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BENNET MUNICIPAL CODE

STATUTORY APPENDIX

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TAB 1 NEBRASKA BUDGET ACT

NEBRASKA BUDGET ACT

Section 13-501
Act, how cited.

Sections 13-501 to 13-513 shall be known and may be cited as the Nebraska Budget Act.

Section 13-502
Purpose of act; applicability.

(1) The purpose of the Nebraska Budget Act is to require governing bodies of this state to which the act applies to follow prescribed budget practices and procedures and make available to the public pertinent information pertaining to the financial requirements and expectations of such governing bodies so that intelligent and informed support, opposition, criticism, suggestions, or observations can be made by those affected.

(2) The act shall not apply to governing bodies which have a budget of less than five thousand dollars per year.

(3) The act shall not apply to proprietary functions of municipalities for which a separate budget has been approved by the city council or village board as provided in the Municipal Proprietary Function Act.

(4) The Nebraska Budget Act shall not apply to any governing body for any fiscal year in which the governing body will not have a property tax request or receive state aid as defined in section 13-518.

(5) The act shall not apply to any public power district or public power and irrigation district organized pursuant to Chapter 70, article 6, to any rural power district organized pursuant to Chapter 70, article 8, or to any agency created pursuant to sections 18-2426 to 18-2434.

Section 13-503
Terms, defined.

For purposes of the Nebraska Budget Act, unless the context otherwise requires:

(1) Governing body means the governing body of any county agricultural society, elected county fair board, joint airport authority formed under the Joint Airport Authorities Act, city or county airport authority, bridge commission created pursuant to section 39-868, cemetery district, city, village, municipal county, community college, community redevelopment authority, county, drainage or levee district, educational service unit, rural or suburban fire protection district, historical society, hospital district, irrigation district, learning community, natural resources district, nonprofit county historical association or society for which a tax is levied under subsection (1) of section 23-355.01, public building commission, railroad transportation safety district, reclamation district, road improvement district, rural water district,

school district, sanitary and improvement district, township, offstreet parking district, transit authority, metropolitan utilities district, Educational Service Unit Coordinating Council, and political subdivision with the authority to have a property tax request, with the authority to levy a toll, or that receives state aid;

(2) Levying board means any governing body which has the power or duty to levy a tax;

(3) Fiscal year means the twelve-month period used by each governing body in determining and carrying on its financial and taxing affairs;

(4) Tax means any general or special tax levied against persons, property, or business for public purposes as provided by law but shall not include any special assessment;

(5) Auditor means the Auditor of Public Accounts;

(6) Cash reserve means funds required for the period before revenue would become available for expenditure but shall not include funds held in any special reserve fund;

(7) Public funds means all money, including nontax money, used in the operation and functions of governing bodies. For purposes of a county, city, or village which has a lottery established under the Nebraska County and City Lottery Act, only those net proceeds which are actually received by the county, city, or village from a licensed lottery operator shall be considered public funds, and public funds shall not include amounts awarded as prizes;

(8) Adopted budget statement means a proposed budget statement which has been adopted or amended and adopted as provided in section 13-506. Such term shall include additions, if any, to an adopted budget statement made by a revised budget which has been adopted as provided in section 13-511;

(9) Special reserve fund means any special fund set aside by the governing body for a particular purpose and not available for expenditure for any other purpose. Funds created for (a) the retirement of bonded indebtedness, (b) the funding of employee pension plans, (c) the purposes of the Political Subdivisions Self-Funding Benefits Act, (d) the purposes of the Local Option Municipal Economic Development Act, (e) voter-approved sinking funds, or (f) statutorily authorized sinking funds shall be considered special reserve funds;

(10) Biennial period means the two fiscal years comprising a biennium commencing in odd-numbered or even-numbered years used by a city or village in determining and carrying on its financial and taxing affairs; and

(11) Biennial budget means a budget by a city of the primary or metropolitan class that adopts a charter provision providing for a biennial period to determine and carry on the city's financial and taxing affairs or a budget by a city of the first or second class or village that provides for a biennial period to determine and carry on the city's or village's financial and taxing affairs.

Section 13-504
Proposed budget statement; contents; corrections; cash reserve; limitation.

(1) Each governing body shall annually or biennially prepare a proposed budget statement on forms prescribed and furnished by the auditor. The proposed budget statement shall be made available to the public by the political subdivision prior to publication of the notice of the hearing on the proposed budget statement pursuant to section 13-506. A proposed budget statement shall contain the following information, except as provided by state law:

(a) For the immediately preceding fiscal year or biennial period, the revenue from all sources, including motor vehicle taxes, other than revenue received from personal and real property taxation, allocated to the funds and separately stated as to each such source: The unencumbered cash balance at the beginning and end of the year or biennial period; the amount received by taxation of personal and real property; and the amount of actual expenditures;

(b) For the current fiscal year or biennial period, actual and estimated revenue from all sources, including motor vehicle taxes, allocated to the funds and separately stated as to each such source: The actual unencumbered cash balance available at the beginning of the year or biennial period; the amount received from personal and real property taxation; and the amount of actual and estimated expenditures, whichever is applicable. Such statement shall contain the cash reserve for each fiscal year or biennial period and shall note whether or not such reserve is encumbered. Such cash reserve projections shall be based upon the actual experience of prior years or biennial periods. The cash reserve shall not exceed fifty percent of the total budget adopted exclusive of capital outlay items;

(c) For the immediately ensuing fiscal year or biennial period, an estimate of revenue from all sources, including motor vehicle taxes, other than revenue to be received from taxation of personal and real property, separately stated as to each such source: The actual or estimated unencumbered cash balances, whichever is applicable, to be available at the beginning of the year or biennial period; the amounts proposed to be expended during the year or biennial period; and the amount of cash reserve, based on actual experience of prior years or biennial periods, which cash reserve shall not exceed fifty percent of the total budget adopted exclusive of capital outlay items;

(d) A statement setting out separately the amount sought to be raised from the levy of a tax on the taxable value of real property (i) for the purpose of paying the principal or interest on bonds issued by the governing body and (ii) for all other purposes;

(e) A uniform summary of the proposed budget statement, including each proprietary function fund included in a separate proprietary budget statement prepared pursuant to the Municipal Proprietary Function Act, and a grand total of all funds maintained by the governing body; and

(f) For municipalities, a list of the proprietary functions which are not included in the budget statement. Such proprietary functions shall have a separate budget statement which is

approved by the city council or village board as provided in the Municipal Proprietary Function Act.

(2) The actual or estimated unencumbered cash balance required to be included in the budget statement by this section shall include deposits and investments of the political subdivision as well as any funds held by the county treasurer for the political subdivision and shall be accurately stated on the proposed budget statement.

(3) The political subdivision shall correct any material errors in the budget statement detected by the auditor or by other sources.

Section 13-505
Proposed budget statement; estimated expenditures; unencumbered balances; estimated income.

The estimated expenditures plus the required cash reserve for the ensuing fiscal year or biennial period less all estimated and actual unencumbered balances at the beginning of the year or biennial period and less the estimated income from all sources, including motor vehicle taxes, other than taxation of personal and real property shall equal the amount to be received from taxes, and such amount shall be shown on the proposed budget statement pursuant to section 13-504. The amount to be raised from taxation of personal and real property, as determined above, plus the estimated revenue from other sources, including motor vehicle taxes, and the unencumbered balances shall equal the estimated expenditures, plus the necessary required cash reserve, for the ensuing year or biennial period.

Section 13-506
Proposed budget statement; notice; hearing; adoption; certify to board; exceptions; file with auditor.

(1) Each governing body shall each year or biennial period conduct a public hearing on its proposed budget statement. Notice of place and time of such hearing, together with a summary of the proposed budget statement, shall be published at least five days prior to the date set for hearing in a newspaper of general circulation within the governing body's jurisdiction. When the total operating budget, not including reserves, does not exceed ten thousand dollars per year or twenty thousand dollars per biennial period, the proposed budget summary may be posted at the governing body's principal headquarters. After such hearing, the proposed budget statement shall be adopted, or amended and adopted as amended, and a written record shall be kept of such hearing. The amount to be received from personal and real property taxation shall be certified to the levying board after the proposed budget statement is adopted or is amended and adopted as amended. If the levying board represents more than one county, a member or a representative of the governing board shall, upon the written request of any represented county, appear and present its budget at the hearing of the requesting county. The certification of the amount to be received from personal and real property taxation shall specify separately (a) the amount to be applied to the payment of principal or interest on bonds issued by the governing body and (b) the amount to be received for all other purposes. If the adopted budget statement reflects a change from that shown in the published proposed budget statement, a summary of

such changes shall be published within twenty days after its adoption in the manner provided in this section, but without provision for hearing, setting forth the items changed and the reasons for such changes.

(2) Upon approval by the governing body, the budget shall be filed with the auditor. The auditor may review the budget for errors in mathematics, improper accounting, and noncompliance with the Nebraska Budget Act or sections 13-518 to 13-522. If the auditor detects such errors, he or she shall immediately notify the governing body of such errors. The governing body shall correct any such error as provided in section 13-511. Warrants for the payment of expenditures provided in the budget adopted under this section shall be valid notwithstanding any errors or noncompliance for which the auditor has notified the governing body.

Section 13-507
Levy increase; indicate on budget statement.

When a levy increase has been authorized by vote of the electors, the adopted budget statement shall indicate the amount of the levy increase.

Section 13-508
Adopted budget statement; final adjusted valuation; levy.

(1) After publication and hearing thereon and within the time prescribed by law, each governing body, except as provided in subsection (3) of this section, shall file with and certify to the levying board or boards on or before September 20 of each year or September 20 of the final year of a biennial period and file with the auditor a copy of the adopted budget statement which complies with sections 13-518 to 13-522 or 79-1023 to 79-1030, together with the amount of the tax required to fund the adopted budget, setting out separately (a) the amount to be levied for the payment of principal or interest on bonds issued by the governing body and (b) the amount to be levied for all other purposes. Proof of publication shall be attached to the statements. Learning communities shall also file a copy of such adopted budget statement with member school districts on or before September 1 of each year. The governing body, in certifying the amount required, may make allowance for delinquent taxes not exceeding five percent of the amount required plus the actual percentage of delinquent taxes for the preceding tax year or biennial period and for the amount of estimated tax loss from any pending or anticipated litigation which involves taxation and in which tax collections have been or can be withheld or escrowed by court order. For purposes of this section, anticipated litigation shall be limited to the anticipation of an action being filed by a taxpayer who or which filed a similar action for the preceding year or biennial period which is still pending. Except for such allowances, a governing body shall not certify an amount of tax more than one percent greater or lesser than the amount determined under section 13-505.

(2) Each governing body shall use the certified taxable values as provided by the county assessor pursuant to section 13-509 for the current year in setting or certifying the levy. Each governing body may designate one of its members to perform any duty or responsibility required of such body by this section.

(3) (a) A Class I school district shall do the filing and certification required by subsection (1) of this section on or before August 1 of each year.

(b) A learning community shall do such filing and certification on or before September 1 of each year.

Section 13-509
County assessor; certify taxable value; when.

(1) On or before August 20 of each year, the county assessor shall certify to each governing body or board empowered to levy or certify a tax levy the current taxable value of the taxable real and personal property subject to the applicable levy. Current taxable value for real property shall mean the value established by the county assessor and equalized by the county board of equalization and the Tax Equalization and Review Commission. Current taxable value for tangible personal property shall mean the net book value reported by the taxpayer and certified by the county assessor.

(2) The valuation of any real and personal property annexed by a political subdivision on or after August 1 shall be considered in the taxable valuation of the annexing political subdivision the following year.

Section 13-509.01
Cash balance; expenditure authorized; limitation.

On and after the first day of its fiscal year in 1993 and of each succeeding year or on or after the first day of its biennial period and until the adoption of the budget by a governing body in September, the governing body may expend any balance of cash on hand for the current expenses of the political subdivision governed by the governing body. Except as provided in section 13-509.02, such expenditures shall not exceed an amount equivalent to the total amount expended under the last budget in the equivalent period of the prior budget year or biennial period. Such expenditures shall be charged against the appropriations for each individual fund or purpose as provided in the budget when adopted.

Section 13-509.02
Cash balance; expenditure limitation; exceeded; when; section, how construed.

The restriction on expenditures in section 13-509.01 may be exceeded upon the express finding of the governing body of the political subdivision that expenditures beyond the amount authorized are necessary to enable the political subdivision to meet its statutory duties and responsibilities. The finding and approval of the expenditures in excess of the statutory authorization shall be adopted by the governing body of the political subdivision in open public session of the governing body. Expenditures authorized by this section shall be charged against appropriations for each individual fund or purpose as provided in the budget when adopted, and nothing in this section shall be construed to authorize expenditures by the political subdivision in excess of that authorized by any other statutory provision.

Section 13-510
Emergency; transfer of funds; violation; penalty.

Whenever during the current fiscal year or biennial period it becomes apparent to a governing body that due to unforeseen emergencies there is temporarily insufficient money in a particular fund to meet the requirements of the adopted budget of expenditures for that fund, the governing body may by a majority vote, unless otherwise provided by state law, transfer money from other funds to such fund. No expenditure during any fiscal year or biennial period shall be made in excess of the amounts indicated in the adopted budget statement, except as authorized in section 13-511, or by state law. Any officer or officers of any governing body who obligates funds contrary to the provisions of this section shall be guilty of a Class V misdemeanor.

Section 13-511
Revision of adopted budget statement; when; supplemental funds; hearing; notice; warrants; issuance; correction.

(1) Unless otherwise provided by law, whenever during the current fiscal year or biennial period it becomes apparent to a governing body that (a) there are circumstances which could not reasonably have been anticipated at the time the budget for the current year or biennial period was adopted, (b) the budget adopted violated sections 13-518 to 13-522, such that the revenue of the current fiscal year or biennial period for any fund thereof will be insufficient, additional expenses will be necessarily incurred, or there is a need to reduce the budget requirements to comply with sections 13-518 to 13-522, or (c) the governing body has been notified by the auditor of a mathematical or accounting error or noncompliance with the Nebraska Budget Act, such governing body may propose to revise the previously adopted budget statement and shall conduct a public hearing on such proposal.

(2) Notice of the time and place of the hearing shall be published at least five days prior to the date set for hearing in a newspaper of general circulation within the governing body's jurisdiction. Such published notice shall set forth (a) the time and place of the hearing, (b) the amount in dollars of additional or reduced money required and for what purpose, (c) a statement setting forth the nature of the unanticipated circumstances and, if the budget requirements are to be increased, the reasons why the previously adopted budget of expenditures cannot be reduced during the remainder of the current year or biennial period to meet the need for additional money in that manner, (d) a copy of the summary of the originally adopted budget previously published, and (e) a copy of the summary of the proposed revised budget.

(3) At such hearing any taxpayer may appear or file a written statement protesting any application for additional money. A written record shall be kept of all such hearings.

(4) Upon conclusion of the public hearing on the proposed revised budget and approval of the proposed revised budget by the governing body, the governing body shall file with the county clerk of the county or counties in which such governing body is located, with the learning community coordinating council for school districts that are members of learning communities, and with the auditor, a copy of the revised budget, as adopted. The governing body may then issue warrants in payment for expenditures authorized by the adopted revised budget. Such

warrants shall be referred to as registered warrants and shall be repaid during the next fiscal year or biennial period from funds derived from taxes levied therefor.

(5) Within thirty days after the adoption of the budget under section 13-506, a governing body may, or within thirty days after notification of an error by the auditor, a governing body shall, correct an adopted budget which contains a clerical, mathematical, or accounting error which does not affect the total amount budgeted by more than one percent or increase the amount required from property taxes. No public hearing shall be required for such a correction. After correction, the governing body shall file a copy of the corrected budget with the county clerk of the county or counties in which such governing body is located and with the auditor. The governing body may then issue warrants in payment for expenditures authorized by the budget.

Section 13-512
Budget statement; taxpayer; contest; basis; procedure.

A taxpayer upon whom a tax will be imposed as a result of the action of a governing body in adopting a budget statement may contest the validity of the budget statement adopted by the governing body by filing an action in the district court of the county in which the governing body is situated. Such action shall be based either upon a violation of or a failure to comply with the provisions and requirements of the Nebraska Budget Act by the governing body. In response to such action, the governing body shall be required to show cause why the budget statement should not be ordered set aside, modified, or changed. The action shall be tried to the court without a jury and shall be given priority by the district court over other pending civil litigation, and by the appellate court on appeal, to the extent possible and feasible to expedite a decision. Such action shall be filed within thirty days after the adopted budget statement is required to be filed by the governing body with the levying board. If the district court finds that the governing body has violated or failed to comply with the requirements of the act, the court shall, in whole or in part, set aside, modify, or change the adopted budget statement or tax levy as the justice of the case may require. The district court's decision may be appealed to the Court of Appeals.

The remedy provided in this section shall not be exclusive but shall be in addition to any other remedy provided by law.

Section 13-513
Auditor; request information.

The auditor shall, on or before December 1 each year, request information from each governing body in a form prescribed by the auditor regarding (1) trade names, corporate names, or other business names under which the governing body operates and (2) agreements to which the governing body is a party under the Interlocal Cooperation Act and the Joint Public Agency Act. Each governing body shall provide such information to the auditor on or before December 31.

Section 13-518
Terms, defined.

For purposes of sections 13-518 to 13-522:

(1) Allowable growth means (a) for governmental units other than community colleges, the percentage increase in taxable valuation in excess of the base limitation established under section 77-3446, if any, due to improvements to real property as a result of new construction, additions to existing buildings, any improvements to real property which increase the value of such property, and any increase in valuation due to annexation and any personal property valuation over the prior year and (b) for community colleges, the percentage increase in excess of the base limitation, if any, in full-time equivalent students from the second year to the first year preceding the year for which the budget is being determined;

(2) Capital improvements means (a) acquisition of real property or (b) acquisition, construction, or extension of any improvements on real property;

(3) Governing body has the same meaning as in section 13-503;

(4) Governmental unit means every political subdivision which has authority to levy a property tax or authority to request levy authority under section 77-3443 except sanitary and improvement districts which have been in existence for five years or less and school districts;

(5) Qualified sinking fund means a fund or funds maintained separately from the general fund to pay for acquisition or replacement of tangible personal property with a useful life of five years or more which is to be undertaken in the future but is to be paid for in part or in total in advance using periodic payments into the fund. The term includes sinking funds under subdivision (13) of section 35-508 for firefighting and rescue equipment or apparatus;

(6) Restricted funds means (a) property tax, excluding any amounts refunded to taxpayers, (b) payments in lieu of property taxes, (c) local option sales taxes, (d) motor vehicle taxes, (e) state aid, (f) transfers of surpluses from any user fee, permit fee, or regulatory fee if the fee surplus is transferred to fund a service or function not directly related to the fee and the costs of the activity funded from the fee, (g) any funds excluded from restricted funds for the prior year because they were budgeted for capital improvements but which were not spent and are not expected to be spent for capital improvements, (h) the tax provided in sections 77-27,223 to 77-27,227 beginning in the second fiscal year in which the county will receive a full year of receipts, and (i) any excess tax collections returned to the county under section 77-1776. Funds received pursuant to the nameplate capacity tax levied under section 77-6203 for the first five years after a wind energy generation facility has been commissioned are nonrestricted funds; and

(7) State aid means:

(a) For all governmental units, state aid paid pursuant to sections 60-3,202 and 77-3523;

(b) For municipalities, state aid to municipalities paid pursuant to sections 18-2605, 39-2501 to 39-2520, 60-3,190, and 77-27,139.04 and insurance premium tax paid to municipalities;

(c) For counties, state aid to counties paid pursuant to sections 39-2501 to 39-2520 and 60-3,184 to 60-3,190, insurance premium tax paid to counties, and reimbursements to counties from funds appropriated pursuant to section 29-3933;

(d) For community colleges, (i) for fiscal years 2010-11, 2011-12, and 2012-13, state aid to community colleges paid pursuant to section 90-517 and (ii) for fiscal year 2013-14 and each fiscal year thereafter, state aid to community colleges paid pursuant to the Community College Aid Act;

(e) For educational service units, state aid appropriated under sections 79-1241.01 and 79-1241.03; and

(f) For local public health departments as defined in section 71-1626, state aid as distributed under section 71-1628.08.

Section 13-519
Governmental unit; adoption of budget; limitations; additional increases authorized; procedure.

(1) (a) Subject to subdivision (1)(b) of this section, for all fiscal years beginning on or after July 1, 1998, no governmental unit shall adopt a budget containing a total of budgeted restricted funds more than the last prior year's total of budgeted restricted funds plus allowable growth plus the basic allowable growth percentage of the base limitation established under section 77-3446. For the second fiscal year in which a county will receive a full year of receipts from the tax imposed in sections 77-27,223 to 77-27,227, the prior year's total of restricted funds shall be the prior year's total of restricted funds plus the total receipts from the tax imposed in sections 77-27,223 to 77-27,227 in the prior year. For fiscal years 2010-11 through 2013-14 in which a county will reassume the assessment function pursuant to section 77-1340 or 77-1340.04, the prior year's total of restricted funds shall be the prior year's total of restricted funds plus the total budgeted for the reassumption of the assessment function. If a governmental unit transfers the financial responsibility of providing a service financed in whole or in part with restricted funds to another governmental unit or the state, the amount of restricted funds associated with providing the service shall be subtracted from the last prior year's total of budgeted restricted funds for the previous provider and may be added to the last prior year's total of restricted funds for the new provider. For governmental units that have consolidated, the calculations made under this section for consolidating units shall be made based on the combined total of restricted funds, population, or full-time equivalent students of each governmental unit.

(b) For all fiscal years beginning on or after July 1, 2008, educational service units may exceed the limitations of subdivision (1)(a) of this section to the extent that one hundred ten percent of the needs for the educational service unit calculated pursuant to section

79-1241.03 exceeds the budgeted restricted funds allowed pursuant to subdivision (1)(a) of this section.

(2) A governmental unit may exceed the limit provided in subdivision (1)(a) of this section for a fiscal year by up to an additional one percent upon the affirmative vote of at least seventy-five percent of the governing body.

(3) A governmental unit may exceed the applicable allowable growth percentage otherwise prescribed in this section by an amount approved by a majority of legal voters voting on the issue at a special election called for such purpose upon the recommendation of the governing body or upon the receipt by the county clerk or election commissioner of a petition requesting an election signed by at least five percent of the legal voters of the governmental unit. The recommendation of the governing body or the petition of the legal voters shall include the amount and percentage by which the governing body would increase its budgeted restricted funds for the ensuing year over and above the current year's budgeted restricted funds. The county clerk or election commissioner shall call for a special election on the issue within thirty days after the receipt of such governing body recommendation or legal voter petition. The election shall be held pursuant to the Election Act, and all costs shall be paid by the governing body. The issue may be approved on the same question as a vote to exceed the levy limits provided in section 77-3444.

(4) In lieu of the election procedures in subsection (3) of this section, any governmental unit may exceed the allowable growth percentage otherwise prescribed in this section by an amount approved by a majority of legal voters voting at a meeting of the residents of the governmental unit, called after notice is published in a newspaper of general circulation in the governmental unit at least twenty days prior to the meeting. At least ten percent of the registered voters residing in the governmental unit shall constitute a quorum for purposes of taking action to exceed the allowable growth percentage. If a majority of the registered voters present at the meeting vote in favor of exceeding the allowable growth percentage, a copy of the record of that action shall be forwarded to the Auditor of Public Accounts along with the budget documents. The issue to exceed the allowable growth percentage may be approved at the same meeting as a vote to exceed the limits or final levy allocation provided in section 77-3444.

Section 13-520
Limitations; not applicable to certain restricted funds.

The limitations in section 13-519 shall not apply to (1) restricted funds budgeted for capital improvements, (2) restricted funds expended from a qualified sinking fund for acquisition or replacement of tangible personal property with a useful life of five years or more, (3) restricted funds pledged to retire bonded indebtedness, used by a public airport to retire interest-free loans from the Department of Aeronautics in lieu of bonded indebtedness at a lower cost to the public airport, or used to pay other financial instruments that are approved and agreed to before July 1, 1999, in the same manner as bonds by a governing body created under section 35 501, (4) restricted funds budgeted in support of a service which is the subject of an agreement or a modification of an existing agreement whether operated by one of the parties to the agreement or by an independent joint entity or joint public agency, (5) restricted funds budgeted

to pay for repairs to infrastructure damaged by a natural disaster which is declared a disaster emergency pursuant to the Emergency Management Act, (6) restricted funds budgeted to pay for judgments, except judgments or orders from the Commission of Industrial Relations, obtained against a governmental unit which require or obligate a governmental unit to pay such judgment, to the extent such judgment is not paid by liability insurance coverage of a governmental unit, (7) the dollar amount by which restricted funds budgeted by a natural resources district to administer and implement ground water management activities and integrated management activities under the Nebraska Ground Water Management and Protection Act exceed its restricted funds budgeted to administer and implement ground water management activities and integrated management activities for FY2003-04, or (8) restricted funds budgeted to pay for the reassumption of the assessment function pursuant to section 77-1340 or 77-1340.04 in fiscal years 2010-11 through 2013-14.

Section 13-521
Governmental unit; unused restricted funds; authority to carry forward.

A governmental unit may choose not to increase its total of restricted funds by the full amount allowed by law in a particular year. In such cases, the governmental unit may carry forward to future budget years the amount of unused restricted funds authority. The governmental unit shall calculate its unused restricted funds authority and submit an accounting of such amount with the budget documents for that year. Such unused restricted funds authority may then be used in later years for increases in the total of restricted funds allowed by law. Any unused budget authority existing on April 8, 1998, by reason of any prior law may be used for increases in restricted funds authority.

Section 13-522
Noncompliance with budget limitations; Auditor of Public Accounts; State Treasurer; duties.

The Auditor of Public Accounts shall prepare budget documents to be submitted by governmental units which calculate the restricted funds authority for each governmental unit. Each governmental unit shall submit its calculated restricted funds authority with its budget documents at the time the budgets are due to the Auditor of Public Accounts. If the Auditor of Public Accounts determines from the budget documents that a governmental unit is not complying with the budget limits provided in sections 13-518 to 13-522, he or she shall notify the governing body of his or her determination and notify the State Treasurer of the noncompliance. The State Treasurer shall then suspend distribution of state aid allocated to the governmental unit until such sections are complied with. The funds shall be held for six months until the governmental unit complies, and if the governmental unit complies within the six-month period, it shall receive the suspended funds, but after six months, if the governmental unit fails to comply, the suspended funds shall be forfeited and shall be redistributed to other recipients of the state aid or, in the case of homestead exemption reimbursement, returned to the General Fund.

TAB 2-LOCAL GOVERNMENT MISCELLANEOUS EXPENDITURE ACT

LOCAL GOVERNMENT MISCELLANEOUS EXPENDITURE ACT

Section 13-2201
Act, how cited.

Sections 13-2201 to 13-2204 shall be known and may be cited as the Local Government Miscellaneous Expenditure Act.

Section 13-2202
Terms, defined.

For purposes of the Local Government Miscellaneous Expenditure Act:

(1) Elected and appointed officials and employees shall mean the elected and appointed officials and employees of any local government;

(2) Governing body shall mean, in the case of a city of any class, the council; in the case of a village, cemetery district, community hospital for two or more adjoining counties, county hospital, road improvement district, sanitary drainage district, or sanitary and improvement district, the board of trustees; in the case of a county, the county board; in the case of a municipal county, the council; in the case of a township, the town board; in the case of a school district, the school board; in the case of a rural or suburban fire protection district, reclamation district, natural resources district, or hospital district, the board of directors; in the case of a health district, the board of health; in the case of an educational service unit, the board; in the case of a community college, the Community College Board of Governors for the area the board serves; in the case of an airport authority, the airport authority board; in the case of a weed control authority, the board; in the case of a county agricultural society, the board of governors; and in the case of a learning community, the learning community coordinating council;

(3) Local government shall mean cities of any class, villages, cemetery districts, community hospitals for two or more adjoining counties, county hospitals, road improvement districts, counties, townships, sanitary drainage districts, sanitary and improvement districts, school districts, rural or suburban fire protection districts, reclamation districts, natural resources districts, hospital districts, health districts, educational service units, community colleges, airport authorities, weed control authorities, county agricultural societies, and learning communities;

(4) Public funds shall mean such public funds as defined in section 13-503 as are under the direct control of governing bodies of local governments;

(5) Public meeting shall mean all regular, special, or called meetings, formal or informal, of any governing body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action of the governing body; and

(6) Volunteer shall mean a person who is not an elected or appointed official or an employee of a local government and who, at the request or with the permission of the local

government, engages in activities related to the purposes or functions of the local government or for its general benefit.

Section 13-2203
Additional expenditures; governing body; powers; procedures.

In addition to other expenditures authorized by law, each governing body may approve:

(1) (a) The expenditure of public funds for the payment or reimbursement of actual and necessary expenses incurred by elected and appointed officials, employees, or volunteers at educational workshops, conferences, training programs, official functions, hearings, or meetings, whether incurred within or outside the boundaries of the local government, if the governing body gave prior approval for participation or attendance at the event and for payment or reimbursement either by the formal adoption of a uniform policy or by a formal vote of the governing body. Authorized expenses may include:

(i) Registration costs, tuition costs, fees, or charges;

(ii) Mileage at the rate allowed by section 81-1176 or actual travel expense if travel is authorized by commercial or charter means; and

(iii) Meals and lodging at a rate not exceeding the applicable federal rate unless a fully itemized claim is submitted substantiating the costs actually incurred in excess of such rate and such additional expenses are expressly approved by the governing body; and

(b) Authorized expenditures shall not include expenditures for meals of paid members of a governing body provided while such members are attending a public meeting of the governing body unless such meeting is a joint public meeting with one or more other governing bodies;

(2) The expenditure of public funds for:

(a) Nonalcoholic beverages provided to individuals attending public meetings of the governing body; and

(b) Nonalcoholic beverages and meals:

(i) Provided for any individuals while performing or immediately after performing relief, assistance, or support activities in emergency situations, including, but not limited to, tornado, severe storm, fire, or accident;

(ii) Provided for any volunteers during or immediately following their participation in any activity approved by the governing body, including, but not limited to, mowing parks, picking up litter, removing graffiti, or snow removal; or

(iii) Provided at one recognition dinner each year held for elected and appointed officials, employees, or volunteers of the local government. The maximum cost per person for such dinner shall be established by formal action of the governing body, but shall not exceed twenty-five dollars. An annual recognition dinner may be held separately for employees of each department or separately for volunteers, or any of them in combination, if authorized by the governing body; and

(3) The expenditure of public funds for plaques, certificates of achievement, or items of value awarded to elected or appointed officials, employees, or volunteers, including persons serving on local government boards or commissions. Before making any such expenditure, the governing body shall, by official action after a public hearing, establish a uniform policy which sets a dollar limit on the value of any plaque, certificate of achievement, or item of value to be awarded. Such policy, following its initial adoption, shall not be amended or altered more than once in any twelve-month period.

Section 13-2204
Expenditures; limitations; exception.

Nothing in the Local Government Miscellaneous Expenditure Act shall authorize the expenditure of public funds to pay for any expenses incurred by a spouse of an elected or appointed official, employee, or volunteer unless the spouse is also an elected or appointed official, employee, or volunteer of the local government. Nothing in the act shall be construed to limit, restrict, or prohibit the governing body of any local government from making any expenditure authorized by statute, ordinance, resolution, or home rule charter or pursuant to any authority granted by law, either express or implied, except to the extent that such statute, ordinance, resolution, home rule charter, or other grant of authority by law, express or implied, may conflict with the act.

TAB 3 - HANDICAPPED PARKING

18-1736 **Handicapped or disabled persons; designation of parking spaces; display of permits; access aisle, defined.**

18-1737 **Handicapped or disabled persons; offstreet parking facility; onstreet parking; designation; removal of unauthorized vehicle; penalty; state agency, defined.**

18-1738 **Handicapped or disabled persons, defined; parking; permits; issuance; procedure; renewal.**

18-1738.01 **Handicapped or disabled persons; motor vehicle used for transportation; parking permits; issuance; procedure; renewal.**

18-1738.02 **Handicapped or disabled persons; permit; place of application.**

18-1739 **Handicapped or disabled persons; parking; permits; contents; issuance; duplicate permit.**

18-1740 **Handicapped or disabled persons; parking; permits; period valid; renewal.**

18-1741 **Handicapped or disabled persons; parking; permits; nontransferable; violation; suspension; punishment; fine.**

18-1741.01 **Handicapped parking infraction, defined; citation issuance; enforcement on state property.**

18-1741.02 **Handicapped parking infraction; penalties.**

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18-1741.04 **Handicapped parking citation; requirements; procedure; waivers; dismissal; credit card; payment authorized.**

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18-1741.06 **Handicapped parking infraction; trial; rights.**

18-1741.07 **Handicapped parking infractions; sections, how construed.**

18-1742 **Handicapped parking; rules and regulations.**

HANDICAPPED PARKING

Section 18-1736
Handicapped or disabled persons; designation of parking spaces; display of permits; access aisle, defined.

(1) A city or village may designate parking spaces, including access aisles, for the exclusive use of (a) handicapped or disabled persons whose motor vehicles display the distinguishing license plates issued to handicapped or disabled persons pursuant to section 60-3,113, (b) handicapped or disabled persons whose motor vehicles display a distinguishing license plate issued to a handicapped or disabled person by another state, (c) such other handicapped or disabled persons or temporarily handicapped or disabled persons whose motor vehicles display a handicapped or disabled parking permit, and (d) such other motor vehicles which display a handicapped or disabled parking permit.

(2) If a city or village so designates a parking space or access aisle, it shall be indicated by posting aboveground and immediately adjacent to and visible from each space or access aisle a sign as described in section 18-1737. In addition to such sign, the space or access aisle may also be indicated by blue paint on the curb or edge of the paved portion of the street adjacent to the space or access aisle.

(3) For purposes of sections 18-1736 to 18-1742:

(a) Access aisle has the same meaning as in section 60-302.01;

(b) Handicapped or disabled parking permit has the same meaning as in section 60-331.01;

(c) Handicapped or disabled person has the same meaning as in section 60-331.02; and

(d) Temporarily handicapped or disabled person has the same meaning as in section 60-352.01.

Section 18-1737
Handicapped or disabled persons; offstreet parking facility; onstreet parking; designation; removal of unauthorized vehicle; penalty; state agency, defined.

(1) Any city or village, any state agency, and any person in lawful possession of any offstreet parking facility may designate stalls or spaces, including access aisles, in such facility owned or operated by the city, village, state agency, or person for the exclusive use of handicapped or disabled persons whose motor vehicles display the distinguishing license plates issued to such individuals pursuant to section 60-3,113, such other handicapped or disabled persons or temporarily handicapped or disabled persons whose motor vehicles display a handicapped or disabled parking permit, and such other motor vehicles which display a handicapped or disabled parking permit. Such designation shall be made by posting aboveground

and immediately adjacent to and visible from each stall or space, including access aisles, a sign which is in conformance with the Manual on Uniform Traffic Control Devices adopted pursuant to section 60-6,118 and the federal Americans with Disabilities Act of 1990 and the federal regulations adopted in response to the act, as the act and the regulations existed on January 1, 2011.

(2) The owner or person in lawful possession of an offstreet parking facility, after notifying the police or sheriff's department, as the case may be, and any city, village, or state agency providing onstreet parking or owning, operating, or providing an offstreet parking facility may cause the removal, from a stall or space, including access aisles, designated exclusively for handicapped or disabled persons or temporarily handicapped or disabled persons or motor vehicles for the transportation of handicapped or disabled persons or temporarily handicapped or disabled persons, of any vehicle not displaying the proper handicapped or disabled parking permit or the distinguishing license plates specified in this section if there is posted aboveground and immediately adjacent to and visible from such stall or space, including access aisles, a sign which clearly and conspicuously states the area so designated as a tow-in zone.

(3) A person who parks a vehicle in any onstreet parking space or access aisle which has been designated exclusively for handicapped or disabled persons or temporarily handicapped or disabled persons or motor vehicles for the transportation of handicapped or disabled persons or temporarily handicapped or disabled persons, or in any so exclusively designated parking space or access aisle in any offstreet parking facility, without properly displaying the proper license plates or handicapped or disabled parking permit or when the handicapped or disabled person to whom or for whom, as the case may be, the license plate or permit is issued will not enter or exit the vehicle while it is parked in the designated space or access aisle shall be guilty of a handicapped parking infraction as defined in section 18-1741.01 and shall be subject to the penalties and procedures set forth in sections 18-1741.01 to 18-1741.07. The display on a motor vehicle of a distinguishing license plate or permit issued to a handicapped or disabled person by and under the duly constituted authority of another state shall constitute a full and complete defense in any action for a handicapped parking infraction as defined in section 18-1741.01. If the identity of the person who parked the vehicle in violation of this section cannot be readily determined, the owner or person in whose name the vehicle is registered shall be held prima facie responsible for such violation and shall be guilty and subject to the penalties and procedures described in this section. In the case of a privately owned offstreet parking facility, a city or village shall not require the owner or person in lawful possession of such facility to inform the city or village of a violation of this section prior to the city or village issuing the violator a handicapped parking infraction citation.

(4) For purposes of this section and section 18-1741.01, state agency means any division, department, board, bureau, commission, or agency of the State of Nebraska created by the Constitution of Nebraska or established by act of the Legislature, including the University of Nebraska and the Nebraska state colleges, when the entity owns, leases, controls, or manages property which includes offstreet parking facilities.

Section 18-1738
Handicapped or disabled persons, defined; parking; permits; issuance; procedure; renewal.

(1) This section applies until the implementation date designated by the Director of Motor Vehicles under section 60-3,113.01.

(2) The clerk of any city of the primary class, first class, or second class or village shall, or the county treasurer or the Department of Motor Vehicles may, take an application from a handicapped or disabled person or temporarily handicapped or disabled person or his or her parent, legal guardian, or foster parent for a handicapped or disabled parking permit which will entitle the holder thereof or a person driving a motor vehicle for the purpose of transporting such holder to park in those spaces or access aisles provided for by sections 18-1736 to 18-1741 when the holder of the permit will enter or exit the motor vehicle while it is parked in such spaces or access aisles. For purposes of this section, the handicapped or disabled person or temporarily handicapped or disabled person shall be considered the holder of the permit.

(3) A person applying for a handicapped or disabled parking permit or for the renewal of a permit shall complete an application, shall provide proof of identity, and shall submit a completed medical form containing the statutory criteria for qualification and signed by a physician, a physician assistant, or an advanced practice registered nurse practicing under and in accordance with his or her certification act, certifying that the person who will be the holder meets the definition of handicapped or disabled person or temporarily handicapped or disabled person. No applicant shall be required to provide his or her social security number. In the case of a temporarily handicapped or disabled person, the certifying physician, physician assistant, or advanced practice registered nurse shall indicate the estimated date of recovery or that the temporary handicap or disability will continue for a period of six months, whichever is less. A person may hold up to two permits under this section. If a person holds a permit under this section, such person may not hold a permit under section 18-1738.01. The Department of Motor Vehicles shall provide applications and medical forms to the city or village clerk or county treasurer. The application form shall contain information listing the legal uses of the permit and that the permit is not transferable, is to be used by the party to whom issued or for the motor vehicle for which it is issued, is not to be altered or reproduced, and is to be used only when a handicapped or disabled person or a temporarily handicapped or disabled person will enter or exit the motor vehicle while it is parked in a designated parking space or access aisle. The application form shall provide space for the applicant to sign a statement that he or she is aware of his or her rights, duties, and responsibilities with regard to the use and possession of a permit and the penalties provided by law for handicapped parking infractions. The application form shall also indicate that those convicted of handicapped parking infractions shall be subject to suspension of the permit for six months. A copy of the completed application form shall be given to each applicant. The city or village clerk or county treasurer shall submit to the department the name, address, and license number of all persons applying for a permit pursuant to this section. An application for the renewal of a permit under this section may be filed within one hundred eighty days prior to the expiration of the permit. The existing permit shall be invalid upon receipt of the new permit. Following the receipt of the application and its processing, the Department of Motor Vehicles shall deliver each individual renewed permit to the applicant, except that renewed permits shall not be issued sooner than ten days prior to the date of expiration.

(4) The Department of Motor Vehicles, upon receipt from the city or village clerk or county treasurer of a completed application form and completed medical form from an applicant for a handicapped or disabled parking permit under this section, shall verify that the applicant qualifies for such permit and, if so, shall deliver the permit to the applicant.

Section 18-1738.01
Handicapped or disabled persons; motor vehicle used for transportation; parking permits; issuance; procedure; renewal.

(1) This section applies until the implementation date designated by the Director of Motor Vehicles under section 60-3,113.01.

(2) The clerk of any city of the primary class, first class, or second class or village shall, or the county treasurer or the Department of Motor Vehicles may, take an application from any person for a handicapped or disabled parking permit that is issued for a specific motor vehicle and entitles the holder thereof or a person driving the motor vehicle for the purpose of transporting handicapped or disabled persons or temporarily handicapped or disabled persons to park in those spaces or access aisles provided for by sections 18-1736 to 18-1741 if the motor vehicle is used primarily for the transportation of handicapped or disabled persons or temporarily handicapped or disabled persons. Such permit shall be used only when the motor vehicle for which it was issued is being used for the transportation of a handicapped or disabled person or temporarily handicapped or disabled person and such person will enter or exit the motor vehicle while it is parked in such designated spaces or access aisles.

(3) A person applying for a handicapped or disabled parking permit or for the renewal of a permit pursuant to this section shall apply for a permit for each motor vehicle used for the transportation of handicapped or disabled persons or temporarily handicapped or disabled persons, shall complete such forms as are provided to the city or village clerk or county treasurer by the Department of Motor Vehicles, and shall demonstrate to the city or village clerk or county treasurer or the department that each such motor vehicle is used primarily for the transportation of handicapped or disabled persons or temporarily handicapped or disabled persons. The application form shall contain information listing the legal uses of the permit and that the permit is not transferable, is to be used by the party to whom issued or for the motor vehicle for which it is issued, is not to be altered or reproduced, and is to be used only when a handicapped or disabled person or a temporarily handicapped or disabled person will enter or exit the motor vehicle while it is parked in a designated parking space or access aisle. The application form shall provide space for the applicant to sign a statement that he or she is aware of his or her rights, duties, and responsibilities with regard to the use and possession of a permit and the penalties provided by law for handicapped parking infractions. The application form shall also indicate that those convicted of handicapped parking infractions shall be subject to suspension of the permit for six months. A copy of the completed application form shall be given to each applicant. No more than one such permit shall be issued for each motor vehicle. An application for the renewal of a permit under this section may be filed within one hundred eighty days prior to the expiration of the permit. The existing permit shall be invalid upon receipt of the new permit. Following the receipt of the application and its processing, the Department of Motor

Vehicles shall deliver each individual renewed permit to the applicant, except that renewed permits shall not be issued sooner than ten days prior to the date of expiration.

(4) The department, upon receipt from the city or village clerk or county treasurer of a completed application form, shall verify that the applicant qualifies for a handicapped or disabled parking permit under this section and, if so, shall deliver the permit to the applicant. The city or village clerk or county treasurer shall submit to the department the name, address, and license number of all persons applying for a permit pursuant to this section.

Section 18-1738.02
Handicapped or disabled persons; permit; place of application.

(1) This section applies until the implementation date designated by the Director of Motor Vehicles under section 60-3,113.01.

(2) Any person applying for a handicapped or disabled parking permit pursuant to section 18-1738 or 18-1738.01 shall apply for such permit to the city clerk, village clerk, or county treasurer of the city, village, or county within which the applying individual resides or to the Department of Motor Vehicles. If such person does not reside within a city or village and the county treasurer does not issue permits, the person shall make application to the city clerk or village clerk of the city or village located nearest to his or her place of residence, to the county treasurer of any neighboring county who issues such permits, or to the department. No city clerk, village clerk, county treasurer, or department employee shall accept the application for a permit pursuant to section 18-1738 or 18-1738.01 of any person making application contrary to the provisions of this section.

Section 18-1739
Handicapped or disabled persons; parking; permits; contents; issuance; duplicate permit.

(1) This section applies until the implementation date designated by the Director of Motor Vehicles under section 60-3,113.01.

(2) The handicapped or disabled parking permit to be issued pursuant to section 18-1738 or 18-1738.01 shall be constructed of a durable plastic designed to resist normal wear or fading for the term of the permit's issuance and printed so as to minimize the possibility of alteration following issuance. The permit shall be of a design, size, configuration, color, and construction and contain such information as specified in the regulations adopted by the United States Department of Transportation in the Uniform System for Parking for Persons with Disabilities, 23 C.F.R. part 1235, as such regulations existed on January 1, 2012.

(3) Until October 1, 2011, in addition to the requirements of subsection (2) of this section, the handicapped or disabled parking permit shall show the expiration date and such identifying information with regard to the handicapped or disabled person or temporarily handicapped or disabled person to whom it is issued as is necessary to the enforcement of sections 18-1736 to 18-1741.07 as determined by the Department of Motor Vehicles. The

expiration date information shall be distinctively color-coded so as to identify by color the year in which the permit is due to expire.

(4) No handicapped or disabled parking permit shall be issued to any person or for any motor vehicle if any permit has been issued to such person or for such motor vehicle and such permit has been suspended pursuant to section 18-1741.02. At the expiration of such suspension, a permit may be renewed in the manner provided for renewal in sections 18-1738, 18-1738.01, and 18-1740.

(5) A duplicate handicapped or disabled parking permit may be provided without cost up to two times during any single permit period if a permit is destroyed, lost, or stolen. Such duplicate permit shall be issued as provided in section 18-1738 or 18-1738.01, whichever is applicable, except that a newly completed medical form need not be provided if a completed medical form submitted at the time of the most recent application for a permit or its renewal is on file with the city or village clerk, the county treasurer, or the Department of Motor Vehicles. A duplicate permit shall be valid for the remainder of the period for which the original permit was issued. If a person has been issued two duplicate permits under this subsection and needs another permit, such person shall reapply for a new permit under section 18-1738 or 18-1738.01, whichever is applicable.

Section 18-1740
Handicapped or disabled persons; parking; permits; period valid; renewal.

(1) This section applies until the implementation date designated by the Director of Motor Vehicles under section 60-3,113.01.

(2) Permanently issued handicapped or disabled parking permits issued prior to October 1, 2011, shall be valid for a period ending on the last day of the month of the applicant's birthday in the third year after issuance and shall expire on that day. Permanently issued handicapped or disabled parking permits issued on or after October 1, 2011, shall be valid for a period ending on the last day of the month of the applicant's birthday in the sixth year after issuance and shall expire on that day.

(3) All handicapped or disabled parking permits for temporarily handicapped or disabled persons shall be issued for a period ending not more than six months after the date of issuance but may be renewed one time for a period not to exceed six months. For the renewal period, there shall be submitted an additional application with proof of a handicap or disability.

Section 18-1741
Handicapped or disabled persons; parking; permits; nontransferable; violation; suspension; punishment; fine.

(1) This section applies until the implementation date designated by the Director of Motor Vehicles under section 60-3,113.01.

(2) A handicapped or disabled parking permit shall not be transferable and shall be used only by the party to whom issued or for the motor vehicle for which issued and only for the purpose for which the permit is issued. A handicapped or disabled parking permit shall be displayed by hanging the permit from the motor vehicle's rearview mirror so as to be clearly visible through the front windshield. A handicapped or disabled parking permit shall be displayed on the dashboard only when there is no rearview mirror. No person shall alter or reproduce in any manner a handicapped or disabled parking permit. No person shall knowingly hold more than the allowed number of handicapped or disabled parking permits or knowingly provide false information on an application for a handicapped or disabled parking permit. No person who is not the holder of a handicapped or disabled parking permit issued to him or her as a handicapped or disabled person shall display a handicapped or disabled parking permit and park in a space or access aisle designated for the exclusive use of a handicapped or disabled person. No person who is the holder of a handicapped or disabled parking permit issued for the use of such person when transporting a handicapped or disabled person shall display his or her handicapped or disabled parking permit and park in a space or access aisle designated for the exclusive use of a handicapped or disabled person unless a handicapped or disabled person will enter or exit the motor vehicle while it is parked in a designated space or access aisle. No person who is not the holder of a handicapped or disabled parking permit issued for use when a vehicle is transporting a handicapped or disabled person shall display a handicapped or disabled parking permit and park in a space or access aisle designated for the exclusive use of a handicapped or disabled person unless a handicapped or disabled person will enter or exit the motor vehicle while it is parked in a designated space or access aisle. Any violation of this section shall constitute a handicapped parking infraction as defined in section 18-1741.01 and shall be subject to the penalties and procedures set forth in sections 18-1741.01 to 18-1741.07.

Section 18-1741.01
Handicapped parking infraction, defined; citation issuance; enforcement on state property.

(1) For purposes of sections 18-1741.01 to 18-1741.07, handicapped parking infraction means the violation of any statute or ordinance regulating (a) the use of parking spaces, including access aisles, designated for use by handicapped or disabled persons, (b) the unauthorized possession, use, or display of handicapped or disabled parking permits, or (c) the obstruction of any wheelchair ramps constructed or created in accordance and in conformity with the federal Americans with Disabilities Act of 1990, as the act existed on May 31, 2001.

(2) For any offense classified as a handicapped parking infraction, a handicapped parking citation may be issued by any peace officer or by any person designated by ordinance or resolution approved by a governing board of a county, city, or village to exercise the authority to issue a citation for any handicapped parking infraction. Such authorization shall be carried out in the manner specified in sections 18-1741.03 and 18-1741.04.

(3) A state agency as defined in section 18-1737 which owns, leases, controls, or manages state property on which public parking is allowed may enter into an agreement with the governing board of the county, city, or village in which the state property or any portion of it is located to allow the political subdivision to enforce sections 18-1736 to 18-1741.07 on such state property.

Section 18-1741.02
Handicapped parking infraction; penalties; suspension of permit; fine.

(1) Any person found guilty of a handicapped parking infraction shall be fined (a) not more than one hundred fifty dollars for the first offense, (b) not more than three hundred dollars for a second offense within a one-year period, and (c) not more than five hundred dollars for a third or subsequent offense within a one-year period.

(2) In addition to any fine imposed under subsection (1) of this section, any person found guilty of a handicapped parking infraction under section 18-1741 or section 60-3,113.06 shall be subject to suspension of such person's handicapped or disabled parking permit for six months and such other punishment as may be provided by local ordinance. In addition, the court shall impose a fine of not more than two hundred fifty dollars which may be waived by the court if, at the time of sentencing, all handicapped or disabled parking permits issued to or in the possession of the offender are returned to the court. At the expiration of such six-month period, a suspended handicapped or disabled parking permit may be renewed in the manner provided for renewal of the original permit.

Section 18-1741.03
Handicapped parking infraction; citation form; Supreme Court; powers.

To insure uniformity, the Supreme Court may prescribe the form of the handicapped parking citation to be used for handicapped parking infractions. The handicapped parking citation shall include a description of the handicapped parking infraction, the time and place at which the person cited is to appear, a warning that failure to appear in accordance with the command of the citation is a punishable offense, and such other matter as the Supreme Court deems appropriate, but shall not include a place for the cited person's social security number. The handicapped parking citation shall provide space for an affidavit by a peace officer certifying that the recipient of the citation is the lawful possessor in his or her own right of a handicapped or disabled parking permit and that the peace officer has personally viewed the permit. The Supreme Court may provide that a copy of the handicapped parking citation constitutes the complaint filed in the trial court.

Section 18-1741.04
Handicapped parking citation; requirements; procedure; waivers; dismissal; credit card; payment authorized.

When a handicapped parking citation is issued for a handicapped parking infraction, the person issuing the handicapped parking citation shall enter thereon all required information, including the name and address of the cited person or, if not known, the license number and description of the offending motor vehicle, the offense charged, and the time and place the person cited is to appear in court. Unless the person cited requests an earlier date, the time of appearance shall be at least three days after the issuance of the handicapped parking citation. One copy of the handicapped parking citation shall be delivered to the person cited or attached to the offending motor vehicle. At least twenty-four hours before the time set for the appearance of the cited person, either the prosecuting attorney or other person authorized by law to issue a

complaint for the particular offense shall issue and file a complaint charging such person with a handicapped parking infraction or such person shall be released from the obligation to appear as specified. A person cited for a handicapped parking violation may waive his or her right to trial. For any handicapped parking citation issued for a handicapped parking infraction by reason of the failure of a vehicle to display a handicapped or disabled parking permit, the complaint shall be dismissed if, within seven business days after the date of issuance of the citation, the person cited files with the court the affidavit provided for in section 18-1741.03, signed by a peace officer certifying that the recipient is the lawful possessor in his or her own right of a handicapped or disabled parking permit and that the peace officer has personally viewed the permit. The Supreme Court may prescribe uniform rules for such waivers. Anyone may use a credit card authorized by the court in which the person is cited as a means of payment of his or her fine and costs.

Section 18-1741.05
Handicapped parking citation; violation; penalty.

Any person failing to appear or otherwise comply with the command of a handicapped parking citation for a handicapped parking infraction shall be guilty of a Class III misdemeanor.

Section 18-1741.06
Handicapped parking infraction; trial; rights.

The trial of any person for a handicapped parking infraction shall be by the court without a jury. All other rights provided by the Constitution of the United States made applicable to the states by the Fourteenth Amendment to the Constitution of the United States and the Constitution of Nebraska shall apply to persons charged with a handicapped parking infraction.

Section 18-1741.07
Handicapped parking infractions; sections, how construed.

Sections 18-1741.01 to 18-1741.07 shall not be construed to affect the rights, lawful procedures, or responsibilities of peace officers or law enforcement agencies using the handicapped parking citation for handicapped parking infractions.

Section 18-1742
Handicapped parking; rules and regulations.

(1) This section applies until the implementation date designated by the Director of Motor Vehicles under section 60-3,113.01.

(2) The Department of Motor Vehicles shall adopt and promulgate rules and regulations necessary to fulfill any duties and obligations as provided in sections 18-1736 to 18-1741.07.

TAB 4 - INITIATIVE AND REFERENDUM

INITIATIVE AND REFERENDUM

Section 18-2501
Powers; use; provisions governing.

(1) The powers of initiative and referendum are hereby reserved to the qualified electors of each municipal subdivision in the state. Sections 18-2501 to 18-2537 shall govern the use of initiative to enact, and the use of referendum to amend or repeal measures affecting the governance of all municipal subdivisions in the state, except those operating under home rule charter and as specified in section 18-2537.

(2) Cities operating under home rule charter shall provide, by charter provision or ordinance, for the exercise of the powers of initiative and referendum within the cities. Nothing in sections 18-2501 to 18-2537 shall be construed to prevent such cities from adopting any or all of the provisions of sections 18-2501 to 18-2537.

Section 18-2502
Definitions, sections found.

For purposes of sections 18-2501 to 18-2538, the definitions in sections 18-2503 to 18-2511, unless the context otherwise requires, shall apply.

Section 18-2503
Circulator, defined.

Circulator shall mean any person who solicits signatures for an initiative or referendum petition.

Section 18-2504
City clerk, defined.

City clerk shall mean the city or village clerk or the municipal official in charge of elections.

Section 18-2505
Governing body, defined.

Governing body shall mean the legislative authority of any municipal subdivision subject to sections 18-2501 to 18-2537.

Section 18-2506
Measure, defined.

Measure means an ordinance, charter provision, or resolution which is within the legislative authority of the governing body of a municipal subdivision to pass and which is not excluded from the operation of referendum by the exceptions in section 18-2528. Measure does not include any action permitted by the Nebraska Advantage Transformational Tourism and Redevelopment Act..

Section 18-2507
Municipal subdivision, defined.

Municipal subdivision shall mean all cities, not operating under home rule charters, of metropolitan, primary, first, and second classes, including those functioning under the commission and city manager forms of government, and villages.

Section 18-2508
Petition, defined.

Petition shall mean a document authorized for circulation pursuant to section 18-2512, or any copy of such document.

Section 18-2508.01
Place of residence, defined.

Place of residence shall mean the street and number of the residence. If there is no street and number for the residence, place of residence shall mean the mailing address.

Section 18-2509
Prospective petition, defined.

Prospective petition shall mean a sample document containing the information necessary for a completed petition, including a sample signature sheet, which has not yet been authorized for circulation.

Section 18-2510
Qualified electors, defined.

Qualified electors shall mean all persons registered to vote, at the time the prospective petition is filed, in the jurisdiction governed or to be governed by any measure sought to be enacted by initiative, or altered or repealed by referendum.

Section 18-2510.01
Residence, defined.

Residence shall mean that place at which a person has established his or her home, where he or she is habitually present, and to which, when he or she departs, he or she intends to return.

Section 18-2511
Signature sheet, defined.

Signature sheet shall mean a sheet of paper which is part of a petition and which is signed by persons wishing to support the petition effort.

Section 18-2512
Prospective petition; filing; city clerk; duties; revision; procedure; verification; effect.

Before circulating an initiative or referendum petition, the petitioner shall file with the city clerk a prospective petition. The city clerk shall date the prospective petition immediately upon its receipt. The city clerk shall verify that the prospective petition is in proper form and shall provide a ballot title for the initiative or referendum proposal, pursuant to section 18-2513. If the prospective petition is in proper form, the city clerk shall authorize the circulation of the petition and such authorization shall be given within three working days from the date the prospective petition was filed. If the form of the prospective petition is incorrect, the city clerk shall, within three working days from the date the prospective petition was filed, inform the petitioner of necessary changes and request that those changes be made. When the requested changes have been made and the revised prospective petition has been submitted to the city clerk in proper form, the city clerk shall authorize the circulation of the petition and such authorization shall be given within two working days from the receipt of the properly revised petition. Verification by the city clerk that the prospective petition is in proper form does not constitute an admission by the city clerk, governing body, or municipality that the measure is subject to referendum or limited referendum or that the measure may be enacted by initiative.

Section 18-2513
Ballot title; contents; ballots; form.

(1) The ballot title of any measure to be initiated or referred shall consist of:

(a) A briefly worded caption by which the measure is commonly known or which accurately summarizes the measure;

(b) A briefly worded question which plainly states the purpose of the measure and is phrased so that an affirmative response to the question corresponds to an affirmative vote on the measure; and

(c) A concise and impartial statement, of not more than seventy-five words, of the chief purpose of the measure.

(2) The ballots used when voting on an initiative or referendum proposal shall contain the entire ballot title. Proposals for initiative and referendum shall be submitted on separate ballots and the ballots shall be printed in lowercase ten-point type, except that the caption shall be in boldface type. All initiative and referendum measures shall be submitted in a nonpartisan manner without indicating or suggesting on the ballot that they have or have not been approved or endorsed by any political party or organization.

Section 18-2514
Petitions; form; Secretary of State; duties; copies.

The Secretary of State shall design the form to be used for initiative and referendum petitions. The petitions shall conform to section 32-628. These forms shall be made available to the public by the city clerk, and they shall serve as a guide for individuals preparing prospective petitions. Substantial compliance with initiative and referendum forms is required before authorization to circulate such petition shall be granted by the city clerk pursuant to section 18-2512. Chief petitioners or circulators preparing prospective petitions shall be responsible for making copies of the petition for circulation after authorization for circulation has been granted.

Section 18-2515
Petition; contents; chief petitioners or sponsors; requirements.

(1) Each petition presented for signature must be identical to the petition authorized for circulation by the city clerk pursuant to section 18-2512.

(2) Every petition shall contain the name and place of residence of not more than three persons as chief petitioners or sponsors of the measure. The chief petitioners or sponsors shall be qualified electors of the municipal subdivision potentially affected by the initiative or referendum proposal.

(3) Every petition shall contain the caption and the statement specified in subdivisions (1)(a) and (1)(c) of section 18-2513.

(4) When a special election is being requested, such fact shall be stated on every petition.

Section 18-2516
Signature sheet; requirements.

Every signature sheet shall:

(1) Contain the caption required in subdivision (1)(a) of section 18-2513;

(2) Be part of a complete and authorized petition when presented to potential signatories; and

(3) Comply with the requirements of section 32-628.

Section 18-2517
Petition; signers and circulators; requirements.

Signers and circulators shall comply with sections 32-629 and 32-630.

Section 18-2518
Petition; filed; signature verification; costs; time limitation.

(1) Signed petitions shall be filed with the city clerk for signature verification. Upon the filing of a petition, a city, upon passage of a resolution by the governing body of such city, and the county clerk or election commissioner of the county in which such city is located may by mutual agreement provide that the county clerk or election commissioner shall ascertain whether the petition is signed by the requisite number of voters. The city shall reimburse the county for any costs incurred by the county clerk or election commissioner. When the verifying official has determined that one hundred percent of the necessary signatures required by sections 18-2501 to 18-2537 have been obtained, he or she shall notify the municipal subdivision's governing body of that fact, and shall immediately forward to the governing body a copy of the petition.

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

Section 18-2519
Measure; resubmission; limitation.

The same measure, either in form or in essential substance, may not be submitted to the people by initiative petition, either affirmatively or negatively, more often than once every two years. No attempt to repeal or alter an existing measure or portion of such measure by referendum petition may be made within two years from the last attempt to do the same. Such prohibition shall apply only when the subsequent attempt to repeal or alter is designed to accomplish the same, or essentially the same purpose as the previous attempt.

Section 18-2520
Measure submitted to voters by municipal subdivision; procedure; approval.

(1) Except as provided in subsection (2) of this section, the executive officer and governing body of a municipal subdivision may at any time, by resolution, provide for the submission to a direct vote of the electors of any measure pending before it, passed by it, including an override of any veto, if necessary, or enacted by the electors under sections 18-2501 to 18-2538 and may provide in such resolution that such measure shall be submitted at a special election or the next regularly scheduled primary or general election. Immediately upon the passage of any such resolution for submission, the city clerk shall cause such measure to be submitted to a direct vote of the electors, at the time specified in such resolution and in the manner provided in sections 18-2501 to 18-2538 for submission of measures upon proposals and

petitions filed by voters. Such matter shall become law if approved by a majority of the votes cast.

(2) The executive officer and governing body of a municipal subdivision shall not submit to a direct vote of the electors the question of whether the municipal subdivision should initiate proceedings for the condemnation of a natural gas system.

Section 18-2521
Elections; when held; city clerk; duties; notice; form.

Elections under sections 18-2501 to 18-2538, either at a special election or regularly scheduled primary or general election, shall be called by the city clerk. Any special election to be conducted by the election commissioner or county clerk shall be subject to section 32-405.

The city clerk shall cause notice of every such election to be printed in one or more newspapers of general circulation in such municipal subdivision at least once not less than thirty days prior to such election and also posted in the office of the city clerk and in at least three conspicuous places in such municipal subdivision at least thirty days prior to such election. The notice shall be substantially as follows:

Notice is hereby given that on Tuesday, the ..... day of ..... 20...., at (identify polling place or precinct) of the city (or village) of ....., Nebraska, an election will be held at which there will be submitted to the electors of the municipality for their approval or rejection, the following measures, propositions, or issues:
.....
.....
(naming measures, propositions, or issues), which election will be open at 8 a.m. and will continue open until 8 p.m., of the same day.

Dated this ..... day of ..... 20.... .

…….....
City (or Village) Clerk of
the City (or Village) of
....., Nebraska.

The city clerk shall make available for photocopying a copy in pamphlet form of measures initiated or referred. Such notice provided in this section shall designate where such a copy in pamphlet form may be obtained.

Section 18-2522
Ballots; preparation; form.

All ballots for use in special elections under sections 18-2501 to 18-2538 shall be prepared by the city clerk and furnished by the governing body, unless the governing body contracts with the county for such service, and shall be in form the same as provided by law for election of the executive officer and governing body of such municipal subdivision. When

ordinances under such sections are submitted to the electors at a regularly scheduled primary or general election, they shall be placed upon the official ballots as provided in sections 18-2501 to 18-2538.

Section 18-2523
Initiative powers; scope.

(1) The power of initiative allows citizens the right to enact measures affecting the governance of each municipal subdivision in the state. An initiative proposal shall not have as its primary or sole purpose the repeal or modification of existing law except if such repeal or modification is ancillary to and necessary for the adoption and effective operation of the initiative measure.

(2) An initiative shall not be effective if the direct or indirect effect of the passage of such initiative measure shall be to repeal or alter an existing law, or portion thereof, which is not subject to referendum or subject only to limited referendum pursuant to section 18-2528.

(3) The power of initiative shall extend to a measure to provide for the condemnation of an investor-owned natural gas system by a municipal subdivision when the condemnation would, if initiated by the governing body of the municipal subdivision, be governed by the provisions of the Municipal Natural Gas System Condemnation Act.

(4) An initiative measure to provide for the condemnation of an investor-owned natural gas system by a municipal subdivision shall be a measure to require the municipal subdivision to initiate and pursue condemnation proceedings subject to the provisions of the Municipal Natural Gas System Condemnation Act.

Section 18-2524
Initiative petition; failure of municipal governing body to pass; effect; regular or special election.

Whenever an initiative petition bearing signatures equal in number to at least fifteen percent of the qualified electors of a municipal subdivision has been filed with the city clerk and verified pursuant to section 18-2518, it shall be the duty of the municipal subdivision's governing body to consider passage of the measure contained in the petition, including an override of any veto, if necessary. If the governing body fails to pass the measure without amendment, including an override of any veto, if necessary, within thirty days from the date it received notification pursuant to section 18-2518, the city clerk shall cause the measure to be submitted to a vote of the people at the next regularly scheduled primary or general election held within the municipal subdivision. If the governing body desires to submit the measure to a vote of the people at a special election prior to the next regularly scheduled primary or general election held within the municipal subdivision, the governing body shall, by resolution, direct the city clerk to cause the measure to be submitted at a special election. Such resolution shall not be subject to referendum or limited referendum.

Section 18-2525
Initiative petition; request for special election; failure of municipal governing body to pass; effect.

Whenever an initiative petition bearing signatures equal in number to at least twenty percent of the qualified electors of a municipal subdivision, which petition requests that a special election be called to submit the initiative measure to a vote of the people, has been filed with the city clerk and verified pursuant to section 18-2518, it shall be the duty of the municipal subdivision's governing body to consider passage of the measure contained in the petition, including an override of any veto, if necessary. If the governing body fails to pass the measure, without amendment, including an override of any veto, if necessary, within thirty days from the date it received notification pursuant to section 18-2518, the city clerk shall cause the measure to be submitted to a vote of the people at a special election called for such purpose. Subject to the provisions of section 18-2521, the date of such election shall not be less than thirty nor more than sixty days from the date the governing body received notification pursuant to section 18-2518.

Section 18-2526
Adopted initiative measure; when effective; amendment or repeal; restrictions.

If a majority of the voters voting on the initiative measure shall vote in favor of such measure, it shall become a valid and binding measure of the municipal subdivision thirty days after certification of the election results, unless the governing body by resolution orders an earlier effective date or the measure itself provides for a later effective date, which resolution shall not be subject to referendum or limited referendum. A measure passed by such method shall not be amended or repealed except by two-thirds majority of the members of the governing body. No such attempt to amend or repeal shall be made within one year from the passage of the measure by the electors.

Section 18-2527
Referendum powers; scope.

The power of referendum allows citizens the right to repeal or amend existing measures, or portions thereof, affecting the governance of each municipal subdivision in the state.

Section 18-2528
Referendum; measures excluded; measures subject to limited referendum; procedure.

(1) The following measures shall not be subject to referendum or limited referendum:

(a) Measures necessary to carry out contractual obligations, including, but not limited to, those relating to the issuance of or provided for in bonds, notes, warrants, or other evidences of indebtedness, for projects previously approved by a measure which was, or is, subject to referendum or limited referendum or previously approved by a measure adopted prior to July 17, 1982;

(b) Measures relating to any industrial development projects, subsequent to measures giving initial approval to such projects;

(c) Measures adopting proposed budget statements following compliance with procedures set forth in the Nebraska Budget Act;

(d) Measures relating to the immediate preservation of the public peace, health, or safety which have been designated as urgent measures by unanimous vote of those present and voting of the municipal subdivision's governing body and approved by its executive officer;

(e) Measures relating to projects for which notice has been given as provided for in subsection (4) of this section and for which a sufficient referendum petition was not filed within the time limit stated in such notice or which received voter approval after the filing of such petition;

(f) Resolutions directing the city clerk to cause measures to be submitted to a vote of the people at a special election as provided in sections 18-2524 and 18-2529;

(g) Resolutions ordering an earlier effective date for measures enacted by initiative as provided in section 18-2526;

(h) Measures relating to any facility or system adopted or enacted pursuant to the Integrated Solid Waste Management Act by municipalities and which are necessary to carry out contractual obligations provided for in previously issued bonds, notes, warrants, or other evidence of indebtedness;

(i) Measures that amend, supplement, change, modify, or repeal a zoning regulation, restriction, or boundary and are subject to protest as provided in section 14-405 or 19-905;

(j) Measures relating to personnel issues, including, but not limited to, establishment, modification, or elimination of any personnel position, policy, salary, or benefit and any hiring, promotion, demotion, or termination of personnel; and

(k) Measures relating to matters subject to the provisions of the Municipal Natural Gas System Condemnation Act.

(2) The following measures shall be subject to limited referendum:

(a) Measures in furtherance of a policy of the municipal subdivision or relating to projects previously approved by a measure which was subject to referendum or which was enacted by initiative or has been approved by the voters at an election, except that such measures shall not be subject to referendum or limited referendum for a period of one year after any such policy or project was approved at a referendum election, enacted by initiative, or approved by the voters at an election;

(b) Measures relating to the acquisition, construction, installation, improvement, or enlargement, including the financing or refinancing of the costs, of public ways, public property, utility systems, and other capital projects and measures giving initial approval for industrial development projects;

(c) Measures setting utility system rates and charges, except for measures necessary to carry out contractual obligations provided for in previously issued bonds, notes, warrants, or other evidences of indebtedness, and pay rates and salaries for municipal subdivision employees other than the members of the governing body and the executive officer; and

(d) Measures relating to any facility or system adopted or enacted pursuant to the Integrated Solid Waste Management Act by municipalities except for measures necessary to carry out contractual obligations provided for in previously issued bonds, notes, warrants, or other evidence of indebtedness.

(3) Measures subject to limited referendum shall ordinarily take effect thirty days after their passage by the governing body, including an override of any veto, if necessary. Referendum petitions directed at measures subject to limited referendum shall be filed for signature verification pursuant to section 18-2518 within thirty days after such measure's passage by the governing body, including an override of any veto, if necessary, or after notice is first published pursuant to subdivision (4)(c) of this section. If the necessary number of signatures as provided in section 18-2529 or 18-2530 has been obtained within the time limitation, the effectiveness of the measure shall be suspended unless approved by the voters.

(4) For any measure relating to the acquisition, construction, installation, improvement, or enlargement of public ways, public property, utility systems, or other capital projects or any measure relating to any facility or system adopted or enacted pursuant to the Integrated Solid Waste Management Act, a municipality may exempt all subsequent measures relating to the same project from the referendum and limited referendum procedures provided for in sections 18-2501 to 18-2537 by the following procedure:

(a) By holding a public hearing on the project, the time and place of such hearing being published at least once not less than five days prior to the date set for hearing in a newspaper of general circulation within the governing body's jurisdiction;

(b) By passage of a measure approving the project, including an override of a veto if necessary, at a meeting held on any date subsequent to the date of hearing; and

(c) After passage of such measure, including an override of a veto if necessary, by giving notice as follows: (i) For those projects for which applicable statutes require an ordinance or resolution of necessity, creating a district or otherwise establishing the project, notice shall be given for such project by including either as part of such ordinance or resolution or as part of any publicized notice concerning such ordinance or resolution a statement that the project as described in the ordinance or resolution is subject to limited referendum for a period of thirty days after the first publication of such notice and that, after such thirty-day period, the project

and measures related to it will not be subject to any further right of referendum; and (ii) for projects for which applicable statutes do not require an ordinance or resolution of necessity, notice shall be given by publication of a notice concerning such projects stating in general terms the nature of the project and the engineer's estimate of costs of such project and stating that the project described in the notice is subject to limited referendum for a period of thirty days after the first publication of such notice and that, after such thirty-day period, the project and measures related to it will not be subject to any further right of referendum. The notice required by subdivision (c)(ii) of this subsection shall be published in at least one newspaper of general circulation within the municipal subdivision and shall be published not later than fifteen days after passage by the governing body, including an override of a veto, if necessary, of a measure approving the project.

The right of a municipal subdivision to hold such a hearing prior to passage of the measure by the governing body and give such notice after passage of such measure by the governing body to obtain exemption for any particular project in a manner described in this subsection is optional, and no municipal subdivision shall be required to hold such a hearing or give such notice for any particular project.

(5) Nothing in subsections (2) and (4) of this section shall be construed as subjecting to limited referendum any measure related to matters subject to the provisions of the Municipal Natural Gas System Condemnation Act.

(6) All measures, except as provided in subsections (1), (2), and (4) of this section, shall be subject to the referendum procedure at any time after such measure has been passed by the governing body, including an override of a veto, if necessary, or enacted by the voters by initiative.

Section 18-2529
Referendum petition; failure of municipal governing body to act; effect; special election.

Whenever a referendum petition bearing signatures equal in number to at least fifteen percent of the qualified electors of a municipal subdivision has been filed with the city clerk and verified pursuant to section 18-2518, it shall be the duty of the municipal subdivision's governing body to reconsider the measure or portion of such measure which is the object of the referendum. If the governing body fails to repeal or amend the measure or portion thereof in the manner proposed by the referendum, including an override of any veto, if necessary, within thirty days from the date the governing body receives notification pursuant to section 18-2518, the city clerk shall cause the measure to be submitted to a vote of the people at the next regularly scheduled primary or general election held within the municipal subdivision. If the governing body desires to submit the measure to a vote of the people at a special election prior to the next regularly scheduled primary or general election held within the municipal subdivision, the governing body shall, by resolution, direct the clerk to cause the measure to be submitted at a special election. Such resolution shall not be subject to referendum or limited referendum.

Section 18-2530
Referendum petition; request for special election; failure of municipal governing body to act; effect.

Whenever a referendum petition bearing signatures equal in number to at least twenty percent of the qualified voters of a municipal subdivision, which petition requests that a special election be called to submit the referendum measure to a vote of the people, has been filed with the city clerk and verified pursuant to section 18-2518, it shall be the duty of the municipal subdivision's governing body to reconsider the measure or portion of such measure which is the object of the referendum. If the governing body fails to repeal or amend the measure or portion thereof, in the manner proposed by the referendum, including an override of any veto, if necessary, the city clerk shall cause the measure to be submitted to a vote of the people at a special election called for such purpose within thirty days from the date the governing body received notification pursuant to section 18-2518. Subject to the provisions of section 18-2521, the date of such special election shall not be less than thirty nor more than sixty days from the date the governing body received notification pursuant to section 18-2518.

Section 18-2531
Adopted referendum measure; reenactment or return to original form; restrictions; failure of referendum; effect.

If a majority of the electors voting on the referendum measure shall vote in favor of such measure, the law subject to the referendum shall be repealed or amended. A measure repealed or amended by referendum shall not be reenacted or returned to its original form except by a two-thirds majority of the members of the governing body. No such attempt to reenact or return the measure to its original form shall be made within one year of the repeal or amendment of the measure by the electors. If the referendum measure does not receive a majority vote, the ordinance shall immediately become effective or remain in effect.

Section 18-2532
False affidavit; false oath; penalty.

Whoever knowingly or willfully makes a false affidavit or takes a false oath regarding the qualifications of any person to sign petitions under sections 18-2501 to 18-2531 shall be guilty of a Class I misdemeanor with a limit of three hundred dollars on the fine.

Section 18-2533
Petitions; illegal acts; penalty.

Whoever falsely makes or willfully destroys a petition or any part thereof, or signs a false name thereto, or signs or files any petition knowing the same or any part thereof to be falsely made, or suppresses any petition, or any part thereof, which has been duly filed, pursuant to sections 18-2501 to 18-2531 shall be guilty of a Class I misdemeanor with a limit of five hundred dollars on the fine.

Section 18-2534
Signing of petition; illegal acts; penalty.

Whoever signs any petition under sections 18-2501 to 18-2533, knowing that he or she is not a registered voter in the place where such petition is made, aids or abets any other person in doing any of the acts mentioned in this section, bribes or gives or pays any money or thing of value to any person directly or indirectly to induce him or her to sign such petition, or engages in any deceptive practice intended to induce any person to sign a petition, shall be guilty of a Class I misdemeanor with a limit of three hundred dollars on the fine.

Section 18-2535
City clerk; illegal acts; penalty.

Any city clerk who willfully refuses to comply with the provisions of sections 18-2501 to 18-2531 and 18-2538 or who willfully causes unreasonable delay in the execution of his or her duties under such sections shall be guilty of a Class I misdemeanor, but imprisonment shall not be included as part of the punishment.

Section 18-2536
Election Act; applicability.

The Election Act, so far as applicable and when not in conflict with sections 18-2501 to 18-2531, shall apply to voting on ordinances by the registered voters pursuant to such sections.

Section 18-2537
Sections; inapplicability.

Nothing in sections 18-2501 to 18-2536 shall apply to procedures for initiatives or referendums provided in sections 14-210 to 14-212 relating to metropolitan-class cities, sections 18-412 and 18-412.02 relating to municipal light and power plants, sections 70-504 and 70-650.01 relating to public power districts, and sections 80-203 to 80-205 relating to soldiers and sailors monuments.

Section 18-2538
Declaratory judgment; procedure; effect.

The municipality or any chief petitioner may seek a declaratory judgment regarding any questions arising under Chapter 18, article 25, as it may be from time to time amended, including, but not limited to, determining whether a measure is subject to referendum or limited referendum or whether a measure may be enacted by initiative. If a chief petitioner seeks a declaratory judgment, the municipality shall be served as provided in section 25-510.02. If the municipality seeks a declaratory judgment, only the chief petitioner or chief petitioners shall be required to be served. Any action brought for declaratory judgment for purposes of determining whether a measure is subject to limited referendum or referendum, or whether a measure may be enacted by initiative, may be filed in the district court at any time after the filing of a referendum or initiative petition with the city clerk for signature verification until forty days from the date

the governing body received notification pursuant to section 18-2518. If the municipality does not bring an action for declaratory judgment to determine whether the measure is subject to limited referendum or referendum, or whether the measure may be enacted by initiative until after it has received notification pursuant to section 18-2518, it shall be required to proceed with the initiative or referendum election in accordance with sections 18-2501 to 18-2537 and this section. If the municipality does file such an action prior to receiving notification pursuant to section 18-2518, it shall not be required to proceed to hold such election until a final decision has been rendered in the action. Any action for a declaratory judgment shall be governed generally by sections 25-21,149 to 25-21,164, as amended from time to time, except that only the municipality and each chief petitioner shall be required to be made parties. The municipality, city clerk, governing body, or any of the municipality's officers shall be entitled to rely on any order rendered by the court in any such proceeding. Any action brought for declaratory judgment pursuant to this section shall be given priority in scheduling hearings and in disposition as determined by the court. When an action is brought to determine whether the measure is subject to limited referendum or referendum, or whether a measure may be enacted by initiative, a decision shall be rendered by the court no later than five days prior to the election. The provisions of this section relating to declaratory judgments shall not be construed as limiting, but construed as supplemental and additional to other rights and remedies conferred by law.

TAB 5 - ELECTIONS

17-202 **Board of trustees; election; terms.**

17-203 **Board of trustees; qualifications.**

19-3101 **City council or board of trustees; vacancy; when.**

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ELECTIONS

Section 17-202
Board of trustees; election; terms.

The corporate powers and duties of every village shall be vested in the board of trustees which shall consist of five members. At the first statewide general election held after the incorporation of a village, two trustees shall be elected to serve two years and three trustees shall be elected to serve four years. Thereafter the board members shall be elected as provided in the Election Act. The terms shall begin on the first regular meeting of the board in December following the statewide general election. The terms of board members holding office on April 27, 1995, shall be extended to the first regular meeting of the board in December following the statewide general election. The changes made to this section by Laws 1994, LB 76, and Laws 1995, LB 194, shall not change the staggering of the terms of the board members in villages established prior to January 1, 1995.

Section 17-203
Board of trustees; qualifications.

Any person may be a trustee who is a citizen of the United States, resides in the village, and is a registered voter.

Section 19-3101
City council or board of trustees; vacancy; when.

In all cities of the first and second classes and villages regardless of the form of government, in addition to the events listed in section 32-560 and any other reasons for a vacancy provided by law, after notice and a hearing, a vacancy on the city council or board of trustees shall exist if a member is absent from more than five consecutive regular meetings of the council or board unless the absences are excused by a majority vote of the remaining members.

Section 32-532
Village board of trustees; terms; qualifications.

The members of a village board of trustees shall be elected at the statewide general election as provided in section 17-202 and each four years thereafter. Except as provided in such section, the term of each board member shall be four years or until his or her successor is elected and qualified. The board members shall meet the qualifications found in section 17-203.

Section 32-557
City, village, and school officers; partisan ballot; when allowed; requirements.

All elective city, village, and school officers shall be nominated and elected on a nonpartisan ballot unless a city or village provides for a partisan ballot by ordinance. No

ordinance providing for nomination and election on a partisan ballot shall permit affiliation with any party not recognized as a political party for purposes of the Election Act. Such ordinance providing for nomination and election on a partisan ballot shall be adopted and effective not less than sixty days prior to the filing deadline.

Section 32-558
City, village, and school elections; ballots; results; certificates of nomination or election.

City, village, and school district ballots shall be prepared for each city, village, or school election. The election commissioner, county clerk, or city or village clerk may certify and deliver all ballots, including ballots for early voting, across county lines to the election commissioner, county clerk, or city or village clerk in the adjoining county. The election commissioner, county clerk, or city or village clerk shall certify the results and shall issue certificates of nomination or election to the successful candidates.

Section 32-559
Political subdivision; special election; procedure.

Except as provided in section 77-3444, any issue to be submitted to the registered voters at a special election by a political subdivision shall be certified by the clerk of the political subdivision to the election commissioner or county clerk at least fifty days prior to the election. A special election may be held by mail as provided in sections 32-952 to 32-959. Any other special election under this section shall be subject to section 32-405.

In lieu of submitting the issue at a special election, any political subdivision may submit the issue at a statewide primary or general election or at any scheduled county election, except that no such issue shall be submitted at a statewide election or scheduled county election unless the issue to be submitted has been certified by the clerk of the political subdivision to the election commissioner or county clerk by March 1 for the primary election and by September 1 for the general election. After the election commissioner or county clerk has received the certification of the issue to be submitted, he or she shall be responsible for all matters relating to the submission of the issue to the registered voters, except that the clerk of the political subdivision shall be responsible for the publication or posting of any required special notice of the submission of such issue other than the notice required to be given of the statewide election issues. The election commissioner or county clerk shall prepare the ballots and issue ballots for early voting and shall also conduct the submission of the issue, including the receiving and counting of the ballots on the issue. The election returns shall be made to the election commissioner or county clerk. The ballots shall be counted and canvassed at the same time and in the same manner as the other ballots. Upon completion of the canvass of the vote by the county canvassing board, the election commissioner or county clerk shall certify the election results to the governing body of the political subdivision. The canvass by the county canvassing board shall have the same force and effect as if made by the governing body of the political subdivision.

Section 32-560
Elective office; vacancy; when.

Every elective office shall be vacant, except as provided in section 32-561, upon the happening of any one of the following events at any time before the expiration of the term of such office:

(1) Resignation of the incumbent;

(2) Death of the incumbent;

(3) Removal of the incumbent from office;

(4) Decision of a competent tribunal declaring the office of the incumbent vacant;

(5) Incumbent ceasing to be a resident of the state, district, county, township, or precinct in which the duties of his or her office are to be exercised or for which he or she may have been elected;

(6) Failure to elect at an election when there is no incumbent to continue in office until his or her successor is elected and qualified;

(7) The candidate who received the highest number of votes is ineligible, disqualified, deceased, or for any other reason unable to assume the office for which he or she was a candidate;

(8) Forfeiture of office as provided by law;

(9) Conviction of a felony or of any public offense involving the violation of the oath of office of the incumbent; or

(10) Incumbent of a high elective office assuming another elective office as provided in subsections (2) through (4) of section 32-604.

SECTION 32-569
Vacancies in city and village elected offices; procedure for filling.

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

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

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

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

Section 32-601
Political subdivision; offices to be filled; filing deadlines; notices required.

Each political subdivision shall notify the election commissioner or county clerk of the offices to be filled no later than January 5 of any election year as provided in subsection (2) of section 32-404. The election commissioner or county clerk shall give notice of the offices to be filled by election and the filing deadlines for such offices by publication in at least one newspaper of general circulation in the county once at least fifteen days prior to such deadlines.

Section 32-602
Candidate; general requirements; limitation on filing for office.

(1) Any person seeking an elective office shall be a registered voter at the time of filing for the office pursuant to section 32-606 or 32-611.

(2) Any person filing for office shall meet the constitutional and statutory requirements of the office for which he or she is filing. If a person is filing for a partisan office, he or she shall be a registered voter affiliated with the appropriate political party if required pursuant to section 32-702. If the person is required to sign a contract or comply with a bonding or equivalent

commercial insurance policy requirement prior to holding such office, he or she shall be at least nineteen years of age at the time of filing for the office.

(3) A person shall not be eligible to file for an office if he or she holds the office and his or her term of office expires after the beginning of the term of office for which he or she would be filing. This subsection does not apply to filing for an office to represent a different district, ward, subdistrict, or subdivision of the same governmental entity as the office held at the time of filing.

(4) The governing body of the political subdivision swearing in the officer shall determine whether the person meets all requirements prior to swearing in the officer.

Statue 32-606
Candidate filing form; filing period.

(1) Any candidate may place his or her name on the primary election ballot by filing a candidate filing form prescribed by the Secretary of State as provided in section 32-607. If a candidate for an elective office is an incumbent of any elective office, the filing period for filing the candidate filing form shall be between December 1 and February 15 prior to the date of the primary election, except for candidates for election in 2013 to the board of education of a Class V school district. No incumbent who resigns from elective office prior to the expiration of his or her term shall file for any office after February 15 of that election year. Incumbent and nonincumbent candidates for election in 2013 to the board of education of a Class V school district and all other candidates shall file for office between December 1 and March 1 prior to the date of the primary election. A candidate filing form may be transmitted by facsimile for the offices listed in subdivision (1) of section 32-607 if (a) the transmission is received in the office of the filing officer by the filing deadline and (b) the original filing form is mailed to the filing officer with a legible postmark bearing a date on or prior to the filing deadline and is in the office of the filing officer no later than seven days after the filing deadline.

(2) Any candidate for a township office in a county under township organization, the board of trustees of a village, the board of directors of a reclamation district, the county weed district board, the board of directors of a public power district receiving annual gross revenue of less than forty million dollars, the school board of a Class II school district, or the board of an educational service unit may place his or her name on the general election ballot by filing a candidate filing form prescribed by the Secretary of State as provided in section 32-607. If a candidate for an elective office is an incumbent of any elective office, the filing period for filing the candidate filing form shall be between December 1 and July 15 prior to the date of the general election. No incumbent who resigns from elective office prior to the expiration of his or her term shall file for any office after July 15 of that election year. All other candidates shall file for office between December 1 and August 1 prior to the date of the general election. A candidate filing form may be transmitted by facsimile for the offices listed in subdivision (1) of section 32-607 if (a) the transmission is received in the office of the filing officer by the filing deadline and (b) the original filing form is mailed to the filing officer with a legible postmark bearing a date on or prior to the filing deadline and is in the office of the filing officer no later than seven days after the filing deadline.

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

Section 32-607
Candidate filing forms; contents; filing officers.

All candidate filing forms shall contain the following statement: I hereby swear that I will abide by the laws of the State of Nebraska regarding the results of the primary and general elections, that I am a registered voter and qualified to be elected, and that I will serve if elected. Candidate filing forms shall also contain the candidate's name; residence address; mailing address if different from the residence address; telephone number; office sought; and party affiliation if the office sought is a partisan office. Candidate filing forms shall be filed with the following filing officers:

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

(2) For officers elected within a county, in the office of the election commissioner or county clerk. If the candidate is not a resident of the county, he or she shall submit a certificate of registration obtained under section 32-316 with the candidate filing form;

(3) For officers in school districts which include land in adjoining counties, in the office of the election commissioner or county clerk of the county in which the greatest number of registered voters entitled to vote for the officers reside. If the candidate is not a resident of the county, he or she shall submit a certificate of registration obtained under section 32-316 with the candidate filing form; and

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

Section 32-608
Filing fees; payment; amount; not required; when; refund; when allowed.

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

presented to the filing officer. On the day of the filing deadline, the city or village treasurer's office shall remain open to receive filing fees until the hour of the filing deadline.

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

(a) For the office of United States Senator, state officers, including members of the Legislature, Representatives in Congress, county officers, and city or village officers, except the mayor or council members of cities having a home rule charter, a sum equal to one percent of the annual salary such candidate will receive if he or she is elected and qualifies for the office for which he or she files as a candidate;

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

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

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

(3) All declared write-in candidates shall pay the filing fees that are required for the office at the time that they present the write-in affidavit to the filing officer. Any undeclared write-in candidate who is nominated or elected by write-in votes shall pay the filing fee required for the office within ten days after the canvass of votes by the county canvassing board and shall file the receipt with the person issuing the certificate of nomination or the certificate of election prior to the certificate being issued.

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

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

(a) Real property used as a home;

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

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

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

TAB 6 - RECALL

RECALL

Section 32-1301
Recall; filing clerk, defined.

For purposes of sections 32-1301 to 32-1309, filing clerk shall mean the election commissioner or county clerk for recall of elected officers of cities, villages, counties, irrigation districts, natural resources districts, public power districts, school districts, community college areas, educational service units, hospital

Section 32-1302
Officials subject to recall.

(1) Except for trustees of sanitary and improvement districts, any elected official of a political subdivision and any elected member of the governing bodies of cities, villages, counties, irrigation districts, natural resources districts, public power districts, school districts, community college areas, educational service units, hospital districts, and metropolitan utilities districts may be removed from office by recall pursuant to sections 32-1301 to 32-1309. A trustee of a sanitary and improvement district may be removed from office by recall pursuant to sections 31-786 to 31-793.

(2) If due to reapportionment the boundaries of the area served by the official or body change, the recall procedure and special election provisions of sections 32-1301 to 32-1309 shall apply to the registered voters within the boundaries of the new area.

(3) The recall procedure and special election provisions of such sections shall apply to members of the governing bodies listed in subsection (1) of this section, other than sanitary and improvement districts, who are elected by precinct, district, or subdistrict of the political subdivision. Only registered voters of such member's precinct, district, or subdistrict may sign a recall petition or vote at the recall election. The recall election shall be held within the member's precinct, district, or subdistrict. When an elected member is nominated by precinct, district, or subdistrict in the primary election and elected at large in the general election, the recall provisions shall apply to the registered voters at the general election.

(4) The recall procedure and special election provisions shall apply to the mayor and members of the city council of municipalities with a home rule charter notwithstanding any contrary provisions of the home rule charter.

Section 32-1303
Recall petition; signers and circulators; requirements; notification.

(1) A petition demanding that the question of removing an elected official or member of a governing body listed in section 32-1302 be submitted to the registered voters shall be signed by registered voters equal in number to at least thirty-five percent of the total vote cast for that office in the last general election, except that (a) for an office for which more than one candidate

is chosen, the petition shall be signed by registered voters equal in number to at least thirty-five percent of the number of votes cast for the person receiving the most votes for such office in the last general election, (b) for a member of a board of a Class I school district, the petition shall be signed by registered voters of the school district equal in number to at least twenty-five percent of the total number of registered voters residing in the district on the date that the recall petitions are first checked out from the filing clerk by the principal circulator, and (c) for a member of a governing body of a village, the petition shall be signed by registered voters equal in number to at least forty-five percent of the total vote cast for the person receiving the most votes for that office in the last general election. The signatures shall be affixed to petition papers and shall be considered part of the petition.

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

(3) The petition papers shall be procured from the filing clerk. Prior to the issuance of such petition papers, an affidavit shall be signed and filed with the filing clerk by at least one registered voter. Such voter or voters shall be deemed to be the principal circulator or circulators of the recall petition. The affidavit shall state the name and office of the official sought to be removed, shall include in typewritten form in concise language of sixty words or less the reason or reasons for which recall is sought, and shall request that the filing clerk issue initial petition papers to the principal circulator for circulation. The filing clerk shall notify the official sought to be removed by any method specified in section 25-505.01 or, if notification cannot be made with reasonable diligence by any of the methods specified in section 25-505.01, by leaving a copy of the affidavit at the official's usual place of residence and mailing a copy by first-class mail to the official's last-known address. If the official chooses, he or she may submit a defense statement in typewritten form in concise language of sixty words or less for inclusion on the petition. Any such defense statement shall be submitted to the filing clerk within twenty days after the official receives the copy of the affidavit. The principal circulator or circulators shall gather the petition papers within twenty days after the receipt of the official's defense statement. The filing clerk shall notify the principal circulator or circulators that the necessary signatures must be gathered within thirty days from the date of issuing the petitions.

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

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

Section 32-1304
Petition papers; requirements.

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

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

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

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

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

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

Section 32-1305
Petition papers; filing; signature verification; procedure.

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

(2) If the filing clerk is the subject of a recall petition, the signature verification process shall be conducted by two election commissioners or county clerks appointed by the Secretary of State. Mileage and expenses incurred by officials appointed pursuant to this subsection shall be reimbursed by the political subdivision involved in the recall.

(3) Within fifteen days after the filing of the petition, the filing clerk shall ascertain whether or not the petition is signed by the requisite number of registered voters. No new signatures may be added after the initial filing of the petition papers. No signatures may be removed unless the filing clerk receives an affidavit signed by the person requesting his or her signature be removed before the petitions are filed with the filing clerk for signature verification. If the petition is found to be sufficient, the filing clerk shall attach to the petition a certificate showing the result of such examination. If the requisite number of signatures has not been gathered, the filing clerk shall file the petition in his or her office without prejudice to the filing of a new petition for the same purpose.

Section 32-1306
Filing clerk; notification required; recall election; when held; failure to order; effect.

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

(2) The governing body of the political subdivision shall order an election to be held not less than thirty nor more than seventy-five days after the notification of the official whose removal is sought under subsection (1) of this section, except that if any other election is to be held in that political subdivision within ninety days after such notification, the governing body of the political subdivision shall provide for the holding of the recall election on the same day. All resignations shall be tendered as provided in section 32-562. If the official whose removal is sought resigns before the recall election is held, the governing body may cancel the recall election if the governing body notifies the election commissioner or county clerk of the cancellation at least sixteen days prior to the election, otherwise the recall election shall be held as scheduled.

(3) If the governing body of the political subdivision fails or refuses to order a recall election within the time required, the election may be ordered by the district court having jurisdiction over a county in which the elected official serves. If a filing clerk is subject to a recall election, the Secretary of State shall conduct the recall election.

Section 32-1307
Recall election; ballot.

The form of the official ballot at a recall election held pursuant to section 32-1306 shall conform to the requirements of this section. With respect to each person whose removal is sought, the question shall be submitted: Shall (name of person) be removed from the office of (name of office)? Immediately following each such question there shall be printed on the ballot the two responses: Yes and No. Next to each response shall be placed a square or oval in which the registered voters may vote for one of the responses by making a cross or other clear, identifiable mark. The name of the official which shall appear on the ballot shall be the name of the official that appeared on the ballot of the previous general election that included his or her name.

Section 32-1308
Recall election; results; effect; vacancies; how filled.

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

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

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

(4) If there are vacancies in the offices of a majority or more of the members of any governing body at one time due to the recall of such members, a special election to fill such vacancies shall be conducted as expeditiously as possible by the Secretary of State, election commissioner, or county clerk.

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

Section 32-1309
Recall petition prohibited; when.

No recall petition shall be filed against an elected official within twelve months after a recall election has failed to remove him or her from office or within six months after the beginning of his or her term of office or within six months prior to the incumbent filing deadline for the office.

TAB 7 - PUBLIC RECORDS

PUBLIC RECORDS

Section 84-712
Public records; free examination; memorandum and abstracts; copies; fees.

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

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

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

(b) Except as otherwise provided by statute, the public body, public entity, or public official which is the custodian of a public record may charge a fee for providing copies of such public record pursuant to subdivision (1)(b) of this section, which fee shall not exceed the actual added cost of making the copies available. For purposes of this subdivision, (i) for photocopies, the actual added cost of making the copies available shall not exceed the amount of the reasonably calculated actual added cost of the photocopies, which may include a reasonably apportioned cost of the supplies, such as paper, toner, and equipment, used in preparing the copies, as well as any additional payment obligation of the custodian for time of contractors necessarily incurred to comply with the request for copies, (ii) for printouts of computerized data on paper, the actual added cost of making the copies available shall include the reasonably calculated actual added cost of computer run time and the cost of materials for making the copy, and (iii) for electronic data, the actual added cost of making the copies available shall include the reasonably calculated actual added cost of the computer run time, any necessary analysis and

programming by the public body, public entity, public official, or third-party information technology services company contracted to provide computer services to the public body, public entity, or public official, and the production of the report in the form furnished to the requester.

(c) The actual added cost used as the basis for the calculation of a fee for records shall not include any charge for the existing salary or pay obligation to the public officers or employees with respect to the first four cumulative hours of searching, identifying, physically redacting, or copying. A special service charge reflecting the calculated labor cost may be included in the fee for time required in excess of four cumulative hours, since that large a request may cause some delay or disruption of the other responsibilities of the custodian's office, except that the fee for records shall not include any charge for the services of an attorney to review the requested public records seeking a legal basis to withhold the public records from the public.

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

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

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

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

Section 84-712.01
Public records; right of citizens; full access; fee authorized.

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

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

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

Section 84-712.02
Public records; claimants before United States Department of Veterans Affairs; certified copies free of charge.

When it is requested by any claimant before the United States Department of Veterans Affairs or his or her agent or attorney that certified copies of any public record be furnished for the proper and effective presentation of any such claim in such department, the officer in charge of such public records shall furnish or cause to be furnished to such claimant or his or her agent or attorney a certified copy thereof free of charge.

Section 84-712.03
Public records; denial of rights; remedies.

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

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

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

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

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

Section 84-712.04
Public records; denial of rights; public body; provide information.

(1) Any person denied any rights granted by sections 84-712 to 84-712.03 shall receive in written form from the public body which denied the request for records at least the following information:

(a) A description of the contents of the records withheld and a statement of the specific reasons for the denial, correlating specific portions of the records to specific reasons for the denial, including citations to the particular statute and subsection thereof expressly providing the exception under section 84-712.01 relied on as authority for the denial;

(b) The name of the public official or employee responsible for the decision to deny the request; and

(c) Notification to the requester of any administrative or judicial right of review under section 84-712.03.

(2) Each public body shall maintain a file of all letters of denial of requests for records. This file shall be made available to any person on request.

Section 84-712.05
Records which may be withheld from the public; enumerated.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(14) Records or portions of records kept by public bodies which maintain collections of archaeological, historical, or paleontological significance which reveal the names and addresses of donors of such articles of archaeological, historical, or paleontological significance unless the donor approves disclosure, except as the records or portions thereof may be needed to carry out

the purposes of the Unmarked Human Burial Sites and Skeletal Remains Protection Act or the federal Native American Graves Protection and Repatriation Act;

(15) Job application materials submitted by applicants, other than finalists, who have applied for employment by any public body as defined in section 84-1409. For purposes of this subdivision, (a) job application materials means employment applications, resumes, reference letters, and school transcripts and (b) finalist means any applicant (i) who reaches the final pool of applicants, numbering four or more, from which the successful applicant is to be selected, (ii) who is an original applicant when the final pool of applicants numbers less than four, or (iii) who is an original applicant and there are four or fewer original applicants;

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

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

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

Section 84-712.06
Public record; portion provided; when.

Any reasonably segregable public portion of a record shall be provided to the public as a public record upon request after deletion of the portions which may be withheld.

Section 84-712.07
Public records; public access; equitable relief; attorney's fees; costs.

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

Section 84-712.08
Records; federal government; exception.

If it is determined by any federal department or agency or other federal source of funds, services, or essential information, that any provision of sections 84-712, 84-712.01, 84-712.03 to 84-712.09, and 84-1413 would cause the denial of any funds, services, or essential information from the United States Government which would otherwise definitely be available to an agency of this state, such provision shall be suspended as to such agency, but only to the extent necessary to prevent denial of such funds, services, or essential information.

Section 84-712.09
Violation; penalty.

Any official who shall violate the provisions of sections 84-712, 84-712.01, and 84-712.03 to 84-712.08 shall be subject to removal or impeachment and in addition shall be deemed guilty of a Class III misdemeanor.

TAB 8 - PUBLIC MEETINGS

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

84-1409 **Terms, defined.**

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PUBLIC MEETINGS

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

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

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

Section 84-1409
Terms, defined.

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

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

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

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

(3) Videoconferencing means conducting a meeting involving participants at two or more locations through the use of audio-video equipment which allows participants at each location to hear and see each meeting participant at each other location, including public input. Interaction between meeting participants shall be possible at all meeting locations.

Section 84-1410

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

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

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

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

(c) Investigative proceedings regarding allegations of criminal misconduct;

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

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

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

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

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

body to legal counsel or other negotiators in closed sessions authorized under subdivision (1)(a) of this section.

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

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

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

Section 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, or of the governing body of a public power and irrigation district 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, 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, 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, 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, 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, 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.

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

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

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

(3) No public body shall require members of the public to identify themselves as a condition for admission to the meeting nor shall such body require that the name of any member of the public be placed on the agenda prior to such meeting in order to speak about items on the agenda. The body may require any member of the public desiring to address the body to identify himself or herself.

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

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

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

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

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

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

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

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

(f) Reasonable arrangements are made to provide viewing at other instate locations for a videoconference meeting if requested fourteen days in advance and if economically and reasonably available in the area; and

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

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

(8) Public bodies shall make available at the meeting or the instate location for a telephone conference call or videoconference, for examination and copying by members of the public, at least one copy of all reproducible written material to be discussed at an open meeting. Public bodies shall make available at least one current copy of the Open Meetings Act posted in the meeting room at a location accessible to members of the public. At the beginning of the meeting, the public shall be informed about the location of the posted information.

Section 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 municipality, a county, a learning community, a joint entity created pursuant to the Interlocal Cooperation Act, a joint public agency created pursuant to the Joint Public Agency Act, or an agency formed under the Municipal Cooperative Financing Act which utilizes an electronic voting device which allows the yeas and nays of each member of such city council, village board, county board, or governing 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 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.

Section 84-1414

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

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

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

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

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

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TAB 9