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**NEBRASKA OPEN MEETINGS ACT**

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**84-1407. Act, how cited.**

Sections 84-1407 to 84-1414 shall be known and may be cited as the Open Meetings Act.

**Source:** Laws 2004, LB 821, § 34.

**84-1408. Declaration of intent; meetings open to public.**

It is hereby declared to be the policy of this state that the formation of public policy is public business and may not be conducted in secret.

Every meeting of a public body shall be open to the public in order that citizens may exercise their democratic privilege of attending and speaking at meetings of public bodies, except as otherwise provided by the Constitution of Nebraska, federal statutes, and the Open Meetings Act.

**Source:** Laws 1975, LB 325, § 1; Laws 1996, LB 900, § 1071; Laws 2004, LB 821, § 35.

**Annotations**

- Nebraska's public meetings laws do not apply to school board deliberations pertaining solely to disputed adjudicative facts. *McQuinn v. Douglas Cty. Sch. Dist. No. 66*, 259 Neb. 720, 612 N.W.2d 198 (2000).
- The primary purpose of the public meetings law is to ensure that public policy is formulated at open meetings. *Marks v. Judicial Nominating Comm.*, 236 Neb. 429, 461 N.W.2d 551 (1990).
- The public meetings law is broadly interpreted and liberally construed to obtain the objective of openness in favor of the public, and provisions permitting closed sessions must be narrowly and strictly construed. *Grein v. Board of Education of Fremont*, 216 Neb. 158, 343 N.W.2d 718 (1984).
- Although a committee was a subcommittee of a natural resources district board, it was not subject to the Open Meetings Act because there was never a quorum of board members in attendance and the committee did not hold hearings, make policy, or take formal action on behalf of the board. *Koch v. Lower Loup NRD*, 27 Neb. App. 301, 931 N.W.2d 160 (2019).
- A county board of equalization is a public body whose meetings shall be open to the public. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).

**84-1409. Terms, defined.**

For purposes of the Open Meetings Act, unless the context otherwise requires:

(1)(a) Public body means (i) governing bodies of all political subdivisions of the State of Nebraska, (ii) governing bodies of all agencies, created by the Constitution of Nebraska, statute, or otherwise pursuant to law, of the executive department of the State of Nebraska, (iii) all independent boards, commissions, bureaus, committees, councils, subunits, or any other bodies created by the Constitution of Nebraska, statute, or otherwise pursuant to law, (iv) all study or advisory committees of the executive department of the State of Nebraska whether having continuing existence or appointed as special committees with limited existence, (v) advisory committees of the bodies referred to in subdivisions (i), (ii), and (iii) of this subdivision, and (vi) instrumentalities exercising essentially public functions; and

(b) Public body does not include (i) subcommittees of such bodies unless a quorum of the public body attends a subcommittee meeting or unless such subcommittees are holding hearings, making policy, or taking formal action on behalf of their parent body, except that all meetings of any subcommittee established under section 81-15,175 are subject to the Open Meetings Act, (ii) entities conducting judicial proceedings unless a court or other judicial body is exercising rulemaking authority, deliberating, or deciding upon the issuance of administrative orders, and (iii) the Judicial Resources Commission or subcommittees or subgroups of the commission;

(2) Meeting means all regular, special, or called meetings, formal or informal, of any public body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action of the public body; and

(3) Virtual conferencing means conducting or participating in a meeting electronically or telephonically with interaction among the participants subject to subsection (2) of section 84-1412.

**Source:** Laws 1975, LB 325, § 2; Laws 1983, LB 43, § 1; Laws 1989, LB 429, § 42; Laws 1989, LB 311, § 14; Laws 1992, LB 1019, § 124; Laws 1993, LB 635, § 1; Laws 1996, LB 1044, § 978; Laws 1997, LB 798, § 37; Laws 2004, LB 821, § 36; Laws 2007, LB296, § 810; Laws 2011, LB366, § 2; Laws 2021, LB83, § 11; Laws 2022, LB922, § 12.

**Operative Date: July 21, 2022**

**Annotations**

- A township is a political subdivision, and as such, a township board is subject to the provisions of the public meetings laws. *Steenblock v. Elkhorn Township Bd.*, 245 Neb. 722, 515 N.W.2d 128 (1994).
- A county agricultural society is a public body to which the provisions of the Nebraska public meetings law are applicable. *Nixon v. Madison Co. Ag. Soc'y*, 217 Neb. 37, 348 N.W.2d 119 (1984).
- Failure by a public governing body, as defined under section 84-1409, R.R.S.1943, to take and record a roll call vote on an action, as required by section 84-1413(2), R.S.Supp.,1980, grants any citizen the right to sue for the purpose of

having the action declared void. In this case such failure could not be later corrected by a nunc pro tunc order because there was no showing that a roll call vote on the disputed action was actually taken, and even if it was the record showed it was not recorded until over a year later. Sections 23-1301, R.R.S.1943, and 23-1302, R.R.S.1943, make it the duty of the county clerk to record proceedings of the board of county commissioners. *State ex rel. Schuler v. Dunbar*, 208 Neb. 69, 302 N.W.2d 674 (1981).

- Although a committee was a subcommittee of a natural resources district board, it was not subject to the Open Meetings Act because there was never a quorum of board members in attendance and the committee did not hold hearings, make policy, or take formal action on behalf of the board. *Koch v. Lower Loup NRD*, 27 Neb. App. 301, 931 N.W.2d 160 (2019).
- Although the Open Meetings Act does not define "subcommittee," a subcommittee is generally defined as a group within a committee to which the committee may refer business. *Koch v. Lower Loup NRD*, 27 Neb. App. 301, 931 N.W.2d 160 (2019).
- The Open Meetings Act does not require policymakers to remain ignorant of the issues they must decide until the moment the public is invited to comment on a proposed policy. By excluding nonquorum subgroups from the definition of a public body, the Legislature has balanced the public's need to be heard on matters of public policy with a practical accommodation for a public body's need for information to conduct business. *Koch v. Lower Loup NRD*, 27 Neb. App. 301, 931 N.W.2d 160 (2019).
- As an administrative agency of the county, a county board of equalization is a public body. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).
- The electors of a township at their annual meeting are a public body under the Open Meetings Act. *State ex rel. Newman v. Columbus Township Bd.*, 15 Neb. App. 656, 735 N.W.2d 399 (2007).
- The meeting at issue in this case was a "meeting" within the parameters of subsection (2) of this section because it involved the discussion of public business, the formation of tentative policy, or the taking of any action of the public power district. *Hansmeyer v. Nebraska Pub. Power Dist.*, 6 Neb. App. 889, 578 N.W.2d 476 (1998).
- Informational sessions in which the governmental body hears reports are briefings. *Johnson v. Nebraska Environmental Control Council*, 2 Neb. App. 263, 509 N.W.2d 21 (1993).

**84-1410. Closed session; when; purpose; reasons listed; procedure; right to challenge; prohibited acts; chance meetings, conventions, or workshops.**

(1) Any public body may hold a closed session by the affirmative vote of a majority of its voting members if a closed session is clearly necessary for the protection of the public interest or for the prevention of needless injury to the reputation of an individual and if such individual has not requested a public meeting. The subject matter and the reason necessitating the closed session shall be identified in the motion to close. Closed sessions may be held for, but shall not be limited to, such reasons as:

(a) Strategy sessions with respect to collective bargaining, real estate purchases, pending litigation, or litigation which is imminent as evidenced by communication of a claim or threat of litigation to or by the public body;

(b) Discussion regarding deployment of security personnel or devices;

(c) Investigative proceedings regarding allegations of criminal misconduct;

(d) Evaluation of the job performance of a person when necessary to prevent needless injury to the reputation of a person and if such person has not requested a public meeting;

(e) For the Community Trust created under section 81-1801.02, discussion regarding the amounts to be paid to individuals who have suffered from a tragedy of violence or natural disaster; or

(f) For public hospitals, governing board peer review activities, professional review activities, review and discussion of medical staff investigations or disciplinary actions, and any strategy session concerning transactional negotiations with any referral source that is required by federal law to be conducted at arms length.

Nothing in this section shall permit a closed meeting for discussion of the appointment or election of a new member to any public body.

(2) The vote to hold a closed session shall be taken in open session. The entire motion, the vote of each member on the question of holding a closed session, and the time when the closed session commenced and concluded shall be recorded in the minutes. If the motion to close passes, then the presiding officer immediately prior to the closed session shall restate on the record the limitation of the subject matter of the closed session. The public body holding such a closed session shall restrict its consideration of matters during the closed portions to only those purposes set forth in the motion to close as the reason for the closed session. The meeting shall be reconvened in open session before any formal action may be taken. For purposes of this section, formal action shall mean a collective decision or a collective commitment or promise to make a decision on any question, motion, proposal, resolution, order, or ordinance or formation of a position or policy but shall not include negotiating guidance given by members of the public body to legal counsel or other negotiators in closed sessions authorized under subdivision (1)(a) of this section.

(3) Any member of any public body shall have the right to challenge the continuation of a closed session if the member determines that the session has exceeded the reason stated in the original motion to hold a closed session or if the member contends that the closed session is neither clearly necessary for (a) the protection of the public interest or (b) the prevention of needless injury to the reputation of an individual. Such challenge shall be overruled only by a majority vote of the members of the public body. Such challenge and its disposition shall be recorded in the minutes.

(4) Nothing in this section shall be construed to require that any meeting be closed to the public. No person or public body shall fail to invite a portion of its members to a meeting, and no public body shall designate itself a subcommittee of the whole body for the purpose of circumventing the Open Meetings Act. No closed session, informal meeting, chance meeting, social gathering, email, fax, or other electronic communication shall be used for the purpose of circumventing the requirements of the act.

(5) The act does not apply to chance meetings or to attendance at or travel to conventions or workshops of members of a public body at which there is no meeting of the body then intentionally convened, if there is no vote or other action taken regarding any matter over which the public body has supervision, control, jurisdiction, or advisory power.

**Source:** Laws 1975, LB 325, § 3; Laws 1983, LB 43, § 2; Laws 1985, LB 117, § 1; Laws 1992, LB 1019, § 125; Laws 1994, LB 621, § 1; Laws 1996, LB 900, § 1072; Laws 2004, LB 821, § 37; Laws 2004, LB 1179, § 1; Laws 2006, LB 898, § 1; Laws 2011, LB390, § 29; Laws 2012, LB995, § 17.

**Annotations**

- There is no absolute discovery privilege for communications that occur during a closed session. *State ex rel. Upper Republican NRD v. District Judges*, 273 Neb. 148, 728 N.W.2d 275 (2007).
- If a person present at a meeting observes a public meetings law violation in the form of an improper closed session and fails to object, that person waives his or her right to object at a later date. *Wasikowski v. Nebraska Quality Jobs Bd.*, 264 Neb. 403, 648 N.W.2d 756 (2002).
- The public interest mentioned in this section is that shared by citizens in general and by the community at large concerning pecuniary or legal rights and liabilities. *Grein v. Board of Education*, 216 Neb. 158, 343 N.W.2d 718 (1984).
- Hearing in closed executive session was contrary to this section since there was no showing of necessity or reason under subdivision (1)(a), (b), or (c), but did not result in reversal of board decision. *Simonds v. Board of Examiners*, 213 Neb. 259, 329 N.W.2d 92 (1983).
- Negotiations for the purchase of land need not be conducted at an open meeting but the deliberations of a city council as to whether an offer to purchase real estate

should be made should take place in an open meeting. *Pokorny v. City of Schuyler*, 202 Neb. 334, 275 N.W.2d 281 (1979).

- Public meeting law was not violated where the Board of Regents of the University of Nebraska voted to hold a closed session to consider the university president's resignation, and also discussed the appointment of an interim president during such session. *Meyer v. Board of Regents*, 1 Neb. App. 893, 510 N.W.2d 450 (1993).

**84-1411. Meetings of public body; notice; method; contents; when available; right to modify; duties concerning notice; virtual conferencing authorized; requirements; emergency meeting without notice; appearance before public body.**

(1)(a) Each public body shall give reasonable advance publicized notice of the time and place of each meeting as provided in this subsection. Such notice shall be transmitted to all members of the public body and to the public.

(b)(i) Except as provided in subdivision (1)(b)(ii) of this section, in the case of a public body described in subdivision (1)(a)(i) of section 84-1409 or such body's advisory committee, such notice shall be published in a newspaper of general circulation within the public body's jurisdiction and, if available, on such newspaper's website.

(ii) In the case of the governing body of a city of the second class or village or such body's advisory committee, such notice shall be published by:

(A) Publication in a newspaper of general circulation within the public body's jurisdiction and, if available, on such newspaper's website; or

(B) Posting written notice in three conspicuous public places in such city or village. Such notice shall be posted in the same three places for each meeting.

(iii) In the case of a public body not described in subdivision (1)(b)(i) or (ii) of this section, such notice shall be given by a method designated by the public body.

(c) In addition to a method of notice required by subdivision (1)(b)(i) or (ii) of this section, such notice may also be provided by any other appropriate method designated by such public body or such advisory committee.

(d) Each public body shall record the methods and dates of such notice in its minutes.

(e) Such notice shall contain an agenda of subjects known at the time of the publicized notice or a statement that the agenda, which shall be kept continually current, shall be readily available for public inspection at the principal office of the public body during normal business hours. Agenda items shall be sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting. Except for items of an emergency nature, the agenda shall not be altered later than (i) twenty-four hours before the scheduled commencement of the meeting or

(ii) forty-eight hours before the scheduled commencement of a meeting of a city council or village board scheduled outside the corporate limits of the municipality. The public body shall have the right to modify the agenda to include items of an emergency nature only at such public meeting.

(2)(a) The following entities may hold a meeting by means of virtual conferencing if the requirements of subdivision (2)(b) of this section are met:

(i) A state agency, state board, state commission, state council, or state committee, or an advisory committee of any such state entity;

(ii) An organization, including the governing body, created under the Interlocal Cooperation Act, the Joint Public Agency Act, or the Municipal Cooperative Financing Act;

(iii) The governing body of a public power district having a chartered territory of more than one county in this state;

(iv) The governing body of a public power and irrigation district having a chartered territory of more than one county in this state;

(v) An educational service unit;

(vi) The Educational Service Unit Coordinating Council;

(vii) An organization, including the governing body, of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act;

(viii) A community college board of governors;

(ix) The Nebraska Brand Committee;

(x) A local public health department;

(xi) A metropolitan utilities district;

(xii) A regional metropolitan transit authority; and

(xiii) A natural resources district.

(b) The requirements for holding a meeting by means of virtual conferencing are as follows:

(i) Reasonable advance publicized notice is given as provided in subsection (1) of this section, including providing access to a dial-in number or link to the virtual conference;

(ii) In addition to the public's right to participate by virtual conferencing, reasonable arrangements are made to accommodate the public's right to attend at a physical site and participate as provided in section 84-1412, including reasonable seating, in at least one designated site in a building open to the public and identified in the notice, with: At least one member of the entity holding such meeting, or his or her designee, present at each site; a

recording of the hearing by audio or visual recording devices; and a reasonable opportunity for input, such as public comment or questions, is provided to at least the same extent as would be provided if virtual conferencing was not used;

(iii) At least one copy of all documents being considered at the meeting is available at any physical site open to the public where individuals may attend the virtual conference. The public body shall also provide links to an electronic copy of the agenda, all documents being considered at the meeting, and the current version of the Open Meetings Act; and

(iv) Except as otherwise provided in this subdivision or subsection (4) of section 79-2204, no more than one-half of the meetings of the state entities, advisory committees, boards, councils, organizations, or governing bodies are held by virtual conferencing in a calendar year. In the case of an organization created under the Interlocal Cooperation Act that sells electricity or natural gas at wholesale on a multistate basis or an organization created under the Municipal Cooperative Financing Act, the organization may hold more than one-half of its meetings by virtual conferencing if such organization holds at least one meeting each calendar year that is not by virtual conferencing. The governing body of a risk management pool that meets at least quarterly and the advisory committees of the governing body may each hold more than one-half of its meetings by virtual conferencing if the governing body's quarterly meetings are not held by virtual conferencing.

(3) Virtual conferencing, emails, faxes, or other electronic communication shall not be used to circumvent any of the public government purposes established in the Open Meetings Act.

(4) The secretary or other designee of each public body shall maintain a list of the news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to them of the time and place of each meeting and the subjects to be discussed at that meeting.

(5) When it is necessary to hold an emergency meeting without reasonable advance public notice, the nature of the emergency shall be stated in the minutes and any formal action taken in such meeting shall pertain only to the emergency. Such emergency meetings may be held by virtual conferencing. The provisions of subsection (4) of this section shall be complied with in conducting emergency meetings. Complete minutes of such emergency meetings specifying the nature of the emergency and any formal action taken at the meeting shall be made available to the public by no later than the end of the next regular business day.

(6) A public body may allow a member of the public or any other witness to appear before the public body by means of virtual conferencing.

(7)(a) Notwithstanding subsections (2) and (5) of this section, if an emergency is declared by the Governor pursuant to the Emergency Management Act as defined in section 81-829.39, a public body the territorial jurisdiction of which is included in the emergency declaration, in whole or in part, may hold a meeting by virtual conferencing during such emergency if the



public body gives reasonable advance publicized notice as described in subsection (1) of this section. The notice shall include information regarding access for the public and news media. In addition to any formal action taken pertaining to the emergency, the public body may hold such meeting for the purpose of briefing, discussion of public business, formation of tentative policy, or the taking of any action by the public body.

(b) The public body shall provide access by providing a dial-in number or a link to the virtual conference. The public body shall also provide links to an electronic copy of the agenda, all documents being considered at the meeting, and the current version of the Open Meetings Act. Reasonable arrangements shall be made to accommodate the public's right to hear and speak at the meeting and record the meeting. Subsection (4) of this section shall be complied with in conducting such meetings.

(c) The nature of the emergency shall be stated in the minutes. Complete minutes of such meeting specifying the nature of the emergency and any formal action taken at the meeting shall be made available for inspection as provided in subsection (5) of section 84-1413.

(8) In addition to any other statutory authorization for virtual conferencing, any public body not listed in subdivision (2)(a) of this section may hold a meeting by virtual conferencing if:

(a) The purpose of the virtual meeting is to discuss items that are scheduled to be discussed or acted upon at a subsequent non-virtual open meeting of the public body;

(b) No action is taken by the public body at the virtual meeting; and

(c) The public body complies with subdivisions (2)(b)(i) and (2)(b)(ii) of this section.

**Source:** Laws 1975, LB 325, § 4; Laws 1983, LB 43, § 3; Laws 1987, LB 663, § 25; Laws 1993, LB 635, § 2; Laws 1996, LB 469, § 6; Laws 1996, LB 1161, § 1; Laws 1999, LB 47, § 2; Laws 1999, LB 87, § 100; Laws 1999, LB 461, § 1; Laws 2000, LB 968, § 85; Laws 2004, LB 821, § 38; Laws 2004, LB 1179, § 2; Laws 2006, LB 898, § 2; Laws 2007, LB199, § 9; Laws 2009, LB361, § 2; Laws 2012, LB735, § 1; Laws 2013, LB510, § 1; Laws 2017, LB318, § 1; Laws 2019, LB212, § 5; Laws 2020, LB148, § 3; Laws 2021, LB83, § 12; Laws 2022, LB742, § 1; Laws 2022, LB908, § 1; Laws 2022, LB922, § 13.

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB742, section 1, with LB908, section 1, and LB922, section 13, to reflect all amendments.

**Note:** Changes made by LB742 and LB908 became effective July 21, 2022. Changes made by LB922 became operative July 21, 2022.

#### **Cross References**

- **Intergovernmental Risk Management Act**, see section 44-4301.
- **Interlocal Cooperation Act**, see section 13-801.
- **Joint Public Agency Act**, see section 13-2501.

- **Municipal Cooperative Financing Act**, see section 18-2401.

#### **Annotations**

- Under subsection (1) of this section, the Legislature has imposed only two conditions on the public body's notification method of a public meeting: (1) It must give reasonable advance publicized notice of the time and place of each meeting and (2) it must be recorded in the public body's minutes. *City of Elkhorn v. City of Omaha*, 272 Neb. 867, 725 N.W.2d 792 (2007).
- An emergency is "(a)ny event or occasional combination of circumstances which calls for immediate action or remedy; pressing necessity; exigency; a sudden or unexpected happening; an unforeseen occurrence or condition." *Steenblock v. Elkhorn Township Bd.*, 245 Neb. 722, 515 N.W.2d 128 (1994).
- An agenda which gives reasonable notice of the matters to be considered at a meeting of a city council complies with the requirements of this section. *Pokorny v. City of Schuyler*, 202 Neb. 334, 275 N.W.2d 281 (1979).
- When notice is required, a notice of a special meeting of a city council posted in three public places at 10:00 p.m. on the day preceding the meeting is not reasonable advance publicized notice of a meeting as is required by this section. *Pokorny v. City of Schuyler*, 202 Neb. 334, 275 N.W.2d 281 (1979).
- Teacher waived right to object to lack of public notice in board of education employment hearing by voluntary participation in the hearing without objection. *Alexander v. School Dist. No. 17*, 197 Neb. 251, 248 N.W.2d 335 (1976).
- A county board of commissioners and a county board of equalization are not required to give separate notices when the notice states only the time and place that the boards meet and directs a citizen to where the agendas for each board can be found. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).
- A county board of equalization is a public body which is required to give advanced publicized notice of its meetings. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).
- Notice of recessed and reconvened meetings must be given in the same fashion as the original meeting. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).
- True notice of a meeting is not given by burying such in the minutes of a prior board proceeding. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).
- An agenda notice which merely stated "work order reports" was an inadequate notice under this section because it did not give interested persons knowledge that plans for a 345 kv transmission line through the district was going to be discussed and voted upon at the meeting. Inadequate agenda notice under this section meant there was a substantial violation of the public meeting laws; however, later actions by the board of directors cured the defects in notice, and such actions were in substantial compliance with the statute. *Hansmeyer v. Nebraska Pub. Power Dist.*, 6 Neb. App. 889, 578 N.W.2d 476 (1998).

**84-1412. Meetings of public body; rights of public; public body; powers and duties.**

(1) Subject to the Open Meetings Act, the public has the right to attend and the right to speak at meetings of public bodies, and all or any part of a meeting of a public body, except for closed sessions called pursuant to section 84-1410, may be videotaped, televised, photographed, broadcast, or recorded by any person in attendance by means of a tape recorder, a camera, video equipment, or any other means of pictorial or sonic reproduction or in writing.

(2) It shall not be a violation of subsection (1) of this section for any public body to make and enforce reasonable rules and regulations regarding the conduct of persons attending, speaking at, videotaping, televising, photographing, broadcasting, or recording its meetings, including meetings held by virtual conferencing. A body may not be required to allow citizens to speak at each meeting, but it may not forbid public participation at all meetings.

(3) No public body shall require members of the public to identify themselves as a condition for admission to the meeting nor shall such body require that the name of any member of the public be placed on the agenda prior to such meeting in order to speak about items on the agenda. The body shall require any member of the public desiring to address the body to identify himself or herself, including an address and the name of any organization represented by such person unless the address requirement is waived to protect the security of the individual.

(4) No public body shall, for the purpose of circumventing the Open Meetings Act, hold a meeting in a place known by the body to be too small to accommodate the anticipated audience.

(5) No public body shall be deemed in violation of this section if it holds its meeting in its traditional meeting place which is located in this state.

(6) No public body shall be deemed in violation of this section if it holds a meeting outside of this state if, but only if:

(a) A member entity of the public body is located outside of this state and the meeting is in that member's jurisdiction;

(b) All out-of-state locations identified in the notice are located within public buildings used by members of the entity or at a place which will accommodate the anticipated audience;

(c) Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including making virtual conferencing available at an in-state location to members, the public, or the press, if requested twenty-four hours in advance;

(d) No more than twenty-five percent of the public body's meetings in a calendar year are held out-of-state;

(e) Out-of-state meetings are not used to circumvent any of the public government purposes established in the Open Meetings Act; and

(f) The public body publishes notice of the out-of-state meeting at least twenty-one days before the date of the meeting in a legal newspaper of statewide circulation.

(7) Each public body shall, upon request, make a reasonable effort to accommodate the public's right to hear the discussion and testimony presented at a meeting.

(8) Public bodies shall make available at the meeting or the instate location for virtual conferencing as required by subdivision (6)(c) of this section, for examination and copying by members of the public, at least one copy of all reproducible written material to be discussed at an open meeting, either in paper or electronic form. Public bodies shall make available at least one current copy of the Open Meetings Act posted in the meeting room at a location accessible to members of the public. At the beginning of the meeting, the public shall be informed about the location of the posted information.

**Source:** Laws 1975, LB 325, § 5; Laws 1983, LB 43, § 4; Laws 1985, LB 117, § 2; Laws 1987, LB 324, § 5; Laws 1996, LB 900, § 1073; Laws 2001, LB 250, § 2; Laws 2004, LB 821, § 39; Laws 2006, LB 898, § 3; Laws 2008, LB962, § 1; Laws 2021, LB83, § 13.

**Annotations**

- To preserve an objection that a public body failed to make documents available at a public meeting as required by subsection (8) of this section, a person who attends a public meeting must not only object to the violation, but must make that objection to the public body or to a member of the public body. *Stoetzel & Sons v. City of Hastings*, 265 Neb. 637, 658 N.W.2d 636 (2003).

**84-1413. Meetings; minutes; roll call vote; secret ballot; when; agenda and minutes; required on website; when.**

(1) Each public body shall keep minutes of all meetings showing the time, place, members present and absent, and the substance of all matters discussed.

(2) Any action taken on any question or motion duly moved and seconded shall be by roll call vote of the public body in open session, and the record shall state how each member voted or if the member was absent or not voting. The requirements of a roll call or viva voce vote shall be satisfied by a public body which utilizes an electronic voting device which allows the yeas and nays of each member of such public body to be readily seen by the public.

(3) The vote to elect leadership within a public body may be taken by secret ballot, but the total number of votes for each candidate shall be recorded in the minutes.

(4) The minutes of all meetings and evidence and documentation received or disclosed in open session shall be public records and open to public inspection during normal business hours.

(5) Minutes shall be written or kept as an electronic record and shall be available for inspection within ten working days or prior to the next convened meeting, whichever occurs

earlier, except that cities of the second class and villages may have an additional ten working days if the employee responsible for writing or keeping the minutes is absent due to a serious illness or emergency.

(6) Beginning July 31, 2022, the governing body of a natural resources district, the city council of a city of the metropolitan class, the city council of a city of the primary class, the city council of a city of the first class, the county board of a county with a population greater than twenty-five thousand inhabitants, and the school board of a school district shall make available on such entity's public website the agenda and minutes of any meeting of the governing body. The agenda shall be placed on the website at least twenty-four hours before the meeting of the governing body. Minutes shall be placed on the website at such time as the minutes are available for inspection as provided in subsection (5) of this section. This information shall be available on the public website for at least six months.

**Source:** Laws 1975, LB 325, § 6; Laws 1978, LB 609, § 3; Laws 1979, LB 86, § 9; Laws 1987, LB 663, § 26; Laws 2005, LB 501, § 1; Laws 2009, LB361, § 3; Laws 2015, LB365, § 2; Laws 2016, LB876, § 1; Laws 2021, LB83, § 14; Laws 2022, LB742, § 2.

**Effective Date: July 21, 2022**

**Annotations**

- If a person present at a meeting observes and fails to object to an alleged public meetings laws violation in the form of a failure to conduct rollcall votes before taking actions on questions or motions pending, that person waives his or her right to object at a later date. *Hauser v. Nebraska Police Stds. Adv. Council*, 264 Neb. 944, 653 N.W.2d 240 (2002).
- Subsection (2) of this section does not require the record to state that the vote was by roll call, but requires only that the record show if and how each member voted. Neither does the statute set a time limit for recording the results of a vote, after which no corrections of the record can be made. If no intervening rights of third persons have arisen, a board of county commissioners has power to correct the record of the proceedings had at a previous meeting so as to make them speak the truth, particularly where the correction supplies some omitted fact or action and is done not to contradict or change the original record but to have the record show that a certain action was taken or thing done, which the original record fails to show. *State ex rel. Schuler v. Dunbar*, 214 Neb. 85, 333 N.W.2d 652 (1983).
- Failure by a public governing body, as defined under section 84-1409, R.R.S.1943, to take and record a roll call vote on an action, as required by section 84-1413(2), R.S.Supp.,1980, grants any citizen the right to sue for the purpose of having the action declared void. In this case such failure could not be later corrected by a nunc pro tunc order because there was no showing that a roll call vote on the disputed action was actually taken, and even if it was the record showed it was not recorded until over a year later. Sections 23-1301, R.R.S.1943,

and 23-1302, R.R.S.1943, make it the duty of the county clerk to record proceedings of the board of county commissioners. *State ex rel. Schuler v. Dunbar*, 208 Neb. 69, 302 N.W.2d 674 (1981).

- There is no requirement that a public body make a record of where notice was published or posted. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).

**84-1414. Unlawful action by public body; declared void or voidable by district court; when; duty to enforce open meeting laws; citizen's suit; procedure; violations; penalties.**

(1) Any motion, resolution, rule, regulation, ordinance, or formal action of a public body made or taken in violation of the Open Meetings Act shall be declared void by the district court if the suit is commenced within one hundred twenty days of the meeting of the public body at which the alleged violation occurred. Any motion, resolution, rule, regulation, ordinance, or formal action of a public body made or taken in substantial violation of the Open Meetings Act shall be voidable by the district court if the suit is commenced more than one hundred twenty days after but within one year of the meeting of the public body in which the alleged violation occurred. A suit to void any final action shall be commenced within one year of the action.

(2) The Attorney General and the county attorney of the county in which the public body ordinarily meets shall enforce the Open Meetings Act.

(3) Any citizen of this state may commence a suit in the district court of the county in which the public body ordinarily meets or in which the plaintiff resides for the purpose of requiring compliance with or preventing violations of the Open Meetings Act, for the purpose of declaring an action of a public body void, or for the purpose of determining the applicability of the act to discussions or decisions of the public body. It shall not be a defense that the citizen attended the meeting and failed to object at such time. The court may order payment of reasonable attorney's fees and court costs to a successful plaintiff in a suit brought under this section.

(4) Any member of a public body who knowingly violates or conspires to violate or who attends or remains at a meeting knowing that the public body is in violation of any provision of the Open Meetings Act shall be guilty of a Class IV misdemeanor for a first offense and a Class III misdemeanor for a second or subsequent offense.

**Source:** Laws 1975, LB 325, § 9; Laws 1977, LB 39, § 318; Laws 1983, LB 43, § 5; Laws 1992, LB 1019, § 126; Laws 1994, LB 621, § 2; Laws 1996, LB 900, § 1074; Laws 2004, LB 821, § 40; Laws 2006, LB 898, § 4.

**Annotations**

- The Legislature has granted standing to a broad scope of its citizens for the very limited purpose of challenging meetings allegedly in violation of the Open Meetings Act, so that they may help police the public policy embodied by the act. *Schauer v. Grooms*, 280 Neb. 426, 786 N.W.2d 909 (2010).

- Any citizen of the state may commence an action to declare a public body's action void. *City of Elkhorn v. City of Omaha*, 272 Neb. 867, 725 N.W.2d 792 (2007).
- The reading of ordinances constitutes a formal action under subsection (1) of this section. *City of Elkhorn v. City of Omaha*, 272 Neb. 867, 725 N.W.2d 792 (2007).
- If a person present at a meeting observes a public meetings law violation in the form of an improper closed session and fails to object, that person waives his or her right to object at a later date. *Wasikowski v. Nebraska Quality Jobs Bd.*, 264 Neb. 403, 648 N.W.2d 756 (2002).
- Under the Public Meetings Act, a county lacks capacity to maintain an action to declare its official conduct "void" for noncompliance with the act. *County of York v. Johnson*, 230 Neb. 403, 432 N.W.2d 215 (1988).
- When a petitioner under this section is successful in the district court, that court may allow attorney fees. *Tracy Corp. II v. Nebraska Pub. Serv. Comm.*, 218 Neb. 900, 360 N.W.2d 485 (1984).
- Informal discussions between the Tax Commissioner and the State Board of Equalization in which instructions were clarified, with such clarification leading to the amendment of hearing notices, did not constitute a public meeting subject to the provisions of this section. *Box Butte County v. State Board of Equalization and Assessment*, 206 Neb. 696, 295 N.W.2d 670 (1980).
- The right to collaterally attack an order made in contravention of the Public Meeting Act must occur within a period of one year as is specifically provided by this section. *Witt v. School District No. 70*, 202 Neb. 63, 273 N.W.2d 669 (1979).
- Statutory change, requiring "publicized notice" for board of education employment hearings, occurring between dates meeting scheduled and conducted, held not to void proceedings. *Alexander v. School Dist. No. 17*, 197 Neb. 251, 248 N.W.2d 335 (1976).
- Voiding an entire meeting is a proper remedy for violations of the Open Meetings Act. Once a meeting has been declared void pursuant to Nebraska's public meetings law, board members are prohibited from considering any information obtained at the illegal meeting. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).
- Actions by the board of directors were merely voidable under this section, and not void. Pursuant to subsection (3) of this section, the plaintiffs were awarded partial attorney fees because they were successful in having the court declare that the board of directors was in substantial violation of the statute, even though the plaintiffs did not get the relief requested of having the board's actions declared void. *Hansmeyer v. Nebraska Pub. Power Dist.*, 6 Neb. App. 889, 578 N.W.2d 476 (1998).

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Source: [http://nebraskalegislature.gov/laws/display\\_html.php?begin\\_section=84-1407&end\\_section=84-1414](http://nebraskalegislature.gov/laws/display_html.php?begin_section=84-1407&end_section=84-1414)

Date: July 2022



## LEGISLATIVE BILL 287

Approved by the Governor April 16, 2024

Introduced by Brewer, 43; Linehan, 39.

A BILL FOR AN ACT relating to law; to amend sections 2-3213, 2-3214, 16-202, 18-2518, 25-1274, 32-233, 32-564, 32-565, 32-569, 32-613, 32-617, 32-630, 32-632, 32-713, 32-1205, 32-1301, 32-1304, 32-1308, 32-1546, 49-1499.03, 58-230, 58-817, 60-483, 60-484.02, 84-217, and 85-1514, Reissue Revised Statutes of Nebraska, sections 31-727.02, 32-304, 32-320.01, 32-330, 32-404, 32-405, 32-552, 32-553, 32-570, 32-606, 32-607, 32-608, 32-615, 32-716, 32-802, 32-808.01, 32-903, 32-947, 32-950.01, 32-1203, 32-1303, 32-1305, 32-1306, 32-1405, 32-1407, 32-1524, 32-1525, 70-663, 79-1218, and 84-1411, Revised Statutes Cumulative Supplement, 2022, and sections 32-101, 32-103, 32-123, 32-202.01, 32-308, 32-318.01, 32-912.01, 32-912.02, 32-915.03, 32-941, 32-942, 32-1002.01, 32-1027, and 60-4,115, Revised Statutes Supplement, 2023; to eliminate obsolete provisions relating to adjusting certain boundaries after the federal decennial census and charter amendment procedures for certain public power districts; to change provisions relating to remonstrance petitions in the sale and conveyance of real estate owned by a city of the first class; to change provisions relating to the Election Act; to provide and change penalty provisions; to change provisions relating to conflicts of interest by certain officeholders and public employees; to change provisions relating to state identification cards; to change proof of publication requirements for legal notices and requirements for published notice and virtual conferencing under the Open Meetings Act; to eliminate provisions relating to opinions of the Attorney General regarding the unconstitutionality of legislative bills; to harmonize provisions; to provide operative dates; to repeal the original sections; to outright repeal section 84-215, Reissue Revised Statutes of Nebraska; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 2-3213, Reissue Revised Statutes of Nebraska, is amended to read:

2-3213 (1) Except as provided in subsections (2), (3), and (4) of this section, each district shall be governed by a board of directors of five, seven, nine, eleven, thirteen, fifteen, seventeen, nineteen, or twenty-one members. The board of directors shall determine the number of directors and in making such determination shall consider the complexity of the foreseeable programs and the population and land area of the district. Districts shall be political subdivisions of the state, shall have perpetual succession, and may sue and be sued in the name of the district.

(2) ~~At Except as provided by subsection (7) of this section,~~ at least six months prior to the primary election, the board of directors of any natural resources district may change the number of directors for the district and may change subdistrict boundaries to accommodate the increase or decrease in the number of directors.

(3) The board of directors shall utilize the criteria found in subsection (1) of this section and in subsection (2) of section 2-3214 when changing the number of directors. Except as provided in subsection (6) of this section, no director's term of office shall be shortened as a result of any change in the number of directors. Any reduction in the number of directors shall be made as directors take office during the two succeeding elections or more quickly if the reduction can be made by not filling vacancies on the board and if desired by the board. If necessary to preserve staggered terms for directors when the reduction in number is made in whole or in part through unfilled vacancies, the board may provide for a one-time election of one or more directors for a two-year term. The board of directors shall inform the Secretary of State whenever any such one-time elections have been approved. Notwithstanding subsection (1) of this section, the district may be governed by an even number of directors during the two-year transition to a board of reduced number.

(4) Whenever any change of boundaries, division, or merger results in a natural resources district director residing in a district other than the one to which such director was elected to serve, such director shall automatically become a director of the board of the district in which he or she then resides. Except as provided in subsection (6) of this section, all such directors shall continue to serve in office until the expiration of the term of office for which they were elected. Directors or supervisors of other special-purpose districts merged into a natural resources district shall not become members of the natural resources district board but may be appointed as advisors in accordance with section 2-3228. No later than six months after any change, division, or merger, each affected board, in accordance with the procedures and criteria found in this section and section 2-3214, shall determine the number of directors for the district as it then exists, the option chosen for nomination and election of directors, and, if appropriate, new subdistrict boundaries.

(5) To facilitate the task of administration of any board increased in size by a change of boundaries or merger, such board may appoint an executive committee to conduct the business of the board in the interim until board size reductions can be made in accordance with this section. An executive committee shall be empowered to act for the full board in all matters within its purview unless specifically limited by the board in the establishment and appointment of the executive committee.

(6) Notwithstanding the provisions of section 2-3214 and subsections (4) and (5) of this section, the board of directors of any natural resources district established by merging two or more districts in their entirety may provide that all directors be nominated and elected at the first primary and general elections following the year in which such merger becomes effective. In districts which have one director elected from each subdistrict, each director elected from an even-numbered subdistrict shall be elected for a two-year term and each director from an odd-numbered district and any member to be elected at large shall be elected for a four-year term. In districts which have two directors elected from each subdistrict, the four candidates receiving the highest number of votes at the primary election shall be carried over to the general election, and at such general election the candidate receiving the highest number of votes shall be elected for a four-year term and the candidate receiving the second highest number of votes shall be elected for a two-year term. Thereafter each director shall be elected for a four-year term.

~~(7) Following the release of the 2020 Census of Population data by the United States Department of Commerce, Bureau of the Census, as required by Public Law 94-171, any natural resources district that will have a change to the number of directors as a result of any adjustment to the boundaries of election districts shall provide to the election commissioner or county clerk (a) written notice of the need and necessity of his or her office to perform such adjustments and (b) a revised election district boundary map that has been approved by the board of directors and subjected to all public review and challenge ordinances of the natural resources district by December 30, 2021.~~

Sec. 2. Section 2-3214, Reissue Revised Statutes of Nebraska, is amended to read:

2-3214 (1) District directors shall be elected as provided in section 32-513. Elections shall be conducted as provided in the Election Act. Registered voters residing within the district shall be eligible for nomination as candidates for any at-large position or, in those districts that have established subdistricts, as candidates from the subdistrict within which they reside.

(2) The board of directors may choose to: (a) Nominate candidates from subdistricts and from the district at large who shall be elected by the registered voters of the entire district; (b) nominate and elect each candidate from the district at large; or (c) nominate and elect candidates from subdistricts of substantially equal population except that any at-large candidate would be nominated and elected by the registered voters of the entire district. Unless the board of directors determines that the nomination and election of all directors will be at large, the board shall strive to divide the district into subdistricts of substantially equal population, except that no subdistrict shall have a population greater than three times the population of any other subdistrict within the district. Such subdistricts shall be consecutively numbered and shall be established with due regard to all factors including, but not limited to, the location of works of improvement and the distribution of population and taxable values within the district. ~~The Except as provided by subsection (7) of this section,~~ the boundaries and numbering of such subdistricts shall be designated at least six months prior to the primary election. Unless the district has been divided into subdistricts with substantially equal population, all directors shall be elected by the registered voters of the entire district and all registered voters shall vote on the candidates representing each subdistrict and any at-large candidates. If a district has been divided into subdistricts with substantially equal population, the board of directors may determine that directors shall be elected only by the registered voters of the subdistrict except that an at-large director may be elected by registered voters of the entire district.

(3) Except in districts which have chosen to have a single director serve from each subdistrict, the number of subdistricts for a district shall equal a number which is one less than a majority of directors for the district. In districts which have chosen to have a single director serve from each subdistrict, the number of subdistricts shall equal a number which is equal to the total number of directors of the district or which is one less than the total number of directors for the district if there is an at-large candidate. If the number of directors to be elected exceeds the number of subdistricts or if the term of the at-large director expires in districts which have chosen to have a single director serve from each subdistrict, candidates may file as a candidate from the district at large. Registered voters may each cast a number of votes not larger than the total number of directors to be elected.

(4) Elected directors shall take their oath of office in the same manner provided for county officials.

(5) At least six months prior to the primary election, the board of directors may choose to have a single director serve from each subdistrict.

(6) The board of directors shall certify to the Secretary of State and the election commissioners or county clerks the number of directors to be elected at each election and the length of their terms as provided in section 32-404.

~~(7) Following the release of the 2020 Census of Population data by the~~

~~United States Department of Commerce, Bureau of the Census, as required by Public Law 94-171, any board of directors requesting the adjustment of the boundaries of election districts shall provide to the election commissioner or county clerk (a) written notice of the need and necessity of his or her office to perform such adjustments and (b) a revised election district boundary map that has been approved by the board and subjected to all public review and challenge ordinances of the natural resources district by December 30, 2021.~~

Sec. 3. Section 16-202, Reissue Revised Statutes of Nebraska, is amended to read:

16-202 (1) Except as otherwise provided in subsection (4) of this section, the power to sell and convey any real estate owned by a city of the first class, including park land, shall be exercised by ordinance directing the conveyance of such real estate and the manner and terms thereof. Notice of such sale and the terms thereof shall be published for three consecutive weeks in a legal newspaper in or of general circulation in such city immediately after the passage and publication of such ordinance.

(2) If within thirty days after the passage and publication of such ordinance a remonstrance petition against such sale, that conforms to section 32-628, is signed by registered voters of the city equal in number to thirty percent of the registered voters of the city voting at the last regular city election held therein and is filed with the city council, the property shall not then, nor within one year thereafter, be sold. If the date for filing the petition falls upon a Saturday, Sunday, or legal holiday, the signatures shall be collected within the thirty-day period, but the filing shall be considered timely if filed or postmarked on or before the next business day. Upon the receipt of the petition, the city council, with the aid and assistance of the election commissioner or county clerk, shall determine the validity and sufficiency of signatures on the petition. The city council shall deliver the petition to the election commissioner or county clerk by hand carrier, by use of law enforcement officials, or by certified mail, return receipt requested. Upon receipt of the petition, the election commissioner or county clerk shall issue to the city council a written receipt that the petition is in the custody of the election commissioner or county clerk. The election commissioner or county clerk shall compare the signature of each person signing the petition with the voter registration records to determine if each signer was a registered voter on or before the date on which the petition was filed with the city council. The election commissioner or county clerk shall also compare the signer's printed name, street and number or voting precinct, and city, village, or post office address with the voter registration records to determine whether the signer was a registered voter. The signature and address shall be presumed to be valid only if the election commissioner or county clerk determines that the printed name, street and number or voting precinct, and city, village, or post office address matches the registration records and that the registration was received on or before the date on which the petition was filed with the city council. The determinations of the election commissioner or county clerk may be rebutted by any credible evidence which the city council finds sufficient. The express purpose of the comparison of names and addresses with the voter registration records, in addition to helping to determine the validity of the petition, the sufficiency of the petition, and the qualifications of the signer, shall be to prevent fraud, deception, and misrepresentation in the petition process. Upon completion of the comparison of names and addresses with the voter registration records, the election commissioner or county clerk shall prepare in writing a certification under seal setting forth the name and address of each signer found not to be a registered voter and the signature page number and line number where the name is found, and if the reason for the invalidity of the signature or address is other than the nonregistration of the signer, the election commissioner or county clerk shall set forth the reason for the invalidity of the signature. If the election commissioner or county clerk determines that a signer has affixed his or her signature more than once to the petition and that only one person is registered by that name, the election commissioner or county clerk shall prepare in writing a certification under seal setting forth the name of the duplicate signature and shall count only the earliest dated signature. The election commissioner or county clerk shall certify to the city council the number of valid signatures necessary to constitute a valid petition. The election commissioner or county clerk shall deliver the petition and the certifications to the city council within forty days after the receipt of the petition from the city council. The delivery shall be by hand carrier, by use of law enforcement officials, or by certified mail, return receipt requested. Not more than twenty signatures on one signature page shall be counted.

(3) The city council shall, within thirty days after the receipt of the petition and certifications from the election commissioner or county clerk, hold a public hearing to review the petition and certifications and receive testimony regarding them. The city council shall, following the hearing, vote on whether or not the petition is valid and shall uphold the petition if sufficient valid signatures have been received.

(4) This section does not apply to (a) real estate used in the operation of public utilities, (b) real estate for state armory sites for the use of the State of Nebraska as expressly provided in section 16-201, or (c) real estate for state veterans' cemetery sites for the use of the State of Nebraska as expressly provided in section 12-1301.

Sec. 4. Section 18-2518, Reissue Revised Statutes of Nebraska, is amended to read:

18-2518 (1) Each signed petition ~~Signed petitions~~ shall be filed with the city clerk for signature verification. The city clerk shall immediately notify the county clerk or election commissioner of the signed petition. Upon the filing of a petition, a municipality, upon passage of a resolution by the governing body of such municipality, and the county clerk or election commissioner of the county in which such municipality is located may by mutual agreement provide that the county clerk or election commissioner shall ascertain whether the petition is signed by the requisite number of voters. The municipality shall reimburse the county for any costs incurred by the county clerk or election commissioner. When the verifying official has determined that one hundred percent of the necessary signatures required by the Municipal Initiative and Referendum Act have been obtained, he or she shall notify the governing body of the municipality of that fact and shall immediately forward to the governing body a copy of the petition.

(2) In order for an initiative or referendum proposal to be submitted to the governing body and the voters, the necessary signatures shall be on file with the city clerk within six months from the date the prospective petition was authorized for circulation. If the necessary signatures are not obtained by such date, the petition shall be void.

Sec. 5. Section 25-1274, Reissue Revised Statutes of Nebraska, is amended to read:

25-1274 Publications required by law to be made in a newspaper or on a statewide website established and maintained as a repository of public notices by a majority of Nebraska newspapers, may be proved by affidavit of any person having knowledge of the fact, specifying the time when and the paper in which or the website whereon the publication was made, and, if made by publication in a newspaper, that such said newspaper is a legal newspaper under the statutes of the State of Nebraska, but such affidavit must, for the purposes now contemplated, be made within six months after the last day of publication, in the office where the original affidavit of publication is required to be filed.

Sec. 6. Section 31-727.02, Revised Statutes Cumulative Supplement, 2022, is amended to read:

31-727.02 (1) Except as provided in subsection ~~(6)~~ ~~(5)~~ of section 84-1411, the clerk or administrator of each sanitary and improvement district shall notify any municipality or county within whose zoning jurisdiction such district is located of all meetings of the district board of trustees or called by the administrator by sending a notice of such meeting to the clerk of the municipality or county not less than seven days prior to the date set for any meeting. In the case of meetings called by the administrator, notice shall be provided to the clerk of the district not less than seven days prior to the date set for any meeting.

(2) Except as provided in subsection ~~(6)~~ ~~(5)~~ of section 84-1411, within thirty days after any meeting of a sanitary and improvement district board of trustees or called by the administrator, the clerk or administrator of the district shall transmit to the municipality or county within whose zoning jurisdiction the sanitary and improvement district is located a copy of the minutes of such meeting.

Sec. 7. Section 32-101, Revised Statutes Supplement, 2023, is amended to read:

32-101 Sections 32-101 to 32-1551 and sections 9, 26, 30, 46, and 64 of this act shall be known and may be cited as the Election Act.

Sec. 8. Section 32-103, Revised Statutes Supplement, 2023, is amended to read:

32-103 For purposes of the Election Act, the definitions found in sections 32-104 to 32-120 and 32-123 and section 9 of this act shall be used.

Sec. 9. (1) Electioneering means the deliberate, visible display or audible or physical dissemination of information for the purpose of advocating for or against:

(a) Any candidate for an office on the ballot for the election at which such display or dissemination is occurring;

(b) Any officeholder of an elected state constitutional office or federal office at the time of the election at which such display or dissemination is occurring; or

(c) Any political party on the ballot for the election at which such display or dissemination is occurring.

(2) For purposes of this section, information includes: (a) A candidate's name, likeness, logo, or symbol; (b) a button, hat, pencil, pen, shirt, sign, or sticker containing information described by this section; and (c) audible information or any literature, writing, or drawing referring to a candidate, an officeholder, or a political party described in this section.

Sec. 10. Section 32-123, Revised Statutes Supplement, 2023, is amended to read:

32-123 Valid photographic identification means:

(1) A document issued by the United States, the State of Nebraska, an agency or a political subdivision of the State of Nebraska, or a postsecondary institution within the State of Nebraska that:

(a) Shows the name of the individual to whom the document was issued; and

(b) Shows a photograph or digital image of the individual to whom the document was issued;

(2) A document issued by the United States Department of Defense, the United States Department of Veterans Affairs or its predecessor, the Veterans Administration, a branch of the uniformed services as defined in section 85-2902, or a Native American Indian tribe or band recognized by the United

States Government that:

- (a) Shows the name of the individual to whom the document was issued; and
- (b) Shows a photograph or digital image of the individual to whom the document was issued; or
- (3) A hospital, an assisted-living facility, a nursing home, or any other intermediate skilled care facility record that:
  - (a) Shows the name of the individual who is the subject of the record; and
  - (b) Shows a photograph or digital image of the individual who is the subject of the record.

Sec. 11. Section 32-202.01, Revised Statutes Supplement, 2023, is amended to read:

32-202.01 The Secretary of State shall develop a process to use the information in possession of or available to his or her office to match and verify the citizenship of the corresponding registered voter. The process developed shall ensure that no registered voter is removed from the voter registration register in violation of state or federal law. The Attorney General and the Department of Motor Vehicles shall cooperate with the Secretary of State for such purpose. The Secretary of State may adopt and promulgate rules and regulations to carry out this section.

Sec. 12. Section 32-233, Reissue Revised Statutes of Nebraska, is amended to read:

32-233 (1) Except as otherwise provided in subsection (2) of this section, judges Judges and clerks of election, district inspectors, messengers, and other temporary election workers shall receive wages at no less than the minimum rate set in section 48-1203 for each hour of service rendered. The county clerk shall determine the rate of pay and may vary the rate based on the duties of each position. Each such election worker shall sign an affidavit stating the number of hours he or she has worked.

(2) Any judge or clerk of election, district inspector, messenger, or other temporary election worker may choose either:

(a) Not to be paid for the hours he or she works. An election worker that chooses not to be paid shall sign a waiver agreeing not to be paid for each election for which he or she chooses not to be paid; or

(b) To have his or her election pay used by the county clerk to contract with an organization authorized by the county clerk to recruit election workers if the county clerk contracts with such an organization. To be eligible to enter into such a contract, the organization shall be exempt for federal tax purposes under section 501(c)(3) of the Internal Revenue Code, as defined in section 49-801.01.

Sec. 13. Section 32-304, Revised Statutes Cumulative Supplement, 2022, is amended to read:

32-304 (1) The Secretary of State in conjunction with the Department of Motor Vehicles shall implement a registration application process which may be used statewide to register to vote and update voter registration records electronically using the Secretary of State's website. An applicant who has a valid Nebraska motor vehicle operator's license or state identification card may use the application process to register to vote or to update his or her voter registration record with changes in his or her personal information or other information related to his or her eligibility to vote. For each electronic application, the Secretary of State shall obtain a copy of the electronic representation of the applicant's digital image and signature from the Department of Motor Vehicles' records of his or her motor vehicle operator's license or state identification card for purposes of voter registration, and electronic poll books, and voting.

(2) The application shall contain substantially all the information provided in section 32-312 and the following informational statements:

(a) An applicant who submits this application electronically is affirming that the information in the application is true. Any applicant who submits this application electronically knowing that any of the information in the application is false shall be guilty of a Class IV felony under section 32-1502 of the statutes of Nebraska. The penalty for a Class IV felony is up to two years imprisonment and twelve months post-release supervision, a fine of up to ten thousand dollars, or both;

(b) An applicant who submits this application electronically is agreeing to the use of his or her digital image and signature from the Department of Motor Vehicles' records of his or her motor vehicle operator's license or state identification card for purposes of voter registration;

(c) To vote at the polling place on election day, the completed application must be submitted on or before the third Friday before the election and prior to midnight on such Friday; and

(d) The election commissioner or county clerk will, upon receipt of the application for registration, send an acknowledgment of registration to the applicant indicating whether the application is proper or not.

Sec. 14. Section 32-308, Revised Statutes Supplement, 2023, is amended to read:

32-308 (1) The Secretary of State and the Director of Motor Vehicles shall enter into an agreement to match information in the computerized statewide voter registration list with information in the database of the Department of Motor Vehicles to the extent required to enable each such official to verify the accuracy of the information, including citizenship, provided on applications for voter registration. The Director of Motor Vehicles shall enter into an agreement with the Commissioner of Social Security under section 205(r) (8) of the federal Social Security Act, 42 U.S.C. 405(r)(8), as such section

existed on April 17, 2003, for purposes of the Election Act.

(2) The Department of Motor Vehicles, with the assistance of the Secretary of State, shall prescribe a voter registration application which may be used to register to vote or change his or her address for voting purposes at the same time an elector applies for an original or renewal motor vehicle operator's license, an original or renewal state identification card, or a replacement thereof. The voter registration application shall contain the information required pursuant to section 32-312 and shall be designed so that it does not require the duplication of information in the application for the motor vehicle operator's license or state identification card, except that it may require a second signature of the applicant. The department and the Secretary of State shall make the voter registration application available to any person applying for an operator's license or state identification card. The application shall be completed at the office of the department by the close of business on the third Friday preceding any election to be registered to vote at such election. A registration application received after the deadline shall not be processed by the election commissioner or county clerk until after the election.

(3) The Department of Motor Vehicles, in conjunction with the Secretary of State, shall develop a process to electronically transmit voter registration application information received under subsection (2) of this section to the election commissioner or county clerk of the county in which the applicant resides within the time limits prescribed in subsection (4) of this section. The Director of Motor Vehicles shall designate an implementation date for the process which shall be on or before January 1, 2016.

(4) The voter registration application information shall be transmitted to the election commissioner or county clerk of the county in which the applicant resides not later than ten days after receipt, except that if the voter registration application information is received within five days prior to the third Friday preceding any election, it shall be transmitted not later than five days after its original submission. Any information on whether an applicant registers or declines to register and the location of the office at which he or she registers shall be confidential and shall only be used for voter registration purposes.

(5) For each voter registration application for which information is transmitted electronically pursuant to this section, the Secretary of State shall obtain a copy of the electronic representation of the applicant's digital image and signature from the Department of Motor Vehicles' records of his or her motor vehicle operator's license or state identification card for purposes of voter registration and voting. Each voter registration application electronically transmitted under this section shall include information provided by the applicant that includes whether the applicant is a citizen of the United States, whether the applicant is of sufficient age to register to vote, the applicant's residence address, the applicant's postal address if different from the residence address, the date of birth of the applicant, the party affiliation of the applicant or an indication that the applicant is not affiliated with any political party, the applicant's motor vehicle operator's license number, the applicant's previous registration location by city, county, or state, if applicable, and the applicant's signature.

(6) State agency personnel involved in the voter registration process pursuant to this section and section 32-309 shall not be considered deputy registrars or agents or employees of the election commissioner or county clerk.

Sec. 15. Section 32-318.01, Revised Statutes Supplement, 2023, is amended to read:

32-318.01 (1)(a) Except as provided by subsection (2) of this section, a person who registers to vote by mail after January 1, 2003, and has not previously voted in an election within the state shall present a photographic identification which is current and valid or a copy of a utility bill, bank statement, government check, paycheck, or other government document which is dated within the sixty days immediately prior to the date of presentation and which shows the same name and residence address of the person provided on the registration application in order to avoid identification requirements at the time of voting pursuant to section 32-914 or 32-947.

(b) Such documentation may be presented at the time of application for registration, after submission of the application for registration, or at the time of voting. The documentation must be received by the election commissioner or county clerk not later than 6 p.m. on the second Friday preceding the election to avoid additional identification requirements at the time of voting at the polling place if the voter votes in person. If the voter is voting using a ballot for early voting, the documentation must be received by the election commissioner or county clerk prior to the date on which the ballot is mailed to the voter to avoid additional identification requirements at the time of voting. Documentation received after the ballot has been mailed to the voter but not later than the deadline for the receipt of ballots specified in subsection (2) of section 32-908 will be considered timely for purposes of determining the applicant's eligibility to vote in the election.

(c) Such documentation may be presented in person, by mail, or by facsimile transmission, or by electronic mail.

(d) Failure to present such documentation may result in the ballot not being counted pursuant to verification procedures prescribed in sections 32-1002 and 32-1027.

(2) This section shall not apply to a person who registers to vote by mail after January 1, 2003, and has not previously voted in an election within the state if he or she:

(a) Has provided his or her Nebraska driver's license number or the last four digits of his or her social security number and the election commissioner or county clerk verifies the number provided pursuant to subsection (2) of section 32-312.03;

(b) Is a member of the armed forces of the United States who by reason of active duty is absent from his or her place of residence where the member is otherwise eligible to vote;

(c) Is a member of the United States Merchant Marine who by reason of service is away from his or her place of residence where the member is otherwise eligible to vote;

(d) Is a spouse or dependent of a member of the armed forces of the United States or United States Merchant Marine who is absent from his or her place of residence due to the service of that member;

(e) Resides outside the United States and but for such residence would be qualified to vote in the state if the state was the last place in which the person was domiciled before leaving the United States; or

(f) Is elderly or handicapped and has requested to vote by alternative means other than by casting a ballot at his or her polling place on election day.

(3) In addition to the requirements of this section, a qualified voter shall present valid photographic identification before casting a ballot.

Sec. 16. Section 32-320.01, Revised Statutes Cumulative Supplement, 2022, is amended to read:

32-320.01 (1) Except as provided in subsection (2) of this section, any person or organization distributing voter registration applications by mail shall:

(a) Use the form prescribed by the Secretary of State. The form shall contain on the top of the first page in bold type (i) the identity of the person or organization distributing the form and (ii) the following statements:

You may submit this form if you wish to register to vote or update your voter registration. You do not need to complete this form if you have already registered to vote; and -

(b) If enclosing a return envelope, have either a blank address or the address of the election commissioner or county clerk printed on the envelope.

(2) This section shall not apply to voter registration applications distributed by the Secretary of State, an election commissioner, a county clerk, the State Department of Education, the Department of Health and Human Services, or the Department of Motor Vehicles.

Sec. 17. Section 32-330, Revised Statutes Cumulative Supplement, 2022, is amended to read:

32-330 (1) Except as otherwise provided in subsection (3) of section 32-301, the voter registration register shall be a public record. Any person may examine the register at the office of the election commissioner or county clerk, but no person other than the Secretary of State, the election commissioner, the county clerk, or law enforcement shall be allowed to make copies of the register. Copies of the register shall only be used for list maintenance as provided in section 32-329 or law enforcement purposes. The electronic records of the original voter registrations created pursuant to section 32-301 may constitute the voter registration register. The Secretary of State, election commissioner, or county clerk shall withhold information in the register designated as confidential under section 32-331. No portion of the register made available to the public and no list distributed pursuant to this section shall include the digital signature of any voter.

(2) The Secretary of State, election commissioner, or county clerk shall make available a list of registered voters that contains no more than the information authorized in subsections (3) and (7) of this section and, if requested, a list that only contains such information for registered voters who have voted in an election held more than thirty days prior to the request for the list. The Secretary of State, election commissioner, or county clerk shall establish the price of the lists at a rate that fairly covers the actual production cost of the lists, not to exceed three cents per name. Lists shall be used solely for purposes related to elections, political activities, voter registration, law enforcement, or jury selection. Lists shall not be posted, displayed, or used for commercial purposes or made accessible on the Internet.

(3)(a) The Secretary of State, election commissioner, or county clerk shall withhold from any list of registered voters distributed pursuant to subsection (2) of this section any information in the voter registration records which is designated as confidential under section 32-331 or marked private on the voter registration application or voter registration record.

(b) Except as otherwise provided in subdivision (a) of this subsection, a list of registered voters distributed pursuant to subsection (2) of this section shall contain no more than the following information:

- (i) The registrant's name;
- (ii) The registrant's residential address;
- (iii) The registrant's mailing address;
- (iv) The registrant's telephone number;
- (v) The registrant's voter registration status;
- (vi) The registrant's voter identification number;
- (vii) The registrant's birth year;
- (viii) The registrant's date of voter registration;
- (ix) The registrant's voting precinct;
- (x) The registrant's polling site;

- (xi) The registrant's political party affiliation;
- (xii) The political subdivisions in which the registrant resides; and
- (xiii) The registrant's voter history.

(4) Any person who acquires a list of registered voters under subsection (2) of this section shall provide his or her name, address, telephone number, email address, and campaign committee name or organization name, if applicable, the state of organization, if applicable, and the reason for requesting the list, and shall take and subscribe to an oath in substantially the following form:

I hereby swear that I will use the list of registered voters of ..... County, Nebraska, (or the State of Nebraska) only for the purposes prescribed in section 32-330 and for no other purpose, that I will not permit the use or copying of such list for unauthorized purposes, and that I will not post, display, or make such list accessible on the Internet.

I hereby declare under the penalty of election falsification that the statements above are true to the best of my knowledge.

The penalty for election falsification is a Class IV felony.

(Signature of person acquiring list) .....

Subscribed and sworn to before me this .... day of ..... 20.. .

(Signature of officer) .....

(Name and official title of officer) .....

(5) The Secretary of State, election commissioner, or county clerk shall provide, upon request and free of charge, a complete and current listing of all registered voters and their addresses to the Clerk of the United States District Court for the District of Nebraska. Such list shall be provided no later than December 31 of each even-numbered year.

(6)(a) (6) The Secretary of State, election commissioner, or county clerk shall provide, upon request and free of charge, a complete and current listing of all registered voters containing only the information authorized under subsection (3) of this section to the state party headquarters of each political party and to the county chairperson of each political party.

(b) The Secretary of State, election commissioner, or county clerk shall not be required to provide more than one list of registered voters free of charge to the state party headquarters of each political party or the county chairperson of each political party per calendar month.

(7) The Secretary of State shall make available to each jury commissioner a list of registered voters that contains the information authorized in this section and in subsection (1) of section 25-1654 the registrant's motor vehicle operator's license number or state identification card number.

(8) Nothing in this section shall prevent a political party or candidate from using the list of registered voters for campaign activities.

(9) Any person who acquires a list of registered voters under subsection (2) of this section shall, following discovery or notification of a breach in the security of the storage of the information, disclose the breach in security to the Secretary of State, election commissioner, or county clerk without delay.

Sec. 18. Section 32-404, Revised Statutes Cumulative Supplement, 2022, is amended to read:

32-404 (1) When any political subdivision holds an election in conjunction with the statewide primary or general election, the election shall be held as provided in the Election Act. Any other election held by a political subdivision shall be held as provided in the act unless otherwise provided by the charter, code, or bylaws of the political subdivision.

(2) No later than December 1 of each odd-numbered year, the Secretary of State, election commissioner, or county clerk shall give notice to each political subdivision of the filing deadlines for the statewide primary election. No later than January 5 of each even-numbered year, the governing board of each political subdivision which will hold an election in conjunction with a statewide primary election shall certify to the Secretary of State, the election commissioner, or the county clerk the name of the subdivision, the number of officers to be elected, the length of the terms of office, the vacancies to be filled by election and length of remaining term, and the number of votes to be cast by a registered voter for each office.

(3) No later than June 15 of each even-numbered year, the governing board of each reclamation district, county weed district, village, county under township organization, public power district receiving annual gross revenue of less than forty million dollars, or educational service unit which will hold an election in conjunction with a statewide general election shall certify to the Secretary of State, the election commissioner, or the county clerk the name of the subdivision, the number of officers to be elected, the length of the terms of office, the vacancies to be filled by election and length of remaining term, and the number of votes to be cast by a registered voter for each office.

(4) The Secretary of State shall prescribe the forms to be used for certification to him or her, and the election commissioner or county clerk shall prescribe the forms to be used for certification to him or her.

(5) Each city, village, township, school district, public power district, sanitary and improvement district, metropolitan utilities district, fire protection district, natural resources district, regional metropolitan transit authority, community college area, learning community coordinating council, educational service unit, hospital district, reclamation district, library board, and airport authority shall furnish to the Secretary of State and election commissioner or county clerk any maps and additional information which the Secretary of State and election commissioner or county clerk may require in



the proper performance of their duties in the conduct of elections and certification of results.

Sec. 19. Section 32-405, Revised Statutes Cumulative Supplement, 2022, is amended to read:

32-405 Any special election under the Election Act shall be held on the first Tuesday following the second Monday of the selected month unless otherwise specifically provided. Except as otherwise specifically provided, no special election shall be held under the Election Act in April, May, June, October, November, or December of an even-numbered year unless it is held in conjunction with the statewide primary or general election. No special election shall be held under the Election Act in September of an even-numbered year except as provided in section 32-564 and except for a special election by a political subdivision pursuant to section 13-519 or 77-3444 to approve a property tax levy or exceed a property tax levy limitation. A special election for a Class III, IV, or V school district which is located in whole or in part in a county in which a city of the primary or metropolitan class is located may be held in conjunction with the primary or general election for a city of the primary or metropolitan class which is governed by a home rule charter.

Sec. 20. Section 32-552, Revised Statutes Cumulative Supplement, 2022, is amended to read:

32-552 (1) ~~At Except as provided by subsection (4) of this section,~~ at least five months prior to an election, the governing board of any political subdivision requesting the adjustment of the boundaries of election districts shall provide to the election commissioner or county clerk (a) written notice of the need and necessity of his or her office to perform such adjustments and (b) a revised election district boundary map that has been approved by the requesting political subdivision's governing board and subjected to all public review and challenge ordinances of the political subdivision.

(2) After each ~~the next~~ federal decennial census, the election commissioner of the county in which the greater part of a Class IV school district is situated shall, subject to review by the school board, divide the school district into seven numbered districts, substantially equal in population as determined by the most recent federal decennial census. The election commissioner shall consider the location of schools within the district and their boundaries. The election commissioner shall adjust the boundaries of the election districts, subject to final review and adjustment by the school board, to conform to changes in the territory and population of the school district and also following each federal decennial census. Except when specific procedures are otherwise provided, section 32-553 shall apply to all Class IV school districts.

(3) For purposes of election of members to the board of education of a Class V school district, such ~~:(a)(i) The Legislature hereby divides such school district shall be divided into~~ nine numbered election districts of compact and contiguous territory and of as nearly equal population as may be practical. Each election district shall be entitled to one member on the board of education of such Class V school district. ~~The Legislature adopts the official population figures and maps from the 2010 Census Redistricting (Public Law 94-171) TIGER/Line Shapefiles published by the United States Department of Commerce, Bureau of the Census. The numbers and boundaries of the election districts are designated and established by a map identified and labeled as OPS-13-002, filed with the Clerk of the Legislature, and incorporated by reference as part of Laws 2013, LB125. Such districts are drawn using the boundaries of the Class V school district as they existed on February 12, 2013; (ii) the Clerk of the Legislature shall transfer possession of the map referred to in subdivision (a)(i) of this subsection to the Secretary of State and the election commissioner of the county in which the greater part of the school district is situated on February 12, 2013; (iii) when questions of interpretation of such election district boundaries arise, the map referred to in subdivision (a)(i) of this subsection in possession of such election commissioner shall serve as the indication of the legislative intent in drawing the election district boundaries; and (iv) the Secretary of State and such election commissioner shall also have available for viewing on his or her website the map referred to in subdivision (a)(i) of this subsection identifying the boundaries for such election districts; and (b) After each~~ the next federal decennial census, the election commissioner of the county in which the greater part of a Class V school district is situated shall divide the school district into nine numbered districts of compact and contiguous territory and of as nearly equal population as may be practical. The election commissioner shall adjust the boundaries of such districts, subject to final review and adjustment by the school board, to conform to changes in the territory of the school district ~~and also following each federal decennial census.~~

(4) ~~Following the release of the 2020 Census of Population data by the United States Department of Commerce, Bureau of the Census, as required by Public Law 94-171, the governing board of any political subdivision requesting the adjustment of the boundaries of election districts shall provide to the election commissioner or county clerk (a) written notice of the need and necessity of his or her office to perform such adjustments and (b) a revised election district boundary map that has been approved by the requesting political subdivision's governing board and subjected to all public review and challenge ordinances of the political subdivision by December 30, 2021.~~

(5) ~~The Secretary of State may grant additional days upon request of the political subdivision if precinct maps are not delivered to the political~~

~~subdivision by November 1, 2021, or for an extraordinary circumstance.~~

Sec. 21. Section 32-553, Revised Statutes Cumulative Supplement, 2022, is amended to read:

32-553 (1)(a) When any political subdivision except a public power district nominates or elects members of the governing board by districts, such districts shall be substantially equal in population as determined by the most recent federal decennial census.

~~(b) Any Except as provided by subdivision (c) of this subsection, (i) any such political subdivision that which has districts in place on the date the census figures used in drawing district boundaries for the Legislature are required to be submitted to the state by the United States Department of Commerce, Bureau of the Census, shall, if necessary to maintain substantial population equality as required by this subsection, have new district boundaries drawn within six months after the passage and approval of the legislative bill providing for reestablishing legislative districts. Any and (ii) any such political subdivision in existence on the date the census figures used in drawing district boundaries for the Legislature are required to be submitted to the state by the United States Department of Commerce, Bureau of the Census, and which has not established any district boundaries shall establish district boundaries pursuant to this section within six months after such date.~~

~~(c) Following the release of the 2020 Census of Population data by the United States Department of Commerce, Bureau of the Census, as required by Public Law 94-171, any such political subdivision which has districts in place on the date the census figures used in drawing district boundaries for the Legislature are required to be submitted to the state by the United States Department of Commerce, Bureau of the Census, shall, if necessary to maintain substantial population equality as required by this subsection, have new district boundaries drawn and submitted to the election commissioner or county clerk by December 30, 2021, after the passage and approval of the legislative bill providing for reestablishing legislative districts. Any such political subdivision in existence on the date the census figures used in drawing district boundaries for the Legislature are required to be submitted to the state by the United States Department of Commerce, Bureau of the Census, and which has not established any district boundaries shall establish district boundaries and submit the boundaries to the election commissioner or county clerk pursuant to this section by December 30, 2021.~~

~~(d) The Secretary of State may grant additional days upon request of the political subdivision if precinct maps are not delivered to the political subdivision by November 1, 2021, or for an extraordinary circumstance.~~

~~(c) (e) If the deadline for drawing or redrawing district boundary lines imposed by this section is not met, the procedures set forth in section 32-555 shall be followed.~~

(2) The governing board of each such political subdivision shall be responsible for drawing its own district boundaries and shall, as nearly as possible, follow the precinct lines created by the election commissioner or county clerk after each federal decennial census, except that the election commissioner of any county in which a Class IV or V school district is located shall draw district boundaries for such school district as provided in this section and section 32-552.

Sec. 22. Section 32-564, Reissue Revised Statutes of Nebraska, is amended to read:

32-564 (1) Except as otherwise provided in subsection (2) of this section:

(a) If a vacancy occurs in the office of Representative in Congress on or after August 1 in an even-numbered year and prior to the statewide general election in such year, the Governor shall order a special election to be held in conjunction with such statewide general election. The only candidates who may appear on the ballot for such office at such special election are those who were nominated at the statewide primary election in such year, those who comply with section 32-616, and those who comply with section 32-627 to fill a vacancy on the ballot if such a vacancy exists. The candidate receiving the most votes at such special election shall serve for the remainder of the vacated term and for the succeeding term of office;

(b) If a vacancy occurs in the office of Representative in Congress on or after the day of the statewide general election and prior to the end of the term of the office which is vacated, no special election shall be called; and

(c) If a vacancy occurs in such office at any time other than as described in subdivision (a) or (b) of this subsection, the Governor shall order a special election to be held not less than seventy-five days nor more than within ninety days after the vacancy occurs. Such election shall be held on a Tuesday. Each political party which polled at least five percent of the entire vote in the district in which the vacancy occurs may select a candidate following the applicable procedures in subsection (2) of section 32-627, except that the certificate and filing fee shall be submitted at least sixty-seven sixty-five days prior to the day of the election. Any candidate so selected shall have his or her name placed on the ballot with the appropriate political party designation. Any other person may have his or her name placed on the ballot without a political party designation by filing petitions pursuant to sections 32-617 and 32-618 and paying the filing fee as provided by section 32-608, except that the deadline for filing the petitions and paying the fee shall be sixty-seven sixty-five days prior to the day of the election. The candidate receiving the most votes at such special election shall serve for the remainder of the vacated term.

(2)(a) If the Speaker of the United States House of Representatives announces that there are more than one hundred vacancies in the House of Representatives requiring special elections according to 2 U.S.C. 8, as such section existed on July 18, 2008, and there is any vacancy in the office of Representative in Congress representing Nebraska, the Governor shall issue a writ of election. The writ of election shall specify the date of a special election to fill such vacancy to be held within forty-nine days after the Speaker's announcement.

(b) The Secretary of State shall notify the chairperson and secretary of each political party which polled at least five percent of the entire vote in the district in which the vacancy occurs that the party may select a candidate following the applicable procedures in subsection (2) of section 32-627, except that the certificate and filing fee shall be submitted within seven days after notification by the Secretary of State. Any candidate so selected shall have his or her name placed on the ballot with the appropriate political party designation.

(c) The ballot for any voter meeting the criteria of section 32-939 shall be transmitted to such voter within fifteen days after the Speaker's announcement and shall be accepted if received by the election commissioner or county clerk within forty-five days after transmission to the voter.

(d) The candidate receiving the most votes at such special election shall serve for the remainder of the vacated term.

Sec. 23. Section 32-565, Reissue Revised Statutes of Nebraska, is amended to read:

32-565 (1) When a vacancy occurs in the representation of the State of Nebraska in the Senate of the United States, the office shall be filled by the Governor. The Governor shall appoint a suitable person possessing the qualifications necessary for senator to fill such vacancy.

(2)(a) If the vacancy occurs on or after August 1 ~~sixty days or less~~ prior to a statewide general election and if the term vacated expires on the following January 3, the appointee shall serve until the following January 3.

(b) If the vacancy occurs on or after August 1 ~~sixty days or less~~ prior to a statewide general election and if the term extends beyond the following January 3, the appointee shall serve until January 3 following the second statewide general election next succeeding the vacancy ~~his or her appointment~~ and at such election a senator shall be elected to serve the unexpired term if any.

(c) ~~(3)~~ If the vacancy occurs at any time not described in subdivision (a) or (b) of this subsection ~~more than sixty days prior to a statewide general election~~, the appointee shall serve until January 3 following the next statewide general election next succeeding the vacancy and at such election a senator shall be elected to serve the unexpired term if any.

Sec. 24. Section 32-569, Reissue Revised Statutes of Nebraska, is amended to read:

32-569 (1)(a) Except as otherwise provided in subsection (2) or (3) of this section or section 32-568, vacancies in city and village elected offices shall be filled by the mayor and council or board of trustees for the balance of the unexpired term. Notice of a vacancy, except a vacancy resulting from the death of the incumbent, shall be in writing and presented to the council or board of trustees at a regular or special meeting and shall appear as a part of the minutes of such meeting. The council or board of trustees shall at once give public notice of the vacancy by causing to be published in a newspaper of general circulation within the city or village or by posting in three public places in the city or village the office vacated and the length of the unexpired term.

(b) The mayor or chairperson of the board shall call a special meeting of the council or board of trustees or place the issue of filling such vacancy on the agenda at the next regular meeting at which time the mayor or chairperson shall submit the name of a qualified registered voter to fill the vacancy for the balance of the unexpired term. The regular or special meeting shall occur upon the death of the incumbent or within four weeks after the meeting at which such notice of vacancy has been presented. The council or board of trustees shall vote upon such nominee, and if a majority votes in favor of such nominee, the vacancy shall be declared filled. If the nominee fails to receive a majority of the votes, the nomination shall be rejected and the mayor or chairperson shall at the next regular or special meeting submit the name of another qualified registered voter to fill the vacancy. If the subsequent nominee fails to receive a majority of the votes, the mayor or chairperson shall continue at such meeting to submit the names of qualified registered voters in nomination and the council or board of trustees shall continue to vote upon such nominations at such meeting until the vacancy is filled. The mayor shall cast his or her vote for or against the nominee in the case of a tie vote of the council. All council members and trustees present shall cast a ballot for or against the nominee. Any member of the city council or board of trustees who has been appointed to fill a vacancy on the council or board shall have the same rights, including voting, as if such person were elected.

(2) The mayor and council or chairperson and board of trustees may, in lieu of filling a vacancy in a city or village elected office as provided in subsection (1) of this section or subsection (3) of section 32-568, call a special city election to fill such vacancy.

(3) If vacancies exist in the offices of one-half or more of the members of a city council or village board, the Secretary of State shall conduct a special city election to fill such vacancies. Candidates for such special

election shall file a candidate filing form pursuant to section 26 of this act.

Sec. 25. Section 32-570, Revised Statutes Cumulative Supplement, 2022, is amended to read:

32-570 (1) A vacancy in the membership of a school board shall occur as set forth in section 32-560 or in the case of absences, unless excused by a majority of the remaining members of the board, when a member is absent from the district for a continuous period of sixty days at one time or from more than two consecutive regular meetings of the board. The resignation of a member or any other reason for a vacancy shall be made a part of the minutes of the school board. The school board shall give notice of the date the vacancy occurred, the office vacated, and the length of the unexpired term (a) in writing to the election commissioner or county clerk and (b) by a notice published in a newspaper of general circulation in the school district.

(2) Except as provided in subsection (3) of this section, a vacancy in the membership of a school board resulting from any cause other than the expiration of a term shall be filled by appointment of a qualified registered voter by the remaining members of the board for the remainder of the unexpired term. A registered voter appointed pursuant to this subsection shall meet the same requirements as the member whose office is vacant.

(3) Any vacancy in the membership of a school board of a school district described in section 79-549 which does not nominate candidates at a primary election and elect members at the following general election shall be filled by appointment of a qualified registered voter by the remaining members of the board for the remainder of the unexpired term.

(4) If any school board fails to fill a vacancy on the board, the vacancy may be filled by election at a special election or school district meeting called for that purpose. Such election or meeting shall be called in the same manner and subject to the same procedures as other special elections or school district meetings.

(5) If there are vacancies in the offices of one-half or more of the members of a school board, the Secretary of State shall conduct a special school district election to fill such vacancies. Candidates for such special election shall file a candidate filing form pursuant to section 26 of this act.

Sec. 26. (1) Except as provided in section 32-564, any candidate in a special election to fill a vacancy for an office of a political subdivision may have his or her name placed on the special election ballot by filing a candidate filing form prescribed by the Secretary of State as provided in section 32-607 and this section. The filing period for filing the candidate filing form shall be:

(a) On or before March 1 for a special election to be held in conjunction with the statewide primary election;

(b) On or before August 1 for a special election to be held in conjunction with the statewide general election; and

(c) Between the eighth Friday prior to the election and the fifth Friday prior to the election for all other elections.

(2) A candidate filing form for such special election shall meet the requirements of section 32-607, except that the form shall contain the following statement: "I hereby swear that I will abide by the laws of the State of Nebraska regarding the results of the special election, that I am a registered voter and qualified to be elected, and that I will serve if elected."

(3) A candidate filing form for such special election shall be filed with the filing officer specified in subsection (2) of section 32-607.

Sec. 27. Section 32-606, Revised Statutes Cumulative Supplement, 2022, is amended to read:

32-606 (1) Any candidate may place his or her name on the primary election ballot by filing a candidate filing form prescribed by the Secretary of State as provided in section 32-607. Except as otherwise provided in subsection (4) of this section, if a candidate for an elective office is an incumbent of any elective office, the filing period for filing the candidate filing form shall be between January 5 and February 15 prior to the date of the primary election. No incumbent who resigns from elective office prior to the expiration of his or her term shall file for any office after February 15 of that election year. All other candidates shall file for office between January 5 and March 1 prior to the date of the primary election. A candidate filing form and a copy of payment of the filing fee, if applicable, may be transmitted by facsimile for the offices listed in subdivision (2)(a) ~~(1)~~ of section 32-607 if (a) the transmission is received in the office of the filing officer by the filing deadline and (b) the original filing form and payment of the filing fee, if applicable, is mailed to the filing officer with a legible postmark bearing a date on or prior to the filing deadline and is in the office of the filing officer no later than seven days after the filing deadline.

(2) Any candidate for a township office in a county under township organization, the board of trustees of a village, the board of directors of a reclamation district, the county weed district board, the board of directors of a public power district receiving annual gross revenue of less than forty million dollars, or the board of an educational service unit may place his or her name on the general election ballot by filing a candidate filing form prescribed by the Secretary of State as provided in section 32-607. Except as otherwise provided in subsection (4) of this section, if a candidate for an elective office is an incumbent of any elective office, the filing period for filing the candidate filing form shall be between January 5 and July 15 prior to the date of the general election. No incumbent who resigns from elective

office prior to the expiration of his or her term shall file for any office after July 15 of that election year. All other candidates shall file for office between January 5 and August 1 prior to the date of the general election. A candidate filing form may be transmitted by facsimile for the offices listed in subdivision ~~(2)(a)~~ ~~(1)~~ of section 32-607 if (a) the transmission is received in the office of the filing officer by the filing deadline and (b) the original filing form is mailed to the filing officer with a legible postmark bearing a date on or prior to the filing deadline and is in the office of the filing officer no later than seven days after the filing deadline.

(3) Any city having a home rule charter may provide for filing deadlines for any person desiring to be a candidate for the office of council member or mayor.

(4) If a candidate for an elective office was appointed to an elective office to fill a vacancy after the deadline for an incumbent to file a candidate filing form in subsection (1) or (2) of this section but before the deadline for all other candidates, the candidate may file a candidate filing form for any office on or before the deadline for all other candidates.

Sec. 28. Section 32-607, Revised Statutes Cumulative Supplement, 2022, is amended to read:

32-607 ~~(1)(a)~~ All candidate filing forms shall contain the following statement: I hereby swear that I will abide by the laws of the State of Nebraska regarding the results of the primary and general elections, that I am a registered voter and qualified to be elected, and that I will serve if elected. Candidate filing forms shall also contain the following information regarding the candidate: Name, as provided under subdivision (b) of this subsection; residence address; mailing address if different from the residence address; telephone number; office sought; party affiliation if the office sought is a partisan office; a statement as to whether or not civil penalties are owed pursuant to the Nebraska Political Accountability and Disclosure Act; and, if civil penalties are owed, whether or not a surety bond has been filed pursuant to subdivision (4)(b) of section 32-602. An email address shall also be included on the filing form as an optional field.

(b) The name contained on a candidate filing form shall be the name by which the candidate is generally known in the community and by which the candidate is distinguished from others and shall not contain titles, characterizations, or designations.

(2) Candidate filing forms shall be filed with the following filing officers:

(a) ~~(1)~~ For candidates for national, state, or congressional office, directors of public power and irrigation districts, directors of reclamation districts, directors of natural resources districts, directors of metropolitan utilities districts, members of the boards of educational service units, members of governing boards of community colleges, delegates to national conventions, and other offices filled by election held in more than one county and judges desiring retention, in the office of the Secretary of State;

(b) ~~(2)~~ For officers elected within a county, in the office of the election commissioner or county clerk;

(c) ~~(3)~~ For officers in school districts which include land in adjoining counties, in the office of the election commissioner or county clerk of the county in which the greatest number of registered voters entitled to vote for the officers reside; and

(d) ~~(4)~~ For city or village officers, in the office of the election commissioner or county clerk.

(3) Objections to the name of a candidate submitted on a candidate filing form may be made and passed upon in the same manner as objections to a candidate filing form pursuant to section 32-624.

Sec. 29. Section 32-608, Revised Statutes Cumulative Supplement, 2022, is amended to read:

32-608 (1) Except as provided in subsection (4) or (5) of this section, a filing fee shall be paid by or on behalf of each candidate prior to filing for office. For candidates who file in the office of the Secretary of State as provided in subdivision ~~(2)(a)~~ ~~(1)~~ of section 32-607, the filing fee shall be paid to the Secretary of State who shall remit the fee to the State Treasurer for credit to the Election Administration Fund. For candidates for any city or village office, the filing fee shall be paid to the city or village treasurer of the city or village in which the candidate resides. For candidates who file in the office of the election commissioner or county clerk, the filing fee shall be paid to the election commissioner or county clerk in the county in which the office is sought. The election commissioner or county clerk shall remit the fee to the county treasurer. The fee shall be placed in the general fund of the county, city, or village. No candidate filing forms shall be filed until the proper payment or the proper receipt showing the payment of such filing fee is presented to the filing officer. On the day of the filing deadline, the city or village treasurer's office shall remain open to receive filing fees until the hour of the filing deadline.

(2) Except as provided in subsection (4) or (5) of this section, the filing fees shall be as follows:

(a) For the office of United States Senator, state officers, including members of the Legislature, Representatives in Congress, county officers, and city or village officers, except the mayor or council members of cities having a home rule charter, a sum equal to one percent of the annual salary as of November 30 of the year preceding the election for the office for which he or she files as a candidate;

(b) For directors of public power and irrigation districts in districts receiving annual gross revenue of forty million dollars or more, twenty-five dollars, and in districts receiving annual gross revenue of less than forty million dollars, ten dollars;

(c) For directors of reclamation districts, ten dollars; and

(d) For Regents of the University of Nebraska, members of the State Board of Education, and directors of metropolitan utilities districts, twenty-five dollars.

(3) All declared write-in candidates shall pay the filing fees that are required for the office at the time that they present the write-in affidavit to the filing officer.

(4) No filing fee shall be required for any candidate filing for an office in which a per diem is paid rather than a salary or for which there is a salary of less than five hundred dollars per year. No filing fee shall be required for any candidate for membership on a school board, on the board of an educational service unit, on the board of governors of a community college area, on the board of directors of a natural resources district, or on the board of trustees of a sanitary and improvement district.

(5) No filing fee shall be required of any candidate completing an affidavit requesting to file for elective office in forma pauperis. A pauper shall mean a person whose income and other resources for maintenance are found under assistance standards to be insufficient for meeting the cost of his or her requirements and whose reserve of cash or other available resources does not exceed the maximum available resources that an eligible individual may own. Available resources shall include every type of property or interest in property that an individual owns and may convert into cash except:

(a) Real property used as a home;

(b) Household goods of a moderate value used in the home; and

(c) Assets to a maximum value of three thousand dollars used by a recipient in a planned effort directed towards self-support.

(6) If any candidate dies prior to an election, the spouse of the candidate may file a claim for refund of the filing fee with the proper governing body prior to the date of the election. Upon approval of the claim by the proper governing body, the filing fee shall be refunded.

Sec. 30. (1) Any person who has filed for elective office pursuant to subsection (1) of section 32-606 whose legal name has changed since filing may change the name to appear on the ballot to reflect the person's changed legal name by March 1 before the primary election. The candidate shall provide any documentation verifying the legal name change to the filing officer by March 1.

(2) Any person who has filed for elective office pursuant to subsection (2) of section 32-606 or a nominee for elective office for the general election whose legal name has changed since filing may change the name to appear on the ballot to reflect the person's changed legal name by September 1 before the general election. The candidate shall provide any documentation verifying the legal name change to the filing officer by September 1.

(3) Any objection to a name change pursuant to subsection (1) or (2) of this section may be made and passed upon in the same manner as an objection to a candidate filing form pursuant to section 32-624, except that any objection pursuant to this subsection shall be made within seven days after the documentation verifying the legal name change is provided to the filing officer.

(4) Any candidate may file a name change on or before the filing deadline, and such name change shall conform to the requirements of subdivision (1)(b) of section 32-607. Any objection to a name change pursuant to this subsection may be made pursuant to subsection (3) of section 32-607.

Sec. 31. Section 32-613, Reissue Revised Statutes of Nebraska, is amended to read:

32-613 Any petition to place a person's name on the primary election ballot for President of the United States shall contain the names of not less than one hundred voters registered with the appropriate political party from each congressional district of the state, except that if the political party dissolves as provided in subsection (2) of section 32-720, the Secretary of State shall not accept a petition under this section. The name of the candidate for President shall be placed upon the ballot only when written consent of such person has been filed with the Secretary of State not less than sixty days before the primary election. The form of the petition shall comply with the requirements of section 32-628 and shall as nearly as possible conform to the form prescribed by the Secretary of State. All signed petitions not filed with the Secretary of State shall become invalid if not filed by August 1 of the presidential election year.

Sec. 32. Section 32-615, Revised Statutes Cumulative Supplement, 2022, is amended to read:

32-615 (1) Except as otherwise provided in subsection (2) of this section, any candidate engaged in or pursuing a write-in campaign shall file a notarized affidavit of his or her intent together with the receipt for any filing fee with the filing officer as provided in section 32-608 no earlier than January 5 and no later than the second Friday prior to the election.

(2) For any county office elected pursuant to sections 32-517 to 32-529 which is subject to subdivision (1)(b) of section 32-811, a candidate may engage in or pursue a write-in campaign if he or she files a notarized affidavit of his or her intent together with the receipt for the filing fee with the filing officer as provided in section 32-608 on or before March 3 of the year of the statewide primary election. If such an affidavit is filed as

prescribed, the election commissioner or county clerk shall place that county office on the statewide primary election ballot with the names of the candidate properly filed for the nomination of the applicable political party and a line for write-in candidates.

(3) A candidate submitting an affidavit under this section for a partisan office on the statewide primary election ballot shall be a registered voter of the political party named in the affidavit unless the political party allows candidates not affiliated with the party by not adopting a rule under section 32-702.

(4) A candidate who has been defeated as a candidate in the primary election or defeated as a write-in candidate in the primary election shall not be eligible as a write-in candidate for the same office in the general election unless (a) a vacancy on the ballot exists pursuant to section 32-625 or (b) the candidate was a candidate for an office described in sections 32-512 to 32-550 and the candidate lost the election as a result of a determination pursuant to section 32-1122 in the case of a tie vote.

(5) A candidate who files a notarized affidavit shall be entitled to all write-in votes for the candidate even if only the last name of the candidate has been written if such last name is reasonably close to the proper spelling.

Sec. 33. Section 32-617, Reissue Revised Statutes of Nebraska, is amended to read:

32-617 (1) Petitions for nomination for partisan and nonpartisan offices shall conform to the requirements of section 32-628. Petitions shall state the office to be filled and the name and address of the candidate. Petitions for partisan office shall also indicate the party affiliation of the candidate. A sample copy of the petition shall be filed with the filing officer prior to circulation. Petitions shall be signed by registered voters residing in the district or political subdivision in which the officer is to be elected and shall be filed with the filing officer in the same manner as provided for candidate filing forms in section 32-607. Petition signers and petition circulators shall conform to the requirements of sections 32-629 and 32-630. No petition for nomination shall be filed unless there is attached thereto a receipt showing the payment of the filing fee required pursuant to section 32-608. Such petitions shall be filed by September 1 in the year of the general election, and all signed petitions not filed with the Secretary of State by such date shall become invalid.

(2) The filing officer shall verify the signatures according to section 32-631. Within three days after the signatures on a petition for nomination have been verified pursuant to such section and the filing officer has determined that pursuant to section 32-618 a sufficient number of registered voters signed the petitions, the filing officer shall notify the candidate so nominated by registered or certified mail or electronic mail, and the candidate shall, within five days after the date of receiving such notification, file with such officer his or her acceptance of the nomination or his or her name will not be printed on the ballot.

(3) A candidate placed on the ballot by petition shall be termed a candidate by petition. The words BY PETITION shall be printed upon the ballot after the name of each candidate by petition.

Sec. 34. Section 32-630, Reissue Revised Statutes of Nebraska, is amended to read:

32-630 (1) Each person who signs a petition shall, at the time of and in addition to signing, personally affix the date, print his or her last name and first name in full, and affix his or her date of birth and address, including the street and number or a designation of a rural route or voting precinct and the city or village or a post office address. A person signing a petition may use his or her initials in place of his or her first name if such person is registered to vote under such initials. ~~No signer shall use ditto marks as a means of personally affixing the date or address to any petition. A wife shall not use her husband's first name when she signs a petition but shall personally affix her first name and her last name by marriage or her surname. Any signature using ditto marks as a means of personally affixing the date or address of any petition or any signature using a spouse's first name instead of his or her own shall be invalid.~~

(2) Each circulator of a petition shall personally witness the signatures on the petition and shall sign the circulator's affidavit.

(3) No person shall:

- (a) Sign any name other than his or her own to any petition;
- (b) Knowingly sign his or her name more than once for the same petition effort or measure;
- (c) Sign a petition if he or she is not a registered voter and qualified to sign the same except as provided in section 32-1404;
- (d) Falsely swear to any signature upon any such petition;
- (e) Accept money or other thing of value for signing any petition; or
- (f) Offer money or other thing of value in exchange for a signature upon any petition.

Sec. 35. Section 32-632, Reissue Revised Statutes of Nebraska, is amended to read:

32-632 (1) Any person may remove his or her name from a petition by signing and delivering a written letter to the Secretary of State, an affidavit signed and sworn to by such person before the election commissioner, or the county clerk, or a notary public. Name removal letters shall be filed with the following officers:

- (a) For initiative and referendum petitions, new political party

petitions, and petitions for President of the United States, with the Secretary of State;

(b) For candidate petitions, with the filing officer prescribed in section 32-607;

(c) For recall petitions, with the filing officer prescribed in section 32-1301; and

(d) For all other petitions, with the applicable election commissioner, county clerk, or city clerk.

(2) The name removal letter affidavit shall be delivered presented to and received by the officer prescribed in subsection (1) of this section by the following deadlines:

(a) For initiative and referendum petitions, by the deadline for filing petitions pursuant to section 32-1407;

(b) For new political party petitions, prior to or on the day the petition is filed for verification with the Secretary of State;

(c) For petitions for President of the United States, by the deadline for filing petitions pursuant to section 32-613 for the primary election or pursuant to section 32-620 for the general election;

(d) For candidate petitions, by the deadline for filing petitions pursuant to section 32-617;

(e) For recall petitions, by the deadline for filing petitions prescribed by section 32-1305; and

(f) For all other petitions, prior to or on the day the petition is filed for verification with the election commissioner, county clerk, or city clerk. Secretary of State, election commissioner, or county clerk prior to or on the day the petition is filed for verification with the election commissioner or county clerk.

(3) The Secretary of State, election commissioner, or county clerk shall verify the signature in the letter with the signature appearing in the voter registration records.

Sec. 36. Section 32-713, Reissue Revised Statutes of Nebraska, is amended to read:

32-713 (1) The certificates of appointment for presidential electors shall be served by the Governor on each person appointed. The Governor shall notify the presidential electors to be at the meeting location designated by the Governor State Capitol at noon on the first Tuesday Monday after the second Wednesday in December after appointment and report to the Governor at the designated meeting location his or her office in the capitol as being in attendance. The Governor shall serve the certificates of appointment by registered or certified mail. In submitting this state's certificate of ascertainment as required by 3 U.S.C. 5 6, the Governor shall certify this state's presidential electors, include a security feature for purposes of verifying the authenticity of the certificate, and state in the certificate that:

(a) The presidential electors will serve as presidential electors unless a vacancy occurs in the office of presidential elector before the end of the meeting at which the presidential electors cast their votes, in which case a substitute presidential elector will fill the vacancy; and

(b) If a substitute presidential elector is appointed to fill a vacancy, the Governor will submit an amended certificate of ascertainment stating the names on the final list of this state's presidential electors.

(2) The presidential electors shall convene at 2 p.m. of such Tuesday Monday at the meeting location designated by the Governor Governor's office in the capitol. Each presidential elector shall execute the following pledge: As a presidential elector duly selected (or appointed) for this position, I agree to serve and to mark my ballots for President and Vice President for the presidential and vice-presidential candidates who received the highest number of votes in the state if I am an at-large presidential elector or the highest number of votes in my congressional district if I am a congressional district presidential elector.

Sec. 37. Section 32-716, Revised Statutes Cumulative Supplement, 2022, is amended to read:

32-716 (1) Any person, group, or association desiring to form a new political party shall present to the Secretary of State petitions containing signatures totaling not less than one percent of the total votes cast for Governor at the most recent general election for such office. The signatures of registered voters on such petitions shall be so distributed as to include registered voters totaling at least one percent of the votes cast for Governor in the most recent gubernatorial election in each of the three congressional districts in this state. Petition signers and petition circulators shall conform to the requirements of sections 32-629 and 32-630. The petitions shall be filed with the Secretary of State no later than January 15 before any statewide primary election for the new political party to be entitled to have ballot position in the primary election of that year. If the new political party desires to be established and have ballot position for the general election and not in the primary election of that year, the petitions shall be filed with the Secretary of State on or before July 15 of that year. Prior to the circulation of petitions to form a new political party, a sample copy of the petitions shall be filed with the Secretary of State by the person, group, or association seeking to establish the new party. The sample petition shall be accompanied by the name and address of the person or the names and addresses of the members of the group or association sponsoring the petition to form a new political party. Sponsors of the petition may be added or removed with the



unanimous written consent of the original sponsor or sponsors at any time prior to or on the day the petition is filed for verification with the Secretary of State. The sponsor or sponsors of the petition shall file, as one instrument, all petition papers comprising a new political party petition for signature verification with the Secretary of State. All signed petitions in circulation but not filed with the Secretary of State shall become invalid after July 15 in the year of the statewide general election.

(2) The petition shall conform to the requirements of section 32-628. The Secretary of State shall prescribe the form of the petition for the formation of a new political party. The petition shall be addressed to and filed with the Secretary of State and shall state its purpose and the name of the party to be formed. Such name shall not be or include the name of any political party then in existence or any word forming any part of the name of any political party then in existence, and in order to avoid confusion regarding party affiliation of a candidate or registered voter, the name of the party to be formed shall not include the word "independent" or "nonpartisan". The petition shall contain a statement substantially as follows:

We, the undersigned registered voters of the State of Nebraska and the county of ....., being severally qualified to sign this petition, respectfully request that the above-named new political party be formed in the State of Nebraska, and each for himself or herself says: I have personally signed this petition on the date opposite my name; I am a registered voter of the State of Nebraska and county of ..... and am qualified to sign this petition; and my date of birth and city, village, or post office address and my street and number or voting precinct are correctly written after my name.

Sec. 38. Section 32-802, Revised Statutes Cumulative Supplement, 2022, is amended to read:

32-802 The notice of election for any election shall state the date on which the election is to be held and the hours the polls will be open and list all offices, candidates, and issues that will appear on the ballots. The notice of election shall be printed in English and in any other language required pursuant to the Voting Rights Act Language Assistance Amendments of 1992. In the case of a primary election, the notice of election shall list all offices and candidates that are being forwarded to the general election. The notice of election shall only state that amendments or referendums will be voted upon and that the Secretary of State will publish a true copy of the title and text of any amendments or referendums once each week for three consecutive weeks preceding the election. Such notice of election shall appear in at least one newspaper designated by the election commissioner, county clerk, city council, or village board no later than forty-two days prior to the election. The election commissioner or county clerk shall, not later than forty-two days prior to the election, (1) post in his or her office the same notice of election published in the newspaper and (2) provide a copy of the notice to the political subdivisions appearing on the notice of election ballot. The election commissioner or county clerk shall correct the ballot to reflect any corrections received within five days after mailing the notice as provided in section 32-819. The notice of election shall be posted in lieu of sample ballots until such time as sample ballots are printed. If joint elections are held in conjunction with the statewide primary or general election by a county, city, or village, only one notice of election need be published and signed by the election commissioner or county clerk.

Sec. 39. Section 32-808.01, Revised Statutes Cumulative Supplement, 2022, is amended to read:

32-808.01 (1) Except as provided in subsection (2) of this section, any person or organization distributing an application by mail for a ballot for early voting shall:

(a) Use use the form prescribed by the Secretary of State. The form shall contain on the top of the first page in bold type (i) ~~(a)~~ the identity of the person or organization distributing the form and (ii) ~~(b)~~ the following statements:

You may submit this form if you wish to request a ballot for early voting. You do not need to complete this form if you have already requested a ballot for early voting for this election; and -

(b) If enclosing a return envelope, have either a blank address or the address of the election commissioner or county clerk printed on the envelope.

(2) This section shall not apply to an application for a ballot for early voting distributed by the Secretary of State, an election commissioner, or a county clerk.

Sec. 40. Section 32-903, Revised Statutes Cumulative Supplement, 2022, is amended to read:

32-903 (1) The election commissioner or county clerk shall create precincts composed of compact and contiguous territory within the boundary lines of legislative districts. The precincts shall contain not less than seventy-five nor more than one thousand seven hundred fifty registered voters based on the number of voters voting at the last statewide general election, except that a precinct may contain less than seventy-five registered voters if in the judgment of the election commissioner or county clerk it is necessary to avoid creating an undue hardship on the registered voters in the precinct. The election commissioner or county clerk shall create precincts based on the number of votes cast at the immediately preceding presidential election or the current list of registered voters for the precinct. The election commissioner or county clerk shall revise and rearrange the precincts and increase or

decrease them at such times as may be necessary to make the precincts contain as nearly as practicable not less than seventy-five nor more than one thousand seven hundred fifty registered voters voting at the last statewide general election. The election commissioner or county clerk shall, when necessary and possible, readjust precinct boundaries to coincide with the boundaries of cities, villages, and school districts which are divided into districts or wards for election purposes. The election commissioner or county clerk shall not make any precinct changes in precinct boundaries or divide precincts into two or more parts between the statewide primary and general elections unless he or she has been authorized to do so by the Secretary of State. If changes are authorized, the election commissioner or county clerk shall notify each state and local candidate affected by the change.

(2) The election commissioner or county clerk may alter and divide the existing precincts, except that when any city of the first class by ordinance divides any ward of such city into two or more voting districts or polling places, the election commissioner or county clerk shall establish precincts or polling places in conformity with such ordinance. No such alteration or division shall take place between the statewide primary and general elections except as provided in subsection (1) of this section.

~~(3) Following the release of the 2020 Census of Population data by the United States Department of Commerce, Bureau of the Census, as required by Public Law 94-171, the election commissioner or county clerk shall create, revise, or rearrange precincts in compliance with subsections (1) and (2) of this section and deliver maps of the updated precinct boundaries to all applicable political subdivisions within the jurisdiction of the election commissioner or county clerk by November 1, 2021.~~

~~(4) The Secretary of State may grant additional days for election commissioners and county clerks to meet the requirements of subsection (3) of this section for an extraordinary circumstance.~~

Sec. 41. Section 32-912.01, Revised Statutes Supplement, 2023, is amended to read:

32-912.01 (1) A voter with a religious objection to being photographed may inform the election commissioner or county clerk of the county in which the voter resides of such objection in writing prior to an election. If the election commissioner or county clerk receives written notice not later than 6 p.m. on the second Friday preceding the election, the election commissioner or county clerk shall place a notation on the precinct list of registered voters for the polling place that the voter has a religious objection to being photographed.

(2) For all subsequent elections, the election commissioner or county clerk shall place a notation on the precinct list of registered voters for the polling place that the voter has a religious objection to being photographed if such voter:

(a) Completes a reasonable impediment certification pursuant to section 32-912.02;

(b) Has a ballot accepted pursuant to section 32-1002.01; and

(c) Is otherwise eligible to vote.

(3) The election commissioner or county clerk shall remove a notation if the election commissioner or county clerk receives written notice from the voter that the voter no longer has a religious objection to being photographed.

Sec. 42. Section 32-912.02, Revised Statutes Supplement, 2023, is amended to read:

32-912.02 (1) The Secretary of State shall provide a standard certification for a voter with a reasonable impediment preventing the voter from obtaining presenting valid photographic identification. A voter with a reasonable impediment shall check to identify the applicable reasonable impediment box on the certification, which shall be limited to only the following reasons. The certification shall include the following as separate boxes that a voter may check to identify the applicable reasonable impediment:

(a) Inability to obtain valid photographic identification due to:

(i) Disability or illness that prevents the voter from obtaining valid photographic identification; or

(ii) Lack of a birth certificate or other required documents and an inability to obtain a birth certificate or other required documents without significant difficulty or expense; or

(b) Religious objection to being photographed.

(2) The Secretary of State shall provide the form of the certification to the election commissioners and county clerks. A voter who has a reasonable impediment shall execute the certification under penalty of election falsification. The election commissioner or county clerk shall verify:

(a) The signature on the certification with the signature appearing on the voter registration record; and -

(b) That the voter does not have a current, unexpired driver's license or state identification card issued by the State of Nebraska.

(3) A voter who casts a ballot by mail shall include the certification with the application, except that a voter who casts a ballot pursuant to section 32-953 shall include the certification within the ballot envelope.

Sec. 43. Section 32-915.03, Revised Statutes Supplement, 2023, is amended to read:

32-915.03 (1) A registered voter shall fill out a provisional voter identification verification envelope if:

(a)(i) The voter fails to produce valid photographic identification at the polling place; and

(ii) The voter's name appears on the precinct list of registered voters for the polling place or the voter has voted a provisional ballot as provided in section 32-915;

(b) The voter fails to produce valid photographic identification at the time of voting early in person at the office of the election commissioner or county clerk; or

(c) The voter has a reasonable impediment preventing the voter from ~~obtaining~~ ~~presenting~~ valid photographic identification or the voter's name appears on the precinct list of registered voters for the polling place with a notation that the voter has a religious objection to being photographed.

(2) Each voter casting a ballot using a provisional voter identification verification envelope shall enclose the ballot in an envelope marked provisional voter identification verification and shall, by signing the certification on the front of the envelope or a separate form attached to the envelope, certify to the following facts:

(a) My name is .....

(b) I am registered to vote at .....

(c) I did not ~~present~~ ~~provide~~ valid photographic identification as required by law or I have a reasonable impediment preventing me from ~~obtaining~~ ~~presenting~~ valid photographic identification;

(d) I am eligible to vote in this election and have not voted and will not vote in this election except by this ballot; and

(e) I acknowledge that my ballot will not be counted if:

(i) I do not ~~present~~ ~~provide~~ valid photographic identification to my county election office on or before the Tuesday after the election; or

(ii) I have a reasonable impediment that prevents me from ~~obtaining~~ ~~presenting~~ valid photographic identification and:

(A) I do not complete a reasonable impediment certification; or

(B) My county election official cannot verify the signature on my reasonable impediment certification.

(3) The voter shall sign the certification under penalty of election falsification. The following statements shall be on the front of the envelope or on the attached form: By signing the front of this envelope or the attached form you are certifying to the information contained on this envelope or the attached form under penalty of election falsification. Election falsification is a Class IV felony and may be punished by up to two years imprisonment and twelve months post-release supervision, a fine of up to ten thousand dollars, or both.

Sec. 44. Section 32-941, Revised Statutes Supplement, 2023, is amended to read:

32-941 (1) Any registered voter permitted to vote early pursuant to section 32-938 may, not more than one hundred twenty days before any election and not later than the close of business on the second Friday preceding the election, request a ballot for the election to be mailed to a specific address. A registered voter shall request a ballot in writing to the election commissioner or county clerk in the county where the registered voter has established his or her home, shall indicate his or her residence address, the address to which the ballot is to be mailed if different, and his or her telephone number if available, and shall include:

(a) The identification number of the voter's driver's license or state identification card issued by the State of Nebraska;

(b) A photocopy of any other valid photographic identification issued to or related to the voter; or

(c) The voter's reasonable impediment certification.

(2) If the identification number of the voter's driver's license or state identification card issued by the State of Nebraska is provided, the election commissioner or county clerk shall verify the driver's license or state identification card data with the information provided by the Department of Motor Vehicles pursuant to section 32-308.

(3) (2) If such identification or certification is not provided or cannot be verified, the election commissioner or county clerk shall contact the voter and inform the voter that the ballot will not be issued until the voter provides the identification or certification required under this section.

(4) (3) The registered voter may use the form published by the election commissioner or county clerk pursuant to section 32-808. The registered voter shall sign the request. A registered voter may use a facsimile machine or electronic mail for the submission of a request for a ballot.

(5) (4) The election commissioner or county clerk shall include a registration application with the ballots if the person is not registered. Registration applications shall not be mailed after the third Friday preceding the election. If the person is not registered to vote, the registration application shall be returned not later than the closing of the polls on the day of the election. No ballot issued under this section shall be counted unless such registration application is properly completed and processed.

(6) (5) Subdivisions (1)(a) through (c) of this section do not apply to any voter who casts a ballot pursuant to section 32-939.02 or 32-939.03.

Sec. 45. Section 32-942, Revised Statutes Supplement, 2023, is amended to read:

32-942 (1)(a) A registered voter of this state who anticipates being absent from the county of his or her residence on the day of any election may appear in person before the election commissioner or county clerk not more than thirty days prior to the day of election for a statewide primary or general election, and not more than fifteen days prior to the election for all other

elections, present valid photographic identification, and obtain his or her ballot unless otherwise entitled to vote in the office under section 32-915.03. The registered voter shall vote the ballot in the office of the election commissioner or county clerk or shall return the ballot to the office not later than the closing of the polls on the day of the election.

(b) A registered voter who is present in the county on the day of the election and who chooses to vote on the day of the election shall vote at the polling place assigned to the precinct in which he or she resides unless he or she is returning a ballot for early voting or voting pursuant to section 32-943.

(2) If a person registers to vote and requests a ballot at the same time under this section, he or she shall, in addition to the requirements of subsection (1) of this section, (a)(i) present one of the address confirmation documents as prescribed in subdivision (1)(a) of section 32-318.01, (ii) present proof that he or she is a member of the armed forces of the United States who by reason of active duty has been absent from his or her place of residence where the member is otherwise eligible to vote, is a member of the United States Merchant Marine who by reason of service has been away from his or her place of residence where the member is otherwise eligible to vote, is a spouse or dependent of a member of the armed forces of the United States or United States Merchant Marine who has been absent from his or her place of residence due to the service of that member, or resides outside the United States and but for such residence would be qualified to vote in the state if the state was the last place in which the person was domiciled before leaving the United States, or (iii) state that he or she is elderly or handicapped and has requested to vote by alternative means other than by casting a ballot at his or her polling place on election day or (b) vote a ballot which is placed in an envelope with the voter's name and address and other necessary identifying information and kept securely for counting as provided in this subsection. This subsection does not extend the deadline for voter registration specified in section 32-302. A ballot cast pursuant to subdivision (b) of this subsection shall be rejected and shall not be counted if the acknowledgment of registration sent to the registrant pursuant to section 32-322 is returned as undeliverable for a reason other than clerical error within ten days after it is mailed, otherwise after such ten-day period, the ballot shall be counted.

(3) This section applies only to a person who appears in person to obtain a ballot as provided in subsection (1) of this section and does not apply to a ballot mailed to a voter pursuant to section 32-945.

Sec. 46. If a person becomes a naturalized citizen of the United States after the voter registration deadline for any election, such person may register to vote after the voter registration deadline by completing the necessary voter registration application in the office of the election commissioner or county clerk of the county of such person's residence before one hour prior to the closing of the polls on election day. After completing the voter registration application and the citizenship attestation provided by section 32-928, such person shall then be allowed to vote in the office of the election commissioner or county clerk.

Sec. 47. Section 32-947, Revised Statutes Cumulative Supplement, 2022, is amended to read:

32-947 (1) Upon receipt of an application or other request for a ballot to vote early, the election commissioner or county clerk shall determine whether the applicant is a registered voter and is entitled to vote as requested. If the election commissioner or county clerk determines that the applicant is a registered voter entitled to vote early and the application was received not later than the close of business on the second Friday preceding the election, the election commissioner or county clerk shall deliver a ballot to the applicant in person or by nonforwardable first-class mail, postage paid. The election commissioner or county clerk or any employee of the election commissioner or county clerk shall write or cause to be affixed his or her customary signature or initials on the ballot.

(2) An unsealed identification envelope shall be delivered with the ballot, and upon the back of the envelope shall be printed a form substantially as follows:

VOTER'S OATH

I, the undersigned voter, declare that the enclosed ballot or ballots contained no voting marks of any kind when I received them, and I caused the ballot or ballots to be marked, enclosed in the identification envelope, and sealed in such envelope.

To the best of my knowledge and belief, I declare under penalty of election falsification that:

(a) I, ....., am a registered voter in ..... County;

(b) I reside in the State of Nebraska at .....

(c) I have voted the enclosed ballot and am returning it in compliance with Nebraska law; and

(d) I have not voted and will not vote in this election except by this ballot.

ANY PERSON WHO SIGNS THIS FORM KNOWING THAT ANY OF THE INFORMATION IN THE FORM IS FALSE SHALL BE GUILTY OF ELECTION FALSIFICATION, A CLASS IV FELONY UNDER SECTION 32-1502 OF THE STATUTES OF NEBRASKA. THE PENALTY FOR ELECTION FALSIFICATION IS IMPRISONMENT FOR UP TO TWO YEARS AND TWELVE MONTHS POST-RELEASE SUPERVISION OR A FINE NOT TO EXCEED TEN THOUSAND DOLLARS, OR BOTH.

I also understand that failure to sign below will invalidate my ballot.

Signature .....

(3) If the ballot and identification envelope will be returned by mail or by someone other than the voter, the election commissioner or county clerk shall include with the ballot an identification envelope upon the face of which shall be printed the official title and post office address of the election commissioner or county clerk.

(4) The election commissioner or county clerk shall also enclose with the ballot materials:

(a) A registration application, if the election commissioner or county clerk has determined that the applicant is not a registered voter pursuant to section 32-945, with instructions that failure to return the completed and signed application indicating the residence address as it appears on the voter's request for a ballot to the election commissioner or county clerk by the close of the polls on election day will result in the ballot not being counted;

(b) A registration application and the oath pursuant to section 32-946, if the voter is without a residence address, with instructions that the residence address of the voter shall be deemed that of the office of the election commissioner or county clerk of the county of the voter's prior residence and that failure to return the completed and signed application and oath to the election commissioner or county clerk by the close of the polls on election day will result in the ballot not being counted; or

(c) Written instructions directing the voter to submit a copy of an identification document pursuant to section 32-318.01 if the voter is required to present identification under such section and advising the voter that failure to submit identification to the election commissioner or county clerk by the close of the polls on election day will result in the ballot not being counted.

(5) The election commissioner or county clerk may enclose with the ballot materials a separate return envelope for the voter's use in returning his or her identification envelope containing the voted ballot, registration application, and other materials that may be required.

Sec. 48. Section 32-950.01, Revised Statutes Cumulative Supplement, 2022, is amended to read:

32-950.01 (1) If an election commissioner or county clerk maintains a secure ballot drop-box for voters to deposit completed ballots, the election commissioner or county clerk shall ensure that the secure ballot drop-box:

(a) Is securely fastened to the ground or a concrete slab connected to the ground;

(b) Is secured by a lock that can only be opened by the election commissioner or county clerk or by an election official designated by the election commissioner or county clerk; and

(c) Complies with the federal Americans with Disabilities Act of 1990 and is accessible as determined by the election commissioner or county clerk.

(2) The election commissioner or county clerk shall inform the Secretary of State of each secure ballot drop-box's location no later than forty-two days prior to any statewide primary or general election.

(3) Except for a secure ballot drop-box for an election conducted under section 32-960, the ~~The~~ election commissioner or county clerk or an election official designated by the election commissioner or county clerk shall open each secure ballot drop-box no later than the sixth Friday prior to any statewide primary or general election and no later than the fourth Friday prior to any special election. For any statewide primary or general election, each secure ballot drop-box shall remain accessible to voters until the deadline for the receipt of ballots as provided in section 32-908. For any special election, at least one secure ballot drop-box shall remain accessible to voters until the deadline for the receipt of ballots as provided in section 32-954.

(4) After a secure ballot drop-box is made available for depositing ballots, the election commission or county clerk shall ensure that ballots deposited in such secure ballot drop-box are collected and returned to the office of the election commissioner or county clerk at least once during each business day.

Sec. 49. Section 32-1002.01, Revised Statutes Supplement, 2023, is amended to read:

32-1002.01 (1) As the ballots are removed from the ballot box pursuant to sections 32-1012 to 32-1018, the receiving board shall separate the provisional voter identification verification envelopes from the rest of the ballots and deliver them to the election commissioner or county clerk.

(2) Upon receipt of a provisional voter identification verification envelope, the election commissioner or county clerk shall verify that the certificate on the front of the envelope or the form attached to the envelope is in proper form and that the certification has been signed by the voter.

(3) The election commissioner or county clerk shall also verify that such person has not voted anywhere else in the county or been issued a ballot for early voting.

(4) A ballot cast by a voter pursuant to section 32-915.03 shall be counted if the voter completed and signed the certification on the provisional voter identification verification envelope and the voter:

(a) Presented valid photographic identification to the election commissioner or county clerk on or before the Tuesday after the election; or

(b) ~~presenting~~ Has a reasonable impediment preventing the voter from obtaining valid photographic identification, the voter completes a reasonable impediment certification, and the election commissioner or county clerk

verifies:

(i) ~~The the~~ signature on the reasonable impediment certification with the signature appearing on the voter registration record; and -

(ii) That the voter does not have a current, unexpired driver's license or state identification card issued by the State of Nebraska.

(5) A ballot cast by a voter pursuant to section 32-915.03 shall not be counted if:

(a) The voter failed to complete and sign the certification on the provisional voter identification verification envelope pursuant to subsection (2) of section 32-915.03;

(b) The voter failed to present valid photographic identification to the election commissioner or county clerk on or before the Tuesday after the election; or

(c) The voter has a reasonable impediment preventing the voter from obtaining ~~presenting~~ valid photographic identification and:

(i) The voter did not complete a reasonable impediment certification; or

(ii) The election commissioner or county clerk was not able to verify the signature on the reasonable impediment certification with the signature appearing on the voter registration record.

(6) Upon determining that the voter's ballot is eligible to be counted, the election commissioner or county clerk shall remove the ballot from the provisional voter identification verification envelope without exposing the marks on the ballot and shall place the ballot with the ballots to be counted by the county canvassing board.

(7) The election commissioner or county clerk shall notify the system administrator of the free access system created pursuant to section 32-202 as to whether the ballot was counted and, if not, the reason the ballot was not counted.

(8) The verification shall be completed within seven business days after the election.

Sec. 50. Section 32-1027, Revised Statutes Supplement, 2023, is amended to read:

32-1027 (1) The election commissioner or county clerk shall appoint two or more registered voters to the counting board for early voting. One registered voter shall be appointed from the political party casting the highest number of votes for Governor or for President of the United States in the county in the immediately preceding general election, and one registered voter shall be appointed from the political party casting the next highest vote for such office. The election commissioner or county clerk may appoint additional registered voters to serve on the counting board and may appoint registered voters to serve in case of a vacancy among any of the members of the counting board. Such appointees shall be balanced between the political parties and may include registered voters unaffiliated with any political party. The counting board may begin carrying out its duties not earlier than the second Friday before the election and shall meet as directed by the election commissioner or county clerk.

(2) The counting board shall place all identification envelopes in order and shall review each returned identification envelope pursuant to verification procedures prescribed in subsections (3) and (4) of this section.

(3) In its review, the counting board shall determine if:

(a) The voter has provided his or her name, residence address, and signature on the voter identification envelope;

(b) The ballot has been received from the voter who requested it and the residence address is the same address provided on the voter's request for a ballot for early voting, by comparing the information provided on the identification envelope with information recorded in the record of early voters or the voter's request;

(c) A completed and signed registration application has been received from the voter by the deadline in section 32-302, 32-321, or 32-325 or by the close of the polls pursuant to section 32-945;

(d) An identification document has been received from the voter not later than the close of the polls on election day if required pursuant to section 32-318.01; and

(e) A completed and signed registration application and oath has been received from the voter by the close of the polls on election day if required pursuant to section 32-946.

(4) On the basis of its review, the counting board shall determine whether the ballot shall be counted or rejected as follows:

(a) A ballot received from a voter who was properly registered on or prior to the deadline for registration pursuant to section 32-302 or 32-321 shall be accepted for counting without further review if:

(i) The name on the identification envelope appears to be that of a registered voter to whom a ballot for early voting has been issued or sent;

(ii) The residence address provided on the identification envelope is the same residence address at which the voter is registered or is in the same precinct and subdivision of a precinct, if any; and

(iii) The identification envelope has been signed by the voter;

(b) In the case of a ballot received from a voter who was not properly registered prior to the deadline for registration pursuant to section 32-302 or 32-321, the ballot shall be accepted for counting if:

(i) A valid registration application completed and signed by the voter has been received by the election commissioner or county clerk prior to the close of the polls on election day;

(ii) The name on the identification envelope appears to be that of the person who requested the ballot;

(iii) The residence address provided on the identification envelope and on the registration application is the same as the residence address as provided on the voter's request for a ballot for early voting; and

(iv) The identification envelope has been signed by the voter;

(c) In the case of a ballot received from a voter without a residence address who requested a ballot pursuant to section 32-946, the ballot shall be accepted for counting if:

(i) The name on the identification envelope appears to be that of a registered voter to whom a ballot has been sent;

(ii) A valid registration application completed and signed by the voter, for whom the residence address is deemed to be the address of the office of the election commissioner or county clerk pursuant to section 32-946, has been received by the election commissioner or county clerk prior to the close of the polls on election day;

(iii) The oath required pursuant to section 32-946 has been completed and signed by the voter and received by the election commissioner or county clerk by the close of the polls on election day; and

(iv) The identification envelope has been signed by the voter;

(d) In the case of a ballot received from a registered voter required to present identification before voting pursuant to section 32-318.01, the ballot shall be accepted for counting if:

(i) The name on the identification envelope appears to be that of a registered voter to whom a ballot has been issued or sent;

(ii) The residence address provided on the identification envelope is the same address at which the voter is registered or is in the same precinct and subdivision of a precinct, if any;

(iii) A copy of an identification document authorized in section 32-318.01 has been received by the election commissioner or county clerk prior to the close of the polls on election day; and

(iv) The identification envelope has been signed by the voter; and

(e) In the case of a ballot received from a registered voter who filled out a reasonable impediment certification pursuant to section 32-912.02, the ballot shall be accepted for counting if:

(i) The signature on the certification matches the signature on file with the election commissioner or county clerk;

(ii) The election commissioner or county clerk verifies that the voter does not have a current, unexpired driver's license or state identification card issued by the State of Nebraska;

(iii) ~~(ii)~~ The name on the identification envelope appears to be that of a registered voter to whom a ballot has been issued or sent;

(iv) ~~(iii)~~ The residence address provided on the identification envelope is the same address at which the voter is registered or is in the same precinct and subdivision of a precinct, if any; and

(v) ~~(iv)~~ The identification envelope has been signed by the voter.

(5) In opening the identification envelope or the return envelope to determine if registration applications, oaths, or identification documents have been enclosed by the voters from whom they are required, the counting board shall make a good faith effort to ensure that the ballot remains folded and that the secrecy of the vote is preserved.

(6) The counting board may, on the second Friday before the election, open all identification envelopes which are approved, and if the signature of the election commissioner or county clerk or his or her employee is on the ballot, the ballot shall be unfolded, flattened for purposes of using the optical scanner, and placed in a sealed container for counting as directed by the election commissioner or county clerk. At the discretion of the election commissioner or county clerk, the counting board may begin counting early ballots no earlier than twenty-four hours prior to the opening of the polls on the day of the election.

(7) If an identification envelope is rejected, the counting board shall not open the identification envelope. The counting board shall write Rejected on the identification envelope and the reason for the rejection. If the ballot is rejected after opening the identification envelope because of the absence of the official signature on the ballot, the ballot shall be reinserted in the identification envelope which shall be resealed and marked Rejected, no official signature. The counting board shall place the rejected identification envelopes and ballots in a container labeled Rejected Ballots and seal it.

(8) As soon as all ballots have been placed in the sealed container and rejected identification envelopes or ballots have been sealed in the Rejected Ballots container, the counting board shall count the ballots the same as all other ballots and an unofficial count shall be reported to the election commissioner or county clerk. No results shall be released prior to the closing of the polls on election day.

Sec. 51. Section 32-1203, Revised Statutes Cumulative Supplement, 2022, is amended to read:

32-1203 (1) Each city, village, township, school district, public power district, sanitary and improvement district, metropolitan utilities district, fire protection district, natural resources district, regional metropolitan transit authority, community college area, learning community coordinating council, educational service unit, hospital district, reclamation district, library board, and airport authority shall pay for the costs of nominating and electing its officers as provided in subsection (2), (3), or (4) of this

section. If a special issue is placed on the ballot at the time of the statewide primary or general election by any political subdivision, the political subdivision shall pay for the costs of the election as provided in subsection (2), (3), or (4) of this section. ~~The districts listed in this subsection shall furnish to the Secretary of State and election commissioner or county clerk any maps and additional information which the election commissioner or county clerk may require in the proper performance of their duties in the conduct of elections and certification of results.~~

(2) The charge for each primary and general election shall be determined by (a) ascertaining the total cost of all chargeable costs as described in section 32-1202, (b) dividing the total cost by the number of precincts participating in the election to fix the cost per precinct, (c) prorating the cost per precinct by the inked ballot inch in each precinct for each political subdivision, and (d) totaling the cost for each precinct for each political subdivision, except that the minimum charge for each primary and general election for each political subdivision shall be one hundred dollars.

(3) In lieu of the charge determined pursuant to subsection (2) of this section, the election commissioner or county clerk may charge public power districts the fee for election costs set by section 70-610.

(4) In lieu of the charge determined pursuant to subsection (2) of this section, the election commissioner or county clerk may bill school districts directly for the costs of an election held under section 10-703.01.

Sec. 52. Section 32-1205, Reissue Revised Statutes of Nebraska, is amended to read:

32-1205 A political subdivision in which a recall petition is issued, a recall election is held, an official is recalled, or a vacancy needs to be filled as the result of a recall petition shall pay the costs of the recall procedure and any special election held as a result of a recall election. If a recall election is canceled pursuant to section 32-1306, the political subdivision shall be responsible for costs incurred related to the canceled election. The costs shall include all chargeable costs as provided in section 32-1202 associated with preparing for and conducting a recall or special election.

Sec. 53. Section 32-1301, Reissue Revised Statutes of Nebraska, is amended to read:

32-1301 For purposes of sections 32-1301 to 32-1309, filing officer means ~~(1) clerk shall mean~~ the election commissioner or county clerk for recall of elected officers of cities, villages, counties, irrigation districts, school districts, and hospital districts and ~~(2) the Secretary of State for recall of elected officers of natural resources districts, public power districts, school districts,~~ community college areas, educational service units, ~~hospital districts,~~ and metropolitan utilities districts.

Sec. 54. Section 32-1303, Revised Statutes Cumulative Supplement, 2022, is amended to read:

32-1303 (1) A petition demanding that the question of removing an elected official or member of a governing body listed in section 32-1302 be submitted to the registered voters shall be signed by registered voters equal in number to at least thirty-five percent of the total vote cast for that office in the last general election, except that (a) for an office for which more than one candidate is chosen, the petition shall be signed by registered voters equal in number to at least thirty-five percent of the number of votes cast for the person receiving the most votes for such office in the last general election and (b) for a member of a governing body of a village, the petition shall be signed by registered voters of the village equal in number to at least forty-five percent of the total vote cast for the person receiving the most votes for that office in the last general election. The signatures shall be affixed to petition papers and shall be considered part of the petition.

(2) Petition circulators shall conform to the requirements of sections 32-629 and 32-630.

(3) The petition papers shall be procured from the filing officer clerk. Prior to the issuance of such petition papers, a recall petition filing form shall be signed and filed with the filing officer clerk by at least one registered voter. Such voter or voters shall be deemed to be the principal circulator or circulators of the recall petition. The filing form shall state the name and office of the official sought to be removed, shall include in concise language of sixty words or less the reason or reasons for which recall is sought, and shall request that the filing officer clerk issue initial petition papers to the principal circulator for circulation.

(4) After receiving the filing form, the ~~The~~ filing officer clerk shall notify the official whose removal is sought to be removed by any method specified in section 25-505.01 or, if notification cannot be made with reasonable diligence by any of the methods specified in section 25-505.01, by leaving a copy of the filing form at the official's usual place of residence and mailing a copy by first-class mail to the official's last-known address. If the official chooses, he or she may submit a defense statement in concise language of sixty words or less for inclusion on the petition. Any such defense statement shall be submitted to the filing officer clerk within twenty days after the official receives the copy of the filing form. The filing officer clerk shall prepare the petition papers within five business days after receipt of the defense statement. The principal circulator or circulators shall gather the petition papers within twenty days after being notified by the filing officer clerk that the petition papers are available. The filing officer clerk shall notify the principal circulator or circulators that the necessary



signatures must be gathered within thirty days from the date of issuing the petitions.

(5) (4) The filing officer ~~clerk~~, upon issuing the initial petition papers or any subsequent petition papers, shall enter in a record, to be kept in his or her office, the name of the principal circulator or circulators to whom the papers were issued, the date of issuance, and the number of papers issued. The filing officer ~~clerk~~ shall certify on the papers the name of the principal circulator or circulators to whom the papers were issued and the date they were issued. No petition paper shall be accepted as part of the petition unless it bears such certificate. The principal circulator or circulators who check out petitions from the filing officer ~~clerk~~ may distribute such petitions to persons who may act as circulators of such petitions.

(6) (5) Petition signers shall conform to the requirements of sections 32-629 and 32-630. Each signer of a recall petition shall be a registered voter and qualified by his or her place of residence to vote for the office in question.

Sec. 55. Section 32-1304, Reissue Revised Statutes of Nebraska, is amended to read:

32-1304 (1) The Secretary of State shall design the uniform petition papers to be distributed by all filing officers ~~clerks~~ and shall keep a sufficient number of such blank petition papers on file for distribution to any filing officer ~~clerk~~ requesting recall petitions. The petition papers shall as nearly as possible conform to the requirements of section 32-628.

(2) In addition to the requirements specified in section 32-628, for the purpose of preventing fraud, deception, and misrepresentation, every sheet of each petition paper presented to a registered voter for his or her signature shall have upon it, above the lines for signatures, (a) a statement that the signatories must be registered voters qualified by residence to vote for the office in question and support the holding of a recall election and (b) in letters not smaller than sixteen-point type in red print (i) the name and office of the individual sought to be recalled, (ii) the reason or reasons for which recall is sought, (iii) the defense statement, if any, submitted by the official, and (iv) the name of the principal circulator or circulators of the recall petition. The decision of a county attorney to prosecute or not to prosecute any individual shall not be stated on a petition as a reason for recall.

(3) Every sheet of each petition paper presented to a registered voter for his or her signature shall have upon it, below the lines for signatures, an affidavit as required in subsection (3) of section 32-628 which also includes language substantially as follows: "and that the affiant stated to each signer, before the signer affixed his or her signature to the petition, the following: (a) The name and office of the individual sought to be recalled, (b) the reason or reasons for which recall is sought as printed on the petition, (c) the defense statement, if any, submitted by the official as printed on the petition, and (d) the name of the principal circulator or circulators of the recall petition".

(4) Each petition paper shall contain a statement entitled Instructions to Petition Circulators prepared by the Secretary of State to assist circulators in understanding the provisions governing the petition process established by sections 32-1301 to 32-1309. The instructions shall include the following statements:

(a) No one circulating this petition paper in an attempt to gather signatures shall sign the circulator's affidavit unless each person who signed the petition paper did so in the presence of the circulator.

(b) No one circulating this petition paper in an attempt to gather signatures shall allow a person to sign the petition until the circulator has stated to the person (i) the object of the petition as printed on the petition, (ii) the name and office of the individual sought to be recalled, (iii) the reason or reasons for which recall is sought as printed on the petition, (iv) the defense statement, if any, submitted by the official as printed on the petition, and (v) the name of the principal circulator or circulators of the recall petition.

Sec. 56. Section 32-1305, Revised Statutes Cumulative Supplement, 2022, is amended to read:

32-1305 (1) The principal circulator or circulators shall file, as one instrument, all petition papers comprising a recall petition for signature verification with the filing officer ~~clerk~~ within thirty days after the filing officer ~~clerk~~ issues the initial petition papers to the principal circulator or circulators as provided in section 32-1303.

(2) If the filing officer ~~clerk~~ is the subject of a recall petition, the signature verification process shall be conducted by two election commissioners or county clerks appointed by the Secretary of State which shall not include the filing officer. Mileage and expenses incurred by officials appointed pursuant to this subsection shall be reimbursed by the political subdivision involved in the recall.

(3) Within fifteen business days after the filing of the petition, the filing officer ~~clerk~~ shall ascertain whether or not the petition is signed by the requisite number of registered voters. No new signatures may be added after the initial filing of the petition papers. Any person may remove his or her name from a petition as provided in section 32-632. No signatures may be removed unless the filing clerk receives an affidavit signed by the person requesting his or her signature be removed before the petitions are filed with the filing clerk for signature verification. If the petition is found to be

sufficient, the filing ~~officer~~ clerk shall attach to the petition a certificate showing the result of such examination. If the requisite number of signatures has not been gathered, the filing ~~officer~~ clerk shall file the petition in his or her office without prejudice to the filing of a new petition for the same purpose.

Sec. 57. Section 32-1306, Revised Statutes Cumulative Supplement, 2022, is amended to read:

32-1306 (1) If the recall petition is found to be sufficient, the filing ~~officer~~ clerk shall notify the official whose removal is sought and the governing body of the affected political subdivision that sufficient signatures have been gathered. Notification of the official sought to be removed ~~shall~~ may be by any method specified in section 25-505.01 or, if notification cannot be made with reasonable diligence by any of the methods specified in section 25-505.01, by leaving such notice at the official's usual place of residence and mailing a copy by first-class mail to the official's last-known address.

(2) The governing body of the political subdivision shall, within twenty-one days after receipt of the notification from the filing ~~officer~~ clerk pursuant to subsection (1) of this section, order an election. The date of the election shall be the first available date that complies with section 32-405 and that can be certified to the election commissioner or county clerk at least fifty days prior to the election, except that if any other election is to be held in that political subdivision within ninety days after such notification, the governing body of the political subdivision shall provide for the holding of the recall election on the same day.

(3) All resignations shall be tendered as provided in section 32-562. If the official whose removal is sought resigns before the recall election is held, the governing body may cancel the recall election if the governing body notifies the election commissioner or county clerk of the cancellation on or before the fourth Thursday prior to the election, otherwise the recall election shall be held as scheduled.

(4) If a filing ~~officer~~ clerk is subject to a recall election, the Secretary of State shall conduct the recall election.

Sec. 58. Section 32-1308, Reissue Revised Statutes of Nebraska, is amended to read:

32-1308 (1) If a majority of the votes cast at a recall election are against the removal of the official named on the ballot or the election results in a tie, the official shall continue in office for the remainder of his or her term but may be subject to further recall attempts as provided in section 32-1309.

(2) If a majority of the votes cast at a recall election are for the removal of the official named on the ballot, he or she shall, regardless of any technical defects in the recall petition, be deemed removed from office unless a recount is ordered. If the official is deemed removed, the removal shall result in a vacancy in the office which shall be filled as provided in this section and sections 32-567 to 32-570 and 32-574 and section 26 of this act.

(3) If the election results show a margin of votes equal to one percent or less between the removal or retention of the official in question, the Secretary of State, election commissioner, or county clerk shall order a recount of the votes cast unless the official named on the ballot files a written statement with the filing ~~officer~~ clerk that he or she does not want a recount.

(4) If there are vacancies in the offices of one-half or more of the members of any governing body at one time due to the recall of such members, a special election to fill such vacancies shall be conducted as expeditiously as possible by the Secretary of State, election commissioner, or county clerk. Candidates for the special election shall file a candidate filing form pursuant to section 26 of this act.

(5) No official who is removed at a recall election or who resigns after the initiation of the recall process shall be appointed to fill the vacancy resulting from his or her removal or the removal of any other member of the same governing body during the remainder of his or her term of office.

Sec. 59. Section 32-1405, Revised Statutes Cumulative Supplement, 2022, is amended to read:

32-1405 (1) Prior to obtaining any signatures on an initiative or referendum petition, a statement of the object of the petition and the text of the measure shall be filed with the Secretary of State together with a sworn statement containing the names and street addresses of every person, corporation, or association sponsoring the petition. Sponsors of the petition may be added or removed with the unanimous written consent of the original sponsor or sponsors at any time prior to or on the day the petition is filed for verification with the Secretary of State.

(2) Upon receipt of the filing, the Secretary of State shall transmit the text of the proposed measure to the Revisor of Statutes. The Revisor of Statutes shall review the proposed measure and suggest changes as to form and draftsmanship. The revisor shall complete the review within ten business days after receipt from the Secretary of State. The Secretary of State shall provide the results of the review and suggested changes to the sponsor but shall otherwise keep the proposed measure, the review, and the sworn statement confidential for five days after receipt of the review by the sponsor. The Secretary of State shall then maintain the proposed measure, the opinion, and the sworn statement as public information and as a part of the official record of the initiative. The sponsor may make any changes recommended by the Revisor of Statutes and shall submit final language to the Secretary of State. If the

final language is addressing a subject that is substantially different in form or substance from the initial filing or the changes recommended by the Revisor of Statutes, the Secretary of State shall reject it.

(3) The Secretary of State shall prepare the form of the petition from the final language filed by the sponsor and shall provide a copy of the form of the petition to the sponsor within five business days after receipt of the final language of the proposed measure. The sponsor shall print the petitions to be circulated from the forms provided. Prior to circulation, the sponsor shall file a sample copy of the petition to be circulated with the Secretary of State.

Sec. 60. Section 32-1407, Revised Statutes Cumulative Supplement, 2022, is amended to read:

32-1407 (1) Initiative petitions shall be filed in the office of the Secretary of State at least four months prior to the general election at which the proposal would be submitted to the voters.

(2) When a copy of the form of any initiative petition is filed with the Secretary of State prior to obtaining signatures, the issue presented by such petition shall be placed before the voters at the next general election occurring at least four months after the date that such copy is filed if the signed petitions are found to be valid and sufficient. All signed initiative petitions shall become invalid on the date of the first general election occurring at least four months after the date on which the copy of the form is filed with the Secretary of State.

(3) Petitions invoking a referendum shall be filed in the office of the Secretary of State within ninety days after the Legislature at which the act sought to be referred was passed has adjourned sine die or has adjourned for more than ninety days.

(4) At the time of filing the signed petitions, at least one sponsor shall sign an affidavit certifying that the petitions contain a sufficient number and distribution of signatures pursuant to Article III, section 2, of the Constitution of Nebraska to place the issue on the ballot if such number and distribution of signatures were found to be valid.

Sec. 61. Section 32-1524, Revised Statutes Cumulative Supplement, 2022, is amended to read:

~~32-1524 (1) For purposes of this section:~~

~~(a) Electioneering means the deliberate, visible display or audible or physical dissemination of information for the purpose of advocating for or against:~~

~~(i) Any candidate on the ballot for the election at which such display or dissemination is occurring;~~

~~(ii) Any elected officeholder of a state constitutional office or federal office at the time of the election at which such display or dissemination is occurring;~~

~~(iii) Any political party on the ballot for the election at which such display or dissemination is occurring; or~~

~~(iv) Any measure on the ballot for the election at which such display or dissemination is occurring; and~~

~~(b) Information includes:~~

~~(i) Such a candidate's name, likeness, logo, or symbol;~~

~~(ii) Such a ballot measure's number, title, subject matter, logo, or symbol;~~

~~(iii) A button, hat, pencil, pen, shirt, sign, or sticker containing information prohibited by this section;~~

~~(iv) Audible information prohibited by this section; and~~

~~(v) Literature or any writing or drawing referring to a candidate, officeholder, or ballot measure described in subdivision (a) of this subsection.~~

~~(1) (2) No judge or clerk of election or precinct or district inspector shall do any electioneering or disseminate information or materials advertising or advocating for or against any ballot measure while acting as an election official.~~

~~(2) (3) No person shall do any electioneering, disseminate information or materials advertising or advocating for or against any ballot measure, or circulate petitions within any polling place or any building designated for voters to cast ballots by the election commissioner or county clerk pursuant to the Election Act while the polling place or building is set up for voters to cast ballots or within two hundred feet of the entrances to any such polling place or building except as otherwise provided in subsection (4) (5) of this section.~~

~~(3) (4) No person shall do any electioneering or disseminate information or materials advertising or advocating for or against any ballot measure within two hundred feet of any secure ballot drop-box.~~

~~(4) (5) Subject to any local ordinance, a person may display yard signs on private real property within two hundred feet of a polling place or building designated for voters to cast ballots or a secure ballot drop-box if the property is not under common ownership with the property on which the polling place, ~~or building, or secure ballot drop-box~~ is located.~~

~~(5) (6) Any person violating this section shall be guilty of a Class V misdemeanor.~~

Sec. 62. Section 32-1525, Revised Statutes Cumulative Supplement, 2022, is amended to read:

32-1525 (1) No person shall conduct an exit poll, a public opinion poll, or any other interview with voters on election day seeking to determine voter

preference within twenty feet of the entrance of any polling place or, if inside the polling place or building, within one hundred feet of any voting booth.

(2)(a) No poll watcher shall interfere with any voter in the preparation or casting of such voter's ballot or prevent any election worker from performing the worker's duties.

(b) A poll watcher shall not provide assistance to a voter as described in section 32-918 unless selected by the voter to provide assistance as provided in section 32-918.

(c) A poll watcher shall not do any engage in electioneering or disseminate any information or materials advertising or advocating for or against any ballot measure as defined in section 32-1524 while engaged in observing at a polling place.

(d) A poll watcher shall maintain a distance of at least eight feet from the sign-in table, the sign-in register, the polling booths, the ballot box, and any ballots which have not been cast, except that if the polling place is not large enough for a distance of eight feet, the judge of election shall post a notice of the minimum distance the poll watcher must maintain from the sign-in table, the sign-in register, the polling booths, the ballot box, and any ballots which have not been cast. The posted notice shall be clearly visible to the voters and shall be posted prior to the opening of the polls on election day. The minimum distance shall not be determined to exclude a poll watcher from being in the polling place.

(3) Any person violating this section shall be guilty of a Class V misdemeanor.

Sec. 63. Section 32-1546, Reissue Revised Statutes of Nebraska, is amended to read:

32-1546 (1) Any person who is not, at the time of signing a petition, a registered voter and qualified to sign the petition except as provided for initiative and referendum petitions in section 32-1404 or who signs any name other than his or her own to any petition shall be guilty of a Class I misdemeanor.

(2) Any person who falsely swears to a circulator's affidavit on a petition, who accepts money or other things of value for signing a petition, or who offers money or other things of value in exchange for a signature upon any petition shall be guilty of a Class IV felony.

(3) Any person who falsifies a letter submitted pursuant to section 32-632 or subsection (3) of section 32-1305 or who signs any name other than his or her own to such letter shall be guilty of a Class I misdemeanor.

Sec. 64. Any person who knowingly and falsely swears to a sponsor's affidavit on a petition filed under section 32-1407 shall be guilty of a Class I misdemeanor.

Sec. 65. Section 49-1499.03, Reissue Revised Statutes of Nebraska, is amended to read:

49-1499.03 (1)(a) An official of a political subdivision designated in section 49-1493 who would be required to take any action or make any decision in the discharge of his or her official duties that may cause financial benefit or detriment to him or her, a member of his or her immediate family, or a business with which he or she is associated, which is distinguishable from the effects of such action on the public generally or a broad segment of the public, shall take the following actions as soon as he or she is aware of such potential conflict or should reasonably be aware of such potential conflict, whichever is sooner:

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

(ii) Deliver a copy of the statement to the commission and to the person in charge of keeping records for the political subdivision who shall enter the statement onto the public records of the political subdivision.

(b) The official shall take such action as the commission shall advise or prescribe to remove himself or herself from influence over the action or decision on the matter.

(c) This subsection does not prevent such a person from making or participating in the making of a governmental decision to the extent that the individual's participation is legally required for the action or decision to be made. A person acting pursuant to this subdivision shall report the occurrence to the commission.

(2)(a) Any public official person holding an elective office of any political subdivision a city or village not designated in section 49-1493 and any person holding an elective office of a school district who would be required to take any action or make any decision in the discharge of his or her official duties that may cause financial benefit or detriment to him or her, a member of his or her immediate family, or a business with which he or she is associated, which is distinguishable from the effects of such action on the public generally or a broad segment of the public, shall take the following actions as soon as he or she is aware of such potential conflict or should reasonably be aware of such potential conflict, whichever is sooner:

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

(ii) Deliver a copy of the statement to the person in charge of keeping records for the political subdivision city, village, or school district who shall enter the statement onto the public records of the political subdivision city, village, or school district; and

(iii) Except as otherwise provided in subsection (3) of this section,

abstain from participating or voting on the matter in which the public official person holding elective office has a conflict of interest.

(b) The public official person holding elective office may apply to the commission for an opinion as to whether the person has a conflict of interest.

(3)(a) This section does not prevent a public official person holding an elective office of any political subdivision city, village, or school district from making or participating in the making of a governmental decision:

(i) To the extent that the individual's participation is legally required for the action or decision to be made; or

(ii) If the potential conflict of interest is based on a business association and (A) such business association is an association of such political subdivisions cities and villages or school districts, (B) the political subdivision city, village, or school district is a member of such association, and (C) the business association exists only as the result of such public official person holding elective office.

(b) A public official person holding elective office of any city subject to subsection (1) of this section who is acting pursuant to this subsection shall report the occurrence as provided in subdivisions (1)(a)(i) and (ii) of this section.

(c) A person subject to subsection (2) of this section who is acting pursuant to this subsection shall report the occurrence as provided in subdivisions (2)(a)(i) and (ii) of this section.

(4)(a) Any employee of a political subdivision whose annual salary and benefits exceed one hundred fifty thousand dollars and who would be required to take any action or make any decision in the discharge of his or her official duties that may cause financial benefit or detriment to him or her, a member of his or her immediate family, or a business with which he or she is associated, which is distinguishable from the effects of such action on the public generally or a broad segment of the public, shall take the following actions as soon as he or she is aware of such potential conflict or should reasonably be aware of such potential conflict, whichever is sooner:

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

(ii) Deliver a copy of the statement to the person in charge of keeping records for the political subdivision who shall enter the statement onto the public records of the political subdivision; and

(iii) Except as otherwise provided in subdivision (4)(c) of this section, abstain from participating in the matter in which the employee has a conflict of interest.

(b) An employee described in subdivision (4)(a) of this section may apply to the commission for an opinion as to whether he or she has a conflict of interest.

(c) This subsection does not prevent an employee described in subdivision (4)(a) of this section from making or participating in the making of a governmental decision to the extent that the employee's participation is legally required for the action or decision to be made. An employee who is acting pursuant to this subdivision shall report the occurrence as provided in subdivisions (4)(a)(i) and (ii) of this section.

(5) ~~(4)~~ Matters involving an interest in a contract are governed either by sections 49-14,102 and 49-14,103 or by sections 49-14,103.01 to 49-14,103.06. Matters involving the hiring of an immediate family member are governed by section 49-1499.04. Matters involving nepotism or the supervision of a family member by an official or employee in the executive branch of state government are governed by section 49-1499.07.

(6) This section does not apply to a sanitary and improvement district.

Sec. 66. Section 58-230, Reissue Revised Statutes of Nebraska, is amended to read:

58-230 Meetings of the members of the authority shall be held at least once every three months to attend to the business of the authority and may be held at the call of the chairperson or whenever any five members so request. Such meetings shall at all times be subject to the Open Meetings Act, and such meetings may be held by means of virtual conferencing in accordance with ~~subsection (2) of section 84-1411.~~

Sec. 67. Section 58-817, Reissue Revised Statutes of Nebraska, is amended to read:

58-817 Four members of the authority shall constitute a quorum. The affirmative vote of a majority of all of the members of the authority shall be necessary for any action taken by the authority. A vacancy in the membership of the authority shall not impair the right of a quorum to exercise all the rights and perform all the duties of the authority. Any action taken by the authority under the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act may be authorized by resolution at any regular or special meeting, and each such resolution shall take effect immediately and need not be published or posted. Members of the authority may participate in a regular or special meeting of the authority by virtual conferencing as long as the chairperson or vice-chairperson conducts the meeting at a location where the public is able to participate by attendance at that location and the virtual conferencing otherwise conforms to the requirements of ~~subsection (2) of section 84-1411.~~

Sec. 68. Section 60-483, Reissue Revised Statutes of Nebraska, is amended to read:

60-483 (1) The director shall assign a distinguishing number to each operator's license issued and shall keep a record of the same which shall be

open to public inspection by any person requesting inspection of such record who qualifies under section 60-2906 or 60-2907. Any person requesting such driver record information shall furnish to the Department of Motor Vehicles (a) verification of identity and purpose that the requester is entitled under section 60-2906 or 60-2907 to disclosure of the personal information in the record, (b) the name of the person whose record is being requested, and (c) when the name alone is insufficient to identify the correct record, the department may request additional identifying information. The department shall, upon request of any requester, furnish a certified abstract of the operating record of any person, in either hard copy or electronically, and shall charge the requester a fee of three dollars per abstract.

(2) The department shall remit any revenue generated under subsections (1) through (5) of this section to the State Treasurer, and the State Treasurer shall credit forty-one and two-thirds ~~eight and one-third~~ percent to the Department of Motor Vehicles Cash Fund, twenty-five ~~fifty-eight and one-third~~ percent to the General Fund, and thirty-three and one-third percent to the Records Management Cash Fund.

(3) The director shall, upon receiving a request and an agreement from the United States Selective Service System to comply with requirements of this section, furnish driver record information to the United States Selective Service System to include the name, post office address, date of birth, sex, and social security number of licensees. The United States Selective Service System shall pay all costs incurred by the department in providing the information but shall not be required to pay any other fee required by law for information. No driver record information shall be furnished to the United States Selective Service System regarding any female, nor regarding any male other than those between the ages of seventeen years and twenty-six years. The information shall only be used in the fulfillment of the required duties of the United States Selective Service System and shall not be furnished to any other person.

(4) The director shall keep a record of all applications for operators' licenses that are disapproved with a brief statement of the reason for disapproval of the application.

(5) The director may establish a monitoring service which provides information on operating records that have changed due to any adjudicated traffic citation or administrative action. The director shall charge a fee of six cents per operating record searched pursuant to this section and the fee provided in subsection (1) of this section for each abstract returned as a result of the search.

(6) Driver record header information, including name, license number, date of birth, address, and physical description, from every driver record maintained by the department may be made available so long as the Uniform Motor Vehicle Records Disclosure Act is not violated. Monthly updates, including all new records, may also be made available. There shall be a fee of eighteen dollars per thousand records. All fees collected pursuant to this subsection shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(7) The department may enter into a reciprocity agreement with a foreign country to provide for the mutual recognition and reciprocal exchange of a valid operator's license issued by this state or the foreign country if the department determines that the licensing standards of the foreign country are comparable to those of this state. Any such agreement entered into by the department shall not include the mutual recognition and reciprocal exchange of a commercial driver's license.

(8) Beginning July 1, 2021, for any record provided pursuant to subsection (1) of this section, the requester shall be required to pay, in addition to the fee prescribed in such subsection, a fee of four dollars and fifty cents per record. Fifty cents shall be credited to the Department of Motor Vehicles Cash Fund and four dollars shall be credited to the Operator's License Services System Replacement and Maintenance Fund.

Sec. 69. Section 60-484.02, Reissue Revised Statutes of Nebraska, is amended to read:

60-484.02 (1) Each applicant for an operator's license or state identification card shall have his or her digital image captured. Digital images shall be preserved for use as prescribed in sections 60-4,119, 60-4,151, and 60-4,180. The images shall be used for issuing operators' licenses and state identification cards. The images may be retrieved only by the Department of Motor Vehicles for issuing renewal and replacement operators' licenses and state identification cards and may not be otherwise released except in accordance with subsection (3) of this section.

(2) Upon application for an operator's license or state identification card, each applicant shall provide his or her signature in a form prescribed by the department. Digital signatures shall be preserved for use on original, renewal, and replacement operators' licenses and state identification cards and may not be otherwise released except in accordance with subsection (4) of this section.

(3) No officer, employee, agent, or contractor of the department or law enforcement officer shall release a digital image except (a) to a federal, state, or local law enforcement agency, a certified law enforcement officer employed in an investigative position by a federal, state, or local agency, or a driver licensing agency of another state for the purpose of carrying out the functions of the agency or assisting another agency in carrying out its functions upon the verification of the identity of the person requesting the

release of the information and the verification of the purpose of the requester in requesting the release or (b) to the office of the Secretary of State for the purpose of voter registration and voter identification as prescribed in the Election Act upon the verification of the identity of the person requesting the release of the information and the verification of the purpose of the requester in requesting the release. No employee or official in the office of the Secretary of State shall release a digital image except to a federal, state, or local law enforcement agency, a certified law enforcement officer employed in an investigative position by a federal, state, or local agency, or a driver licensing agency of another state for the purpose of carrying out the functions of the agency or assisting another agency in carrying out its functions upon the verification of the identity of the person requesting the release of the information and the verification of the purpose of the requester in requesting the release. Any officer, employee, agent, or contractor of the department, or law enforcement officer, or employee or official in the office of the Secretary of State that knowingly discloses or knowingly permits disclosure of a digital image or digital signature in violation of this section shall be guilty of a Class I misdemeanor.

(4) No officer, employee, agent, or contractor of the department or law enforcement officer shall release a digital signature except (a) to a federal, state, or local law enforcement agency, a certified law enforcement officer employed in an investigative position by a state or federal, state, or local agency, or a driver licensing agency of another state for the purpose of carrying out the functions of the agency or assisting another agency in carrying out its functions upon the verification of the identity of the person requesting the release of the information and the verification of the purpose of the requester in requesting the release or (b) to the office of the Secretary of State for the purpose of voter registration and voter identification as prescribed in the Election Act as described in section 32-304, 32-308, or 32-309 upon the verification of the identity of the person requesting the release of the information and the verification of the purpose of the requester in requesting the release. No employee or official in the office of the Secretary of State shall release a digital signature except to a federal, state, or local law enforcement agency, a certified law enforcement officer employed in an investigative position by a state or federal, state, or local agency, or a driver licensing agency of another state for the purpose of carrying out the functions of the agency or assisting another agency in carrying out its functions upon the verification of the identity of the person requesting the release of the information and the verification of the purpose of the requester in requesting the release. Any officer, employee, agent, or contractor of the department, law enforcement officer, or employee or official in the office of the Secretary of State that knowingly discloses or knowingly permits disclosure of a digital signature in violation of this section shall be guilty of a Class I misdemeanor.

(5) The department shall develop a process for the release of digital images to the Secretary of State for the purpose of voter identification as prescribed by the Election Act. The process shall include proper measures for access, security, storage, and retention of the digital image and verification of the release of the digital image to any officer, agent, or contractor of the Secretary of State. The Secretary of State and the department shall enter into an agreement for the release, use, protection, storage, and retention of digital images as prescribed under this section and the Uniform Motor Vehicle Records Disclosure Act. The department may adopt and promulgate rules and regulations to carry out this subsection.

Sec. 70. Section 60-4,115, Revised Statutes Supplement, 2023, is amended to read:

60-4,115 (1) Fees for operators' licenses and state identification cards shall be collected by department personnel or the county treasurer and distributed according to the table in subsection (2) of this section, except for the ignition interlock permit and associated fees as outlined in subsection (4) of this section and the 24/7 sobriety program permit and associated fees as outlined in subsection (5) of this section. County officials shall remit the county portion of the fees collected to the county treasurer for placement in the county general fund. All other fees collected shall be remitted to the State Treasurer for credit to the appropriate fund.

(2) Except as otherwise provided in subsection (7) of this section, the fees provided in this subsection in the following dollar amounts apply for operators' licenses and state identification cards.

Document	Total Fee	Department of Motor Vehicles	
		County General Fund	Cash Fund
State identification card:			
Valid for 1 year or less	5.00	2.75	2.25
Valid for more than 1 year			

but not more than 2 years	10.00	2.75	7.25
Valid for more than 2 years			
but not more than 3 years	14.00	2.75	11.25
Valid for more than 3 years			
but not more than 4 years	19.00	2.75	16.25
Valid for more than 4 years			
for a person under 21	24.00	2.75	21.25
Valid for 5 years	24.00	3.50	20.50
Replacement	11.00	2.75	8.25
Class 0 or M operator's license:			
Valid for 1 year or less	5.00	2.75	2.25
Valid for more than 1 year			
but not more than 2 years	10.00	2.75	7.25
Valid for more than 2 years			
but not more than 3 years	14.00	2.75	11.25
Valid for more than 3 years			
but not more than 4 years	19.00	2.75	16.25
Valid for 5 years	24.00	3.50	20.50
Bioptic or telescopic lens restriction:			
Valid for 1 year or less	5.00	0	5.00
Valid for more than 1 year			
but not more than 2 years	10.00	2.75	7.25
Replacement	11.00	2.75	8.25
Add, change, or remove class, endorsement, or restriction	5.00	0	5.00
Provisional operator's permit:			
Original	15.00	2.75	12.25
Bioptic or telescopic lens restriction:			
Valid for 1 year or less	5.00	0	5.00
Valid for more than 1 year			
but not more than 2 years	15.00	2.75	12.25
Replacement	11.00	2.75	8.25
Add, change, or remove class, endorsement, or restriction	5.00	0	5.00
LPD-learner's permit:			
Original	8.00	.25	7.75
Replacement	11.00	2.75	8.25



Add, change, or remove class, endorsement, or restriction	5.00	0	5.00
LPE-learner's permit:			
Original	8.00	.25	7.75
Replacement	11.00	2.75	8.25
Add, change, or remove class, endorsement, or restriction	5.00	0	5.00
School permit:			
Original	8.00	.25	7.75
Replacement	11.00	2.75	8.25
Add, change, or remove class, endorsement, or restriction	5.00	0	5.00
Farm permit:			
Original or renewal	5.00	.25	4.75
Replacement	5.00	.25	4.75
Add, change, or remove class, endorsement, or restriction	5.00	0	5.00
Driving permits:			
Employment	45.00	0	45.00
Medical hardship	45.00	0	45.00
Replacement	10.00	.25	9.75
Add, change, or remove class, endorsement, or restriction	5.00	0	5.00
Commercial driver's license:			
Valid for 1 year or less	11.00	1.75	9.25
Valid for more than 1 year but not more than 2 years	22.00	1.75	20.25
Valid for more than 2 years but not more than 3 years	33.00	1.75	31.25
Valid for more than 3 years but not more than 4 years	44.00	1.75	42.25
Valid for 5 years	55.00	1.75	53.25
Bioptic or telescopic lens restriction:			
Valid for one year or less	11.00	1.75	9.25
Valid for more than 1 year but not more than 2 years	22.00	1.75	20.25
Replacement	11.00	2.75	8.25
Add, change, or remove class,			

endorsement, or restriction	10.00	1.75	8.25
CLP-commercial learner's permit:			
Original or renewal	10.00	.25	9.75
Replacement	10.00	.25	9.75
Add, change, or remove class,			
endorsement, or restriction	10.00	.25	9.75
Seasonal permit:			
Original or renewal	10.00	.25	9.75
Replacement	10.00	.25	9.75
Add, change, or remove class,			
endorsement, or restriction	10.00	.25	9.75

(3) If the department issues an operator's license or a state identification card and collects the fees, the department shall remit the county portion of the fees to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(4)(a) The fee for an ignition interlock permit shall be forty-five dollars. Five dollars of the fee shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund. Forty dollars of the fee shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Ignition Interlock Fund.

(b) The fee for a replacement ignition interlock permit shall be eleven dollars. Two dollars and seventy-five cents of the fee shall be remitted to the county treasurer for credit to the county general fund. Eight dollars and twenty-five cents of the fee shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(c) The fee for adding, changing, or removing a class, endorsement, or restriction on an ignition interlock permit shall be five dollars. The fee shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(5)(a) The fee for a 24/7 sobriety program permit shall be forty-five dollars. Forty dollars of the fee shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund. Five dollars of the fee shall be remitted to the county treasurer for credit to the county general fund.

(b) The fee for a replacement 24/7 sobriety program permit shall be eleven dollars. Two dollars and seventy-five cents of the fee shall be remitted to the county treasurer for credit to the county general fund. Eight dollars and twenty-five cents of the fee shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(c) The fee for adding, changing, or removing a class, endorsement, or restriction on a 24/7 sobriety program permit shall be five dollars. The fee shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(6) The department and its agents may collect an identity security surcharge to cover the cost of security and technology practices used to protect the identity of applicants for and holders of operators' licenses and state identification cards and to reduce identity theft, fraud, and forgery and counterfeiting of such licenses and cards to the maximum extent possible. The surcharge shall be in addition to all other required fees for operators' licenses and state identification cards. The amount of the surcharge shall be determined by the department. The surcharge shall not exceed eight dollars. The surcharge shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(7) No fee shall be charged for issuance of an original, renewal, or replacement ~~duplicate~~ state identification card to a resident of Nebraska who is also a United States citizen and who ~~(a) does not have a valid Nebraska driver's license, (b) is requesting issuance of such card for voting purposes, and (c) is at least eighteen years of age or is seventeen years of age and will attain the age of eighteen years on or before the first Tuesday after the first Monday in November of the then-current calendar year.~~

Sec. 71. Section 70-663, Revised Statutes Cumulative Supplement, 2022, is amended to read:

70-663 (1) ~~This subsection applies to charter amendments submitted after December 31, 2021.~~ Upon such authorization as provided in section 70-662 ~~occurring~~, the proposed amendment shall thereupon be submitted to the Nebraska Power Review Board, together with a petition setting forth the reasons for the adoption of such amendment, and requesting that the same be approved. The Nebraska Power Review Board shall then cause notice to be given by publication for three consecutive weeks in two legal newspapers of general circulation within such district. Such notice shall set forth in full the proposed amendment and set a date, not sooner than three weeks after the last date of

publication of the notice, for protests, complaints, or objections to be filed with the Nebraska Power Review Board in opposition to the adoption of such amendment. The cost of such publication shall be paid by such district. If any person residing in such district, or affected by the proposed amendment, shall, within the time provided, file a protest, complaint, or objection, the Nebraska Power Review Board shall schedule a hearing and give due notice thereof to the district, the district's representative, and the person who filed such protest, complaint, or objection. Any person filing a protest, complaint, or objection may appear at such hearing and contest the approval by the Nebraska Power Review Board of such proposed amendment. After all protests, complaints, or objections have been heard, the Nebraska Power Review Board shall act upon the petition and either approve or disapprove the amendment. If no protests, complaints, or objections are properly filed, the board shall either approve the amendment without a hearing or schedule a hearing to determine whether or not the amendment should be approved. If a hearing is scheduled, due notice shall be provided to the district and the district representative.

~~(2) This subsection applies to charter amendments submitted before December 31, 2021. Following the release of the 2020 Census of Population data by the United States Department of Commerce, Bureau of the Census, as required by Public Law 94-171, any public power district seeking an amendment to its charter shall submit the proposed amendment to the Nebraska Power Review Board on or before December 17, 2021. If the proposed amendment is in proper form, the Nebraska Power Review Board shall give conditional approval of the amendment on or before December 30, 2021. The approval process provided in subsection (1) of this section shall occur concurrent with the conditional approval process. If a protest, complaint, or objection is filed and a hearing is set, any decision from the Nebraska Power Review Board rejecting the amendment shall be decided and notification provided to the Secretary of State by March 1, 2022. Immediately upon receiving such notification, the Secretary of State shall notify all election commissioners and county clerks responsible for such elections within the public power district that the conditionally approved boundaries were rejected and that the previous boundaries shall be used for the primary and general elections.~~

Sec. 72. Section 79-1218, Revised Statutes Cumulative Supplement, 2022, is amended to read:

79-1218 The board of each educational service unit shall meet and organize by naming one of its members as president, one as vice president, and one as secretary. The board shall employ a treasurer who shall be paid a salary to be fixed by the board.

The board of the educational service unit shall determine the participation of the educational service unit in providing supplementary educational services. If the board of the educational service unit does not provide supplementary educational services, it shall meet during each succeeding January to determine the participation in providing supplementary educational services for that calendar year. Meetings may be held by means of virtual conferencing in accordance with ~~subsection (2) of section 84-1411.~~

Sec. 73. Section 84-217, Reissue Revised Statutes of Nebraska, is amended to read:

84-217 ~~Section 84-216 is Sections 84-215 to 84-217 shall be cumulative to any existing remedies which may exist.~~

Sec. 74. Section 84-1411, Revised Statutes Cumulative Supplement, 2022, is amended to read:

84-1411 (1) Until January 1, 2025:

(a) ~~(1)(a)~~ Each public body shall give reasonable advance publicized notice of the time and place of each meeting as provided in this subsection. Such notice shall be transmitted to all members of the public body and to the public.

(b)(i) Except as provided in subdivision (1)(b)(ii) of this section, in the case of a public body described in subdivision (1)(a)(i) of section 84-1409 or such body's advisory committee, such notice shall be published in a newspaper of general circulation within the public body's jurisdiction and, if available, on such newspaper's website.

(ii) In the case of the governing body of a city of the second class or village or such body's advisory committee or the governing body of a rural or suburban fire protection district, such notice shall be published by:

(A) Publication in a newspaper of general circulation within the public body's jurisdiction and, if available, on such newspaper's website; or

(B) Posting written notice in three conspicuous public places in such city, ~~or village, or district~~. Such notice shall be posted in the same three places for each meeting.

(iii) In the case of a public body not described in subdivision (1)(b)(i) or (ii) of this section, such notice shall be given by a method designated by the public body.

(iv) In case of refusal, neglect, or inability of the newspaper to timely publish the notice, the public body shall (A) post such notice on its website, if available, and (B) post such notice in a conspicuous public place in such public body's jurisdiction. The public body shall keep a written record of such posting. The record of such posting shall be evidence that such posting was done as required and shall be sufficient to fulfill the requirement of publication.

(c) In addition to a method of notice required by subdivision (1)(b)(i) or (ii) of this section, such notice may also be provided by any other appropriate method designated by such public body or such advisory committee.

(d) Each public body shall record the methods and dates of such notice in its minutes.

(e) Such notice shall contain an agenda of subjects known at the time of the publicized notice or a statement that the agenda, which shall be kept continually current, shall be readily available for public inspection at the principal office of the public body during normal business hours. Agenda items shall be sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting. Except for items of an emergency nature, the agenda shall not be altered later than (i) twenty-four hours before the scheduled commencement of the meeting or (ii) forty-eight hours before the scheduled commencement of a meeting of a city council or village board scheduled outside the corporate limits of the municipality. The public body shall have the right to modify the agenda to include items of an emergency nature only at such public meeting.

(2) Beginning January 1, 2025:

(a) Each public body shall give reasonable advance publicized notice of the time and place of each meeting as provided in this subsection. Such notice shall be transmitted to all members of the public body and to the public.

(b)(i) Except as provided in subdivision (2)(b)(ii) of this section, in the case of a public body described in subdivision (1)(a)(i) of section 84-1409 or such body's advisory committees, such notice shall be given by:

(A)(I) Publication in a newspaper of general circulation within the public body's jurisdiction that is finalized for printing prior to the time and date of the meeting, (II) posting on such newspaper's website, if available, and (III) posting on a statewide website established and maintained as a repository for such notices by a majority of Nebraska newspapers. Such notice shall be placed in the newspaper and on the websites by the newspaper; or

(B)(I) Posting to the newspaper's website, if available, and (II) posting to a statewide website established and maintained as a repository for such notices by a majority of Nebraska newspapers if no edition of a newspaper of general circulation within the public body's jurisdiction is to be finalized for printing prior to the time and date of the meeting. Such notice shall be placed in the newspaper and on the websites by the newspaper.

(ii) In the case of the governing body of a city of the second class or village, any advisory committee of such governing body, or the governing body of a rural or suburban fire protection district, such notice shall be given by:

(A)(I) Publication in a newspaper of general circulation within the public body's jurisdiction that is finalized for printing prior to the time and date of the meeting, (II) posting on such newspaper's website, if available, and (III) posting on a statewide website established and maintained as a repository for such notices by a majority of Nebraska newspapers. Such notice shall be placed in the newspaper and on the websites by the newspaper;

(B)(I) Posting to the newspaper's website, if available, and (II) posting on a statewide website established and maintained as a repository for such notices by a majority of Nebraska newspapers if no edition of a newspaper of general circulation within the public body's jurisdiction is to be finalized for printing prior to the time and date of the meeting. Such notice shall be placed in the newspaper and on the websites by the newspaper; or

(C)(III) Posting written notice in three conspicuous public places in such city, village, or district. Such notice shall be posted by the public body in the same three places for each meeting.

(iii) In the case of a public body not described in subdivision (2)(b)(i) or (ii) of this section, such notice shall be given by a method designated by the public body.

(iv) In case of refusal, neglect, or inability of the newspaper to publish the notice, the public body shall (A) post such notice on its website, if available, (B) submit a post on a statewide website established and maintained as a repository for such notices by a majority of Nebraska newspapers, and (C) post such notice in a conspicuous public place in such public body's jurisdiction. The public body shall keep a written record of such posting. The record of such posting shall be evidence that such posting was done as required and shall be sufficient to fulfill the requirement of publication.

(3)(a) ~~(2)(a)~~ The following entities may hold a meeting by means of virtual conferencing if the requirements of subdivision (3)(b) ~~(2)(b)~~ of this section are met:

(i) A state agency, state board, state commission, state council, or state committee, or an advisory committee of any such state entity;

(ii) An organization, including the governing body, created under the Interlocal Cooperation Act, the Joint Public Agency Act, or the Municipal Cooperative Financing Act;

(iii) The governing body of a public power district having a chartered territory of more than one county in this state;

(iv) The governing body of a public power and irrigation district having a chartered territory of more than one county in this state;

(v) An educational service unit;

(vi) The Educational Service Unit Coordinating Council;

(vii) An organization, including the governing body, of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act;

(viii) A community college board of governors;

(ix) The Nebraska Brand Committee;

(x) A local public health department;

(xi) A metropolitan utilities district;

- (xii) A regional metropolitan transit authority; and
- (xiii) A natural resources district.

(b) The requirements for holding a meeting by means of virtual conferencing are as follows:

(i) Reasonable advance publicized notice is given as provided in subsections (1) and (2) ~~subsection (1)~~ of this section, including providing access to a dial-in number or link to the virtual conference;

(ii) In addition to the public's right to participate by virtual conferencing, reasonable arrangements are made to accommodate the public's right to attend at a physical site and participate as provided in section 84-1412, including reasonable seating, in at least one designated site in a building open to the public and identified in the notice, with: At least one member of the entity holding such meeting, or his or her designee, present at each site; a recording of the hearing by audio or visual recording devices; and a reasonable opportunity for input, such as public comment or questions, is provided to at least the same extent as would be provided if virtual conferencing was not used;

(iii) At least one copy of all documents being considered at the meeting is available at any physical site open to the public where individuals may attend the virtual conference. The public body shall also provide links to an electronic copy of the agenda, all documents being considered at the meeting, and the current version of the Open Meetings Act; and

(iv) Except as otherwise provided in this subdivision or subsection (4) of section 79-2204, no more than one-half of the meetings of the state entities, advisory committees, boards, councils, organizations, or governing bodies are held by virtual conferencing in a calendar year. In the case of (A) an organization created under the Interlocal Cooperation Act that sells electricity or natural gas, (B) at wholesale on a multistate basis or an organization created under the Municipal Cooperative Financing Act, (C) a governing body of a risk management pool and any advisory committee of such governing body, or (D) any advisory committee of any state entity created in response to the Opioid Prevention and Treatment Act, such the organization, governing body, or committee may hold more than one-half of its meetings by virtual conferencing if such organization holds at least one meeting each calendar year that is not by virtual conferencing. ~~The governing body of a risk management pool that meets at least quarterly and the advisory committees of the governing body may each hold more than one-half of its meetings by virtual conferencing if the governing body's quarterly meetings are not held by virtual conferencing.~~

(4) (3) Virtual conferencing, emails, faxes, or other electronic communication shall not be used to circumvent any of the public government purposes established in the Open Meetings Act.

(5) (4) The secretary or other designee of each public body shall maintain a list of the news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to them of the time and place of each meeting and the subjects to be discussed at that meeting.

(6) (5) When it is necessary to hold an emergency meeting without reasonable advance public notice, the nature of the emergency shall be stated in the minutes and any formal action taken in such meeting shall pertain only to the emergency. Such emergency meetings may be held by virtual conferencing. The provisions of subsection (5) (4) of this section shall be complied with in conducting emergency meetings. Complete minutes of such emergency meetings specifying the nature of the emergency and any formal action taken at the meeting shall be made available to the public by no later than the end of the next regular business day.

(7) (6) A public body may allow a member of the public or any other witness to appear before the public body by means of virtual conferencing.

(8)(a) (7)(a) Notwithstanding subsections (3) (2) and (6) (5) of this section, if an emergency is declared by the Governor pursuant to the Emergency Management Act as defined in section 81-829.39, a public body the territorial jurisdiction of which is included in the emergency declaration, in whole or in part, may hold a meeting by virtual conferencing during such emergency if the public body gives reasonable advance publicized notice as described in subsections subsection (1) and (2) of this section. The notice shall include information regarding access for the public and news media. In addition to any formal action taken pertaining to the emergency, the public body may hold such meeting for the purpose of briefing, discussion of public business, formation of tentative policy, or the taking of any action by the public body.

(b) The public body shall provide access by providing a dial-in number or a link to the virtual conference. The public body shall also provide links to an electronic copy of the agenda, all documents being considered at the meeting, and the current version of the Open Meetings Act. Reasonable arrangements shall be made to accommodate the public's right to hear and speak at the meeting and record the meeting. Subsection (5) (4) of this section shall be complied with in conducting such meetings.

(c) The nature of the emergency shall be stated in the minutes. Complete minutes of such meeting specifying the nature of the emergency and any formal action taken at the meeting shall be made available for inspection as provided in subsection (5) of section 84-1413.

(9) (8) In addition to any other statutory authorization for virtual conferencing, any public body not listed in subdivision (3)(a) (2)(a) of this section may hold a meeting by virtual conferencing if:

- (a) The purpose of the virtual meeting is to discuss items that are

scheduled to be discussed or acted upon at a subsequent non-virtual open meeting of the public body;

(b) No action is taken by the public body at the virtual meeting; and

(c) The public body complies with subdivisions (3)(b)(i) ~~(2)(b)(i)~~ and (ii) ~~(2)(b)(ii)~~ of this section.

Sec. 75. Section 85-1514, Reissue Revised Statutes of Nebraska, is amended to read:

85-1514 (1) In addition to the events listed in section 32-560, a vacancy on any board shall exist in the event of the removal of a board member from the community college area for board members elected at large or community college district for board members elected by district. After notice and hearing, a vacancy shall also exist when any board member is absent from more than three consecutive regular meetings of the board unless such absences are excused by a majority of the remaining board members. In the event of a vacancy from any of such causes or otherwise, such vacancy shall be filled by the remaining board members for the balance of the unexpired term. Any person so named to fill a vacancy shall have the same qualifications as his or her immediate predecessor. Such appointment shall be made in writing and certified to the office of the Secretary of State.

(2) If after a primary election there is a vacancy upon the ballot, such vacancy shall be filled by a petition candidate pursuant to section 32-625.

(3) An incumbent shall not be permitted to hold over the term, but such office shall automatically become vacant and an appointment shall be made within one calendar month to fill such vacancy for the ensuing term. If there are vacancies in the offices of a majority of the members of the board, the Secretary of State shall conduct a special election to fill such vacancies. Candidates for such special election shall file a candidate filing form pursuant to section 26 of this act.

Sec. 76. Sections 1, 2, 3, 4, 15, 16, 18, 20, 21, 24, 25, 26, 27, 28, 29, 30, 32, 35, 37, 38, 39, 40, 42, 47, 48, 51, 52, 53, 54, 55, 56, 57, 58, 59, 63, 65, 71, 73, 75, 77, and 81 of this act become operative three calendar months after the adjournment of this legislative session. Sections 34, 68, 70, and 78 of this act become operative on July 1, 2024. Sections 13, 14, 45, 69, and 79 of this act become operative on January 1, 2025. The other sections of this act become operative on their effective date.

Sec. 77. Original sections 2-3213, 2-3214, 16-202, 18-2518, 32-569, 32-632, 32-1205, 32-1301, 32-1304, 32-1308, 32-1546, 49-1499.03, 84-217, and 85-1514, Reissue Revised Statutes of Nebraska, sections 32-320.01, 32-404, 32-552, 32-553, 32-570, 32-606, 32-607, 32-608, 32-615, 32-716, 32-802, 32-808.01, 32-903, 32-947, 32-950.01, 32-1203, 32-1303, 32-1305, 32-1306, 32-1405, and 70-663, Revised Statutes Cumulative Supplement, 2022, and sections 32-318.01 and 32-912.02, Revised Statutes Supplement, 2023, are repealed.

Sec. 78. Original sections 32-630 and 60-483, Reissue Revised Statutes of Nebraska, and section 60-4,115, Revised Statutes Supplement, 2023, are repealed.

Sec. 79. Original section 60-484.02, Reissue Revised Statutes of Nebraska, section 32-304, Revised Statutes Cumulative Supplement, 2022, and sections 32-308 and 32-942, Revised Statutes Supplement, 2023, are repealed.

Sec. 80. Original sections 25-1274, 32-233, 32-564, 32-565, 32-613, 32-617, 32-713, 58-230, and 58-817, Reissue Revised Statutes of Nebraska, sections 31-727.02, 32-330, 32-405, 32-1407, 32-1524, 32-1525, 79-1218, and 84-1411, Revised Statutes Cumulative Supplement, 2022, and sections 32-101, 32-103, 32-123, 32-202.01, 32-912.01, 32-915.03, 32-941, 32-1002.01, and 32-1027, Revised Statutes Supplement, 2023, are repealed.

Sec. 81. The following section is outright repealed: Section 84-215, Reissue Revised Statutes of Nebraska.

Sec. 82. Since an emergency exists, this act takes effect when passed and approved according to law.

# LEGISLATIVE BILL 43

Approved by the Governor March 27, 2024

Introduced by Sanders, 45; Conrad, 46.

A BILL FOR AN ACT relating to law; to amend sections 84-712, 84-712.01, and 84-712.07, Reissue Revised Statutes of Nebraska, and sections 84-712.03, 84-712.05, 84-920, and 84-1412, Revised Statutes Cumulative Supplement, 2022; to adopt the First Freedom Act; to authorize wearing of tribal regalia by students as prescribed; to change public records provisions relating to residents, nonresidents, fees, duties, and remedies; to allow certain records relating to cybersecurity to be withheld from the public as prescribed; to provide a duty for the Nebraska Information Technology Commission; to provide requirements regarding the interpretation of statutes, rules, and regulations as prescribed; to prohibit state agencies from imposing annual filing and reporting requirements on charitable organizations as prescribed; to state intent; to adopt the Personal Privacy Protection Act; to define terms; to change provisions relating to public meetings; to harmonize provisions; to provide operative dates; to provide severability; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Sections 1 to 5 of this act shall be known and may be cited as the First Freedom Act.

Sec. 2. For purposes of the First Freedom Act:

(1) Exercise of religion means the practice or observance of religion and includes any action that is motivated by a sincerely held religious belief, whether or not the exercise is compulsory or central to a larger system of religious belief;

(2) Person means any individual, association, partnership, corporation, church, religious institution, estate, trust, foundation, or other legal entity;

(3) Religious organization means:

(a) A house of worship;

(b) A religious group, corporation, association, educational institution, ministry, order, society, or similar entity, regardless of whether it is integrated or affiliated with a church or other house of worship; or

(c) An officer, owner, employee, manager, religious leader, clergy, or minister of an entity or organization described in subdivision (3)(a) or (b) of this section;

(4) Religious service means a meeting, gathering, or assembly of two or more persons organized by a religious organization for the purpose of worship, teaching, training, providing educational services, conducting religious rituals, or other activities that are deemed necessary by the religious organization for the exercise of religion;

(5) State action means the implementation or application of any law, including state and local laws, ordinances, rules, regulations, and policies, whether statutory or otherwise, or other action by the state or any political subdivision thereof and any local government, municipality, instrumentality, or public official authorized by state or local law; and

(6)(a) Substantially burden means any action that directly or indirectly constrains, inhibits, curtails, or denies the exercise of religion by any person or compels any action contrary to a person's exercise of religion.

(b) Substantially burden includes withholding benefits, imposing criminal, civil, or administrative penalties or damages, or exclusion from governmental programs or access to governmental facilities.

Sec. 3. Notwithstanding any other provision of law, state action shall not:

(1) Substantially burden a person's right to the exercise of religion unless it is demonstrated that applying the burden to that person's exercise of religion in this particular instance is essential to further a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest; or

(2) Restrict a religious organization from operating and engaging in religious services during a state of emergency to a greater extent than the state restricts other organizations or businesses from operating during a state of emergency.

Sec. 4. (1) A person or religious organization whose exercise of religion or religious service has been burdened or restricted, or is likely to be burdened or restricted, in violation of the First Freedom Act, may bring a civil action or assert such violation or impending violation as a defense in a judicial or administrative proceeding.

(2) This section applies regardless of whether the state or a political subdivision is a party to the judicial or administrative proceeding.

(3) A person or religious organization asserting a claim or defense under this section may obtain appropriate relief, including against the state or a political subdivision. Appropriate relief includes:

- (a) Actual damages;
- (b) Such preliminary and other equitable or declaratory relief as may be appropriate; and
- (c) Reasonable attorney's fees and other litigation costs reasonably incurred.

Sec. 5. The First Freedom Act applies to all state and local laws, and the implementation of those laws, whether statutory or otherwise, regardless of whether adopted before or after the operative date of this section.

Sec. 6. (1) A person who is a member of an indigenous tribe of the United States or another country and is a student attending an approved or accredited public school may wear tribal regalia in any public or private location where the person is otherwise authorized to be on such school grounds or at any school function. Nothing in this section limits the authority of administrative and teaching personnel to regulate student behavior as provided in section 79-258 or the authority of a school to regulate student behavior to further school purposes or to prevent interference with the educational process.

(2) A school may adopt a policy to accommodate this section. Such policy may specify the characteristics of any garment, jewelry, other adornment, or object that such school finds will endanger the safety of a student or others or interfere with school purposes or the educational process if worn by a student during a specified activity.

(3) For purposes of this section, tribal regalia means traditional garments, jewelry, other adornments, or similar objects of cultural significance worn by members of an indigenous tribe of the United States or another country. Tribal regalia does not include any firearm or other dangerous weapon. Tribal regalia also does not include, except in compliance with an appropriate federal permit, any object that is otherwise prohibited by federal law.

Sec. 7. (1) A person who is a member of an indigenous tribe of the United States or another country and is a student attending any Nebraska public postsecondary institution may wear traditional tribal regalia in any public or private location where the person is otherwise authorized to be on such school grounds or at any school function. Nothing in this section limits the authority of administrative and teaching personnel of a Nebraska public postsecondary institution to regulate student behavior to further school purposes or to prevent interference with the educational process.

(2) A Nebraska public postsecondary institution may adopt a policy to accommodate this section. Such policy may specify the characteristics of any garment, jewelry, other adornment, or object that such school finds will endanger the safety of a student or others or interfere with school purposes or the educational process if worn by such student during a specified activity.

(3) For purposes of this section:

(a) Nebraska public postsecondary institution has the same meaning as in section 85-2403; and

(b) Tribal regalia means traditional garments, jewelry, other adornments, or similar objects of cultural significance worn by members of an indigenous tribe of the United States or another country. Tribal regalia does not include any firearm or other dangerous weapon. Tribal regalia also does not include, except in compliance with an appropriate federal permit, any object that is otherwise prohibited by federal law.

Sec. 8. Section 84-712, Reissue Revised Statutes of Nebraska, is amended to read:

84-712 (1) Except as otherwise expressly provided by statute, all residents citizens of this state and all other persons interested in the examination of the public records as defined in section 84-712.01 are hereby fully empowered and authorized to (a) examine such records, and make memoranda, copies using their own copying or photocopying equipment in accordance with subsection (2) of this section, and abstracts therefrom, all free of charge, during the hours the respective offices may be kept open for the ordinary transaction of business and (b) except if federal copyright law otherwise provides, obtain copies of public records in accordance with subsection (3) of this section during the hours the respective offices may be kept open for the ordinary transaction of business.

(2) Copies made by residents citizens or other persons using their own copying or photocopying equipment pursuant to subdivision (1)(a) of this section shall be made on the premises of the custodian of the public record or at a location mutually agreed to by the requester and the custodian.

(3)(a) Copies may be obtained pursuant to subdivision (1)(b) of this section only if the custodian has copying equipment reasonably available. Such copies may be obtained in any form designated by the requester in which the public record is maintained or produced, including, but not limited to, printouts, electronic data, discs, tapes, and photocopies. This section shall not be construed to require a custodian to copy any public record that is available to the requester on the custodian's website on the Internet. The custodian of the public record is required to provide the location of the public record on the Internet to the requester. If the requester does not have reasonable access to the Internet due to lack of computer, lack of Internet availability, or inability to use a computer or the Internet, the custodian shall produce copies for the requester as provided in this section.

(b) Except as otherwise provided by statute, the public body, public entity, or public official which is the custodian of a public record may charge a fee for providing copies of such public record pursuant to subdivision (1)(b) of this section, which fee shall not exceed the actual added cost of making the



copies available. For purposes of this subdivision, (i) for photocopies, the actual added cost of making the copies available shall not exceed the amount of the reasonably calculated actual added cost of the photocopies, which may include a reasonably apportioned cost of the supplies, such as paper, toner, and equipment, used in preparing the copies, as well as any additional payment obligation of the custodian for time of contractors necessarily incurred to comply with the request for copies, (ii) for printouts of computerized data on paper, the actual added cost of making the copies available shall include the reasonably calculated actual added cost of computer run time and the cost of materials for making the copy, and (iii) for electronic data, the actual added cost of making the copies available shall include the reasonably calculated actual added cost of the computer run time, any necessary analysis and programming by the public body, public entity, public official, or third-party information technology services company contracted to provide computer services to the public body, public entity, or public official, and the production of the report in the form furnished to the requester.

(c) For residents of Nebraska, the actual added cost used as the basis for the calculation of a fee for records shall not include any charge for the existing salary or pay obligation to the public officers or employees with respect to the first eight ~~four~~ cumulative hours of searching, identifying, physically redacting, or copying. A special service charge reflecting the calculated labor cost may be included in the fee for time required in excess of eight ~~four~~ cumulative hours, since that large of a request may cause some delay or disruption of the other responsibilities of the custodian's office, except that the fee for records shall not include any charge for the services of an attorney or any other person to review the requested public records seeking a legal basis to withhold the public records from the public. No special service charge or fee shall be charged for copies of blank forms or pages that have all meaningful information redacted.

(d) For nonresidents of Nebraska, the actual added cost used as the basis for the calculation of a fee for records may include a charge for the proportion of the existing salary or pay obligation to the public officers or employees, including a proportional charge for the services of an attorney to review the requested public records, for the time spent searching, identifying, physically redacting, copying, or reviewing such records.

(e) ~~(d)~~ State agencies which provide electronic access to public records through a portal established under section 84-1204 shall obtain approval of their proposed reasonable fees for such records pursuant to sections 84-1205.02 and 84-1205.03, if applicable, and the actual added cost of making the copies available may include the approved fee for the portal.

(f) ~~(e)~~ This section shall not be construed to require a public body or custodian of a public record to produce or generate any public record in a new or different form or format modified from that of the original public record.

(g) ~~(f)~~ If copies requested in accordance with subdivision (1)(b) of this section are estimated by the custodian of such public records to cost more than fifty dollars, the custodian may require the requester to furnish a deposit prior to fulfilling such request.

(h) The custodian may waive or reduce any fee described in this section if the waiver or reduction of the fee would be in the public interest. Waiver or reduction of the fee is in the public interest if disclosure of the public record at issue is likely to contribute to the understanding of the operations or activities of government and is not primarily in the commercial interest of the person requesting such records.

(4) Upon receipt of a written request for access to or copies of a public record, the custodian of such record shall provide to the requester as soon as is practicable and without delay, but not more than four business days after actual receipt of the request, an estimate of the expected cost of the copies and either (a) access to or, if copying equipment is reasonably available, copies of the public record, (b) if there is a legal basis for denial of access or copies, a written denial of the request together with the information specified in section 84-712.04, or (c) if the entire request cannot with reasonable good faith efforts be fulfilled within four business days after actual receipt of the request due to the significant difficulty or the extensiveness of the request, a written explanation, including the earliest practicable date for fulfilling the request, an estimate of the expected cost of any copies, and an opportunity for the requester to modify or prioritize the items within the request. The requester shall have ten business days to review the estimated costs, including any special service charge, and request the custodian to fulfill the original request, negotiate with the custodian to narrow or simplify the request, or withdraw the request. If the requester does not respond to the custodian within ten business days, the custodian shall not proceed to fulfill the request. The four business days shall be computed by excluding the day the request is received, after which the designated period of time begins to run. Business day does not include a Saturday, a Sunday, or a day during which the offices of the custodian of the public records are closed.

(5) For purposes of sections 84-712 to 84-712.09, resident means a person domiciled in this state and includes news media without regard to domicile.

Sec. 9. Section 84-712.01, Reissue Revised Statutes of Nebraska, is amended to read:

84-712.01 (1) Except when any other statute expressly provides that particular information or records shall not be made public, public records shall include all records and documents, regardless of physical form, of or belonging to this state, any county, city, village, political subdivision, or

tax-supported district in this state, or any agency, branch, department, board, bureau, commission, council, subunit, or committee of any of the foregoing. Data which is a public record in its original form shall remain a public record when maintained in computer files.

(2) When a custodian of a public record of a county provides to a member of the public, upon request, a copy of the public record by transmitting it from a modem to an outside modem, a reasonable fee may be charged for such specialized service. Such fee may include a reasonable amount representing a portion of the amortization of the cost of computer equipment, including software, necessarily added in order to provide such specialized service. This subsection shall not be construed to require a governmental entity to acquire computer capability to generate public records in a new or different form when that new form would require additional computer equipment or software not already possessed by the governmental entity.

(3) Sections 84-712 to 84-712.03 shall be liberally construed whenever any state, county, or political subdivision fiscal records, audit, warrant, voucher, invoice, purchase order, requisition, payroll, check, receipt, or other record of receipt, cash, or expenditure involving public funds is involved in order that the residents ~~citizens~~ of this state shall have the full right to know of and have full access to information on the public finances of the government and the public bodies and entities created to serve them.

Sec. 10. Section 84-712.03, Revised Statutes Cumulative Supplement, 2022, is amended to read:

84-712.03 (1) Any person denied any rights granted by sections 84-712 to 84-712.03 may elect to:

(a) File for speedy relief by a writ of mandamus in the district court within whose jurisdiction the state, county, or political subdivision officer who has custody of the public record can be served; or

(b) Petition the Attorney General to review the matter to determine whether a record may be withheld from public inspection or whether the public body that is custodian of such record has otherwise failed to comply with such sections, including whether the fees estimated or charged by the custodian are actual added costs or special service charges as provided under section 84-712. This determination shall be made within fifteen calendar days after the submission of the petition. If the Attorney General determines that the record may not be withheld or that the public body is otherwise not in compliance, the public body shall be ordered to disclose the record immediately or otherwise comply. If the public body continues to withhold the record or remain in noncompliance, the person seeking disclosure or compliance may (i) bring suit in the trial court of general jurisdiction or (ii) demand in writing that the Attorney General bring suit in the name of the state in the trial court of general jurisdiction for the same purpose. If such demand is made, the Attorney General shall bring suit within fifteen calendar days after its receipt. The requester shall have an absolute right to intervene as a full party in the suit at any time.

(2) In any suit filed under this section, the court has jurisdiction to enjoin the public body from withholding records, to order the disclosure, and to grant such other equitable relief as may be proper. The court shall determine the matter de novo and the burden is on the public body to sustain its action. The court may view the records in controversy in camera before reaching a decision, and in the discretion of the court other persons, including the requester, counsel, and necessary expert witnesses, may be permitted to view the records, subject to necessary protective orders.

(3) Proceedings arising under this section shall be advanced on the trial docket and heard and decided by the court as soon as reasonably possible and ~~except as to the cases the court considers of greater importance,~~ shall take precedence on the trial docket over all other cases and shall be assigned for hearing, trial, or argument at the earliest practicable date and expedited in every way.

Sec. 11. Section 84-712.05, Revised Statutes Cumulative Supplement, 2022, is amended to read:

84-712.05 The following records, unless publicly disclosed in an open court, open administrative proceeding, or open meeting or disclosed by a public entity pursuant to its duties, may be withheld from the public by the lawful custodian of the records:

(1) Personal information in records regarding a student, prospective student, or former student of any educational institution or exempt school that has effectuated an election not to meet state approval or accreditation requirements pursuant to section 79-1601 when such records are maintained by and in the possession of a public entity, other than routine directory information specified and made public consistent with 20 U.S.C. 1232g, as such section existed on February 1, 2013, and regulations adopted thereunder;

(2) Medical records, other than records of births and deaths and except as provided in subdivision (5) of this section, in any form concerning any person; records of elections filed under section 44-2821; and patient safety work product under the Patient Safety Improvement Act;

(3) Trade secrets, academic and scientific research work which is in progress and unpublished, and other proprietary or commercial information which if released would give advantage to business competitors and serve no public purpose;

(4) Records which represent the work product of an attorney and the public body involved which are related to preparation for litigation, labor negotiations, or claims made by or against the public body or which are

confidential communications as defined in section 27-503;

(5) Records developed or received by law enforcement agencies and other public bodies charged with duties of investigation or examination of persons, institutions, or businesses, when the records constitute a part of the examination, investigation, intelligence information, citizen ~~citizen~~ complaints or inquiries from residents of this state or other interested persons, informant identification, or strategic or tactical information used in law enforcement training, except that this subdivision shall not apply to records so developed or received:

(a) Relating to the presence of and amount or concentration of alcohol or drugs in any body fluid of any person; or

(b) Relating to the cause of or circumstances surrounding the death of an employee arising from or related to his or her employment if, after an investigation is concluded, a family member of the deceased employee makes a request for access to or copies of such records. This subdivision does not require access to or copies of informant identification, the names or identifying information of members of the public ~~citizens~~ making complaints or inquiries, other information which would compromise an ongoing criminal investigation, or information which may be withheld from the public under another provision of law. For purposes of this subdivision, family member means a spouse, child, parent, sibling, grandchild, or grandparent by blood, marriage, or adoption;

(6) The identity and personal identifying information of an alleged victim of sexual assault or sex trafficking as provided in section 29-4316;

(7) Appraisals or appraisal information and negotiation records concerning the purchase or sale, by a public body, of any interest in real or personal property, prior to completion of the purchase or sale;

(8) Personal information in records regarding personnel of public bodies other than salaries and routine directory information;

(9) Information solely pertaining to protection of the security of public property and persons on or within public property, such as specific, unique vulnerability assessments or specific, unique response plans, either of which is intended to prevent or mitigate criminal acts the public disclosure of which would create a substantial likelihood of endangering public safety or property; computer or communications network schema, passwords, and user identification names; guard schedules; lock combinations; or public utility infrastructure specifications or design drawings the public disclosure of which would create a substantial likelihood of endangering public safety or property, unless otherwise provided by state or federal law;

(10) Information that relates details of physical and cyber assets of critical energy infrastructure or critical electric infrastructure, including (a) specific engineering, vulnerability, or detailed design information about proposed or existing critical energy infrastructure or critical electric infrastructure that (i) relates details about the production, generation, transportation, transmission, or distribution of energy, (ii) could be useful to a person in planning an attack on such critical infrastructure, and (iii) does not simply give the general location of the critical infrastructure and (b) the identity of personnel whose primary job function makes such personnel responsible for (i) providing or granting individuals access to physical or cyber assets or (ii) operating and maintaining physical or cyber assets, if a reasonable person, knowledgeable of the electric utility or energy industry, would conclude that the public disclosure of such identity could create a substantial likelihood of risk to such physical or cyber assets. Subdivision (10)(b) of this section shall not apply to the identity of a chief executive officer, general manager, vice president, or board member of a public entity that manages critical energy infrastructure or critical electric infrastructure. The lawful custodian of the records must provide a detailed job description for any personnel whose identity is withheld pursuant to subdivision (10)(b) of this section. For purposes of subdivision (10) of this section, critical energy infrastructure and critical electric infrastructure mean existing and proposed systems and assets, including a system or asset of the bulk-power system, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health or safety, or any combination of such matters;

(11) The security standards, procedures, policies, plans, specifications, diagrams, access lists, and other security-related records of the Lottery Division of the Department of Revenue and those persons or entities with which the division has entered into contractual relationships. Nothing in this subdivision shall allow the division to withhold from the public any information relating to amounts paid persons or entities with which the division has entered into contractual relationships, amounts of prizes paid, the name of the prize winner, and the city, village, or county where the prize winner resides;

(12) With respect to public utilities and except as provided in sections 43-512.06 and 70-101, personally identified private customer ~~citizen~~ account payment and customer use information, credit information on others supplied in confidence, and customer lists;

(13) Records or portions of records kept by a publicly funded library which, when examined with or without other records, reveal the identity of any library patron using the library's materials or services;

(14) Correspondence, memoranda, and records of telephone calls related to the performance of duties by a member of the Legislature in whatever form. The lawful custodian of the correspondence, memoranda, and records of telephone

calls, upon approval of the Executive Board of the Legislative Council, shall release the correspondence, memoranda, and records of telephone calls which are not designated as sensitive or confidential in nature to any person performing an audit of the Legislature. A member's correspondence, memoranda, and records of confidential telephone calls related to the performance of his or her legislative duties shall only be released to any other person with the explicit approval of the member;

(15) Records or portions of records kept by public bodies which would reveal the location, character, or ownership of any known archaeological, historical, or paleontological site in Nebraska when necessary to protect the site from a reasonably held fear of theft, vandalism, or trespass. This section shall not apply to the release of information for the purpose of scholarly research, examination by other public bodies for the protection of the resource or by recognized tribes, the Unmarked Human Burial Sites and Skeletal Remains Protection Act, or the federal Native American Graves Protection and Repatriation Act;

(16) Records or portions of records kept by public bodies which maintain collections of archaeological, historical, or paleontological significance which reveal the names and addresses of donors of such articles of archaeological, historical, or paleontological significance unless the donor approves disclosure, except as the records or portions thereof may be needed to carry out the purposes of the Unmarked Human Burial Sites and Skeletal Remains Protection Act or the federal Native American Graves Protection and Repatriation Act;

(17) Library, archive, and museum materials acquired from nongovernmental entities and preserved solely for reference, research, or exhibition purposes, for the duration specified in subdivision (17)(b) of this section, if:

(a) Such materials are received by the public custodian as a gift, purchase, bequest, or transfer; and

(b) The donor, seller, testator, or transferor conditions such gift, purchase, bequest, or transfer on the materials being kept confidential for a specified period of time;

(18) Job application materials submitted by applicants, other than finalists or a priority candidate for a position described in section 85-106.06 selected using the enhanced public scrutiny process in section 85-106.06, who have applied for employment by any public body as defined in section 84-1409. For purposes of this subdivision, (a) job application materials means employment applications, resumes, reference letters, and school transcripts and (b) finalist means any applicant who is not an applicant for a position described in section 85-106.06 and (i) who reaches the final pool of applicants, numbering four or more, from which the successful applicant is to be selected, (ii) who is an original applicant when the final pool of applicants numbers less than four, or (iii) who is an original applicant and there are four or fewer original applicants;

(19)(a) Records obtained by the Public Employees Retirement Board pursuant to section 84-1512 and (b) records maintained by the board of education of a Class V school district and obtained by the board of trustees or the Public Employees Retirement Board for the administration of a retirement system provided for under the Class V School Employees Retirement Act pursuant to section 79-989;

(20) Social security numbers; credit card, charge card, or debit card numbers and expiration dates; and financial account numbers supplied to state and local governments ~~by citizens~~;

(21) Information exchanged between a jurisdictional utility and city pursuant to section 66-1867;

(22) Draft records obtained by the Nebraska Retirement Systems Committee of the Legislature and the Governor from Nebraska Public Employees Retirement Systems pursuant to subsection (4) of section 84-1503;

(23) All prescription drug information submitted pursuant to section 71-2454, all data contained in the prescription drug monitoring system, and any report obtained from data contained in the prescription drug monitoring system;

(24) Information obtained by any government entity, whether federal, state, county, or local, regarding firearm registration, possession, sale, or use that is obtained for purposes of an application permitted or required by law or contained in a permit or license issued by such entity. Such information shall be available upon request to any federal, state, county, or local law enforcement agency; ~~and~~

(25) The security standards, procedures, policies, plans, specifications, diagrams, and access lists and other security-related records of the State Racing and Gaming Commission, those persons or entities with which the commission has entered into contractual relationships, and the names of any individuals placed on the list of self-excluded persons with the commission as provided in section 9-1118. Nothing in this subdivision shall allow the commission to withhold from the public any information relating to the amount paid any person or entity with which the commission has entered into a contractual relationship, the amount of any prize paid, the name of the prize winner, and the city, village, or county where the prize winner resides; ~~and~~

(26) Records relating to the nature, location, or function of cybersecurity by the State of Nebraska or any of its political subdivisions or any other public entity subject to sections 84-712 to 84-712.09, including, but not limited to, devices, programs, or systems designed to protect computer, information technology, or communications systems against terrorist or other attacks. The Nebraska Information Technology Commission shall adopt and

promulgate rules and regulations to implement this subdivision.

Sec. 12. Section 84-712.07, Reissue Revised Statutes of Nebraska, is amended to read:

84-712.07 The provisions of sections 84-712, 84-712.01, 84-712.03 to 84-712.09, and 84-1413 pertaining to the rights of residents of this state and all other interested persons citizens to access to public records may be enforced by equitable relief, whether or not any other remedy is also available. In any case in which the complainant seeking access has substantially prevailed, the court may assess against the public body which had denied access to their records, reasonable attorney fees and other litigation costs reasonably incurred by the complainant.

Sec. 13. Any court reviewing an appeal from a contested case shall interpret the statute or rule or regulation de novo on the record and shall not defer to the agency's interpretation of such statute or rule or regulation.

Sec. 14. In actions brought by or against state agencies, after applying all customary tools of interpretation of a statute or rule or regulation, the court or hearing officer shall resolve any remaining doubt in favor of a reasonable interpretation which is consistent with an individual's fundamental constitutional rights.

Sec. 15. (1) The Legislature finds that this section is necessary to minimize burdens on the charitable sector and encourage a grantmaking environment that is free and independent from intrusive or politically motivated regulation.

(2) For purposes of this section:

(a) Agency means each board, commission, department, officer, division, or other administrative office or unit of the state government authorized by law to adopt and promulgate rules and regulations, except the Adjutant General's office as provided in Chapter 55, the Legislature, the courts, including the Nebraska Workers' Compensation Court, and the Commission of Industrial Relations; and

(b) Agency includes the Secretary of State and the Attorney General.

(3) Absent the showing of a compelling state interest or federal funding requirement, an agency shall not require any annual filing or reporting by a charitable organization, whether regulated or specifically exempted from regulation, that is more burdensome than any requirements authorized by state law. Any such filing or reporting requirement shall be narrowly tailored to achieve such compelling state interest.

(4) This section shall not be construed to limit or restrict the powers, duties, remedies, or penalties available to the Attorney General or Secretary of State under statute or common law, including, but not limited to, issuance of a civil investigative demand or subpoena.

Sec. 16. Section 84-920, Revised Statutes Cumulative Supplement, 2022, is amended to read:

84-920 Sections 84-901 to 84-920 and sections 13, 14, and 15 of this act, and the Occupational Board Reform Act, and the Personal Privacy Protection Act shall be known and may be cited as the Administrative Procedure Act.

Sec. 17. Sections 17 to 20 of this act shall be known and may be cited as the Personal Privacy Protection Act.

Sec. 18. For purposes of the Personal Privacy Protection Act:

(1) Nonprofit organization means a nonprofit organization holding a certificate of exemption under section 501(c) of the Internal Revenue Code;

(2) Person means any individual, partnership, limited liability company, corporation, association, firm, or agent or employee of any such individual or business entity;

(3) Personal information means any list, record, register, registry, roll, roster, or other compilation of data that directly or indirectly identifies a person as a member, supporter, or volunteer of, or donor of financial or nonfinancial support to, any nonprofit organization; and

(4) Public agency means any state or local governmental unit, including, but not limited to:

(a) The State of Nebraska;

(b) Any agency, department, division, office, commission, board, bureau, committee, council, or other entity of the state;

(c) The University of Nebraska or any state college;

(d) Any political subdivision of the state, including, but not limited to, any county, city, village, township, school district, community college area, public power district, rural fire district, or other local governmental unit, or agency, authority, council, board, or commission thereof;

(e) Any state or local court, tribunal, or other judicial or quasi-judicial body; or

(f) Any public corporation whose primary function is to act as an instrumentality or agency of the state or of any other public agency.

Sec. 19. (1) Notwithstanding any provision of law to the contrary, and except as otherwise provided in this section, each public agency is prohibited from:

(a) Requiring any individual to provide personal information or otherwise compelling the release of personal information;

(b) Requiring any nonprofit organization to provide such public agency with personal information or otherwise compelling the release of personal information;

(c) Publicizing or otherwise publicly disclosing personal information in the possession of such public agency without the express permission of every individual who is identifiable from the potential release of such personal

information, including individuals identifiable as members, supporters, or volunteers of, or donors to, a nonprofit organization; or

(d) Requesting or requiring a current or prospective contractor or grantee to provide such public agency with a list of nonprofit organizations to which such contractor or grantee has provided financial or nonfinancial support.

(2) Personal information is exempt from disclosure under public records laws, including, but not limited to, sections 84-712 to 84-712.09 and 84-1413.

(3) This section does not prohibit:

(a) Any report or disclosure required by the Nebraska Political Accountability and Disclosure Act;

(b) Any report or disclosure by a public agency regarding testimony received at a public hearing conducted by such public agency;

(c) Any lawful warrant, subpoena, or order issued by a court of competent jurisdiction for the production of personal information;

(d) Any lawful request for discovery of personal information in litigation if both of the following conditions are met:

(i) The requestor demonstrates a compelling need for such personal information by clear and convincing evidence; and

(ii) The requestor obtains an order barring disclosure of such personal information to any person not named in the litigation;

(e) Admission of personal information as relevant evidence before a court of competent jurisdiction. However, no court shall publicly reveal personal information absent a specific finding of good cause;

(f) Any report or disclosure required by state or federal law or regulation for an employee of the University of Nebraska or any state college. Except as otherwise required by law, no such report or disclosure shall be subject to release under the state public records laws;

(g) Any report or disclosure required by conflict of interest, conflict of commitment, or outside income policies for an employee or contractor of the University of Nebraska or any state college. Except as otherwise required by law, no such report or disclosure shall be subject to release under the state public records laws;

(h) Any document required or permitted to be filed with the Secretary of State disclosing the identity of any director, officer, incorporator, or registered agent of a nonprofit organization;

(i) Any request for information required by the Uniform Credentialing Act or Health Care Facility Licensure Act or by a federal funding agency;

(j) A request for information required for a criminal history record information check undertaken pursuant to express statutory authority, except that such information shall only be used in connection with the specific criminal history record information check and for any related proceedings;

(k)(i) The Auditor of Public Accounts from accessing personal information during an examination undertaken pursuant to express statutory authority. The auditor may publicly disclose personal information obtained during such examination only if that information:

(A) Pertains specifically to a person who has violated or is alleged to have violated a state or federal law, rule, or regulation or an ordinance of a city or village; or

(B) Pertains to a person directly associated with a violation described in subdivision (3)(k)(i)(A) of this section.

(ii) This subdivision (3)(k) shall be strictly construed and only authorizes disclosure of personal information pertaining to a person who meets the criteria described in subdivision (3)(k)(i) of this section.

(iii) All other personal information accessed by the Auditor of Public Accounts shall be subject to the restrictions on working papers contained in section 84-311; or

(l) Subject to compliance with section 8-112, any request for, or release of, information, a record, or a report, obtained by the Department of Banking and Finance from a nonprofit organization.

Sec. 20. Any person aggrieved by a violation of the Personal Privacy Protection Act may bring a civil action for appropriate relief. Appropriate relief includes:

(1) The greater of actual damages or two thousand five hundred dollars in liquidated damages per violation; and

(2) Such preliminary and other equitable or declaratory relief as may be appropriate.

Sec. 21. Section 84-1412, Revised Statutes Cumulative Supplement, 2022, is amended to read:

84-1412 (1) Subject to the Open Meetings Act, the public has the right to attend and the right to speak at meetings of public bodies, and all or any part of a meeting of a public body, except for closed sessions called pursuant to section 84-1410, may be videotaped, televised, photographed, broadcast, or recorded by any person in attendance by means of a tape recorder, a camera, video equipment, or any other means of pictorial or sonic reproduction or in writing. Except for closed sessions called pursuant to section 84-1410, a public body shall allow members of the public an opportunity to speak at each meeting.

(2) It shall not be a violation of subsection (1) of this section for any public body to make and enforce reasonable rules and regulations regarding the conduct of persons attending, speaking at, videotaping, televising, photographing, broadcasting, or recording its meetings, including meetings held by virtual conferencing. A body may not be required to allow citizens to speak at each meeting, but it may not forbid public participation at all meetings.

(3) No public body shall require members of the public to identify themselves as a condition for admission to the meeting nor shall such body require that the name of any member of the public be placed on the agenda prior to such meeting in order to speak about items on the agenda. The body shall require any member of the public desiring to address the body to identify himself or herself, including an address and the name of any organization represented by such person unless the address requirement is waived to protect the security of the individual.

(4) No public body shall, for the purpose of circumventing the Open Meetings Act, hold a meeting in a place known by the body to be too small to accommodate the anticipated audience.

(5) No public body shall be deemed in violation of this section if it holds its meeting in its traditional meeting place which is located in this state.

(6) No public body shall be deemed in violation of this section if it holds a meeting outside of this state if, but only if:

(a) A member entity of the public body is located outside of this state and the meeting is in that member's jurisdiction;

(b) All out-of-state locations identified in the notice are located within public buildings used by members of the entity or at a place which will accommodate the anticipated audience;

(c) Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including making virtual conferencing available at an in-state location to members, the public, or the press, if requested twenty-four hours in advance;

(d) No more than twenty-five percent of the public body's meetings in a calendar year are held out-of-state;

(e) Out-of-state meetings are not used to circumvent any of the public government purposes established in the Open Meetings Act; and

(f) The public body publishes notice of the out-of-state meeting at least twenty-one days before the date of the meeting in a legal newspaper of statewide circulation.

(7) Each public body shall, upon request, make a reasonable effort to accommodate the public's right to hear the discussion and testimony presented at a meeting.

(8) Public bodies shall make available at the meeting or the in-state location for virtual conferencing as required by subdivision (6)(c) of this section, for examination and copying by members of the public, at least one copy of all reproducible written material to be discussed at an open meeting, either in paper or electronic form. Public bodies shall make available at least one current copy of the Open Meetings Act posted in the meeting room at a location accessible to members of the public. At the beginning of the meeting, the public shall be informed about the location of the posted information.

Sec. 22. Sections 1, 2, 3, 4, 5, 8, 9, 10, 12, 13, 14, 15, 16, 21, and 24 of this act become operative three calendar months after the adjournment of this legislative session. Sections 17, 18, 19, and 20 of this act become operative on January 1, 2025. Sections 6 and 7 of this act become operative on July 1, 2025. The other sections of this act become operative on their effective date.

Sec. 23. If any section in this act or any part of any section is declared invalid or unconstitutional, the declaration shall not affect the validity or constitutionality of the remaining portions.

Sec. 24. Original sections 84-712, 84-712.01, and 84-712.07, Reissue Revised Statutes of Nebraska, and sections 84-712.03, 84-920, and 84-1412, Revised Statutes Cumulative Supplement, 2022, are repealed.

Sec. 25. Original section 84-712.05, Revised Statutes Cumulative Supplement, 2022, is repealed.

Sec. 26. Since an emergency exists, this act takes effect when passed and approved according to law.

## LEGISLATIVE BILL 399

Approved by the Governor April 16, 2024

Introduced by Brewer, 43; Erdman, 47; Albrecht, 17.

A BILL FOR AN ACT relating to the Nebraska Power Review Board; to amend section 70-1014, Reissue Revised Statutes of Nebraska, sections 70-1014.02 and 84-1411, Revised Statutes Cumulative Supplement, 2022, and section 70-1001.01, Revised Statutes Supplement, 2023; to redefine terms; to provide a public meeting and report requirement for board approval of certain proposed electric generation facilities; to change and provide certification requirements for issuance of an acknowledgment of exemption by the board of a proposed privately developed renewable energy generation facility; to provide an exception to a virtual conferencing requirement under the Open Meetings Act; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 70-1001.01, Revised Statutes Supplement, 2023, is amended to read:

70-1001.01 For purposes of sections 70-1001 to 70-1028, unless the context otherwise requires:

(1) Board means the Nebraska Power Review Board;

(2) Electric supplier or supplier of electricity means any legal entity supplying, producing, or distributing electricity within the state for sale at wholesale or retail;

(3) Private electric supplier means an electric supplier producing electricity from a privately developed renewable energy generation facility that is not a public power district, a public power and irrigation district, a municipality, a registered group of municipalities, an electric cooperative, an electric membership association, any other governmental entity, or any combination thereof. A private electric supplier is limited to the development of those facilities as provided in subdivision (4) of this section;

(4) Privately developed renewable energy generation facility means and is limited to a facility that (a) generates electricity using solar, wind, geothermal, biomass, landfill gas, or biogas, including all electrically connected equipment used to produce, collect, and store the facility output up to and including the transformer that steps up the voltage to sixty thousand volts or greater, and including supporting structures, buildings, and roads, unless otherwise agreed to in a joint transmission development agreement, (b) is developed, constructed, and owned, in whole or in part, by one or more private electric suppliers, and (c) is not wholly owned by a public power district, a public power and irrigation district, a municipality, a registered group of municipalities, an electric cooperative, an electric membership association, any other governmental entity, or any combination thereof;

(5) Regional transmission organization means an entity independent from those entities generating or marketing electricity at wholesale or retail, which has operational control over the electric transmission lines in a designated geographic area in order to reduce constraints in the flow of electricity and ensure that all power suppliers have open access to transmission lines for the transmission of electricity;

(6) Reliable or reliability means the ability of an electric supplier to supply the aggregate electric power and energy requirements of its electricity consumers in Nebraska at all times under normal operating conditions, taking into account scheduled and unscheduled outages, including sudden disturbances or unanticipated loss of system components that are to be reasonably expected for any electric utility following prudent utility practices, recognizing certain weather conditions and other contingencies may cause outages at the distribution, transmission, and generation level;

(7) Representative organization means an organization designated by the board and organized for the purpose of providing joint planning and encouraging maximum cooperation and coordination among electric suppliers. Such organization shall represent electric suppliers owning a combined electric generation plant accredited capacity of at least ninety percent of the total electric generation plant accredited capacity constructed and in operation within the state;

(8) State means the State of Nebraska; and

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

Sec. 2. Section 70-1014, Reissue Revised Statutes of Nebraska, is amended to read:

70-1014 (1) After hearing, the board shall have authority to approve or deny the application. Except as provided in section 70-1014.01 for special generation applications, before approval of an application, the board shall find that:

(a) The ~~the~~ application will serve the public convenience and necessity,



and that the applicant can most economically and feasibly supply the electric service resulting from the proposed construction or acquisition, without unnecessary duplication of facilities or operations; and -

(b)(i) For any proposed electric generation facility that has a generating capacity that is greater than ten megawatts, the applicant has held at least one public meeting with advanced publicized notice in one of the counties in which the proposed facility will be located at which (A) at least fifty percent of the governing body of the electric supplier attends either in person or by videoconference, but with not less than one member of the governing body physically present, (B) the applicant explains the need for the proposed facility and the type of facility, and (C) real property owners in any of the counties in which the proposed facility will be located are provided an opportunity to comment on the proposed facility. The applicant shall provide a report to the board containing the minutes of any such meeting and how many people commented on the proposed facility. Documentation received at any such meeting shall be made available to the board upon its request. A meeting described in this subdivision is not subject to the requirements described in subdivision (2)(b)(iv) of section 84-1411.

(ii) This subdivision (b) shall not apply if the proposed facility will be located on real property owned by the applicant at the time of application.

(2) If the application involves a transmission line or related facilities planned and approved by a regional transmission organization and the regional transmission organization has issued a notice to construct or similar notice or order to a utility to construct the line or related facilities, the board shall also consider information from the regional transmission organization's planning process and may consider the benefits to the region, which shall include Nebraska, provided by the proposed line or related facilities as part of the board's process in determining whether to approve or deny the application.

(3) A privately developed renewable energy generation facility is exempt from this section if it complies with section 70-1014.02.

Sec. 3. Section 70-1014.02, Revised Statutes Cumulative Supplement, 2022, is amended to read:

70-1014.02 (1) The Legislature finds that:

(a) Nebraska has the authority as a sovereign state to protect its land, natural resources, and cultural resources for economic and aesthetic purposes for the benefit of its residents and future generations by regulation of energy generation projects;

(b) The unique terrain and ecology of the Nebraska Sandhills provide an irreplaceable habitat for millions of migratory birds and other wildlife every year and serve as the home to numerous ranchers and farmers;

(c) The grasslands of the Nebraska Sandhills and other natural resources in Nebraska will become increasingly valuable, both economically and strategically, as the demand for food and energy increases; and

(d) The Nebraska Sandhills are home to priceless archaeological sites of historical and cultural significance to American Indians.

(2)(a) A privately developed renewable energy generation facility that meets the requirements of this section is exempt from sections 70-1012 to 70-1014.01 if, no less than thirty days prior to the commencement of construction, the owner of the facility:

(i) Notifies the board in writing of its intent to commence construction of a privately developed renewable energy generation facility;

(ii) Certifies to the board that the facility will meet the requirements for a privately developed renewable energy generation facility;

(iii) Certifies to the board that the private electric supplier will (A) comply with any decommissioning requirements adopted by the local governmental entities having jurisdiction over the privately developed renewable energy generation facility and (B) except as otherwise provided in subdivision (b) of this subsection, submit a decommissioning plan to the board obligating the private electric supplier to bear all costs of decommissioning the privately developed renewable energy generation facility and requiring that the private electric supplier post a security bond or other instrument, no later than the ~~sixth tenth~~ year following commercial operation, securing the costs of decommissioning the facility and provide a copy of the bond or instrument to the board;

(iv) Certifies to the board that the private electric supplier has entered into or prior to commencing construction will enter into a joint transmission development agreement pursuant to subdivision (c) of this subsection with the electric supplier owning the transmission facilities of sixty thousand volts or greater to which the privately developed renewable energy generation facility will interconnect; ~~and~~

(v) Certifies to the board that the private electric supplier has consulted with the Game and Parks Commission to identify potential measures to avoid, minimize, and mitigate impacts to species identified under subsection (1) or (2) of section 37-806 during the project planning and design phases, if possible, but in no event later than the commencement of construction; ~~and -~~

(vi) For a proposed privately developed renewable energy generation facility that has a generating capacity that is greater than ten megawatts, certifies to the board that the private electric supplier has held at least one public meeting with advanced publicized notice in one of the counties in which the proposed facility will be located at which (A) the private electric supplier explains the need for the proposed facility and the type of facility and (B) real property owners in any of the counties in which the proposed

facility will be located are provided an opportunity to comment on the proposed facility. The private electric supplier shall provide a report to the board containing the minutes of any such meeting and how many people commented on the proposed facility. Documentation received at any such meeting shall be made available to the board upon its request. A meeting described in this subdivision is not subject to the requirements described in subdivision (2)(b)(iv) of section 84-1411.

(b) The board may bring an action in the name of the State of Nebraska for failure to comply with subdivision (a)(iii)(B) of this subsection, except that such subdivision ~~Subdivision (a)(iii)(B) of this subsection~~ does not apply if a local government entity with the authority to create requirements for decommissioning has enacted decommissioning requirements for the applicable jurisdiction.

(c) ~~A~~ The joint transmission development agreement shall be entered into to address construction, ownership, operation, and maintenance of such additions or upgrades to the transmission facilities as required for the privately developed renewable energy generation facility. The joint transmission development agreement shall be negotiated and executed contemporaneously with the generator interconnection agreement or other directives of the applicable regional transmission organization with jurisdiction over the addition or upgrade of transmission, upon terms consistent with prudent electric utility practices for the interconnection of renewable generation facilities, the electric supplier's reasonable transmission interconnection requirements, and applicable transmission design and construction standards. The electric supplier shall have the right to purchase and own transmission facilities as set forth in the joint transmission development agreement. The private electric supplier of the privately developed renewable energy generation facility shall have the right to construct any necessary facilities or improvements set forth in the joint transmission development agreement pursuant to the standards set forth in the agreement at the private electric supplier's cost.

(3) Within ten days after receipt of a written notice complying with subsection (2) of this section, the executive director of the board shall issue a written acknowledgment that the privately developed renewable energy generation facility is exempt from sections 70-1012 to 70-1014.01 if such facility remains in compliance with the requirements of this section.

(4) The exemption allowed under this section for a privately developed renewable energy generation facility shall extend to and exempt all private electric suppliers owning any interest in the facility, including any successor private electric supplier which subsequently acquires any interest in the facility.

(5) No property owned, used, or operated as part of a privately developed renewable energy generation facility shall be subject to eminent domain by a consumer-owned electric supplier operating in the State of Nebraska. Nothing in this section shall be construed to grant the power of eminent domain to a private electric supplier or limit the rights of any entity to acquire any public, municipal, or utility right-of-way across property owned, used, or operated as part of a privately developed renewable energy generation facility as long as the right-of-way does not prevent the operation of or access to the privately developed renewable energy generation facility.

(6) Only a consumer-owned electric supplier operating in the State of Nebraska may exercise eminent domain authority to acquire the land rights necessary for the construction of transmission lines and related facilities. There is a rebuttable presumption that the exercise of eminent domain to provide needed transmission lines and related facilities for a privately developed renewable energy generation facility is a public use.

(7) Nothing in this section shall be construed to authorize a private electric supplier to sell or deliver electricity at retail in Nebraska.

(8) Nothing in this section shall be construed to limit the authority of or require a consumer-owned electric supplier operating in the State of Nebraska to enter into a joint agreement with a private electric supplier to develop, construct, and jointly own a privately developed renewable energy generation facility.

Sec. 4. Section 84-1411, Revised Statutes Cumulative Supplement, 2022, is amended to read:

84-1411 (1)(a) Each public body shall give reasonable advance publicized notice of the time and place of each meeting as provided in this subsection. Such notice shall be transmitted to all members of the public body and to the public.

(b)(i) Except as provided in subdivision (1)(b)(ii) of this section, in the case of a public body described in subdivision (1)(a)(i) of section 84-1409 or such body's advisory committee, such notice shall be published in a newspaper of general circulation within the public body's jurisdiction and, if available, on such newspaper's website.

(ii) In the case of the governing body of a city of the second class or village or such body's advisory committee, such notice shall be published by:

(A) Publication in a newspaper of general circulation within the public body's jurisdiction and, if available, on such newspaper's website; or

(B) Posting written notice in three conspicuous public places in such city or village. Such notice shall be posted in the same three places for each meeting.

(iii) In the case of a public body not described in subdivision (1)(b)(i) or (ii) of this section, such notice shall be given by a method designated by

the public body.

(c) In addition to a method of notice required by subdivision (1)(b)(i) or (ii) of this section, such notice may also be provided by any other appropriate method designated by such public body or such advisory committee.

(d) Each public body shall record the methods and dates of such notice in its minutes.

(e) Such notice shall contain an agenda of subjects known at the time of the publicized notice or a statement that the agenda, which shall be kept continually current, shall be readily available for public inspection at the principal office of the public body during normal business hours. Agenda items shall be sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting. Except for items of an emergency nature, the agenda shall not be altered later than (i) twenty-four hours before the scheduled commencement of the meeting or (ii) forty-eight hours before the scheduled commencement of a meeting of a city council or village board scheduled outside the corporate limits of the municipality. The public body shall have the right to modify the agenda to include items of an emergency nature only at such public meeting.

(2)(a) The following entities may hold a meeting by means of virtual conferencing if the requirements of subdivision (2)(b) of this section are met:

(i) A state agency, state board, state commission, state council, or state committee, or an advisory committee of any such state entity;

(ii) An organization, including the governing body, created under the Interlocal Cooperation Act, the Joint Public Agency Act, or the Municipal Cooperative Financing Act;

(iii) The governing body of a public power district having a chartered territory of more than one county in this state;

(iv) The governing body of a public power and irrigation district having a chartered territory of more than one county in this state;

(v) An educational service unit;

(vi) The Educational Service Unit Coordinating Council;

(vii) An organization, including the governing body, of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act;

(viii) A community college board of governors;

(ix) The Nebraska Brand Committee;

(x) A local public health department;

(xi) A metropolitan utilities district;

(xii) A regional metropolitan transit authority; and

(xiii) A natural resources district.

(b) The requirements for holding a meeting by means of virtual conferencing are as follows:

(i) Reasonable advance publicized notice is given as provided in subsection (1) of this section, including providing access to a dial-in number or link to the virtual conference;

(ii) In addition to the public's right to participate by virtual conferencing, reasonable arrangements are made to accommodate the public's right to attend at a physical site and participate as provided in section 84-1412, including reasonable seating, in at least one designated site in a building open to the public and identified in the notice, with: At least one member of the entity holding such meeting, or his or her designee, present at each site; a recording of the hearing by audio or visual recording devices; and a reasonable opportunity for input, such as public comment or questions, is provided to at least the same extent as would be provided if virtual conferencing was not used;

(iii) At least one copy of all documents being considered at the meeting is available at any physical site open to the public where individuals may attend the virtual conference. The public body shall also provide links to an electronic copy of the agenda, all documents being considered at the meeting, and the current version of the Open Meetings Act; and

(iv) Except as otherwise provided in this subdivision, subsection (1) of section 70-1014, subsection (2) of section 70-1014.02, or subsection (4) of section 79-2204, no more than one-half of the meetings of the state entities, advisory committees, boards, councils, organizations, or governing bodies are held by virtual conferencing in a calendar year. In the case of an organization created under the Interlocal Cooperation Act that sells electricity or natural gas at wholesale on a multistate basis or an organization created under the Municipal Cooperative Financing Act, the organization may hold more than one-half of its meetings by virtual conferencing if such organization holds at least one meeting each calendar year that is not by virtual conferencing. The governing body of a risk management pool that meets at least quarterly and the advisory committees of the governing body may each hold more than one-half of its meetings by virtual conferencing if the governing body's quarterly meetings are not held by virtual conferencing.

(3) Virtual conferencing, emails, faxes, or other electronic communication shall not be used to circumvent any of the public government purposes established in the Open Meetings Act.

(4) The secretary or other designee of each public body shall maintain a list of the news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to them of the time and place of each meeting and the subjects to be discussed at that meeting.

(5) When it is necessary to hold an emergency meeting without reasonable advance public notice, the nature of the emergency shall be stated in the

minutes and any formal action taken in such meeting shall pertain only to the emergency. Such emergency meetings may be held by virtual conferencing. The provisions of subsection (4) of this section shall be complied with in conducting emergency meetings. Complete minutes of such emergency meetings specifying the nature of the emergency and any formal action taken at the meeting shall be made available to the public by no later than the end of the next regular business day.

(6) A public body may allow a member of the public or any other witness to appear before the public body by means of virtual conferencing.

(7)(a) Notwithstanding subsections (2) and (5) of this section, if an emergency is declared by the Governor pursuant to the Emergency Management Act as defined in section 81-829.39, a public body the territorial jurisdiction of which is included in the emergency declaration, in whole or in part, may hold a meeting by virtual conferencing during such emergency if the public body gives reasonable advance publicized notice as described in subsection (1) of this section. The notice shall include information regarding access for the public and news media. In addition to any formal action taken pertaining to the emergency, the public body may hold such meeting for the purpose of briefing, discussion of public business, formation of tentative policy, or the taking of any action by the public body.

(b) The public body shall provide access by providing a dial-in number or a link to the virtual conference. The public body shall also provide links to an electronic copy of the agenda, all documents being considered at the meeting, and the current version of the Open Meetings Act. Reasonable arrangements shall be made to accommodate the public's right to hear and speak at the meeting and record the meeting. Subsection (4) of this section shall be complied with in conducting such meetings.

(c) The nature of the emergency shall be stated in the minutes. Complete minutes of such meeting specifying the nature of the emergency and any formal action taken at the meeting shall be made available for inspection as provided in subsection (5) of section 84-1413.

(8) In addition to any other statutory authorization for virtual conferencing, any public body not listed in subdivision (2)(a) of this section may hold a meeting by virtual conferencing if:

(a) The purpose of the virtual meeting is to discuss items that are scheduled to be discussed or acted upon at a subsequent non-virtual open meeting of the public body;

(b) No action is taken by the public body at the virtual meeting; and

(c) The public body complies with subdivisions (2)(b)(i) and (2)(b)(ii) of this section.

Sec. 5. Original section 70-1014, Reissue Revised Statutes of Nebraska, sections 70-1014.02 and 84-1411, Revised Statutes Cumulative Supplement, 2022, and section 70-1001.01, Revised Statutes Supplement, 2023, are repealed.

## LEGISLATIVE BILL 1370

Approved by the Governor April 15, 2024

Introduced by Bostelman, 23; Albrecht, 17; Brewer, 43; Clements, 2; DeKay, 40; Dorn, 30; Dover, 19; Erdman, 47; Halloran, 33; Hansen, 16; Hardin, 48; Holdcroft, 36; Hughes, 24; Ibach, 44; Jacobson, 42; Kauth, 31; Linehan, 39; Lippincott, 34; Lowe, 37; McDonnell, 5; Meyer, 41; Murman, 38; Sanders, 45; Slama, 1.

A BILL FOR AN ACT relating to electricity; to amend sections 70-624.04, 70-637, and 70-1012, Reissue Revised Statutes of Nebraska, sections 70-1014.02 and 84-1411, Revised Statutes Cumulative Supplement, 2022, and section 70-1001.01, Revised Statutes Supplement, 2023; to provide requirements relating to the closing or decommissioning of a dispatchable electric generation facility; to change provisions relating to directors of public power and irrigation districts; to change provisions relating to contracts entered into by public power districts; to require certain actions by a developer, owner, or operator of a wind energy conversion system; to provide certain requirements relating to the construction or acquisition of an electric generation facility or transmission lines; to exempt certain entities from certain meeting requirements; to define terms; to harmonize provisions; to provide operative dates; to repeal the original sections; to outright repeal sections 70-1029, 70-1030, 70-1031, and 70-1033, Reissue Revised Statutes of Nebraska, and section 70-1032, Revised Statutes Cumulative Supplement, 2022; and to declare an emergency. Be it enacted by the people of the State of Nebraska,

Section 1. (1) For purposes of this section, dispatchable electric generation facility means a facility that, under normal operating conditions, can increase or decrease its output on demand to provide electricity onto the electric power transmission grid on an ongoing basis.

(2)(a) If a public power district, a public power and irrigation district, an electric membership association, an electric cooperative company, a municipality having a generation and distribution system, or a registered group of municipalities decides that a dispatchable electric generation facility with a generation capacity in excess of one hundred megawatts owned by any such entity should be closed or decommissioned, such entity shall provide written notice to the Nebraska Power Review Board prior to a final decision to close or decommission such facility. Such written notice shall include recommendations on necessary transition activities to avoid economic harm to workers at such facility or to an affected community. Transition activities include, but are not necessarily limited to:

(i) Educating workers regarding the availability of various assistance programs, including what options are available to maintain employment with such entity;

(ii) Explaining what severance pay will be available to workers;

(iii) Services for workers including education and job training, career counseling, skills-matching, and financial planning assistance; and

(iv) Promoting economic development opportunities in the affected community, including the creation of comparable jobs.

(b) The board, in its discretion, may set a time and place for hearing on the matter and provide at least twenty days' prior notice to such entity. The hearing shall be held within sixty days after such notice unless such entity requests in writing that the hearing not be scheduled until a later time. Any such hearing shall be closed to the public due to the proprietary and commercial information discussed. If the board determines that no hearing is necessary, the board shall provide written notice of such determination to such entity within thirty days after receipt of the written notice described in subdivision (2)(a) of this section.

(3) Within sixty days after the hearing or the determination that no hearing is necessary as described in subsection (2) of this section, the board shall make recommendations in writing on the basis of the record before the board as to whether closing or decommissioning the dispatchable electric generation facility is in the best interests of the entity deciding to close or decommission the dispatchable electric generation facility and its customers. Such recommendations shall be advisory only. Such entity shall consider the board's recommendations before making its final decision regarding the closing or decommissioning of the electric generation facility.

(4) The notices, the scheduling decisions concerning the hearing and purpose of the hearing, the record of the hearing, the board's recommendations, and any response by the entity deciding to close or decommission the dispatchable electric generation facility shall all be treated as confidential records that are not subject to public disclosure pursuant to sections 84-712 to 84-712.09 until such time as such entity publicly announces any decision to close or decommission the dispatchable electric generation facility. Nothing in this subsection shall be construed to require public disclosure of any information that may be withheld as provided in section 70-673 or 84-712.05.

(5) This section shall not apply to any decision by a public power

district, a public power and irrigation district, an electric membership association, an electric cooperative company, a municipality having a generation and distribution system, or a registered group of municipalities to close or decommission a dispatchable electric generation facility made prior to the effective date of this act.

Sec. 2. Section 70-624.04, Reissue Revised Statutes of Nebraska, is amended to read:

70-624.04 (1) Directors and employees of public power districts, public power and irrigation districts, and public utility companies shall be permitted to hold other elective office as provided in section 32-604. No contracts of any such public power district, public power and irrigation district, or public utility company shall be void or voidable by reason of such service by its directors or employees.

(2) A director of a public power and irrigation district may have an interest in a residential lease agreement or a water service agreement with such district. Such director may participate in any discussion or vote on such agreements. No agreement of such public power and irrigation district shall be void or voidable by reason of such interest by such director.

Sec. 3. Section 70-637, Reissue Revised Statutes of Nebraska, is amended to read:

70-637 (1) A district shall cause estimates of the costs to be made by some competent engineer or engineers before the district enters into any contract for:

(a) The construction, reconstruction, remodeling, building, alteration, maintenance, repair, extension, or improvement, for the use of the district, of any:

- (i) Power plant or system;
- (ii) Hydrogen production, storage, or distribution system;
- (iii) Ethanol production or distribution system;
- (iv) Irrigation works; or
- (v) Part or section of a system or works described in subdivisions (i) through (iv) of this subdivision; or

(b) The purchase of any materials, machinery, or apparatus to be used in the projects described in subdivision (1)(a) of this section.

(2) If the estimated cost exceeds the sum of seven ~~two~~ hundred fifty thousand dollars, for those districts with a gross revenue of less than five hundred million dollars, or one million five hundred thousand dollars, for those districts with a gross revenue of five hundred million dollars or more, no such contract shall be entered into without advertising for sealed bids.

(3) Notwithstanding the provisions of subsection (2) of this section and sections 70-638 and 70-639, the board of directors of the district may negotiate directly with sheltered workshops pursuant to section 48-1503.

(4)(a) The provisions of subsection (2) of this section and sections 70-638 and 70-639 relating to sealed bids shall not apply to contracts entered into by a district in the exercise of its rights and powers relating to (i) radioactive material or the energy therefrom, (ii) any technologically complex or unique equipment, (iii) equipment or supplemental labor procurement from an electric utility or from or through an electric utility alliance, or (iv) any maintenance or repair, if the requirements of subdivisions (b) and (c) of this subsection are met.

(b) A contract described in subdivision (a) of this subsection need not comply with subsection (2) of this section or section 70-638 or 70-639 if:

(i) The engineer or engineers certify that, by reason of the nature of the subject matter of the contract, compliance with subsection (2) of this section would be impractical or not in the public interest;

(ii) The engineer's certification is approved by a two-thirds vote of the board; and

(iii) The district advertises notice of its intention to enter into such contract, the general nature of the proposed work, and the name of the person to be contacted for additional information by anyone interested in contracting for such work.

(c) Any contract for which the board has approved an engineer's certificate described in subdivision (b) of this subsection shall be advertised in three issues not less than seven days between issues in one or more newspapers of general circulation in the district and in such additional newspapers or trade or technical periodicals as may be selected by the board in order to give proper notice of its intention to enter into such contract, and any such contract shall not be entered into prior to twenty days after the last advertisement.

(5) The provisions of subsection (2) of this section and sections 70-638 and 70-639 shall not apply to contracts in excess of seven ~~two~~ hundred fifty thousand dollars, for those districts with a gross revenue of less than five hundred million dollars, or one million five hundred thousand dollars, for those districts with a gross revenue of five hundred million dollars or more, entered into for the purchase of any materials, machinery, or apparatus to be used in projects described in subdivision (1)(a) of this section if, after advertising for sealed bids:

(a) No responsive bids are received; or

(b) The board of directors of such district determines that all bids received are in excess of the fair market value of the subject matter of such bids.

(6) Notwithstanding any other provision of subsection (2) of this section or sections 70-638 and 70-639, a district may, without advertising or sealed

bidding, purchase replacement parts or services relating to such replacement parts for any generating unit, transformer, or other transmission and distribution equipment from the original manufacturer of such equipment upon certification by an engineer or engineers that such manufacturer is the only available source of supply for such replacement parts or services and that such purchase is in compliance with standards established by the board. A written statement containing such certification and a description of the resulting purchase of replacement parts or services from the original manufacturer shall be submitted to the board by the engineer or engineers certifying the purchase for the board's approval. After such certification, but not necessarily before the board review, notice of any such purchase shall be published once a week for at least three consecutive weeks in one or more newspapers of general circulation in the district and published in such additional newspapers or trade or technical periodicals as may be selected by the board in order to give proper notice of such purchase.

(7) Notwithstanding any other provision of subsection (2) of this section or sections 70-638 and 70-639, a district may, without advertising or sealed bidding, purchase used equipment and materials on a negotiated basis upon certification by an engineer that such equipment is or such materials are in compliance with standards established by the board. A written statement containing such certification shall be submitted to the board by the engineer for the board's approval.

Sec. 4. (1) For purposes of this section:

(a) FAA approval means approval by the Federal Aviation Administration that meets the requirements set forth in Chapter 10 of the Federal Aviation Administration's 2020 Advisory Circular AC 70/7460-1M, Obstruction Marking and Lighting;

(b) Light-mitigating technology system means aircraft detection lighting or any other comparable system capable of reducing the impact of facility obstruction lighting while maintaining conspicuity sufficient to assist aircraft in identifying and avoiding collision with a wind energy conversion system;

(c) Repower means a substantial physical modification of at least seventy-five percent of the wind turbines in a wind energy conversion system that results in an increase of ten percent or more in nameplate capacity; and

(d) Wind energy conversion system means an electric generation facility consisting of ten or more wind turbines that are two hundred fifty feet or more in height and any accessory or appurtenant structures and buildings including substations, meteorological towers, electrical infrastructure, and transmission lines.

(2) Beginning July 1, 2025:

(a)(i) A developer, owner, or operator of a wind energy conversion system shall make application to the Federal Aviation Administration for FAA approval to install and operate a light-mitigating technology system on such wind energy conversion system as follows:

(A) Before a wind energy conversion system commences commercial operation in this state, if such system did not exist prior to July 1, 2025;

(B) Within thirty days after a wind energy conversion system existing prior to July 1, 2025, commences a repower; or

(C) If on July 1, 2025, such developer, owner, or operator has five years or less remaining on a power purchase agreement with an electric supplier for a wind energy conversion system, within thirty days after the existing power purchase agreement is extended or renewed or a new power purchase agreement is executed; and

(ii) Within twenty-four months after receiving FAA approval, the developer, owner, or operator of the wind energy conversion system shall install a light-mitigating technology system on wind turbines covered under such FAA approval; and

(b) Any developer, owner, or operator of a wind energy conversion system existing prior to July 1, 2025, that does not commence a repower shall on or before July 1, 2035, install a light-mitigating technology system on the wind turbines in such wind energy conversion system that meets Federal Aviation Administration requirements.

(3) Any application made pursuant to subsection (2) of this section shall be submitted in good faith and reasonably intended to obtain FAA approval. If FAA approval is not granted after application is made pursuant to such subsection, the wind energy conversion system may commence or continue, as applicable, commercial operation without a light-mitigating technology system.

(4) Any costs associated with the installation, implementation, operation, and maintenance of a light-mitigating technology system shall be the responsibility of the developer, owner, or operator of the wind energy conversion system.

(5) Nothing in this section shall be construed to require mitigation of light pollution to be carried out in a manner that conflicts with federal law or requirements, including requirements of the Federal Aviation Administration or the United States Department of Defense.

(6) Nothing in this section shall be construed to require any new or separate approval from any state or local governmental agency.

Sec. 5. Section 70-1001.01, Revised Statutes Supplement, 2023, is amended to read:

70-1001.01 For purposes of sections 70-1001 to 70-1028, unless the context otherwise requires:

(1) Board means the Nebraska Power Review Board;

(2) Electric supplier or supplier of electricity means any legal entity supplying, producing, or distributing electricity within the state for sale at wholesale or retail;

(3) Military installation means a military base other than a National Guard base where fixed-wing aircraft or strategic weapon assets are on a permanent or temporary basis assigned, stored, operated from, or otherwise located;

(4) ~~(3)~~ Private electric supplier means an electric supplier producing electricity from a privately developed renewable energy generation facility that is not a public power district, a public power and irrigation district, a municipality, a registered group of municipalities, an electric cooperative, an electric membership association, any other governmental entity, or any combination thereof;

(5) ~~(4)~~ Privately developed renewable energy generation facility means a facility that (a) generates electricity using solar, wind, geothermal, biomass, landfill gas, or biogas, including all electrically connected equipment used to produce, collect, and store the facility output up to and including the transformer that steps up the voltage to sixty thousand volts or greater, and including supporting structures, buildings, and roads, unless otherwise agreed to in a joint transmission development agreement, (b) is developed, constructed, and owned, in whole or in part, by one or more private electric suppliers, and (c) is not wholly owned by a public power district, a public power and irrigation district, a municipality, a registered group of municipalities, an electric cooperative, an electric membership association, any other governmental entity, or any combination thereof;

(6) ~~(5)~~ Regional transmission organization means an entity independent from those entities generating or marketing electricity at wholesale or retail, which has operational control over the electric transmission lines in a designated geographic area in order to reduce constraints in the flow of electricity and ensure that all power suppliers have open access to transmission lines for the transmission of electricity;

(7) ~~(6)~~ Reliable or reliability means the ability of an electric supplier to supply the aggregate electric power and energy requirements of its electricity consumers in Nebraska at all times under normal operating conditions, taking into account scheduled and unscheduled outages, including sudden disturbances or unanticipated loss of system components that are to be reasonably expected for any electric utility following prudent utility practices, recognizing certain weather conditions and other contingencies may cause outages at the distribution, transmission, and generation level;

(8) ~~(7)~~ Representative organization means an organization designated by the board and organized for the purpose of providing joint planning and encouraging maximum cooperation and coordination among electric suppliers. Such organization shall represent electric suppliers owning a combined electric generation plant accredited capacity of at least ninety percent of the total electric generation plant accredited capacity constructed and in operation within the state;

(9) ~~(8)~~ State means the State of Nebraska; and

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

Sec. 6. Section 70-1012, Reissue Revised Statutes of Nebraska, is amended to read:

70-1012 (1) Before any electric generation facilities or any transmission lines or related facilities carrying more than seven hundred volts are constructed or acquired by any supplier, an application, filed with the board and containing such information as the board shall prescribe, shall be approved by the board, except that such approval shall not be required (a) for the construction or acquisition of a transmission line extension or related facilities within a supplier's own service area or for the construction or acquisition of a line not exceeding one-half mile outside its own service area when all owners of electric lines located within one-half mile of the extension consent thereto in writing and such consents are filed with the board, (b) for any generation facility when the board finds that (i) such facility is being constructed or acquired to replace a generating plant owned by an individual municipality or registered group of municipalities with a capacity not greater than that of the plant being replaced, (ii) such facility will generate less than twenty-five thousand kilowatts of electric energy at rated capacity, and (iii) the applicant will not use the plant or transmission capacity to supply wholesale power to customers outside the applicant's existing retail service area or chartered territory, (c) for acquisition of transmission lines or related facilities, within the state, carrying one hundred fifteen thousand volts or less, if the current owner of the transmission lines or related facilities notifies the board of the lines or facilities involved in the transaction and the parties to the transaction, or (d) for the construction of a qualified facility as defined in section 70-2002.

(2)(a) Before any electric supplier commences construction of or acquires an electric generation facility or transmission lines or related facilities carrying more than seven hundred volts that will be located within a ten-mile radius of a military installation, the owner of such proposed facility, transmission lines, or related facilities shall provide written notice certifying to the board that such facility or facilities contain no materials, electronics, or other components manufactured by any foreign government or



foreign nongovernment person determined to be a foreign adversary pursuant to 15 C.F.R. 7.4.

(b) Any electric supplier supplying, producing, or distributing electricity within the state for sale at retail is exempt from subdivision (a) of this subsection if it is in compliance with the critical infrastructure protection requirements issued by the North American Electric Reliability Corporation. To receive such exemption, the electric supplier shall submit written notice to the board certifying that it is in such compliance. The electric supplier shall also submit written notice to the board at any time such supplier is no longer in such compliance.

(3) (2) A privately developed renewable energy generation facility is exempt from this section if it complies with section 70-1014.02.

Sec. 7. Section 70-1014.02, Revised Statutes Cumulative Supplement, 2022, is amended to read:

70-1014.02 (1) The Legislature finds that:

(a) Nebraska has the authority as a sovereign state to protect its land, natural resources, and cultural resources for economic and aesthetic purposes for the benefit of its residents and future generations by regulation of energy generation projects;

(b) The unique terrain and ecology of the Nebraska Sandhills provide an irreplaceable habitat for millions of migratory birds and other wildlife every year and serve as the home to numerous ranchers and farmers;

(c) The grasslands of the Nebraska Sandhills and other natural resources in Nebraska will become increasingly valuable, both economically and strategically, as the demand for food and energy increases; and

(d) The Nebraska Sandhills are home to priceless archaeological sites of historical and cultural significance to American Indians.

(2)(a) A privately developed renewable energy generation facility that meets the requirements of this section is exempt from sections 70-1012 to 70-1014.01 if no less than thirty days prior to the commencement of construction the owner of the facility:

(i) Notifies the board in writing of its intent to commence construction of a privately developed renewable energy generation facility;

(ii) Certifies to the board that the facility will meet the requirements for a privately developed renewable energy generation facility;

(iii) Certifies to the board that the private electric supplier will (A) comply with any decommissioning requirements adopted by the local governmental entities having jurisdiction over the privately developed renewable energy generation facility and (B) except as otherwise provided in subdivision (b) of this subsection, submit a decommissioning plan to the board obligating the private electric supplier to bear all costs of decommissioning the privately developed renewable energy generation facility and requiring that the private electric supplier post a security bond or other instrument, no later than the tenth year following commercial operation, securing the costs of decommissioning the facility and provide a copy of the bond or instrument to the board;

(iv) Certifies to the board that the private electric supplier has entered into or prior to commencing construction will enter into a joint transmission development agreement pursuant to subdivision (c) of this subsection with the electric supplier owning the transmission facilities of sixty thousand volts or greater to which the privately developed renewable energy generation facility will interconnect; ~~and~~

(v) Certifies to the board that the private electric supplier has consulted with the Game and Parks Commission to identify potential measures to avoid, minimize, and mitigate impacts to species identified under subsection (1) or (2) of section 37-806 during the project planning and design phases, if possible, but in no event later than the commencement of construction; ~~and -~~

(vi) Certifies in writing to the board that the facility, if located within a ten-mile radius of a military installation:

(A) Contains no materials, electronics, or other components manufactured by any foreign government or foreign nongovernment person determined to be a foreign adversary pursuant to 15 C.F.R. 7.4; or

(B) Is in compliance with the critical infrastructure protection requirements issued by the North American Electric Reliability Corporation if connected to the transmission grid at one hundred kilovolts or higher voltage and has to have a nameplate rating of twenty megavolt amperes for a single generation unit or injecting at an aggregate of seventy-five megavolt amperes or greater. The private electric supplier shall also submit written notice to the board at any time such private electric supplier is no longer in such compliance.

(b) The board may bring an action in the name of the State of Nebraska for failure to comply with subdivision (a)(iii)(B) of this subsection. Subdivision (a)(iii)(B) of this subsection does not apply if a local government entity with the authority to create requirements for decommissioning has enacted decommissioning requirements for the applicable jurisdiction.

(c) The joint transmission development agreement shall address construction, ownership, operation, and maintenance of such additions or upgrades to the transmission facilities as required for the privately developed renewable energy generation facility. The joint transmission development agreement shall be negotiated and executed contemporaneously with the generator interconnection agreement or other directives of the applicable regional transmission organization with jurisdiction over the addition or upgrade of transmission, upon terms consistent with prudent electric utility practices for

the interconnection of renewable generation facilities, the electric supplier's reasonable transmission interconnection requirements, and applicable transmission design and construction standards. The electric supplier shall have the right to purchase and own transmission facilities as set forth in the joint transmission development agreement. The private electric supplier of the privately developed renewable energy generation facility shall have the right to construct any necessary facilities or improvements set forth in the joint transmission development agreement pursuant to the standards set forth in the agreement at the private electric supplier's cost.

(3) Within ten days after receipt of a written notice complying with subsection (2) of this section, the executive director of the board shall issue a written acknowledgment that the privately developed renewable energy generation facility is exempt from sections 70-1012 to 70-1014.01.

(4) The exemption allowed under this section for a privately developed renewable energy generation facility shall extend to and exempt all private electric suppliers owning any interest in the facility, including any successor private electric supplier which subsequently acquires any interest in the facility.

(5) No property owned, used, or operated as part of a privately developed renewable energy generation facility shall be subject to eminent domain by a consumer-owned electric supplier operating in the State of Nebraska. Nothing in this section shall be construed to grant the power of eminent domain to a private electric supplier or limit the rights of any entity to acquire any public, municipal, or utility right-of-way across property owned, used, or operated as part of a privately developed renewable energy generation facility as long as the right-of-way does not prevent the operation of or access to the privately developed renewable energy generation facility.

(6) Only a consumer-owned electric supplier operating in the State of Nebraska may exercise eminent domain authority to acquire the land rights necessary for the construction of transmission lines and related facilities. There is a rebuttable presumption that the exercise of eminent domain to provide needed transmission lines and related facilities for a privately developed renewable energy generation facility is a public use.

(7) Nothing in this section shall be construed to authorize a private electric supplier to sell or deliver electricity at retail in Nebraska.

(8) Nothing in this section shall be construed to limit the authority of or require a consumer-owned electric supplier operating in the State of Nebraska to enter into a joint agreement with a private electric supplier to develop, construct, and jointly own a privately developed renewable energy generation facility.

Sec. 8. Section 84-1411, Revised Statutes Cumulative Supplement, 2022, is amended to read:

84-1411 (1)(a) Except as provided in subsection (9) of this section, each public body shall give reasonable advance publicized notice of the time and place of each meeting as provided in this subsection. Such notice shall be transmitted to all members of the public body and to the public.

(b)(i) Except as provided in subdivision (1)(b)(ii) of this section, in the case of a public body described in subdivision (1)(a)(i) of section 84-1409 or such body's advisory committee, such notice shall be published in a newspaper of general circulation within the public body's jurisdiction and, if available, on such newspaper's website.

(ii) In the case of the governing body of a city of the second class or village or such body's advisory committee, such notice shall be published by:

(A) Publication in a newspaper of general circulation within the public body's jurisdiction and, if available, on such newspaper's website; or

(B) Posting written notice in three conspicuous public places in such city or village. Such notice shall be posted in the same three places for each meeting.

(iii) In the case of a public body not described in subdivision (1)(b)(i) or (ii) of this section, such notice shall be given by a method designated by the public body.

(c) In addition to a method of notice required by subdivision (1)(b)(i) or (ii) of this section, such notice may also be provided by any other appropriate method designated by such public body or such advisory committee.

(d) Each public body shall record the methods and dates of such notice in its minutes.

(e) Such notice shall contain an agenda of subjects known at the time of the publicized notice or a statement that the agenda, which shall be kept continually current, shall be readily available for public inspection at the principal office of the public body during normal business hours. Agenda items shall be sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting. Except for items of an emergency nature, the agenda shall not be altered later than (i) twenty-four hours before the scheduled commencement of the meeting or (ii) forty-eight hours before the scheduled commencement of a meeting of a city council or village board scheduled outside the corporate limits of the municipality. The public body shall have the right to modify the agenda to include items of an emergency nature only at such public meeting.

(2)(a) The following entities may hold a meeting by means of virtual conferencing if the requirements of subdivision (2)(b) of this section are met:

(i) A state agency, state board, state commission, state council, or state committee, or an advisory committee of any such state entity;

(ii) An organization, including the governing body, created under the

Interlocal Cooperation Act, the Joint Public Agency Act, or the Municipal Cooperative Financing Act;

(iii) The governing body of a public power district having a chartered territory of more than one county in this state;

(iv) The governing body of a public power and irrigation district having a chartered territory of more than one county in this state;

(v) An educational service unit;

(vi) The Educational Service Unit Coordinating Council;

(vii) An organization, including the governing body, of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act;

(viii) A community college board of governors;

(ix) The Nebraska Brand Committee;

(x) A local public health department;

(xi) A metropolitan utilities district;

(xii) A regional metropolitan transit authority; and

(xiii) A natural resources district.

(b) The requirements for holding a meeting by means of virtual conferencing are as follows:

(i) Reasonable advance publicized notice is given as provided in subsection (1) of this section, including providing access to a dial-in number or link to the virtual conference;

(ii) In addition to the public's right to participate by virtual conferencing, reasonable arrangements are made to accommodate the public's right to attend at a physical site and participate as provided in section 84-1412, including reasonable seating, in at least one designated site in a building open to the public and identified in the notice, with: At least one member of the entity holding such meeting, or his or her designee, present at each site; a recording of the hearing by audio or visual recording devices; and a reasonable opportunity for input, such as public comment or questions, is provided to at least the same extent as would be provided if virtual conferencing was not used;

(iii) At least one copy of all documents being considered at the meeting is available at any physical site open to the public where individuals may attend the virtual conference. The public body shall also provide links to an electronic copy of the agenda, all documents being considered at the meeting, and the current version of the Open Meetings Act; and

(iv) Except as otherwise provided in this subdivision or subsection (4) of section 79-2204, no more than one-half of the meetings of the state entities, advisory committees, boards, councils, organizations, or governing bodies are held by virtual conferencing in a calendar year. In the case of an organization created under the Interlocal Cooperation Act that sells electricity or natural gas at wholesale on a multistate basis or an organization created under the Municipal Cooperative Financing Act, the organization may hold more than one-half of its meetings by virtual conferencing if such organization holds at least one meeting each calendar year that is not by virtual conferencing. The governing body of a risk management pool that meets at least quarterly and the advisory committees of the governing body may each hold more than one-half of its meetings by virtual conferencing if the governing body's quarterly meetings are not held by virtual conferencing.

(3) Virtual conferencing, emails, faxes, or other electronic communication shall not be used to circumvent any of the public government purposes established in the Open Meetings Act.

(4) The secretary or other designee of each public body shall maintain a list of the news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to them of the time and place of each meeting and the subjects to be discussed at that meeting.

(5) When it is necessary to hold an emergency meeting without reasonable advance public notice, the nature of the emergency shall be stated in the minutes and any formal action taken in such meeting shall pertain only to the emergency. Such emergency meetings may be held by virtual conferencing. The provisions of subsection (4) of this section shall be complied with in conducting emergency meetings. Complete minutes of such emergency meetings specifying the nature of the emergency and any formal action taken at the meeting shall be made available to the public by no later than the end of the next regular business day.

(6) A public body may allow a member of the public or any other witness to appear before the public body by means of virtual conferencing.

(7)(a) Notwithstanding subsections (2) and (5) of this section, if an emergency is declared by the Governor pursuant to the Emergency Management Act as defined in section 81-829.39, a public body the territorial jurisdiction of which is included in the emergency declaration, in whole or in part, may hold a meeting by virtual conferencing during such emergency if the public body gives reasonable advance publicized notice as described in subsection (1) of this section. The notice shall include information regarding access for the public and news media. In addition to any formal action taken pertaining to the emergency, the public body may hold such meeting for the purpose of briefing, discussion of public business, formation of tentative policy, or the taking of any action by the public body.

(b) The public body shall provide access by providing a dial-in number or a link to the virtual conference. The public body shall also provide links to an electronic copy of the agenda, all documents being considered at the meeting, and the current version of the Open Meetings Act. Reasonable

arrangements shall be made to accommodate the public's right to hear and speak at the meeting and record the meeting. Subsection (4) of this section shall be complied with in conducting such meetings.

(c) The nature of the emergency shall be stated in the minutes. Complete minutes of such meeting specifying the nature of the emergency and any formal action taken at the meeting shall be made available for inspection as provided in subsection (5) of section 84-1413.

(8) In addition to any other statutory authorization for virtual conferencing, any public body not listed in subdivision (2)(a) of this section may hold a meeting by virtual conferencing if:

(a) The purpose of the virtual meeting is to discuss items that are scheduled to be discussed or acted upon at a subsequent non-virtual open meeting of the public body;

(b) No action is taken by the public body at the virtual meeting; and

(c) The public body complies with subdivisions (2)(b)(i) and (2)(b)(ii) of this section.

(9) This section does not apply to a meeting of the Nebraska Power Review Board or a public power district, a public power and irrigation district, an electric membership association, an electric cooperative company, a municipality having a generation and distribution system, or a registered group of municipalities if such meeting is subject to section 1 of this act.

Sec. 9. Sections 1, 2, 3, 4, 8, and 10 of this act become operative three calendar months after the adjournment of this legislative session. The other sections of this act become operative on their effective date.

Sec. 10. Original sections 70-624.04 and 70-637, Reissue Revised Statutes of Nebraska, and section 84-1411, Revised Statutes Cumulative Supplement, 2022, are repealed.

Sec. 11. Original section 70-1012, Reissue Revised Statutes of Nebraska, section 70-1014.02, Revised Statutes Cumulative Supplement, 2022, and section 70-1001.01, Revised Statutes Supplement, 2023, are repealed.

Sec. 12. The following sections are outright repealed: Sections 70-1029, 70-1030, 70-1031, and 70-1033, Reissue Revised Statutes of Nebraska, and section 70-1032, Revised Statutes Cumulative Supplement, 2022.

Sec. 13. Since an emergency exists, this act takes effect when passed and approved according to law.