

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 2012 session of the Nebraska Legislature.

Rules: A regulation has been promulgated under these statutes, known as Title 19, Chapter 1, Nebraska Administrative Code - Rules of Practice and Procedure.

A regulation has been promulgated under the related statute, 81-2,181, known as 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 Roads; (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.

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 Roads; (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.

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.

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.

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.

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.

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.

81-109. Department heads; serve without term; exception. Each head of a department shall serve without term.

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.

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.

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.

81-113. Departments; business hours. Each department shall be open for the transaction of business at least from 8:00 a.m. until 5:00 p.m., of each day except Saturdays, Sundays, and days declared by statutory enactment or proclamation of the President or Governor to be holidays.

81-114. Departments; official seal. Each department shall adopt an official seal.

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.

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.

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.

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.

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.

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 shall 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.

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.

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.

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.

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.

81-201.05. Weed Book Cash Fund; created; use; investment. (1) The Weed Book Cash Fund is created. Any money in the Weed and Insect Books Cash Fund on July 16, 2004, shall be transferred to the Weed Book Cash Fund. Upon such transfer, the following amounts shall be transferred from the Weed Book Cash Fund: (a) Twenty-five thousand dollars to the Noxious Weed Cash Fund; and (b) thirty-seven thousand eight hundred dollars to the Plant Protection and Plant Pest Cash Fund. 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. 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.

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.

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.

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.

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.

29-832. Inspection warrant; when used. 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.

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.

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.

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.

37-1502. Terms, defined. (Deer Donation Program) 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.

46-2,140. Republican River Basin Water Sustainability Task Force; created; members; meetings; duties; report. (1) The Republican River Basin Water Sustainability Task Force is created. The task force shall consist of twenty-two voting members, and except for the state agency representatives, the members shall be residents representing a cross-section of the Republican River basin. The Governor shall appoint two representatives from each natural resources district in the basin; four representatives from the irrigation districts in the basin; one representative each from the University of Nebraska Institute of Agriculture and Natural Resources, the Game and Parks Commission, the Department of Agriculture, and the Department of Natural Resources; one representative each from a school district, a city, a county, and a public power district in the basin; and two representatives from agriculture-related businesses in the Republican River basin. The chairperson of the Executive Board of the Legislative Council shall appoint five ex officio, nonvoting members from the Legislature, two of whom are residents of the basin, two of whom have a portion of his or her legislative district in the basin, and one who is the chairperson of the Natural Resources Committee of the Legislature. For administrative and budgetary purposes only, the task force shall be housed within the Department of Natural Resources. Additional advisory support may be requested from appropriate federal and state agencies. Members of the task force who are not state employees shall be reimbursed for their actual and necessary expenses incurred in carrying out their duties as members as provided in sections 81-1174 to 81-1177.

(2) The task force shall meet no less than quarterly and shall hire a trained facilitator to conduct its meetings. The purposes of the task force are to define water sustainability for the Republican River basin, develop and recommend a plan to help reach water sustainability in the basin, and develop and recommend a plan to help avoid a water-short year in the basin. The task force shall convene within thirty days after appointment of the members is completed to elect a chairperson and conduct such other business as deemed necessary.

(3) The task force shall present a preliminary report to the Governor and the Legislature on or before May 15, 2011, and a final report before May 15, 2012. This section terminates on June 30, 2012.

54-170 . Act, how cited. Sections 54-170 to 54-1,127 shall be known and may be cited as the Livestock Brand Act.

54-191. Nebraska Brand Committee; created; members; terms; vacancy; bond or insurance; expenses; purpose. 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. 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. The Secretary of State shall remain a member of the brand committee in the capacity as chairperson of the brand committee until a chairperson is elected as provided in this section. The terms of the members shall be four-year, staggered terms. At the expiration of the term of an appointed member, the Governor shall appoint a successor. The members of the brand committee serving on August 28, 2007, shall be considered appointed to serve the remainder of their terms. The Governor shall complete any additional appointment of members as necessary to fulfill the membership of the brand committee as prescribed by Laws 2007, LB 422, on or before August 28, 2007. 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. 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.

54-192. Nebraska Brand Committee; employees; director; duties; brand recorder; grievance procedure. (1) The Nebraska Brand Committee shall employ such employees as may be necessary to properly carry out the Livestock Brand Act and section 54-415, fix the salaries of such employees, and make such expenditures as are necessary to properly carry out such act and section. Employees of the brand committee shall receive mileage computed at the rate provided in section 81-1176. The brand committee shall select and designate a location or locations where the

brand committee shall keep and maintain an office and where records of the brand inspection and investigation proceedings, transactions, communications, brand registrations, and official acts shall be kept.

(2) The brand committee shall employ a director as the executive officer of the brand committee, and the director shall also be the chief brand inspector, the chief investigator, and, for administrative purposes, the brand committee head. The director shall keep a record of all proceedings, transactions, communications, and official acts of the brand committee, shall be custodian of all records of the brand committee, and shall perform such other duties as may be required by the brand committee. The director shall call a meeting at the direction of the chairperson of the brand committee, or in his or her absence the vice-chairperson, or upon the written request of two or more members of the brand committee. The director shall have supervisory authority to direct and control all full-time and part-time employees of the brand committee. This authority allows the director to hire employees as are needed on an interim basis subject to approval or confirmation by the brand committee for regular employment. The director may place employees on probation and may discharge an employee. In the absence of the director, by reason of illness, vacation, or official business away from the committee's headquarters, the assistant director shall have similar authority as outlined in this section for the director.

(3) The brand committee shall employ a brand recorder who shall be responsible for the processing of all applications for new livestock brands, the transfer of ownership of existing livestock brands, the maintenance of accurate and permanent records relating to livestock brands, and such other duties as may be required by the brand committee.

(4) If any employee of the brand committee after having been disciplined, placed on probation, or having had his or her services terminated desires to have a hearing before the entire brand committee, such a hearing shall be granted as soon as is practicable and convenient for all persons concerned. The request for such a hearing shall be made in writing by the employee alleging the grievance and shall be directed to the director. After hearing all testimony surrounding the grievance of such employee, the brand committee, at its discretion, may approve, rescind, nullify, or amend all actions as previously taken by the director.

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.

59-1617. Exempted transactions. (Consumer Protection Act)

(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.

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.

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.

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.

81-1201.04. Commission; members; qualifications; chairperson; coordination.

(1) The commission shall consist of nine voting members appointed by the Governor. The chairperson of the commission shall be one of the appointed members and shall be chosen by the commission. Each congressional district in Nebraska shall be represented by three members, and the Governor shall solicit nominations for appointments to the commission from recognized economic development groups in Nebraska. The members of the commission shall be representative, to the extent possible, of the various geographic areas of the state and of both the urban and rural population. The director shall serve as an ad hoc nonvoting member of the commission. In appointing the members, the Governor shall seek to create a broad-based commission representative of the Nebraska economy. To achieve this objective the Governor shall appoint individuals from the following private industry sectors:

(a) Production agriculture;

(b) At least two individuals from manufacturing, one such individual shall represent a company with no more than seventy-five employees;

(c) Transportation and logistics;

(d) Financial services and insurance;

(e) Information technology and communications;

(f) Biotechnology; and

(g) Community development.

(2) The commission and department are encouraged to involve other essential groups in the work of the commission, including, but not limited to, the (a) University of Nebraska, (b) Department of Agriculture, (c) State Energy Office, (d) educational institutions, (e) Department of Labor, and (f) Nebraska Investment Finance Authority. No more than five voting members of the commission shall belong to the same political party.

(3) The commission shall provide programmatic policy guidance and oversight to the Nebraska Manufacturing Extension Partnership and shall provide regular consultation to the Community Development Block Grant Program.

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) 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;

(5) 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;

(6)(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;

(7) 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;

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

(9) 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.

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.

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

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.

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.

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.

84-1207. State executive head; duties. In accordance with general law, and with such rules and regulations as shall be promulgated by the administrator and the board as provided in section 84-1216, such head of any state agency, department, board, council, legislative or judicial branch, and political subdivision shall:

(1) Establish and maintain an active, continuing program for the efficient 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 of 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, and including his recommendations as to which if any

such records should be determined to be essential records. He shall review his inventory and report periodically and, as necessary, shall revise his report so that it is current, accurate and complete; and

(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 sections 84-1201 to 84-1226.

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.

85-162.03. State Forester; cooperate with other agencies. In carrying out the provisions of 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.

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