

LEGISLATIVE BILL 1370

Approved by the Governor April 15, 2024

Introduced by Bostelman, 23; Albrecht, 17; Brewer, 43; Clements, 2; DeKay, 40; Dorn, 30; Dover, 19; Erdman, 47; Halloran, 33; Hansen, 16; Hardin, 48; Holdcroft, 36; Hughes, 24; Ibach, 44; Jacobson, 42; Kauth, 31; Linehan, 39; Lippincott, 34; Lowe, 37; McDonnell, 5; Meyer, 41; Murman, 38; Sanders, 45; Slama, 1.

A BILL FOR AN ACT relating to electricity; to amend sections 70-624.04, 70-637, and 70-1012, Reissue Revised Statutes of Nebraska, sections 70-1014.02 and 84-1411, Revised Statutes Cumulative Supplement, 2022, and section 70-1001.01, Revised Statutes Supplement, 2023; to provide requirements relating to the closing or decommissioning of a dispatchable electric generation facility; to change provisions relating to directors of public power and irrigation districts; to change provisions relating to contracts entered into by public power districts; to require certain actions by a developer, owner, or operator of a wind energy conversion system; to provide certain requirements relating to the construction or acquisition of an electric generation facility or transmission lines; to exempt certain entities from certain meeting requirements; to define terms; to harmonize provisions; to provide operative dates; to repeal the original sections; to outright repeal sections 70-1029, 70-1030, 70-1031, and 70-1033, Reissue Revised Statutes of Nebraska, and section 70-1032, Revised Statutes Cumulative Supplement, 2022; and to declare an emergency. Be it enacted by the people of the State of Nebraska,

Section 1. (1) For purposes of this section, dispatchable electric generation facility means a facility that, under normal operating conditions, can increase or decrease its output on demand to provide electricity onto the electric power transmission grid on an ongoing basis.

(2)(a) If a public power district, a public power and irrigation district, an electric membership association, an electric cooperative company, a municipality having a generation and distribution system, or a registered group of municipalities decides that a dispatchable electric generation facility with a generation capacity in excess of one hundred megawatts owned by any such entity should be closed or decommissioned, such entity shall provide written notice to the Nebraska Power Review Board prior to a final decision to close or decommission such facility. Such written notice shall include recommendations on necessary transition activities to avoid economic harm to workers at such facility or to an affected community. Transition activities include, but are not necessarily limited to:

(i) Educating workers regarding the availability of various assistance programs, including what options are available to maintain employment with such entity;

(ii) Explaining what severance pay will be available to workers;

(iii) Services for workers including education and job training, career counseling, skills-matching, and financial planning assistance; and

(iv) Promoting economic development opportunities in the affected community, including the creation of comparable jobs.

(b) The board, in its discretion, may set a time and place for hearing on the matter and provide at least twenty days' prior notice to such entity. The hearing shall be held within sixty days after such notice unless such entity requests in writing that the hearing not be scheduled until a later time. Any such hearing shall be closed to the public due to the proprietary and commercial information discussed. If the board determines that no hearing is necessary, the board shall provide written notice of such determination to such entity within thirty days after receipt of the written notice described in subdivision (2)(a) of this section.

(3) Within sixty days after the hearing or the determination that no hearing is necessary as described in subsection (2) of this section, the board shall make recommendations in writing on the basis of the record before the board as to whether closing or decommissioning the dispatchable electric generation facility is in the best interests of the entity deciding to close or decommission the dispatchable electric generation facility and its customers. Such recommendations shall be advisory only. Such entity shall consider the board's recommendations before making its final decision regarding the closing or decommissioning of the electric generation facility.

(4) The notices, the scheduling decisions concerning the hearing and purpose of the hearing, the record of the hearing, the board's recommendations, and any response by the entity deciding to close or decommission the dispatchable electric generation facility shall all be treated as confidential records that are not subject to public disclosure pursuant to sections 84-712 to 84-712.09 until such time as such entity publicly announces any decision to close or decommission the dispatchable electric generation facility. Nothing in this subsection shall be construed to require public disclosure of any information that may be withheld as provided in section 70-673 or 84-712.05.

(5) This section shall not apply to any decision by a public power

district, a public power and irrigation district, an electric membership association, an electric cooperative company, a municipality having a generation and distribution system, or a registered group of municipalities to close or decommission a dispatchable electric generation facility made prior to the effective date of this act.

Sec. 2. Section 70-624.04, Reissue Revised Statutes of Nebraska, is amended to read:

70-624.04 (1) Directors and employees of public power districts, public power and irrigation districts, and public utility companies shall be permitted to hold other elective office as provided in section 32-604. No contracts of any such public power district, public power and irrigation district, or public utility company shall be void or voidable by reason of such service by its directors or employees.

(2) A director of a public power and irrigation district may have an interest in a residential lease agreement or a water service agreement with such district. Such director may participate in any discussion or vote on such agreements. No agreement of such public power and irrigation district shall be void or voidable by reason of such interest by such director.

Sec. 3. Section 70-637, Reissue Revised Statutes of Nebraska, is amended to read:

70-637 (1) A district shall cause estimates of the costs to be made by some competent engineer or engineers before the district enters into any contract for:

(a) The construction, reconstruction, remodeling, building, alteration, maintenance, repair, extension, or improvement, for the use of the district, of any:

- (i) Power plant or system;
- (ii) Hydrogen production, storage, or distribution system;
- (iii) Ethanol production or distribution system;
- (iv) Irrigation works; or
- (v) Part or section of a system or works described in subdivisions (i) through (iv) of this subdivision; or

(b) The purchase of any materials, machinery, or apparatus to be used in the projects described in subdivision (1)(a) of this section.

(2) If the estimated cost exceeds the sum of seven ~~two~~ hundred fifty thousand dollars, for those districts with a gross revenue of less than five hundred million dollars, or one million five hundred thousand dollars, for those districts with a gross revenue of five hundred million dollars or more, no such contract shall be entered into without advertising for sealed bids.

(3) Notwithstanding the provisions of subsection (2) of this section and sections 70-638 and 70-639, the board of directors of the district may negotiate directly with sheltered workshops pursuant to section 48-1503.

(4)(a) The provisions of subsection (2) of this section and sections 70-638 and 70-639 relating to sealed bids shall not apply to contracts entered into by a district in the exercise of its rights and powers relating to (i) radioactive material or the energy therefrom, (ii) any technologically complex or unique equipment, (iii) equipment or supplemental labor procurement from an electric utility or from or through an electric utility alliance, or (iv) any maintenance or repair, if the requirements of subdivisions (b) and (c) of this subsection are met.

(b) A contract described in subdivision (a) of this subsection need not comply with subsection (2) of this section or section 70-638 or 70-639 if:

(i) The engineer or engineers certify that, by reason of the nature of the subject matter of the contract, compliance with subsection (2) of this section would be impractical or not in the public interest;

(ii) The engineer's certification is approved by a two-thirds vote of the board; and

(iii) The district advertises notice of its intention to enter into such contract, the general nature of the proposed work, and the name of the person to be contacted for additional information by anyone interested in contracting for such work.

(c) Any contract for which the board has approved an engineer's certificate described in subdivision (b) of this subsection shall be advertised in three issues not less than seven days between issues in one or more newspapers of general circulation in the district and in such additional newspapers or trade or technical periodicals as may be selected by the board in order to give proper notice of its intention to enter into such contract, and any such contract shall not be entered into prior to twenty days after the last advertisement.

(5) The provisions of subsection (2) of this section and sections 70-638 and 70-639 shall not apply to contracts in excess of seven ~~two~~ hundred fifty thousand dollars, for those districts with a gross revenue of less than five hundred million dollars, or one million five hundred thousand dollars, for those districts with a gross revenue of five hundred million dollars or more, entered into for the purchase of any materials, machinery, or apparatus to be used in projects described in subdivision (1)(a) of this section if, after advertising for sealed bids:

(a) No responsive bids are received; or

(b) The board of directors of such district determines that all bids received are in excess of the fair market value of the subject matter of such bids.

(6) Notwithstanding any other provision of subsection (2) of this section or sections 70-638 and 70-639, a district may, without advertising or sealed

bidding, purchase replacement parts or services relating to such replacement parts for any generating unit, transformer, or other transmission and distribution equipment from the original manufacturer of such equipment upon certification by an engineer or engineers that such manufacturer is the only available source of supply for such replacement parts or services and that such purchase is in compliance with standards established by the board. A written statement containing such certification and a description of the resulting purchase of replacement parts or services from the original manufacturer shall be submitted to the board by the engineer or engineers certifying the purchase for the board's approval. After such certification, but not necessarily before the board review, notice of any such purchase shall be published once a week for at least three consecutive weeks in one or more newspapers of general circulation in the district and published in such additional newspapers or trade or technical periodicals as may be selected by the board in order to give proper notice of such purchase.

(7) Notwithstanding any other provision of subsection (2) of this section or sections 70-638 and 70-639, a district may, without advertising or sealed bidding, purchase used equipment and materials on a negotiated basis upon certification by an engineer that such equipment is or such materials are in compliance with standards established by the board. A written statement containing such certification shall be submitted to the board by the engineer for the board's approval.

Sec. 4. (1) For purposes of this section:

(a) FAA approval means approval by the Federal Aviation Administration that meets the requirements set forth in Chapter 10 of the Federal Aviation Administration's 2020 Advisory Circular AC 70/7460-1M, Obstruction Marking and Lighting;

(b) Light-mitigating technology system means aircraft detection lighting or any other comparable system capable of reducing the impact of facility obstruction lighting while maintaining conspicuity sufficient to assist aircraft in identifying and avoiding collision with a wind energy conversion system;

(c) Repower means a substantial physical modification of at least seventy-five percent of the wind turbines in a wind energy conversion system that results in an increase of ten percent or more in nameplate capacity; and

(d) Wind energy conversion system means an electric generation facility consisting of ten or more wind turbines that are two hundred fifty feet or more in height and any accessory or appurtenant structures and buildings including substations, meteorological towers, electrical infrastructure, and transmission lines.

(2) Beginning July 1, 2025:

(a)(i) A developer, owner, or operator of a wind energy conversion system shall make application to the Federal Aviation Administration for FAA approval to install and operate a light-mitigating technology system on such wind energy conversion system as follows:

(A) Before a wind energy conversion system commences commercial operation in this state, if such system did not exist prior to July 1, 2025;

(B) Within thirty days after a wind energy conversion system existing prior to July 1, 2025, commences a repower; or

(C) If on July 1, 2025, such developer, owner, or operator has five years or less remaining on a power purchase agreement with an electric supplier for a wind energy conversion system, within thirty days after the existing power purchase agreement is extended or renewed or a new power purchase agreement is executed; and

(ii) Within twenty-four months after receiving FAA approval, the developer, owner, or operator of the wind energy conversion system shall install a light-mitigating technology system on wind turbines covered under such FAA approval; and

(b) Any developer, owner, or operator of a wind energy conversion system existing prior to July 1, 2025, that does not commence a repower shall on or before July 1, 2035, install a light-mitigating technology system on the wind turbines in such wind energy conversion system that meets Federal Aviation Administration requirements.

(3) Any application made pursuant to subsection (2) of this section shall be submitted in good faith and reasonably intended to obtain FAA approval. If FAA approval is not granted after application is made pursuant to such subsection, the wind energy conversion system may commence or continue, as applicable, commercial operation without a light-mitigating technology system.

(4) Any costs associated with the installation, implementation, operation, and maintenance of a light-mitigating technology system shall be the responsibility of the developer, owner, or operator of the wind energy conversion system.

(5) Nothing in this section shall be construed to require mitigation of light pollution to be carried out in a manner that conflicts with federal law or requirements, including requirements of the Federal Aviation Administration or the United States Department of Defense.

(6) Nothing in this section shall be construed to require any new or separate approval from any state or local governmental agency.

Sec. 5. Section 70-1001.01, Revised Statutes Supplement, 2023, is amended to read:

70-1001.01 For purposes of sections 70-1001 to 70-1028, unless the context otherwise requires:

(1) Board means the Nebraska Power Review Board;

(2) Electric supplier or supplier of electricity means any legal entity supplying, producing, or distributing electricity within the state for sale at wholesale or retail;

(3) Military installation means a military base other than a National Guard base where fixed-wing aircraft or strategic weapon assets are on a permanent or temporary basis assigned, stored, operated from, or otherwise located;

(4) ~~(3)~~ Private electric supplier means an electric supplier producing electricity from a privately developed renewable energy generation facility that is not a public power district, a public power and irrigation district, a municipality, a registered group of municipalities, an electric cooperative, an electric membership association, any other governmental entity, or any combination thereof;

(5) ~~(4)~~ Privately developed renewable energy generation facility means a facility that (a) generates electricity using solar, wind, geothermal, biomass, landfill gas, or biogas, including all electrically connected equipment used to produce, collect, and store the facility output up to and including the transformer that steps up the voltage to sixty thousand volts or greater, and including supporting structures, buildings, and roads, unless otherwise agreed to in a joint transmission development agreement, (b) is developed, constructed, and owned, in whole or in part, by one or more private electric suppliers, and (c) is not wholly owned by a public power district, a public power and irrigation district, a municipality, a registered group of municipalities, an electric cooperative, an electric membership association, any other governmental entity, or any combination thereof;

(6) ~~(5)~~ Regional transmission organization means an entity independent from those entities generating or marketing electricity at wholesale or retail, which has operational control over the electric transmission lines in a designated geographic area in order to reduce constraints in the flow of electricity and ensure that all power suppliers have open access to transmission lines for the transmission of electricity;

(7) ~~(6)~~ Reliable or reliability means the ability of an electric supplier to supply the aggregate electric power and energy requirements of its electricity consumers in Nebraska at all times under normal operating conditions, taking into account scheduled and unscheduled outages, including sudden disturbances or unanticipated loss of system components that are to be reasonably expected for any electric utility following prudent utility practices, recognizing certain weather conditions and other contingencies may cause outages at the distribution, transmission, and generation level;

(8) ~~(7)~~ Representative organization means an organization designated by the board and organized for the purpose of providing joint planning and encouraging maximum cooperation and coordination among electric suppliers. Such organization shall represent electric suppliers owning a combined electric generation plant accredited capacity of at least ninety percent of the total electric generation plant accredited capacity constructed and in operation within the state;

(9) ~~(8)~~ State means the State of Nebraska; and

(10) ~~(9)~~ Unbundled retail rates means the separation of utility bills into the individual price components for which an electric supplier charges its retail customers, including, but not limited to, the separate charges for the generation, transmission, and distribution of electricity.

Sec. 6. Section 70-1012, Reissue Revised Statutes of Nebraska, is amended to read:

70-1012 (1) Before any electric generation facilities or any transmission lines or related facilities carrying more than seven hundred volts are constructed or acquired by any supplier, an application, filed with the board and containing such information as the board shall prescribe, shall be approved by the board, except that such approval shall not be required (a) for the construction or acquisition of a transmission line extension or related facilities within a supplier's own service area or for the construction or acquisition of a line not exceeding one-half mile outside its own service area when all owners of electric lines located within one-half mile of the extension consent thereto in writing and such consents are filed with the board, (b) for any generation facility when the board finds that (i) such facility is being constructed or acquired to replace a generating plant owned by an individual municipality or registered group of municipalities with a capacity not greater than that of the plant being replaced, (ii) such facility will generate less than twenty-five thousand kilowatts of electric energy at rated capacity, and (iii) the applicant will not use the plant or transmission capacity to supply wholesale power to customers outside the applicant's existing retail service area or chartered territory, (c) for acquisition of transmission lines or related facilities, within the state, carrying one hundred fifteen thousand volts or less, if the current owner of the transmission lines or related facilities notifies the board of the lines or facilities involved in the transaction and the parties to the transaction, or (d) for the construction of a qualified facility as defined in section 70-2002.

(2)(a) Before any electric supplier commences construction of or acquires an electric generation facility or transmission lines or related facilities carrying more than seven hundred volts that will be located within a ten-mile radius of a military installation, the owner of such proposed facility, transmission lines, or related facilities shall provide written notice certifying to the board that such facility or facilities contain no materials, electronics, or other components manufactured by any foreign government or

foreign nongovernment person determined to be a foreign adversary pursuant to 15 C.F.R. 7.4.

(b) Any electric supplier supplying, producing, or distributing electricity within the state for sale at retail is exempt from subdivision (a) of this subsection if it is in compliance with the critical infrastructure protection requirements issued by the North American Electric Reliability Corporation. To receive such exemption, the electric supplier shall submit written notice to the board certifying that it is in such compliance. The electric supplier shall also submit written notice to the board at any time such supplier is no longer in such compliance.

(3) (2) A privately developed renewable energy generation facility is exempt from this section if it complies with section 70-1014.02.

Sec. 7. Section 70-1014.02, Revised Statutes Cumulative Supplement, 2022, is amended to read:

70-1014.02 (1) The Legislature finds that:

(a) Nebraska has the authority as a sovereign state to protect its land, natural resources, and cultural resources for economic and aesthetic purposes for the benefit of its residents and future generations by regulation of energy generation projects;

(b) The unique terrain and ecology of the Nebraska Sandhills provide an irreplaceable habitat for millions of migratory birds and other wildlife every year and serve as the home to numerous ranchers and farmers;

(c) The grasslands of the Nebraska Sandhills and other natural resources in Nebraska will become increasingly valuable, both economically and strategically, as the demand for food and energy increases; and

(d) The Nebraska Sandhills are home to priceless archaeological sites of historical and cultural significance to American Indians.

(2)(a) A privately developed renewable energy generation facility that meets the requirements of this section is exempt from sections 70-1012 to 70-1014.01 if no less than thirty days prior to the commencement of construction the owner of the facility:

(i) Notifies the board in writing of its intent to commence construction of a privately developed renewable energy generation facility;

(ii) Certifies to the board that the facility will meet the requirements for a privately developed renewable energy generation facility;

(iii) Certifies to the board that the private electric supplier will (A) comply with any decommissioning requirements adopted by the local governmental entities having jurisdiction over the privately developed renewable energy generation facility and (B) except as otherwise provided in subdivision (b) of this subsection, submit a decommissioning plan to the board obligating the private electric supplier to bear all costs of decommissioning the privately developed renewable energy generation facility and requiring that the private electric supplier post a security bond or other instrument, no later than the tenth year following commercial operation, securing the costs of decommissioning the facility and provide a copy of the bond or instrument to the board;

(iv) Certifies to the board that the private electric supplier has entered into or prior to commencing construction will enter into a joint transmission development agreement pursuant to subdivision (c) of this subsection with the electric supplier owning the transmission facilities of sixty thousand volts or greater to which the privately developed renewable energy generation facility will interconnect; ~~and~~

(v) Certifies to the board that the private electric supplier has consulted with the Game and Parks Commission to identify potential measures to avoid, minimize, and mitigate impacts to species identified under subsection (1) or (2) of section 37-806 during the project planning and design phases, if possible, but in no event later than the commencement of construction; ~~and -~~

(vi) Certifies in writing to the board that the facility, if located within a ten-mile radius of a military installation:

(A) Contains no materials, electronics, or other components manufactured by any foreign government or foreign nongovernment person determined to be a foreign adversary pursuant to 15 C.F.R. 7.4; or

(B) Is in compliance with the critical infrastructure protection requirements issued by the North American Electric Reliability Corporation if connected to the transmission grid at one hundred kilovolts or higher voltage and has to have a nameplate rating of twenty megavolt amperes for a single generation unit or injecting at an aggregate of seventy-five megavolt amperes or greater. The private electric supplier shall also submit written notice to the board at any time such private electric supplier is no longer in such compliance.

(b) The board may bring an action in the name of the State of Nebraska for failure to comply with subdivision (a)(iii)(B) of this subsection. Subdivision (a)(iii)(B) of this subsection does not apply if a local government entity with the authority to create requirements for decommissioning has enacted decommissioning requirements for the applicable jurisdiction.

(c) The joint transmission development agreement shall address construction, ownership, operation, and maintenance of such additions or upgrades to the transmission facilities as required for the privately developed renewable energy generation facility. The joint transmission development agreement shall be negotiated and executed contemporaneously with the generator interconnection agreement or other directives of the applicable regional transmission organization with jurisdiction over the addition or upgrade of transmission, upon terms consistent with prudent electric utility practices for

the interconnection of renewable generation facilities, the electric supplier's reasonable transmission interconnection requirements, and applicable transmission design and construction standards. The electric supplier shall have the right to purchase and own transmission facilities as set forth in the joint transmission development agreement. The private electric supplier of the privately developed renewable energy generation facility shall have the right to construct any necessary facilities or improvements set forth in the joint transmission development agreement pursuant to the standards set forth in the agreement at the private electric supplier's cost.

(3) Within ten days after receipt of a written notice complying with subsection (2) of this section, the executive director of the board shall issue a written acknowledgment that the privately developed renewable energy generation facility is exempt from sections 70-1012 to 70-1014.01.

(4) The exemption allowed under this section for a privately developed renewable energy generation facility shall extend to and exempt all private electric suppliers owning any interest in the facility, including any successor private electric supplier which subsequently acquires any interest in the facility.

(5) No property owned, used, or operated as part of a privately developed renewable energy generation facility shall be subject to eminent domain by a consumer-owned electric supplier operating in the State of Nebraska. Nothing in this section shall be construed to grant the power of eminent domain to a private electric supplier or limit the rights of any entity to acquire any public, municipal, or utility right-of-way across property owned, used, or operated as part of a privately developed renewable energy generation facility as long as the right-of-way does not prevent the operation of or access to the privately developed renewable energy generation facility.

(6) Only a consumer-owned electric supplier operating in the State of Nebraska may exercise eminent domain authority to acquire the land rights necessary for the construction of transmission lines and related facilities. There is a rebuttable presumption that the exercise of eminent domain to provide needed transmission lines and related facilities for a privately developed renewable energy generation facility is a public use.

(7) Nothing in this section shall be construed to authorize a private electric supplier to sell or deliver electricity at retail in Nebraska.

(8) Nothing in this section shall be construed to limit the authority of or require a consumer-owned electric supplier operating in the State of Nebraska to enter into a joint agreement with a private electric supplier to develop, construct, and jointly own a privately developed renewable energy generation facility.

Sec. 8. Section 84-1411, Revised Statutes Cumulative Supplement, 2022, is amended to read:

84-1411 (1)(a) Except as provided in subsection (9) of this section, each ~~Each~~ public body shall give reasonable advance publicized notice of the time and place of each meeting as provided in this subsection. Such notice shall be transmitted to all members of the public body and to the public.

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

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

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

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

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

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

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

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

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

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

(ii) An organization, including the governing body, created under the

Interlocal Cooperation Act, the Joint Public Agency Act, or the Municipal Cooperative Financing Act;

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

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

(v) An educational service unit;

(vi) The Educational Service Unit Coordinating Council;

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

(viii) A community college board of governors;

(ix) The Nebraska Brand Committee;

(x) A local public health department;

(xi) A metropolitan utilities district;

(xii) A regional metropolitan transit authority; and

(xiii) A natural resources district.

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

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

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

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

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

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

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

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

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

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

(b) The public body shall provide access by providing a dial-in number or a link to the virtual conference. The public body shall also provide links to an electronic copy of the agenda, all documents being considered at the meeting, and the current version of the Open Meetings Act. Reasonable

arrangements shall be made to accommodate the public's right to hear and speak at the meeting and record the meeting. Subsection (4) of this section shall be complied with in conducting such meetings.

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

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

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

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

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

(9) This section does not apply to a meeting of the Nebraska Power Review Board or a public power district, a public power and irrigation district, an electric membership association, an electric cooperative company, a municipality having a generation and distribution system, or a registered group of municipalities if such meeting is subject to section 1 of this act.

Sec. 9. Sections 1, 2, 3, 4, 8, and 10 of this act become operative three calendar months after the adjournment of this legislative session. The other sections of this act become operative on their effective date.

Sec. 10. Original sections 70-624.04 and 70-637, Reissue Revised Statutes of Nebraska, and section 84-1411, Revised Statutes Cumulative Supplement, 2022, are repealed.

Sec. 11. Original section 70-1012, Reissue Revised Statutes of Nebraska, section 70-1014.02, Revised Statutes Cumulative Supplement, 2022, and section 70-1001.01, Revised Statutes Supplement, 2023, are repealed.

Sec. 12. The following sections are outright repealed: Sections 70-1029, 70-1030, 70-1031, and 70-1033, Reissue Revised Statutes of Nebraska, and section 70-1032, Revised Statutes Cumulative Supplement, 2022.

Sec. 13. Since an emergency exists, this act takes effect when passed and approved according to law.