivalent of a master's degree or doctoral degree in audiology from an academic program approved by the board, and (ii) for applicants graduating on or after September 1, 2007, present proof of a doctoral degree or its equivalent in audiology, (b) present proof of no less than thirty-six weeks of full-time professional experience or equivalent half-time professional experience in audiology, supervised in the area in which licensure is sought, and (c) successfully complete an examination approved by the board.

(2) Every applicant for a license to practice speech-language pathology shall (a) present proof of a master's degree, a doctoral degree, or the equivalent of a master's degree or doctoral degree in speech-language pathology from an academic program approved by the board, (b) present proof of no less than thirty-six weeks of full-time professional experience or equivalent half-time professional experience in speech-language pathology, supervised in the area in which licensure is sought, and (c) successfully complete an examination approved by the board.

(3) Presentation of official documentation of certification by a nationwide professional accrediting organization approved by the board shall be deemed equivalent to the requirements of this section.

(4) Every applicant for a privilege to practice audiology or speech-language pathology under the Audiology and Speech-Language Pathology Interstate Compact shall present proof of authorization from a member state, as defined in section 38-4101, to practice as an audiologist or speech-language pathologist.

Source: Laws 1978, LB 406, § 17; Laws 1985, LB 129, § 18; Laws 1988, LB 1100, § 67; R.S.1943, (2003), § 71-1,190; Laws 2007, LB463, § 200; Laws 2007, LB463, § 1178; Laws 2021, LB14, § 2. Effective date August 28, 2021.

Cross References

Audiology and Speech-Language Pathology Interstate Compact, see section 38-4101.
Credentialing, general requirements and issuance procedures, see section 38-121 et seq.

38-518 Practice of audiology or speech-language pathology; temporary license; granted; when.

A temporary license to practice audiology or speech-language pathology may be granted to:

(1) A military spouse as provided in section 38-129.01; or

(2) A person who establishes residence in Nebraska, or a person who is a resident of a member state of the Audiology and Speech-Language Pathology Interstate Compact, if such person:

(a) Meets all the requirements for a license except passage of the examination required by section 38-515, which temporary license shall be valid only until the date on which the results of the next licensure examination are available to the department and shall not be renewed; or

(b) Meets all the requirements for a license except completion of the professional experience required by section 38-515, which temporary license shall be

valid only until the sooner of completion of such professional experience or eighteen months and shall not be renewed.

Source: Laws 1978, LB 406, § 21; Laws 1985, LB 129, § 22; Laws 1988, LB 1100, § 68; Laws 1991, LB 456, § 28; Laws 2001, LB 209, § 12; Laws 2003, LB 242, § 59; R.S.1943, (2003), § 71-1,194; Laws 2007, LB463, § 203; Laws 2017, LB88, § 39; Laws 2021, LB14, § 3.
Effective date August 28, 2021.

Cross References

Audiology and Speech-Language Pathology Interstate Compact, see section 38-4101.

38-520 Audiologist or speech-language pathology assistant; supervision; termination.

(1) The department, with the recommendation of the board, shall approve an application submitted by an audiologist or speech-language pathologist for supervision of an audiology or speech-language pathology assistant when:

(a) The audiology or speech-language pathology assistant meets the requirements for registration pursuant to section 38-519;

(b) The audiologist or speech-language pathologist has a valid Nebraska license or a privilege to practice audiology or speech-language pathology under the Audiology and Speech-Language Pathology Interstate Compact; and

(c) The audiologist or speech-language pathologist practices in Nebraska.

(2) Any audiologist or speech-language pathologist seeking approval for supervision of an audiology or speech-language pathology assistant shall submit an application which is signed by the audiology or speech-language pathology assistant and the audiologist or speech-language pathologist with whom he or she is associated. Such application shall (a) identify the settings within which the audiology or speech-language pathology assistant is authorized to practice, (b) describe the agreed-upon functions that the audiology or speech-language pathology assistant may perform as provided in section 38-523, and (c) describe the provision for supervision by an alternate audiologist or speech-language pathologist when necessary.

(3) If the supervision of an audiology or speech-language pathology assistant is terminated by the audiologist, speech-language pathologist, or audiology or speech-language pathology assistant, the audiologist or speech-language pathologist shall notify the department of such termination. An audiologist or speech-language pathologist who thereafter assumes the responsibility for such supervision shall obtain a certificate of approval to supervise an audiology or speech-language pathology assistant from the department prior to the use of the audiology or speech-language pathology assistant in the practice of audiology or speech-language pathology.

Source: Laws 1985, LB 129, § 24; Laws 1987, LB 473, § 30; Laws 1988, LB 1100, § 70; R.S.1943, (2003), § 71-1,195.02; Laws 2007, LB247, § 30; Laws 2007, LB463, § 205; Laws 2021, LB14, § 4.
Effective date August 28, 2021.

Cross References

Audiology and Speech-Language Pathology Interstate Compact, see section 38-4101.

ARTICLE 10

COSMETOLOGY, ELECTROLOGY, ESTHETICS, NAIL TECHNOLOGY, AND BODY ART PRACTICE ACT

Section
38-10,109. School licenses; renewal; requirements; inactive status; revocation; effect.

38-10,109 School licenses; renewal; requirements; inactive status; revocation; effect.

(1) The procedure for renewing a school license shall be in accordance with section 38-143, except that in addition to all other requirements, the school of cosmetology or school of esthetics shall provide evidence of minimal property damage, bodily injury, and liability insurance coverage and shall receive a satisfactory rating on an accreditation inspection conducted by the department within the six months immediately prior to the date of license renewal.

(2) Any school of cosmetology or school of esthetics which has current accreditation from an accrediting organization approved by the board shall be considered to satisfy the accreditation requirements outlined in this section, except that successful completion of an operation inspection shall be required. Each school of cosmetology or school of esthetics, whether or not it is accredited, shall satisfy all curriculum and sanitation requirements outlined in the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act to maintain its license.

(3) Any school not able to meet the requirements for license renewal shall have its license placed on inactive status until all deficiencies have been corrected, and the school shall not operate in any manner during the time its license is inactive. If the deficiencies are not corrected within six months of the date of license renewal, the license may be revoked unless the department approves an extension of the time limit. The license of a school that has been revoked or expired for any reason shall not be reinstated. An original application for licensure shall be submitted and approved before such school may reopen.

Source: Laws 1986, LB 318, § 108; Laws 1995, LB 83, § 45; Laws 2002, LB 241, § 41; Laws 2003, LB 242, § 88; Laws 2004, LB 1005, § 36; R.S.1943, (2003), § 71-3,147; Laws 2007, LB463, § 371; Laws 2021, LB528, § 7.
Operative date August 28, 2021.

ARTICLE 11

DENTISTRY PRACTICE ACT

Section
38-1124. Faculty license; practice; limitations; requirements; renewal; continuing competency.

38-1124 Faculty license; practice; limitations; requirements; renewal; continuing competency.

(1) The department, with the recommendation of the board, shall issue a faculty license to any person who meets the requirements of subsection (3) or (4) of this section. A faculty licensee may practice dentistry as a faculty member at an accredited school or college of dentistry in the State of Nebraska. A

faculty licensee may also teach dentistry, conduct research, and participate in an institutionally administered faculty practice. A faculty licensee eligible for licensure under subsection (4) of this section shall limit practice under such license to the clinical disciplines in which the licensee has received education at an accredited school or college of dentistry or, with the approval of the board, the clinical disciplines in which the licensee has practiced under a license, including a faculty license or teaching permit, to practice dentistry within the past three years in another jurisdiction.

(2) Any person who desires a faculty license shall make a written application to the department. The application shall include information regarding the applicant's professional qualifications, experience, and licensure. The application shall be accompanied by a copy of the applicant's dental degree, any other degrees or certificates for postgraduate education of the applicant, the required fee, and certification from the dean of an accredited school or college of dentistry in the State of Nebraska at which the applicant has a contract to be employed as a full-time faculty member.

(3) An individual who graduated from an accredited school or college of dentistry shall be eligible for a faculty license if the individual:

(a) Has or had a license, including a faculty license or teaching permit, to practice dentistry within the past three years in another jurisdiction; and

(b) Passes a jurisprudence examination administered by the board.

(4) An individual who graduated from a nonaccredited school or college of dentistry shall be eligible for a faculty license if the individual:

(a)(i) Has or had a license, including a faculty license or teaching permit, to practice dentistry within the past three years in another jurisdiction;

(ii) Has completed at least two years of postgraduate education at an accredited school or college of dentistry recognized by the national commission and received a certificate or degree from such school or college of dentistry; or

(iii) Has additional education in dentistry at an accredited school or college of dentistry that is determined by the board to be equivalent to a program recognized by the national commission, including, but not limited to, a postgraduate certificate or degree in operative dentistry;

(b) Passes a jurisprudence examination administered by the board; and

(c) Has passed at least one of the following:

(i) Part I and Part II of the National Board Dental Examinations administered by the joint commission;

(ii) The Integrated National Board Dental Examination administered by the joint commission;

(iii) A specialty board examination recognized by the national commission;

(iv) An examination administered by the National Dental Examining Board of Canada; or

(v) An equivalent examination as determined by the Board of Dentistry.

(5) A faculty license shall expire at the same time and be subject to the same renewal requirements as a regular dental license, except that such license shall remain valid and may only be renewed if the faculty licensee completes continuing education as required by the rules and regulations adopted and promulgated under the Dentistry Practice Act and demonstrates continued

employment at an accredited school or college of dentistry in the State of Nebraska.

(6) In order for an applicant to qualify for a faculty license pursuant to subdivision (4)(a)(iii) of this section, the applicant shall present, for review and approval by the board, a portfolio which includes, but is not limited to, academic achievements, credentials and certifications, letters of recommendation, and a list of publications.

(7) For purposes of this section:

(a) Another jurisdiction means some other state in the United States, a territory or jurisdiction of the United States, or a Canadian province;

(b) Joint commission means the American Dental Association Joint Commission on National Dental Examinations; and

(c) National commission means the National Commission on Recognition of Dental Specialties and Certifying Boards.

Source: Laws 2002, LB 1062, § 16; Laws 2003, LB 242, § 36; Laws 2004, LB 1005, § 11; R.S.Supp.,2006, § 71-185.03; Laws 2007, LB463, § 457; Laws 2021, LB628, § 1.
Effective date May 22, 2021.

ARTICLE 15
HEARING INSTRUMENT SPECIALISTS PRACTICE ACT

Section
38-1509. Sale or fitting of hearing instruments; license required; exceptions.

38-1509 Sale or fitting of hearing instruments; license required; exceptions.

(1) Except as otherwise provided in this section, no person shall engage in the sale of or practice of fitting hearing instruments or display a sign or in any other way advertise or represent himself or herself as a person who practices the fitting and sale or dispensing of hearing instruments unless he or she holds an unsuspended, unrevoked hearing instrument specialist license issued by the department as provided in the Hearing Instrument Specialists Practice Act. A hearing instrument specialist license shall confer upon the holder the right to select, fit, and sell hearing instruments. A person holding a license issued under the act prior to August 30, 2009, may continue to practice under such license until it expires under the terms of the license.

(2) A licensed audiologist who maintains a practice pursuant to (a) licensure as an audiologist, or (b) a privilege to practice audiology under the Audiology and Speech-Language Pathology Interstate Compact, in which hearing instruments are regularly dispensed, or who intends to maintain such a practice, shall be exempt from the requirement to be licensed as a hearing instrument specialist.

(3) Nothing in the act shall prohibit a corporation, partnership, limited liability company, trust, association, or other like organization maintaining an established business address from engaging in the business of selling or offering for sale hearing instruments at retail without a license if it employs only properly licensed natural persons in the direct sale and fitting of such products.

(4) Nothing in the act shall prohibit the holder of a hearing instrument specialist license from the fitting and sale of wearable instruments or devices designed for or offered for the purpose of conservation or protection of hearing.

Source: Laws 1969, c. 767, § 2, p. 2904; Laws 1986, LB 701, § 2; Laws 1988, LB 1100, § 149; Laws 1992, LB 1019, § 79; Laws 1993, LB

121, § 438; R.S.1943, (2003), § 71-4702; Laws 2007, LB247, § 52; Laws 2007, LB247, § 70; Laws 2007, LB463, § 573; Laws 2009, LB195, § 27; Laws 2017, LB88, § 53; Laws 2021, LB14, § 5.
Effective date August 28, 2021.

Cross References

Audiology and Speech-Language Pathology Interstate Compact, see section 38-4101.

ARTICLE 18
MEDICAL NUTRITION THERAPY PRACTICE ACT

Section
38-1813. Licensed medical nutrition therapist; qualifications; practice; limitations.

38-1813 Licensed medical nutrition therapist; qualifications; practice; limitations.

(1) A person shall be qualified to be a licensed medical nutrition therapist if such person furnishes evidence that he or she:

(a) Has met the requirements for and is a registered dietitian by the American Dietetic Association or an equivalent entity recognized by the board;

(b)(i) Has satisfactorily passed an examination approved by the board;

(ii) Has received a baccalaureate degree from an accredited college or university with a major course of study in human nutrition, food and nutrition, dietetics, or an equivalent major course of study approved by the board; and

(iii) Has satisfactorily completed a program of supervised clinical experience approved by the department. Such clinical experience shall consist of not less than nine hundred hours of a planned continuous experience in human nutrition, food and nutrition, or dietetics under the supervision of an individual meeting the qualifications of this section; or

(c)(i) Has satisfactorily passed an examination approved by the board; and

(ii)(A) Has received a master's or doctorate degree from an accredited college or university in human nutrition, nutrition education, food and nutrition, or public health nutrition or in an equivalent major course of study approved by the board; or

(B) Has received a master's or doctorate degree from an accredited college or university which includes a major course of study in clinical nutrition. Such course of study shall consist of not less than a combined two hundred hours of biochemistry and physiology and not less than seventy-five hours in human nutrition.

(2) For purposes of this section, accredited college or university means an institution currently listed with the United States Secretary of Education as accredited. Applicants who have obtained their education outside of the United States and its territories shall have their academic degrees validated as equivalent to a baccalaureate or master's degree conferred by a United States accredited college or university.

(3)(a) The practice of medical nutrition therapy shall be performed under the consultation of a physician licensed pursuant to section 38-2026 or sections 38-2029 to 38-2033.

(b) A licensed medical nutrition therapist may order patient diets, including therapeutic diets, in accordance with this subsection.

Source: Laws 1988, LB 557, § 5; Laws 1995, LB 406, § 24; R.S.1943, (2003), § 71-1,289; Laws 2007, LB463, § 635; Laws 2020, LB1002, § 41; Laws 2021, LB528, § 8.
Operative date August 28, 2021.

Cross References

Credentialing, general requirements and issuance procedures, see section 38-121 et seq.

ARTICLE 26
OPTOMETRY PRACTICE ACT

Section
38-2613. Optometrist; diagnostic pharmaceutical agents; use; certification.
38-2616. Optometry; approved schools; requirements.

38-2613 Optometrist; diagnostic pharmaceutical agents; use; certification.

(1) An optometrist licensed in this state may use topical ocular pharmaceutical agents for diagnostic purposes authorized under subdivision (1)(b) of section 38-2605, if such person is certified by the department, with the recommendation of the board, as qualified to use topical ocular pharmaceutical agents for diagnostic purposes.

(2) Such certification shall require (a) satisfactory completion of a pharmacology course at an institution accredited by an accrediting organization which is recognized by the United States Department of Education and approved by the board and passage of an examination approved by the board or (b) evidence provided by the optometrist of certification in another state for use of diagnostic pharmaceutical agents which is deemed by the board as satisfactory validation of such qualifications.

Source: Laws 1979, LB 9, § 5; Laws 1986, LB 131, § 3; Laws 1987, LB 116, § 2; Laws 1988, LB 1100, § 41; Laws 1994, LB 987, § 1; Laws 1996, LB 1044, § 439; Laws 1998, LB 369, § 5; Laws 1999, LB 828, § 96; Laws 2003, LB 242, § 50; R.S.1943, (2003), § 71-1,135.02; Laws 2007, LB236, § 23; Laws 2007, LB247, § 73; Laws 2007, LB296, § 341; Laws 2007, LB463, § 885; Laws 2021, LB528, § 9.
Operative date August 28, 2021.

38-2616 Optometry; approved schools; requirements.

No school of optometry shall be approved by the board as an accredited school unless the school is accredited by an accrediting organization which is recognized by the United States Department of Education.

Source: Laws 1927, c. 167, § 114, p. 488; C.S.1929, § 71-1604; R.S.1943, § 71-1,136; Laws 1965, c. 415, § 1, p. 1325; Laws 1979, LB 9, § 8; Laws 1994, LB 987, § 3; Laws 1996, LB 1044, § 440; R.S.1943, (2003), § 71-1,136; Laws 2007, LB236, § 26; Laws 2007, LB296, § 342; Laws 2007, LB463, § 889; Laws 2021, LB528, § 10.
Operative date August 28, 2021.

ARTICLE 28
PHARMACY PRACTICE ACT

Section
38-2870. Prescriptions for controlled substances; requirements; medical order; duration; dispensing; transmission.
38-2891. Pharmacy technicians; authorized tasks.

38-2870 Prescriptions for controlled substances; requirements; medical order; duration; dispensing; transmission.

(1) Beginning January 1, 2022, prescriptions for controlled substances listed in section 28-405 shall be subject to section 38-1,146, except that all such prescriptions issued by a practitioner who is a dentist shall be subject to section 38-1,146 beginning January 1, 2024.

(2) All medical orders shall be written, oral, or electronic and shall be valid for the period stated in the medical order, except that (a) if the medical order is for a controlled substance listed in section 28-405, such period shall not exceed six months from the date of issuance at which time the medical order shall expire and (b) if the medical order is for a drug or device which is not a controlled substance listed in section 28-405 or is an order issued by a practitioner for pharmaceutical care, such period shall not exceed twelve months from the date of issuance at which time the medical order shall expire.

(3) Prescription drugs or devices may only be dispensed by a pharmacist or pharmacist intern pursuant to a medical order, by an individual dispensing pursuant to a delegated dispensing permit, or as otherwise provided in section 38-2850. Notwithstanding any other provision of law to the contrary, a pharmacist or a pharmacist intern may dispense drugs or devices pursuant to a medical order or an individual dispensing pursuant to a delegated dispensing permit may dispense drugs or devices pursuant to a medical order. The Pharmacy Practice Act shall not be construed to require any pharmacist or pharmacist intern to dispense, compound, administer, or prepare for administration any drug or device pursuant to any medical order. A pharmacist or pharmacist intern shall retain the professional right to refuse to dispense.

(4) Except as otherwise provided in sections 28-414 and 28-414.01, a practitioner or the practitioner's agent may transmit a medical order to a pharmacist or pharmacist intern and an authorized refill to a pharmacist, pharmacist intern, or pharmacy technician by the following means: (a) In writing, (b) orally, (c) by facsimile transmission of a written medical order or electronic transmission of a medical order signed by the practitioner, or (d) by facsimile transmission of a written medical order or electronic transmission of a medical order which is not signed by the practitioner. Such an unsigned medical order shall be verified with the practitioner.

(5)(a) Except as otherwise provided in sections 28-414 and 28-414.01, any medical order transmitted by facsimile or electronic transmission shall:

(i) Be transmitted by the practitioner or the practitioner's agent directly to a pharmacist or pharmacist intern in a licensed pharmacy of the patient's choice; and any authorized refill transmitted by facsimile or electronic transmission shall be transmitted by the practitioner or the practitioner's agent directly to a pharmacist, pharmacist intern, or pharmacy technician. No intervening person shall be permitted access to the medical order to alter such order or the

licensed pharmacy chosen by the patient. Such medical order may be transmitted through a third-party intermediary who shall facilitate the transmission of the order from the practitioner or practitioner's agent to the pharmacy;

(ii) Identify the transmitter's telephone number or other suitable information necessary to contact the transmitter for written or oral confirmation, the time and date of the transmission, the identity of the pharmacy intended to receive the transmission, and other information as required by law; and

(iii) Serve as the original medical order if all other requirements of this subsection are satisfied.

(b) Medical orders transmitted by electronic transmission shall be signed by the practitioner either with an electronic signature for legend drugs which are not controlled substances or a digital signature for legend drugs which are controlled substances.

(6) The pharmacist shall exercise professional judgment regarding the accuracy, validity, and authenticity of any medical order transmitted by facsimile or electronic transmission.

(7) The quantity of drug indicated in a medical order for a resident of a long-term care facility shall be sixty days unless otherwise limited by the prescribing practitioner.

Source: Laws 2001, LB 398, § 35; Laws 2005, LB 382, § 7; R.S.Supp.,2006, § 71-1,146.01; Laws 2007, LB463, § 966; Laws 2014, LB811, § 26; Laws 2015, LB37, § 48; Laws 2017, LB166, § 16; Laws 2018, LB731, § 74; Laws 2021, LB583, § 5.
Operative date January 1, 2022.

38-2891 Pharmacy technicians; authorized tasks.

(1) A pharmacy technician shall only perform tasks which do not require the professional judgment of a pharmacist and which are subject to verification to assist a pharmacist in the practice of pharmacy.

(2) The functions and tasks which shall not be performed by pharmacy technicians include, but are not limited to:

(a) Receiving oral medical orders from a practitioner or his or her agent except as otherwise provided in subsection (4) of section 38-2870;

(b) Providing patient counseling;

(c) Performing any evaluation or necessary clarification of a medical order or performing any functions other than strictly clerical functions involving a medical order;

(d) Supervising or verifying the tasks and functions of pharmacy technicians;

(e) Interpreting or evaluating the data contained in a patient's record maintained pursuant to section 38-2869;

(f) Releasing any confidential information maintained by the pharmacy;

(g) Performing any professional consultations; and

(h) Drug product selection, with regard to an individual medical order, in accordance with the Nebraska Drug Product Selection Act.

(3) The director shall, with the recommendation of the board, waive any of the limitations in subsection (2) of this section for purposes of a scientific study of the role of pharmacy technicians approved by the board. Such study shall be

based upon providing improved patient care or enhanced pharmaceutical care. Any such waiver shall state the length of the study and shall require that all study data and results be made available to the board upon the completion of the study. Nothing in this subsection requires the board to approve any study proposed under this subsection.

Source: Laws 2007, LB236, § 32; R.S.Supp.,2007, § 71-1,147.66; Laws 2007, LB247, § 82; Laws 2018, LB731, § 75; Laws 2021, LB583, § 6.
Operative date January 1, 2022.

Cross References

Nebraska Drug Product Selection Act, see section 38-28,108.

ARTICLE 31

PSYCHOLOGY PRACTICE ACT

Section
38-3106. Institution of higher education, defined.

38-3106 Institution of higher education, defined.

Institution of higher education means a university, professional school, or other institution of higher learning that:

(1) In the United States, is accredited by an accrediting organization recognized by the United States Department of Education;

(2) In Canada, holds a membership in the Association of Universities and Colleges of Canada; or

(3) In other countries, is accredited by the respective official organization having such authority.

Source: Laws 1994, LB 1210, § 68; R.S.1943, (2003), § 71-1,206.06; Laws 2007, LB463, § 1040; Laws 2021, LB528, § 11.
Operative date August 28, 2021.

ARTICLE 41

AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY INTERSTATE COMPACT

Section
38-4101. Audiology and Speech-Language Pathology Interstate Compact.

38-4101 Audiology and Speech-Language Pathology Interstate Compact.

The State of Nebraska adopts the Audiology and Speech-Language Pathology Interstate Compact in the form substantially as follows:

Article 1 PURPOSE

The purpose of this Compact is to facilitate interstate practice of audiology and speech-language pathology with the goal of improving public access to audiology and speech-language pathology services. The practice of audiology and speech-language pathology occurs in the state where the patient, client, or student is located at the time of the patient, client, or student encounter. The Compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.

This Compact is designed to achieve the following objectives:

(1) Increase public access to audiology and speech-language pathology services by providing for the mutual recognition of other member state licenses;

(2) Enhance the states' ability to protect the public's health and safety;

(3) Encourage the cooperation of member states in regulating multistate audiology and speech-language pathology practice;

(4) Support spouses of relocating active duty military personnel;

(5) Enhance the exchange of licensure, investigative, and disciplinary information between member states;

(6) Allow a remote state to hold a provider of services with a compact privilege in that state accountable to that state's practice standards; and

(7) Allow for the use of telehealth technology to facilitate increased access to audiology and speech-language pathology services.

Article 2 DEFINITIONS

As used in this Compact, and except as otherwise provided, the following definitions shall apply:

A. Active duty military means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Chapters 1209 and 1211.

B. Adverse action means any administrative, civil, equitable, or criminal action permitted by a state's laws which is imposed by a licensing board or other authority against an audiologist or speech-language pathologist, including actions against an individual's license or privilege to practice such as revocation, suspension, probation, monitoring of the licensee, or restriction on the licensee's practice.

C. Alternative program means a nondisciplinary monitoring process approved by an audiology or speech-language pathology licensing board to address impaired practitioners.

D. Audiologist means an individual who is licensed by a state to practice audiology.

E. Audiology means the care and services provided by a licensed audiologist as set forth in the member state's statutes and rules.

F. Audiology and Speech-Language Pathology Compact Commission or Commission means the national administrative body whose membership consists of all states that have enacted the Compact.

G. Audiology and speech-language pathology licensing board, audiology licensing board, speech-language pathology licensing board, or licensing board each means the agency of a state that is responsible for the licensing and regulation of audiologists or speech-language pathologists.

H. Compact privilege means the authorization granted by a remote state to allow a licensee from another member state to practice as an audiologist or speech-language pathologist in the remote state under its laws and rules. The practice of audiology or speech-language pathology occurs in the member state where the patient, client, or student is located at the time of the patient, client, or student encounter.

I. Current significant investigative information means investigative information that a licensing board, after an inquiry or investigation that includes

notification and an opportunity for the audiologist or speech-language pathologist to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction.

J. Data system means a repository of information about licensees, including, but not limited to, continuing education, examination, licensure, investigative, compact privilege, and adverse action.

K. Encumbered license means a license in which an adverse action restricts the practice of audiology or speech-language pathology by the licensee and such adverse action has been reported to the National Practitioner Data Bank.

L. Executive Committee means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the Commission.

M. Home state means the member state that is the licensee's primary state of residence.

N. Impaired practitioner means an individual whose professional practice is adversely affected by substance abuse, addiction, or other health-related conditions.

O. Licensee means an individual who currently holds an authorization from the state licensing board to practice as an audiologist or speech-language pathologist.

P. Member state means a state that has enacted the Compact.

Q. Privilege to practice means a legal authorization permitting the practice of audiology or speech-language pathology in a remote state.

R. Remote state means a member state other than the home state where a licensee is exercising or seeking to exercise the compact privilege.

S. Rule means a regulation, principle, or directive promulgated by the Commission that has the force of law.

T. Single-state license means an audiology or speech-language pathology license issued by a member state that authorizes practice only within the issuing state and does not include a privilege to practice in any other member state.

U. Speech-language pathologist means an individual who is licensed by a state to practice speech-language pathology.

V. Speech-language pathology means the care and services provided by a licensed speech-language pathologist as set forth in the member state's statutes and rules.

W. State means any state, commonwealth, district, or territory of the United States that regulates the practice of audiology and speech-language pathology.

X. State practice laws means a member state's laws, rules, and regulations that govern the practice of audiology or speech-language pathology, define the scope of audiology or speech-language pathology practice, and create the methods and grounds for imposing discipline.

Y. Telehealth means the application of telecommunication technology to deliver audiology or speech-language pathology services at a distance for assessment, intervention, or consultation.

Article 3 STATE PARTICIPATION IN THE COMPACT

A. A license issued to an audiologist or speech-language pathologist by a home state to a resident in that state shall be recognized by each member state

as authorizing an audiologist or speech-language pathologist to practice audiology or speech-language pathology, under a privilege to practice, in each member state.

B. A state must implement or utilize procedures for considering the criminal history records of applicants for initial privilege to practice. These procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records.

1. A member state must fully implement a criminal background check requirement, within a timeframe established by rule, by receiving the results of the Federal Bureau of Investigation record search on criminal background checks and use the results in making licensure decisions.

2. Communication between a member state, the Commission, and among member states regarding the verification of eligibility for licensure through the Compact shall not include any information received from the Federal Bureau of Investigation relating to a federal criminal records check performed by a member state under Public Law 92-544.

C. Upon application for a privilege to practice, the licensing board in the issuing remote state shall ascertain, through the data system, whether the applicant has ever held, or is the holder of, a license issued by any other state, whether there are any encumbrances on any license or privilege to practice held by the applicant, or whether any adverse action has been taken against any license or privilege to practice held by the applicant.

D. Each member state shall require an applicant to obtain or retain a license in the home state and meet the home state's qualifications for licensure or renewal of licensure, as well as all other applicable state laws.

E. For an audiologist:

1. Must meet one of the following educational requirements:

a. On or before December 31, 2007, has graduated with a master's degree or doctorate in audiology, or equivalent degree regardless of degree name, from a program that is accredited by an accrediting agency recognized by the Council for Higher Education Accreditation, or its successor, or by the United States Department of Education and operated by a college or university accredited by a regional or national accrediting organization recognized by the licensing board;

b. On or after January 1, 2008, has graduated with a doctoral degree in audiology, or equivalent degree, regardless of degree name, from a program that is accredited by an accrediting agency recognized by the Council for Higher Education Accreditation, or its successor, or by the United States Department of Education and operated by a college or university accredited by a regional or national accrediting organization recognized by the licensing board; or

c. Has graduated from an audiology program that is housed in an institution of higher education outside of the United States (a) for which the program and institution have been approved by the authorized accrediting body in the applicable country and (b) the degree program has been verified by an independent credentials review agency to be comparable to a state licensing board-approved program;

2. Has completed a supervised clinical practicum experience from an accredited educational institution or its cooperating programs as required by the Commission;

3. Has successfully passed a national examination approved by the Commission;

4. Holds an active, unencumbered license;

5. Has not been convicted or found guilty, and has not entered into an agreed disposition, of a felony related to the practice of audiology, under applicable state or federal criminal law; and

6. Has a valid United States social security number or National Practitioner Identification number.

F. For a speech-language pathologist:

1. Must meet one of the following educational requirements:

a. Has graduated with a master's degree from a speech-language pathology program that is accredited by an organization recognized by the United States Department of Education and operated by a college or university accredited by a regional or national accrediting organization recognized by the licensing board; or

b. Has graduated from a speech-language pathology program that is housed in an institution of higher education outside of the United States (a) for which the program and institution have been approved by the authorized accrediting body in the applicable country and (b) the degree program has been verified by an independent credentials review agency to be comparable to a state licensing board-approved program;

2. Has completed a supervised clinical practicum experience from an educational institution or its cooperating programs as required by the Commission;

3. Has completed a supervised postgraduate professional experience as required by the Commission;

4. Has successfully passed a national examination approved by the Commission;

5. Holds an active, unencumbered license;

6. Has not been convicted or found guilty, and has not entered into an agreed disposition, of a felony related to the practice of speech-language pathology, under applicable state or federal criminal law; and

7. Has a valid United States social security number or National Practitioner Identification number.

G. The privilege to practice is derived from the home state license.

H. An audiologist or speech-language pathologist practicing in a member state must comply with the state practice laws of the state in which the client is located at the time service is provided. The practice of audiology and speech-language pathology shall include all audiology and speech-language pathology practice as defined by the state practice laws of the member state in which the client is located. The practice of audiology and speech-language pathology in a member state under a privilege to practice shall subject an audiologist or speech-language pathologist to the jurisdiction of the licensing board, the courts, and the laws of the member state in which the client is located at the time service is provided.

I. Individuals not residing in a member state shall continue to be able to apply for a member state's single-state license as provided under the laws of each member state. However, the single-state license granted to these individuals shall not be recognized as granting the privilege to practice audiology or speech-language pathology in any other member state. Nothing in this Compact shall affect the requirements established by a member state for the issuance of a single-state license.

J. Member states may charge a fee for granting a compact privilege.

K. Member states must comply with the bylaws and rules and regulations of the Commission.

Article 4 COMPACT PRIVILEGE

A. To exercise the compact privilege under the terms and provisions of the Compact, the audiologist or speech-language pathologist shall:

1. Hold an active license in the home state;

2. Have no encumbrance on any state license;

3. Be eligible for a compact privilege in any member state in accordance with Article 3;

4. Have not had any adverse action against any license or compact privilege within the previous two years from date of application;

5. Notify the Commission that the licensee is seeking the compact privilege within one or more remote states;

6. Pay any applicable fees, including any state fee, for the compact privilege;

7. Report to the Commission adverse action taken by any nonmember state within thirty days from the date the adverse action is taken.

B. For the purposes of the compact privilege, an audiologist or speech-language pathologist shall only hold one home state license at a time.

C. Except as provided in Article 6, if an audiologist or speech-language pathologist changes primary state of residence by moving between two member states, the audiologist or speech-language pathologist must apply for licensure in the new home state, and the license issued by the prior home state shall be deactivated in accordance with applicable rules adopted by the Commission.

D. The audiologist or speech-language pathologist may apply for licensure in advance of a change in primary state of residence.

E. A license shall not be issued by the new home state until the audiologist or speech-language pathologist provides satisfactory evidence of a change in primary state of residence to the new home state and satisfies all applicable requirements to obtain a license from the new home state.

F. If an audiologist or speech-language pathologist changes primary state of residence by moving from a member state to a nonmember state, the license issued by the prior home state shall convert to a single-state license, valid only in the former home state.

G. The compact privilege is valid until the expiration date of the home state license. The licensee must comply with the requirements of section A of this Article to maintain the compact privilege in the remote state.

H. A licensee providing audiology or speech-language pathology services in a remote state under the compact privilege shall function within the laws and regulations of the remote state.

I. A licensee providing audiology or speech-language pathology services in a remote state is subject to that state's regulatory authority. A remote state may, in accordance with due process and that state's laws, remove a licensee's compact privilege in the remote state for a specific period of time, impose fines, or take any other necessary actions to protect the health and safety of its citizens.

J. If a home state license is encumbered, the licensee shall lose the compact privilege in any remote state until the following occur:

1. The home state license is no longer encumbered; and

2. Two years have elapsed from the date of the adverse action.

K. Once an encumbered license in the home state is restored to good standing, the licensee must meet the requirements of section A of this Article to obtain a compact privilege in any remote state.

L. Once the requirements of section J of this Article have been met, the licensee must meet the requirements in section A of this Article to obtain a compact privilege in a remote state.

Article 5 COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

Member states shall recognize the right of an audiologist or speech-language pathologist, licensed by a home state in accordance with Article 3 and under rules promulgated by the Commission, to practice audiology or speech-language pathology in any member state via telehealth under a privilege to practice as provided in the Compact and rules promulgated by the Commission.

Article 6 ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

Active duty military personnel, or their spouse, shall designate a home state where the individual has a current license in good standing. The individual may retain the home state designation during the period the service member is on active duty. Subsequent to designating a home state, the individual shall only change the home state through application for licensure in the new state.

Article 7 ADVERSE ACTIONS

A. In addition to the other powers conferred by state law, a remote state shall have the authority, in accordance with existing state due process law, to:

1. Take adverse action against an audiologist's or speech-language pathologist's privilege to practice within that member state.

2. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a licensing board in a member state for the attendance and testimony of witnesses or the production of evidence from another member state shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state in which the witnesses or evidence are located.

3. Only the home state shall have the power to take adverse action against an audiologist's or speech-language pathologist's license issued by the home state.

B. For purposes of taking adverse action, the home state shall give the same priority and effect to reported conduct received from a member state as it would if the conduct had occurred within the home state. In so doing, the home state shall apply its own state laws to determine appropriate action.

C. The home state shall complete any pending investigations of an audiologist or speech-language pathologist who changes primary state of residence during the course of the investigations. The home state shall also have the authority to take appropriate action and shall promptly report the conclusions of the investigations to the administrator of the data system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any adverse action.

D. If otherwise permitted by state law, the member state may recover from the affected audiologist or speech-language pathologist the costs of investigations and disposition of cases resulting from any adverse action taken against that audiologist or speech-language pathologist.

E. The member state may take adverse action based on the factual findings of the remote state, provided that the member state follows the member state's own procedures for taking the adverse action.

F. Joint Investigations

1. In addition to the authority granted to a member state by its respective audiology or speech-language pathology practice act or other applicable state law, any member state may participate with other member states in joint investigations of licensees.

2. Member states shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.

G. If adverse action is taken by the home state against an audiologist's or speech-language pathologist's license, the audiologist's or speech-language pathologist's privilege to practice in all other member states shall be deactivated until all encumbrances have been removed from the state license. All home state disciplinary orders that impose adverse action against an audiologist's or speech-language pathologist's license shall include a statement that the audiologist's or speech-language pathologist's privilege to practice is deactivated in all member states during the pendency of the order.

H. If a member state takes adverse action, it shall promptly notify the administrator of the data system. The administrator of the data system shall promptly notify the home state of any adverse actions by remote states.

I. Nothing in this Compact shall override a member state's decision that participation in an alternative program may be used in lieu of adverse action.

Article 8 ESTABLISHMENT OF THE AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY COMPACT COMMISSION

A. The Compact member states hereby create and establish a joint public agency known as the Audiology and Speech-Language Pathology Compact Commission:

1. The Commission is an instrumentality of the Compact states.

2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

B. Membership, Voting, and Meetings

1. Each member state shall have two delegates selected by that member state's licensing board. The delegates shall be current members of the licensing board. One shall be an audiologist and one shall be a speech-language pathologist.

2. An additional five delegates, who are either a public member or board administrator from a state licensing board, shall be chosen by the Executive Committee from a pool of nominees provided by the Commission at large.

3. Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed.

4. The member state board shall fill any vacancy occurring on the Commission, within ninety days.

5. Each delegate shall be entitled to one vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission.

6. A delegate shall vote in person or by other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.

7. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

C. The Commission shall have the following powers and duties:

1. Establish the fiscal year of the Commission;

2. Establish bylaws;

3. Establish a Code of Ethics;

4. Maintain its financial records in accordance with the bylaws;

5. Meet and take actions as are consistent with the provisions of this Compact and the bylaws;

6. Promulgate uniform rules to facilitate and coordinate implementation and administration of this Compact. The rules shall have the force and effect of law and shall be binding in all member states;

7. Bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any state audiology or speech-language pathology licensing board to sue or be sued under applicable law shall not be affected;

8. Purchase and maintain insurance and bonds;

9. Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a member state;

10. Hire employees, elect or appoint officers, fix compensation, define duties, grant individuals appropriate authority to carry out the purposes of the Compact, and to establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

11. Accept any and all appropriate donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize and dispose of the same; provided that at all times the Commission shall avoid any appearance of impropriety or conflict of interest;

12. Lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed; provided that at all times the Commission shall avoid any appearance of impropriety;

13. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;

14. Establish a budget and make expenditures;

15. Borrow money;

16. Appoint committees, including standing committees composed of members and other interested persons as may be designated in this Compact and the bylaws;

17. Provide and receive information from, and cooperate with, law enforcement agencies;

18. Establish and elect an Executive Committee; and

19. Perform other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the state regulation of audiology and speech-language pathology licensure and practice.

D. The Executive Committee

The Executive Committee shall have the power to act on behalf of the Commission according to the terms of this Compact:

1. The Executive Committee shall be composed of ten members:

a. Seven voting members who are elected by the Commission from the current membership of the Commission;

b. Two ex officios, consisting of one nonvoting member from a recognized national audiology professional association and one nonvoting member from a recognized national speech-language pathology association; and

c. One ex officio, nonvoting member from the recognized membership organization of the audiology and speech-language pathology licensing boards.

E. The ex officio members shall be selected by their respective organizations.

1. The Commission may remove any member of the Executive Committee as provided in the bylaws.

2. The Executive Committee shall meet at least annually.

3. The Executive Committee shall have the following duties and responsibilities:

a. Recommend to the entire Commission changes to the rules or bylaws, changes to this Compact legislation, fees paid by Compact member states such as annual dues, and any commission Compact fee charged to licensees for the compact privilege;

b. Ensure Compact administration services are appropriately provided, contractual or otherwise;

c. Prepare and recommend the budget;

d. Maintain financial records on behalf of the Commission;

e. Monitor Compact compliance of member states and provide compliance reports to the Commission;

f. Establish additional committees as necessary; and

g. Other duties as provided in rules or bylaws.

4. Meetings of the Commission

All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Article 10.

5. The Commission or the Executive Committee or other committees of the Commission may convene in a closed, nonpublic meeting if the Commission or Executive Committee or other committees of the Commission must discuss:

a. Noncompliance of a member state with its obligations under the Compact;

b. The employment, compensation, discipline or other matters, practices or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;

c. Current, threatened, or reasonably anticipated litigation;

d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

e. Accusing any person of a crime or formally censuring any person;

f. Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

h. Disclosure of investigative records compiled for law enforcement purposes;

i. Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the Compact; or

j. Matters specifically exempted from disclosure by federal or member state statute.

6. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.

7. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefor, including a description of the views expressed. All documents considered in connection with an action shall be identified in minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.

8. Financing of the Commission

a. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

b. The Commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

c. The Commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the Commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall

be allocated based upon a formula to be determined by the Commission, which shall promulgate a rule binding upon all member states.

9. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the member states, except by and with the authority of the member state.

10. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the Commission.

F. Qualified Immunity, Defense, and Indemnification

1. The members, officers, executive director, employees and representatives of the Commission shall have no greater liability than a state employee would have under the same or similar circumstances, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of Commission employment, duties, or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

2. The Commission shall defend any member, officer, executive director, employee or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

3. The Commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

Article 9 DATA SYSTEM

A. The Commission shall provide for the development, maintenance, and utilization of a coordinated database and reporting system containing licensure, adverse action, and investigative information on all licensed individuals in member states.

B. Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the data system on all individuals to whom this Compact is applicable as required by the rules of the Commission, including:

1. Identifying information;

2. Licensure data;

3. Adverse actions against a license or compact privilege;

4. Nonconfidential information related to alternative program participation;

5. Any denial of application for licensure, and any reason for denial; and

6. Other information that may facilitate the administration of this Compact, as determined by the rules of the Commission.

C. Investigative information pertaining to a licensee in any member state shall only be available to other member states.

D. The Commission shall promptly notify all member states of any adverse action taken against a licensee or an individual applying for a license. Adverse action information pertaining to a licensee in any member state shall be available to any other member state.

E. Member states contributing information to the data system may designate information that may not be shared with the public without the express permission of the contributing state.

F. Any information submitted to the data system that is subsequently required to be expunged by the laws of the member state contributing the information shall be removed from the data system.

Article 10 RULEMAKING

A. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this Article and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

B. If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the Compact within four years of the date of adoption of the rule, the rule shall have no further force and effect in any member state.

C. Rules or amendments to the rules shall be adopted at a regular or special meeting of the Commission.

D. Prior to promulgation and adoption of a final rule or rules by the Commission, and at least thirty days in advance of the meeting at which the rule shall be considered and voted upon, the Commission shall file a Notice of Proposed Rulemaking:

1. On the website of the Commission or other publicly accessible platform; and

2. On the website of each member state audiology or speech-language pathology licensing board or other publicly accessible platform or the publication in which each state would otherwise publish proposed rules.

E. The Notice of Proposed Rulemaking shall include:

1. The proposed time, date, and location of the meeting in which the rule shall be considered and voted upon;

2. The text of the proposed rule or amendment and the reason for the proposed rule;

3. A request for comments on the proposed rule from any interested person; and

4. The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments.

F. Prior to the adoption of a proposed rule, the Commission shall allow persons to submit written data, facts, opinions and arguments, which shall be made available to the public.

G. The Commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

1. At least twenty-five persons;

2. A state or federal governmental subdivision or agency; or

3. An association having at least twenty-five members.

H. If a hearing is held on the proposed rule or amendment, the Commission shall publish the place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the Commission shall publish the mechanism for access to the electronic hearing.

1. All persons wishing to be heard at the hearing shall notify the executive director of the Commission or other designated member in writing of their desire to appear and testify at the hearing not less than five business days before the scheduled date of the hearing.

2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

3. All hearings shall be recorded. A copy of the recording shall be made available on request.

4. Nothing in this Article shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the Commission at hearings required by this Article.

I. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received.

J. If no written notice of intent to attend the public hearing by interested parties is received, the Commission may proceed with promulgation of the proposed rule without a public hearing.

K. The Commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

L. Upon determination that an emergency exists, the Commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the Compact and in this Article shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

1. Meet an imminent threat to public health, safety, or welfare;

2. Prevent a loss of Commission or member state funds; or

3. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule.

M. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of thirty days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing and delivered to the chairperson of the Commission prior to the end of the notice period. If no challenge is made, the revision shall take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

Article 11 OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

A. Dispute Resolution

1. Upon request by a member state, the Commission shall attempt to resolve disputes related to the Compact that arise among member states and between member and nonmember states.

2. The Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

B. Enforcement

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this Compact.

2. By majority vote, the Commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices against a member state in default to enforce compliance with the provisions of the Compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of litigation, including reasonable attorney's fees.

3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or state law.

Article 12 DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

A. The Compact shall come into effect on the date on which the Compact statute is enacted into law in the tenth member state. The provisions, which become effective at that time, shall be limited to the powers granted to the Commission relating to assembly and the promulgation of rules. Thereafter, the Commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the Compact.

B. Any state that joins the Compact subsequent to the Commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the Compact becomes law in that state. Any rule that has been previously

adopted by the Commission shall have the full force and effect of law on the day the Compact becomes law in that state.

C. Any member state may withdraw from this Compact by enacting a statute repealing the same.

1. A member state's withdrawal shall not take effect until six months after enactment of the repealing statute.

2. Withdrawal shall not affect the continuing requirement of the withdrawing state's audiology or speech-language pathology licensing board to comply with the investigative and adverse action reporting requirements of this Compact prior to the effective date of withdrawal.

D. Nothing contained in this Compact shall be construed to invalidate or prevent any audiology or speech-language pathology licensure agreement or other cooperative arrangement between a member state and a nonmember state that does not conflict with the provisions of this Compact.

E. This Compact may be amended by the member states. No amendment to this Compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

Article 13 CONSTRUCTION AND SEVERABILITY

This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable and if any phrase, clause, sentence, or provision of this Compact is declared to be contrary to the constitution of any member state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any member state, the Compact shall remain in full force and effect as to the remaining member states and in full force and effect as to the member state affected as to all severable matters.

Article 14 BINDING EFFECT OF COMPACT AND OTHER LAWS

A. Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with the Compact.

B. All laws in a member state in conflict with the Compact are superseded to the extent of the conflict.

C. All lawful actions of the Commission, including all rules and bylaws promulgated by the Commission, are binding upon the member states.

D. All agreements between the Commission and the member states are binding in accordance with their terms.

E. In the event any provision of the Compact exceeds the constitutional limits imposed on the legislature of any member state, the provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

Source: Laws 2021, LB14, § 6.
Effective date August 28, 2021.

CHAPTER 39
HIGHWAYS AND BRIDGES

Article.

ARTICLE 11
STATE HIGHWAY COMMISSION

Section

39-1108 State Highway Commission; meetings; quorum; minutes; open to public.

Regular meetings of the State Highway Commission shall be held upon call of the chairperson, but not less than six times per year. Special meetings may be held upon call of the chairperson or pursuant to a call signed by three other members, of which the chairperson shall have three days' written notice.

All regular meetings shall be held in suitable offices to be provided in Lincoln unless a majority of the members deem it necessary to hold a regular meeting at another location within this state. Members of the commission may participate by virtual conferencing as long as the chairperson or vice-chairperson conducts the meeting in an open forum where the public is able to participate by attendance at the scheduled meeting.

Five members of the commission constitute a quorum for the transaction of business. Every act of a majority of the members of the commission shall be deemed to be the act of the commission.

All meetings shall be open to the public and shall be conducted in accordance with the Open Meetings Act.

The minutes of the meetings shall show the action of the commission on matters presented. The minutes shall be open to public inspection.

Source: Laws 1953, c. 334, § 8, p. 1097; Laws 1971, LB 101, § 1; Laws 1981, LB 544, § 4; Laws 1987, LB 161, § 4; Laws 2003, LB 101, § 1; Laws 2004, LB 821, § 11; Laws 2021, LB83, § 5.
Effective date April 22, 2021.

Cross References

Open Meetings Act, see section 84-1407.

ARTICLE 13
STATE HIGHWAYS

(d) PLANNING AND RESEARCH

(d) PLANNING AND RESEARCH

39-1316 State highway system; establishment, construction, maintenance; plans and specifications.

The department shall be responsible for the preparation and adoption of plans and specifications for the establishment, construction, and maintenance of the state highway system. Such plans and specifications may be amended, from time to time, as the department deems advisable. Such plans and specifications should conform, as closely as practicable, to those adopted by the American Association of State Highway and Transportation Officials.

Source: Laws 1955, c. 148, § 16, p. 424; Laws 2021, LB174, § 1.
Effective date August 28, 2021.

(j) MISCELLANEOUS

39-1365.01 State highway system; plans; department; duties; priorities.

The department shall be responsible for developing a specific and long-range state highway system plan. The department shall annually formulate plans to meet the state highway system needs of all facets of the state and shall assign priorities for such needs. The department shall, on or before December 1 of each year, present such plans and the report required in section 39-1365.02 to the Legislature. The plans shall be referred to the appropriate standing committees of the Legislature for review. The department shall consider the preservation of the existing state highway system asset as its primary priority except as may otherwise be provided in state or federal law. In establishing secondary priorities, the department shall consider a variety of factors, including, but not limited to, current and projected traffic volume, safety requirements, economic development needs, current and projected demographic trends, and enhancement of the quality of life for all Nebraska citizens. The state highway system plan shall include the designation of those portions of the state highway system which shall be expressways.

Source: Laws 1988, LB 632, § 24; Laws 2010, LB821, § 1; Laws 2017, LB339, § 135; Laws 2021, LB579, § 1.
Effective date August 28, 2021.

39-1365.02 State highway system; federal funding; maximum use; department; report on system needs and planning procedures.

(1) The department shall apply for and make maximum use of available federal funding, including discretionary funding, on all highway construction projects which are eligible for such assistance.

(2) The department shall transmit electronically to the Legislature, by December 1 of each year, a report on the needs of the state highway system, the department's planning procedures, and the progress being made on the expressway system. Such report shall include:

(a) The criteria by which highway needs are determined;

(b) The standards established for each classification of highways;

(c) An assessment of current and projected needs of the state highway system, such needs to be defined by category of improvement required to bring each segment up to standards. Projected fund availability shall not be a consideration by which needs are determined;

(d) Criteria and data, including factors enumerated in section 39-1365.01, upon which decisions may be made on possible special priority highways for commercial growth;

(e) A review of the department's procedure for selection of projects for the annual construction program, the five-year planning program, and extended planning programs. The review shall include a statement of all state highway projects under construction, other than any part of the expressway system, and the estimated cost of each project;

(f) A review of the progress being made toward completion of the expressway system, as such system was designated on January 1, 2016, and whether such work is on pace for completion prior to June 30, 2033. The review shall include a statement of the amount of money spent on the expressway system, as of the date of the report, and the number of miles of the expressway system yet to be completed and expected milestone dates for other expressway projects, including planning, permitting, designing, bid letting, and required funding for project completion;

(g) A review of the Transportation Infrastructure Bank Fund and the fund's component programs under sections 39-2803 to 39-2807. This review shall include a listing of projects funded and planned to be funded under each of the three component programs; and

(h) A review of the outcomes of the Economic Opportunity Program, including the growth in permanent jobs and related income and the net increase in overall business activity.

Source: Laws 1988, LB 632, § 25; Laws 2012, LB782, § 40; Laws 2016, LB960, § 27; Laws 2017, LB339, § 136; Laws 2021, LB579, § 2. Effective date August 28, 2021.

ARTICLE 16

COUNTY ROADS. ROAD IMPROVEMENT DISTRICTS

(a) SPECIAL IMPROVEMENT DISTRICTS

(a) SPECIAL IMPROVEMENT DISTRICTS

39-1621 Budget; taxes; levy; limitation; certification; collection; disbursement.

(1) The board of trustees may, after adoption of the budget statement for such district, annually levy and collect the amount of taxes provided in the adopted

budget statement of the district to be received from taxation for corporate purposes upon property within the limits of such road improvement district to the amount of not more than three and five-tenths cents on each one hundred dollars upon the taxable value of the taxable property in such district for general maintenance and operating purposes subject to section 77-3443. The board shall, on or before September 30 of each year, certify any such levy to the county clerk of the counties in which such district is located who shall extend the levy upon the county tax list.

(2) The county treasurer of the county in which the greater portion of the area of the district is located shall be ex officio treasurer of the road improvement district and shall be responsible for all funds of the district coming into his or her hands. The treasurer shall collect all taxes and special assessments levied by the district and collected by him or her from his or her county or from other county treasurers if there is more than one county having land in the district and all money derived from the sale of bonds or warrants. The treasurer shall not be responsible for such funds until they are received by him or her. The treasurer shall disburse the funds of the district only on warrants authorized by the trustees and signed by the president and clerk.

Source: Laws 1957, c. 155, art. III, § 21, p. 533; Laws 1969, c. 145, § 35, p. 694; Laws 1979, LB 187, § 159; Laws 1992, LB 1063, § 36; Laws 1992, Second Spec. Sess., LB 1, § 36; Laws 1993, LB 734, § 39; Laws 1995, LB 452, § 12; Laws 1996, LB 1114, § 57; Laws 2021, LB644, § 17.
Operative date January 1, 2022.

ARTICLE 21

FUNCTIONAL CLASSIFICATION

Section
39-2106. Board of Public Roads Classifications and Standards; established; members; number; appointment; qualifications; compensation; expenses.
39-2107. Board of Public Roads Classifications and Standards; office space; furniture; equipment; supplies; personnel.

39-2106 Board of Public Roads Classifications and Standards; established; members; number; appointment; qualifications; compensation; expenses.

(1) To assist in developing the functional classification system, there is hereby established the Board of Public Roads Classifications and Standards which shall consist of eleven members to be appointed by the Governor with the approval of the Legislature.

(2) Of the members of such board:

(a) Two shall be representatives of the Department of Transportation;

(b) Three shall be representatives of the counties. One of such members shall be a county highway superintendent licensed pursuant to the County Highway and City Street Superintendents Act and two of such members shall be county board members;

(c) Three shall be representatives of the municipalities. Each of such members shall be a city engineer, village engineer, public works director, city manager, city administrator, street commissioner, or city street superintendent licensed pursuant to the County Highway and City Street Superintendents Act; and

(d) Three shall be lay citizens, with one representing each of the three congressional districts of the state.

(3) The county members on the board shall represent the various classes of counties, as defined in section 23-1114.01, in the following manner:

(a) One shall be a representative from either a Class 1 or Class 2 county;

(b) One shall be a representative from either a Class 3 or Class 4 county; and

(c) One shall be a representative from either a Class 5, Class 6, or Class 7 county.

(4) The municipal members of the board shall represent municipalities of the following sizes by population, as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census:

(a) One shall be a representative from a municipality of less than two thousand five hundred inhabitants;

(b) One shall be a representative from a municipality of two thousand five hundred to fifty thousand inhabitants; and

(c) One shall be a representative from a municipality of over fifty thousand inhabitants.

(5) In making such appointments, the Governor shall consult with the Director-State Engineer and with the appropriate county and municipal officials and may consult with organizations representing such officials or representing counties or municipalities as may be appropriate.

(6) At the expiration of the existing term, one member from the county representatives, the municipal representatives, and the lay citizens shall be appointed for a term of two years; and two members from the county representatives, the municipal representatives, and the lay citizens shall be appointed for terms of four years. One representative from the department shall be appointed for a two-year term and the other representative shall be appointed for a four-year term. Thereafter, all such appointments shall be for terms of four years each.

(7) Members of such board shall receive no compensation for their services as such, except that the lay members shall receive the same compensation as members of the State Highway Commission, and all members shall be reimbursed for expenses incurred in the performance of their official duties as provided in sections 81-1174 to 81-1177. All expenses of such board shall be paid by the department.

Source: Laws 1969, c. 312, § 6, p. 1122; Laws 1971, LB 100, § 1; Laws 1981, LB 204, § 61; Laws 2017, LB113, § 43; Laws 2017, LB339, § 147; Laws 2020, LB381, § 28; Laws 2021, LB174, § 2.
Effective date August 28, 2021.

Cross References

County Highway and City Street Superintendents Act, see section 39-2301.

39-2107 Board of Public Roads Classifications and Standards; office space; furniture; equipment; supplies; personnel.

The Department of Transportation shall furnish the Board of Public Roads Classifications and Standards with necessary office space, furniture, equipment,

and supplies as well as necessary professional, technical, and clerical assistance.

Source: Laws 1969, c. 312, § 7, p. 1123; Laws 2017, LB339, § 148; Laws 2021, LB174, § 3.
Effective date August 28, 2021.

ARTICLE 22

NEBRASKA HIGHWAY BONDS

Section
39-2215. Highway Trust Fund; created; allocation; investment; State Treasurer; transfer; disbursements.

39-2215 Highway Trust Fund; created; allocation; investment; State Treasurer; transfer; disbursements.

(1) There is hereby created in the state treasury a special fund to be known as the Highway Trust Fund.

(2) All funds credited to the Highway Trust Fund pursuant to sections 66-489.02, 66-499, 66-4,140, 66-4,147, 66-6,108, and 66-6,109.02, and related penalties and interest, shall be allocated as provided in such sections.

(3) All other motor vehicle fuel taxes, diesel fuel taxes, compressed fuel taxes, and alternative fuel fees related to highway use retained by the state, all motor vehicle registration fees retained by the state other than those fees credited to the State Recreation Road Fund pursuant to subdivision (3) of section 60-3,156, and other highway-user taxes imposed by state law and allocated to the Highway Trust Fund, except for the proceeds of the sales and use taxes derived from motor vehicles, trailers, and semitrailers credited to the fund pursuant to section 77-27,132, are hereby irrevocably pledged for the terms of the bonds issued prior to January 1, 1988, to the payment of the principal, interest, and redemption premium, if any, of such bonds as they mature and become due at maturity or prior redemption and for any reserves therefor and shall, as received by the State Treasurer, be deposited in the fund for such purpose.

(4) Of the money in the fund specified in subsection (3) of this section which is not required for the use specified in such subsection, (a) an amount to be determined annually by the Legislature through the appropriations process may be transferred to the Motor Fuel Tax Enforcement and Collection Cash Fund for use as provided in section 66-739 on a monthly or other less frequent basis as determined by the appropriation language, (b) an amount to be determined annually by the Legislature through the appropriations process shall be transferred to the License Plate Cash Fund as certified by the Director of Motor Vehicles, and (c) the remaining money may be used for the purchase for retirement of the bonds issued prior to January 1, 1988, in the open market.

(5) The State Treasurer shall monthly transfer, from the proceeds of the sales and use taxes credited to the Highway Trust Fund and any money remaining in the fund after the requirements of subsections (2) through (4) of this section are satisfied, thirty thousand dollars to the Grade Crossing Protection Fund.

(6) Except as provided in subsection (7) of this section, the balance of the Highway Trust Fund shall be allocated fifty-three and one-third percent, less the amount provided for in section 39-847.01, to the Department of Transportation, twenty-three and one-third percent, less the amount provided for in section 39-847.01, to the various counties for road purposes, and twenty-three

and one-third percent to the various municipalities for street purposes. If bonds are issued pursuant to subsection (2) of section 39-2223, the portion allocated to the department shall be credited monthly to the Highway Restoration and Improvement Bond Fund, and if no bonds are issued pursuant to such subsection, the portion allocated to the department shall be credited monthly to the Highway Cash Fund. The portions allocated to the counties and municipalities shall be credited monthly to the Highway Allocation Fund and distributed monthly as provided by law. Vehicles accorded prorated registration pursuant to section 60-3,198 shall not be included in any formula involving motor vehicle registrations used to determine the allocation and distribution of state funds for highway purposes to political subdivisions.

(7) If it is determined by December 20 of any year that a county will receive from its allocation of state-collected highway revenue and from any funds relinquished to it by municipalities within its boundaries an amount in such year which is less than such county received in state-collected highway revenue in calendar year 1969, based upon the 1976 tax rates for highway-user fuels and registration fees, the department shall notify the State Treasurer that an amount equal to the sum necessary to provide such county with funds equal to such county's 1969 highway allocation for such year shall be transferred to such county from the Highway Trust Fund. Such makeup funds shall be matched by the county as provided in sections 39-2501 to 39-2510. The balance remaining in the fund after such transfer shall then be reallocated as provided in subsection (6) of this section.

(8) The State Treasurer shall disburse the money in the Highway Trust Fund as directed by resolution of the commission. All disbursements from the fund shall be made by electronic funds transfer by the Director of Administrative Services. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act and the earnings, if any, credited to the fund.

Source: Laws 1969, c. 309, § 15, p. 1111; Laws 1971, LB 53, § 3; Laws 1979, LB 571, § 2; Laws 1981, LB 22, § 8; Laws 1983, LB 118, § 2; Laws 1984, LB 1089, § 1; Laws 1986, LB 599, § 11; Laws 1988, LB 632, § 9; Laws 1989, LB 258, § 3; Laws 1990, LB 602, § 1; Laws 1991, LB 627, § 4; Laws 1992, LB 319, § 1; Laws 1994, LB 1066, § 25; Laws 1994, LB 1160, § 49; Laws 1995, LB 182, § 22; Laws 2002, LB 989, § 7; Laws 2002, Second Spec. Sess., LB 1, § 2; Laws 2003, LB 563, § 17; Laws 2004, LB 983, § 1; Laws 2004, LB 1144, § 3; Laws 2005, LB 274, § 228; Laws 2008, LB846, § 1; Laws 2011, LB170, § 1; Laws 2011, LB289, § 3; Laws 2017, LB339, § 159; Laws 2019, LB512, § 2; Laws 2021, LB509, § 2.
Effective date August 28, 2021.

Cross References

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

ARTICLE 23

COUNTY HIGHWAY AND CITY STREET SUPERINTENDENTS ACT

Section

39-2301.01 Terms, defined.

For purposes of the County Highway and City Street Superintendents Act, unless the context otherwise requires:

(1) Board of examiners means the Board of Examiners for County Highway and City Street Superintendents;

(2) City street superintendent means a person who engages in the practice of street superintending for an incorporated municipality;

(3) County highway superintendent means a person who engages in the practice of highway superintending for a county; and

(4) Street or highway superintending means assisting an incorporated municipality or a county in the following:

(a) Developing and annually updating long-range plans or programs based on needs and coordinated with adjacent local governmental units;

(b) Developing annual programs for design, construction, and maintenance;

(c) Developing annual budgets based on programmed projects and activities;

(d) Implementing the capital improvements and maintenance activities provided in the approved plans, programs, and budgets; and

(e) Managing personnel, contractors, and equipment in support of such planning, programming, budgeting, and implementation operations.

Source: Laws 2003, LB 500, § 2; Laws 2021, LB174, § 4.
Effective date August 28, 2021.

39-2302 Incentive payments; county highway or city street superintendents; requirements.

No person shall be appointed by any county as a county highway superintendent or by any municipality as a city street superintendent to qualify for the incentive payments provided in sections 39-2501 to 39-2505 for counties and municipal counties or sections 39-2511 to 39-2515 for municipalities and municipal counties unless he or she has been licensed under the County Highway and City Street Superintendents Act or is exempt from such licensure requirement as provided in section 39-2504 or 39-2514.

Source: Laws 1969, c. 144, § 2, p. 665; Laws 2003, LB 500, § 3; Laws 2021, LB174, § 5.
Effective date August 28, 2021.

39-2304 Board of Examiners for County Highway and City Street Superintendents; created; members; qualifications; appointment; term; vacancy; expenses.

(1) The Board of Examiners for County Highway and City Street Superintendents is created. The board shall consist of seven members to be appointed by the Governor. Four of such members shall be county representatives and three of such members shall be municipal representatives.

(2)(a) Immediately preceding appointment to the board, each county and municipal representative shall hold a county highway and city street superintendent license pursuant to the County Highway and City Street Superintendents Act.

(b) Of the county representatives, no more than one member shall be appointed from each class of county as defined in section 23-1114.01.

(c) Of the municipal representatives:

(i) No more than one shall be appointed from each congressional district;

(ii) One shall be a representative of a city of the metropolitan class, primary class, or first class;

(iii) One shall be a representative of a city of the second class; and

(iv) One shall be a representative of a village.

(3) In making such appointments, the Governor may give consideration to the following lists of persons licensed pursuant to the County Highway and City Street Superintendents Act:

(a) A list of county engineers, county highway superintendents, and county surveyors submitted by the Nebraska Association of County Officials; and

(b) A list of city street superintendents, city managers, city administrators, street commissioners, city engineers, village engineers, and public works directors submitted by the League of Nebraska Municipalities.

(4) Two county representatives shall initially be appointed for terms of two years each, and two county representatives shall initially be appointed for terms of four years each. One municipal representative shall initially be appointed for a term of two years, and two municipal representatives shall initially be appointed for terms of four years each. Thereafter, all such appointments shall be for terms of four years each.

(5) In the event a county or municipal representative loses his or her county highway and city street superintendent license, such person shall no longer be qualified to serve on the board and such seat shall be vacant. In the event of a vacancy occurring on the board for any reason, such vacancy shall be filled by appointment by the Governor for the remainder of the unexpired term. Such appointed person shall meet the same requirements and qualifications as the member whose vacancy he or she is filling.

(6) Members of the board shall receive no compensation for their services as members of the board but shall be reimbursed for expenses incurred while engaged in the performance of their official duties as provided in sections 81-1174 to 81-1177.

Source: Laws 1969, c. 144, § 4, p. 666; Laws 1981, LB 204, § 63; Laws 1992, LB 175, § 1; Laws 2003, LB 500, § 4; Laws 2020, LB381, § 29; Laws 2021, LB174, § 6.
Effective date August 28, 2021.

39-2306 Class B license; application; fee; exceptions.

(1) Any person desiring to be issued a Class B license under section 39-2308 shall apply to the board of examiners upon forms prescribed and furnished by the board. Such application shall be accompanied by an application fee of twenty-five dollars.

(2) Any professional engineer licensed pursuant to the Engineers and Architects Regulation Act shall be entitled to a Class B license under section 39-2308 without examination.

Source: Laws 1969, c. 144, § 6, p. 667; Laws 1997, LB 622, § 61; Laws 1997, LB 752, § 94; Laws 2003, LB 500, § 6; Laws 2021, LB174, § 7.
Effective date August 28, 2021.

Cross References

Engineers and Architects Regulation Act, see section 81-3401.

39-2307 Board of examiners; examinations; conduct; test qualifications of applicants for Class B licenses.

The board of examiners shall, twice each year, conduct examinations of applicants for Class B licenses under section 39-2308. Such examinations shall be designed to test the qualifications of applicants for the position of county highway superintendent or city street superintendent and shall cover the ability to assist in:

(1) Developing and annually updating long-range plans or programs based on needs and coordinated with adjacent local governmental units;

(2) Developing annual programs for design, construction, and maintenance;

(3) Developing annual budgets based on programmed projects and activities; and

(4) Implementing the capital improvements and maintenance activities provided in the approved plans, programs, and budgets.

Source: Laws 1969, c. 144, § 7, p. 667; Laws 2003, LB 500, § 7; Laws 2021, LB174, § 8.
Effective date August 28, 2021.

39-2308 Class B license; term; renewal; fee.

Any person satisfactorily completing the examination required by section 39-2307 or exempt from such examination under subsection (2) of section 39-2306 shall be issued a Class B license as a county highway and city street superintendent. Such license shall be valid for a period of three years and shall be renewable upon the payment of a fee of thirty dollars.

Source: Laws 1969, c. 144, § 8, p. 668; Laws 2003, LB 500, § 8; Laws 2018, LB733, § 1; Laws 2021, LB174, § 9.
Effective date August 28, 2021.

39-2308.01 Class A license; application; qualifications; fees; term; renewal.

Any person holding a Class B license issued pursuant to section 39-2308 may apply to the board of examiners for a Class A license upon forms prescribed and furnished by the board upon submitting evidence that (1) he or she has been employed and appointed by one or more county or counties or municipali-

ty or municipalities as a county highway or city street superintendent on at least a half-time basis for at least two years within the past six years or (2) he or she has at least four years' experience in work comparable to street or highway superintending, on at least a half-time basis, within the past eight years. Such application shall be accompanied by a fee of seventy-five dollars. A Class A license shall be valid for a period of three years and shall be renewable for three years as provided in section 39-2308.02 upon payment of a fee of fifty dollars.

Source: Laws 2003, LB 500, § 9; Laws 2018, LB733, § 2; Laws 2021, LB174, § 10.
Effective date August 28, 2021.

39-2308.03 County highway and city street superintendent licenses; reissuance; renewal.

(1) Beginning on August 28, 2021:

(a) A county highway superintendent license or city street superintendent license, whether of Class A or Class B, issued prior to August 28, 2021, is deemed to be a county highway and city street superintendent license;

(b) The holder of any Class A license or licenses shall have such license or licenses reissued as a single Class A county highway and city street superintendent license;

(c) The holder of any Class A license and any Class B license shall have such licenses reissued as a single Class A county highway and city street superintendent license; and

(d) The holder of any Class B license or licenses who does not hold any Class A license shall have such Class B license or licenses reissued as a single Class B county highway and city street superintendent license.

(2) A license reissued under subsection (1) of this section shall remain on the same triennial renewal cycle as the license or licenses replaced.

Source: Laws 2003, LB 500, § 11; Laws 2018, LB733, § 3; Laws 2021, LB174, § 11.
Effective date August 28, 2021.

ARTICLE 25

DISTRIBUTION TO POLITICAL SUBDIVISIONS

(a) ROADS

Section
39-2501. Incentive payments for road purposes; priority.
39-2502. County highway superintendent, defined; incentive payment; requirements.
39-2503. Incentive payment; amount.
39-2504. Incentive payment; reduction; when.
39-2505. County or municipal county; certify information; incentive payments; Department of Transportation; certify amount; State Treasurer; payment.

(b) STREETS

39-2511. Incentive payments for street purposes; priority.
39-2512. City street superintendent, defined; incentive payment.
39-2513. Incentive payment; amount.
39-2514. Incentive payment; reduction; when.
39-2515. Municipality or municipal county; certify information; incentive payments; Department of Transportation, certify amount; State Treasurer; payment.

(a) ROADS

39-2501 Incentive payments for road purposes; priority.

Before distributing the February portion of funds under sections 39-2508 and 66-4,148, incentive payments shall first be made as provided in sections 39-2502 to 39-2505.

Source: Laws 1969, c. 315, § 1, p. 1133; Laws 2001, LB 142, § 39; Laws 2021, LB174, § 12.
Effective date August 28, 2021.

39-2502 County highway superintendent, defined; incentive payment; requirements.

An incentive payment shall be made to each county having appointed and employed a county highway superintendent licensed under the County Highway and City Street Superintendents Act, during the calendar year preceding the year in which payment is made. For purposes of sections 39-2501 to 39-2505, county highway superintendent means a person who assists the county with the following:

(1) Developing and annually updating a long-range plan or program based on needs and coordinated with adjacent local governmental units;

(2) Developing an annual program for design, construction, and maintenance;

(3) Developing an annual budget based on programmed projects and activities;

(4) Submitting such plans, programs, and budgets to the local governing body for approval; and

(5) Implementing the capital improvements and maintenance activities provided in the approved plans, programs, and budgets.

Source: Laws 1969, c. 315, § 2, p. 1133; Laws 1976, LB 724, § 7; Laws 2003, LB 500, § 15; Laws 2007, LB277, § 7; Laws 2019, LB82, § 13; Laws 2021, LB174, § 13.
Effective date August 28, 2021.

Cross References

County Highway and City Street Superintendents Act, see section 39-2301.

39-2503 Incentive payment; amount.

Except as provided in section 39-2504, the incentive payment to the various counties and municipal counties shall be based on the class of license of the county highway superintendent appointed and employed by the county and on the rural population of each county or municipal county, as determined by the most recent federal census, according to the following table:

Rural Population	Class B License Payment	Class A License Payment
Not more than 3,000	$4,500.00	$ 9,000.00
3,001 to 5,000	$4,875.00	$ 9,750.00
5,001 to 10,000	$5,250.00	$10,500.00
10,001 to 20,000	$5,625.00	$11,250.00
20,001 to 30,000	$6,000.00	$12,000.00
30,001 and more	$6,375.00	$12,750.00

Source: Laws 1969, c. 315, § 3, p. 1134; Laws 1981, LB 51, § 1; Laws 2001, LB 142, § 40; Laws 2003, LB 500, § 16; Laws 2021, LB174, § 14.
Effective date August 28, 2021.

39-2504 Incentive payment; reduction; when.

(1) A reduced incentive payment shall be made to any county or municipal county having appointed and employed either (a) a licensed county highway superintendent for only a portion of the calendar year preceding the year in which the payment is made or (b) two or more successive licensed county highway superintendents for the calendar year preceding the year in which the payment is made. Such reduced payment shall be in the proportion of the payment amounts listed in section 39-2503 as the number of full months each such licensed superintendent was appointed and employed is of twelve.

(2) Any county or municipal county that contracts for the services of and appoints a consulting engineer licensed under the County Highway and City Street Superintendents Act or any other person licensed under the act to perform the duties outlined in section 39-2502 rather than appointing and employing a licensed county highway superintendent shall be entitled to an incentive payment equal to two-thirds the payment amount provided in section 39-2503 or two-thirds of the reduced incentive payment provided in subsection (1) of this section, as determined by the Department of Transportation pursuant to section 39-2505.

(3) Any county or municipal county that contracts with another county or municipal county or with any city or village for the services of and appoints a licensed county highway superintendent as provided in section 39-2114 shall be entitled to the incentive payment provided in section 39-2503 or the reduced incentive payment provided in subsection (1) of this section.

(4) Beginning in calendar year 2022, any county or municipal county having a total population of sixty thousand or more inhabitants, as determined by the most recent official United States census, shall receive the full twelve-month Class A incentive payment amount provided in section 39-2503 applicable to such county's or municipal county's rural population as determined by the most recent federal census.

(5) Beginning in calendar year 2022, a county or municipal county having a total population of less than sixty thousand inhabitants, as determined by the most recent official United States census, may appoint and employ a professional engineer, who is licensed pursuant to the Engineers and Architects Regulation Act but is not licensed under the County Highway and City Street Superintendents Act, to perform the duties of county highway superintendent outlined in section 39-2502. In such case, the professional engineer's license under the Engineers and Architects Regulation Act shall serve as a Class A license for purposes of incentive payments under sections 39-2502 to 39-2505. This subsection only applies to a professional engineer in the direct employ of a county or municipal county and does not apply to an engineer serving as a contractor or consultant.

Source: Laws 1969, c. 315, § 4, p. 1134; Laws 1981, LB 51, § 2; Laws 2001, LB 142, § 41; Laws 2003, LB 500, § 17; Laws 2017, LB339, § 163; Laws 2021, LB174, § 15.
Effective date August 28, 2021.

Cross References

County Highway and City Street Superintendents Act, see section 39-2301.
Engineers and Architects Regulation Act, see section 81-3401.

39-2505 County or municipal county; certify information; incentive payments; Department of Transportation; certify amount; State Treasurer; payment.

(1) By December 31 of each year, each county or municipal county shall certify to the Department of Transportation, using the certification process developed by the department:

(a) The name of any appointed county highway superintendent;

(b) Such superintendent's class of license, if applicable; and

(c) The type of appointment:

(i) Employed;

(ii) Contract consultant; or

(iii) Contract interlocal agreement with another municipality, county, or municipal county.

(2) The Department of Transportation shall, in January of each year commencing in 1970, determine and certify to the State Treasurer the amount of each incentive payment to be made under sections 39-2501 to 39-2505. The State Treasurer shall, on or before February 15, make the incentive payments in accordance with such certification.

Source: Laws 1969, c. 315, § 5, p. 1134; Laws 2017, LB339, § 164; Laws 2021, LB174, § 16.
Effective date August 28, 2021.

(b) STREETS

39-2511 Incentive payments for street purposes; priority.

Before distributing the February portion of funds under sections 39-2518 and 66-4,148, incentive payments shall first be made as provided in sections 39-2512 to 39-2515.

Source: Laws 1969, c. 316, § 1, p. 1139; Laws 2001, LB 142, § 45; Laws 2021, LB174, § 17.
Effective date August 28, 2021.

39-2512 City street superintendent, defined; incentive payment.

An incentive payment shall be made to each municipality or municipal county having appointed and employed a city street superintendent licensed under the County Highway and City Street Superintendents Act, during the calendar year preceding the year in which payment is made. For purposes of sections 39-2511 to 39-2515, city street superintendent means a person who assists the municipality or municipal county with the following:

(1) Developing and annually updating a long-range plan or program based on needs and coordinated with adjacent local governmental units;

(2) Developing an annual program for design, construction, and maintenance;

(3) Developing an annual budget based on programmed projects and activities;

(4) Submitting such plans, programs, and budgets to the local governing body for approval; and

(5) Implementing the capital improvements and maintenance activities provided in the approved plans, programs, and budgets.

Source: Laws 1969, c. 316, § 2, p. 1139; Laws 1976, LB 724, § 8; Laws 2001, LB 142, § 46; Laws 2003, LB 500, § 18; Laws 2007, LB277, § 8; Laws 2019, LB82, § 15; Laws 2021, LB174, § 18.
Effective date August 28, 2021.

Cross References

County Highway and City Street Superintendents Act, see section 39-2301.

39-2513 Incentive payment; amount.

Except as provided in section 39-2514, the incentive payment to the various municipalities or municipal counties shall be based on the class of license of the city street superintendent appointed and employed by the municipality or municipal counties and on the population of each municipality or urbanized area of each municipal county, as determined by the most recent federal census figures certified by the Tax Commissioner as provided in section 77-3,119, according to the following table:

Population	Class B License Payment	Class A License Payment
Not more than 500	$ 300.00	$ 600.00
501 to 1,000	$ 500.00	$1,000.00
1,001 to 2,500	$1,500.00	$3,000.00
2,501 to 5,000	$2,000.00	$4,000.00
5,001 to 10,000	$3,000.00	$6,000.00
10,001 to 20,000	$3,500.00	$7,000.00
20,001 to 40,000	$3,750.00	$7,500.00
40,001 to 200,000	$4,000.00	$8,000.00
200,001 and more	$4,250.00	$8,500.00

Source: Laws 1969, c. 316, § 3, p. 1139; Laws 1993, LB 726, § 9; Laws 1994, LB 1127, § 5; Laws 2001, LB 142, § 47; Laws 2003, LB 500, § 19; Laws 2021, LB174, § 19.
Effective date August 28, 2021.

39-2514 Incentive payment; reduction; when.

(1) A reduced incentive payment shall be made to any municipality or municipal county having appointed and employed either (a) a licensed city street superintendent for only a portion of the calendar year preceding the year in which the payment is made or (b) two or more successive licensed city street superintendents for the calendar year preceding the year in which the payment is made. Such reduced payment shall be in the proportion of the payment amounts listed in section 39-2513 as the number of full months each such licensed superintendent was appointed and employed is of twelve.

(2) Any municipality or municipal county that contracts for the services of and appoints a consulting engineer licensed under the County Highway and

City Street Superintendents Act or any other person licensed under the act to perform the duties outlined in section 39-2512 rather than appointing and employing a licensed city street superintendent shall be entitled to an incentive payment as provided in section 39-2513 or to the reduced incentive payment provided in subsection (1) of this section, as determined by the Department of Transportation pursuant to section 39-2515.

(3) Any municipality or municipal county that contracts with another municipality, county, or municipal county for the services of and appoints a licensed city street superintendent as provided in section 39-2114 shall be entitled to the incentive payment provided in section 39-2513 or the reduced incentive payment provided in subsection (1) of this section.

(4) Beginning in calendar year 2022, a municipality or municipal county may appoint and employ a professional engineer who is licensed pursuant to the Engineers and Architects Regulation Act but is not licensed under the County Highway and City Street Superintendents Act and who is serving as city engineer, village engineer, public works director, city manager, city administrator, or street commissioner to perform the duties of city street superintendent outlined in section 39-2512. In such case, the professional engineer's license under the Engineers and Architects Regulation Act shall serve as a Class A license for purposes of incentive payments under sections 39-2512 to 39-2515. This subsection only applies to a professional engineer in the direct employ of a municipality or municipal county and does not apply to an engineer serving as a contractor or consultant.

Source: Laws 1969, c. 316, § 4, p. 1140; Laws 2001, LB 142, § 48; Laws 2003, LB 500, § 20; Laws 2017, LB339, § 167; Laws 2021, LB174, § 20.
Effective date August 28, 2021.

Cross References

County Highway and City Street Superintendents Act, see section 39-2301.
Engineers and Architects Regulation Act, see section 81-3401.

39-2515 Municipality or municipal county; certify information; incentive payments; Department of Transportation, certify amount; State Treasurer; payment.

(1) By December 31 of each year, each municipality or municipal county shall certify to the Department of Transportation, using the certification process developed by the department:

(a) The name of any appointed city street superintendent;

(b) Such superintendent's class of license, if applicable; and

(c) The type of appointment:

(i) Employed;

(ii) Contract consultant; or

(iii) Contract interlocal agreement with another municipality, county, or municipal county.

(2) The Department of Transportation shall, in January of each year commencing in 1970, determine and certify to the State Treasurer the amount of each incentive payment to be made under sections 39-2511 to 39-2515. The

State Treasurer shall, on or before February 15, make the incentive payments in accordance with such certification.

Source: Laws 1969, c. 316, § 5, p. 1140; Laws 2017, LB339, § 168; Laws 2021, LB174, § 21.
Effective date August 28, 2021.

CHAPTER 43
INFANTS AND JUVENILES

Article.
1. Adoption Procedures.
   (a) General Provisions. 43-113.
2. Juvenile Code.
   (d) Preadjudication Procedures. 43-272.
   (g) Disposition. 43-285.
4. Office of Juvenile Services. 43-403 to 43-427.
31. Court Proceedings. 43-3102.
42. Nebraska Children's Commission. 43-4219.

ARTICLE 1
ADOPTION PROCEDURES

(a) GENERAL PROVISIONS

Section
43-113. Adoption records; access; retention.

(a) GENERAL PROVISIONS

43-113 Adoption records; access; retention.

Except as otherwise provided in the Nebraska Indian Child Welfare Act, court adoption records may not be inspected by the public and shall be permanently retained as a preservation duplicate in the manner provided in section 84-1208 or in their original form in accordance with the Records Management Act. No person shall have access to such records except that:

(1) Access shall be provided on the order of the judge of the court in which the decree of adoption was entered on good cause shown or as provided in sections 43-138 to 43-140 or 43-146.11 to 43-146.13; or

(2) The clerk of the court shall provide three certified copies of the decree of adoption to the parents who have adopted a child born in a foreign country and not then a citizen of the United States within three days after the decree of adoption is entered. A court order is not necessary to obtain these copies. Certified copies shall only be provided upon payment of applicable fees.

Source: Laws 1943, c. 104, § 11, p. 352; R.S.1943, § 43-113; Laws 1980, LB 992, § 29; Laws 1985, LB 255, § 25; Laws 1988, LB 372, § 4; Laws 1989, LB 229, § 2; Laws 1997, LB 80, § 1; Laws 1998, LB 1041, § 12; Laws 2021, LB355, § 4.
Effective date August 28, 2021.

Cross References

Birth certificate, adoptive, see sections 71-626 and 71-627.02.
Nebraska Indian Child Welfare Act, see section 43-1501.
Records Management Act, see section 84-1220.
Report of adoption, court required to file, see section 71-626.

ARTICLE 2
JUVENILE CODE

(d) PREADJUDICATION PROCEDURES

(d) PREADJUDICATION PROCEDURES

43-272 Right to counsel; appointment; payment; guardian ad litem; appointment; when; duties; standards for guardians ad litem; standards for attorneys who practice in juvenile court.

(1)(a) In counties having a population of less than one hundred fifty thousand inhabitants:

(i) When any juvenile court petition is filed alleging jurisdiction of a juvenile pursuant to subdivision (2) of section 43-247, counsel shall be appointed for such juvenile; and

(ii) In any other instance in which a juvenile is brought without counsel before a juvenile court, the court shall advise such juvenile and his or her parent or guardian of their right to retain counsel and shall inquire of such juvenile and his or her parent or guardian as to whether they desire to retain counsel.

(b) In counties having a population of one hundred fifty thousand or more inhabitants, when any juvenile court petition is filed alleging jurisdiction of a juvenile pursuant to subdivision (1), (2), (3)(b), or (4) of section 43-247, counsel shall be appointed for such juvenile.

(c) The court shall inform any juvenile described in this subsection and his or her parent or guardian of such juvenile's right to counsel at county expense if none of them is able to afford counsel. If the juvenile or his or her parent or guardian desires to have counsel appointed for such juvenile, or the parent or guardian of such juvenile cannot be located, and the court ascertains that none of such persons are able to afford an attorney, the court shall forthwith appoint an attorney to represent such juvenile for all proceedings before the juvenile court, except that if an attorney is appointed to represent such juvenile and the court later determines that a parent of such juvenile is able to afford an attorney, the court shall order such parent or juvenile to pay for services of the attorney to be collected in the same manner as provided by section 43-290. If the parent willfully refuses to pay any such sum, the court may commit him or her for contempt, and execution may issue at the request of the appointed attorney or the county attorney or by the court without a request.

(2) The court, on its own motion or upon application of a party to the proceedings, shall appoint a guardian ad litem for the juvenile: (a) If the juvenile has no parent or guardian of his or her person or if the parent or guardian of the juvenile cannot be located or cannot be brought before the court; (b) if the parent or guardian of the juvenile is excused from participation

in all or any part of the proceedings; (c) if the parent is a juvenile or an incompetent; (d) if the parent is indifferent to the interests of the juvenile; or (e) in any proceeding pursuant to the provisions of subdivision (3)(a) of section 43-247.

A guardian ad litem shall have the duty to protect the interests of the juvenile for whom he or she has been appointed guardian, and shall be deemed a parent of the juvenile as to those proceedings with respect to which his or her guardianship extends.

(3) The court shall appoint an attorney as guardian ad litem. A guardian ad litem shall act as his or her own counsel and as counsel for the juvenile, unless there are special reasons in a particular case why the guardian ad litem or the juvenile or both should have separate counsel. In such cases the guardian ad litem shall have the right to counsel, except that the guardian ad litem shall be entitled to appointed counsel without regard to his or her financial ability to retain counsel. Whether such appointed counsel shall be provided at the cost of the county shall be determined as provided in subsection (1) of this section.

(4) By July 1, 2015, the Supreme Court shall provide by court rule standards for guardians ad litem for juveniles in juvenile court proceedings.

(5) By July 1, 2017, the Supreme Court shall provide guidelines setting forth standards for all attorneys who practice in juvenile court.

Source: Laws 1981, LB 346, § 28; Laws 1982, LB 787, § 12; Laws 2000, LB 1167, § 19; Laws 2015, LB15, § 1; Laws 2016, LB894, § 12; Laws 2021, LB307, § 2.
Effective date August 28, 2021.

Cross References

Representation by public defender, see section 29-3915.

(g) DISPOSITION

43-285 Care of juvenile; duties; authority; placement plan and report; when; court proceedings; standing; Foster Care Review Office or local foster care review board; participation authorized; immunity.

(1) When the court awards a juvenile to the care of the Department of Health and Human Services, an association, or an individual in accordance with the Nebraska Juvenile Code, the juvenile shall, unless otherwise ordered, become a ward and be subject to the legal custody and care of the department, association, or individual to whose care he or she is committed. Any such association and the department shall have authority, by and with the assent of the court, to determine the care, placement, medical services, psychiatric services, training, and expenditures on behalf of each juvenile committed to it. Any such association and the department shall be responsible for applying for any health insurance available to the juvenile, including, but not limited to, medical assistance under the Medical Assistance Act. Such custody and care shall not include the guardianship of any estate of the juvenile.

(2)(a) Following an adjudication hearing at which a juvenile is adjudged to be under subdivision (3)(a) or (c) of section 43-247, the court may order the department to prepare and file with the court a proposed plan for the care, placement, services, and permanency which are to be provided to such juvenile

and his or her family. The health and safety of the juvenile shall be the paramount concern in the proposed plan.

(b) The department shall provide opportunities for the child, in an age or developmentally appropriate manner, to be consulted in the development of his or her plan as provided in the Nebraska Strengthening Families Act.

(c) The department shall include in the plan for a child who is fourteen years of age or older and subject to the legal care and custody of the department a written independent living transition proposal which meets the requirements of section 43-1311.03 and, for eligible children, the Young Adult Bridge to Independence Act. The juvenile court shall provide a copy of the plan to all interested parties before the hearing. The court may approve the plan, modify the plan, order that an alternative plan be developed, or implement another plan that is in the child's best interests. In its order the court shall include a finding regarding the appropriateness of the programs and services described in the proposal designed to help the child prepare for the transition from foster care to a successful adulthood. The court shall also ask the child, in an age or developmentally appropriate manner, if he or she participated in the development of his or her plan and make a finding regarding the child's participation in the development of his or her plan as provided in the Nebraska Strengthening Families Act. Rules of evidence shall not apply at the dispositional hearing when the court considers the plan that has been presented.

(d) The last court hearing before jurisdiction pursuant to subdivision (3)(a) of section 43-247 is terminated for a child who is sixteen years of age or older or pursuant to subdivision (8) of section 43-247 for a child whose guardianship or state-funded adoption assistance agreement was disrupted or terminated after he or she had attained the age of sixteen years shall be called the independence hearing. In addition to other matters and requirements to be addressed at this hearing, the independence hearing shall address the child's future goals and plans and access to services and support for the transition from foster care to adulthood consistent with section 43-1311.03 and the Young Adult Bridge to Independence Act. The child shall not be required to attend the independence hearing, but efforts shall be made to encourage and enable the child's attendance if the child wishes to attend, including scheduling the hearing at a time that permits the child's attendance. An independence coordinator as provided in section 43-4506 shall attend the hearing if reasonably practicable, but the department is not required to have legal counsel present. At the independence hearing, the court shall advise the child about the bridge to independence program, including, if applicable, the right of young adults in the bridge to independence program to request a court-appointed, client-directed attorney under subsection (1) of section 43-4510 and the benefits and role of such attorney and to request additional permanency review hearings in the bridge to independence program under subsection (5) of section 43-4508 and how to request such a hearing. The court shall also advise the child, if applicable, of the rights he or she is giving up if he or she chooses not to participate in the bridge to independence program and the option to enter such program at any time between nineteen and twenty-one years of age if the child meets the eligibility requirements of section 43-4504. The department shall present information to the court regarding other community resources that may benefit the child, specifically information regarding state programs established pursuant to 42 U.S.C. 677. The court shall also make a finding as to whether the child has received the documents as required by subsection (9) of section 43-1311.03.

(3)(a) Within thirty days after an order awarding a juvenile to the care of the department, an association, or an individual and until the juvenile reaches the age of majority, the department, association, or individual shall file with the court a report stating the location of the juvenile's placement and the needs of the juvenile in order to effectuate the purposes of subdivision (1) of section 43-246. The department, association, or individual shall file a report with the court once every six months or at shorter intervals if ordered by the court or deemed appropriate by the department, association, or individual. Every six months, the report shall provide an updated statement regarding the eligibility of the juvenile for health insurance, including, but not limited to, medical assistance under the Medical Assistance Act. The department shall also concurrently file a written sibling placement report as described in subsection (3) of section 43-1311.02 at these times.

(b) The department, association, or individual shall file a report and notice of placement change with the court and shall send copies of the notice to all interested parties, including all of the child's siblings that are known to the department and, if the child is of school age, the school where the child is enrolled, at least seven days before the placement of the juvenile is changed from what the court originally considered to be a suitable family home or institution to some other custodial situation in order to effectuate the purposes of subdivision (1) of section 43-246. If a determination is made that it is not in the child's best interest to remain in the same school after a placement change, notice of placement change shall also be sent to the new school where the child will be enrolled. The department, association, or individual shall afford a parent or an adult sibling the option of refusing to receive such notifications. The court, on its own motion or upon the filing of an objection to the change by an interested party, may order a hearing to review such a change in placement and may order that the change be stayed until the completion of the hearing. Nothing in this section shall prevent the court on an ex parte basis from approving an immediate change in placement upon good cause shown. The department may make an immediate change in placement without court approval only if the juvenile is in a harmful or dangerous situation or when the foster parents request that the juvenile be removed from their home. Approval of the court shall be sought within twenty-four hours after making the change in placement or as soon thereafter as possible. Within twenty-four hours after court approval of the emergency placement change, the department, association, or individual shall provide notice of the placement change to all interested parties, including all of the child's siblings that are known to the department, and, if the child is of school age, the school where the child is enrolled and the new school where the child will be enrolled.

(c) The department shall provide the juvenile's guardian ad litem with a copy of any report filed with the court by the department pursuant to this subsection.

(4) The court shall also hold a permanency hearing if required under section 43-1312.

(5) When the court awards a juvenile to the care of the department, an association, or an individual, then the department, association, or individual shall have standing as a party to file any pleading or motion, to be heard by the court with regard to such filings, and to be granted any review or relief requested in such filings consistent with the Nebraska Juvenile Code.

(6) Whenever a juvenile is in a foster care placement as defined in section 43-1301, the Foster Care Review Office or the designated local foster care review board may participate in proceedings concerning the juvenile as provided in section 43-1313 and notice shall be given as provided in section 43-1314.

(7) Any written findings or recommendations of the Foster Care Review Office or the designated local foster care review board with regard to a juvenile in a foster care placement submitted to a court having jurisdiction over such juvenile shall be admissible in any proceeding concerning such juvenile if such findings or recommendations have been provided to all other parties of record.

(8) The executive director and any agent or employee of the Foster Care Review Office or any member of any local foster care review board participating in an investigation or making any report pursuant to the Foster Care Review Act or participating in a judicial proceeding pursuant to this section shall be immune from any civil liability that would otherwise be incurred except for false statements negligently made.

Source: Laws 1981, LB 346, § 41; Laws 1982, LB 787, § 17; Laws 1984, LB 845, § 31; Laws 1985, LB 447, § 25; Laws 1989, LB 182, § 12; Laws 1990, LB 1222, § 3; Laws 1992, LB 1184, § 14; Laws 1993, LB 103, § 1; Laws 1996, LB 1044, § 133; Laws 1998, LB 1041, § 26; Laws 2010, LB800, § 23; Laws 2011, LB177, § 1; Laws 2011, LB648, § 1; Laws 2012, LB998, § 2; Laws 2013, LB216, § 15; Laws 2013, LB269, § 1; Laws 2013, LB561, § 22; Laws 2014, LB464, § 19; Laws 2014, LB853, § 23; Laws 2014, LB908, § 5; Laws 2015, LB243, § 11; Laws 2016, LB746, § 16; Laws 2018, LB1078, § 1; Laws 2019, LB600, § 1; Laws 2021, LB143, § 1.
Effective date August 28, 2021.

Cross References

Foster Care Review Act, see section 43-1318.
Medical Assistance Act, see section 68-901.
Nebraska Strengthening Families Act, see section 43-4701.
Young Adult Bridge to Independence Act, see section 43-4501.

ARTICLE 4
OFFICE OF JUVENILE SERVICES

Section
43-403. Terms, defined.
43-407. Office of Juvenile Services; programs and treatment services; individualized treatment plan; placement; procedure; case management and coordination process; funding utilization; intent; evidence-based services, policies, practices, and procedures; report; contents; Executive Board of Legislative Council; powers.
43-408. Office of Juvenile Services; committing court; powers and duties; commitment review; hearing; immediate change of placement; procedure; annual review of commitment and placement; review status; when.
43-427. Youth rehabilitation and treatment centers; five-year operations plan; reports.

43-403 Terms, defined.

For purposes of the Health and Human Services, Office of Juvenile Services Act:

(1) Aftercare means the control, supervision, and care exercised over juveniles who have been discharged from commitment;

(2) Committed means an order by a court committing a juvenile to the care and custody of the Office of Juvenile Services for treatment at a youth rehabilitation and treatment center identified in the court order;

(3) Community supervision means the control, supervision, and care exercised over juveniles when a commitment to the level of treatment of a youth rehabilitation and treatment center has not been ordered by the court;

(4) Emergency, for purposes of sections 43-427 to 43-430, means a public health emergency or a situation, including fire, flood, tornado, natural disaster, or damage to a youth rehabilitation and treatment center, that renders the youth rehabilitation and treatment center uninhabitable. Emergency does not include inadequate staffing;

(5) Evaluation means assessment of the juvenile's social, physical, psychological, and educational development and needs, including a recommendation as to an appropriate treatment plan; and

(6) Treatment means the type of supervision, care, and rehabilitative services provided for the juvenile at a youth rehabilitation and treatment center operated by the Office of Juvenile Services.

Source: Laws 1998, LB 1073, § 35; Laws 2020, LB1140, § 5; Laws 2020, LB1188, § 2; Laws 2021, LB273, § 2.
Effective date August 28, 2021.

43-407 Office of Juvenile Services; programs and treatment services; individualized treatment plan; placement; procedure; case management and coordination process; funding utilization; intent; evidence-based services, policies, practices, and procedures; report; contents; Executive Board of Legislative Council; powers.

(1) The Office of Juvenile Services shall design and make available programs and treatment services through youth rehabilitation and treatment centers. The programs and treatment services shall be evidence-based and based upon the individual or family evaluation process using evidence-based, validated risk and needs assessments to create an individualized treatment plan. The treatment plan shall be developed within fourteen days after admission and provided to the committing court and interested parties. The court may, on its own motion or upon the motion of an interested party, set a hearing to review the treatment plan.

(2) A juvenile may be committed by a court to the Office of Juvenile Services for placement at a youth rehabilitation and treatment center operated and utilized in compliance with state law pursuant to a hearing described in subdivision (1)(b)(iii) of section 43-286. The office shall not change a juvenile's placement except as provided in this section. If a juvenile placed at a youth rehabilitation and treatment center is assessed as needing inpatient or subacute substance abuse or behavioral health residential treatment, the Office of Juvenile Services may arrange for such treatment to be provided at the Hastings Regional Center or may transition the juvenile to another inpatient or subacute residential treatment facility licensed as a treatment facility in the State of Nebraska and shall provide notice of the change in placement pursuant to subsection (3) of this section. Except in a case requiring emergency admission to an inpatient facility, the juvenile shall not be discharged by the Office of Juvenile Services until the juvenile has been returned to the court for a review of his or her conditions of probation and the juvenile has been transitioned to

the clinically appropriate level of care. Programs and treatment services shall address:

(a) Behavioral impairments, severe emotional disturbances, sex offender behaviors, and other mental health or psychiatric disorders;

(b) Drug and alcohol addiction;

(c) Health and medical needs;

(d) Education, special education, and related services;

(e) Individual, group, and family counseling services as appropriate with any treatment plan related to subdivisions (a) through (d) of this subsection. Services shall also be made available for juveniles who have been physically or sexually abused;

(f) A case management and coordination process, designed to assure appropriate reintegration of the juvenile to his or her family, school, and community. This process shall follow individualized planning which shall begin at intake and evaluation. Structured programming shall be scheduled for all juveniles. This programming shall include a strong academic program as well as classes in health education, living skills, vocational training, behavior management and modification, money management, family and parent responsibilities, substance abuse awareness, physical education, job skills training, and job placement assistance. Participation shall be required of all juveniles if such programming is determined to be age and developmentally appropriate. The goal of such structured programming shall be to provide the academic and life skills necessary for a juvenile to successfully return to his or her home and community upon release; and

(g) The design and delivery of treatment programs through the youth rehabilitation and treatment centers as well as any licensing or certification requirements, and the office shall follow the requirements as stated within Title XIX and Title IV-E of the federal Social Security Act, as such act existed on January 1, 2020, the Special Education Act, or other funding guidelines as appropriate. It is the intent of the Legislature that these funding sources shall be utilized to support service needs of eligible juveniles.

(3) When the Office of Juvenile Services has arranged for treatment of a juvenile as provided in subsection (2) of this section, the office shall file a report and notice of placement change with the court and shall send copies of the notice to all interested parties, including any parent or guardian of the juvenile, at least seven days before the placement of the juvenile is changed from the order of the committing court. The court, on its own motion or upon the filing of an objection to the change by an interested party, may order a hearing to review such change in placement and may order the change be stayed until the completion of the hearing. When filing a report and notice of placement change pursuant to this subsection, or upon a court order to set a hearing to review a change in placement or stay a change in placement pursuant to this subsection, the office may file a motion for immediate change of placement pursuant to subsection (4) of section 43-408.

(4)(a) The Office of Juvenile Services shall provide evidence-based services and operate the youth rehabilitation and treatment centers in accordance with evidence-based policies, practices, and procedures. On December 15 of each year, the office shall electronically submit to the Governor, the Legislature, and the Chief Justice of the Supreme Court, a comprehensive report of the evi-

dence-based services, policies, practices, and procedures by which such centers operate, and efforts the office has taken to ensure fidelity to evidence-based models. The report may be attached to preexisting reporting duties. The report shall include at a minimum:

(i) The percentage of juveniles being supervised in accordance with evidence-based practices;

(ii) The percentage of state funds expended by each respective department for programs that are evidence-based, and a list of all programs which are evidence-based;

(iii) Specification of supervision policies, procedures, programs, and practices that were created, modified, or eliminated; and

(iv) Recommendations of the office for any additional collaboration with other state, regional, or local public agencies, private entities, or faith-based and community organizations.

(b) Each report and executive summary shall be available to the general public on the website of the office.

(c) The Executive Board of the Legislative Council may request the Consortium for Crime and Justice Research and Juvenile Justice Institute at the University of Nebraska at Omaha to review, study, and make policy recommendations on the reports assigned by the executive board.

Source: Laws 1994, LB 988, § 14; Laws 1997, LB 882, § 11; R.S.Supp.,1997, § 83-925.06; Laws 1998, LB 1073, § 39; Laws 2007, LB542, § 4; Laws 2013, LB561, § 29; Laws 2014, LB464, § 27; Laws 2020, LB1148, § 12; Laws 2020, LB1188, § 6; Laws 2021, LB273, § 3.
Effective date August 28, 2021.

Cross References

Special Education Act, see section 79-1110.

43-408 Office of Juvenile Services; committing court; powers and duties; commitment review; hearing; immediate change of placement; procedure; annual review of commitment and placement; review status; when.

(1) Whenever any juvenile is committed to the Office of Juvenile Services, the juvenile shall also be considered committed to the care and custody of the Department of Health and Human Services for the purpose of obtaining health care and treatment services.

(2) The committing court may order placement at a youth rehabilitation and treatment center for a juvenile committed to the Office of Juvenile Services following a commitment hearing pursuant to subdivision (1)(b)(iii) of section 43-286. The court shall continue to maintain jurisdiction over any juvenile committed to the Office of Juvenile Services, and the office shall provide the court and parties of record with the initial treatment plan and monthly updates regarding the progress of the juvenile.

(3) In addition to the hearings set forth in section 43-285, during a juvenile's term of commitment, any party may file a motion for commitment review to bring the case before the court for consideration of the juvenile's commitment to a youth rehabilitation and treatment center. A hearing shall be scheduled no later than thirty days after the filing of such motion. No later than five days prior to the hearing, the office shall provide information to the parties regard-

ing the juvenile's individualized treatment plan and progress. A representative of the office or facility shall be physically present at the hearing to provide information to the court unless the court allows the representative to appear telephonically or by video. The juvenile and the juvenile's parent or guardian shall have the right to be physically present at the hearing. The court may enter such orders regarding the juvenile's care and treatment as are necessary and in the best interests of the juvenile, including an order for early discharge from commitment when appropriate. In entering an order for early discharge from commitment to intensive supervised probation in the community, the court shall consider to what extent:

(a) The juvenile has completed the goals of the juvenile's individualized treatment plan or received maximum benefit from institutional treatment;

(b) The juvenile would benefit from continued services under community supervision;

(c) The juvenile can function in a community setting with appropriate supports; and

(d) There is reason to believe that the juvenile will not commit further violations of law and will comply with the terms of intensive supervised probation.

(4) When filing a motion pursuant to subsection (3) of this section, the office may also file a motion for immediate change of placement to another youth rehabilitation and treatment center operated and utilized in compliance with state law. When filing a report and notice of placement change pursuant to subsection (3) of section 43-407, or upon a court order to set a hearing to review a change in placement or stay a change in placement pursuant to subsection (3) of section 43-407, the office may file a motion for immediate change of placement to the inpatient or subacute residential treatment facility licensed as a treatment facility in the State of Nebraska. The motion shall set forth with reasonable particularity the grounds for an immediate change of placement. A motion for immediate change of placement under this subsection shall be heard within twenty-four hours, excluding nonjudicial days, and may be heard telephonically or by videoconferencing. Prior to filing a motion for immediate change of placement, the office shall make a reasonable attempt to provide notice of the motion to the juvenile's parent or guardian, including notice that the motion will be set for hearing within twenty-four hours. The court shall promptly provide the notice of hearing to all parties of record. In advance of the hearing, the office shall provide to the other parties of record any exhibits it intends to offer, if any, and the identity of its witnesses. The office shall provide the juvenile an opportunity before the hearing to consult with the juvenile's counsel and review the motion and the exhibits and witnesses. The court shall order the immediate change of placement pending an order pursuant to subsection (3) of this section or subsection (3) of section 43-407 if the court determines that an immediate change is in the best interests of the juvenile and further delay would be contrary to the juvenile's well-being, physical health, emotional health, or mental health.

(5) Each juvenile committed to the Office of Juvenile Services for placement at a youth rehabilitation and treatment center shall also be entitled to an annual review of such commitment and placement for as long as the juvenile remains so committed and placed. At an annual review hearing, the court shall consider the factors described in subsection (3) of this section to assess the

juvenile's progress and determine whether commitment remains in the best interests of the juvenile.

(6) If a juvenile is placed in detention while awaiting placement at a youth rehabilitation and treatment center and the placement has not occurred within fourteen days, the committing court shall hold a hearing every fourteen days to review the status of the juvenile. Placement of a juvenile in detention shall not be considered a treatment service.

Source: Laws 1996, LB 1044, § 962; R.S.Supp.,1996, § 83-925.12; Laws 1998, LB 1073, § 40; Laws 2001, LB 598, § 1; Laws 2006, LB 1113, § 40; Laws 2013, LB561, § 30; Laws 2020, LB1148, § 13; Laws 2020, LB1188, § 7; Laws 2021, LB273, § 4.
Effective date August 28, 2021.

43-427 Youth rehabilitation and treatment centers; five-year operations plan; reports.

(1) The Department of Health and Human Services shall develop a five-year operations plan for the youth rehabilitation and treatment centers and submit such operations plans electronically to the Health and Human Services Committee of the Legislature on or before March 15, 2021.

(2) The operations plan shall be developed with input from key stakeholders and shall include, but not be limited to:

(a) A description of the population served at each youth rehabilitation and treatment center;

(b) An organizational chart of supervisors and operations staff. The operations plan shall not allow for administrative staff to have oversight over more than one youth rehabilitation and treatment center and shall not allow for clinical staff to have responsibility over more than one youth rehabilitation and treatment center;

(c) Staff who shall be centralized offsite or managed onsite, including facility and maintenance staff;

(d) A facility plan that considers taxpayer investments already made in the facility and the community support and acceptance of the juveniles in the community surrounding the youth rehabilitation and treatment center;

(e) A description of each rehabilitation program offered at the youth rehabilitation and treatment center;

(f) A description of each mental health treatment plan offered at the youth rehabilitation and treatment center;

(g) A description of reentry and discharge planning;

(h) A staffing plan that ensures adequate staffing;

(i) An education plan developed in collaboration with the State Department of Education;

(j) A capital improvements budget;

(k) An operating budget;

(l) A disaster recovery plan;

(m) A plan to segregate the juveniles by gender on separate campuses;

(n) A parenting plan for juveniles placed in a youth rehabilitation and treatment center who are parenting;

(o) A statement of the rights of juveniles placed at the youth rehabilitation and treatment centers, including a right to privacy, and the rights of parents or guardians;

(p) Quality and outcome measurements for tracking outcomes for juveniles when they are discharged from the youth rehabilitation and treatment center, including an exit survey of such juveniles;

(q) Key performance indicators to be included in the annual report required under this section;

(r) A requirement for trauma-informed training provided to staff;

(s) Methods and procedures for investigations at the youth rehabilitation and treatment center; and

(t) A grievance process for juveniles placed at the youth rehabilitation and treatment centers.

(3) The department shall submit a report electronically to the Clerk of the Legislature on or before December 15, 2021, and each December 15 thereafter regarding such operations plan and key performance indicators.

(4) In addition to the report required in subsection (3) of this section, the department shall update the Health and Human Services Committee of the Legislature on or before each March 15, June 15, and September 15, regarding the elements of the operations plan described in subdivisions (a), (d), (e), (f), and (m) of subsection (2) of this section, of any substantial changes planned before the next report, and of any substantial changes that have occurred to such facilities or programs. Nothing in this subsection shall be construed to limit or prevent the department from acting in accordance with sections 43-428 to 43-430 in the event of an emergency.

Source: Laws 2020, LB1140, § 2; Laws 2021, LB428, § 1.
Operative date August 28, 2021.

ARTICLE 31
COURT PROCEEDINGS

Section
43-3102. Waiver of right to counsel by juvenile; writing; when waiver not allowed; Supreme Court; duties.

43-3102 Waiver of right to counsel by juvenile; writing; when waiver not allowed; Supreme Court; duties.

(1) In any court proceeding, any waiver of the right to counsel by a juvenile shall be made in open court, shall be recorded, and shall be confirmed in a writing signed by the juvenile.

(2) A court shall not accept a juvenile's waiver of the right to counsel unless the waiver satisfies subsection (1) of this section and is an affirmative waiver that is made intelligently, voluntarily, and understandingly. In determining whether such waiver was made intelligently, voluntarily, and understandingly, the court shall consider, among other things: (a) The age, intelligence, and education of the juvenile, (b) the juvenile's emotional stability, and (c) the complexity of the proceedings.

(3) On or before July 1, 2022, the Supreme Court shall provide, by court rule, a process to ensure that a juvenile has consulted with counsel, and if not, is

provided the opportunity to consult with counsel prior to the juvenile exercising their right to waive their right to counsel.

(4) The court shall ensure that a juvenile represented by an attorney consults with his or her attorney before any waiver of counsel.

(5) No parent, guardian, custodian, or other person may waive the juvenile's right to counsel.

(6) A juvenile's right to be represented by counsel may not be waived in the following circumstances:

(a) If the juvenile is under the age of fourteen;

(b) For a detention hearing;

(c) For any dispositional hearing where out-of-home placement is sought; or

(d) If there is a motion to transfer the juvenile from juvenile court to county court or district court.

Source: Laws 2016, LB894, § 16; Laws 2021, LB307, § 3.
Effective date August 28, 2021.

ARTICLE 42

NEBRASKA CHILDREN'S COMMISSION

Section
43-4219. Foster care reimbursement rates; increases; legislative intent.

43-4219 Foster care reimbursement rates; increases; legislative intent.

It is the intent of the Legislature that beginning July 1, 2021, the Division of Children and Family Services of the Department of Health and Human Services shall implement a two-percent increase to foster care reimbursement rates for fiscal year 2021-22 and beginning July 1, 2022, the division shall implement a two-percent increase to foster care reimbursement rates for fiscal year 2022-23.

Source: Laws 2021, LB100, § 3.
Operative date May 27, 2021.

CHAPTER 61
NATURAL RESOURCES

Article.
2. Department of Natural Resources. 61-222.

ARTICLE 2
DEPARTMENT OF NATURAL RESOURCES

Section
61-222. Water Sustainability Fund; created; use; investment.

61-222 Water Sustainability Fund; created; use; investment.

The Water Sustainability Fund is created in the Department of Natural Resources. The fund shall be used in accordance with the provisions established in sections 2-1506 to 2-1513 and for costs directly related to the administration of the fund. The Legislature shall not appropriate or transfer money from the Water Sustainability Fund for any other purpose, except that transfers may be made from the Water Sustainability Fund to the Department of Natural Resources Cash Fund and as a one-time transfer to the General Fund as described in this section.

The Water Sustainability Fund shall consist of money transferred to the fund by the Legislature, other funds as appropriated by the Legislature, and money donated as gifts, bequests, or other contributions from public or private entities. Funds made available by any department or agency of the United States may also be credited to the fund if so directed by such department or agency. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Investment earnings from investment of money in the fund shall be credited to the fund.

It is the intent of the Legislature that twenty-one million dollars be transferred from the General Fund to the Water Sustainability Fund in fiscal year 2014-15 and that eleven million dollars be transferred from the General Fund to the Water Sustainability Fund each fiscal year beginning in fiscal year 2015-16.

The State Treasurer shall transfer one hundred seventy-five thousand dollars from the Water Sustainability Fund to the Department of Natural Resources Cash Fund on or before June 30, 2021, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

The State Treasurer shall transfer four hundred twenty-five thousand dollars from the Water Sustainability Fund to the Department of Natural Resources Cash Fund on or before June 30, 2021, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

The State Treasurer shall transfer five hundred thousand dollars from the Water Sustainability Fund to the General Fund on or before June 30, 2021, on

such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

The State Treasurer shall transfer four hundred seventy-five thousand dollars from the Water Sustainability Fund to the Department of Natural Resources Cash Fund on or before June 30, 2022, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

The State Treasurer shall transfer four hundred seventy-five thousand dollars from the Water Sustainability Fund to the Department of Natural Resources Cash Fund on or before June 30, 2023, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

Source: Laws 2014, LB906, § 7; Laws 2015, LB661, § 31; Laws 2020, LB1009, § 4; Laws 2021, LB384, § 9; Laws 2021, LB507, § 6.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB384, section 9, with LB507, section 6, to reflect all amendments.

Note: Changes made by LB384 became effective April 27, 2021. Changes made by LB507 became effective May 6, 2021.

Cross References

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

CHAPTER 64
NOTARIES PUBLIC

Article.
4. Online Notary Public Act. 64-401 to 64-420.

ARTICLE 4
ONLINE NOTARY PUBLIC ACT

Section
64-401. Act, how cited.
64-419. Online notarial act; validity.
64-420. Deed, mortgage, trust deed, other instrument in writing; online notarial act; validity.

64-401 Act, how cited.

Sections 64-401 to 64-420 shall be known as the Online Notary Public Act.

Source: Laws 2019, LB186, § 1; Laws 2021, LB94, § 1.
Effective date August 28, 2021.

64-419 Online notarial act; validity.

No otherwise valid online notarial act performed on or after April 2, 2020, and before July 1, 2020, pursuant to the Governor's Executive Order No. 20-13, dated April 1, 2020, shall be invalidated because such act was performed prior to the operative date of Laws 2019, LB186.

Source: Laws 2021, LB94, § 2.
Effective date August 28, 2021.

64-420 Deed, mortgage, trust deed, other instrument in writing; online notarial act; validity.

No deed, mortgage, trust deed, or other instrument in writing for the conveyance or encumbrance of real estate, or any interest therein, shall be invalidated because it involved the performance of an online notarial act on or after April 2, 2020, and before July 1, 2020, pursuant to the Governor's Executive Order No. 20-13, dated April 1, 2020. Such deed, mortgage, trust deed, or other instrument in writing is declared to be legal and valid in all courts of law and equity in this state and elsewhere.

Source: Laws 2021, LB94, § 3.
Effective date August 28, 2021.

CHAPTER 66
OILS, FUELS, AND ENERGY

Article.
13. Ethanol. 66-1330, 66-1351.

ARTICLE 13
ETHANOL

Section
66-1330. Act, how cited.
66-1351. Treated seed; use prohibited; when.

66-1330 Act, how cited.

Sections 66-1330 to 66-1351 shall be known and may be cited as the Ethanol Development Act.

Source: Laws 1986, LB 1230, § 1; Laws 1987, LB 279, § 1; Laws 1989, LB 587, § 1; Laws 1992, LB 754, § 1; R.S.Supp.,1992, § 66-1301; Laws 1993, LB 364, § 1; Laws 1995, LB 377, § 1; Laws 2001, LB 536, § 1; Laws 2004, LB 479, § 2; Laws 2021, LB507, § 7. Effective date May 6, 2021.

66-1351 Treated seed; use prohibited; when.

The use of seed that is treated, as defined in section 81-2,147.01, in the production of agricultural ethyl alcohol shall be prohibited if such use results in the generation of a byproduct that is deemed unsafe for livestock consumption or land application.

Source: Laws 2021, LB507, § 8.
Effective date May 6, 2021.

CHAPTER 68
PUBLIC ASSISTANCE

Article.
9. Medical Assistance Act. 68-901 to 68-9,101.
10. Assistance, Generally.
(b) Procedure and Penalties. 68-1017.02.
12. Social Services. 68-1201 to 68-1216.
17. Welfare Reform.
(a) Welfare Reform Act. 68-1724.

ARTICLE 9
MEDICAL ASSISTANCE ACT

Section
68-901. Medical Assistance Act; act, how cited.
68-919. Medical assistance recipient; liability; when; claim; procedure; department; powers; recovery of medical assistance reimbursement; procedure.
68-994. Long-term care services and supports; department; limitation on addition to medicaid managed care program.
68-9,101. Multiple procedure payment reduction policy; implementation; when prohibited.

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

Sections 68-901 to 68-9,101 shall be known and may be cited as the Medical Assistance Act.

Source: Laws 2006, LB 1248, § 1; Laws 2008, LB830, § 1; Laws 2009, LB27, § 1; Laws 2009, LB288, § 18; Laws 2009, LB342, § 1; Laws 2009, LB396, § 1; Laws 2010, LB1106, § 1; Laws 2011, LB525, § 1; Laws 2012, LB541, § 1; Laws 2012, LB599, § 2; Laws 2015, LB500, § 1; Laws 2016, LB698, § 15; Laws 2017, LB268, § 10; Laws 2017, LB578, § 1; Initiative Law 2018, No. 427, § 1; Laws 2019, LB468, § 1; Laws 2019, LB726, § 1; Laws 2020, LB956, § 1; Laws 2020, LB1002, § 43; Laws 2020, LB1053, § 1; Laws 2020, LB1158, § 1; Laws 2021, LB100, § 1. Operative date August 28, 2021.

68-919 Medical assistance recipient; liability; when; claim; procedure; department; powers; recovery of medical assistance reimbursement; procedure.

(1) The recipient of medical assistance under the medical assistance program shall be indebted to the department for the total amount paid for medical assistance on behalf of the recipient if:

(a) The recipient was fifty-five years of age or older at the time the medical assistance was provided; or

(b) The recipient resided in a medical institution and, at the time of institutionalization or application for medical assistance, whichever is later, the department determines that the recipient could not have reasonably been expected to be discharged and resume living at home. For purposes of this

section, medical institution means a nursing facility, an intermediate care facility for persons with developmental disabilities, or an inpatient hospital.

(2) The debt accruing under subsection (1) of this section arises during the life of the recipient but shall be held in abeyance until the death of the recipient. Any such debt to the department that exists when the recipient dies shall be recovered only after the death of the recipient's spouse, if any, and only after the recipient is not survived by a child who either is under twenty-one years of age or is blind or totally and permanently disabled as defined by the Supplemental Security Income criteria. In recovering such debt, the department shall not foreclose on a lien on the home of the recipient (a) if a sibling of the recipient with an equity interest in the home has lawfully resided in the home for at least one year before the recipient's admission and has lived there continuously since the date of the recipient's admission or (b) while the home is the residence of an adult child who has lived in the recipient's home for at least two years immediately before the recipient was institutionalized, has lived there continuously since that time, and can establish to the satisfaction of the department that he or she provided care that delayed the recipient's admission.

(3) The debt shall include the total amount of medical assistance provided when the recipient was fifty-five years of age or older or during a period of institutionalization as described in subsection (1) of this section and shall not include interest.

(4)(a) It is the intent of the Legislature that the debt specified in subsection (1) of this section be collected by the department before any portion of the estate of a recipient of medical assistance is enjoyed by or transferred to a person not specified in subsection (2) of this section as a result of the death of such recipient. The debt may be recovered from the estate of a recipient of medical assistance. The department shall undertake all reasonable and cost-effective measures to enforce recovery under the Medical Assistance Act. All persons specified in subsections (2) and (4) of this section shall cooperate with the department in the enforcement of recovery under the act.

(b) For purposes of this section:

(i) Estate of a recipient of medical assistance means any real estate, personal property, or other asset in which the recipient had any legal title or interest at or immediately preceding the time of the recipient's death, to the extent of such interests. In furtherance and not in limitation of the foregoing, the estate of a recipient of medical assistance also includes:

(A) Assets to be transferred to a beneficiary described in section 77-2004 or 77-2005 in relation to the recipient through a revocable trust or other similar arrangement which has become irrevocable by reason of the recipient's death; and

(B) Notwithstanding anything to the contrary in subdivision (3) or (4) of section 68-923, assets conveyed or otherwise transferred to a survivor, an heir, an assignee, a beneficiary, or a devisee of the recipient of medical assistance through joint tenancy, tenancy in common, transfer on death deed, survivorship, conveyance of a remainder interest, retention of a life estate or of an estate for a period of time, living trust, or other arrangement by which value or possession is transferred to or realized by the beneficiary of the conveyance or transfer at or as a result of the recipient's death. Such other arrangements include insurance policies or annuities in which the recipient of medical assistance had at the time of death any incidents of ownership of the policy or

annuity or the power to designate beneficiaries and any pension rights or completed retirement plans or accounts of the recipient. A completed retirement plan or account is one which because of the death of the recipient of medical assistance ceases to have elements of retirement relating to such recipient and under which one or more beneficiaries exist after such recipient's death; and

(ii) Notwithstanding anything to the contrary in subdivision (4)(b) of this section, estate of a recipient of medical assistance does not include:

(A) Insurance proceeds, any trust account subject to the Burial Pre-Need Sale Act, or any limited lines funeral insurance policy to the extent used to pay for funeral, burial, or cremation expenses of the recipient of medical assistance;

(B) Conveyances of real estate made prior to August 24, 2017, that are subject to the grantor's retention of a life estate or an estate for a period of time;

(C) Life estate interests in real estate after sixty months from the date of recording a deed with retention of a life estate by the recipient of medical assistance; and

(D) Any pension rights or completed retirement plans to the extent that such rights or plans are exempt from claims for reimbursement of medical assistance under federal law.

(c) The department, upon application of the personal representative of an estate, any person or entity otherwise authorized under the Nebraska Probate Code to act on behalf of a decedent, any person or entity having an interest in assets of the decedent which are subject to this subsection, a successor trustee of a revocable trust or other similar arrangement which has become irrevocable by reason of the decedent's death, or any other person or entity holding assets of the decedent described in this subsection, shall timely certify to the applicant, that as of a designated date, whether medical assistance reimbursement is due or an application for medical assistance was pending that may result in medical assistance reimbursement due. An application for a certificate under this subdivision shall be provided to the department in a delivery manner and at an address designated by the department, which manner may include email. The department shall post the acceptable manner of delivery on its website. Any application that fails to conform with such manner is void. Notwithstanding the lack of an order by a court designating the applicant as a person or entity who may receive information protected by applicable privacy laws, the applicant shall have the authority of a personal representative for the limited purpose of seeking and obtaining from the department this certification. If, in response to a certification request, the department certifies that reimbursement for medical assistance is due, the department may release some or all of the property of a decedent from the provisions of this subsection.

(d) An action for recovery of the debt created under subsection (1) of this section may be brought by the department against the estate of a recipient of medical assistance as defined in subdivision (4)(b) of this section at any time before five years after the last of the following events:

(i) The death of the recipient of medical assistance;

(ii) The death of the recipient's spouse, if applicable;

(iii) The attainment of the age of twenty-one years by the youngest of the recipient's minor children, if applicable; or

(iv) A determination that any adult child of the recipient is no longer blind or totally and permanently disabled as defined by the Supplemental Security Income criteria, if applicable.

(5) In any probate proceedings in which the department has filed a claim under this section, no additional evidence of foundation shall be required for the admission of the department's payment record supporting its claim if the payment record bears the seal of the department, is certified as a true copy, and bears the signature of an authorized representative of the department.

(6) The department may waive or compromise its claim, in whole or in part, if the department determines that enforcement of the claim would not be in the best interests of the state or would result in undue hardship as provided in rules and regulations of the department.

(7)(a) Whenever the department has provided medical assistance because of sickness or injury to any person resulting from a third party's wrongful act or negligence and the person has recovered damages from such third party, the department shall have the right to recover the medical assistance it paid from any amounts that the person has received as follows:

(i) In those cases in which the person is fully compensated by the recovery, the department shall be fully reimbursed subject to its contribution to attorney's fees and costs as provided in subdivision (b) of this subsection; or

(ii) In those cases in which the person is not fully compensated by the recovery, the department shall be reimbursed that portion of the recovery that represents the same proportionate reduction of medical expenses paid that the recovery amount bears to full compensation of the person subject to its contributions to attorney's fees and costs as provided in subdivision (b) of this subsection.

(b) When an action or claim is brought by the person and the person incurs or will incur a personal liability to pay attorney's fees and costs of litigation or costs incurred in pursuit of a claim, the department's claim for reimbursement of the medical assistance provided to the person shall be reduced by an amount that represents the department's reasonable pro rata share of attorney's fees and costs of litigation or the costs incurred in pursuit of a claim.

(8) The department may adopt and promulgate rules and regulations to carry out this section.

(9) The changes made to this section by Laws 2019, LB593, shall apply retroactively to August 30, 2015.

Source: Laws 1994, LB 1224, § 39; Laws 1996, LB 1044, § 334; Laws 2001, LB 257, § 1; Laws 2004, LB 1005, § 7; R.S.Supp.,2004, § 68-1036.02; Laws 2006, LB 1248, § 19; Laws 2007, LB185, § 2; Laws 2013, LB23, § 13; Laws 2015, LB72, § 4; Laws 2017, LB268, § 14; Laws 2019, LB593, § 6; Laws 2021, LB501, § 63. Effective date August 28, 2021.

Cross References

Burial Pre-Need Sale Act, see section 12-1101.
Nebraska Probate Code, see section 30-2201.

68-994 Long-term care services and supports; department; limitation on addition to medicaid managed care program.

Until July 1, 2023, the department shall not add long-term care services and supports to the medicaid managed care program. For purposes of this section, long-term care services and supports includes services of a skilled nursing facility, a nursing facility, and an assisted-living facility and home and community-based services.

Source: Laws 2019, LB468, § 2; Laws 2021, LB101, § 1.
Effective date April 22, 2021.

68-9,101 Multiple procedure payment reduction policy; implementation; when prohibited.

(1) For purposes of this section, multiple procedure payment reduction policy means a policy used in the federal medicare program under Title XVIII of the federal Social Security Act for outpatient rehabilitation service codes where full payment is made for the unit or procedure with the highest rate and subsequent units and procedures are paid at a reduction of the published rates when more than one unit procedure is provided to the same patient on the same day.

(2) A multiple procedure payment reduction policy shall not be implemented under the Medical Assistance Act as it applies to therapy services provided by physical therapy, occupational therapy, or speech-language pathology.

Source: Laws 2021, LB100, § 2.
Operative date August 28, 2021.

ARTICLE 10

ASSISTANCE, GENERALLY

(b) PROCEDURE AND PENALTIES

(b) PROCEDURE AND PENALTIES

68-1017.02 Supplemental Nutrition Assistance Program; department; duties; state outreach plan; report; contents; categorical eligibility; legislative intent; increased benefits, when; person ineligible, when.

(1)(a) The Department of Health and Human Services shall apply for and utilize to the maximum extent possible, within limits established by the Legislature, any and all appropriate options available to the state under the federal Supplemental Nutrition Assistance Program and regulations adopted under such program to maximize the number of Nebraska residents being served under such program within such limits. The department shall seek to maximize federal funding for such program and minimize the utilization of General Funds for such program and shall employ the personnel necessary to determine the options available to the state and issue the report to the Legislature required by subdivision (b) of this subsection.

(b) The department shall submit electronically an annual report to the Health and Human Services Committee of the Legislature by December 1 on efforts by the department to carry out the provisions of this subsection. Such report shall provide the committee with all necessary and appropriate information to enable the committee to conduct a meaningful evaluation of such efforts. Such infor-

mation shall include, but not be limited to, a clear description of various options available to the state under the federal Supplemental Nutrition Assistance Program, the department's evaluation of and any action taken by the department with respect to such options, the number of persons being served under such program, and any and all costs and expenditures associated with such program.

(c) The Health and Human Services Committee of the Legislature, after receipt and evaluation of the report required in subdivision (b) of this subsection, shall issue recommendations to the department on any further action necessary by the department to meet the requirements of this section.

(2)(a) The department shall develop a state outreach plan to promote access by eligible persons to benefits of the Supplemental Nutrition Assistance Program. The plan shall meet the criteria established by the Food and Nutrition Service of the United States Department of Agriculture for approval of state outreach plans. The Department of Health and Human Services may apply for and accept gifts, grants, and donations to develop and implement the state outreach plan.

(b) For purposes of developing and implementing the state outreach plan, the department shall partner with one or more counties or nonprofit organizations. If the department enters into a contract with a nonprofit organization relating to the state outreach plan, the contract may specify that the nonprofit organization is responsible for seeking sufficient gifts, grants, or donations necessary for the development and implementation of the state outreach plan and may additionally specify that any costs to the department associated with the award and management of the contract or the implementation or administration of the state outreach plan shall be paid out of private or federal funds received for development and implementation of the state outreach plan.

(c) The department shall submit the state outreach plan to the Food and Nutrition Service of the United States Department of Agriculture for approval on or before August 1, 2011, and shall request any federal matching funds that may be available upon approval of the state outreach plan. It is the intent of the Legislature that the State of Nebraska and the Department of Health and Human Services use any additional public or private funds to offset costs associated with increased caseload resulting from the implementation of the state outreach plan.

(d) The department shall be exempt from implementing or administering a state outreach plan under this subsection, but not from developing such a plan, if it does not receive private or federal funds sufficient to cover the department's costs associated with the implementation and administration of the plan, including any costs associated with increased caseload resulting from the implementation of the plan.

(3)(a) It is the intent of the Legislature that:

(i) Hard work be rewarded and no disincentives to work exist for Supplemental Nutrition Assistance Program participants;

(ii) Supplemental Nutrition Assistance Program participants be enabled to advance in employment, through greater earnings or new, better-paying employment;

(iii) Participants in employment and training pilot programs be able to maintain Supplemental Nutrition Assistance Program benefits while seeking

employment with higher wages that allow them to reduce or terminate such program benefits; and

(iv) Nebraska better utilize options under the Supplemental Nutrition Assistance Program that other states have implemented to encourage work and employment.

(b)(i) The department shall create a TANF-funded program or policy that, in compliance with federal law, establishes categorical eligibility for federal food assistance benefits pursuant to the Supplemental Nutrition Assistance Program to maximize the number of Nebraska residents being served under such program in a manner that does not increase the current gross income eligibility limit except as otherwise provided in subdivision (3)(b)(ii) of this section.

(ii) Except as otherwise provided in this subdivision, such TANF-funded program or policy shall increase the gross income eligibility limit to one hundred sixty-five percent of the federal Office of Management and Budget income poverty guidelines as allowed under federal law and under 7 C.F.R. 273.2(j)(2), as such law and regulation existed on April 1, 2021, but shall not increase the net income eligibility limit. It is the intent of the Legislature to fund the administrative costs associated with the benefits under this subdivision beginning on May 27, 2021, with federal funds as allowed under the federal American Rescue Plan Act of 2021, Public Law 117-2, as such act existed on April 1, 2021, and continue to fund such administrative costs with such federal funds through September 30, 2023. Such administrative costs shall not be paid for with General Funds. Beginning October 1, 2023, the gross income eligibility limit shall return to the amount used prior to the increase required by this subdivision. The department shall evaluate the TANF-funded program or policy created pursuant to this subsection and provide a report electronically to the Health and Human Services Committee of the Legislature and the Legislative Fiscal Analyst on or before December 31, 2022, regarding the gross income eligibility limit and whether it maximizes the number of Nebraska residents being served under the program or policy. The evaluation shall include an identification and determination of additional administrative costs resulting from the increase to the gross income eligibility limit, a recommendation regarding the gross income eligibility limit, and a determination of the availability of federal funds for the program or policy.

(iii) To the extent federal funds are available to the Department of Labor for the SNAP Next Step Program, until September 30, 2023, any recipient of Supplemental Nutrition Assistance Program benefits whose household income is between one hundred thirty-one and one hundred sixty-five percent of the federal Office of Management and Budget income poverty guidelines and who is not exempt from work participation requirements shall be encouraged to participate in the SNAP Next Step Program administered by the Department of Labor if the recipient is eligible to participate in the program and the program's services are available in the county in which such household is located. It is the intent of the Legislature that no General Funds be utilized by the Department of Labor for the processes outlined in this subdivision (iii). For purposes of this section, SNAP Next Step Program means a partnership program between the Department of Health and Human Services and the Department of Labor to assist under-employed and unemployed recipients of Supplemental Nutrition Assistance Program benefits in finding self-sufficient employment.

(iv) Such TANF-funded program or policy shall eliminate all asset limits for eligibility for federal food assistance benefits, except that the total of liquid assets which includes cash on hand and funds in personal checking and savings accounts, money market accounts, and share accounts shall not exceed twenty-five thousand dollars pursuant to the Supplemental Nutrition Assistance Program, as allowed under federal law and under 7 C.F.R. 273.2(j)(2).

(v) This subsection becomes effective only if the department receives funds pursuant to federal participation that may be used to implement this subsection.

(c) For purposes of this subsection:

(i) Federal law means the federal Food and Nutrition Act of 2008, 7 U.S.C. 2011 et seq., and regulations adopted under the act; and

(ii) TANF means the federal Temporary Assistance for Needy Families program established in 42 U.S.C. 601 et seq.

(4)(a) Within the limits specified in this subsection, the State of Nebraska opts out of the provision of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as such act existed on January 1, 2009, that eliminates eligibility for the Supplemental Nutrition Assistance Program for any person convicted of a felony involving the possession, use, or distribution of a controlled substance.

(b) A person shall be ineligible for Supplemental Nutrition Assistance Program benefits under this subsection if he or she (i) has had three or more felony convictions for the possession or use of a controlled substance or (ii) has been convicted of a felony involving the sale or distribution of a controlled substance or the intent to sell or distribute a controlled substance. A person with one or two felony convictions for the possession or use of a controlled substance shall only be eligible to receive Supplemental Nutrition Assistance Program benefits under this subsection if he or she is participating in or has completed a state-licensed or nationally accredited substance abuse treatment program since the date of conviction. The determination of such participation or completion shall be made by the treatment provider administering the program.

Source: Laws 2003, LB 667, § 22; Laws 2005, LB 301, § 2; Laws 2008, LB171, § 1; Laws 2009, LB288, § 28; Laws 2011, LB543, § 1; Laws 2012, LB782, § 95; Laws 2021, LB108, § 1.
Effective date May 27, 2021.

ARTICLE 12

SOCIAL SERVICES

Section
68-1201. Eligibility determination; exclusion of certain assets and income.
68-1206. Social services; administration; contracts; payments; duties; federal Child Care Subsidy program; participation; requirements; funding; evaluation.
68-1213. Pilot project; evaluation by Legislature.
68-1215. Low-income home energy assistance program; eligibility; determination.
68-1216. Low-income home energy assistance program; allocation of funds.

68-1201 Eligibility determination; exclusion of certain assets and income.

In determining eligibility for the program for aid to dependent children pursuant to section 43-512 as administered by the State of Nebraska pursuant to the federal Temporary Assistance for Needy Families program, 42 U.S.C. 601

et seq., for the low-income home energy assistance program administered by the State of Nebraska pursuant to the federal Energy Policy Act of 2005, 42 U.S.C. 8621 to 8630, for the Supplemental Nutrition Assistance Program administered by the State of Nebraska pursuant to the federal Food and Nutrition Act of 2008, 7 U.S.C. 2011 et seq., and for the child care subsidy program established pursuant to section 68-1202, the following shall not be included in determining assets or income:

(1) Assets in or income from an educational savings account, a Coverdell educational savings account described in 26 U.S.C. 530, a qualified tuition program established pursuant to 26 U.S.C. 529, or any similar savings account or plan established to save for qualified higher education expenses as defined in section 85-1802;

(2) Income from scholarships or grants related to postsecondary education, whether merit-based, need-based, or a combination thereof;

(3) Income from postsecondary educational work-study programs, whether federally funded, funded by a postsecondary educational institution, or funded from any other source;

(4) Assets in or income from an account under a qualified program as provided in section 77-1402;

(5) Income received for participation in grant-funded research on the impact that income has on the development of children in low-income families, except that such exclusion of income must not exceed four thousand dollars per year for a maximum of eight years and such exclusion shall only be made if the exclusion is permissible under federal law for each program referenced in this section. No such exclusion shall be made for such income on or after December 31, 2026; and

(6) Income from any tax credits received pursuant to the School Readiness Tax Credit Act.

Source: Laws 2014, LB359, § 1; Laws 2015, LB591, § 10; Laws 2016, LB889, § 8; Laws 2016, LB1081, § 2; Laws 2021, LB533, § 1. Effective date August 28, 2021.

Cross References

School Readiness Tax Credit Act, see section 77-3601.

68-1206 Social services; administration; contracts; payments; duties; federal Child Care Subsidy program; participation; requirements; funding; evaluation.

(1) The Department of Health and Human Services shall administer the program of social services in this state. The department may contract with other social agencies for the purchase of social services at rates not to exceed those prevailing in the state or the cost at which the department could provide those services. The statutory maximum payments for the separate program of aid to dependent children shall apply only to public assistance grants and shall not apply to payments for social services.

(2)(a) As part of the provision of social services authorized by section 68-1202, the department shall participate in the federal child care assistance program under 42 U.S.C. 9857 et seq., as such sections existed on January 1, 2021, and provide child care assistance to families with incomes up to (i) one hundred eighty-five percent of the federal poverty level prior to October 1,

2023, or (ii) one hundred thirty percent of the federal poverty level on and after October 1, 2023.

(b) As part of the provision of social services authorized by this section and section 68-1202, the department shall participate in the federal Child Care Subsidy program. A child care provider seeking to participate in the federal Child Care Subsidy program shall comply with the criminal history record information check requirements of the Child Care Licensing Act. In determining ongoing eligibility for this program, ten percent of a household's gross earned income shall be disregarded after twelve continuous months on the program and at each subsequent redetermination. In determining ongoing eligibility, if a family's income exceeds one hundred eighty-five percent of the federal poverty level prior to October 1, 2023, or one hundred thirty percent of the federal poverty level on and after October 1, 2023, the family shall receive transitional child care assistance through the remainder of the family's eligibility period or until the family's income exceeds eighty-five percent of the state median income for a family of the same size as reported by the United States Bureau of the Census, whichever occurs first. When the family's eligibility period ends, the family shall continue to be eligible for transitional child care assistance if the family's income is below two hundred percent of the federal poverty level prior to October 1, 2023, or one hundred eighty-five percent of the federal poverty level on and after October 1, 2023. The family shall receive transitional child care assistance through the remainder of the transitional eligibility period or until the family's income exceeds eighty-five percent of the state median income for a family of the same size as reported by the United States Bureau of the Census, whichever occurs first. The amount of such child care assistance shall be based on a cost-shared plan between the recipient family and the state and shall be based on a sliding-scale methodology. A recipient family may be required to contribute a percentage of such family's gross income for child care that is no more than the cost-sharing rates in the transitional child care assistance program as of January 1, 2015, for those no longer eligible for cash assistance as provided in section 68-1724.

(c) For the period beginning July 1, 2021, through September 30, 2023, funds provided to the State of Nebraska pursuant to the Child Care and Development Block Grant Act of 1990, 42 U.S.C. 9857 et seq., as such act and sections existed on March 24, 2021, shall be used to pay the costs to the state resulting from the income eligibility changes made in subdivisions (2)(a) and (b) of this section by Laws 2021, LB485. If the available amount of such funds is insufficient to pay such costs, then funds provided to the state for the Temporary Assistance for Needy Families program established in 42 U.S.C. 601 et seq. may also be used. No General Funds shall be used to pay the costs to the state resulting from the income eligibility changes made in subdivisions (2)(a) and (b) of this section by Laws 2021, LB485, for the period beginning July 1, 2021, through September 30, 2023.

(d) The Department of Health and Human Services shall collaborate with a private nonprofit organization with expertise in early childhood care and education for an independent evaluation of the income eligibility changes made in subdivisions (2)(a) and (b) of this section by Laws 2021, LB485, if private funding is made available for such purpose. The evaluation shall be completed by December 15, 2023, and shall be submitted electronically to the department and to the Health and Human Services Committee of the Legislature.

(3) In determining the rate or rates to be paid by the department for child care as defined in section 43-2605, the department shall adopt a fixed-rate schedule for the state or a fixed-rate schedule for an area of the state applicable to each child care program category of provider as defined in section 71-1910 which may claim reimbursement for services provided by the federal Child Care Subsidy program, except that the department shall not pay a rate higher than that charged by an individual provider to that provider's private clients. The schedule may provide separate rates for care for infants, for children with special needs, including disabilities or technological dependence, or for other individual categories of children. The schedule may also provide tiered rates based upon a quality scale rating of step three or higher under the Step Up to Quality Child Care Act. The schedule shall be effective on October 1 of every year and shall be revised annually by the department.

Source: Laws 1973, LB 511, § 6; Laws 1982, LB 522, § 44; Laws 1991, LB 836, § 26; Laws 1995, LB 401, § 22; Laws 1996, LB 1044, § 347; Laws 2006, LB 994, § 68; Laws 2007, LB296, § 279; Laws 2013, LB507, § 15; Laws 2014, LB359, § 3; Laws 2015, LB81, § 1; Laws 2019, LB460, § 1; Laws 2020, LB1185, § 1; Laws 2021, LB485, § 1.
Effective date August 28, 2021.

Cross References

Child Care Licensing Act, see section 71-1908.
Step Up to Quality Child Care Act, see section 71-1952.

68-1213 Pilot project; evaluation by Legislature.

If the pilot project described in section 68-1212 is extended by the Department of Health and Human Services, an evaluation of the pilot project shall be completed by the Legislature prior to December 31, 2021. The Legislature shall utilize all necessary resources, including the hiring of a consultant if deemed necessary. The department and any child welfare entity which has contracted with the department shall provide all data and information to the Legislature to assist in the evaluation.

Source: Laws 2014, LB660, § 2; Laws 2021, LB428, § 2.
Operative date May 26, 2021.

68-1215 Low-income home energy assistance program; eligibility; determination.

For purposes of determining eligibility of a household for the low-income home energy assistance program pursuant to section 68-1201 as administered by the State of Nebraska pursuant to the federal Energy Policy Act of 2005, 42 U.S.C. 8621 to 8630, the Department of Health and Human Services shall apply a household total annual income level of one hundred fifty percent of the federal poverty level published annually by the United States Department of Health and Human Services or such successor agency which publishes the federal poverty level.

Source: Laws 2021, LB306, § 1.
Effective date May 27, 2021.

68-1216 Low-income home energy assistance program; allocation of funds.

The Department of Health and Human Services shall annually allocate at least ten percent of available funds for the low-income home energy assistance program established pursuant to the federal Energy Policy Act of 2005, 42 U.S.C. 8621 to 8630, to weatherization assistance for eligible households as administered by the department or other agencies of the state.

Source: Laws 2021, LB306, § 2.
Effective date May 27, 2021.

ARTICLE 17
WELFARE REFORM

(a) WELFARE REFORM ACT

(a) WELFARE REFORM ACT

68-1724 Cash assistance; duration; reimbursement of expenses; when; conditions; extension of time limit.

(1) Cash assistance shall be provided for a period or periods of time not to exceed a total of sixty months for recipient families with children subject to the following:

(a) If the state fails to meet the specific terms of the self-sufficiency contract developed under section 68-1719, the sixty-month time limit established in this section shall be extended;

(b) The sixty-month time period for cash assistance shall begin within the first month of eligibility;

(c) When no longer eligible to receive cash assistance, assistance shall be available to reimburse work-related child care expenses even if the recipient family has not achieved economic self-sufficiency. The amount of such assistance shall be based on a cost-shared plan between the recipient family and the state which shall provide assistance up to two hundred percent of the federal poverty level prior to October 1, 2023, or one hundred eighty-five percent of the federal poverty level on and after October 1, 2023. A recipient family may be required to contribute up to twenty percent of such family's gross income for child care. It is the intent of the Legislature that transitional health care coverage be made available on a sliding-scale basis to individuals and families with incomes up to one hundred eighty-five percent of the federal poverty level if other health care coverage is not available; and

(d) The self-sufficiency contract shall be revised and cash assistance extended when there is no job available for adult members of the recipient family. It is the intent of the Legislature that available job shall mean a job which results in an income of at least equal to the amount of cash assistance that would have been available if receiving assistance minus unearned income available to the recipient family.

The department shall develop policy guidelines to allow for cash assistance to persons who have received the maximum cash assistance provided by this section and who face extreme hardship without additional assistance. For purposes of this section, extreme hardship means a recipient family does not have adequate cash resources to meet the costs of the basic needs of food,

clothing, and housing without continuing assistance or the child or children are at risk of losing care by and residence with their parent or parents.

(2) Cash assistance conditions under the Welfare Reform Act shall be as follows:

(a) Adults in recipient families shall mean individuals at least nineteen years of age living with and related to a child eighteen years of age or younger and shall include parents, siblings, uncles, aunts, cousins, or grandparents, whether the relationship is biological, adoptive, or step;

(b) The payment standard shall be based upon family size;

(c) The adults in the recipient family shall ensure that the minor children regularly attend school. Education is a valuable personal resource. The cash assistance provided to the recipient family may be reduced when the parent or parents have failed to take reasonable action to encourage the minor children of the recipient family ages sixteen and under to regularly attend school. No reduction of assistance shall be such as may result in extreme hardship. It is the intent of the Legislature that a process be developed to insure communication between the case manager, the parent or parents, and the school to address issues relating to school attendance;

(d) Two-parent families which would otherwise be eligible under section 43-504 or a federally approved waiver shall receive cash assistance under this section;

(e) For minor parents, the assistance payment shall be based on the minor parent's income. If the minor parent lives with at least one parent, the family's income shall be considered in determining eligibility and cash assistance payment levels for the minor parent. If the minor parent lives independently, support shall be pursued from the parents of the minor parent. If the absent parent of the minor's child is a minor, support from his or her parents shall be pursued. Support from parents as allowed under this subdivision shall not be pursued when the family income is less than three hundred percent of the federal poverty guidelines; and

(f) For adults who are not biological or adoptive parents or stepparents of the child or children in the family, if assistance is requested for the entire family, including the adults, a self-sufficiency contract shall be entered into as provided in section 68-1719. If assistance is requested for only the child or children in such a family, such children shall be eligible after consideration of the family's income and if (i) the family cooperates in pursuing child support and (ii) the minor children of the family regularly attend school.

Source: Laws 1994, LB 1224, § 24; Laws 1995, LB 455, § 15; Laws 2007, LB351, § 11; Laws 2019, LB460, § 2; Laws 2021, LB485, § 2. Effective date August 28, 2021.

CHAPTER 69
PERSONAL PROPERTY

Article.
13. Disposition of Unclaimed Property.
(a) Uniform Disposition of Unclaimed Property Act. 69-1302 to 69-1318.
21. Consumer Rental Purchase Agreements. 69-2103 to 69-2112.
24. Guns.
(c) Concealed Handgun Permit Act. 69-2436.

ARTICLE 13
DISPOSITION OF UNCLAIMED PROPERTY

(a) UNIFORM DISPOSITION OF UNCLAIMED PROPERTY ACT

Section
69-1302. Property held or owing by a banking or financial organization or business association; presumed abandoned; when.
69-1310. Property presumed abandoned; reports to State Treasurer; contents; filing date; property accompany report; prevent abandonment, when; verification.
69-1317. Abandoned property; Unclaimed Property Trust Fund; record; professional finder's fee; information withheld; when; transfers; Unclaimed Property Cash Fund; created; investment.
69-1318. Person claiming interest in property delivered to state; claim; filing; directed to nonprofit organization, when.

(a) UNIFORM DISPOSITION OF UNCLAIMED PROPERTY ACT

69-1302 Property held or owing by a banking or financial organization or business association; presumed abandoned; when.

The following property held or owing by a banking or financial organization or by a business association is presumed abandoned:

(a) Any demand, savings, or matured time deposit that is not automatically renewable made in this state with a banking organization, together with any interest or dividends thereon, excluding any charges that may lawfully be withheld, unless the owner has, within five years:

(1) Increased or decreased the amount of the deposit, or presented the passbook or other similar evidence of the deposit for the crediting of interest or dividends; or

(2) Corresponded in writing with the banking organization concerning the deposit; or

(3) Otherwise indicated an interest in the deposit as evidenced by a memorandum or other record on file with the banking organization; or

(4) Owned other property to which subdivision (a)(1), (2), or (3) applies and if the banking organization corresponds in writing with the owner with regard to the property that would otherwise be presumed abandoned under subdivision (a) of this section at the address to which correspondence regarding the other property regularly is sent; or

(5) Had another relationship with the banking organization concerning which the owner has:

(i) Corresponded in writing with the banking organization; or

(ii) Otherwise indicated an interest as evidenced by a memorandum or other record on file with the banking organization and if the banking organization corresponds in writing with the owner with regard to the property that would otherwise be abandoned under subdivision (a) of this section at the address to which correspondence regarding the other relationship regularly is sent.

(b) Any funds paid in this state toward the purchase of shares or other interest in a financial organization or any deposit that is not automatically renewable, including a certificate of indebtedness that is not automatically renewable, made therewith in this state, and any interest or dividends thereon, excluding any charges that may lawfully be withheld, unless the owner has within five years:

(1) Increased or decreased the amount of the funds or deposit, or presented an appropriate record for the crediting of interest or dividends; or

(2) Corresponded in writing with the financial organization concerning the funds or deposit; or

(3) Otherwise indicated an interest in the funds or deposit as evidenced by a memorandum or other record on file with the financial organization; or

(4) Owned other property to which subdivision (b)(1), (2), or (3) applies and if the financial organization corresponds in writing with the owner with regard to the property that would otherwise be presumed abandoned under subdivision (b) of this section at the address to which correspondence regarding the other property regularly is sent; or

(5) Had another relationship with the financial organization concerning which the owner has:

(i) Corresponded in writing with the financial organization; or

(ii) Otherwise indicated an interest as evidenced by a memorandum or other record on file with the financial organization and if the financial organization corresponds in writing with the owner with regard to the property that would otherwise be abandoned under this subdivision (b) of this section at the address to which correspondence regarding the other relationship regularly is sent.

(c) A holder may not, with respect to property described in subdivision (a) or (b) of this section, impose any charges solely due to dormancy or cease payment of interest solely due to dormancy unless there is a written contract between the holder and the owner of the property pursuant to which the holder may impose reasonable charges or cease payment of interest or modify the imposition of such charges and the conditions under which such payment may be ceased. A holder of such property who imposes charges solely due to dormancy may not increase such charges with respect to such property during the period of dormancy. The contract required by this subdivision may be in the form of a signature card, deposit agreement, or similar agreement which contains or incorporates by reference (1) the holder's schedule of charges and the conditions, if any, under which the payment of interest may be ceased or (2) the holder's rules and regulations setting forth the holder's schedule of charges and the conditions, if any, under which the payment of interest may be ceased.

(d)(1) Any time deposit that is automatically renewable, including a certificate of indebtedness that is automatically renewable, made in this state with a

banking or financial organization, together with any interest thereon, seven years after the expiration of the initial time period or any renewal time period unless the owner has, during such initial time period or renewal time period:

(i) Increased or decreased the amount of the deposit, or presented an appropriate record or other similar evidence of the deposit for the crediting of interest;

(ii) Corresponded in writing with the banking or financial organization concerning the deposit;

(iii) Otherwise indicated an interest in the deposit as evidenced by a memorandum or other record on file with the banking or financial organization;

(iv) Owned other property to which subdivision (d)(1)(i), (ii), or (iii) of this section applies and if the banking or financial organization corresponds in writing with the owner with regard to the property that would otherwise be presumed abandoned under subdivision (d) of this section at the address to which correspondence regarding the other property regularly is sent; or

(v) Had another relationship with the banking or financial organization concerning which the owner has:

(A) Corresponded in writing with the banking or financial organization; or

(B) Otherwise indicated an interest as evidenced by a memorandum or other record on file with the banking or financial organization and if the banking or financial organization corresponds in writing with the owner with regard to the property that would otherwise be abandoned under subdivision (d) of this section at the address to which correspondence regarding the other relationship regularly is sent.

(2) If, at the time provided for delivery in section 69-1310, a penalty or forfeiture in the payment of interest would result from the delivery of a time deposit subject to subdivision (d) of this section, the time for delivery shall be extended until the time when no penalty or forfeiture would result.

(e) Any sum payable on checks certified in this state or on written instruments issued in this state on which a banking or financial organization or business association is directly liable, including, by way of illustration but not of limitation, certificates of deposit that are not automatically renewable, drafts, money orders, and traveler's checks, that, with the exception of money orders and traveler's checks, has been outstanding for more than five years from the date it was payable, or from the date of its issuance if payable on demand, or, in the case of (i) money orders, that has been outstanding for more than seven years from the date of issuance and (ii) traveler's checks, that has been outstanding for more than fifteen years from the date of issuance, unless the owner has within five years, or within seven years in the case of money orders and within fifteen years in the case of traveler's checks, corresponded in writing with the banking or financial organization or business association concerning it, or otherwise indicated an interest as evidenced by a memorandum or other record on file with the banking or financial organization or business association.

(f) Any funds or other personal property, tangible or intangible, removed from a safe deposit box or any other safekeeping repository or agency or collateral deposit box in this state on which the lease or rental period has expired due to nonpayment of rental charges or other reason, or any surplus amounts arising from the sale thereof pursuant to law, that have been un-

claimed by the owner for more than three years from the date on which the lease or rental period expired. If the State Treasurer or his or her designee determines after investigation that any delivered property has insubstantial commercial value, the State Treasurer or his or her designee may destroy or otherwise dispose of the property at any time. No action or proceeding may be maintained against the state or any officer or against the banking or financial organization for or on account of any action taken by the State Treasurer pursuant to this subdivision.

(g) For the purposes of this section failure of the United States mails to return a letter, duly deposited therein, first-class postage prepaid, to the last-known address of an owner of tangible or intangible property shall be deemed correspondence in writing and shall be sufficient to overcome the presumption of abandonment created herein. A memorandum or writing on file with such banking or financial organization shall be sufficient to evidence such failure.

Source: Laws 1969, c. 611, § 2, p. 2479; Laws 1977, LB 305, § 1; Laws 1992, Third Spec. Sess., LB 26, § 4; Laws 2021, LB532, § 3. Effective date August 28, 2021.

69-1310 Property presumed abandoned; reports to State Treasurer; contents; filing date; property accompany report; prevent abandonment, when; verification.

(a) Every person holding funds or other property, tangible or intangible, presumed abandoned under the Uniform Disposition of Unclaimed Property Act shall report to the State Treasurer with respect to the property as hereinafter provided.

(b) The report shall be verified and shall include:

(1) Except with respect to traveler's checks and money orders, the name, if known, and last-known address, if any, of each person appearing from the records of the holder to be the owner of any property presumed abandoned under the act;

(2) In case of unclaimed funds of life insurance corporations, the full name of the insured or annuitant and his or her last-known address according to the life insurance corporation's records;

(3) The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due;

(4) The date when the property became payable, demandable, or returnable, and the date of the last transaction with the owner with respect to the property; and

(5) Other information which the State Treasurer may prescribe by rule as necessary for the administration of the act.

(c) If the person holding property presumed abandoned is a successor to other persons who previously held the property for the owner, or if the holder has changed his or her name while holding the property, he or she shall file with his or her report all prior known names and addresses of each holder of the property.

(d) The report shall be filed before November 1 of each year as of June 30 next preceding, but the report of life insurance corporations shall be filed before May 1 of each year as of December 31 next preceding. A one-time supplemental report shall be filed by life insurance corporations with regard to

property subject to section 69-1307.05 before November 1, 2003, as of December 31, 2002, as if section 69-1307.05 had been in effect before January 1, 2003. The property must accompany the report unless excused by the State Treasurer for good cause. The State Treasurer may postpone the reporting date upon written request by any person required to file a report. Any person holding intangible property presumed abandoned due to be reported with a cumulative value of fifty dollars or less in a single reporting year shall not be required to report the property in that year but shall report the property in any year when the property value or total report value exceeds fifty dollars.

(e) If the holder of property presumed abandoned under the act knows the whereabouts of the owner and if the owner's claim has not been barred by the statute of limitations, the holder shall, before filing the annual report, communicate with the owner and take necessary steps to prevent abandonment from being presumed. The holder shall exercise due diligence to ascertain the whereabouts of the owner.

(f) Verification, if made by a partnership, shall be executed by a partner; if made by a limited liability company, by a member; if made by an unincorporated association or private corporation, by an officer; and if made by a public corporation, by its chief fiscal officer.

Source: Laws 1969, c. 611, § 10, p. 2483; Laws 1977, LB 305, § 4; Laws 1992, Third Spec. Sess., LB 26, § 13; Laws 1993, LB 121, § 415; Laws 1994, LB 1048, § 6; Laws 2003, LB 424, § 3; Laws 2021, LB532, § 4.
Effective date August 28, 2021.

69-1317 Abandoned property; Unclaimed Property Trust Fund; record; professional finder's fee; information withheld; when; transfers; Unclaimed Property Cash Fund; created; investment.

(a)(1) Except as otherwise provided in this subdivision, all funds received under the Uniform Disposition of Unclaimed Property Act, including the proceeds from the sale of abandoned property under section 69-1316, shall be deposited by the State Treasurer into the Unclaimed Property Trust Fund from which he or she shall make prompt payment of claims allowed pursuant to the act and payment of any expenses related to unclaimed property. All funds received under section 69-1307.05 shall be deposited by the State Treasurer into the Unclaimed Property Trust Fund from which he or she shall make prompt payment of claims regarding such funds allowed pursuant to the act. Transfers from the Unclaimed Property Trust Fund to the General Fund may be made at the direction of the Legislature. Before making the deposit he or she shall record the name and last-known address of each person appearing from the holders' reports to be entitled to the abandoned property, the name and last-known address of each insured person or annuitant, and with respect to each policy or contract listed in the report of a life insurance corporation, its number, the name of the corporation, and the amount due. The record shall be available for public inspection during business hours. The separate life insurance corporation demutualization trust fund terminates on March 13, 2019, and the State Treasurer shall transfer any money in the fund on such date to the Unclaimed Property Trust Fund.

The record shall not be subject to public inspection or available for copying, reproduction, or scrutiny by commercial or professional locators of property

presumed abandoned who charge any service or finders' fee until twenty-four months after the names from the holders' reports have been published or officially disclosed. Records concerning the social security number, date of birth, and last-known address of an owner shall be treated as confidential and subject to the same confidentiality as tax return information held by the Department of Revenue, except that the Auditor of Public Accounts shall have unrestricted access to such records.

A professional finders' fee shall be limited to ten percent of the total dollar amount of the property presumed abandoned. To claim any such fee, the finder shall disclose to the owner the nature, location, and value of the property, provide notice of when such property was reported to the State Treasurer, and provide notice that the property may be claimed by the owner from the State Treasurer free of charge. To claim any such fee if the property has not yet been abandoned, the finder shall disclose to the owner the nature, location, and value of the property, provide notice of when such property will be reported to the State Treasurer, if known, and provide notice that, upon receipt of the property by the State Treasurer, such property may be claimed by the owner from the State Treasurer free of charge.

(2) The unclaimed property records of the State Treasurer, the unclaimed property reports of holders, and the information derived by an unclaimed property examination or audit of the records of a person or otherwise obtained by or communicated to the State Treasurer may be withheld from the public. Any record or information that may be withheld under the laws of this state or of the United States when in the possession of such a person may be withheld when revealed or delivered to the State Treasurer. Any record or information that is withheld under any law of another state when in the possession of that other state may be withheld when revealed or delivered by the other state to the State Treasurer.

Information withheld from the general public concerning any aspect of unclaimed property shall only be disclosed to an apparent owner of the property or to the escheat, unclaimed, or abandoned property administrators or officials of another state if that other state accords substantially reciprocal privileges to the State Treasurer.

(b) On or before November 1 of each year, the State Treasurer shall distribute any balance in excess of one million dollars from the Unclaimed Property Trust Fund to the permanent school fund.

(c) Before making any deposit to the credit of the permanent school fund or the General Fund, the State Treasurer may deduct any costs related to unclaimed property and place such funds in the Unclaimed Property Cash Fund which is hereby created. Transfers from the fund to the General Fund may be made at the direction of the Legislature. Any money in the Unclaimed Property Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1969, c. 611, § 17, p. 2488; Laws 1971, LB 648, § 2; Laws 1977, LB 305, § 7; Laws 1978, LB 754, § 1; Laws 1986, LB 212, § 2; Laws 1992, Third Spec. Sess., LB 26, § 17; Laws 1994, LB 1048, § 8; Laws 1994, LB 1049, § 1; Laws 1994, LB 1066, § 63; Laws 1995, LB 7, § 67; Laws 1997, LB 57, § 1; Laws 2003, LB

424, § 4; Laws 2009, LB432, § 1; Laws 2012, LB1026, § 1; Laws 2019, LB406, § 4; Laws 2021, LB532, § 5.
Effective date August 28, 2021.

Cross References

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

69-1318 Person claiming interest in property delivered to state; claim; filing; directed to nonprofit organization, when.

(1) Any person claiming an interest in any property delivered to the state under section 24-345 and the Uniform Disposition of Unclaimed Property Act may file a claim thereto or to the proceeds from the sale thereof on the form prescribed by the State Treasurer.

(2) As directed by the claimant, the State Treasurer or his or her designee shall pay over or deliver any property, proceeds, and other sums payable to the claimant, to a nonprofit organization nominated by the State Treasurer.

Source: Laws 1969, c. 611, § 18, p. 2489; Laws 1980, LB 572, § 3; Laws 2021, LB532, § 6.
Effective date August 28, 2021.

ARTICLE 21

CONSUMER RENTAL PURCHASE AGREEMENTS

Section
69-2103. Terms, defined.
69-2104. Lessor; disclosures required.
69-2112. Advertisement; requirements.

69-2103 Terms, defined.

For purposes of the Consumer Rental Purchase Agreement Act:

(1) Advertisement means a commercial message in any medium that aids, promotes, or assists directly or indirectly a consumer rental purchase agreement but does not include in-store merchandising aids such as window signs and ceiling banners;

(2) Cash price means the price at which the lessor would have sold the property to the consumer for cash on the date of the consumer rental purchase agreement for the property;

(3) Consumer means a natural person who rents property under a consumer rental purchase agreement;

(4) Consumer rental purchase agreement means an agreement which is for the use of property by a consumer primarily for personal, family, or household purposes, which is for an initial period of four months or less, whether or not there is any obligation beyond the initial period, which is automatically renewable with each payment, and which permits the consumer to become the owner of the property. A consumer rental purchase agreement in compliance with the act shall not be construed to be a lease or agreement which constitutes a credit sale as defined in 12 C.F.R. 1026.2(a)(16), as such regulation existed on January 1, 2021, and 15 U.S.C. 1602(h), as such section existed on January 1, 2021, or a lease which constitutes a consumer lease as defined in 12 C.F.R.

1013.2, as such regulation existed on January 1, 2021. Consumer rental purchase agreement does not include:

(a) Any lease for agricultural, business, or commercial purposes;

(b) Any lease made to an organization;

(c) A lease or agreement which constitutes an installment sale or installment contract as defined in section 45-335;

(d) A security interest as defined in subdivision (35) of section 1-201, Uniform Commercial Code; and

(e) A home solicitation sale as defined in section 69-1601;

(5) Consummation means the occurrence of an event which causes a consumer to become contractually obligated on a consumer rental purchase agreement;

(6) Department means the Department of Banking and Finance;

(7) Lease payment means a payment to be made by the consumer for the right of possession and use of the property for a specific lease period but does not include taxes imposed on such payment;

(8) Lease period means a week, month, or other specific period of time, during which the consumer has the right to possess and use the property after paying the lease payment and applicable taxes for such period;

(9) Lessor means a person who in the ordinary course of business operates a commercial outlet which regularly leases, offers to lease, or arranges for the leasing of property under a consumer rental purchase agreement;

(10) Property means any property that is not real property under the laws of this state when made available for a consumer rental purchase agreement; and

(11) Total of payments to acquire ownership means the total of all charges imposed by the lessor and payable by the consumer as a condition of acquiring ownership of the property. Total of payments to acquire ownership includes lease payments and any initial nonrefundable administrative fee or required delivery charge but does not include taxes, late charges, reinstatement fees, or charges for optional products or services.

Source: Laws 1989, LB 681, § 3; Laws 1993, LB 111, § 2; Laws 2001, LB 641, § 1; Laws 2005, LB 570, § 3; Laws 2011, LB76, § 6; Laws 2016, LB761, § 1; Laws 2019, LB259, § 9; Laws 2020, LB909, § 49; Laws 2021, LB363, § 30.
Effective date March 18, 2021.

69-2104 Lessor; disclosures required.

(1) Before entering into any consumer rental purchase agreement, the lessor shall disclose to the consumer the following items as applicable:

(a) A brief description of the leased property sufficient to identify the property to the consumer and lessor;

(b) The number, amount, and timing of all payments included in the total of payments to acquire ownership;

(c) The total of payments to acquire ownership;

(d) A statement that the consumer will not own the property until the consumer has paid the total of payments to acquire ownership plus applicable taxes;

(e) A statement that the total of payments to acquire ownership does not include other charges such as taxes, late charges, reinstatement fees, or charges for optional products or services the consumer may have elected to purchase and that the consumer should see the rental purchase agreement for an explanation of these charges;

(f) A statement that the consumer is responsible for the fair market value, remaining rent, early purchase option amount, or cost of repair of the property, whichever is less, if it is lost, stolen, damaged, or destroyed;

(g) A statement indicating whether the property is new or used. A statement that indicates that new property is used shall not be a violation of the Consumer Rental Purchase Agreement Act;

(h) A statement of the cash price of the property. When the agreement involves a lease for two or more items, a statement of the aggregate cash price of all items shall satisfy the requirement of this subdivision;

(i) The total amount of the initial payments required to be paid before consummation of the agreement or delivery of the property, whichever occurs later, and an itemization of the components of the initial payment, including any initial nonrefundable administrative fee or delivery charge, lease payment, taxes, or fee or charge for optional products or services;

(j) A statement clearly summarizing the terms of the consumer's options to purchase, including a statement that at any time after the first periodic payment is made the consumer may acquire ownership of the property by tendering an amount which may not exceed fifty-five percent of the difference between the total of payments to acquire ownership and the total of lease payments the consumer has paid on the property at that time;

(k) A statement identifying the party responsible for maintaining or servicing the property while it is being leased, together with a description of that responsibility and a statement that if any part of a manufacturer's warranty covers the leased property at the time the consumer acquires ownership of the property, such warranty shall be transferred to the consumer if allowed by the terms of the warranty; and

(l) The date of the transaction and the names of the lessor and the consumer.

(2) With respect to matters specifically governed by the federal Consumer Credit Protection Act, 15 U.S.C. 1601 et seq., as such act existed on January 1, 2021, compliance with such act shall satisfy the requirements of this section.

(3) Subsection (1) of this section shall not apply to a lessor who complies with the disclosure requirements of the federal Consumer Credit Protection Act, 15 U.S.C. 1667a, as such section existed on January 1, 2021, with respect to a consumer rental purchase agreement entered into with a consumer.

Source: Laws 1989, LB 681, § 4; Laws 2001, LB 641, § 2; Laws 2011, LB76, § 7; Laws 2016, LB761, § 2; Laws 2019, LB259, § 10; Laws 2020, LB909, § 50; Laws 2021, LB363, § 31.
Effective date March 18, 2021.

69-2112 Advertisement; requirements.

(1) Any advertisement for a consumer rental purchase agreement which refers to or states the amount of any payment or the right to acquire ownership for any specific item shall also state clearly and conspicuously the following if applicable:

(a) That the transaction advertised is a consumer rental purchase agreement;

(b) The total of payments to acquire ownership; and

(c) That the consumer acquires no ownership rights until the total of payments to acquire ownership is paid.

(2) Any owner or employee of any medium in which an advertisement appears or through which it is disseminated shall not be liable under this section.

(3) Subsection (1) of this section shall not apply to an advertisement which does not refer to a specific item of property, which does not refer to or state the amount of any payment, or which is published in the yellow pages of a telephone directory or any similar directory of business.

(4) With respect to matters specifically governed by the federal Consumer Credit Protection Act, 15 U.S.C. 1601 et seq., as such act existed on January 1, 2021, compliance with such act shall satisfy the requirements of this section.

Source: Laws 1989, LB 681, § 12; Laws 2001, LB 641, § 7; Laws 2011, LB76, § 8; Laws 2016, LB761, § 3; Laws 2019, LB259, § 11; Laws 2020, LB909, § 51; Laws 2021, LB363, § 32.
Effective date March 18, 2021.

ARTICLE 24

GUNS

(c) CONCEALED HANDGUN PERMIT ACT

(c) CONCEALED HANDGUN PERMIT ACT

69-2436 Permit; period valid; fee; renewal; fee; notice of expiration.

(1) A permit to carry a concealed handgun is valid throughout the state for a period of five years after the date of issuance. The fee for issuing a permit is one hundred dollars.

(2) The Nebraska State Patrol shall renew a permitholder's permit to carry a concealed handgun for a renewal period of five years, subject to continuing compliance with the requirements of section 69-2433, except as provided in subsection (4) of section 69-2443. The renewal fee is fifty dollars, and renewal may be applied for no earlier than four months before expiration of the permit and no later than thirty business days after the date of expiration of the permit. At least four months before expiration of a permit to carry a concealed handgun, the Nebraska State Patrol shall send to the permitholder by United States mail or electronically notice of expiration of the permit.

(3) The applicant shall submit the fee with the application to the Nebraska State Patrol. The fee shall be remitted to the State Treasurer for credit to the Nebraska State Patrol Cash Fund.

Source: Laws 2006, LB 454, § 10; Laws 2007, LB322, § 17; Laws 2012, LB807, § 4; Laws 2021, LB236, § 4.
Effective date August 28, 2021.

CHAPTER 70
POWER DISTRICTS AND CORPORATIONS

Article.
6. Public Power and Irrigation Districts. 70-611, 70-663.

ARTICLE 6
PUBLIC POWER AND IRRIGATION DISTRICTS

Section
70-611. Board of directors; election; certified notice; publication.
70-663. Amendment; approval procedure.

70-611 Board of directors; election; certified notice; publication.

(1) Not later than January 5 in each even-numbered year, the secretary of the district in districts grossing forty million dollars or more annually shall certify to the Secretary of State on forms prescribed by the Secretary of State the names of the counties in which all registered voters are eligible to vote for public power district candidates and for other counties the names of the election precincts within each county excluding the municipalities in which voters are not eligible to vote on public power district candidates. The secretary shall also certify the number of directors to be elected and the length of terms for which each is to be elected.

(2) Districts grossing less than forty million dollars annually shall prepare the same type of certification as districts grossing over forty million dollars annually and file such certification with the Secretary of State not later than June 15 of each even-numbered year.

(3) The secretary of each district shall, at the time of filing the certification, cause to be published once in a newspaper or newspapers of general circulation within the district a list of the incumbent directors and naming the counties or election precincts excluding those municipalities in which voters are not eligible to vote for public power district candidates in the same general form as the certification filed with the Secretary of State. A certified copy of the published notice shall be filed with the Secretary of State within ten days after such publication.

Source: Laws 1933, c. 86, § 4, p. 344; Laws 1937, c. 152, § 4, p. 581; Laws 1941, c. 137, § 1, p. 542; C.S.Supp.,1941, § 70-704; Laws 1943, c. 145, § 1(2), p. 511; Laws 1943, c. 146, § 1, p. 516; R.S.1943, § 70-611; Laws 1959, c. 135, § 30, p. 526; Laws 1972, LB 1401, § 2; Laws 1973, LB 364, § 2; Laws 1975, LB 453, § 58; Laws 1994, LB 76, § 583; Laws 1997, LB 764, § 110; Laws 2021, LB285, § 17.
Effective date May 27, 2021.

70-663 Amendment; approval procedure.

(1) This subsection applies to charter amendments submitted after December 31, 2021. Upon such authorization occurring, the proposed amendment shall

thereupon be submitted to the Nebraska Power Review Board, together with a petition setting forth the reasons for the adoption of such amendment, and requesting that the same be approved. The Nebraska Power Review Board shall then cause notice to be given by publication for three consecutive weeks in two legal newspapers of general circulation within such district. Such notice shall set forth in full the proposed amendment and set a date, not sooner than three weeks after the last date of publication of the notice, for protests, complaints, or objections to be filed with the Nebraska Power Review Board in opposition to the adoption of such amendment. The cost of such publication shall be paid by such district. If any person residing in such district, or affected by the proposed amendment, shall, within the time provided, file a protest, complaint, or objection, the Nebraska Power Review Board shall schedule a hearing and give due notice thereof to the district, the district's representative, and the person who filed such protest, complaint, or objection. Any person filing a protest, complaint, or objection may appear at such hearing and contest the approval by the Nebraska Power Review Board of such proposed amendment. After all protests, complaints, or objections have been heard, the Nebraska Power Review Board shall act upon the petition and either approve or disapprove the amendment. If no protests, complaints, or objections are properly filed, the board shall either approve the amendment without a hearing or schedule a hearing to determine whether or not the amendment should be approved. If a hearing is scheduled, due notice shall be provided to the district and the district representative.

(2) This subsection applies to charter amendments submitted before December 31, 2021. Following the release of the 2020 Census of Population data by the United States Department of Commerce, Bureau of the Census, as required by Public Law 94-171, any public power district seeking an amendment to its charter shall submit the proposed amendment to the Nebraska Power Review Board on or before December 17, 2021. If the proposed amendment is in proper form, the Nebraska Power Review Board shall give conditional approval of the amendment on or before December 30, 2021. The approval process provided in subsection (1) of this section shall occur concurrent with the conditional approval process. If a protest, complaint, or objection is filed and a hearing is set, any decision from the Nebraska Power Review Board rejecting the amendment shall be decided and notification provided to the Secretary of State by March 1, 2022. Immediately upon receiving such notification, the Secretary of State shall notify all election commissioners and county clerks responsible for such elections within the public power district that the conditionally approved boundaries were rejected and that the previous boundaries shall be used for the primary and general elections.

Source: Laws 1937, c. 152, § 9, p. 589; C.S.Supp.,1941, § 70-717; R.S. 1943, § 70-663; Laws 1981, LB 181, § 28; Laws 1983, LB 366, § 1; Laws 2021, LB285, § 18.
Effective date May 27, 2021.