



Pete Ricketts
Governor

STATE OF NEBRASKA

NEBRASKA STATE PATROL
Colonel John A. Bolduc
Superintendent
P.O. Box 94907
Lincoln, NE 68509-4907
Phone (402) 471-4545

December 6, 2021

Nebraska Secretary of State's Office
Rules and Regulations Division
P.O. Box 94608
Lincoln, NE 68509-4608

RE: Notice of Hearing and Proposed Changes to 272 NAC 24

Please find enclosed the Nebraska State Patrol hearing notice filed in the Omaha World Herald, information required by Neb. Rev. Stat. § 84-907.09, and draft copy of regulation changes for Title 272, Chapter 24 of the Nebraska Administrative Code, entitled Drug Control and Education Cash Fund.

Please contact me directly at 402-405-1979 if you have any questions or need any additional information.

Sincerely,

A handwritten signature in blue ink that reads "Forch".

Jessica Forch
Attorney III
Nebraska State Patrol



AN INTERNATIONALLY ACCREDITED LAW ENFORCEMENT AGENCY
An Equal Opportunity Employer



NOTICE OF PUBLIC HEARING

NOTICE is hereby given that the Nebraska State Patrol will hold the following rulemaking hearing. The purpose of this hearing is to take testimony and evidence concerning adoption of changes to Title 272, Chapter 24 of the Nebraska Administrative Code, entitled Drug Control and Education Cash Fund, which will be heard on January 12, 2022 from 1:00 p.m. to 2:00 p.m. in the Public Hearing Room at the Nebraska State Patrol Headquarters, 4600 Innovation Drive, Lincoln, Nebraska.

The purpose of the proposal is to update and clarify the regulations related to the Drug Control and Education Cash Fund. There is no expected fiscal impact on state agencies, political subdivisions, or persons being regulated. Copies of the proposed regulations and the Fiscal Impact Statements shall be available for public inspection at the Office of the Secretary of State and on their website at: <https://sos.nebraska.gov/regulations/rules-and-regulations-division>

Interested persons may provide written comments by mail or email no later than the day of the hearing to: NSP Legal Office, PO Box 94907, Lincoln, NE 68509-4907 or nsp.regulations@nebraska.gov. Any written comments will be part of the record and will be considered.

Reasonable accommodations will be provided to persons with disabilities by contacting Jessica Forch at 402-479- 3506 or jessica.forch@nebraska.gov by January 5, 2022.

NEBRASKA ADMINISTRATIVE CODE

TITLE 272, NEBRASKA ADMINISTRATIVE CODE, CHAPTER ~~XXIV~~ 24

NEBRASKA STATE PATROL

Nebraska State Patrol Drug Control and Education Cash Fund

NEBRASKA ADMINISTRATIVE CODE

TITLE 272 NAC XXIV

ALPHABETICAL TABLE OF CONTENTS

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Definitions	Neb. Rev. Stat. § 28-401	001
Education Cash Funds	Neb. Rev. Stat. § 28-429(2)	004
Investigative Cash Funds	Neb. Rev. Stat. § 28-429(2)	003
Legislative Oversight	Neb. Rev. Stat. § 28-429(3)	005

~~NEBRASKA ADMINISTRATIVE CODE~~

~~TITLE 272 NAC XXIV NUMERICAL TABLE OF CONTENTS~~

Subject or Title	Statutory Authority
Code Section	
Definitions	Neb. Rev. Stat. § 28-401
-001	
Cooperation	Neb. Rev. Stat. § 28-429(1)
-002	
Investigative Cash Funds	Neb. Rev. Stat. § 28-429(2)
-003	
Education Cash Funds	Neb. Rev. Stat. § 28-429(2)
-004	
Legislative Oversight	Neb. Rev. Stat. § 28-429(3) 005

~~Title 272—NEBRASKA STATE PATROL~~

~~—Chapter XXIV—NEBRASKA STATE PATROL DRUG CONTROL AND EDUCATION
CASH FUND~~

001 DEFINITIONS

- 001.01 Agent ~~—Shall mean an authorized person who acts on behalf of or at the direction of another person but shall not include a common or contract carrier; public warehouse keeper, or employee of a carrier or warehouse keeper is defined in § 28-401(2);~~
- 001.02 Controlled substance ~~—Shall mean a drug, biological, substance, or immediate precursor in Schedules I to V of section 28-405. Controlled substance shall not include distilled spirits, wine, malt beverages, tobacco, or any nonnarcotic substance if such substance may, under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301 et seq., as such act existed on January 1, 2009, and the law of this state, be lawfully sold over the counter without a prescription is defined in § 28-401(4);~~
- 001.03 Department ~~—Shall mean the Department of Health and Human Services is defined in § 28-401(4);~~
- 001.04 Drug ~~—Shall mean (a) articles recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, official National Formulary, or any supplement to any of them, (b) substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or animals, and (c) substances intended for use as a component of any article specified in subdivision (a) or (b) of this subdivision, but shall not include devices or their components, parts, or accessories is defined in § 28-401(11);~~
- 001.05 Deliver or delivery ~~—Shall mean the actual, constructive, or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship is defined in § 28-401(12);~~
- 001.06 Narcotic Drug ~~—Shall mean any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis: (a) Opium, opium poppy and poppy straw, coca leaves, and opiates; (b) a compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or opiates; or (c) a substance and any compound, manufacture, salt, derivative, or preparation~~

~~thereof which is chemically equivalent to or identical with any of the substances referred to in subdivisions (a) and (b) of this subdivision, except that the words narcotic drug as used in the Uniform Controlled Substances Act shall not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecgonine, or isoquinoline alkaloids of opium is defined in § 28-401(16);~~

001.07 ~~Cooperating Individual - Shall mean any person, other than a commissioned law enforcement officer, who acts on behalf of, at the request of, or as agent for a law enforcement agency for the purpose of gathering or obtaining evidence of offenses punishable under the Uniform Controlled Substances Act is defined in § 28-401(27).~~

002 COOPERATION

002.01 The Nebraska State Patrol ~~will shall~~ cooperate with federal agencies, the Department, other state agencies, elementary and secondary schools and Law Enforcement and Education Fund Boards ~~in discharging their responsibilities~~ concerning traffic in controlled substances and in conducting drug education activities. The Nebraska State Patrol is authorized to:

002.01A Arrange for the exchange of information between governmental officials concerning the use and abuse of controlled substances;

002.01B Coordinate and cooperate in training programs on controlled substance law enforcement and education at the local and state levels;

002.01C Establish a centralized unit which will accept, catalog, file, and collect statistics, including records of drug dependent persons and other controlled substance law offenders within the state, and make such information available for federal, state, and local law enforcement purposes on request;

002.01D Cooperate in locating, eradicating, and destroying wild or illicit growth of plant species from which controlled substances may be extracted, and for these purposes a peace officer is hereby authorized to enter onto property upon which there are no buildings or upon which there are only uninhabited buildings without first obtaining a search warrant or consent;

002.01E Develop a priority program ~~so as~~-to focus ~~the bulk of its efforts~~ on the reduction and elimination of the most damaging drugs including narcotic drugs, depressant and stimulant drugs, and hallucinogenic drugs; and

002.01F Develop and conduct drug education activities in cooperation with elementary and secondary schools in Nebraska and with County Drug Law Enforcement and Education Fund Boards.

003 INVESTIGATIVE CASH FUNDS

003.01 A permissible use of the fund is for obtaining evidence for enforcement of any state law relating to control of drug abuse.

003.02 Investigative Expenses ~~will shall~~ be maintained with a record of withdrawals and deposits from the Investigative Cash funds for auditing purposes.

004 EDUCATION CASH FUND

004.01 A permissible use of the Nebraska State Patrol Drug Control and Education Cash Fund is for drug education activities.

004.01A Drug education activities should be developed with the County Drug Law Enforcement and Education Fund Boards.

005 LEGISLATIVE OVERSIGHT

005.01 The Nebraska State Patrol ~~will shall~~ prepare and deliver to the Clerk of the Legislature at the commencement of each succeeding session a detailed report which ~~will shall~~ contain, but not be limited to:

005.01A Current total in the cash fund;

005.01B Total amount of expenditures;

005.01C Purpose of the expenditures, to include

005.01C(1) Salaries and expenses of all agents and informants;

005.01C(2) Front money for drug purposes;

005.01C(3) Names of drugs & quantity of purchases;

005.01C(4) Amount of front money recovered; and

005.01C(5) Drug education activities.

005.01D Total number of informants on the payroll who have received funds in the previous year;

005.01E Amounts delivered to patrol supervisors for distribution to agents and informants and the method for accounting such transactions and the results procured through such transactions; and

005.01F A description of the drug education activities conducted since the date of the previous report.

005.02 Each member of the Legislature ~~will shall~~ receive a copy of such report upon making a request ~~for the same~~ to the superintendent.

NEBRASKA ADMINISTRATIVE CODE
TITLE 272, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 24
NEBRASKA STATE PATROL

Nebraska State Patrol Drug Control and Education Cash Funds

001 DEFINITIONS

- 001.01 "Agent" is defined in § 28-401(2);
- 001.02 "Controlled substance" is defined in § 28-401(4);
- 001.03 "Department" is defined in § 28-401(4);
- 001.04 "Drug" is defined in § 28-401(11);
- 001.05 "Deliver" or "delivery" is defined in § 28-401(12);
- 001.06 "Narcotic Drug" is defined in § 28-401(16);
- 001.07 "Cooperating Individual" is defined in § 28-401(27).

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002.01D Cooperate in locating, eradicating, and destroying wild or illicit growth of plant species from which controlled substances may be extracted, and for these purposes a peace officer is hereby authorized to enter onto property upon which there are no buildings or upon which there are only uninhabited buildings without first obtaining a search warrant or consent;

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- 005.02 Each member of the Legislature will receive a copy of such report upon making a request to the superintendent.

FISCAL IMPACT STATEMENT

Agency: Nebraska State Patrol	
Title: 272	Prepared by: Jessica Forch
Chapter: 24	Date prepared: November 29, 2021
Subject: Drug Control and Education Cash Fund	Telephone: (402) 479-3506

Type of Fiscal Impact:

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	(X)	(X)	(X)
Increased Costs	()	()	()
Decreased Costs	()	()	()
Increased Revenue	()	()	()
Decreased Revenue	()	()	()
Indeterminable	()	()	()

Provide an Estimated Cost & Description of Impact:

State Agency: **None**

Political Subdivision: **None**

Regulated Public: **No change.**

If indeterminable, explain why:

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