

GENERAL STATUTES PERTAINING TO THE DEPARTMENT OF AGRICULTURE

- Administration: These statutes have either an effect upon or generally pertain to the administration and operation of the Nebraska Department of Agriculture, State Office Building, 301 Centennial Mall South, Lincoln, Nebraska 68509. Telephone:(402) 471-2341.
- Revisions: These statutes were last revised during the 2017 session of the Nebraska Legislature.
- Rules: Regulations have been promulgated under these statutes, known as Title 19, Chapter, 4, Nebraska Administrative Code – Practice and Procedure Regulations, Title 19, Chapter 5, Nebraska Administrative Code – Negotiated Rulemaking Practice and Procedure Regulations, and Title 19, Chapter 3, Nebraska Administrative Code – Nebraska Honey Standards Regulations.

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

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

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

2017, LB339, § 272.

Operative Date: July 1, 2017

Cross References

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

Annotations

- The statutes which give the Court of Industrial Relations jurisdiction over public employees are not unconstitutional. *American Fed. of S., C. & M. Emp. v. Department of Public Institutions*, 195 Neb. 253, 237 N.W.2d 841 (1976).
- Matters of fair employment practices and civil rights are matters of statewide and not local concern. *Midwest Employers Council, Inc. v. City of Omaha*, 177 Neb. 877, 131 N.W.2d 609 (1964).
- The terms of this section limit its application to the departments named therein. *State ex rel. Beck v. Obbink*, 172 Neb. 242, 109 N.W.2d 288 (1961).
- Department of Water Resources was created by this section. *Ainsworth Irr. Dist. v. Harms*, 170 Neb. 228, 102 N.W.2d 429 (1960).
- Reclamation Act was not unconstitutional as conferring judicial powers on an executive or administrative body. *Nebraska Mid-State Reclamation District v. Hall County*, 152 Neb. 410, 41 N.W.2d 397 (1950).
- Language used in the civil administrative code refers to executive departments. *State ex rel. Johnson v. Chase*, 147 Neb. 758, 25 N.W.2d 1 (1946).
- Executive department was reorganized in 1933, and, by the terms of the reorganization, heads were established for various departments. *State ex rel. Howard v. Marsh*, 146 Neb. 750, 21 N.W.2d 503 (1946).
- Department of Banking is an executive and administrative branch of state government with general supervision of banks and banking laws. *State v. Kastle*, 120 Neb. 758, 235 N.W. 458 (1931).
- Civil administration of laws is vested in Governor, and to aid Governor, departments of state government were created. *Eidenmiller v. State*, 120 Neb. 430, 233 N.W. 447 (1930).
- Department secretary was not authorized to lease building for use of his department, and state was not bound thereby. *State ex rel. Brownell Bldg. Co. v. Cochran*, 113 Neb. 846, 205 N.W. 568 (1925).

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

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

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

Source: Laws 1929, c. 51, § 2, p. 209; C.S.1929, § 81-102; Laws 1933, c. 149, § 2, p. 571; Laws 1941, c. 177, § 1, p. 695; C.S.Supp.,1941, § 81-102; R.S.1943, § 81-102; Laws 1953, c. 335, § 1, p. 1100; Laws 1957, c. 365, § 9, p. 1237; Laws 1957, c. 366, § 52, p. 1282; Laws 1961, c. 415, § 30, p. 1260; Laws 1961, c. 416, § 10, p. 1268; Laws 1963, c. 504, § 2, p. 1609; Laws 1969, c. 778, § 2, p. 2950; Laws 1969, c. 514, § 4, p. 2105; Laws 1973, LB 563, § 17; Laws 1976, LB 561, § 5; Laws 1981, LB 249, § 4; Laws 1981, LB 541, § 5; Laws 1982, LB 404, § 34; Laws 1996, LB 1044, § 836; Laws 1999, LB 36, § 36; Laws 2000, LB 900, § 247; Laws 2007, LB296, § 727; Laws 2007, LB334, § 103; Laws 2017, LB339, § 273.

Operative Date: July 1, 2017

Annotations

- The Director of Water Resources is a state officer and membership on the Natural Resources Commission is an additional duty which could be imposed by the

Legislature. *Neeman v. Nebraska Nat. Resources Commission*, 191 Neb. 672, 217 N.W.2d 166 (1974).

- Governor appoints heads of executive departments, subject to confirmation by Legislature. *State ex rel. Johnson v. Chase*, 147 Neb. 758, 25 N.W.2d 1 (1946).
- Head of the Department of Agriculture and Inspection is the director, who is appointed by the Governor. *State ex rel. Howard v. Marsh*, 146 Neb. 750, 21 N.W.2d 503 (1946).

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

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

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

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

Cross References

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

Annotations

- Salaries of executive officers were fixed by Legislature and could not be increased during term. *State ex rel. Laughlin v. Johnson*, 156 Neb. 671, 57 N.W.2d 531 (1953).
- Authority is vested in Governor to establish salaries for all persons connected with executive departments, including the heads thereof. *State ex rel. Johnson v. Chase*, 147 Neb. 758, 25 N.W.2d 1 (1946).
- Attempt to reduce salaries of department heads was invalid because act failed to amend this section. *State ex rel. Day v. Hall*, 129 Neb. 699, 262 N.W. 850 (1935); *State ex rel. Taylor v. Hall*, 129 Neb. 669, 262 N.W. 835 (1935).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The Tax Commissioner shall annually examine and audit or supervise and direct the examination and audit of the books, accounts, vouchers, records, and expenditures of the office of Auditor of Public Accounts and report promptly to the Governor and the Clerk of the Legislature the result of such examination and audit. The report submitted to the Clerk of the

Legislature shall be submitted electronically. Each member of the Legislature shall receive an electronic copy of such report by making a request for it to the Tax Commissioner.

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

Cross References

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

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

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

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

Annotations

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

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

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

(2) Nothing in this section shall be interpreted as prohibiting the head of one of the departments referred to in section 81-101 from serving on any public advisory or policymaking board, commission, committee, or council.

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

81-109. Department heads; serve without term; exception.

Each head of a department shall serve without term.

Source: Laws 1919, c. 190, § 8, p. 438; C.S.1922, § 7249; C.S.1929, § 81-111; R.S.1943, § 81-109; Laws 1963, c. 335, § 4, p. 1101; Laws 1953, c. 506, § 1, p. 1613; Laws 1963, c. 507, § 2, p. 1614; Laws 1965, c. 543, § 2, p. 1730; Laws 1981, LB 249, § 6; Laws 1999, LB 36, § 37; Laws 2007, LB334, § 104.

Annotations

- Provision relating to fixation of term has no application to Department of Aeronautics. State ex rel. Beck v. Obbink, 172 Neb. 242, 109 N.W.2d 288 (1961).
- Possibility of removal from office does not prevent officer from having definite term. State ex rel. Laughlin v. Johnson, 156 Neb. 671, 57 N.W.2d 531 (1953).
- Head of department herein referred to represents exactly the same head of executive department referred to in the Constitution. State ex rel. Johnson v. Chase, 147 Neb. 758, 25 N.W.2d 1 (1946).

81-110. Departments; officers; oath.

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

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

Cross References

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

Annotations

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

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

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

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

Cross References

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

Annotations

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

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

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

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

Annotations

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

81-113. Departments; business hours.

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

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

81-114. Departments; official seal.

Each department shall adopt an official seal.

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

81-115. Repealed. Laws 1957, c. 398, § 6.

81-116. Repealed. Laws 1973, LB 469, § 2.

81-117. Department heads; employees; extra services; compensatory time off or payment; employees on hourly basis; guaranteed workweek; work period; how treated.

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

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

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

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

Annotations

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

81-117.01. Terms, defined.

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

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

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

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

Source: Laws 1977, LB 88, § 1.

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

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

Source: Laws 1977, LB 88, § 3.

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

The gross amount of money received by every department, from whatever source, belonging to or for the use of the state, shall be paid into the state treasury, without delay, not later in any event than ten days after the receipt of the same, without any deduction on account of salaries, fees, costs, charges, expenses or claims of any description whatever. No money belonging to or for the use of the state shall be expended or applied by any department except in consequence of an appropriation made by law and upon the warrant of the Director of Administrative Services.

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

81-118.01. Electronic payment; acceptance; conditions.

(1) Any state official or state agency may accept credit cards, charge cards, or debit cards, whether presented in person or electronically, or electronic funds transfers as a method of cash payment of any tax, levy, excise, duty, custom, toll, interest, penalty, fine, license, fee, or assessment of whatever kind or nature, whether general or special, as provided by section 77-1702.

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

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

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

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

(6) A state official or state agency obtaining, for each transaction, authorization for use of any credit card or charge card used pursuant to this section may, but is not required to, impose a surcharge or convenience fee upon the person making a payment by credit card or charge card so as to wholly or partially offset the amount of any discount or administrative fees charged to the state agency, but the surcharge or convenience fee shall not exceed the surcharge or convenience fee imposed by the credit card or charge card companies or third-party merchant banks which have contracted under subsection (5) of this section. The surcharge or convenience fee shall be applied only when allowed by the operating rules and regulations of the credit card or charge card involved or when authorized in writing by the credit card or charge card company involved. When a person elects to make a payment to a

state agency by credit card or charge card and such a surcharge or convenience fee is imposed, the payment of such surcharge or convenience fee shall be deemed voluntary by such person and shall be in no case refundable. If a payment is made electronically by credit card, charge card, debit card, or electronic funds transfer as part of a system for providing or retrieving information electronically, the state official or state agency shall be authorized but not required to impose an additional surcharge or convenience fee upon the person making a payment.

(7) For purposes of this section, electronic funds transfer means the movement of funds by nonpaper means, usually through a payment system, including, but not limited to, an automated clearinghouse or the Federal Reserve's Fedwire system.

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

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

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

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

(3) Vendors accepting the state's purchasing card shall obtain authorization for all transactions in accordance with the department's authorization instructions. Authorization shall be from the financial institution, card-issuing bank, credit card company, charge card company, debit card company, or third-party merchant bank contracted to provide such service to the State of Nebraska. Each transaction shall be authorized in accordance with the instructions provided by the department for each state official, state agency, or political subdivision.

(4) An itemized receipt for purposes of tracking expenditures shall accompany all state purchasing card purchases. In the event that an itemized receipt does not accompany such a purchase, the Department of Administrative Services shall have the authority to temporarily or

permanently suspend state purchasing card purchases in accordance with rules and regulations adopted and promulgated by the department.

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

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

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

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

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

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

81-201. Department of Agriculture; general powers.

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

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

Cross References

- **Animal disease control**, Department of Agriculture, general powers and duties, see Chapter 54, article 7.

Annotations

- Nebraska State Board of Agriculture is a corporation possessing no immunity from the enforcement of its honest debts and just obligations by the ordinary processes of the courts. *Crete Mills v. Nebraska State Board of Agriculture*, 132 Neb. 244, 271 N.W. 684 (1937).

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

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

81-201.03. Office services; authorized; powers.

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

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

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

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

There is hereby created the Management Services Expense Revolving Fund. All gifts, grants, and fees or charges collected for such services from any source, including federal, state, public, or private sources, and any appropriation by the Legislature for such purpose shall be

credited to such fund. Expenditures shall be made from the fund for the payment of expenses. Such payments shall be made by the Director of Agriculture. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1983, LB 579, § 2; Laws 1991, LB 358, § 7; Laws 1994, LB 1066, § 97.

Cross References

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

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

(1) The Weed Book Cash Fund is created. On July 1, 2005, July 1, 2006, July 1, 2007, July 1, 2008, and July 1, 2009, if there are sufficient funds available, twenty-five thousand dollars shall be transferred from the Weed Book Cash Fund to the Noxious Weed Cash Fund. Transfers may be made from the Weed Book Cash Fund to the General Fund at the direction of the Legislature. Any money in the Weed Book Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) The sale price of each Weeds of the Great Plains book sold by the Department of Agriculture shall be credited as follows:

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

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

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

Cross References

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

2-3993. Repealed. Laws 2017, LB2, § 3.

2-15,100. Water planning and review; how conducted; assistance.

The state water planning and review process shall be conducted under the guidance and general supervision of the director. The director shall be assisted in the state water planning and review process by the Game and Parks Commission, the Department of Agriculture, the Governor's Policy Research Office, the Department of Health and Human Services, the

Department of Environmental Quality, the Water Center of the University of Nebraska, and the Conservation and Survey Division of the University of Nebraska. In addition, the director may obtain assistance from any private individual, organization, political subdivision, or agency of the state or federal government.

Source: Laws 1981, LB 326, § 2; R.S.Supp.,1982, § 2-3283; Laws 1984, LB 1106, § 38; Laws 1993, LB 3, § 2; Laws 1996, LB 1044, § 37; Laws 2000, LB 900, § 43; Laws 2007, LB296, § 16.

23-116. Insect pests; plant diseases; control; cooperation with federal and state agencies.

The county board shall have power to cooperate with the Nebraska Department of Agriculture, the University of Nebraska Institute of Agriculture and Natural Resources, or the United States Department of Agriculture in the control or eradication of insect pests or plant diseases for the protection of agricultural or horticultural crops within the county and to expend money from the general fund for this purpose.

Source: Laws 1941, c. 48, § 2, p. 237; C.S.Supp.,1941, § 26-105; Laws 1943, c. 57, § 1(12), p. 227; R.S.1943, § 23-116; Laws 1969, c. 146, § 1, p. 703; Laws 1991, LB 663, § 33.

29-830. Inspection warrant, defined.

An inspection warrant is an order in writing in the name of the people, signed by a judge of a court of record, directed to a peace officer as defined in section 29-831, and commanding him to conduct any inspection required or authorized by state or local law or regulation relating to health, welfare, fire or safety.

Source: Laws 1969, c. 231, § 1, p. 858.

Cross References

- **Chemigation Act, Nebraska**, enforcement, see section 46-1124.
- **Controlled premises**, inspection pursuant to Uniform Controlled Substances Act, see section 28-428.
- **Energy Code, Nebraska**, enforcement, see section 81-1617.
- **Plant Protection and Plant Pest Act**, enforcement, see section 2-1091.

29-831. Peace officer, defined.

As used in sections 29-830 to 29-835, unless the context otherwise requires:

All state, county, city and village officers and their agents and employees, charged by statute or municipal ordinance with powers or duties involving inspection of real or personal property, building premises and contents, including but not limited by enumeration to housing, electrical, plumbing, heating, gas, fire, health, food, zoning, pollution, water, and weights and measures inspections, shall be peace officers for the purpose of applying for, obtaining and executing inspection warrants.

Source: Laws 1969, c. 231, § 2, p. 859.

29-832. Inspection warrant; when issued.

Inspection warrants shall be issued only upon showing that consent to entry for inspection purposes has been refused. In emergency situations neither consent nor a warrant shall be required.

Source: Laws 1969, c. 231, § 3, p. 859.

29-833. Inspection warrant; issuance; procedure.

An inspection warrant shall be issued only by a judge of a court of record upon reasonable cause, supported by affidavit describing the place and purpose of inspection. The judge may examine the applicant and other witnesses, on oath, to determine sufficient cause for inspection.

Source: Laws 1969, c. 231, § 4, p. 859.

29-834. Inspection warrants; laws applicable.

All general laws pertaining to search warrants, including but not limited to the filing costs involved and the conditions and time for return, shall be applicable to inspection warrants, unless in conflict with sections 29-830 to 29-833.

Source: Laws 1969, c. 231, § 5, p. 859.

29-835. Violations; penalty.

Any person who willfully refuses to permit, interferes with, or prevents any inspection authorized by inspection warrant shall be guilty of a Class III misdemeanor.

Source: Laws 1969, c. 231, § 6, p. 859; Laws 1977, LB 40, § 114.

37-1401. Legislative findings.

The Legislature finds that:

(1) The land, water, and other resources of Nebraska are being severely impacted by the invasion of an increasing number of harmful invasive species;

(2) These impacts are resulting in damage to Nebraska's environment and causing economic hardships; and

(3) The multitude of public and private organizations with an interest in controlling and preventing the spread of harmful invasive species in Nebraska need a mechanism for

cooperation, communication, collaboration, and developing a statewide plan of action to meet these threats.

Source: Laws 2012, LB391, § 11.

37-1402. Invasive species, defined.

For purposes of sections 37-1401 to 37-1406, invasive species means aquatic or terrestrial organisms not native to the region that cause economic or biological harm and are capable of spreading to new areas, and invasive species does not include livestock as defined in sections 54-1368 and 54-1902, honey bees, domestic pets, intentionally planted agronomic crops, or nonnative organisms that do not cause economic or biological harm.

Source: Laws 2012, LB391, § 12.

37-1403. Nebraska Invasive Species Council; created; members; expenses; Game and Parks Commission; rules and regulations; meetings.

(1) The Nebraska Invasive Species Council is created. Members of the council shall serve without compensation and shall not be reimbursed for expenses associated with their service on the council. The Game and Parks Commission shall provide administrative support to the council to carry out the council's duties, and the commission may adopt and promulgate rules and regulations to carry out sections 37-1401 to 37-1406.

(2) Voting members of the council shall be appointed by the Governor and shall include a representative of:

- (a) An electric generating utility;
- (b) The Department of Agriculture;
- (c) The Game and Parks Commission;
- (d) The Nebraska Forest Service of the University of Nebraska Institute of Agriculture and Natural Resources;
- (e) The University of Nebraska-Lincoln;
- (f) The Nebraska Cooperative Fish and Wildlife Research Unit of the University of Nebraska;
- (g) The Nebraska Weed Control Association; and
- (h) The Nebraska Association of Resources Districts.

(3) Voting members of the council shall also include up to five members at large appointed by the Governor who shall represent public interests, at least three of which shall represent agricultural land owner interests.

(4) Nonvoting, ex officio members of the council shall include a representative of:

(a) The Midwest Region of the National Park Service of the United States Department of the Interior;

(b) The Animal and Plant Health Inspection Service of the United States Department of Agriculture;

(c) The Natural Resources Conservation Service of the United States Department of Agriculture;

(d) The United States Geological Survey; and

(e) The Nature Conservancy, Nebraska Field Office.

(5) The council may seek additional advisory support from representatives of relevant federal, state, or local agencies as it deems necessary to accomplish its duties.

(6) The council shall select a chairperson from among its members. The council shall meet at the call of the chairperson or upon the request of a majority of the members.

Source: Laws 2012, LB391, § 13.

37-1404. Nebraska Invasive Species Council; duties.

The Nebraska Invasive Species Council shall:

(1) Recommend action to minimize the effects of harmful invasive species on Nebraska's citizens in order to promote the economic and environmental well-being of the state;

(2) Develop and periodically update a statewide adaptive management plan for invasive species as described in section 37-1405;

(3) Serve as a forum for discussion, identification, and understanding of invasive species issues;

(4) Facilitate the communication, cooperation, and coordination of local, state, federal, private, and nongovernmental entities for the prevention, control, and management of invasive species;

(5) Assist with public outreach and awareness of invasive species issues; and

(6) Provide information to the Legislature for decision making, planning, and coordination of invasive species management and prevention.

Source: Laws 2012, LB391, § 14.

37-1502. Terms, defined.

For purposes of sections 37-1501 to 37-1510:

(1) Deer means any wild deer legally taken in Nebraska and deer confiscated as legal evidence if the confiscated carcass is considered by a conservation officer to be in good condition for donation under the program;

(2) Field dressed means properly bled and cleaned of the internal organs;

(3) Meat processor means any business that is licensed to process meat for retail customers by the Department of Agriculture, the United States Department of Agriculture, or a neighboring state's department that is similar to Nebraska's; and

(4) Program means the deer donation program established pursuant to sections 37-1501 to 37-1510.

Source: Laws 2012, LB928, § 6.

54-170. Act, how cited.

Sections 54-170 to 54-1,131 shall be known and may be cited as the Livestock Brand Act.

Source: Laws 1999, LB 778, § 1; Laws 2000, LB 213, § 3; Laws 2013, LB435, § 1; Laws 2014, LB768, § 1; Laws 2014, LB884, § 1.

54-191. Nebraska Brand Committee; created; members; terms; vacancy; bond or insurance; expenses; purpose.

(1) The Nebraska Brand Committee is hereby created. Beginning August 28, 2007, the brand committee shall consist of five members appointed by the Governor. At least three appointed members shall be active cattlemen and at least one appointed member shall be an active cattle feeder. The Secretary of State and the Director of Agriculture, or their designees, shall be nonvoting, ex officio members of the brand committee. The appointed members shall be owners of cattle within the brand inspection area, shall reside within the brand inspection area, shall be owners of Nebraska-recorded brands, and shall be persons whose principal business and occupation is the raising or feeding of cattle within the brand inspection area.

(2) The members of the brand committee shall elect a chairperson and vice-chairperson from among its appointed members during the first meeting held after September 1 each calendar year. A member may be reelected to serve as chairperson or vice-chairperson.

(3) The terms of the members shall be four-year, staggered terms, beginning on August 28 of the year of initial appointment or reappointment and concluding on August 27 of the year of expiration. At the expiration of the term of an appointed member, the Governor shall appoint a successor. If there is a vacancy on the brand committee, the Governor shall fill such vacancy by appointing a member to serve during the unexpired term of the member whose office has become vacant.

(4) The action of a majority of the members shall be deemed the action of the brand committee. No appointed member shall hold any elective or appointive state or federal office while serving as a member of the brand committee. Each member and each brand committee employee who collects or who is the custodian of any funds shall be bonded or insured as required under section 11-201. The appointed members of the brand committee shall be paid their actual and necessary traveling expenses in attending meetings of the brand committee or in performing any other duties that are prescribed in the Livestock Brand Act or section 54-415, as provided for in sections 81-1174 to 81-1177.

The purpose of the Nebraska Brand Committee is to protect Nebraska brand and livestock owners from the theft of livestock through established brand recording, brand inspection, and livestock theft investigation.

Source: Laws 1999, LB 778, § 22; Laws 2004, LB 884, § 26; Laws 2007, LB422, § 1; Laws 2017, LB600, § 3.

Effective Date: August 24, 2017

58-226. Nebraska Investment Finance Authority; created; members; qualifications.

(1) There is hereby created a body politic and corporate, not a state agency, but an independent instrumentality exercising essential public functions, to be known as the Nebraska Investment Finance Authority. The authority shall have the powers and duties set forth in the Nebraska Investment Finance Authority Act.

(2) The authority shall be composed of nine members as follows:

(a) The Director of Agriculture, the Director of Economic Development, and the chairperson of the Nebraska Investment Council who shall be ex officio members; and

(b) Six public members who shall be appointed by the Governor as follows:

(i) One member shall be experienced in real estate development;

(ii) One member shall be experienced in industrial mortgage credit, commercial credit, agricultural credit, or housing mortgage credit;

(iii) One member shall be experienced in banking or investment banking;

(iv) One member shall be experienced in home building or shall be a licensed real estate broker;

(v) One member shall be experienced in agricultural production; and

(vi) One member shall be appointed at large.

(3) All members shall be residents of the state. Of the public members, two members shall be appointed from each congressional district. Of the six public members, not more than three shall belong to the same political party. The three ex officio members may each designate a representative to perform their respective duties under the act. It shall not constitute a conflict of interest for members of the authority to serve on any other public board or commission.

Source: Laws 1983, LB 626, § 26; Laws 1991, LB 253, § 29.

59-1617. Exempted transactions.

(1) Except as provided in subsection (2) of this section, the Consumer Protection Act shall not apply to actions or transactions otherwise permitted, prohibited, or regulated under laws administered by the Director of Insurance, the Public Service Commission, the Federal Energy Regulatory Commission, or any other regulatory body or officer acting under statutory authority of this state or the United States. The Consumer Protection Act and federal antitrust laws shall not extend to or apply to (a) any actions or transactions on the part of any municipality or group of municipalities while engaged in regulating natural gas rates pursuant to the State Natural Gas Regulation Act or section 16-679 or 17-528.02 or as otherwise permitted by law or (b) any actions or transactions on the part of any public power and irrigation district, public power district, electric membership association, or joint authority created pursuant to the Joint Public Power Authority Act or of any agency created pursuant to the Municipal Cooperative Financing Act, cooperative, or municipality engaged in furnishing electrical service to customers at retail or wholesale if such actions or transactions are otherwise permitted by law.

(2) Actions and transactions prohibited or regulated under the laws administered by the Director of Insurance shall be subject to section 59-1602 and all statutes which provide for the implementation and enforcement of section 59-1602. Actions and transactions prohibited or regulated under the laws administered by the Board of Funeral Directing and Embalming or administered by the Department of Agriculture and actions and transactions relating to loan brokers which are prohibited or regulated pursuant to sections 45-189 to 45-191.11 and administered by the Department of Banking and Finance shall be subject to the Consumer Protection Act.

No penalty or remedy shall result from a violation of the Consumer Protection Act except as expressly provided in such act.

Source: Laws 1974, LB 1028, § 24; Laws 1980, LB 94, § 18; Laws 1981, LB 487, § 46; Laws 1982, LB 751, § 2; Laws 1985, LB 193, § 1; Laws 1987, LB 663, § 24; Laws 1993, LB 270, § 14; Laws 1993, LB 187, § 2; Laws 1999, LB 828, § 6; Laws 2003, LB 790, § 59.

Cross References

Joint Public Power Authority Act, see section 70-1401.

Municipal Cooperative Financing Act, see section 18-2401.

State Natural Gas Regulation Act, see section 66-1801.

Annotations

The issuance of a certificate of deposit was exempted from the purview of the Consumer Protection Act under subsection (1) of this section because the bank was heavily regulated and the certificate of deposit form was indirectly approved by the Director of Banking and Finance, whose charge was to constructively aid banks in maintaining proper banking standards and efficiency. *Wrede v. Exchange Bank of Gibbon*, 247 Neb. 907, 531 N.W.2d 523 (1995).

Generally, institutions that are governed by the Nebraska Department of Banking and Finance or the Nebraska State Real Estate Commission are exempt from the provisions of the Consumer Protection Act. *Little v. Gillette*, 218 Neb. 271, 354 N.W.2d 147 (1984).

Under the provisions of this statute, where the Banking Act requires the director of the Department of Banking and Finance to "constructively aid banks in maintaining proper banking standards and efficiency", a bank is exempt from the Consumer Protection Act by reason of its failure to follow customary and standard banking practices. *Hydroflo Corp. v. First Nat. Bank of Omaha*, 217 Neb. 20, 349 N.W.2d 615 (1984).

Under the provisions of this section, an installment loan by an industrial loan and investment company, regulated by the Nebraska Department of Banking and Finance, is exempt from the Consumer Protection Act, sections 59-1601 et seq. *McCaul v. American Savings Co.*, 213 Neb. 841, 331 N.W.2d 795 (1983).

Nebraska Consumer Protection Act, sections 59-1601 to 59-1623, does not apply to an installment loan made by a licensee under the installment loan act, sections 45-114 to 45-158. *Kuntzelman v. Avco Financial Services of Nebraska, Inc.*, 206 Neb. 130, 291 N.W.2d 705 (1980).

81-2,181. Honey; Department of Agriculture; adopt standard; label restrictions; violation; remedy or penalty.

(1) It is the intent of the Legislature to provide for an identity standard for packaged food products labeled as honey in order to aid consumer information and to protect the integrity of the honey industry in Nebraska.

(2) The Department of Agriculture shall adopt and promulgate rules and regulations that adopt a standard for all honeys produced by honey bees. In promulgating a standard for honey, the department may utilize as a guideline available authoritative references to the composition and grades of honey. Such rules and regulations shall be effective on or before January 1, 2012.

(3) A product shall not be labeled as honey or be labeled as to imply that the product is honey unless the product meets the standard for honey adopted by the Department of Agriculture under subsection (2) of this section.

(4) A violation of subsection (3) of this section shall constitute a deceptive trade practice under the Uniform Deceptive Trade Practices Act and shall be subject to any remedies or penalties available for a violation under the act.

Source: Laws 2011, LB114, § 1.

Cross References

Uniform Deceptive Trade Practices Act, see section 87-306.

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

(1) The Department of Agriculture may contract with the following entities to perform laboratory testing services for such entities: Any agency, board, commission, or political subdivision of this or another state, another state, the federal government, or an association which includes members that are governmental entities. Laboratory testing services authorized by this section shall not be performed beyond the scope of the Department of Agriculture's statutory authority and shall be limited to one or more of the following: (a) Acts of terrorism, natural disaster, or other public health or agricultural emergency; (b) testing performed in accordance with intergovernmental agreements for laboratory testing services; and (c) testing performed in connection with validation studies for analytical techniques and methods developed by entities whose function is establishing or approving official laboratory analytical standards. Every department contract to perform laboratory testing services shall include provisions clearly stating that the State of Nebraska shall not be liable to any party to the contract or to any third person for negligence of the department in analyzing samples or in publishing testing findings that result in injury to persons or damage to property.

(2) The department shall develop an equitable system of billing and charges for the laboratory testing services. Such charges shall reflect, as nearly as practicable, the actual costs incurred in performing the services.

(3) The Agricultural Laboratory Testing Services Cash Fund is created. All gifts and grants relating to this section from any source, including federal, state, public, or private sources, and charges collected for laboratory testing services shall be remitted to the State Treasurer for credit to the fund. The department shall use the fund to carry out this section. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2005, LB 51, § 2.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

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

(1) The Director of Agriculture shall appoint a committee of experts, not to exceed ten persons, to advise the Department of Agriculture on the development of the assessment matrix described in subsection (2) of this section. Experts shall include representation from county board members, county zoning administrators, livestock production agriculture, the University of Nebraska, and other experts as may be determined by the director. The committee shall review the matrix annually and recommend to the department changes as needed.

(2) The Department of Agriculture shall, in consultation with the committee created under subsection (1) of this section, develop an assessment matrix which may be used by county officials to determine whether to approve or disapprove a conditional use permit or special exception application. The matrix shall be developed within one year after August 30, 2015. In the development of the assessment matrix, the department shall:

(a) Consider matrices already developed by the counties and other states;

(b) Design the matrix to produce quantifiable results based on the scoring of objective criteria according to an established value scale. Each criterion shall be assigned points corresponding to the value scale. The matrix shall consider risks and factors mitigating risks if the livestock operation were constructed according to the application;

(c) Assure the matrix is a practical tool for use by persons when completing permit applications and by county officials when scoring conditional use permit or special exception applications. To every extent feasible, the matrix shall include criteria that may be readily scored according to ascertainable data and upon which reasonable persons familiar with the location of a proposed construction site would not ordinarily disagree; and

(d) Provide for definite point selections for all criteria included in the matrix and provide for a minimum threshold total score required to receive approval by county officials.

(3) The Department of Agriculture may develop criteria in the matrix which include factors referencing the following:

(a) Size of operation;

(b) Type of operation;

(c) Whether the operation has received or is in the process of applying for a permit from the Department of Environmental Quality, if required by law;

(d) Environmental practices adopted by the operation operator which may exceed those required by the Department of Environmental Quality;

(e) Odor control practices;

(f) Consideration of proximity of a livestock operation to neighboring residences, public use areas, and critical public areas;

(g) Community support and communication with neighbors and other community members;

(h) Manure storage and land application sites and practices;

(i) Traffic;

(j) Economic impact to the community; and

(k) Landscape and aesthetic appearance.

(4) In developing the matrix, the Department of Agriculture shall consider whether the proposed criteria are:

(a) Protective of public health or safety;

(b) Practical and workable;

(c) Cost effective;

(d) Objective;

(e) Based on available scientific information that has been subjected to peer review;

(f) Designed to promote the growth and viability of animal agriculture in this state;

(g) Designed to balance the economic viability of farm operations with protecting natural resources and other community interests; and

(h) Usable by county officials.

Source: Laws 2015, LB106, § 1.

81-1021. Identification requirements; exceptions.

(1) All motor vehicles acquired by the State of Nebraska except any vehicle rented as a bureau fleet vehicle shall be indelibly and conspicuously lettered, in plain letters of a contrasting color or reflective material:

(a) On each side thereof with the words State of Nebraska and following such words the name of whatever board, department, bureau, division, institution, including the University of Nebraska or state college, office, or other state expending agency of the state to which the motor vehicle belongs; and

(b) On the back thereof with the words State of Nebraska.

(2) This section shall not apply to motor vehicles used or controlled by:

(a) The Nebraska State Patrol, the Public Service Commission, the Game and Parks Commission, deputy state sheriffs employed by the Nebraska Brand Committee and State Fire Marshal for state law enforcement purposes, inspectors employed by the Nebraska Liquor Control Commission, and persons employed by the Tax Commissioner for state revenue enforcement purposes, the exemption for state law enforcement purposes and state revenue enforcement purposes being confined strictly to the seven agencies specifically named;

(b) The Department of Health and Human Services or the Department of Correctional Services for the purpose of apprehending and returning escaped offenders or parole violators to facilities in the Department of Correctional Services and transporting offenders and personnel of the Department of Correctional Services and patients and personnel of the Department of Health and Human Services who are engaged in off-campus program activities;

(c) The Military Department;

(d) Vocational rehabilitation counselors and the Department of Health and Human Services for the purposes of communicable disease control, for the prevention and control of those communicable diseases which endanger the public health, or used by the Department of Health and Human Services in the enforcement of drug control laws or for other investigation purposes;

(e) The Department of Agriculture for special investigative purposes;

(f) The Nebraska Motor Vehicle Industry Licensing Board for investigative purposes; and

(g) The Insurance Fraud Prevention Division of the Department of Insurance for investigative purposes.

Source: Laws 1939, c. 94, § 2, p. 409; C.S.Supp.,1941, § 60-1201; R.S.1943, § 60-1001; Laws 1951, c. 202, § 1, p. 758; Laws 1951, c. 203, § 1, p. 759; Laws 1957, c. 278, § 1, p. 1008; Laws 1959, c. 300, § 1, p. 1127; Laws 1965, c. 390, § 1, p. 1247; Laws 1969, c. 512, § 1, p. 2099; Laws 1969, c. 513, § 1, p. 2100; Laws 1972, LB 1295, § 1; Laws 1973, LB 201, § 1; Laws 1973, LB 563, § 5; Laws 1975, LB 253, § 1; Laws 1984, LB 933, § 1; R.S.1943, (1988), § 60-1001; Laws 1993, LB 370, § 484; Laws 1993, LB 575, § 47; Laws 1996, LB 1044, § 862; Laws 1996, LB 1155, § 79; Laws 1999, LB 326, § 11; Laws 2007, LB296, § 753; Laws 2012, LB779, § 11.

81-1401. Terms, defined.

For purposes of sections 81-1401 to 81-1414.10, unless the context otherwise requires:

(1) Commission means the Nebraska Commission on Law Enforcement and Criminal Justice;

(2) Council means the Nebraska Police Standards Advisory Council;

(3) Director means the director of the Nebraska Law Enforcement Training Center;

(4) Felony means a crime punishable by imprisonment for a term of more than one year or a crime committed outside of Nebraska which would be punishable by imprisonment for a term of more than one year if committed in Nebraska;

(5) Handgun means any firearm with a barrel less than sixteen inches in length or any firearm designed to be held and fired by the use of a single hand;

(6) Incapacity means incapable of or lacking the ability to perform or carry out the usual duties of a law enforcement officer in accordance with the standards established by the commission due to physical, mental, or emotional factors. Incapacity does not exist if a law enforcement officer remains employed as a law enforcement officer, including employment as a law enforcement officer in a restricted or limited-duty status;

(7) Law enforcement agency means the police department or the town marshal in incorporated municipalities, the office of sheriff in unincorporated areas, and the Nebraska State Patrol;

(8)(a) Law enforcement officer means any person who is responsible for the prevention or detection of crime or the enforcement of the penal, traffic, or highway laws of the state or any political subdivision of the state for more than one hundred hours per year and is authorized by law to make arrests and includes, but is not limited to:

(i) A full-time or part-time member of the Nebraska State Patrol;

(ii) A county sheriff;

(iii) A full-time, part-time, or reserve employee of a county sheriff's office;

(iv) A full-time, part-time, or reserve employee of a municipal or village police agency;

(v) A full-time or part-time Game and Parks Commission conservation officer;

(vi) A full-time or part-time deputy state sheriff; or

(vii) A full-time employee of an organized and paid fire department of any city of the metropolitan class who is an authorized arson investigator and whose duties consist of determining the cause, origin, and circumstances of fires or explosions while on duty in the course of an investigation;

(b) Law enforcement officer does not include employees of the Department of Correctional Services, probation officers under the Nebraska Probation System, parole officers appointed by the Parole Administrator, or employees of the Department of Revenue under section 77-366; and

(c) A law enforcement officer shall possess a valid law enforcement officer certificate or diploma, as established by the council, in order to be vested with the authority of this section, but this subdivision does not prohibit an individual from receiving a conditional appointment as an officer pursuant to subsection (2) of section 81-1414;

(9) Training academy means the training center or such other council-approved law enforcement training facility operated and maintained by a law enforcement agency which offers certification training that meets or exceeds the certification training curriculum of the training center;

(10) Training center means the Nebraska Law Enforcement Training Center; and

(11) Training school means a public or private institution of higher education, including the University of Nebraska, the Nebraska state colleges, and the community colleges of this state, that offers training in a council-approved pre-certification course.

Source: Laws 1969, c. 773, § 1, p. 2925; Laws 1971, LB 929, § 1; Laws 1979, LB 565, § 1; Laws 1980, LB 834, § 63; Laws 1981, LB 205, § 3; Laws 1986, LB 529, § 53; Laws 1996, LB 1055, § 11; Laws 1999, LB 36, § 38; Laws 1999, LB 205, § 1; Laws 2000, LB 994, § 2; Laws 2007, LB334, § 105; Laws 2012, LB817, § 5; Laws 2013, LB538, § 1.

81-1412.02. Handgun qualification register; requirements; fine.

The person in charge of any agency employing law enforcement officers shall submit to the council a register of full-time, part-time, and reserve law enforcement officers employed by his or her agency and whether each law enforcement officer passed or failed the handgun qualification. The council shall adopt and promulgate rules and regulations governing the submission of agency registers. The register shall include the name of each law enforcement officer, whether the law enforcement officer passed or failed the handgun qualification, the name of the instructor who administered the course, the date of handgun qualification, and the type of handgun used in handgun qualification. An agency that fails to submit a handgun qualification register pursuant to this section shall be subject to a fine of one hundred dollars for each day of noncompliance. All fines collected under this section shall be remitted to the State Treasurer for credit to the Law Enforcement Improvement Fund.

Source: Laws 1996, LB 1055, § 15; Laws 1999, LB 205, § 4; Laws 2012, LB817, § 9.

81-1414.07. Continuing education requirements; course offerings.

(1) In order to maintain his or her professional status and serve the law enforcement profession, the community, and the residents of Nebraska, each law enforcement officer shall attend at least twenty hours of continuing education courses in the areas of criminal justice and law enforcement during each calendar year beginning on January 1 and ending on December 31. A law enforcement officer is not required to meet the continuing education requirements in the year in which he or she first becomes fully certified.

(2) Continuing education courses may be offered in the form of seminars, advanced education which may include college or university classes, conferences, instruction conducted within the law enforcement officer's law enforcement agency, or instruction conducted over the Internet, except that instruction conducted over the Internet shall be limited to ten hours annually, and shall be of a type which has application to and seeks to maintain and improve the skills of the law enforcement officer in carrying out his or her duties and responsibilities.

Source: Laws 2012, LB817, § 13.

81-1414.09. Continuing education requirements; failure to complete; effect; fine.

(1) Failure to complete the continuing education requirements of sections 81-1414.07 and 81-1414.08 shall result in the suspension of a law enforcement officer's certificate or diploma from the Nebraska Law Enforcement Training Center and a fine under section 81-1403 until the continuing education is completed unless the officer is able to show good cause for not completing the continuing education requirements or unless a waiver has been granted.

(2) Any law enforcement officer who fails to fulfill his or her continuing education requirements for two consecutive reporting periods may have his or her certificate or diploma from the Nebraska Law Enforcement Training Center revoked and a fine incurred under section 81-1403 unless the officer is able to show good cause for not completing the continuing education requirements or unless a waiver has been granted.

Source: Laws 2012, LB817, § 15.

81-15,170. Nebraska Environmental Trust Board; created; membership; qualifications; executive director.

The Nebraska Environmental Trust Board is hereby created as an entity of the executive branch. The board shall consist of the Director of Environmental Quality, the Director of Natural Resources, the Director of Agriculture, the secretary of the Game and Parks Commission, the chief executive officer of the Department of Health and Human Services or his or her designee, and nine citizens appointed by the Governor with the approval of a majority of the Legislature. The citizen members shall begin serving immediately following notice of nomination and prior to approval by the Legislature. The citizen members shall represent the general public and shall have demonstrated competence, experience, and interest in the environment of the state. Two of the citizen appointees shall also have experience with private financing of public-purpose projects. Three appointees shall be chosen from each of the three congressional districts. The board shall hire an executive director who shall hire and supervise other staff members as may be authorized by the board. The executive director shall serve at the pleasure of the board and be solely responsible to it. The Game and Parks Commission shall provide administrative support, including, but not limited to, payroll and accounting functions, to the board.

Source: Laws 1992, LB 1257, § 47; Laws 1993, LB 138, § 79; Laws 1996, LB 1044, § 869; Laws 2000, LB 900, § 248; Laws 2002, LB 1003, § 49; Laws 2007, LB296, § 758.

84-502. Secretary of State; duties.

It shall be the duty of the Secretary of State:

(1) To countersign and affix the seal of the state to all commissions required by law to be issued by the Governor;

(2) To keep a register of all such commissions specifying the person to whom granted, the office conferred, the date of signing the commission, and, when bond or an equivalent commercial insurance policy is taken, the date and amount thereof and the names of the sureties;

(3) To make and keep proper indexes to the records and all public acts, resolutions, papers, and documents in his or her office;

(4) To give any person requiring the same, and paying the lawful fees therefor, a copy of any law, act, resolution, record, or paper in his or her office, and attach thereto his or her certificate under the seal of the state;

(5) To distribute the laws and journals as authorized by section 49-501 and keep an account thereof; and

(6)(a) To act as the chief protocol officer of the State of Nebraska;

(b) In coordination with the Governor, the Department of Economic Development, the Department of Agriculture, and other interested federal, state, and local officials, to actively seek appropriate contacts with other officials in nations with which the state has or desires to have active trade, cultural, or educational relations; and

(c) To help facilitate the interchange of ideas and contacts for betterment of commerce, cultural exchange, or educational studies between such nations and the state.

Source: Laws 1877, § 6, p. 162; R.S.1913, § 5570; C.S.1922, § 4874; C.S.1929, § 84-502; Laws 1939, c. 136, § 1, p. 582; C.S.Supp.,1941, § 84-502; R.S.1943, § 84-502; Laws 1969, c. 831, § 2, p. 3154; Laws 1981, LB 545, § 48; Laws 1996, LB 895, § 1; Laws 2003, LB 430, § 1; Laws 2004, LB 884, § 50.

84-1207. State or local agency head; duties.

In accordance with general law and with the rules and regulations adopted and promulgated by the administrator and the board as provided in section 84-1216, the head of any state or local agency shall:

(1) Establish and maintain an active, continuing program for the efficient, cost-effective, modern, and economical management of the record-keeping activities of the agency;

(2) Make and maintain records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency, designed to furnish information to protect the legal and financial rights of the state, and of persons directly affected by the agency's activities;

(3) Make and submit to the administrator schedules proposing the length of time each record series warrants retention for administrative, legal, historical, or fiscal purposes, after it has been made in or received by the agency, and lists of records in the custody or under the control of the agency which are not needed in the transaction of current business and do not possess sufficient administrative, legal, historical, or fiscal value to warrant their further retention;

(4) Inventory the records in the custody or under the control of the agency and submit to the administrator a report thereon, containing such data as the administrator shall prescribe, including his or her recommendations as to which of such records, if any, should be determined to be essential records. He or she shall review the inventory and report periodically and, as necessary, shall revise the report so that it is current, accurate, and complete;

(5) Comply with the rules, regulations, standards, and procedures issued and set up by the administrator and the board and cooperate in the conduct of surveys made by the administrator pursuant to the Records Management Act; and

(6) Strive to reduce the costs to manage record retention.

Source: Laws 1961, c. 455, § 7, p. 1389; Laws 1969, c. 841, § 5, p. 3171; Laws 1979, LB 559, § 4; Laws 2012, LB719, § 16; Laws 2012, LB880, § 7.

84-1207.01. Agency head; designate records officer; duties.

In addition to the duties enumerated in section 84-1207, each state agency head shall designate a records officer from the management or professional level who shall be responsible for the overall coordination of records management activities within the agency.

Source: Laws 1976, LB 641, § 2.

85-162.03. State Forester; cooperate with other agencies.

In carrying out sections 85-162.01 to 85-162.05, the State Forester shall cooperate with (1) any agency or bureau of the United States, including, but not limited to, the Forest Service, the Natural Resources Conservation Service, the Farm Service Agency, the Bureau of Reclamation, the Corps of Engineers, and the Bureau of Outdoor Recreation, (2) any agency or bureau of the State of Nebraska or its political subdivisions, including, but not limited to, the Game and Parks Commission, the Department of Natural Resources, the State Fire Marshal, the Department of Agriculture, the Adjutant General, the Department of Economic Development, and the Conservation and Survey Division of the University of Nebraska, and

(3) any incorporated municipality of the state or any political subdivision of the state, including, but not limited to, rural fire districts, natural resources districts, and weed control districts.

Source: Laws 1967, c. 585, § 3, p. 1975; Laws 1977, LB 510, § 9; R.S.1943, (1981), § 85-163.04; Laws 1998, LB 922, § 411; Laws 1999, LB 403, § 8; Laws 2000, LB 900, § 253.

46-2,140. Repealed. Laws 2015, LB 9, § 1.