

AMENDMENTS TO LB 658

Introduced by Urban Affairs.

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

3           Section 1. Section 66-1801, Revised Statutes Cumulative  
4 Supplement, 2008, is amended to read:

5           66-1801 Sections 66-1801 to 66-1864 and sections 4, 5,  
6 and 6 of this act shall be known and may be cited as the State  
7 Natural Gas Regulation Act.

8           Sec. 2. Section 66-1802, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10          66-1802 For purposes of the State Natural Gas Regulation  
11 Act:

12           (1) Agricultural ratepayer means a ratepayer whose usage  
13 of natural gas does not qualify the ratepayer as a high-volume  
14 ratepayer and (a) whose principal use of natural gas is for  
15 agricultural crop or livestock production, irrigation pumping, crop  
16 drying, or animal feed or food production or (b) whose service is  
17 provided on an interruptible basis;

18           (2) Appropriate pretax revenue means the revenue  
19 necessary to produce net operating income equal to:

20           (a) The jurisdictional utility's weighted cost of capital  
21 multiplied by the net original cost of eligible infrastructure  
22 system replacements, including recognition of accumulated deferred  
23 income taxes and accumulated depreciation associated with eligible

1 infrastructure system replacements which are included in an  
2 infrastructure system replacement cost recovery charge;

3 (b) Recovery of state, federal, and local income or  
4 excise taxes applicable to such income; and

5 (c) Recovery of depreciation expenses;

6 ~~(2)~~ (3) BTU means the amount of energy necessary to raise  
7 the temperature of one pound of water one degree Fahrenheit;

8 ~~(3)~~ (4) City means any city or village in the State of  
9 Nebraska;

10 ~~(4)~~ (5) Commission means the Public Service Commission;

11 (6) Eligible infrastructure system replacement means  
12 jurisdictional utility plant projects that:

13 (a) Do not increase revenue by directly connecting the  
14 infrastructure system replacement to new customers;

15 (b) Are in service and used and required to be used;

16 (c) Were not included in the jurisdictional utility's  
17 rate base in its most recent general rate case; and

18 (d) May enhance the capacity of the system but are only  
19 eligible for infrastructure system replacement cost recovery to  
20 the extent the jurisdictional utility plant project constitutes a  
21 replacement of existing infrastructure;

22 ~~(5)~~ (7) Gas gathering system means a natural gas pipeline  
23 system used primarily for transporting natural gas from a wellhead,  
24 or from a metering point for natural gas produced by one or more  
25 wells, to a point of entry into a main transmission line;

26 ~~(6)~~ (8) General rate filing means any filing  
27 which requests changes in overall revenue requirements for a

1 jurisdictional utility but does not include a filing for an  
2 infrastructure system replacement cost recovery charge;

3 ~~(7)~~ (9) High-volume ratepayer means a ratepayer whose  
4 natural gas requirements equal or exceed five hundred therms per  
5 day as determined by average daily consumption;

6 (10) Infrastructure system replacement cost recovery  
7 charge revenue means revenue produced through an infrastructure  
8 system replacement cost recovery charge exclusive of revenue from  
9 all other rates and charges;

10 ~~(8)~~ (11) Interstate pipeline means any corporation,  
11 company, individual, or association of persons or their trustees,  
12 lessees, or receivers engaged in natural gas transportation subject  
13 to the jurisdiction of the Federal Energy Regulatory Commission  
14 under the federal Natural Gas Act, 15 U.S.C. 717 et seq., as such  
15 act existed on January 1, 2003;

16 ~~(9)~~ (12) Intrastate natural gas utility business means  
17 all of that portion of the business of a natural gas public utility  
18 over which the commission has jurisdiction under the State Natural  
19 Gas Regulation Act;

20 ~~(10)~~ (13) Jurisdictional utility means a natural gas  
21 public utility subject to the jurisdiction of the commission.  
22 Jurisdictional utility does not mean a natural gas public utility  
23 which is not subject to the jurisdiction of the commission pursuant  
24 to section 66-1803;

25 (14) Jurisdictional utility plant projects means only the  
26 following:

27 (a) Mains, valves, service lines, regulator stations,

1 vaults, and other pipeline system components installed to comply  
2 with state or federal safety requirements as replacements for  
3 existing facilities;

4 (b) Main relining projects, service line insertion  
5 projects, joint encapsulation projects, and other similar projects  
6 extending the useful life or enhancing the integrity of pipeline  
7 system components undertaken to comply with state or federal safety  
8 requirements; and

9 (c) Facility relocations required due to construction or  
10 improvement of a highway, road, street, public way, or other public  
11 work by or on behalf of the United States, this state, a political  
12 subdivision of this state, or another entity having the power of  
13 eminent domain, if the costs related to such relocations have not  
14 been reimbursed to the jurisdictional utility;

15 ~~(11)~~ (15) Natural gas public utility means any  
16 corporation, company, individual, or association of persons  
17 or their trustees, lessees, or receivers that owns, controls,  
18 operates, or manages, except for private use, any equipment, plant,  
19 or machinery, or any part thereof, for the conveyance of natural  
20 gas through pipelines in or through any part of this state. Natural  
21 gas public utility does not mean a natural gas utility owned or  
22 operated by a city or a metropolitan utilities district. Natural  
23 gas public utility does not include any activity of an otherwise  
24 jurisdictional corporation, company, individual, or association  
25 of persons or their trustees, lessees, or receivers as to the  
26 marketing or sale of compressed natural gas for end use as motor  
27 vehicle fuel. Natural gas public utility does not include any gas

1 gathering system or interstate pipeline;

2 ~~(12)~~ (16) Rate means every compensation, charge, fare,  
3 toll, tariff, rental, and classification, or any of them, demanded,  
4 observed, charged, or collected by any jurisdictional utility for  
5 any service;

6 ~~(13)~~ (17) Rate area means the geographic area within  
7 the state served by a single natural gas public utility through  
8 a common pipeline system from the same natural gas supply source  
9 within the common system for which the utility has similar costs  
10 for serving ratepayers of the same class; and

11 ~~(14)~~ (18) Therm is equivalent to one hundred thousand  
12 BTUs.

13 Sec. 3. Section 66-1839, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 66-1839 (1) The Municipal Rate Negotiations Revolving  
16 Loan Fund is created. The fund shall be used to make loans to  
17 cities for rate negotiations under section 66-1838 or section 6 of  
18 this act. Only one loan may be made for each rate filing made by a  
19 jurisdictional utility within the scope of such section. Money in  
20 the Municipal Natural Gas Regulation Revolving Loan Fund that is  
21 not necessary to finance rate proceedings initiated prior to May  
22 31, 2003, shall be transferred to the Municipal Rate Negotiations  
23 Revolving Loan Fund on May 31, 2003, and repayments of loans or  
24 other obligations owing to the Municipal Natural Gas Regulation  
25 Revolving Loan Fund on May 31, 2003, shall be deposited in the  
26 Municipal Rate Negotiations Revolving Loan Fund upon receipt. Any  
27 obligations against or commitments of money from the Municipal

1 Natural Gas Regulation Revolving Loan Fund on May 31, 2003, shall  
2 be obligations or commitments of the Municipal Rate Negotiations  
3 Revolving Loan Fund.

4 (2) The Municipal Rate Negotiations Revolving Loan Fund  
5 shall be administered by the commission which shall adopt and  
6 promulgate rules and regulations to carry out this section. The  
7 rules and regulations shall include:

8 (a) Loan application procedures and forms; and

9 (b) Fund-use monitoring and quarterly accounting of fund  
10 use.

11 (3) Applicants for a loan from the fund shall provide  
12 a budget statement which specifies the proposed use of the loan  
13 proceeds. Such proceeds may only be used for the costs and expenses  
14 incurred by the city to analyze rate filings for the purposes  
15 specified in section 66-1838 or section 6 of this act. Such costs  
16 and expenses may include the cost of rate consultants and attorneys  
17 and any other necessary costs related to the negotiation process.  
18 Disbursements from the fund shall be audited by the commission.  
19 The affected jurisdictional utility may petition the commission to  
20 initiate a proceeding to determine whether the disbursements from  
21 the fund were expended by the negotiating cities consistent with  
22 the requirements of this section.

23 (4) The fund shall be audited as part of the regular  
24 audit of the commission's budget, and copies of the audit shall  
25 be available to all cities and any jurisdictional utility. Audits  
26 conducted pursuant to this section are public records.

27 (5) Any money in the fund available for investment

1 shall be invested by the state investment officer pursuant to  
2 the Nebraska Capital Expansion Act and the Nebraska State Funds  
3 Investment Act. If the fund balance exceeds four hundred thousand  
4 dollars, the income on the money in the fund shall be credited to  
5 the permanent school fund until the balance of the Municipal Rate  
6 Negotiations Revolving Loan Fund falls below such amount.

7 (6) A city which receives a loan under this section shall  
8 be responsible to provide for the opportunity for all other cities  
9 engaged in the same negotiations with the same jurisdictional  
10 utility to participate in all negotiations. Such city shall not  
11 exclude any other city from the information or benefits accruing  
12 from the use of loan funds.

13 (7) Upon the conclusion of negotiations, regardless of  
14 the result, the loan shall be repaid by the jurisdictional utility  
15 to the commission within thirty days after the date upon which it  
16 is billed by the commission. The utility shall recover the amount  
17 paid on the loan by a special surcharge on ratepayers who are or  
18 will be affected by the rate increase request. These ratepayers may  
19 be billed on their monthly statements for a period not to exceed  
20 twelve months, and the surcharge may be shown as a separate item on  
21 the statements as a charge for rate negotiation expenses.

22 Sec. 4. (1) Beginning January 1, 2010, a jurisdictional  
23 utility may file a petition and proposed rate schedules with the  
24 commission to establish or change infrastructure system replacement  
25 cost recovery charge rate schedules that will allow for the  
26 adjustment of the jurisdictional utility's rates and charges to  
27 provide for the recovery of costs for eligible infrastructure

1 system replacements. The commission shall not approve an  
2 infrastructure system replacement cost recovery charge rate  
3 schedule if it would produce total annualized infrastructure system  
4 replacement cost recovery charge revenue below the lesser of one  
5 million dollars or one-half percent of the jurisdictional utility's  
6 base revenue level approved by the commission in the jurisdictional  
7 utility's most recent general rate proceeding. The commission  
8 shall not approve an infrastructure system replacement cost  
9 recovery charge rate schedule if it would produce total annualized  
10 infrastructure system replacement cost recovery charge revenue  
11 exceeding ten percent of the jurisdictional utility's base revenue  
12 level approved by the commission in the jurisdictional utility's  
13 most recent general rate proceeding. An infrastructure system  
14 replacement cost recovery charge rate schedule and any future  
15 changes thereto shall be calculated and implemented in accordance  
16 with the State Natural Gas Regulation Act. Infrastructure system  
17 replacement cost recovery charge revenue shall be subject to a  
18 refund based upon a finding and order of the commission to the  
19 extent provided in subsections (6) and (8) of section 5 of this  
20 act.

21 (2) The commission shall not approve an infrastructure  
22 system replacement cost recovery charge rate schedule for any  
23 jurisdictional utility that has not had a general rate proceeding  
24 decided or dismissed by issuance of a commission order within  
25 the past sixty months immediately preceding the application by  
26 the jurisdictional utility for an infrastructure system replacement  
27 cost recovery charge.

1           (3) A jurisdictional utility shall not collect an  
2 infrastructure system replacement cost recovery charge rate for a  
3 period exceeding sixty months after its initial approval unless  
4 within such sixty-month period the jurisdictional utility has filed  
5 for or is the subject of a new general rate proceeding, except that  
6 the infrastructure system replacement cost recovery charge rate  
7 may be collected until the effective date of new rate schedules  
8 established as a result of the new general rate proceeding or until  
9 the general rate proceeding is otherwise decided or dismissed by  
10 issuance of a commission order without new rates being established.

11           Sec. 5. (1) This section applies to applications for  
12 an infrastructure system replacement cost recovery charge by a  
13 jurisdictional utility whose last general rate filing was not the  
14 subject of negotiations with affected cities as provided in section  
15 66-1838.

16           (2) When a jurisdictional utility files a petition with  
17 the commission seeking to establish or change an infrastructure  
18 system replacement cost recovery charge rate schedule, it shall  
19 submit to the commission with the petition proposed infrastructure  
20 system replacement cost recovery charge rate schedules and  
21 supporting documentation regarding the calculation of the proposed  
22 infrastructure system replacement cost recovery charge rate  
23 schedule, including (a) a list of eligible projects, (b) a  
24 description of the projects, (c) the location of the projects, (d)  
25 the purpose of the projects, (e) the dates construction began and  
26 ended, (f) the total expenses for each project at completion, and  
27 (g) the extent to which such expenses are eligible for inclusion

1 in the calculation of the infrastructure system replacement cost  
2 recovery charge.

3 (3) (a) When a petition, along with any associated  
4 proposed rate schedules and documentation, is filed pursuant to  
5 subsection (2) of this section, the public advocate shall conduct  
6 an investigation of the proposed infrastructure system replacement  
7 cost recovery charge rate schedule.

8 (b) The public advocate shall cause an examination to  
9 be made of information regarding the jurisdictional utility to  
10 confirm that the underlying costs are in accordance with the  
11 State Natural Gas Regulation Act and to confirm proper calculation  
12 of the proposed infrastructure system replacement cost recovery  
13 charge rates and rate schedule. The commission shall require a  
14 report regarding such examination to be prepared and filed with  
15 the commission not later than sixty days after the petition is  
16 filed. No other revenue requirement or ratemaking issue shall be  
17 examined in consideration of the petition or associated proposed  
18 rate schedules filed pursuant to the act unless the consideration  
19 of such affects the determination of the validity of the proposed  
20 infrastructure replacement cost recovery charge rate schedule.

21 (c) The commission shall hold a hearing on the petition  
22 and any associated rate schedules at which the public advocate  
23 shall present his or her report and shall act as trial staff  
24 for the commission. The commission shall issue an order to become  
25 effective not later than ninety days after the petition is filed.

26 (d) If the commission finds that a petition complies with  
27 the requirements of the act, the commission shall enter an order

1 authorizing the jurisdictional utility to impose an infrastructure  
2 system replacement cost recovery charge rate that is sufficient to  
3 recover appropriate pretax revenue, as determined by the commission  
4 pursuant to the act.

5 (4) A jurisdictional utility may petition for a change  
6 in its rate pursuant to this section no more than once in any  
7 twelve-month period.

8 (5) In determining the appropriate pretax revenue, the  
9 commission shall consider the following factors:

10 (a) The net original cost of eligible infrastructure  
11 system replacements. For purposes of this section, the net  
12 original cost means the original cost of eligible infrastructure  
13 system replacements minus associated retirements of existing  
14 infrastructure;

15 (b) The accumulated deferred income taxes associated with  
16 the eligible infrastructure system replacements;

17 (c) The accumulated depreciation associated with the  
18 eligible infrastructure system replacements;

19 (d) The state, federal, and local income tax or excise  
20 rates at the time of such determination;

21 (e) The jurisdictional utility's actual regulatory  
22 capital structure as determined during the most recent general rate  
23 proceeding of the jurisdictional utility;

24 (f) The actual cost rates for the jurisdictional  
25 utility's debt and preferred stock as determined during the most  
26 recent general rate proceeding of the jurisdictional utility;

27 (g) The jurisdictional utility's cost of common equity as

1 determined during the most recent general rate proceeding of the  
2 jurisdictional utility; and

3 (h) The depreciation rates applicable to the eligible  
4 infrastructure system replacements at the time of the most recent  
5 general rate proceeding of the jurisdictional utility.

6 (6) (a) The monthly infrastructure system replacement cost  
7 recovery charge rate shall be allocated among the jurisdictional  
8 utility's classes of customers in the same manner as costs for the  
9 same type of facilities was allocated among classes of customers in  
10 the jurisdictional utility's most recent general rate proceeding.

11 An infrastructure system replacement cost recovery charge rate  
12 shall be assessed to customers as a monthly fixed charge and  
13 not based on volumetric consumption. Such monthly charge shall  
14 not increase more than fifty cents per residential customer over  
15 the base rates in effect at the time of the initial filing for  
16 an infrastructure system replacement cost recovery charge rate  
17 schedule. Thereafter, each subsequent filing shall not increase the  
18 monthly charge by more than fifty cents per residential customer  
19 over that charge in existence at the time of the most recent filing  
20 for an infrastructure system replacement cost recovery charge rate  
21 schedule.

22 (b) At the end of each twelve-month period during  
23 which the infrastructure system replacement cost recovery charge  
24 rate schedule is in effect, the jurisdictional utility shall  
25 reconcile the differences between the revenue resulting from  
26 the infrastructure system replacement cost recovery charge and  
27 the appropriate pretax revenue as found by the commission for

1 that period and shall submit the reconciliation and a proposed  
2 infrastructure system replacement cost recovery charge rate  
3 schedule adjustment to the commission for approval to recover or  
4 refund the difference, as appropriate, through adjustments of the  
5 infrastructure system replacement cost recovery charge rate charge.

6 (7) (a) A jurisdictional utility that has implemented  
7 an infrastructure system replacement cost recovery charge rate  
8 schedule pursuant to the act shall cease to collect such  
9 charges when new base rates and charges become effective for the  
10 jurisdictional utility following a commission order establishing  
11 customer rates in a general rate proceeding.

12 (b) In any subsequent general rate proceeding involving  
13 a jurisdictional utility which is collecting charges pursuant  
14 to an infrastructure system replacement cost recovery charge  
15 rate schedule, the commission shall reconcile any previously  
16 unreconciled infrastructure system replacement cost recovery charge  
17 revenue as necessary to ensure that the revenue matches as  
18 closely as possible the appropriate pretax revenue as found by  
19 the commission for that period.

20 (8) In the event the commission disallows, during a  
21 subsequent general rate proceeding, recovery of costs associated  
22 with eligible infrastructure system replacements previously  
23 included in an infrastructure system replacement cost recovery  
24 charge rate schedule, the commission shall order the jurisdictional  
25 utility to make such rate adjustments as necessary to recognize and  
26 account for any such overcollections.

27 (9) Nothing in this section shall be construed to

1 limit the authority of the commission to review and consider  
2 infrastructure system replacement costs along with other costs  
3 during any general rate proceeding of any jurisdictional utility.

4       Sec. 6. (1) This section applies to applications for  
5 an infrastructure system replacement cost recovery charge by a  
6 jurisdictional utility whose last general rate filing was the  
7 subject of negotiations with affected cities as provided for in  
8 section 66-1838.

9       (2) When a jurisdictional utility governed by this  
10 section files a petition with the commission seeking to establish  
11 or change an infrastructure system replacement cost recovery  
12 charge rate schedule, it shall submit proposed infrastructure  
13 system replacement cost recovery charge rate schedules and  
14 supporting documentation regarding the calculation of the proposed  
15 infrastructure system replacement cost recovery charge rate  
16 schedule with the petition and shall provide written notice to  
17 each city that will be affected by the proposed infrastructure  
18 system replacement cost recovery charge rates simultaneously with  
19 the filing with the commission. Such notice shall identify the  
20 cities that will be affected by the filing. The jurisdictional  
21 utility shall file copies of the notice with the commission and  
22 shall file with the affected cities the information prescribed by  
23 this section with each city affected by the proposed infrastructure  
24 system replacement cost recovery charge in electronic or digital  
25 form or, upon request, in paper form.

26       (3) The jurisdictional utility shall file with the  
27 cities and the commission the infrastructure system replacement

1 cost recovery charge rate schedules and supporting documentation  
2 regarding the calculation of the proposed infrastructure system  
3 replacement cost recovery charge rate schedule, including (a) a  
4 list of eligible projects, (b) a description of the projects, (c)  
5 the location of the projects, (d) the dates construction began and  
6 ended, (e) the total expenses for each project at completion, and  
7 (f) the extent to which such expenses are eligible for inclusion  
8 in the calculation of the infrastructure system replacement cost  
9 recovery charge rate.

10 (4) (a) Affected cities shall have a period of  
11 fifteen days after the date of such filing within which to  
12 adopt a resolution evidencing their intent to negotiate an  
13 infrastructure system replacement cost recovery charge rate with  
14 the jurisdictional utility. A copy of the resolution in support of  
15 negotiations adopted by each city under this section or a copy of  
16 the resolution of the rejection of the offer of negotiations shall  
17 be provided to the commission and the jurisdictional utility within  
18 seven days after its adoption.

19 (b) If the commission receives resolutions adopted prior  
20 to the expiration of the fifteen-day period provided for in  
21 subdivision (a) of this subsection evidencing the intent from  
22 cities representing more than fifty percent of the ratepayers  
23 within the affected cities to negotiate with the jurisdictional  
24 utility an infrastructure system replacement cost recovery charge  
25 rate, the commission shall certify the case for negotiation between  
26 such cities and the jurisdictional utility and shall take no action  
27 upon the petition and filings regarding such charge until the

1 negotiation period and any stipulated extension has expired or an  
2 agreement on rates is submitted, whichever occurs first.

3 (c) If the commission receives notice from cities  
4 representing more than fifty percent of the ratepayers within  
5 the affected cities which expressly reject negotiations, the  
6 infrastructure system replacement cost recovery charge rate review  
7 shall proceed immediately from the date when the commission makes  
8 such a determination in the manner provided for in section 5 of  
9 this act.

10 (d) If commission certification to pursue negotiations is  
11 received, the cities that have adopted resolutions to negotiate and  
12 the jurisdictional utility shall enter into good faith negotiations  
13 over the proposed infrastructure system replacement cost recovery  
14 charge rate.

15 (e) Negotiations between the cities and the  
16 jurisdictional utility shall continue for a period not to  
17 exceed thirty days after the date of the filing of the petition,  
18 documentation, and proposed infrastructure system replacement cost  
19 recovery charge rate schedule, except that the parties may mutually  
20 agree to extend such period for an additional thirty-day period and  
21 shall provide such stipulation to the commission.

22 (f) Notwithstanding any other provision of law, any  
23 information exchanged between the jurisdictional utility and cities  
24 pursuant to this section is not a public record within the  
25 meaning of sections 84-712 to 84-712.09 and its disclosure to the  
26 commission, its staff, the public advocate, or any other person or  
27 corporation, for any purpose, is expressly prohibited.

1           (g) If the cities and the jurisdictional utility reach  
2 agreement upon the proposed infrastructure system replacement cost  
3 recovery charge rate schedule, such agreement shall put into  
4 writing and filed with the commission. If cities representing  
5 more than fifty percent of the ratepayers within the cities  
6 affected by the proposed infrastructure system replacement cost  
7 recovery charge rate schedule enter into an agreement upon such  
8 charges and the agreement is filed with and approved by the  
9 commission, such infrastructure system replacement cost recovery  
10 charge rate schedule shall be effective and binding upon all of  
11 the jurisdictional utility's ratepayers within the affected cities.  
12 The commission shall enter its order either approving or rejecting  
13 such infrastructure system replacement cost recovery charge rate  
14 schedule within thirty days after the date of the filing of the  
15 agreement with the commission.

16           (h) Any agreement filed with the commission shall be  
17 presumed in the public interest, and absent any clear evidence on  
18 the face of the agreement that it is contrary to the standards and  
19 provisions of the State Natural Gas Regulation Act, the agreement  
20 shall be approved by the commission.

21           (i) If the negotiations fail to result in an agreement  
22 upon an infrastructure system replacement cost recovery charge  
23 rate schedule within the time permitted by this section for such  
24 negotiations, the jurisdictional utility shall formally notify the  
25 commission of this fact and the matter shall be submitted for  
26 determination by the commission as a contested proceeding with the  
27 affected cities as one party and the jurisdictional utility as the

1 other. The affected cities and the jurisdictional utility shall  
2 submit any documents, data, or information in support of the city's  
3 or utility's position to the commission in a report to be filed not  
4 later than fourteen days after the commission receives notice that  
5 negotiations have failed and formally notifies the parties that it  
6 will be hearing the matter as a contested case. The commission  
7 shall hold a hearing in the case not later than thirty-five  
8 days after the receipt of the reports of both parties. A final  
9 determination by the commission shall be rendered by the commission  
10 within twenty-one days after the adjournment of the hearing.

11 (j) Within thirty days after an infrastructure system  
12 replacement cost recovery charge rate schedule approved by the  
13 commission pursuant to this section becomes effective, copies of  
14 all documents relating to such infrastructure system replacement  
15 cost recovery charge rate schedule, except those determined to be  
16 confidential under rules and regulations adopted and promulgated by  
17 the commission or that may be withheld from the public pursuant to  
18 subdivision (f) of this subsection, shall be available for public  
19 inspection in every office and facility open to the general public  
20 of the jurisdictional utility in this state.

21 (5) A jurisdictional utility may petition for a change  
22 in an infrastructure system replacement cost recovery charge rate  
23 schedule approved pursuant to this section no more than once in  
24 any twelve-month period. Any such petition for a change shall be  
25 pursued in the manner provided for in this section.

26 (6) (a) A monthly infrastructure system replacement cost  
27 recovery charge rate shall be allocated among the jurisdictional

1 utility's classes of customers in the same manner as costs for the  
2 same type of facilities was allocated among classes of customers in  
3 the jurisdictional utility's most recent general rate proceeding.  
4 An infrastructure system replacement cost recovery charge rate  
5 shall be assessed to customers as a monthly fixed charge and  
6 not based on volumetric consumption. Such monthly charge shall  
7 not increase more than fifty cents per residential customer over  
8 the base rates in effect at the time of the initial filing for  
9 an infrastructure system replacement cost recovery charge rate  
10 schedule. Thereafter, each subsequent filing shall not increase the  
11 monthly charge more than fifty cents per residential customer over  
12 that charge in existence at the time of the most recent filing  
13 for an infrastructure system replacement cost recovery charge rate  
14 schedule.

15 (b) At the end of each twelve-month period that  
16 the infrastructure system replacement cost recovery charge  
17 rate schedule is in effect, the jurisdictional utility shall  
18 reconcile the differences between the revenue resulting from an  
19 infrastructure system replacement cost recovery charge and the  
20 appropriate pretax revenue for that period and shall submit the  
21 reconciliation and any proposed infrastructure system replacement  
22 cost recovery charge rate schedule adjustment to the affected  
23 cities for approval to recover or refund the difference, as  
24 appropriate, through adjustments of the infrastructure system  
25 replacement cost recovery charge rate. Review and approval of such  
26 reconciliation or adjustment shall proceed in the manner set out  
27 for an initial application for an infrastructure system replacement

1 cost recovery charge rate as provided in this section.

2 (7) (a) A jurisdictional utility that has implemented  
3 an infrastructure system replacement cost recovery charge rate  
4 schedule pursuant to this section shall cease to collect such  
5 charges when new base rates and charges become effective for the  
6 jurisdictional utility following a commission order establishing or  
7 approving customer rates in a subsequent general rate proceeding.

8 (b) In any subsequent general rate proceeding involving  
9 a jurisdictional utility which is collecting charges pursuant to  
10 an infrastructure system replacement cost recovery charge rate  
11 schedule, the new general rates shall reflect a reconciliation of  
12 any previously unreconciled infrastructure system replacement cost  
13 recovery charge revenue as necessary to ensure that the revenue  
14 matches as closely as possible to the appropriate pretax revenue  
15 for that period as determined in the general rate proceeding.

16 (c) If, during a subsequent general rate proceeding, the  
17 recovery of certain costs associated with eligible infrastructure  
18 system replacement cost recovery charges are disallowed, the new  
19 general rates approved shall include such adjustments as are  
20 necessary to recognize and account for any overcollections.

21 (8) Nothing in this section shall be construed to limit  
22 the authority of the commission or affected cities engaged in  
23 negotiations regarding a general filing with a jurisdictional  
24 utility to review and consider infrastructure system replacement  
25 cost recovery charge rates along with other costs during any  
26 general rate proceeding of such jurisdictional utility.

27 Sec. 7. Section 84-712.05, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           84-712.05 The following records, unless publicly  
3 disclosed in an open court, open administrative proceeding, or open  
4 meeting or disclosed by a public entity pursuant to its duties, may  
5 be withheld from the public by the lawful custodian of the records:

6           (1) Personal information in records regarding a student,  
7 prospective student, or former student of any educational  
8 institution or exempt school that has effectuated an election  
9 not to meet state approval or accreditation requirements pursuant  
10 to section 79-1601 when such records are maintained by and in  
11 the possession of a public entity, other than routine directory  
12 information specified and made public consistent with 20 U.S.C.  
13 1232g, as such section existed on January 1, 2003;

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

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

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

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

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

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

18           (8) Information solely pertaining to protection of the  
19 security of public property and persons on or within public  
20 property, such as specific, unique vulnerability assessments or  
21 specific, unique response plans, either of which is intended  
22 to prevent or mitigate criminal acts the public disclosure of  
23 which would create a substantial likelihood of endangering public  
24 safety or property; computer or communications network schema,  
25 passwords, and user identification names; guard schedules; or lock  
26 combinations;

27           (9) The security standards, procedures, policies, plans,

1 specifications, diagrams, access lists, and other security-related  
2 records of the Lottery Division of the Department of Revenue and  
3 those persons or entities with which the division has entered into  
4 contractual relationships. Nothing in this subdivision shall allow  
5 the division to withhold from the public any information relating  
6 to amounts paid persons or entities with which the division has  
7 entered into contractual relationships, amounts of prizes paid, the  
8 name of the prize winner, and the city, village, or county where  
9 the prize winner resides;

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

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

18 (12) Correspondence, memoranda, and records of telephone  
19 calls related to the performance of duties by a member of  
20 the Legislature in whatever form. The lawful custodian of the  
21 correspondence, memoranda, and records of telephone calls, upon  
22 approval of the Executive Board of the Legislative Council, shall  
23 release the correspondence, memoranda, and records of telephone  
24 calls which are not designated as sensitive or confidential in  
25 nature to any person performing an audit of the Legislature. A  
26 member's correspondence, memoranda, and records of confidential  
27 telephone calls related to the performance of his or her

1 legislative duties shall only be released to any other person with  
2 the explicit approval of the member;

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

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

22 (15) Job application materials submitted by applicants,  
23 other than finalists, who have applied for employment by any  
24 public body as defined in section 84-1409. For purposes of  
25 this subdivision, (a) job application materials means employment  
26 applications, resumes, reference letters, and school transcripts  
27 and (b) finalist means any applicant (i) who reaches the final pool

1 of applicants, numbering four or more, from which the successful  
2 applicant is to be selected, (ii) who is an original applicant  
3 when the final pool of applicants numbers less than four, or (iii)  
4 who is an original applicant and there are four or fewer original  
5 applicants; ~~and~~

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

9 (17) Information exchanged between a jurisdictional  
10 utility and city pursuant to section 6 of this act.

11 Sec. 8. Original sections 66-1802, 66-1839, and  
12 84-712.05, Reissue Revised Statutes of Nebraska, and section  
13 66-1801, Revised Statutes Cumulative Supplement, 2008, are  
14 repealed.