



Parking spaces near the League building are limited. We recommend that you park in the Cornhusker Marriott Hotel parking garage located in the block northwest of the League building.

MEMO

TO: Members of the Smaller and Larger Cities Legislative Committees
FROM: L. Lynn Rex, Executive Director
Christy Abraham, Legal Counsel
Lash Chaffin, Utilities Section Director
DATE: August 10, 2017
RE: **LEAGUE LEGISLATIVE COMMITTEE MEETING**
Thursday, August 17, 2017
League Office Building, Joe Hampton Conference Center
1335 L Street, Lincoln

9 a.m. - 12 p.m. **Larger Cities Legislative Committee (LCLC)**
(Omaha, Lincoln, and First Class Cities)
League Office Building, Joe Hampton Conference Center

12 - 1 p.m. Lunch at League Office for both Committees

1 - 4 p.m. **Smaller Cities Legislative Committee (SCLC)**
(Second Class Cities and Villages)
League Office Building, Joe Hampton Conference Center

AGENDA

1. Discussion of tax-increment financing hearings (LR60).
2. Review of 2017 legislative session.
3. Detailed review and discussion of bills introduced and supported by the League in the 2017 legislative session which did NOT pass.
4. Discussion of as many requests for legislative action outlined in the enclosed materials as time will allow.

L. LYNN REX, EXECUTIVE DIRECTOR • PHONE: (402) 476-2829 • FAX: (402) 476-7052

WEB SITE: www.lonm.org • E-MAIL: lynnr@lonm.org

If you have any additional legislative suggestions that you would like included in the packet for consideration at the second meeting, please complete the enclosed form and bring it with you to this meeting OR send it to the League Office at brendah@lonm.org no later than **September 6, 2017.**

The second meeting of the League Legislative Committees will be held **Wednesday, Sept. 20,** which coincides with the first day of the League Annual Conference to be held at the Cornhusker Marriott Hotel in Lincoln.

The third meeting of both committees will be held in Lincoln at the League office on **Friday, November 3.**

Thank you for agreeing to serve on the League Legislative Committee. We look forward to seeing you at the August 17 meeting!

LEAGUE OF NEBRASKA MUNICIPALITIES

LEGISLATIVE COMMITTEES

2018 LEGISLATIVE SESSION

Larger Cities Legislative Committee (LCLC)

Ralph Yeager, Mayor, Alliance
Stan Wirth, Mayor, Beatrice
Tobias Tempelmeyer, City Administrator/General
Manager, Beatrice
Rita Sanders, Mayor, Bellevue
Joe Mangiamelli, City Administrator, Bellevue
Jim Realph, Mayor, Blair
Rod Storm, City Administrator, Blair
John Coates, Mayor, Chadron
John F. Lohr, Council Member, Columbus
Tara Vasicek, City Administrator, Columbus
Tom Ourada, City Administrator, Crete
Jerry Wilcox, Clerk/Treasurer, Crete
Scott Getzschman, Mayor, Fremont
Brian Newton, City Administrator/Utility GM, Fremont
Tony Kaufman, Mayor, Gering
Lane Danielzuk, City Administrator, Gering
Chuck Haase, Council Member, Grand Island
Marlan Ferguson, City Administrator, Grand Island
Corey Stutte, Mayor, Hastings
Joe Patterson, City Administrator, Hastings
Bob Rager, City Administrator, Holdrege
Stan Clouse, Mayor, Kearney
Paul Briseno, Assistant City Manager, Kearney
Doug Kindig, Mayor, La Vista
Pam Buethe, Clerk, La Vista
Joe Peplitsch, City Manager, Lexington
Margaret Blatchford, Assistant City Attorney, Lincoln
Denise Pearce, Mayoral Aide, Lincoln
Nate Schneider, City Manager, McCook

Bryan Bequette, Mayor, Nebraska City
Grayson Path, City Administrator, Nebraska City
Josh Moenning, Mayor, Norfolk
Andrew Colvin, City Administrator, Norfolk
Dwight Livingston, Mayor, North Platte
Jim Hawks, City Administrator, North Platte
Pete Peterson, Mayor, Ogallala
Bruce Smith, City Manager, Ogallala
Rich Pahls, Council Member, Omaha
Paul Kratz, City Attorney, Omaha
Jack Cheloha, Deputy City Attorney/City Lobbyist, Omaha
David Black, Mayor, Papillion
Christine Myers, City Administrator, Papillion
R. Paul Lambert, Mayor, Plattsmouth
Ervin Portis, City Administrator, Plattsmouth
Don Groesser, Mayor, Ralston
Jon Knutson, Council President, Schuyler
Randy Meininger, Mayor, Scottsbluff
Nathan Johnson, City Manager, Scottsbluff
Joshua Eickmeier, Mayor, Seward
Greg Butcher, City Administrator, Seward
Wendall Gaston, Council Member, Sidney
Ed Sadler, City Manager, Sidney
Rod Koch, Mayor, South Sioux City
Lance Hedquist, City Administrator, South Sioux City
Ken Chamberlain, Mayor, Wayne
Wes Blecke, City Administrator, Wayne
Orval Stahr, Mayor, York
Joe Frei, City Administrator, York

Smaller Cities Legislative Committee (SCLC)

Lanette Doane, Clerk/Treasurer, Ansley
Scott Kudrna, Mayor, Auburn
Sherry Heskett, Clerk, Auburn
Brent Clark, City Administrator, Broken Bow
Chris Anderson, City Administrator, Central City
Alan Michl, Chairperson, Exeter
Becky Erdkamp, Clerk/Treasurer, Exeter
Jim Vossler, Mayor, Friend
Deb VanMatre, Mayor, Gibbon
Jacob Sheridan, City Manager, Gordon
Bruce Clymer, City Administrator, Gothenburg
Jeff Kooistra, City Administrator, Gretna
Doug Hanson, Mayor, Hickman
Silas Clarke, City Administrator/Director of Economic
Development, Hickman

Dan Dean, City Administrator, Kimball
John Wyant, Mayor, Newman Grove
Chris Dibbern, NMPP Energy
Roger Goldfish, Mayor, Ord
Denise Peterson, Admin./Clerk/Treasurer, Ponca
Gerald Solko, Council Member, St. Paul
Nancy Bryan, Clerk/Treasurer, Stromsburg
Sandra Foote, Council Member, Superior
Larry Brittenham, Utility Superintendent, Superior
Jeff Hofaker, City Administrator, Sutton
Joan Suhr, Admin./Clerk/Treasurer, Valley
Melissa Harrell, Admin./Clerk/Treasurer, Wahoo
Jim Litchfield, City Administrator, Wakefield
Marlene Johnson, Mayor, West Point
Al Vacanti, City Administrator, Wisner

2018 Legislative Suggestions

Municipality: _____ Date: _____

Name: _____ Title: _____

Please return this form by **Sept. 8**, so that as many requests as possible can be placed on the agenda for the meeting on Sept. 20!

Mail to: League of Nebraska Municipalities
1335 L Street
Lincoln, NE 68508-2506

LEGISLATIVE SUGGESTIONS

Please work with your municipal attorney to ensure that your request(s) include the statute number(s) you wish to amend as well as the recommended new language.

THANK YOU!

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FOR THE 2018 LEGISLATIVE SESSION**

AUGUST 2017

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LEAGUE BILLS/LEAGUE-SUPPORTED BILLS ENACTED INTO LAW DURING THE 2017 LEGISLATIVE SESSION

Copies of the bills can be found on the Legislature's website at <http://nebraskalegislature.gov/>.

Introduced or Supported by the League:

LB 74 (Crawford) Changes population thresholds relating to annexation, suburban development and planned unit development by a city or village **(Passed by the Legislature and Signed by the Governor)** **Effective Date: August 24, 2017**

LB 113 (Hansen) Changes population threshold provisions relating to municipalities and eliminates obsolete provisions **(Passed by the Legislature and Signed by the Governor)** **Effective Date: August 24, 2017**

LB 131 (Urban Affairs Committee) Changes provisions relating to urban growth bonds and refunding bonds **(Passed by the Legislature and Signed by the Governor)** **Effective Date: August 24, 2017**

LB 133 (Introduced by the Urban Affairs Committee) Changes and eliminate provisions regarding cities of the second class and villages. This is the omnibus "clean-up" bill for cities of the second class and villages. LB 133 clarifies references to cities' and villages' extraterritorial zoning jurisdiction, clarifies notices in legal newspapers, corrects gender references to include both masculine and feminine pronouns, corrects internal references, and eliminates antiquated and obsolete language. The bill adds a specific reference to village engineers which is lacking in current law. **(Passed by the Legislature and Signed by the Governor)** **Effective Date: August 24, 2017**

LB 271 (Hilgers) Authorizes the Department of Roads to assume certain responsibilities under federal environmental laws and provides for limited waiver of the state's sovereign immunity **(Passed by the Legislature and Signed by the Governor)** **Effective Date: August 24, 2017**

LB 315 (Murante) Changes provisions relating to the sale of real property by a city of the second class or village to make it consistent with cities of the first class **(Passed by the Legislature and Signed by the Governor)** **Effective Date: August 24, 2017**

LB 317 (Hughes) Provides for a re-levy or reassessment of a special assessment for cities of the second class or villages similar to the provisions of a city of the first class **(Passed by the Legislature and Signed by the Governor)** **Effective Date: August 24, 2017**

LB 383 (Quick) Changes membership provisions for certain municipal community redevelopment authorities, citizen advisory review committees, and planning commissions **(Passed by the Legislature and Signed by the Governor)** **Effective Date: August 24, 2017**

LB 518 (Williams) Adopts the Rural Workforce Housing Investment Act and transfers funds from the Affordable Housing Trust Fund **(Passed by the Legislature and Signed by the Governor)**
Effective Date: August 24, 2017

LB 578 (McDonnell) Changes Medicaid reimbursement provisions relating to ground emergency medical transportation **(Passed by the Legislature and Signed by the Governor)** **Effective Date: August 24, 2017**

League Testified in a Neutral Capacity:

LB 97 (Crawford) Allows municipalities to create Riverfront Development Districts **(Passed by the Legislature and Signed by the Governor)** **Effective Date: August 24, 2017**

2017 BILLS THE LEAGUE EXECUTIVE BOARD VOTED TO OPPOSE

Copies of the bills can be found on the Legislature's website at <http://nebraskalegislature.gov/>.

Opposed by the League:

LB 68 (Hilgers) Eliminates the regulation of firearms, ammunition, and firearm accessories by counties, cities, and villages except for the discharge of firearms and provides for lawsuits against municipalities outside the Political Subdivisions Tort Claims Act. The adopted committee amendment provides some exemptions for Omaha on issues such as prohibiting firearms in public places and the safe transportation of firearms. **(Select File)**

LB 72 (Schumacher) Changes provisions relating to cities and villages with defined benefit retirement plans filing for bankruptcy; authorizes municipalities without defined benefit plans to adopt an ordinance giving bondholders first priority liens on ad valorem taxes and purchases made with purchases made with ad valorem taxes. **(Passed by the Legislature and Signed by the Governor)**
Effective Date: August 24, 2017

LB 95 (Crawford) Changes provisions relating to the Community Development Law and tax-increment financing **(In Urban Affairs Committee)**

LB 127 (Groene) Changes notice requirements under Open Meetings Act by requiring notice of public meetings by publication in newspapers of general circulation **(General File)**

LB 151 (Stinner) Changes the duties of the Auditor of Public Accounts and certain audited entities. This bill includes the provisions of three bills: **LB 27** changes the dates of when the Auditor requests and a municipality must provide information and allows the Auditor to assess late fees. **LB 89** clarifies in the Nebraska Budget Act that public budget hearings will be posted at least four calendar days (not working days) before the date set for hearings. **LB 90** requires a public entity which is being audited to provide suitable accommodations for the Auditor. **(Passed by the Legislature and Signed by the Governor)** **Effective Date: April 27, 2017**

LB 389 (Friesen) Adopts the Small Wireless Facilities Act which allows small wireless facilities to install equipment within the municipality's right of way **(In Transportation and Telecommunications Committee)**

LB 431 (Erdman) Provides that cash reserves shall not exceed 50% of the total amount received from personal and real property taxation under the Nebraska Budget Act **(In Government, Military and Veterans Affairs Committee)**

LB 479 (Groene) Changes public hearing provisions and redefines a term under the Nebraska Budget Act **(General File)**

LB 628 (Larson) Prohibits ordinances and resolutions prohibiting certain short-term rentals of residential property **(General File)**

LB 657 (Wayne) Adopts the Retail Electricity Transparency Act **(Indefinitely Postponed by the Natural Resources Committee)**

LB 660 (Wayne) Adopts the Nebraska Retail Electricity Choice Act and removes a restriction on the sale or delivery of retail electricity by a private electric supplier **(Indefinitely Postponed by the Natural Resources Committee)**

2017 LEGISLATIVE BILLS INTRODUCED ON BEHALF OF OR SUPPORTED BY THE LEAGUE THAT DID NOT PASS

Copies of the bills can be found on the Legislature's website at <http://nebraskalegislature.gov/>.

Bills the League Board Voted to Introduce:

LB 365 (Blood) Allows municipalities and other political subdivisions to charge additional fees for public records to out of state entities **(General File)**

Bills the League Board Voted to Support:

LB 44 (Watermeier) Creates the Remote Seller Sales Tax Collection Act requiring remote sellers to collect sales and use tax or to notify purchasers and the Department of Revenue **(Select File)**

LB 71 (Pansing Brooks) Provides appropriations relating to the Nebraska Tree Recovery Program to fight the Emerald Ash Borer **(In Appropriations Committee)**

LB 130 (Urban Affairs Committee) Changes municipal annexation provisions relating to certain districts **(General File)**

LB 232 (Kolterman) Provides a property tax exemption for property leased to the state or a governmental subdivision **(In Revenue Committee)**

LB 256 (Briese) Allows municipalities to adopt a Vacant Property Registration Act **(General File)**

LB 496 (Stinner) Allows for the construction of workforce housing under the Community Development Law (TIF) **(Select File, cloture motion failed on Select File)**

LB 614 (Wayne) Eliminates a restriction relating to appropriations under the Local Option Municipal Economic Development Act (LB 840 plan) **(General File)**

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 44

Introduced by Watermeier, 1.

Read first time January 05, 2017

Committee: Revenue

- 1 A BILL FOR AN ACT relating to revenue and taxation; to adopt the Remote
- 2 Seller Sales Tax Collection Act; and to declare an emergency.
- 3 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 6 of this act shall be known and may be
2 cited as the Remote Seller Sales Tax Collection Act.

3 Sec. 2. The Legislature finds that:

4 (1) The inability to effectively collect the sales or use tax from
5 remote sellers who deliver tangible personal property, products delivered
6 electronically, or services directly into Nebraska is seriously eroding
7 Nebraska's sales tax base, causing revenue losses and imminent harm to
8 the state through the loss of critical funding for state and local
9 services;

10 (2) The structural advantages of remote sellers, including the
11 absence of point-of-sale tax collection, along with the general growth of
12 online retail, make clear that further erosion of Nebraska's sales tax
13 base is likely in the near future;

14 (3) In contrast with the expanding harms caused to Nebraska from the
15 lack of sales tax collection by remote sellers, the costs of that
16 collection have fallen. Given modern computing and software options, it
17 is neither unusually difficult nor burdensome for remote sellers to
18 collect and remit sales taxes associated with sales into Nebraska; and

19 (4) It is necessary for Nebraska to pass the Remote Seller Sales Tax
20 Collection Act to clarify the obligations of remote sellers with respect
21 to sales made into Nebraska.

22 Sec. 3. For purposes of the Remote Seller Sales Tax Collection Act:

23 (1) Delivered electronically has the same meaning as in section
24 77-2701.49;

25 (2) Department means the Department of Revenue;

26 (3) Remote seller means any person who sells tangible personal
27 property, products delivered electronically, or services for delivery
28 into Nebraska and who does not have a physical presence in this state;

29 (4) Service means a service described in subsection (4) of section
30 77-2701.16; and

31 (5) Tangible personal property has the same meaning as in section

1 77-2701.39.

2 Sec. 4. (1) Notwithstanding any other provision of law, a remote
3 seller shall be subject to the Nebraska Revenue Act of 1967, the Local
4 Option Revenue Act, and sections 13-319 and 13-2813, shall remit the
5 sales tax due under such acts and sections, and shall follow all
6 applicable procedures and requirements of law as if the remote seller had
7 a physical presence in this state if the remote seller meets either of
8 the following criteria in the previous or current calendar year:

9 (a) The remote seller's gross revenue from the sale of tangible
10 personal property, products delivered electronically, and services
11 delivered into Nebraska exceeds one hundred thousand dollars; or

12 (b) The remote seller sold tangible personal property, products
13 delivered electronically, or services for delivery into Nebraska in two
14 hundred or more separate transactions.

15 (2) No remote seller who remits sales tax under this section shall
16 be liable to a purchaser who claims that the sales tax has been
17 overcollected because this section is later deemed unlawful.

18 (3) Nothing in this section affects the obligation of any purchaser
19 from this state to remit use tax as to any applicable transaction in
20 which the remote seller does not collect and remit an offsetting sales
21 tax.

22 Sec. 5. Each remote seller that meets the requirements of
23 subsection (1) of section 4 of this act but refuses to collect Nebraska
24 sales tax in accordance with such section shall:

25 (1) Notify Nebraska purchasers that sales or use tax is due on
26 certain purchases made from the remote seller and that the State of
27 Nebraska requires the purchaser to file a sales or use tax return.
28 Failure to provide the notice required in this subdivision shall subject
29 the remote seller to a penalty of five dollars for each such failure
30 unless the remote seller shows reasonable cause for such failure;

31 (2) Send notification to all Nebraska purchasers by January 31 of

1 each year showing the total amount paid by the purchaser for Nebraska
2 purchases made from the remote seller in the previous calendar year and
3 such other information as the department shall require by rule and
4 regulation. Such notification shall include, if available, the dates of
5 purchases, the amounts of each purchase, and the category of the
6 purchase, including, if known by the remote seller, whether the purchase
7 is exempt or not exempt from taxation. The notification shall state that
8 the State of Nebraska requires a sales or use tax return to be filed and
9 sales or use tax to be paid on certain Nebraska purchases made by the
10 purchaser from the remote seller. The notification shall be sent
11 separately to all Nebraska purchasers by first-class mail and shall not
12 be included with any other shipments. The notification shall include the
13 words "Important Tax Document Enclosed" on the exterior of the mailing.
14 The notification shall include the name of the remote seller. Failure to
15 send the notification required in this subdivision shall subject the
16 remote seller to a penalty of ten dollars for each such failure unless
17 the remote seller shows reasonable cause for such failure; and

18 (3) File an annual statement for each purchaser with the department
19 on such forms as are provided or approved by the department showing the
20 total amount paid for Nebraska purchases by such purchasers during the
21 preceding calendar year or any portion thereof, and such annual statement
22 shall be filed on or before March 1 of each year. The department may
23 require any remote seller that makes total Nebraska sales of more than
24 one hundred thousand dollars in a year to file the annual statement
25 described in this subdivision electronically for that year. Failure to
26 file the annual statement required in this subdivision shall subject the
27 remote seller to a penalty of ten dollars for each purchaser that should
28 have been included in such annual statement unless the remote seller
29 shows reasonable cause for such failure.

30 Sec. 6. The department may adopt and promulgate rules and
31 regulations to carry out the Remote Seller Sales Tax Collection Act.

1 Sec. 7. Since an emergency exists, this act takes effect when
2 passed and approved according to law.

**Sen. Watermeier's Select File Amendment
(Not Adopted)**

AMENDMENTS TO LB44

Introduced by Watermeier, 1.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. Sections 1 to 6 of this act shall be known and may be
4 cited as the Remote Seller Sales Tax Collection Act.

5 Sec. 2. The Legislature finds that:

6 (1) The inability to effectively collect the sales or use tax from
7 remote sellers who deliver tangible personal property, products delivered
8 electronically, or services directly into Nebraska is seriously eroding
9 Nebraska's sales tax base, causing revenue losses and imminent harm to
10 the state through the loss of critical funding for state and local
11 services;

12 (2) The structural advantages of remote sellers, including the
13 absence of point-of-sale tax collection, along with the general growth of
14 online retail, make clear that further erosion of Nebraska's sales tax
15 base is likely in the near future;

16 (3) In contrast with the expanding harms caused to Nebraska from the
17 lack of sales tax collection by remote sellers, the costs of that
18 collection have fallen. Given modern computing and software options, it
19 is neither unusually difficult nor burdensome for remote sellers to
20 collect and remit sales taxes associated with sales into Nebraska; and

21 (4) It is necessary for Nebraska to pass the Remote Seller Sales Tax
22 Collection Act to clarify the obligations of remote sellers with respect
23 to sales made into Nebraska.

24 Sec. 3. For purposes of the Remote Seller Sales Tax Collection Act:

25 (1) Delivered electronically has the same meaning as in section
26 77-2701.49;

27 (2) Department means the Department of Revenue;

1 (3) Remote seller means any person who does not have a physical
2 presence in this state and who meets either of the following criteria in
3 the previous or current calendar year:

4 (a) The person's gross revenue from the sale of tangible personal
5 property, products delivered electronically, and services delivered into
6 Nebraska exceeds one hundred thousand dollars; or

7 (b) The person sold tangible personal property, products delivered
8 electronically, or services for delivery into Nebraska in two hundred or
9 more separate transactions;

10 (4) Service means a service described in subsection (4) of section
11 77-2701.16; and

12 (5) Tangible personal property has the same meaning as in section
13 77-2701.39.

14 Sec. 4. (1) Notwithstanding any other provision of law, a remote
15 seller may voluntarily choose to (a) be subject to the Nebraska Revenue
16 Act of 1967, the Local Option Revenue Act, and sections 13-319 and
17 13-2813, (b) remit the sales tax due under such acts and sections, and
18 (c) follow all applicable procedures and requirements of law as if the
19 remote seller had a physical presence in this state.

20 (2) No remote seller who remits sales tax under this section shall
21 be liable to a purchaser who claims that the sales tax has been
22 overcollected because this section is later deemed unlawful.

23 (3) Nothing in this section affects the obligation of any purchaser
24 from this state to remit use tax as to any applicable transaction in
25 which the remote seller does not collect and remit an offsetting sales
26 tax.

27 Sec. 5. If a remote seller does not voluntarily choose to comply
28 with subdivisions (1)(a), (b), and (c) of section 4 of this act, such
29 remote seller shall:

30 (1) Notify Nebraska purchasers that sales or use tax is due on
31 certain purchases made from the remote seller and that the State of

1 Nebraska requires the purchaser to file a sales or use tax return.
2 Failure to provide the notice required in this subdivision shall subject
3 the remote seller to a penalty of five dollars for each such failure
4 unless the remote seller shows reasonable cause for such failure;

5 (2) Send notification to all Nebraska purchasers by January 31 of
6 each year showing the total amount paid by the purchaser for Nebraska
7 purchases made from the remote seller in the previous calendar year and
8 such other information as the department shall require by rule and
9 regulation. Such notification shall include, if available, the dates of
10 purchases, the amounts of each purchase, and the category of the
11 purchase, including, if known by the remote seller, whether the purchase
12 is exempt or not exempt from taxation. The notification shall state that
13 the State of Nebraska requires a sales or use tax return to be filed and
14 sales or use tax to be paid on certain Nebraska purchases made by the
15 purchaser from the remote seller. The notification shall be sent
16 separately to all Nebraska purchasers by first-class mail and shall not
17 be included with any other shipments. The notification shall include the
18 words "Important Tax Document Enclosed" on the exterior of the mailing.
19 The notification shall include the name of the remote seller. Failure to
20 send the notification required in this subdivision shall subject the
21 remote seller to a penalty of ten dollars for each such failure unless
22 the remote seller shows reasonable cause for such failure; and

23 (3) File an annual statement for each purchaser with the department
24 on such forms as are provided or approved by the department showing the
25 total amount paid for Nebraska purchases by such purchasers during the
26 preceding calendar year or any portion thereof, and such annual statement
27 shall be filed on or before March 1 of each year. The department may
28 require any remote seller that makes total Nebraska sales of more than
29 one hundred thousand dollars in a year to file the annual statement
30 described in this subdivision electronically for that year. Failure to
31 file the annual statement required in this subdivision shall subject the

1 remote seller to a penalty of ten dollars for each purchaser that should
2 have been included in such annual statement unless the remote seller
3 shows reasonable cause for such failure.

4 Sec. 6. The department may adopt and promulgate rules and
5 regulations to carry out the Remote Seller Sales Tax Collection Act.

6 Sec. 7. If any section in this act or any part of any section is
7 declared invalid or unconstitutional, the declaration shall not affect
8 the validity or constitutionality of the remaining portions.

9 Sec. 8. Since an emergency exists, this act takes effect when
10 passed and approved according to law.

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 71

Introduced by Pansing Brooks, 28.

Read first time January 05, 2017

Committee: Appropriations

- 1 A BILL FOR AN ACT relating to the Nebraska Tree Recovery Program; to
- 2 amend section 72-1902, Reissue Revised Statutes of Nebraska; to
- 3 change legislative intent relating to appropriations; to repeal the
- 4 original section; and to declare an emergency.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 72-1902, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 72-1902 It is the intent of the Legislature that three million ~~two~~
4 ~~hundred fifty thousand~~ dollars be appropriated from the General Fund for
5 fiscal year 2017-18 and for each fiscal year thereafter ~~1994-95~~ for a
6 program to fund tree removal, disposal, and replacement costs. The
7 Nebraska Forest Service of the University of Nebraska Institute of
8 Agriculture and Natural Resources Department of Forestry, Fisheries and
9 Wildlife shall administer the program through a grant process, and the
10 program shall be known as the Nebraska Tree Recovery Program. The
11 Nebraska Community Forestry Council shall act as an advisory body in
12 administration of the program. The service shall adopt and promulgate
13 rules and regulations necessary to carry out sections 72-1901 to 72-1904.

14 Sec. 2. Original section 72-1902, Reissue Revised Statutes of
15 Nebraska, is repealed.

16 Sec. 3. Since an emergency exists, this act takes effect when
17 passed and approved according to law.

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 130

Introduced by Urban Affairs Committee: Wayne, 13, Chairperson; Crawford, 45; Hansen, 26; Howard, 9; Larson, 40; Quick, 35; Riepe, 12.

Read first time January 06, 2017

Committee: Urban Affairs

- 1 A BILL FOR AN ACT relating to annexation; to amend sections 31-763,
- 2 31-764, 31-765, 31-766, and 35-514, Reissue Revised Statutes of
- 3 Nebraska; to change provisions relating to annexation by
- 4 municipalities of a sanitary and improvement district, road
- 5 improvement district, or fire protection district; to harmonize
- 6 provisions; and to repeal the original sections.
- 7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 31-763, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 31-763 (1) Whenever any city or village annexes all the territory
4 within the boundaries of any sanitary and improvement district organized
5 under the provisions of sections 31-701 to 31-726.01 as such sections
6 existed prior to July 19, 1996, or under sections 31-727 to 31-762, ~~or~~
7 ~~any road improvement district organized under sections 39-1601 to~~
8 ~~39-1636, or any fire protection district authorized under Chapter 35,~~
9 ~~article 5,~~ the district shall merge with the city or village and the city
10 or village shall succeed to all the property and property rights of every
11 kind, contracts, obligations, and choses in action of every kind, held by
12 or belonging to the district, and the city or village shall be liable for
13 and recognize, assume, and carry out all valid contracts and obligations
14 of the district. All taxes, assessments, claims, and demands of every
15 kind due or owing to the district shall be paid to and collected by the
16 city or village. Any special assessments which the district was
17 authorized to levy, assess, re Levy, or reassess, but which were not
18 levied, assessed, re levied, or reassessed, at the time of the merger, for
19 improvements made by it or in the process of construction or contracted
20 for may be levied, assessed, re levied, or reassessed by the annexing city
21 or village to the same extent as the district may have levied or assessed
22 but for the merger. Nothing in this section shall authorize the annexing
23 city or village to revoke any resolution, order, or finding made by the
24 district in regard to special benefits or increase any assessments made
25 by the district, but such city or village shall be bound by all such
26 findings or orders and assessments to the same extent as the district
27 would be bound. No district so annexed shall have power to levy any
28 special assessments after the effective date of such annexation.

29 (2) Any contract entered into on or after August 30, 2015, by a
30 sanitary and improvement district for solid waste collection services
31 shall, upon annexation of such district by a city or village, be canceled

1 and voided.

2 Sec. 2. Section 31-764, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 31-764 The ~~trustees of a road improvement district or fire~~
5 ~~protection district or the~~ trustees or administrator of a sanitary and
6 improvement district shall, within thirty days after ~~of~~ the effective
7 date of the merger, submit to the city or village a written accounting of
8 all assets and liabilities, contingent or fixed, of the district. Unless
9 the city or village within six months thereafter brings an action against
10 the trustees or administrator of the district for an accounting or for
11 damages for breach of duty, the trustees or administrator shall be
12 discharged of all further duties and liabilities and their bonds
13 exonerated. If the city or village brings such an action and does not
14 recover judgment in its favor, the taxable costs may include reasonable
15 expenses incurred by the ~~trustees of a road improvement district or fire~~
16 ~~protection district or the~~ trustees or administrator ~~of a sanitary and~~
17 ~~improvement district~~ in connection with such suit and a reasonable
18 attorney's fee for the trustees' or administrator's attorney. The city or
19 village shall represent the district and all parties who might be
20 interested in such an action. The city or village and such trustees or
21 administrator shall be the only necessary parties to such action.
22 Nothing ; Provided, ~~nothing~~ contained in this section shall authorize the
23 trustees or administrator to levy any special assessments after the
24 effective date of the merger.

25 Sec. 3. Section 31-765, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 31-765 The merger shall be effective thirty days after the effective
28 date of the ordinance annexing the territory within the sanitary and
29 improvement district. If ; Provided, ~~if~~ the validity of the ordinance
30 annexing the territory is challenged by a proceeding in a court of
31 competent jurisdiction, the effective date of the merger shall be thirty

1 days after the final determination of the validity of the ordinance. The
2 ~~trustees of a road improvement district or fire protection district or~~
3 ~~the~~ trustees or administrator of the a sanitary and improvement district
4 shall continue in possession and conduct the affairs of the district
5 until the effective date of the merger, but shall not during such period
6 levy any special assessments after the effective date of annexation.

7 Sec. 4. Section 31-766, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 31-766 (1) If only a part of the territory within any sanitary and
10 improvement district, ~~any road improvement district, or any fire~~
11 ~~protection district~~ is annexed by a city or village, ~~the road improvement~~
12 ~~district or fire protection district acting through its trustees or the~~
13 sanitary and improvement district acting through its trustees or
14 administrator and the city or village acting through its governing body
15 may agree between themselves as to the division of the assets,
16 liabilities, maintenance, contracts, or other obligations of the district
17 for a change in the boundaries of the district so as to exclude the
18 portion annexed by the city or village or may agree upon a merger of the
19 district with the city or village. The division of assets, liabilities,
20 maintenance, contracts, or other obligations of the district shall be
21 equitable, shall be proportionate to the valuation of the portion of the
22 district annexed and to the valuation of the portion of the district
23 remaining following annexation, and shall, to the greatest extent
24 feasible, reflect the actual impact of the annexation on the ability of
25 the district to perform its duties and responsibilities within its new
26 boundaries following annexation. In the event a merger is agreed upon,
27 the city or village shall have all the rights, privileges, duties, and
28 obligations as provided in sections 31-763 to 31-765 ~~31-766~~ when the city
29 or village annexes the entire territory within the district, and the
30 trustees or administrator shall be relieved of all further duties and
31 liabilities and their bonds exonerated as provided in section 31-764. No

1 agreement between the district and the city or village shall be effective
2 until submitted to and approved by the district court of the county in
3 which the major portion of the district is located. No agreement shall be
4 approved which may prejudice the rights of any bondholder or creditor of
5 the district or employee under contract to the district. The court may
6 authorize or direct amendments to the agreement before approving the
7 same. If the district and city or village do not agree upon the proper
8 adjustment of all matters growing out of the annexation of a part of the
9 territory located within the district, the district, the annexing city or
10 village, any bondholder or creditor of the district, or any employee
11 under contract to the district may apply to the district court of the
12 county where the major portion of the district is located for an
13 adjustment of all matters growing out of or in any way connected with the
14 annexation of such territory, and after a hearing thereon the court may
15 enter an order or decree fixing the rights, duties, and obligations of
16 the parties. In every case such decree or order shall require a change of
17 the district boundaries so as to exclude from the district that portion
18 of the territory of the district which has been annexed. Such change of
19 boundaries shall become effective on the date of entry of such decree.
20 Only the district and the city or village shall be necessary parties to
21 such an action. Any bondholder or creditor of the district or any
22 employee under contract to the district whose interests may be adversely
23 affected by the annexation may intervene in the action pursuant to
24 section 25-328. The decree when entered shall be binding on the parties
25 the same as though the parties had voluntarily agreed thereto. Nothing
26 contained in this section shall authorize any district to levy any
27 special assessments within the annexed area after the effective date of
28 annexation.

29 (2) Any contract entered into on or after August 30, 2015, by a
30 sanitary and improvement district for solid waste collection services
31 shall, upon annexation of all or part of such district by a city or

1 village, be canceled and voided as to the annexed areas.

2 Sec. 5. Whenever any city or village annexes all the territory
3 within the boundaries of any rural or suburban fire protection district
4 authorized under Chapter 35, article 5, the district shall merge with the
5 city or village and the city or village shall succeed to all the property
6 and property rights of every kind, contracts, obligations, and choses in
7 action of every kind, held by or belonging to the district, and the city
8 or village shall be liable for and recognize, assume, and carry out all
9 valid contracts and obligations of the district. All taxes, assessments,
10 claims, and demands of every kind due or owing to the district shall be
11 paid to and collected by the city or village. Nothing in this section
12 shall authorize the annexing city or village to revoke any resolution,
13 order, or finding made by the district in regard to special benefits or
14 increase any assessments made by the district, but such city or village
15 shall be bound by all such findings or orders and assessments to the same
16 extent as the district would be bound.

17 Sec. 6. The board of directors of a rural or suburban fire
18 protection district shall, within thirty days after the effective date of
19 the merger, submit to the city or village a written accounting of all
20 assets and liabilities, contingent or fixed, of the district. Unless the
21 city or village within six months thereafter brings an action against the
22 board of directors of the district for an accounting or for damages for
23 breach of duty, the board of directors shall be discharged of all further
24 duties and liabilities and their bonds exonerated. If the city or village
25 brings such an action and does not recover judgment in its favor, the
26 taxable costs may include reasonable expenses incurred by the board of
27 directors in connection with such suit and a reasonable attorney's fee
28 for the board's attorney. The city or village shall represent the
29 district and all parties who might be interested in such an action. The
30 city or village and such board shall be the only necessary parties to
31 such action.

1 Sec. 7. The merger shall be effective thirty days after the
2 effective date of the ordinance annexing the territory within the rural
3 or suburban fire protection district. If the validity of the ordinance
4 annexing the territory is challenged by a proceeding in a court of
5 competent jurisdiction, the effective date of the merger shall be thirty
6 days after the final determination of the validity of the ordinance. The
7 board of directors of the district of the rural or suburban fire
8 protection district shall continue in possession and conduct the affairs
9 of the district until the effective date of the merger.

10 Sec. 8. If only a part of the territory within any rural or
11 suburban fire protection district is annexed by a city or village, the
12 fire protection district acting through its board of directors and the
13 city or village acting through its governing body may agree between
14 themselves as to the division of the assets, liabilities, maintenance,
15 contracts, or other obligations of the district for a change in the
16 boundaries of the district so as to exclude the portion annexed by the
17 city or village or may agree upon a merger of the district with the city
18 or village. The division of assets, liabilities, maintenance, contracts,
19 or other obligations of the district shall be equitable, shall be
20 proportionate to the valuation of the portion of the district annexed and
21 to the valuation of the portion of the district remaining following
22 annexation, and shall, to the greatest extent feasible, reflect the
23 actual impact of the annexation on the ability of the district to perform
24 its duties and responsibilities within its new boundaries following
25 annexation. In the event a merger is agreed upon, the city or village
26 shall have all the rights, privileges, duties, and obligations as
27 provided in sections 5 to 7 of this act when the city or village annexes
28 the entire territory within the district, and the board of directors
29 shall be relieved of all further duties and liabilities and their bonds
30 exonerated as provided in section 6 of this act. No agreement between the
31 district and the city or village shall be effective until submitted to

1 and approved by the district court of the county in which the major
2 portion of the district is located. No agreement shall be approved which
3 may prejudice the rights of any bondholder or creditor of the district or
4 employee under contract to the district. The court may authorize or
5 direct amendments to the agreement before approving the same. If the
6 district and city or village do not agree upon the proper adjustment of
7 all matters growing out of the annexation of a part of the territory
8 located within the district, the district, the annexing city or village,
9 any bondholder or creditor of the district, or any employee under
10 contract to the district may apply to the district court of the county
11 where the major portion of the district is located for an adjustment of
12 all matters growing out of or in any way connected with the annexation of
13 such territory, and after a hearing thereon the court may enter an order
14 or decree fixing the rights, duties, and obligations of the parties. In
15 every case such decree or order shall require a change of the district
16 boundaries so as to exclude from the district that portion of the
17 territory of the district which has been annexed. Such change of
18 boundaries shall become effective on the date of entry of such decree.
19 Only the district and the city or village shall be necessary parties to
20 such an action. Any bondholder or creditor of the district or any
21 employee under contract to the district whose interests may be adversely
22 affected by the annexation may intervene in the action pursuant to
23 section 25-328. The decree when entered shall be binding on the parties
24 the same as though the parties had voluntarily agreed thereto.

25 Sec. 9. Section 35-514, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 35-514 (1) Any territory which is outside the limits of any
28 incorporated city may be annexed to an adjacent district in the manner
29 provided in this section, whether or not the territory is in an existing
30 rural or suburban fire protection district.

31 (2) The proceedings for the annexation may be initiated by either

1 (a) the presentation to the county clerk of a petition signed by sixty
2 percent or more of the registered voters who are residing within the
3 boundaries of the territory to be annexed stating the desires and
4 purposes of such petitioners or (b) the presentation to the county clerk
5 of certified copies of resolutions passed by the board of directors of
6 the annexing district and any other district from which the property
7 would be annexed supporting the proposed annexation. The petition or
8 resolutions shall contain a description of the boundaries of the
9 territory proposed to be annexed. The petition or resolutions shall be
10 accompanied by a map or plat and a deposit for publication costs.

11 (3) The county clerk shall verify the petition as provided in
12 section 32-631 and determine and certify whether or not such petition or
13 resolution complies with the requirements of subsection (2) of this
14 section and that the persons signing the petition appear to reside at the
15 addresses indicated by such petition. Thereafter, the county clerk shall
16 forward any petition, map or plat, and certificate to the board of
17 directors of the districts concerned.

18 (4) Within thirty days after receiving the petition, map or plat,
19 and certificate of the county clerk, in accordance with subsection (3) of
20 this section, from the county clerk, the board of directors of all
21 affected districts shall transmit the same to the proper county board,
22 accompanied by a report in writing approving or disapproving the proposal
23 contained in the petition, or approving such proposal in part and
24 disapproving it in part. If the annexation is proposed by resolutions of
25 the affected districts, the resolutions shall be transmitted to the
26 proper county board.

27 (5) The county board shall promptly designate a time and place for a
28 hearing upon the annexation. Notice of such hearing shall be given by
29 publication two weeks in a newspaper of general circulation in the
30 county, the last publication appearing at least seven days prior to the
31 hearing. The notice shall be addressed to "all registered voters residing

1 in the following boundaries" and shall include a description of the
2 proposed boundaries as set forth in the petition or resolutions. At such
3 hearing, any person shall have the opportunity to be heard respecting the
4 proposed annexation.

5 (6) The county board shall, within forty-five days after the hearing
6 referred to in subsection (5) of this section, determine whether such
7 territory should be annexed and shall fix the boundaries of the territory
8 to be annexed. No annexation shall be approved which would leave any
9 district with less than the minimum valuation of two million eight
10 hundred sixty thousand dollars. The determination of the county board
11 shall be set forth in a written order which shall describe the boundaries
12 determined upon and shall be filed in the office of the county clerk.

13 (7) Any area annexed from a rural or suburban fire protection
14 district, except areas duly incorporated within the boundaries of a
15 municipality, shall be subject to assessment and be otherwise chargeable
16 for the payment and discharge of all the obligations of the rural or
17 suburban fire protection district outstanding at the time of the filing
18 of the petition or resolution for the annexation of the area as fully as
19 though the area had not been annexed. All procedures which could be used
20 to compel the annexed area, except for areas duly incorporated within the
21 boundaries of a municipality, to pay its portion of the outstanding
22 obligations had the annexation not occurred may be used to compel such
23 payment. Areas duly incorporated within the boundaries of a municipality
24 shall be automatically annexed from the boundaries of the district
25 notwithstanding the provisions of section 8 of this act 31-766 and shall
26 not be subject to further tax levy or other charges by the district,
27 except that before the annexation is complete, the municipality shall
28 assume and pay that portion of all outstanding obligations of the
29 district which would otherwise constitute an obligation of the area
30 annexed or incorporated. An area annexed from a rural or suburban fire
31 protection district shall not be subject to assessment or otherwise

1 chargeable for any obligation of any nature or kind incurred by the
2 district after the annexation of the area from the district.

3 Sec. 10. Whenever any city or village annexes all the territory
4 within the boundaries of any road improvement district organized under
5 sections 39-1601 to 39-1636.01, the district shall merge with the city or
6 village and the city or village shall succeed to all the property and
7 property rights of every kind, contracts, obligations, and choses in
8 action of every kind, held by or belonging to the district, and the city
9 or village shall be liable for and recognize, assume, and carry out all
10 valid contracts and obligations of the district. All taxes, assessments,
11 claims, and demands of every kind due or owing to the district shall be
12 paid to and collected by the city or village. Any special assessments
13 which the district was authorized to levy, assess, relevel, or reassess,
14 but which were not levied, assessed, relevelled, or reassessed, at the time
15 of the merger, for improvements made by it or in the process of
16 construction or contracted for may be levied, assessed, relevelled, or
17 reassessed by the annexing city or village to the same extent as the
18 district may have levied or assessed but for the merger. Nothing in this
19 section shall authorize the annexing city or village to revoke any
20 resolution, order, or finding made by the district in regard to special
21 benefits or increase any assessments made by the district, but such city
22 or village shall be bound by all such findings or orders and assessments
23 to the same extent as the district would be bound. No district so annexed
24 shall have power to levy any special assessments after the effective date
25 of such annexation.

26 Sec. 11. The trustees of a road improvement district shall, within
27 thirty days after the effective date of the merger, submit to the city or
28 village a written accounting of all assets and liabilities, contingent or
29 fixed, of the district. Unless the city or village within six months
30 thereafter brings an action against the trustees of the district for an
31 accounting or for damages for breach of duty, the trustees shall be

1 discharged of all further duties and liabilities and their bonds
2 exonerated. If the city or village brings such an action and does not
3 recover judgment in its favor, the taxable costs may include reasonable
4 expenses incurred by the trustees of the road improvement district in
5 connection with such suit and a reasonable attorney's fee for the
6 trustees' attorney. The city or village shall represent the district and
7 all parties who might be interested in such an action. The city or
8 village and such trustees shall be the only necessary parties to such
9 action. Nothing contained in this section shall authorize the trustees to
10 levy any special assessments after the effective date of the merger.

11 Sec. 12. The merger shall be effective thirty days after the
12 effective date of the ordinance annexing the territory within the road
13 improvement district. If the validity of the ordinance annexing the
14 territory is challenged by a proceeding in a court of competent
15 jurisdiction, the effective date of the merger shall be thirty days after
16 the final determination of the validity of the ordinance. The trustees of
17 the road improvement district shall continue in possession and conduct
18 the affairs of the district until the effective date of the merger, but
19 shall not during such period levy any special assessments after the
20 effective date of annexation.

21 Sec. 13. If only a part of the territory within any road
22 improvement district is annexed by a city or village, the road
23 improvement district acting through its trustees and the city or village
24 acting through its governing body may agree between themselves as to the
25 division of the assets, liabilities, maintenance, contracts, or other
26 obligations of the district for a change in the boundaries of the
27 district so as to exclude the portion annexed by the city or village or
28 may agree upon a merger of the district with the city or village. The
29 division of assets, liabilities, maintenance, contracts, or other
30 obligations of the district shall be equitable, shall be proportionate to
31 the valuation of the portion of the district annexed and to the valuation

1 of the portion of the district remaining following annexation, and shall,
2 to the greatest extent feasible, reflect the actual impact of the
3 annexation on the ability of the district to perform its duties and
4 responsibilities within its new boundaries following annexation. In the
5 event a merger is agreed upon, the city or village shall have all the
6 rights, privileges, duties, and obligations as provided in sections 10 to
7 12 of this act when the city or village annexes the entire territory
8 within the district, and the trustees shall be relieved of all further
9 duties and liabilities and their bonds exonerated as provided in section
10 11 of this act. No agreement between the district and the city or village
11 shall be effective until submitted to and approved by the district court
12 of the county in which the major portion of the district is located. No
13 agreement shall be approved which may prejudice the rights of any
14 bondholder or creditor of the district or employee under contract to the
15 district. The court may authorize or direct amendments to the agreement
16 before approving the same. If the district and city or village do not
17 agree upon the proper adjustment of all matters growing out of the
18 annexation of a part of the territory located within the district, the
19 district, the annexing city or village, any bondholder or creditor of the
20 district, or any employee under contract to the district may apply to the
21 district court of the county where the major portion of the district is
22 located for an adjustment of all matters growing out of or in any way
23 connected with the annexation of such territory, and after a hearing
24 thereon the court may enter an order or decree fixing the rights, duties,
25 and obligations of the parties. In every case such decree or order shall
26 require a change of the district boundaries so as to exclude from the
27 district that portion of the territory of the district which has been
28 annexed. Such change of boundaries shall become effective on the date of
29 entry of such decree. Only the district and the city or village shall be
30 necessary parties to such an action. Any bondholder or creditor of the
31 district or any employee under contract to the district whose interests

1 may be adversely affected by the annexation may intervene in the action
2 pursuant to section 25-328. The decree when entered shall be binding on
3 the parties the same as though the parties had voluntarily agreed
4 thereto. Nothing contained in this section shall authorize any district
5 to levy any special assessments within the annexed area after the
6 effective date of annexation.

7 Sec. 14. Original sections 31-763, 31-764, 31-765, 31-766, and
8 35-514, Reissue Revised Statutes of Nebraska, are repealed.

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 232

Introduced by Kolterman, 24.

Read first time January 11, 2017

Committee: Revenue

- 1 A BILL FOR AN ACT relating to revenue and taxation; to amend section
- 2 77-202, Revised Statutes Cumulative Supplement, 2016; to provide a
- 3 property tax exemption for property leased to the state or a
- 4 governmental subdivision; to provide an operative date; and to
- 5 repeal the original section.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-202, Revised Statutes Cumulative Supplement,
2 2016, is amended to read:

3 77-202 (1) The following property shall be exempt from property
4 taxes:

5 (a) Property of the state and its governmental subdivisions to the
6 extent used or being developed for use by the state or governmental
7 subdivision for a public purpose. For purposes of this subdivision:

8 (i) Property of the state and its governmental subdivisions means
9 (A) property held in fee title by the state or a governmental
10 subdivision, (B) property leased to the state or a governmental
11 subdivision by the person or entity holding legal title to the property,
12 or (C) ~~(B)~~ property beneficially owned by the state or a governmental
13 subdivision in that it is used for a public purpose and is being acquired
14 under a lease-purchase agreement, financing lease, or other instrument
15 which provides for transfer of legal title to the property to the state
16 or a governmental subdivision upon payment of all amounts due thereunder.
17 If the property to be beneficially owned by a governmental subdivision
18 has a total acquisition cost that exceeds the threshold amount or will be
19 used as the site of a public building with a total estimated construction
20 cost that exceeds the threshold amount, then such property shall qualify
21 for an exemption under this section only if the question of acquiring
22 such property or constructing such public building has been submitted at
23 a primary, general, or special election held within the governmental
24 subdivision and has been approved by the voters of the governmental
25 subdivision. For purposes of this subdivision, threshold amount means the
26 greater of fifty thousand dollars or six-tenths of one percent of the
27 total actual value of real and personal property of the governmental
28 subdivision that will beneficially own the property as of the end of the
29 governmental subdivision's prior fiscal year; and

30 (ii) Public purpose means use of the property (A) to provide public
31 services with or without cost to the recipient, including the general

1 operation of government, public education, public safety, transportation,
2 public works, civil and criminal justice, public health and welfare,
3 developments by a public housing authority, parks, culture, recreation,
4 community development, and cemetery purposes, or (B) to carry out the
5 duties and responsibilities conferred by law with or without
6 consideration. Public purpose does not include leasing of property to a
7 private party unless the lease of the property is at fair market value
8 for a public purpose. Leases of property by a public housing authority to
9 low-income individuals as a place of residence are for the authority's
10 public purpose;

11 (b) Unleased property of the state or its governmental subdivisions
12 which is not being used or developed for use for a public purpose but
13 upon which a payment in lieu of taxes is paid for public safety, rescue,
14 and emergency services and road or street construction or maintenance
15 services to all governmental units providing such services to the
16 property. Except as provided in Article VIII, section 11, of the
17 Constitution of Nebraska, the payment in lieu of taxes shall be based on
18 the proportionate share of the cost of providing public safety, rescue,
19 or emergency services and road or street construction or maintenance
20 services unless a general policy is adopted by the governing body of the
21 governmental subdivision providing such services which provides for a
22 different method of determining the amount of the payment in lieu of
23 taxes. The governing body may adopt a general policy by ordinance or
24 resolution for determining the amount of payment in lieu of taxes by
25 majority vote after a hearing on the ordinance or resolution. Such
26 ordinance or resolution shall nevertheless result in an equitable
27 contribution for the cost of providing such services to the exempt
28 property;

29 (c) Property owned by and used exclusively for agricultural and
30 horticultural societies;

31 (d) Property owned by educational, religious, charitable, or

1 cemetery organizations, or any organization for the exclusive benefit of
2 any such educational, religious, charitable, or cemetery organization,
3 and used exclusively for educational, religious, charitable, or cemetery
4 purposes, when such property is not (i) owned or used for financial gain
5 or profit to either the owner or user, (ii) used for the sale of
6 alcoholic liquors for more than twenty hours per week, or (iii) owned or
7 used by an organization which discriminates in membership or employment
8 based on race, color, or national origin. For purposes of this
9 subdivision, educational organization means (A) an institution operated
10 exclusively for the purpose of offering regular courses with systematic
11 instruction in academic, vocational, or technical subjects or assisting
12 students through services relating to the origination, processing, or
13 guarantying of federally reinsured student loans for higher education or
14 (B) a museum or historical society operated exclusively for the benefit
15 and education of the public. For purposes of this subdivision, charitable
16 organization includes an organization operated exclusively for the
17 purpose of the mental, social, or physical benefit of the public or an
18 indefinite number of persons and a fraternal benefit society organized
19 and licensed under sections 44-1072 to 44-10,109; and

20 (e) Household goods and personal effects not owned or used for
21 financial gain or profit to either the owner or user.

22 (2) The increased value of land by reason of shade and ornamental
23 trees planted along the highway shall not be taken into account in the
24 valuation of land.

25 (3) Tangible personal property which is not depreciable tangible
26 personal property as defined in section 77-119 shall be exempt from
27 property tax.

28 (4) Motor vehicles, trailers, and semitrailers required to be
29 registered for operation on the highways of this state shall be exempt
30 from payment of property taxes.

31 (5) Business and agricultural inventory shall be exempt from the

1 personal property tax. For purposes of this subsection, business
2 inventory includes personal property owned for purposes of leasing or
3 renting such property to others for financial gain only if the personal
4 property is of a type which in the ordinary course of business is leased
5 or rented thirty days or less and may be returned at the option of the
6 lessee or renter at any time and the personal property is of a type which
7 would be considered household goods or personal effects if owned by an
8 individual. All other personal property owned for purposes of leasing or
9 renting such property to others for financial gain shall not be
10 considered business inventory.

11 (6) Any personal property exempt pursuant to subsection (2) of
12 section 77-4105 or section 77-5209.02 shall be exempt from the personal
13 property tax.

14 (7) Livestock shall be exempt from the personal property tax.

15 (8) Any personal property exempt pursuant to the Nebraska Advantage
16 Act shall be exempt from the personal property tax.

17 (9) Any depreciable tangible personal property used directly in the
18 generation of electricity using wind as the fuel source shall be exempt
19 from the property tax levied on depreciable tangible personal property.
20 Any depreciable tangible personal property used directly in the
21 generation of electricity using solar, biomass, or landfill gas as the
22 fuel source shall be exempt from the property tax levied on depreciable
23 tangible personal property if such depreciable tangible personal property
24 was installed on or after January 1, 2016, and has a nameplate capacity
25 of one hundred kilowatts or more. Depreciable tangible personal property
26 used directly in the generation of electricity using wind, solar,
27 biomass, or landfill gas as the fuel source includes, but is not limited
28 to, wind turbines, rotors and blades, towers, solar panels, trackers,
29 generating equipment, transmission components, substations, supporting
30 structures or racks, inverters, and other system components such as
31 wiring, control systems, switchgears, and generator step-up transformers.

1 (10) Any tangible personal property that is acquired by a person
2 operating a data center located in this state, that is assembled,
3 engineered, processed, fabricated, manufactured into, attached to, or
4 incorporated into other tangible personal property, both in component
5 form or that of an assembled product, for the purpose of subsequent use
6 at a physical location outside this state by the person operating a data
7 center shall be exempt from the personal property tax. Such exemption
8 extends to keeping, retaining, or exercising any right or power over
9 tangible personal property in this state for the purpose of subsequently
10 transporting it outside this state for use thereafter outside this state.
11 For purposes of this subsection, data center means computers, supporting
12 equipment, and other organized assembly of hardware or software that are
13 designed to centralize the storage, management, or dissemination of data
14 and information, environmentally controlled structures or facilities or
15 interrelated structures or facilities that provide the infrastructure for
16 housing the equipment, such as raised flooring, electricity supply,
17 communication and data lines, Internet access, cooling, security, and
18 fire suppression, and any building housing the foregoing.

19 (11) For each person who owns property required to be reported to
20 the county assessor under section 77-1201, there shall be allowed an
21 exemption amount as provided in the Personal Property Tax Relief Act. For
22 each person who owns property required to be valued by the state as
23 provided in section 77-601, 77-682, 77-801, or 77-1248, there shall be
24 allowed a compensating exemption factor as provided in the Personal
25 Property Tax Relief Act.

26 Sec. 2. This act becomes operative on January 1, 2018.

27 Sec. 3. Original section 77-202, Revised Statutes Cumulative
28 Supplement, 2016, is repealed.

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 256

Introduced by Briese, 41.

Read first time January 11, 2017

Committee: Urban Affairs

1 A BILL FOR AN ACT relating to cities and villages; to adopt the Vacant

2 Property Registration Act.

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

1 Section 1. Sections 1 to 7 of this act shall be known and may be
2 cited as the Vacant Property Registration Act.

3 Sec. 2. The purposes of the Vacant Property Registration Act are to
4 promote the health, safety, and welfare of Nebraska residents by
5 providing authority for municipalities to enact vacant property
6 registration ordinances. Such ordinances will allow communities to
7 identify and register vacant properties, collect fees to compensate for
8 the public costs of vacant properties, plan for the rehabilitation of
9 vacant properties, and encourage the occupancy of vacant properties.

10 Sec. 3. The Legislature finds and declares that:

11 (1) Vacant properties create a host of problems for Nebraska
12 communities, including a propensity to foster criminal activity, create
13 public health problems, and otherwise diminish quality of life;

14 (2) Vacant properties reduce the value of area properties, increase
15 the risk of property damage through arson and vandalism, and discourage
16 neighborhood stability;

17 (3) Vacant properties represent unrealized economic growth in
18 Nebraska communities;

19 (4) A vacant property registration ordinance allows a municipality
20 to discourage property vacancy, maintain unoccupied buildings, provide a
21 data base of vacant properties and their owners, and assess fees for the
22 increased public costs associated with vacant properties;

23 (5) Fees imposed under a vacant property registration ordinance
24 benefit the owners of vacant properties by helping to finance additional
25 government services to protect the value and security of such properties;
26 and

27 (6) Enactment of a vacant property registration ordinance is a
28 proper exercise of governmental authority to protect the public health,
29 safety, and welfare of community residents and a valid regulatory scheme.

30 Sec. 4. For purposes of the Vacant Property Registration Act:

31 (1) Evidence of vacancy means any condition or circumstance that on

1 its own or in combination with other conditions or circumstances would
2 lead a reasonable person to believe that a residential building or
3 commercial building is vacant. Such conditions or circumstances may
4 include, but are not limited to:

5 (a) Overgrown or dead vegetation including grass, shrubbery, and
6 other plantings;

7 (b) An accumulation of abandoned personal property, trash, or other
8 waste;

9 (c) Visible deterioration or lack of maintenance of any building or
10 structure on the property;

11 (d) Graffiti or other defacement of any building or structure on the
12 property; or

13 (e) Any other condition or circumstance reasonably indicating that
14 the property is not occupied for residential purposes or being used for
15 the operation of a lawful business;

16 (2) Owner means the person, persons, or entity shown to be the owner
17 or owners of record on the records of the county register of deeds;

18 (3) Residential building means a house, condominium, townhouse, an
19 apartment unit or building, or a trailer house; and

20 (4) Vacant means that a residential building or commercial building
21 exhibits evidence of vacancy.

22 Sec. 5. Notwithstanding any other provision of law, under the
23 Vacant Property Registration Act a municipality may adopt a vacant
24 property registration ordinance which applies to either residential or
25 commercial buildings or both, except that a vacant property registration
26 ordinance shall not apply to property owned by the federal government,
27 the State of Nebraska, or any political subdivision thereof. A vacant
28 property registration ordinance shall create a city-wide vacant property
29 registration data base and clearly designate a program administrator.

30 Sec. 6. (1) Owners of vacant property subject to a vacant property
31 registration ordinance shall be required to register such property, if

1 the property has been vacant for one hundred eighty days or longer, with
2 the program administrator. If the vacant property becomes occupied prior
3 to expiration of the one hundred eighty-day period, registration under
4 this section shall not be required upon proof of residency or occupancy
5 filed with the program administrator. A vacant property registration
6 ordinance registration form shall be in either paper or electronic form,
7 and the following information shall be required:

8 (a) The name, street address, mailing address, phone number, and if
9 applicable, the facsimile number and email address of the property owner
10 and his or her agent;

11 (b) The property street address and parcel identification number;

12 (c) The transfer date of the instrument conveying the property to
13 the owner; and

14 (d) The date on which the property became vacant.

15 (2)(a) A vacant property registration ordinance may require payment
16 of a fee one hundred eighty days after initial registration of the vacant
17 property pursuant to subsection (1) of this section or three hundred
18 sixty days after the property becomes vacant, whichever is sooner, and
19 may require the payment of supplemental registration fees at intervals
20 not more frequently than every six months thereafter for as long as the
21 property remains on the vacant property registration data base. The
22 initial registration fee shall be not more than two hundred fifty dollars
23 for a residential property and not more than one thousand dollars for a
24 commercial property. A supplemental registration fee shall be not more
25 than double the previous fee amount, with a maximum supplemental
26 registration fee of ten times the initial registration fee amount.
27 Registration fees may be refundable for the year preceding the date on
28 which the property becomes occupied.

29 (b) A vacant property registration ordinance may provide exemptions
30 to the registration fee requirement, including, but not limited to, for
31 vacant property:

- 1 (i) Advertised in good faith for sale or lease;
- 2 (ii) Only considered to be a seasonal residence;
- 3 (iii) Damaged by fire, weather, an act of God, or vandalism, but
4 only for a period of ninety days;
- 5 (iv) Under construction or renovation, but only for a period of
6 ninety days;
- 7 (v) Where the owner is temporarily absent, but who has demonstrated
8 his or her intent to return; and
- 9 (vi) Which is subject to divorce, probate, or estate proceedings,
10 but not to exceed a period of one year.

11 Sec. 7. (1) A vacant property registration ordinance shall:

12 (a) Provide that a subsequent owner or owners of property subject to
13 the ordinance will assume the obligations of the previous owner or
14 owners;

15 (b) Provide for removal of the property from the vacant property
16 registration database when the property is no longer vacant;

17 (c) Require submission of an owner plan for occupancy of the
18 property; and

19 (d) Provide that owners have the right to appeal adverse decisions
20 of the municipality or the program administrator.

21 (2) A vacant property registration ordinance may allow the program
22 administrator to inspect the interior and exterior of the vacant property
23 upon registration and at one-year intervals thereafter. A vacant property
24 registration ordinance may provide for municipal fines for failure to
25 comply with its requirements. A municipality may enforce the collection
26 of vacant property registration fees by civil action in any court of
27 competent jurisdiction. Unpaid vacant property registration fees and
28 unpaid fines for any violation of a vacant property registration
29 ordinance shall become a lien on the applicable property upon the
30 recording of a notice of such lien in the office of the register of deeds
31 of the county in which the applicable property is located. The lien

1 created under this section shall be subordinate to all liens on the
2 applicable property recorded prior to the time the notice of such lien
3 under this section is recorded.

AMENDMENTS TO LB256

Introduced by Urban Affairs.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. Sections 1 to 8 of this act shall be known and may be
4 cited as the Vacant Property Registration Act.

5 Sec. 2. The Legislature finds and declares that:

6 (1) Vacant properties have the potential to create a host of
7 problems for Nebraska communities, including a propensity to foster
8 criminal activity, create public health problems, and otherwise diminish
9 quality of life;

10 (2) Vacant properties have the potential to reduce the value of area
11 properties, increase the risk of property damage through arson and
12 vandalism, and discourage neighborhood stability;

13 (3) Vacant properties represent unrealized economic growth in
14 Nebraska communities;

15 (4) A vacant property registration ordinance allows a municipality
16 to discourage property vacancy, maintain unoccupied buildings, provide a
17 data base of vacant properties and their owners, and assess fees for the
18 increased public costs associated with vacant properties;

19 (5) Fees imposed under a vacant property registration ordinance have
20 the potential to benefit the owners of vacant properties by helping to
21 finance additional government services to protect the value and security
22 of such properties; and

23 (6) Enactment of a vacant property registration ordinance is a
24 proper exercise of governmental authority to protect the public health,
25 safety, and welfare of community residents and a valid regulatory scheme.

26 Sec. 3. The purposes of the Vacant Property Registration Act are to
27 promote the health, safety, and welfare of Nebraska residents by

1 providing authority for municipalities to enact vacant property
2 registration ordinances. Such ordinances will allow communities to
3 identify and register vacant properties, collect fees to compensate for
4 the public costs of vacant properties, plan for the rehabilitation of
5 vacant properties, and encourage the occupancy of vacant properties.

6 Sec. 4. For purposes of the Vacant Property Registration Act:

7 (1) Evidence of vacancy means any condition or circumstance that on
8 its own or in combination with other conditions or circumstances would
9 lead a reasonable person to believe that a residential building or
10 commercial building is vacant. Such conditions or circumstances may
11 include, but are not limited to:

12 (a) Overgrown or dead vegetation, including grass, shrubbery, and
13 other plantings;

14 (b) An accumulation of abandoned personal property, trash, or other
15 waste;

16 (c) Visible deterioration or lack of maintenance of any building or
17 structure on the property;

18 (d) Graffiti or other defacement of any building or structure on the
19 property; or

20 (e) Any other condition or circumstance reasonably indicating that
21 the property is not occupied for residential purposes or being used for
22 the operation of a lawful business;

23 (2) Municipality means a city of the first class, city of the second
24 class, or village;

25 (3) Owner means the person, persons, or entity shown to be the owner
26 or owners of record on the records of the register of deeds;

27 (4) Residential building means a house, a condominium, a townhouse,
28 an apartment unit or building, or a trailer house; and

29 (5) Vacant means that a residential building or commercial building
30 exhibits evidence of vacancy.

31 Sec. 5. Under the Vacant Property Registration Act, a municipality

1 may adopt a vacant property registration ordinance which applies to any
2 type of either residential or commercial buildings or both, located
3 within the corporate limits of the municipality, except that a vacant
4 property registration ordinance shall not apply to property owned by the
5 federal government, the State of Nebraska, or any political subdivision
6 thereof. A vacant property registration ordinance shall create a city-
7 wide vacant property registration data base and clearly designate a
8 program administrator.

9 Sec. 6. (1) Owners of vacant property subject to a vacant property
10 registration ordinance adopted pursuant to section 5 of this act shall be
11 required to register such property with the program administrator if the
12 property has been vacant for one hundred eighty days or longer. A vacant
13 property registration ordinance registration form shall be in either
14 paper or electronic form, and the following information shall be
15 required:

16 (a) The name, street address, mailing address, telephone number,
17 and, if applicable, the facsimile number and email address of the
18 property owner and his or her agent;

19 (b) The street address and parcel identification number of the
20 vacant property;

21 (c) The transfer date of the instrument conveying the property to
22 the owner; and

23 (d) The date on which the property became vacant.

24 (2)(a) A vacant property registration ordinance may require payment
25 of a fee one hundred eighty days after initial registration of the vacant
26 property pursuant to subsection (1) of this section or three hundred
27 sixty days after the property becomes vacant, whichever is sooner, and
28 may require the payment of supplemental registration fees at intervals
29 not more frequently than every six months thereafter for as long as the
30 property remains on the vacant property registration data base. The
31 initial registration fee shall be not more than two hundred fifty dollars

1 for a residential property and not more than one thousand dollars for a
2 commercial property. A supplemental registration fee shall be not more
3 than double the previous fee amount, with a maximum supplemental
4 registration fee of ten times the initial registration fee amount.
5 Registration fees may be refundable for the year preceding the date on
6 which the property becomes occupied.

7 (b) A vacant property registration ordinance shall provide an
8 exemption to the registration and fee requirements for vacant property
9 that is advertised in good faith for sale or lease.

10 (c) A vacant property registration ordinance may provide exemptions
11 to the registration and fee requirements, including, but not limited to,
12 for vacant property:

13 (i) Only considered to be a seasonal residence;

14 (ii) Damaged by fire, weather, an act of God, or vandalism;

15 (iii) Under construction or renovation;

16 (iv) Where the owner is temporarily absent, but who has demonstrated
17 his or her intent to return; and

18 (v) Which is subject to divorce, probate, or estate proceedings.

19 Sec. 7. (1) A vacant property registration ordinance shall:

20 (a) Provide that a subsequent owner or owners of property subject to
21 the ordinance will assume the obligations of the previous owner or
22 owners;

23 (b) Provide for removal of the property from the vacant property
24 registration database when the property is no longer vacant;

25 (c) Require submission of an owner plan for occupancy of the
26 property; and

27 (d) Provide that owners have the right to prior notice and to appeal
28 adverse decisions of the municipality or the program administrator. Such
29 notice shall be sent by certified mail to the registered owner at the
30 address maintained in the county assessor's office at least ten days
31 prior to such adverse decision.

1 (2) A vacant property registration ordinance may allow the program
2 administrator or his or her designee to inspect the interior and exterior
3 of the vacant property upon registration and at one-year intervals
4 thereafter. A vacant property registration ordinance may provide for
5 municipal fines for failure to comply with its requirements. A
6 municipality may enforce the collection of vacant property registration
7 fees by civil action in any court of competent jurisdiction. Unpaid
8 vacant property registration fees and unpaid fines for any violation of a
9 vacant property registration ordinance shall become a lien on the
10 applicable property upon the recording of a notice of such lien in the
11 office of the register of deeds of the county in which the applicable
12 property is located. The lien created under this section shall be
13 subordinate to all liens on the applicable property recorded prior to the
14 time the notice of such lien under this section is recorded.

15 Sec. 8. The provisions of the Vacant Property Registration Act
16 shall be supplemental and in addition to any other laws of the State of
17 Nebraska relating to vacant property.

18 Sec. 9. The Revisor of Statutes shall assign sections 1 to 8 of
19 this act to Chapter 19.

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 365

Introduced by Blood, 3; Crawford, 45.

Read first time January 13, 2017

Committee: Government, Military and Veterans Affairs

1 A BILL FOR AN ACT relating to public records; to amend sections 84-712,
2 84-712.01, and 84-712.07, Reissue Revised Statutes of Nebraska, and
3 section 84-712.05, Revised Statutes Cumulative Supplement, 2016; to
4 define a term; to change provisions relating to access to and fees
5 for public records; to harmonize provisions; and to repeal the
6 original sections.

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

1 Section 1. Section 84-712, Reissue Revised Statutes of Nebraska, is
2 amended to read:

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

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

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

1 copies for the requester as provided in this subsection.

2 (b) Except as otherwise provided by statute, the public body, public
3 entity, or public official which is the custodian of a public record may
4 charge a fee for providing copies of such public record pursuant to
5 subdivision (1)(b) of this section, which fee shall not exceed the actual
6 added cost of making the copies available. For purposes of this
7 subdivision, (i) for photocopies, the actual added cost of making the
8 copies available shall not exceed the amount of the reasonably calculated
9 actual added cost of the photocopies, which may include a reasonably
10 apportioned cost of the supplies, such as paper, toner, and equipment,
11 used in preparing the copies, as well as any additional payment
12 obligation of the custodian for time of contractors necessarily incurred
13 to comply with the request for copies, (ii) for printouts of computerized
14 data on paper, the actual added cost of making the copies available shall
15 include the reasonably calculated actual added cost of computer run time
16 and the cost of materials for making the copy, and (iii) for electronic
17 data, the actual added cost of making the copies available shall include
18 the reasonably calculated actual added cost of the computer run time, any
19 necessary analysis and programming by the public body, public entity,
20 public official, or third-party information technology services company
21 contracted to provide computer services to the public body, public
22 entity, or public official, and the production of the report in the form
23 furnished to the requester.

24 (c) For residents of Nebraska, the ~~The~~ actual added cost used as the
25 basis for the calculation of a fee for records shall not include any
26 charge for the existing salary or pay obligation to the public officers
27 or employees with respect to the first four cumulative hours of
28 searching, identifying, physically redacting, or copying. A special
29 service charge reflecting the calculated labor cost may be included in
30 the fee for time required in excess of four cumulative hours, since that
31 large a request may cause some delay or disruption of the other

1 responsibilities of the custodian's office, except that the fee for
2 records shall not include any charge for the services of an attorney to
3 review the requested public records seeking a legal basis to withhold the
4 public records from the public.

5 (d) For nonresidents of Nebraska, the actual added cost used as the
6 basis for the calculation of a fee for records may include a charge for
7 the existing salary or pay obligation to the public officers or
8 employees, including a charge for the services of an attorney to review
9 the requested public records.

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

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

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

24 (4) Upon receipt of a written request for access to or copies of a
25 public record, the custodian of such record shall provide to the
26 requester as soon as is practicable and without delay, but not more than
27 four business days after actual receipt of the request, an estimate of
28 the expected cost of the copies and either (a) access to or, if copying
29 equipment is reasonably available, copies of the public record, (b) if
30 there is a legal basis for denial of access or copies, a written denial
31 of the request together with the information specified in section

1 84-712.04, or (c) if the entire request cannot with reasonable good faith
2 efforts be fulfilled within four business days after actual receipt of
3 the request due to the significant difficulty or the extensiveness of the
4 request, a written explanation, including the earliest practicable date
5 for fulfilling the request, an estimate of the expected cost of any
6 copies, and an opportunity for the requester to modify or prioritize the
7 items within the request. The requester shall have ten business days to
8 review the estimated costs, including any special service charge, and
9 request the custodian to fulfill the original request, negotiate with the
10 custodian to narrow or simplify the request, or withdraw the request. If
11 the requester does not respond to the custodian within ten business days,
12 the custodian shall not proceed to fulfill the request. The four business
13 days shall be computed by excluding the day the request is received,
14 after which the designated period of time begins to run. Business day
15 does not include a Saturday, a Sunday, or a day during which the offices
16 of the custodian of the public records are closed.

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

20 Sec. 2. Section 84-712.01, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 84-712.01 (1) Except when any other statute expressly provides that
23 particular information or records shall not be made public, public
24 records shall include all records and documents, regardless of physical
25 form, of or belonging to this state, any county, city, village, political
26 subdivision, or tax-supported district in this state, or any agency,
27 branch, department, board, bureau, commission, council, subunit, or
28 committee of any of the foregoing. Data which is a public record in its
29 original form shall remain a public record when maintained in computer
30 files.

31 (2) When a custodian of a public record of a county provides to a

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

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

19 Sec. 3. Section 84-712.05, Revised Statutes Cumulative Supplement,
20 2016, is amended to read:

21 84-712.05 The following records, unless publicly disclosed in an
22 open court, open administrative proceeding, or open meeting or disclosed
23 by a public entity pursuant to its duties, may be withheld from the
24 public by the lawful custodian of the records:

25 (1) Personal information in records regarding a student, prospective
26 student, or former student of any educational institution or exempt
27 school that has effectuated an election not to meet state approval or
28 accreditation requirements pursuant to section 79-1601 when such records
29 are maintained by and in the possession of a public entity, other than
30 routine directory information specified and made public consistent with
31 20 U.S.C. 1232g, as such section existed on February 1, 2013, and

1 regulations adopted thereunder;

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

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

10 (4) Records which represent the work product of an attorney and the
11 public body involved which are related to preparation for litigation,
12 labor negotiations, or claims made by or against the public body or which
13 are confidential communications as defined in section 27-503;

14 (5) Records developed or received by law enforcement agencies and
15 other public bodies charged with duties of investigation or examination
16 of persons, institutions, or businesses, when the records constitute a
17 part of the examination, investigation, intelligence information, ~~citizen~~
18 complaints or inquiries from residents of this state or other interested
19 persons, informant identification, or strategic or tactical information
20 used in law enforcement training, except that this subdivision shall not
21 apply to records so developed or received relating to the presence of and
22 amount or concentration of alcohol or drugs in any body fluid of any
23 person;

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

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

29 (8) Information solely pertaining to protection of the security of
30 public property and persons on or within public property, such as
31 specific, unique vulnerability assessments or specific, unique response

1 plans, either of which is intended to prevent or mitigate criminal acts
2 the public disclosure of which would create a substantial likelihood of
3 endangering public safety or property; computer or communications network
4 schema, passwords, and user identification names; guard schedules; lock
5 combinations; or public utility infrastructure specifications or design
6 drawings the public disclosure of which would create a substantial
7 likelihood of endangering public safety or property, unless otherwise
8 provided by state or federal law;

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

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

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

25 (12) Correspondence, memoranda, and records of telephone calls
26 related to the performance of duties by a member of the Legislature in
27 whatever form. The lawful custodian of the correspondence, memoranda, and
28 records of telephone calls, upon approval of the Executive Board of the
29 Legislative Council, shall release the correspondence, memoranda, and
30 records of telephone calls which are not designated as sensitive or
31 confidential in nature to any person performing an audit of the

1 Legislature. A member's correspondence, memoranda, and records of
2 confidential telephone calls related to the performance of his or her
3 legislative duties shall only be released to any other person with the
4 explicit approval of the member;

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

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

22 (15) Job application materials submitted by applicants, other than
23 finalists or a priority candidate for a position described in section
24 85-106.06 selected using the enhanced public scrutiny process in section
25 85-106.06, who have applied for employment by any public body as defined
26 in section 84-1409. For purposes of this subdivision, (a) job application
27 materials means employment applications, resumes, reference letters, and
28 school transcripts and (b) finalist means any applicant who is not an
29 applicant for a position described in section 85-106.06 and (i) who
30 reaches the final pool of applicants, numbering four or more, from which
31 the successful applicant is to be selected, (ii) who is an original

1 applicant when the final pool of applicants numbers less than four, or
2 (iii) who is an original applicant and there are four or fewer original
3 applicants;

4 (16) Records obtained by the Public Employees Retirement Board
5 pursuant to section 84-1512;

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

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

11 (19) Draft records obtained by the Nebraska Retirement Systems
12 Committee of the Legislature and the Governor from Nebraska Public
13 Employees Retirement Systems pursuant to subsection (4) of section
14 84-1503; and

15 (20) All prescription drug information submitted pursuant to section
16 71-2454, all data contained in the prescription drug monitoring system,
17 and any report obtained from data contained in the prescription drug
18 monitoring system.

19 Sec. 4. Section 84-712.07, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 84-712.07 The provisions of sections 84-712, 84-712.01, 84-712.03 to
22 84-712.09, and 84-1413 pertaining to the rights of residents of this
23 state and all other interested persons ~~citizens~~ to access to public
24 records may be enforced by equitable relief, whether or not any other
25 remedy is also available. In any case in which the complainant seeking
26 access has substantially prevailed, the court may assess against the
27 public body which had denied access to its ~~their~~ records, reasonable
28 attorney's ~~attorney~~ fees and other litigation costs reasonably incurred
29 by the complainant.

30 Sec. 5. Original sections 84-712, 84-712.01, and 84-712.07, Reissue
31 Revised Statutes of Nebraska, and section 84-712.05, Revised Statutes

1 Cumulative Supplement, 2016, are repealed.

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 496

Introduced by Stinner, 48.

Read first time January 18, 2017

Committee: Urban Affairs

- 1 A BILL FOR AN ACT relating to the Community Development Law; to amend
- 2 section 18-2103, Revised Statutes Cumulative Supplement, 2016; to
- 3 define and redefine terms; and to repeal the original section.
- 4 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 18-2103, Revised Statutes Cumulative Supplement,
2 2016, is amended to read:

3 18-2103 For purposes of the Community Development Law, unless the
4 context otherwise requires:

5 (1) An authority means any community redevelopment authority created
6 pursuant to section 18-2102.01 and a city or village which has created a
7 community development agency pursuant to the provisions of section
8 18-2101.01 and does not include a limited community redevelopment
9 authority;

10 (2) Limited community redevelopment authority means a community
11 redevelopment authority created pursuant to section 18-2102.01 having
12 only one single specific limited pilot project authorized;

13 (3) City means any city or incorporated village in the state;

14 (4) Public body means the state or any municipality, county,
15 township, board, commission, authority, district, or other political
16 subdivision or public body of the state;

17 (5) Governing body or local governing body means the city council,
18 board of trustees, or other legislative body charged with governing the
19 municipality;

20 (6) Mayor means the mayor of the city or chairperson of the board of
21 trustees of the village;

22 (7) Clerk means the clerk of the city or village;

23 (8) Federal government means the United States of America, or any
24 agency or instrumentality, corporate or otherwise, of the United States
25 of America;

26 (9) Area of operation means and includes the area within the
27 corporate limits of the city and such land outside the city as may come
28 within the purview of sections 18-2123 and 18-2123.01;

29 (10) Substandard areas means an area in which there is a
30 predominance of buildings or improvements, whether nonresidential or
31 residential in character, which, by reason of dilapidation,

1 deterioration, age or obsolescence, inadequate provision for ventilation,
2 light, air, sanitation, or open spaces, high density of population and
3 overcrowding, or the existence of conditions which endanger life or
4 property by fire and other causes, or any combination of such factors, is
5 conducive to ill health, transmission of disease, infant mortality,
6 juvenile delinquency, and crime, (which cannot be remedied through
7 construction of prisons), and is detrimental to the public health,
8 safety, morals, or welfare;

9 (11) Blighted area means an area, which (a) by reason of the
10 presence of a substantial number of deteriorated or deteriorating
11 structures, existence of defective or inadequate street layout, faulty
12 lot layout in relation to size, adequacy, accessibility, or usefulness,
13 insanitary or unsafe conditions, deterioration of site or other
14 improvements, diversity of ownership, tax or special assessment
15 delinquency exceeding the fair value of the land, defective or unusual
16 conditions of title, improper subdivision or obsolete platting, or the
17 existence of conditions which endanger life or property by fire and other
18 causes, or any combination of such factors, substantially impairs or
19 arrests the sound growth of the community, retards the provision of
20 housing accommodations, or constitutes an economic or social liability
21 and is detrimental to the public health, safety, morals, or welfare in
22 its present condition and use and (b) in which there is at least one of
23 the following conditions: (i) Unemployment in the designated area is at
24 least one hundred twenty percent of the state or national average; (ii)
25 the average age of the residential or commercial units in the area is at
26 least forty years; (iii) more than half of the plotted and subdivided
27 property in an area is unimproved land that has been within the city for
28 forty years and has remained unimproved during that time; (iv) the per
29 capita income of the area is lower than the average per capita income of
30 the city or village in which the area is designated; or (v) the area has
31 had either stable or decreasing population based on the last two

1 decennial censuses. In no event shall a city of the metropolitan,
2 primary, or first class designate more than thirty-five percent of the
3 city as blighted, a city of the second class shall not designate an area
4 larger than fifty percent of the city as blighted, and a village shall
5 not designate an area larger than one hundred percent of the village as
6 blighted. A redevelopment project involving a formerly used defense site
7 as authorized under section 18-2123.01 shall not count towards the
8 percentage limitations contained in this subdivision;

9 (12) Redevelopment project means any work or undertaking in one or
10 more community redevelopment areas: (a) To acquire substandard and
11 blighted areas or portions thereof, including lands, structures, or
12 improvements the acquisition of which is necessary or incidental to the
13 proper clearance, development, or redevelopment of such substandard and
14 blighted areas; (b) to clear any such areas by demolition or removal of
15 existing buildings, structures, streets, utilities, or other improvements
16 thereon and to install, construct, or reconstruct streets, utilities,
17 parks, playgrounds, public spaces, public parking facilities, sidewalks
18 or moving sidewalks, convention and civic centers, bus stop shelters,
19 lighting, benches or other similar furniture, trash receptacles,
20 shelters, skywalks and pedestrian and vehicular overpasses and
21 underpasses, and any other necessary public improvements essential to the
22 preparation of sites for uses in accordance with a redevelopment plan;
23 (c) to sell, lease, or otherwise make available land in such areas for
24 residential, recreational, commercial, industrial, or other uses,
25 including parking or other facilities functionally related or subordinate
26 to such uses, or for public use or to retain such land for public use, in
27 accordance with a redevelopment plan; and may also include the
28 preparation of the redevelopment plan, the planning, survey, and other
29 work incident to a redevelopment project and the preparation of all plans
30 and arrangements for carrying out a redevelopment project; (d) to dispose
31 of all real and personal property or any interest in such property, or

1 assets, cash, or other funds held or used in connection with residential,
2 recreational, commercial, industrial, or other uses, including parking or
3 other facilities functionally related or subordinate to such uses, or any
4 public use specified in a redevelopment plan or project, except that such
5 disposition shall be at its fair value for uses in accordance with the
6 redevelopment plan; (e) to acquire real property in a community
7 redevelopment area which, under the redevelopment plan, is to be repaired
8 or rehabilitated for dwelling use or related facilities, repair or
9 rehabilitate the structures, and resell the property; ~~and~~ (f) to carry
10 out plans for a program of voluntary or compulsory repair,
11 rehabilitation, or demolition of buildings or other improvements in
12 accordance with the redevelopment plan; and (g) in cities of the first
13 and second class and villages, to carry out construction of workforce
14 housing;

15 (13) Redevelopment plan means a plan, as it exists from time to time
16 for one or more community redevelopment areas, or for a redevelopment
17 project, which (a) conforms to the general plan for the municipality as a
18 whole and (b) is sufficiently complete to indicate such land acquisition,
19 demolition and removal of structures, redevelopment, improvements, and
20 rehabilitation as may be proposed to be carried out in the community
21 redevelopment area, zoning and planning changes, if any, land uses,
22 maximum densities, and building requirements;

23 (14) Redeveloper means any person, partnership, or public or private
24 corporation or agency which enters or proposes to enter into a
25 redevelopment contract;

26 (15) Redevelopment contract means a contract entered into between an
27 authority and a redeveloper for the redevelopment of an area in
28 conformity with a redevelopment plan;

29 (16) Real property means all lands, including improvements and
30 fixtures thereon, and property of any nature appurtenant thereto, or used
31 in connection therewith, and every estate, interest and right, legal or

1 equitable, therein, including terms for years and liens by way of
2 judgment, mortgage, or otherwise, and the indebtedness secured by such
3 liens;

4 (17) Bonds means any bonds, including refunding bonds, notes,
5 interim certificates, debentures, or other obligations issued pursuant to
6 the Community Development Law except for bonds issued pursuant to section
7 18-2142.04;

8 (18) Obligee means any bondholder, agent, or trustee for any
9 bondholder, or lessor demising to any authority, established pursuant to
10 section 18-2102.01, property used in connection with a redevelopment
11 project, or any assignee or assignees of such lessor's interest or any
12 part thereof, and the federal government when it is a party to any
13 contract with such authority;

14 (19) Person means any individual, firm, partnership, limited
15 liability company, corporation, company, association, joint-stock
16 association, or body politic and includes any trustee, receiver,
17 assignee, or other similar representative thereof;

18 (20) Community redevelopment area means a substandard and blighted
19 area which the community redevelopment authority designates as
20 appropriate for a renewal project;

21 (21) Redevelopment project valuation means the valuation for
22 assessment of the taxable real property in a redevelopment project last
23 certified for the year prior to the effective date of the provision
24 authorized in section 18-2147;

25 (22) Enhanced employment area means an area not exceeding six
26 hundred acres (a) within a community redevelopment area which is
27 designated by an authority as eligible for the imposition of an
28 occupation tax or (b) not within a community redevelopment area as may be
29 designated under section 18-2142.04;

30 (23) Employee means a person employed at a business as a result of a
31 redevelopment project;

1 (24) Employer-provided health benefit means any item paid for by the
2 employer in total or in part that aids in the cost of health care
3 services, including, but not limited to, health insurance, health savings
4 accounts, and employer reimbursement of health care costs;

5 (25) Equivalent employees means the number of employees computed by
6 (a) dividing the total hours to be paid in a year by (b) the product of
7 forty times the number of weeks in a year;

8 (26) Business means any private business located in an enhanced
9 employment area;

10 (27) New investment means the value of improvements to real estate
11 made in an enhanced employment area by a developer or a business;

12 (28) Number of new employees means the number of equivalent
13 employees that are employed at a business as a result of the
14 redevelopment project during a year that are in excess of the number of
15 equivalent employees during the year immediately prior to the year that a
16 redevelopment plan is adopted;~~and~~

17 (29) Occupation tax means a tax imposed under section 18-2142.02;
18 and -

19 (30) Workforce housing means single-family or multi-family housing
20 for which the municipality (a) receives a housing study which is current
21 within twenty-four months, (b) prepares an incentive plan for
22 construction of housing in the municipality targeted to house existing or
23 new workers, (c) holds a public hearing on such incentive plan with
24 notice which complies with the conditions set forth in section 18-2115,
25 and (d) after the public hearing finds that such incentive plan is
26 necessary to prevent the spread of blight and substandard conditions
27 within the municipality, will promote additional safe and suitable
28 housing for individuals and families employed in the municipality, and
29 will not result in the unjust enrichment of any individual or company.

30 Sec. 2. Original section 18-2103, Revised Statutes Cumulative
31 Supplement, 2016, is repealed.

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 614

Introduced by Wayne, 13.

Read first time January 18, 2017

Committee: Urban Affairs

- 1 A BILL FOR AN ACT relating to the Local Option Municipal Economic
- 2 Development Act; to amend section 18-2717, Reissue Revised Statutes
- 3 of Nebraska; to eliminate a restriction relating to appropriations;
- 4 to harmonize provisions; and to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 18-2717, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 18-2717 ~~(1) No city shall appropriate from funds derived directly~~
4 ~~from local sources of revenue for all approved economic development~~
5 ~~programs, in each year during which such programs are in existence, an~~
6 ~~amount in excess of four-tenths of one percent of the taxable valuation~~
7 ~~of the city in the year in which the funds are collected.~~

8 (1) No ~~(2)~~ Notwithstanding the provisions of subsections ~~(1) and (3)~~
9 ~~of this section,~~ no city of the metropolitan or primary class shall
10 appropriate from funds derived directly from local sources of revenue
11 more than five million dollars for all approved economic development
12 programs in any one year, no city of the first class shall appropriate
13 from funds derived directly from local sources of revenue more than four
14 million dollars for all approved economic development programs in any one
15 year, and no city of the second class or village shall appropriate from
16 funds derived directly from local sources of revenue more than three
17 million dollars for all approved economic development programs in any one
18 year.

19 (2 3) Notwithstanding the provisions of subsection ~~subsections~~ (1)
20 ~~and (2)~~ of this section, no city shall appropriate from funds derived
21 directly from local sources of revenue an amount for an economic
22 development program in excess of the total amount approved by the voters
23 at the election or elections in which the economic development program
24 was submitted or amended.

25 (3 4) The restrictions on the appropriation of funds from local
26 sources of revenue as set out in subsections (1) and (2) ~~through (3)~~ of
27 this section shall apply only to the appropriation of funds derived
28 directly from local sources of revenue. Sales tax collections in excess
29 of the amount which may be appropriated as a result of the restrictions
30 set out in such subsections shall be deposited in the city's economic
31 development fund and invested as provided for in section 18-2718. Any

1 funds in the city's economic development fund not otherwise restricted
2 from appropriation by reason of the city's ordinance governing the
3 economic development program or this section may be appropriated and
4 spent for the purposes of the economic development program in any amount
5 and at any time at the discretion of the governing body of the city
6 subject only to section 18-2716.

7 (4 5) The restrictions on the appropriation of funds from local
8 sources of revenue shall not apply to the reappropriation of funds which
9 were appropriated but not expended during previous fiscal years.

10 Sec. 2. Original section 18-2717, Reissue Revised Statutes of
11 Nebraska, is repealed.

REQUEST #1:

ORIGIN: Grayson Path, City Administrator, Nebraska City

RE: To require the Department of Revenue to notify municipalities about 1) sales and use tax refund claims in excess of \$5,000 and 2) the deadline for when the claim will be allowed or disallowed.

COMMITTEE RECOMMENDATIONS:

LCLC:

SCLC:

2018 Legislative Suggestions

Municipality: City of Nebraska City

Date: March 27, 2017

Name: Grayson Path

Title: City Administrator

Please return this form by (N/A) so that as many requests as possible can be placed on the agenda for the meeting on (N/A)!

Mail to: League of Nebraska Municipalities
1335 L Street
Lincoln, NE 68508-2506

LEGISLATIVE SUGGESTIONS

Please work with your municipal attorney to ensure that your request(s) include the statute number(s) you wish to amend as well as the recommended new language.

Update §77-2708(2) to add §77-2708(2)(k) – The Tax Commissioner shall notify the affected city, village, county, or municipal county of 1) the amount of refund claims of sales and use taxes under the Local Option Revenue Act or sections 13-319, 13-324, and 13-2813 that are in excess of five thousand dollars within twenty days of receipt of the claim and 2) the deadline for determination of allowing or disallowing the claim.

Add §77-2708.02 – For an amount in excess of five thousand dollars in sales tax to be refunded by a municipality, the municipality shall have the option to increment this refund in twelve equal monthly payments.

For my added §77-2708(2)(k), I pulled similar language from the notice requirement of the Nebraska Advantage Act – §77-5726(e).

Please review Regulation 1-110 of the Department of Revenue's Title 316, Chapter 1 – Sales and Use Tax for additional information.

THANK YOU!

Back Story:

In March 2017, the City of Nebraska City received its monthly sales and use tax payment and it was considerably less than the average. We were used to ups and downs in the sales tax from month to month, but this was a swing of \$100k+. We reached out to the Department of Revenue and ultimately learned that a little over \$120k was being refunded to an unknown entity/entities. Under Title 36, Chapter 1 – Sales and Use Tax, Regulation 1-110 of the Department of Revenue, entities that overpay in sales tax can complete Form 7 and be refunded for amounts over \$2.00 paid in excess of what is actually owed within the last three years. This comes from State Revised Statute 77-2708. In this instance, an unknown number of entities filed claims that resulted in a combined \$120k in refunded sales tax. In reality, given that the City has had a history of \$1300/month in refunds the last 5-10 years, the chances of there being multiple entities in this situation are rather negligible. So possibly one large entity filed a claim of this magnitude. This has impacts on the City's operational budget, LB840, and Interlocal Agreement which as a bond payable by a ¼ sales tax. Without any prior notice, preparing for this was impossible.

You will notice that I changed the \$25k figure in the Nebraska Advantage Act to \$5k here. The reason being that without changing more to the statute, particularly the 180 day time period, claims arrive to the Department on a daily basis and since collectively they may add up to significant amounts, waiting until one of them is \$25k+ before getting a notice may not be affective. For lack of a mathematical proof, I chose \$5k because enough of these added up could become significant.

I do not want to delay the everyday return for a person or business, so affecting the 180 day timeline is not attractive. But that is to a point, if it gets sizable, the City should have the option to increment if they know they are getting hit by a lot at the same time.

Please edit and advise as you see fit. I know legislation can have unintended consequences which is why I would like for you to scrub this as much as you deem necessary.

REG-1-110, Claims for Refund of Sales or Use Tax

110.01 Any person who has overpaid any sales or use tax may file a claim for a refund of the amount of tax overpaid. A claim for refund of sales or use tax (claim) must be filed with the Nebraska Department of Revenue (Department) in accordance with Reg-33-002.01A.

110.01A The Department will not accept a claim if the amount claimed is less than \$2.

110.01B If the claimant desires a hearing, a request for hearing must be made when the claim is filed or prior to the Tax Commissioner taking action on the claim. A claim is not presumed to be a request for a hearing.

110.01C Only the person who made the overpayment, or the person's attorney-in-fact, executor, personal representative, or administrator, may file a claim.

110.01D A claim must be filed within the time specified in Reg-33-002.01B.

110.02 The Tax Commissioner must allow or disallow a claim within 180 days after it has been filed.

110.02A A request for a hearing waives the 180-day period. The claimant and the Tax Commissioner may also mutually agree to extend the 180-day period.

110.02B If a hearing has not been requested, and the Tax Commissioner has not acted on the claim within 180 days or the period agreed to by the claimant and the Tax Commissioner, whichever is later, the claim is deemed to have been allowed.

110.02C Within 30 days after disallowing any claim in whole or in part, the Tax Commissioner will notify the claimant of the action taken in the same manner as a notice of deficiency determination.

110.03 The amount of overpayment may be credited or offset against any sales, use, income, or any other tax, and any fees, interest, or penalties then due and payable to the state from the claimant. Any remaining balance may be refunded to the claimant or its successor. Refunds of sales and use tax may be paid electronically.

110.04 Interest will not be allowed on claims if the tax was originally paid voluntarily.

(Neb. Rev. Stat. §§ 77-1784, 77-2708, 77-27,194.01, 77-4108.01, 77-5729, and 77-5804. July 3, 2013.)

77-2708. Sales and use tax; returns; date due; failure to file; penalty; deduction; amount; claim for refund; allowance; disallowance; proceedings.

(1)(a) The sales and use taxes imposed by the Nebraska Revenue Act of 1967 shall be due and payable to the Tax Commissioner monthly on or before the twentieth day of the month next succeeding each monthly period unless otherwise provided pursuant to the Nebraska Revenue Act of 1967.

(b)(i) On or before the twentieth day of the month following each monthly period or such other period as the Tax Commissioner may require, a return for such period, along with all taxes due, shall be filed with the Tax Commissioner in such form and content as the Tax Commissioner may prescribe and containing such information as the Tax Commissioner deems necessary for the proper administration of the Nebraska Revenue Act of 1967. The Tax Commissioner, if he or she deems it necessary in order to insure payment to or facilitate the collection by the state of the amount of sales or use taxes due, may require returns and payment of the amount of such taxes for periods other than monthly periods in the case of a particular seller, retailer, or purchaser, as the case may be. The Tax Commissioner shall by rule and regulation require reports and tax payments from sellers, retailers, or purchasers depending on their yearly tax liability. Except as required by the streamlined sales and use tax agreement, annual returns shall be required if such sellers', retailers', or purchasers' yearly tax liability is less than nine hundred dollars, quarterly returns shall be required if their yearly tax liability is nine hundred dollars or more and less than three thousand dollars, and monthly returns shall be required if their yearly tax liability is three thousand dollars or more. The Tax Commissioner shall have the discretion to allow an annual return for seasonal retailers, even when their yearly tax liability exceeds the amounts listed in this subdivision.

The Tax Commissioner may adopt and promulgate rules and regulations to allow annual, semiannual, or quarterly returns for any retailer making monthly remittances or payments of sales and use taxes by electronic funds transfer or for any retailer remitting tax to the state pursuant to the streamlined sales and use tax agreement. Such rules and regulations may establish a method of determining the amount of the payment that will result in substantially all of the tax liability being paid each quarter. At least once each year, the difference between the amount paid and the amount due shall be reconciled. If the difference is more than ten percent of the amount paid, a penalty of fifty percent of the unpaid amount shall be imposed.

(ii) For purposes of the sales tax, a return shall be filed by every retailer liable for collection from a purchaser and payment to the state of the tax, except that a

combined sales tax return may be filed for all licensed locations which are subject to common ownership. For purposes of this subdivision, common ownership means the same person or persons own eighty percent or more of each licensed location. For purposes of the use tax, a return shall be filed by every retailer engaged in business in this state and by every person who has purchased property, the storage, use, or other consumption of which is subject to the use tax, but who has not paid the use tax due to a retailer required to collect the tax.

(iii) The Tax Commissioner may require that returns be signed by the person required to file the return or by his or her duly authorized agent but need not be verified by oath.

(iv) A taxpayer who keeps his or her regular books and records on a cash basis, an accrual basis, or any generally recognized accounting basis which correctly reflects the operation of the business may file the sales and use tax returns required by the Nebraska Revenue Act of 1967 on the same accounting basis that is used for the regular books and records, except that on credit, conditional, and installment sales, the retailer who keeps his or her books on an accrual basis may report such sales on the cash basis and pay the tax upon the collections made during each month. If a taxpayer transfers, sells, assigns, or otherwise disposes of an account receivable, he or she shall be deemed to have received the full balance of the consideration for the original sale and shall be liable for the remittance of the sales tax on the balance of the total sale price not previously reported, except that such transfer, sale, assignment, or other disposition of an account receivable by a retailer to a subsidiary shall not be deemed to require the retailer to pay the sales tax on the credit sale represented by the account transferred prior to the time the customer makes payment on such account. If the subsidiary does not obtain a Nebraska sales tax permit, the taxpayer shall obtain a surety bond in favor of the State of Nebraska to insure payment of the tax and any interest and penalty imposed thereon under this section in an amount not less than two times the amount of tax payable on outstanding accounts receivable held by the subsidiary as of the end of the prior calendar year. Failure to obtain either a sales tax permit or a surety bond in accordance with this section shall result in the payment on the next required filing date of all sales taxes not previously remitted. When the retailer has adopted one basis or the other of reporting credit, conditional, or installment sales and paying the tax thereon, he or she will not be permitted to change from that basis without first having notified the Tax Commissioner.

(c) Except as provided in the streamlined sales and use tax agreement, the taxpayer required to file the return shall deliver or mail any required return together with a remittance of the net amount of the tax due to the office of the Tax Commissioner on or before the required filing date. Failure to file the return, filing

after the required filing date, failure to remit the net amount of the tax due, or remitting the net amount of the tax due after the required filing date shall be cause for a penalty, in addition to interest, of ten percent of the amount of tax not paid by the required filing date or twenty-five dollars, whichever is greater, unless the penalty is being collected under subdivision (1)(i), (1)(j)(i), or (1)(k)(i) of section 77-2703 by a county treasurer or the Department of Motor Vehicles, in which case the penalty shall be five dollars.

(d) The taxpayer shall deduct and withhold, from the taxes otherwise due from him or her on his or her tax return, two and one-half percent of the first three thousand dollars remitted each month to reimburse himself or herself for the cost of collecting the tax. Taxpayers filing a combined return as allowed by subdivision (1)(b)(ii) of this subsection shall compute such collection fees on the basis of the receipts and liability of each licensed location.

(2)(a) If the Tax Commissioner determines that any sales or use tax amount, penalty, or interest has been paid more than once, has been erroneously or illegally collected or computed, or has been paid and the purchaser qualifies for a refund under section 77-2708.01, the Tax Commissioner shall set forth that fact in his or her records and the excess amount collected or paid may be credited on any sales, use, or income tax amounts then due and payable from the person under the Nebraska Revenue Act of 1967. Any balance may be refunded to the person by whom it was paid or his or her successors, administrators, or executors.

(b) No refund shall be allowed unless a claim therefor is filed with the Tax Commissioner by the person who made the overpayment or his or her attorney, executor, or administrator within three years from the required filing date following the close of the period for which the overpayment was made, within six months after any determination becomes final under section 77-2709, or within six months from the date of overpayment with respect to such determinations, whichever of these three periods expires later, unless the credit relates to a period for which a waiver has been given. Failure to file a claim within the time prescribed in this subsection shall constitute a waiver of any demand against the state on account of overpayment.

(c) Every claim shall be in writing on forms prescribed by the Tax Commissioner and shall state the specific amount and grounds upon which the claim is founded. No refund shall be made in any amount less than two dollars.

(d) The Tax Commissioner shall allow or disallow a claim within one hundred eighty days after it has been filed. A request for a hearing shall constitute a waiver of the one-hundred-eighty-day period. The claimant and the Tax Commissioner may also agree to extend the one-hundred-eighty-day period. If a hearing has not

been requested and the Tax Commissioner has neither allowed nor disallowed a claim within either the one hundred eighty days or the period agreed to by the claimant and the Tax Commissioner, the claim shall be deemed to have been allowed.

(e) Within thirty days after disallowing any claim in whole or in part, the Tax Commissioner shall serve notice of his or her action on the claimant in the manner prescribed for service of notice of a deficiency determination.

(f) Within thirty days after the mailing of the notice of the Tax Commissioner's action upon a claim filed pursuant to the Nebraska Revenue Act of 1967, the action of the Tax Commissioner shall be final unless the taxpayer seeks review of the Tax Commissioner's determination as provided in section 77-27,127.

(g) Upon the allowance of a credit or refund of any sum erroneously or illegally assessed or collected, of any penalty collected without authority, or of any sum which was excessive or in any manner wrongfully collected, interest shall be allowed and paid on the amount of such credit or refund at the rate specified in section 45-104.02, as such rate may from time to time be adjusted, from the date such sum was paid or from the date the return was required to be filed, whichever date is later, to the date of the allowance of the refund or, in the case of a credit, to the due date of the amount against which the credit is allowed, but in the case of a voluntary and unrequested payment in excess of actual tax liability or a refund under section 77-2708.01, no interest shall be allowed when such excess is refunded or credited.

(h) No suit or proceeding shall be maintained in any court for the recovery of any amount alleged to have been erroneously or illegally determined or collected unless a claim for refund or credit has been duly filed.

(i) The Tax Commissioner may recover any refund or part thereof which is erroneously made and any credit or part thereof which is erroneously allowed by issuing a deficiency determination within one year from the date of refund or credit or within the period otherwise allowed for issuing a deficiency determination, whichever expires later.

(j)(i) Credit shall be allowed to the retailer, contractor, or repairperson for sales or use taxes paid pursuant to the Nebraska Revenue Act of 1967 on any deduction taken that is attributed to bad debts not including interest. Bad debt has the same meaning as in 26 U.S.C. 166, as such section existed on January 1, 2003. However, the amount calculated pursuant to 26 U.S.C. 166 shall be adjusted to exclude: Financing charges or interest; sales or use taxes charged on the purchase price; uncollectible amounts on property that remains in the possession of the seller until

the full purchase price is paid; and expenses incurred in attempting to collect any debt and repossessed property.

(ii) Bad debts may be deducted on the return for the period during which the bad debt is written off as uncollectible in the claimant's books and records and is eligible to be deducted for federal income tax purposes. A claimant who is not required to file federal income tax returns may deduct a bad debt on a return filed for the period in which the bad debt is written off as uncollectible in the claimant's books and records and would be eligible for a bad debt deduction for federal income tax purposes if the claimant was required to file a federal income tax return.

(iii) If a deduction is taken for a bad debt and the debt is subsequently collected in whole or in part, the tax on the amount so collected must be paid and reported on the return filed for the period in which the collection is made.

(iv) When the amount of bad debt exceeds the amount of taxable sales for the period during which the bad debt is written off, a refund claim may be filed within the otherwise applicable statute of limitations for refund claims. The statute of limitations shall be measured from the due date of the return on which the bad debt could first be claimed.

(v) If filing responsibilities have been assumed by a certified service provider, the service provider may claim, on behalf of the retailer, any bad debt allowance provided by this section. The certified service provider shall credit or refund the full amount of any bad debt allowance or refund received to the retailer.

(vi) For purposes of reporting a payment received on a previously claimed bad debt, any payments made on a debt or account are applied first proportionally to the taxable price of the property or service and the sales tax thereon, and secondly to interest, service charges, and any other charges.

(vii) In situations in which the books and records of the party claiming the bad debt allowance support an allocation of the bad debts among the member states in the streamlined sales and use tax agreement, the state shall permit the allocation.

Source: Laws 1967, c. 487, § 8, p. 1558; Laws 1967, c. 490, § 5, p. 1665; Laws 1969, c. 683, § 5, p. 2635; Laws 1976, LB 996, § 1; Laws 1981, LB 179, § 15; Laws 1981, LB 167, § 51; Laws 1982, Spec. Sess., LB 2, § 1; Laws 1983, LB 101, § 1; Laws 1983, LB 571, § 2; Laws 1984, LB 758, § 1; Laws 1985, LB 715, § 7; Laws 1985, LB 273, § 46; Laws 1987, LB 775, § 15; Laws 1987, LB 523, § 16; Laws 1988, LB 1234, § 1; Laws 1991, LB 829, § 23; Laws 1992, LB 1063, § 183; Laws 1992, Second Spec. Sess., LB 1, § 156; Laws 1992, Fourth Spec. Sess., LB 1, § 28; Laws 1993, LB 128, § 1; Laws 1993, LB 345, § 56; Laws 1995, LB 9,

§ 1; Laws 1995, LB 118, § 1; Laws 1996, LB 1041, § 7; Laws 2002, Second Spec. Sess., LB 32, § 3; Laws 2003, LB 282, § 71; Laws 2005, LB 216, § 8; Laws 2008, LB916, § 25; Laws 2011, LB210, § 9; Laws 2012, LB801, § 99; Laws 2014, LB814, § 10.

Annotations

A late filing cannot be excused on equitable grounds where the claim was time barred because it was filed beyond the limitations period specified in subsection (2) (b) of this section, as extended by agreement of the parties. *Becton, Dickinson & Co. v. Nebraska Dept. of Rev.*, 276 Neb. 640, 756 N.W.2d 280 (2008).

The sales and use tax return contains instructions stating that the entries for each tax remain separate and that the failure to enter "a word, statement, number or figure . . . in the appropriate lines on the return" extends the statute of limitations to 5 years. Where no such entries were made, the department was not given adequate information from which to compute the consumer's use tax owed and the 5-year statute of limitations controls. *McDonald's Exec. Off. v. Nebraska Dept. of Revenue*, 243 Neb. 82, 497 N.W.2d 377 (1993).

Use tax is payable only once. *Omaha P. P. Dist. v. Nebraska State Tax Commissioner*, 210 Neb. 309, 314 N.W.2d 246 (1982).

This section provides for credit of any sales or use tax erroneously or illegally collected or computed. *Anderson v. Tiemann*, 182 Neb. 393, 155 N.W.2d 322 (1967).

77-5726. Credits; use; refund claims; procedures; interest; appointment of purchasing agent; protest; appeal.

(1)(a) The credits prescribed in section 77-5725 for a year shall be established by filing the forms required by the Tax Commissioner with the income tax return for the taxable year which includes the end of the year the credits were earned. The credits may be used and shall be applied in the order in which they were first allowed. The credits may be used after any other nonrefundable credits to reduce the taxpayer's income tax liability imposed by sections 77-2714 to 77-27,135. Credits may be used beginning with the taxable year which includes December 31 of the year the required minimum levels were reached. The last year for which credits may be used is the taxable year which includes December 31 of the last year of the carryover period. Any decision on how part of the credit is applied shall not limit how the remaining credit could be applied under this section.

(b) The taxpayer may use the credit provided in subsection (3) of section 77-5725 to reduce the taxpayer's income tax withholding employer or payor tax liability under section 77-2756 or 77-2757 to the extent such liability is attributable to the number of new employees at the project, excluding any compensation in excess of one million dollars paid to any one employee during the year. The taxpayer may use the credit provided in subsection (4) of section 77-5725 to reduce the taxpayer's income tax withholding employer or payor tax liability under section 77-2756 or 77-2757 to the extent such liability is attributable to all employees employed at the project, other than base-year employees and excluding any compensation in excess of one million dollars paid to any one employee during the year. To the extent of the credit used, such withholding shall not constitute public funds or state tax revenue and shall not constitute a trust fund or be owned by the state. The use by the taxpayer of the credit shall not change the amount that otherwise would be reported by the taxpayer to the employee under section 77-2754 as income tax withheld and shall not reduce the amount that otherwise would be allowed by the state as a refundable credit on an employee's income tax return as income tax withheld under section 77-2755.

For a tier 1, tier 2, tier 3, or tier 4 project, the amount of credits used against income tax withholding shall not exceed the withholding attributable to new employees employed at the project, excluding any compensation in excess of one million dollars paid to any one employee during the year.

For a tier 6 project, the amount of credits used against income tax withholding shall not exceed the withholding attributable to all employees employed at the project, other than base-year employees and excluding any compensation in excess of one million dollars paid to any one employee during the year.

If the amount of credit used by the taxpayer against income tax withholding exceeds this amount, the excess withholding shall be returned to the Department of Revenue in the manner provided in section 77-2756, such excess amount returned shall be considered unused, and the amount of unused credits may be used as otherwise permitted in this section or shall carry over to the extent authorized in subdivision (1)(e) of this section.

(c) Credits may be used to obtain a refund of sales and use taxes under the Local Option Revenue Act, the Nebraska Revenue Act of 1967, and sections 13-319, 13-324, and 13-2813 which are not otherwise refundable that are paid on purchases, including rentals, for use at the project for a tier 1, tier 2, tier 3, or tier 4 project or for use within this state for a tier 2 large data center project or a tier 6 project.

(d) The credits earned for a tier 6 project may be used to obtain a payment from the state equal to the real property taxes due after the year the required levels of employment and investment were met and before the end of the carryover period, for real property that is included in such project and acquired by the taxpayer, whether by lease or purchase, after the date the application was filed. Once the required levels of employment and investment for a tier 2 large data center project have been met, the credits earned for a tier 2 large data center project may be used to obtain a payment from the state equal to the real property taxes due after the year of application and before the end of the carryover period, for real property that is included in such project and acquired by the taxpayer, whether by lease or purchase, after the date the application was filed. The payment from the state shall be made only after payment of the real property taxes have been made to the county as required by law. Payments shall not be allowed for any taxes paid on real property for which the taxes are divided under section 18-2147 or 58-507.

(e) Credits may be carried over until fully utilized, except that such credits may not be carried over more than nine years after the year of application for a tier 1 or tier 3 project, fourteen years after the year of application for a tier 2 or tier 4 project, or more than sixteen years past the end of the entitlement period for a tier 6 project.

(2)(a) No refund claims shall be filed until after the required levels of employment and investment have been met.

(b) Refund claims shall be filed no more than once each quarter for refunds under the Nebraska Advantage Act, except that any claim for a refund in excess of twenty-five thousand dollars may be filed at any time.

(c) Refund claims for materials purchased by a purchasing agent shall include:

(i) A copy of the purchasing agent appointment;

(ii) The contract price; and

(iii)(A) For refunds under subdivision (2)(a)(iii) or (2)(a)(v) of section 77-5725, a certification by the contractor or repairperson of the percentage of the materials incorporated into or annexed to the project on which sales and use taxes were paid to Nebraska after appointment as purchasing agent; or

(B) For refunds under subdivision (2)(a)(iv) of section 77-5725, a certification by the contractor or repairperson of the percentage of the contract price that represents the cost of materials annexed to the project and the percentage of the materials annexed to the project on which sales and use taxes were paid to Nebraska after appointment as purchasing agent.

(d) All refund claims shall be filed, processed, and allowed as any other claim under section 77-2708, except that the amounts allowed to be refunded under the Nebraska Advantage Act shall be deemed to be overpayments and shall be refunded notwithstanding any limitation in subdivision (2)(a) of section 77-2708. The refund may be allowed if the claim is filed within three years from the end of the year the required levels of employment and investment are met or within the period set forth in section 77-2708.

(e) If a claim for a refund of sales and use taxes under the Local Option Revenue Act or sections 13-319, 13-324, and 13-2813 of more than twenty-five thousand dollars is filed by June 15 of a given year, the refund shall be made on or after November 15 of the same year. If such a claim is filed on or after June 16 of a given year, the refund shall not be made until on or after November 15 of the following year. The Tax Commissioner shall notify the affected city, village, county, or municipal county of the amount of refund claims of sales and use taxes under the Local Option Revenue Act or sections 13-319, 13-324, and 13-2813 that are in excess of twenty-five thousand dollars on or before July 1 of the year before the claims will be paid under this section.

(f) Interest shall not be allowed on any taxes refunded under the Nebraska Advantage Act.

(3) The appointment of purchasing agents shall be recognized for the purpose of changing the status of a contractor or repairperson as the ultimate consumer of tangible personal property purchased after the date of the appointment which is physically incorporated into or annexed to the project and becomes the property of the owner of the improvement to real estate or the taxpayer. The purchasing agent

shall be jointly liable for the payment of the sales and use tax on the purchases with the owner of the property.

(4) A determination that a taxpayer is not engaged in a qualified business or has failed to meet or maintain the required levels of employment or investment for incentives, exemptions, or recapture may be protested within sixty days after the mailing of the written notice of the proposed determination. If the notice of proposed determination is not protested within the sixty-day period, the proposed determination is a final determination. If the notice is protested, the Tax Commissioner shall issue a written order resolving such protests. The written order of the Tax Commissioner resolving a protest may be appealed to the district court of Lancaster County within thirty days after the issuance of the order.

Source: Laws 2005, LB 312, § 48; Laws 2008, LB895, § 17; Laws 2008, LB914, § 23; Laws 2009, LB164, § 7; Laws 2010, LB879, § 19; Laws 2012, LB1118, § 8; Laws 2013, LB34, § 7; Laws 2017, LB161, § 1.

Effective Date: August 24, 2017

Cross References

Local Option Revenue Act, see section 77-27,148.

Nebraska Revenue Act of 1967, see section 77-2701.

REQUEST #2:

ORIGIN: Tobias Tempelmeyer, City Administrator, Beatrice

RE: To have the Attorney Subcommittee review, clarify and update the statutes regarding plumbing inspection, including reviewing such issues as the plumbing board, fees charged, and the frequency of the plumbing board meetings.

COMMITTEE RECOMMENDATIONS:

LCLC:

SCLC:

2018 Legislative Suggestions

Municipality: Beatrice Date: 7/12/17
Name: Tobias Tempelmeyer Title: City Administrator

Please return this form by **July 28**, so that as many requests as possible can be placed on the agenda for the meeting on August 17!

Mail to: League of Nebraska Municipalities
1335 L Street
Lincoln, NE 68508-2506

LEGISLATIVE SUGGESTIONS

Please work with your municipal attorney to ensure that your request(s) include the statute number(s) you wish to amend as well as the recommended new language.

Revise Neb.Rev.Stat. Section 18-1901 through 18-1919. These sections deal with Plumbing Boards.

18-1901 talks about a board of examination of plumbers. This board shall consist of at least four (4) members including the Chief Health Officer, plumbing inspector, one (1) journeyman plumber, and one (1) master plumber. The Chief Health Officer and plumbing inspector are appointed and hold office during the term of office of the Mayor. The journeyman and master plumber have a three (3) year term of office.

18-1903 says that if a City has a Chief Health Officer and plumbing inspector then they shall serve as members of the plumbing board.

- Clearly the plumbing board is separate from the board of examination of plumbers.
- Why two separate boards?

18-1904 says that the plumbing board shall meet "not less than once in every two weeks."

- No plumbing board needs to meet every two weeks.

(Continued on back)

THANK YOU!

18-1907 says that any person desiring to any plumbing in your city which has a plumbing board shall make written application to the plumbing board of examination.

- Why do we need separate boards?

- The terms plumbing board and plumbing board of examination are interchanged throughout these sections making it impossible to follow.

18-1911 the fee for a journeyman plumber license is \$1.00 for a one-year license and \$2.00 for a two-year license. Renewal fees are \$0.50 for a one-year license and \$1.00 for a two-year license. Fees are to be paid to the treasurer at the school.

- These fees are so low that they are not worth collecting.

My proposal is that these sections are referred to the City Attorney Committee for review and severally purged.

Cities and Villages, Applicable to All

Plumbing Inspection

18-1901 Board for examination of plumbers; members; appointment; qualifications; terms; quorum; organization; vacancies; how filled; bond; duties.

(1) In cities of the metropolitan class there shall be a board for the examination of plumbers of eight members. The board shall consist of an architect licensed to practice in the State of Nebraska and engaged in business in a city of the metropolitan class, a mechanical engineer licensed to practice in the State of Nebraska and engaged in business in a city of the metropolitan class, two journeymen plumbers, two master plumbers, one member of the general public who is not associated with the plumbing business, and a chief health officer who shall serve as a nonvoting member of the board. Such members shall be appointed by the mayor by and with the consent of the city council. A member shall continue to serve until his or her successor has been appointed and qualified.

(2) In cities of the primary class there may be a board for the examination of plumbers consisting of five members. The board shall consist of the Director of Building and Safety of the city, a registered professional mechanical engineer licensed to practice in the State of Nebraska and engaged in business in the city, the chief plumbing inspector for the city, one master plumber, and one journeyman plumber. The mechanical engineer, the master plumber, and the journeyman plumber shall be appointed by the mayor by and with the consent of the city council or, in cities having a city manager, by the city manager.

(3) In all cities of the first and second classes and villages there may be a board for the examination of plumbers of not less than four members, consisting of at least one member to be known as the chief health officer of the city or village, one member to be known as the plumbing inspector of the city or village, one journeyman plumber, and one master plumber. The journeyman and master plumbers shall be appointed by the mayor by and with the consent of the city council, by the chairperson by and with the consent of the board of trustees, or, in cities having a city manager, by the city manager.

(4) For purposes of this section, in cities where a city-county health department has been established and is maintained as provided in section 71-1628, chief health officer shall mean the health director of such department.

(5) Except for cities of the metropolitan and primary classes and as provided in subsection (4) of this section, the chief health officer and plumbing inspector shall be appointed by and hold office during the term of office of the mayor, city manager, or chairperson of the board of trustees, as the case may be. The terms of office of the journeymen and master plumbers shall be for three years. Upon expiration of the term of each appointed member, appointments shall be made for succeeding terms by the same process as the previous appointments.

(6) The plumbing inspector and journeymen and master plumbers shall be licensed plumbers. The plumbers appointed to the board in cities of the metropolitan class shall be licensed within such cities. The chief plumbing inspector shall be licensed within such city or village and shall act in a direct advisory capacity to the plumbing board.

(7) In cities of the metropolitan class, four voting members of the board shall constitute a quorum, and in all other cities and villages, three members of the plumbing board shall constitute a quorum. The board shall organize by selecting a chairperson, and in cities of the metropolitan class a recording secretary shall be furnished to such board. The city or village shall make available to the board a location for the board to meet and conduct business at a time convenient for the members of the board. All vacancies in the board may be filled by the mayor and council, city manager, or chairperson and board of trustees as provided in this section. Any member of the board may be removed from office for cause by the district court of the county in which such city or village is situated. The governing body

of the city or village may require that each member of the board give bond in the sum of one thousand dollars, conditioned according to law, the cost of which may be paid by such city or village.

(8) The plumbing board in a city of the metropolitan class shall maintain a record of all complaints filed in the city regarding violations of the plumbing code and a record of the disposition of each such complaint.

(9) If two or more municipalities organize a joint plumbing board pursuant to the Interlocal Cooperation Act, appointments shall be made according to the agreements providing for such joint board and the members of such board shall be residents of such cities or villages or live within the zoning jurisdiction of such cities or villages.

18-1902 Board; organization; records.

The persons who compose the plumbing board shall, within ten days after their appointments, meet in their respective city or village building or place designated by the city council, city manager, or chairman and board of trustees, and organize by the selection of one of their number as chairman; and the plumbing inspector shall be the secretary of said board. It shall be the duty of the secretary to keep full, true and correct minutes and records of all licenses issued by it, together with their kinds and dates, and the names of the persons to whom issued, in books to be provided by such city or village for that purpose, which books and records shall be open for free inspection by all persons during business hours

18-1903 Board; appointments; when made; ex officio members; compensation.

The appointment of the plumbing board shall be made annually, at the first meeting of the city council or chairperson and board of trustees, or by the city manager, in August of each year, except as provided in section 18-1901. If the city or village has a chief health officer or health director and plumbing inspector, then they shall act as members of such board ex officio and shall receive no extra compensation, except that boards of cities of the primary class shall have members as provided in subsection (2) of section 18-1901. If there are no such officers in such city or village, then, on being appointed, they shall each receive as a salary an amount to be determined by the city council or chairperson and board of trustees.

18-1904 Board; meetings; examination for license; rules.

The plumbing board shall fix stated times and places of meeting, which times shall not be less than once in every two weeks and meetings may be held more often upon written call of the chairman of the board. The board shall adopt rules for the examination, at such times and places, of all persons who desire a license to work at the construction or repairing of plumbing within the city or village, and also within the area of the zoning jurisdiction outside the corporate limits of cities of the metropolitan class.

18-1905 Assistant inspector; board members; compensation; meetings, restriction.

The assistant inspectors shall receive a salary in an amount to be determined by the city council or chairman and board of trustees. The members of the board, not ex officio members, shall be paid an amount to be determined by the city council or chairman and board of trustees. No meeting of the board shall be held at any time, except on the call of the chairman of such board. All salaries shall be paid out of the general fund of the city or village, where the board is located, the same as other city or village officers are paid. Vouchers for the same shall be duly certified by the chairman and secretary of such board to the city council, city manager, or chairman and board of trustees.

18-1906 Construction, alteration, and inspection; rules and regulations; powers of board; variances; fee; plans and specifications; approval; Building Board of Review; appeals.

The plumbing board shall have power, and it shall be its duty, to adopt rules and regulations, not inconsistent with the laws of the state or the ordinances of the city or village, for the sanitary construction, alteration, and inspection of plumbing and sewerage connections and drains placed in, or in connection with, any and every building in such city or village, in which it will prescribe the kind and size of materials to be used in such plumbing and the manner in which such work shall be done, which rules and regulations, except such as are adopted for its own convenience only, shall be approved by ordinance by the mayor and council of such city or by the chairperson and board of trustees of such village. The board shall have the power to amend or repeal its rules and regulations, subject, except such as relate to its own convenience only, to the approval of the mayor and council of such city or chairperson and board of trustees of such village. In cities of the metropolitan class the plumbing board shall have the power, without the approval of the mayor and city council, to grant a variance from the ordinances, rules, and regulations in the kind and size of materials to be used or in the manner in which the work is to be performed. The variance shall apply only to a single building and shall not be considered as a part of the ordinances, rules, and regulations of the plumbing board. If there are practical difficulties or unnecessary hardships in the manner of strictly carrying out such ordinance, the plumbing board shall have the power, in passing upon a variance, to vary or modify the application of any of the regulations or provisions of such ordinance relating to the use, construction, or alteration of buildings or structures or the use of land, so that the intent of the ordinance shall be observed, public safety and welfare secured, and substantial justice done. The board shall have power to compel the owner or contractor to first submit the plans and specifications for plumbing that is to be placed in any building or adjoining premises to the board for approval before it shall be installed in such building or premises. When an owner or contractor submits a request for a variance, the plumbing board shall charge a reasonable fee, payable to the general fund, not to exceed twenty-five dollars. The Building Board of Review shall have the authority to hear appeals from the plumbing board in matters regarding variances and interpretation of ordinances, plumbing code changes, rules, and regulations. The Building Board of Review shall adopt rules governing such appeals.

18-1907 License; examination; when; subject matter.

Any person desiring to do any plumbing, or to work at the business of plumbing, in any such city or village which has established a plumbing board, shall make written application to the plumbing board for examination for a license, which examination shall be made at the next meeting of the board, or at an adjourned meeting. If the applicant is an individual, the application shall include the applicant's social security number. The board shall examine the applicant as to his or her practical knowledge of plumbing, house drainage, ventilation, and sanitation, which examination shall be practical as well as theoretical; and if the applicant has shown himself or herself competent, the plumbing board shall cause its chairperson and secretary to execute and deliver to the applicant a license authorizing him or her to do plumbing in such city or village and also within the area of the zoning jurisdiction outside the corporate limits of cities of the metropolitan class

18-1908 License; renewal; reexamination; when.

All original licenses may be renewed and all renewal licenses may be renewed by the plumbing board at the dates of their expiration. Such renewal licenses shall be granted, without a reexamination, upon the written application of the licensee filed with the board and showing that his purposes and condition remain unchanged, unless it is made to appear by affidavit before the board that the applicant is no longer competent, or entitled to such renewal license, in which event the renewal license shall not be granted until the applicant has undergone the examination hereinbefore required.

18-1909 License; term; revocation; suspension; grounds; notice and hearing.

All original and renewal licenses shall be good for one year or two years from the date of issuance as determined by the plumbing board, except that any license may be revoked or suspended by the plumbing board at any time upon a hearing upon sufficient written, sworn charges filed with the board

showing the holder of the license to be incompetent or guilty of a willful breach of the rules, regulations, or requirements of the board or of the laws or ordinances relating thereto or of other causes sufficient for the revocation or suspension of his or her license, of which charges and hearing the holder of such license shall have written notice.

18-1910 License; required; compliance with codes; exception.

It shall be unlawful for any person to do any plumbing in any such city or village, or within the area of the zoning jurisdiction outside the corporate limits of cities of the metropolitan class, which has established a plumbing board unless he holds a proper license. It shall be unlawful for any person to make any connection to water mains extended from within and beyond the zoning jurisdiction of a city of the metropolitan class which has established a plumbing board, unless he complies with the applicable plumbing codes of the metropolitan city and holds a proper license as required thereby; *Provided*, that the requirements of this section shall not apply to employees of the water utility acting within the scope of their employment.

18-1911 License; fees; disposition.

The fee for the original license of a journeyman plumber shall be one dollar for a one-year license and two dollars for a two-year license. All renewal fees shall be fifty cents for a one-year license and one dollar for a two-year license. All license fees shall be paid, prior to the execution and delivery of the license, to the treasurer of the school district within the city or village for which the license was issued to be used exclusively for the support of the common schools therein.

18-1912 Inspector; duties; assistants.

The city or village plumbing inspector shall inspect all plumbing work in process of construction, alteration or repair within his respective jurisdiction, and for which a permit either has or has not been granted, and shall report to said board all violations of any law or ordinance, or rule or regulation of the board, in connection with the plumbing work being done, and also shall perform such other appropriate duties as may be required of him by said board. If necessary, the mayor, by the consent of the council, the city manager, or the chairman and board of trustees, shall employ one or more assistant inspectors, who shall be practical licensed plumbers, to assist in the performance of the duties of the inspector.

18-1913 Defective work; cessation; removal.

The inspector shall be required to stop any plumbing work not being done in accordance with the requirements of the rules and regulations of the board; and the plumbing board shall have the power to cause plumbing to be removed, if, after notice to the owner or plumber doing the work, the board shall find the work or any part thereof to be defective.

18-1914 Violations; penalties.

Any person violating any of the provisions of sections 18-1901 to 18-1913, or of any lawful ordinance or rules and regulations, authorized hereby, shall be deemed guilty of a misdemeanor, and shall be fined not exceeding fifty dollars nor less than five dollars for each and every violation thereof. If such person holds a plumber's license he shall forfeit the same, and it shall be void, and he shall not be entitled to another plumber's license for one year after such forfeiture is declared against him by the board.

18-1915 Permit fees; inspection; provisions applicable.

The State of Nebraska shall permit cities and villages to collect permit fees and inspect all sanitary plumbing installed or repaired, except for a single-family dwelling or a farm or ranch structure, within

the State of Nebraska outside of the zoning jurisdiction of cities and villages. The city or village nearest the construction site shall have jurisdiction to collect such permit fees and conduct the inspection of the sanitary plumbing. If the city or village has a plumbing ordinance in force and effect, such ordinance will govern the installation of the sanitary plumbing. If there is no city ordinance in effect for such city or village, the 2009 Uniform Plumbing Code accredited by the American National Standards Institute shall apply to all buildings except single-family dwellings and farm and ranch structures.

Any code or ordinance enacted by a city or village which is at least equal to the 2009 Uniform Plumbing Code accredited by the American National Standards Institute shall take preference over the provisions of the immediately preceding sentence.

18-1916 Installation; repair; permit required.

No sanitary plumbing shall be installed or repaired in any building except a single-family dwelling or a farm or ranch structure by any person, partnership, limited liability company, corporation, or other legal entity without a permit issued by the city or village nearest the construction site.

8-1917 Installation; repair; who can perform.

Any person, partnership, limited liability company, corporation, or other legal entity who installs or repairs any sanitary plumbing within the state shall be a duly qualified master plumber licensed by the city or village nearest the construction site. The employees of the master plumbers who perform the actual installation or repair of sanitary plumbing shall also be licensed as journeymen plumbers by the city or village nearest the construction site.

18-1918 Permit fees; installation or repair without permit; penalty.

The city or village which has jurisdiction of the construction or repair of the sanitary plumbing shall be entitled to permit fees, according to its ordinance. Any person, partnership, limited liability company, corporation, or other legal entity making installation or repair of sanitary plumbing in any building except a single-family dwelling without the required permit from the city or village shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not less than fifty dollars nor more than five hundred dollars.

18-1919 License requirement; exemption.

Nothing in sections 18-1915 to 18-1919 shall be construed to require an employee working for a single employer as part of such employer's full-time staff and not holding himself out to the public for hire to hold a license while acting within the scope of his employment.

18-1920 Scald prevention device requirements; compliance required.

Nothing in sections 18-1901 to 18-1919 shall be construed to exempt persons from compliance with sections 71-1569 to 71-1571.

REQUEST #3:

ORIGIN: Joe Mangiamelli, City Administrator, Bellevue

RE: To allow members of the city council or village board to hold meetings and vote electronically. Section 84-1411 lists the public entities which are currently allowed to hold meetings via videoconference or telephone conferences and the requirements of holding such meetings.

COMMITTEE RECOMMENDATIONS:

LCLC:

SCLC:

2018 Legislative Suggestions

Municipality: Bellevue Date: 08/01/17
Name: Joe Mangiamelli Title: City Administrator

Please return this form by **July 28**, so that as many requests as possible can be placed on the agenda for the meeting on August 17!

Mail to: League of Nebraska Municipalities
1335 L Street
Lincoln, NE 68508-2506

LEGISLATIVE SUGGESTIONS

Please work with your municipal attorney to ensure that your request(s) include the statute number(s) you wish to amend as well as the recommended new language.

Statute: Chapter 84, Section 1411.

Consider allowing elected bodies, like City Councils, to have the authority to vote electronically. Currently, meetings are authorized via electronic means and member participation allowed according to the Attorney General. Voting is not allowed though. Given the world operates electronically in nearly every aspect, this seems a small step. Guidelines may be established for security.

The value of such change is: There are times when elected officials have illness and should not be present at a meeting to spread the illness; elected officials who are out of town for work, emergencies or for other reasons may still attend fully via electronic means; elected officials who may be hospitalized or recovering at home would be able to fully participate in meetings.

A Bellevue City Council meeting was cancelled because three members could not attend in person but all could have participated electronically. Electronic voting provides flexibility to citizen council so delays are not experienced in doing the people's business. These same benefits and circumstances apply to all municipalities elected officials.

THANK YOU!

84-1411. Meetings of public body; notice; contents; when available; right to modify; duties concerning notice; videoconferencing or telephone conferencing authorized; emergency meeting without notice; appearance before public body.

(1) Each public body shall give reasonable advance publicized notice of the time and place of each meeting by a method designated by each public body and recorded in its minutes. Such notice shall be transmitted to all members of the public body and to the public. 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 (a) twenty-four hours before the scheduled commencement of the meeting or (b) 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 meeting of a state agency, state board, state commission, state council, or state committee, of an advisory committee of any such state entity, of an organization created under the Interlocal Cooperation Act, the Joint Public Agency Act, or the Municipal Cooperative Financing Act, of the governing body of a public power district having a chartered territory of more than one county in this state, of the governing body of a public power and irrigation district having a chartered territory of more than one county in this state, of a board of an educational service unit, of the Educational Service Unit Coordinating Council, of the governing body of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act, or of a community college board of governors may be held by means of videoconferencing or, in the case of the Judicial Resources Commission in those cases specified in section 24-1204, by telephone conference, if:

(a) Reasonable advance publicized notice is given;

(b) Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including seating, recordation by audio or visual recording devices, and a reasonable opportunity for input such as public comment or questions to at least the same extent as would be provided if videoconferencing or telephone conferencing was not used;

(c) At least one copy of all documents being considered is available to the public at each site of the videoconference or telephone conference;

(d) At least one member of the state entity, advisory committee, board, council, or governing body is present at each site of the videoconference or telephone conference; and

(e) No more than one-half of the state entity's, advisory committee's, board's, council's, or governing body's meetings in a calendar year are held by videoconference or telephone conference.

Videoconferencing, telephone conferencing, or conferencing by other electronic communication shall not be used to circumvent any of the public government purposes established in the Open Meetings Act.

(3) A meeting of a board of an educational service unit, of the Educational Service Unit Coordinating Council, of the governing body of an entity formed under the Interlocal Cooperation Act, the Joint Public Agency Act, or the Municipal Cooperative Financing Act, of the governing body of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act, of a community college board of governors, of the governing body of a public power district, of the governing body of a public power and irrigation district, or of the Nebraska Brand Committee may be held by telephone conference call if:

(a) The territory represented by the educational service unit, member educational service units, community college board of governors, public power district, public power and irrigation district, Nebraska Brand Committee, or member public agencies of the entity or pool covers more than one county;

(b) Reasonable advance publicized notice is given which identifies each telephone conference location at which an educational service unit board member, a council member, a member of a community college board of governors, a member of the governing body of a public power district, a member of the governing body of a public power and irrigation district, a member of the Nebraska Brand Committee, or a member of the entity's or pool's governing body will be present;

(c) All telephone conference meeting sites identified in the notice are located within public buildings used by members of the educational service unit board, council, community college board of governors, governing body of the public power district, governing body of the public power and irrigation district, Nebraska

Brand Committee, or entity or pool or at a place which will accommodate the anticipated audience;

(d) Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including seating, recordation by audio recording devices, and a reasonable opportunity for input such as public comment or questions to at least the same extent as would be provided if a telephone conference call was not used;

(e) At least one copy of all documents being considered is available to the public at each site of the telephone conference call;

(f) At least one member of the educational service unit board, council, community college board of governors, governing body of the public power district, governing body of the public power and irrigation district, Nebraska Brand Committee, or governing body of the entity or pool is present at each site of the telephone conference call identified in the public notice;

(g) The telephone conference call lasts no more than two hours; and

(h) No more than one-half of the board's, council's, governing body's, committee's, entity's, or pool's meetings in a calendar year are held by telephone conference call, except that a 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 telephone conference call if the governing body's quarterly meetings are not held by telephone conference call or videoconferencing.

Nothing in this subsection shall prevent the participation of consultants, members of the press, and other nonmembers of the governing body at sites not identified in the public notice. Telephone conference calls, 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 means of electronic or

telecommunication equipment. 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 other than a member of the public body to appear before the public body by means of video or telecommunications equipment.

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.

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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).

84-1413. Meetings; minutes; roll call vote; secret ballot; 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, except as provided in subsection (6) of this section, and 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 the minutes is absent due to a serious illness or emergency.

(6) Minutes of the meetings of the board of a school district or educational service unit may be kept as an electronic record.

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.

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).