

LEGISLATIVE BILL 995

Approved by the Governor April 5, 2012

Introduced by Heidemann, 1; Campbell, 25.

FOR AN ACT relating to medical facilities; to amend sections 23-3501, 23-3502, 23-3504, 23-3505, 23-3508, 23-3510, 23-3511, 23-3523, 23-3524, 23-3525, 23-3553, 71-2057, 71-2059, 71-2061, and 71-20,104, Reissue Revised Statutes of Nebraska, and sections 23-3104 and 84-1410, Revised Statutes Supplement, 2011; to change provisions of the County Purchasing Act and the Open Meetings Act relating to medical facilities and public hospitals; to change and eliminate bond, board of trustee, gifts and devises, tax levy, and cost of care and services provisions relating to medical facilities; to change provisions relating to governmental entities and public hospitals; to eliminate claims and warrant provisions relating to medical facilities; to harmonize provisions; to provide severability; to repeal the original sections; to outright repeal sections 23-3506, 23-3507, and 23-3514, Reissue Revised Statutes of Nebraska; and to declare an emergency.

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

Section 1. Section 23-3104, Revised Statutes Supplement, 2011, is amended to read:

23-3104 As used in the County Purchasing Act, unless the context otherwise requires:

(1) Mobile equipment means all vehicles propelled by any power other than muscular, including, but not limited to, motor vehicles, off-road designed vehicles, motorcycles, passenger cars, self-propelled mobile homes, truck-tractors, trucks, cabin trailers, semitrailers, trailers, utility trailers, and road and general-purpose construction and maintenance machinery not designed or used primarily for the transportation of persons or property, including, but not limited to, ditchdigging apparatus, asphalt spreaders, bucket loaders, leveling graders, earthmoving carryalls, power shovels, earthmoving equipment, and crawler tractors;

(2) Personal property includes, but is not limited to, supplies, materials, mobile equipment, and equipment used by or furnished to any county officer, office, department, institution, board, or other agency of the county government. Personal property does not include election ballots;

(3) Services means any and all services except telephone, telegraph, postal, and electric light and power service, other similar services, and election contractual services; and

(4) Purchasing or purchase means the obtaining of personal property or services by sale, lease, or other contractual means. Purchase also includes contracting with sheltered workshops for products or services as provided in Chapter 48, article 15. Purchasing or purchase does not include any purchase or lease of personal property or services by a facility established under section 23-3501.

Sec. 2. Section 23-3501, Reissue Revised Statutes of Nebraska, is amended to read:

23-3501 (1) The county board in any county in this state having ~~thirty-six~~ three thousand six hundred inhabitants or more or in which the taxable value of the taxable property is twenty-eight million six hundred thousand dollars or more may issue and sell bonds of such county in such an amount as the county board may deem advisable for the construction, ~~or~~ acquisition, ~~or replacement of an indigent a hospital, a home for aged or infirm persons, a county community hospital, including any clinic of such hospital, a nursing facility, an assisted-living facility, a home health agency, a mental health clinic, a clinic or facility to combat mental retardation, developmental disabilities, a public health center, a medical complex, multiunit housing, or a similar facility required to protect the health and welfare of the people and to purchase suitable equipment for the same.~~ initially equip and acquire property deemed necessary for operation of such facility. Such bonds shall bear interest at a rate set by the county board.

(2) No bonds shall be issued pursuant to this section until the question of the issuance of the bonds has been submitted to the voters of such county at a general election or a special election called for such purpose. The issuance of such bonds shall be approved by a majority vote of the electors voting on such proposition at any such election. Such election may be called either by resolution of the county board or upon a petition submitted

to the county board calling for an election. Such petition shall be signed by the legal voters of the county equal in number to ten percent of the number of votes cast in the county for the office of Governor at the last general election.

Sec. 3. Section 23-3502, Reissue Revised Statutes of Nebraska, is amended to read:

23-3502 ~~(1)(a)~~ (1) When a county with a population of three thousand six hundred inhabitants or more and less than two hundred thousand inhabitants or with a taxable value of the taxable property of twenty-eight million six hundred thousand dollars or more establishes a facility ~~or facilities~~ as provided by section 23-3501, the county board of the county shall ~~proceed at once to~~ appoint a board of trustees.

(2) In counties having a population of two hundred thousand inhabitants or more, the county board of the county having a facility, in lieu of appointing a board of trustees of such facility, may elect to serve as the board of trustees of such facility. If the county board makes such election, the county board shall assume all the duties and responsibilities of the board of trustees of the facility, including those set forth in sections 23-3504 and 23-3505. Such election shall be evidenced by the adoption of a resolution by the county board.

~~Such~~ (3) (a) The board of trustees appointed pursuant to this section shall consist of three, five, ~~or seven,~~ or nine members as fixed by the county board. All members of the board shall be residents of such county.

(b) When the board is first established: ~~one~~

(i) If the county provides for a three-member board, one member shall be appointed for a term of two years, one for four years, and one for six years from the date ~~they are~~ such member is appointed. Thereafter, as the members' terms expire, members shall be appointed for terms of six years; ~~if the county board provides for a three-member board.~~

(ii) If the county board provides for a five-member board, one additional member shall be appointed for four years and one for six years. ~~When~~ If the board is changed to a five-member board, the three members who are serving as such trustees at the time of a change from a three-member to a five-member board shall each complete his or her respective term of office. The two additional members shall be appointed by the county board, one for a term of four years and one for a term of six years. Thereafter, as ~~their~~ the members' terms expire, members shall be appointed for terms of six years;

(iii) If the county board provides for a seven-member board, one additional member shall be appointed for two years and one for four years. ~~When~~ If the board is changed to a seven-member board, the three or five members who are serving as such trustees at the time of the change shall each complete his or her respective term of office. The two or four additional members shall be appointed by the county board. If two additional members are appointed, one shall be appointed for four years and one for six years. If four additional members are appointed, one shall be appointed for two years, two for four years, and one for six years. Thereafter, as the members' terms expire, members shall be appointed for terms of six years; and

(iv) If the county board provides for a nine-member board, one additional member shall be appointed for two years and one for six years. If the board is changed to a nine-member board, the three, five, or seven members who are serving as such trustees at the time of the change shall each complete his or her respective term of office. The two, four, or six additional members shall be appointed by the county board. If two additional members are appointed, one shall be appointed for two years and one for six years. If four additional members are appointed, two shall be appointed for two years, one for four years, and one for six years. If six additional members are appointed, two shall be appointed for two years, two for four years, and two for six years. Thereafter, as the members' terms expire, members shall be appointed for terms of six years.

(4) (a) All members of the board of trustees shall be residents of the county.

~~(2)~~ (b) In any county having a population of more than three hundred thousand inhabitants, a minimum of one member of the board of trustees shall be a resident of the county and shall reside outside the corporate limits of the city in which such facility or facilities are located. In any county having a population of more than three hundred thousand inhabitants, if only one member of the board of trustees resides outside the corporate limits of the city in which the facility ~~or facilities~~ are is located and the residence of the member is annexed by the city, he or she shall be allowed to complete his or her term of office but shall not be eligible for reappointment.

(c) The trustees shall, within ten days after their appointment, qualify by taking the oath of county officers as provided in section 11-101

and by furnishing a bond, if required by the county board, in an amount to be fixed by the county board.

They (d) Any person who has been excluded from participation in a federally funded health care program or is included in a federal exclusionary data base shall be ineligible to serve as a trustee.

(5) The board of trustees shall organize as a board of trustees by the election of one of their number elect a trustee to serve as chairperson, one as secretary, and one as treasurer. The board shall make such elections at each annual board meeting. except that in counties with two hundred thousand inhabitants or more, the county treasurer of the county in which such facility or facilities are located shall be the treasurer of the board of trustees. The treasurer shall receive and pay out all the money under the control of such board as ordered by it and shall report such expenditures and receipts to the county board on a monthly basis and as required by section 23-3507. The monthly report shall include a statement of the amount of currently outstanding registered warrants.

(3)(a) (6)(a) When a member or trustee is absent from three consecutive board meetings, either regular or special, without being excused by the remaining members of the board, his or her office shall become vacant and a new member shall be appointed by the county board to fill the vacancy for the unexpired term of such member pursuant to subdivision (3)(b) (6)(b) of this section. Such vacancy shall become effective when the county board finds that there is such a vacancy or fills the same as provided in this subsection.

(b) Any member of such board may at any time be removed from office by the county board for any reason. Vacancies shall be filled in substantially the same manner as the original appointments are made. The person appointed to fill such a vacancy shall hold office for the unexpired term of the member that he or she has replaced.

(4) In counties having a population of two hundred thousand inhabitants or more, the county board of the county having such facility or facilities, in lieu of appointing a board of trustees of such facility or facilities, may elect to serve as the board of trustees of such facility or facilities. If the county board makes such election, the county board shall assume all the duties and responsibilities of the board of trustees of the institution. Such election shall be evidenced by the adoption of a resolution by the county board.

(7) The county board shall consult with the existing board of trustees regarding the skills and qualifications of any potential appointees to the board pursuant to this section prior to appointing any new trustee.

Sec. 4. Section 23-3504, Reissue Revised Statutes of Nebraska, is amended to read:

23-3504 The board of trustees of such facility as provided by section 23-3501 shall make, adopt, and file with the county board such bylaws, rules, and regulations for its guidance and for the government of such facility as may be deemed expedient for the economical and equitable conduct of the facility. The board of trustees shall have the exclusive control of the expenditures of all money collected to the credit of the fund for such facility. After the original construction of such facility, the board of trustees shall have exclusive control over any and all improvements or additions thereto and equipment, including the authority to contract, subject to ratification by the county board, for any improvements or additions thereto and equipment. No such improvement, addition, or equipment shall cost more than fifty percent of the current replacement cost of such existing facility and equipment unless the proposition is submitted to the voters of such county at a general election or a special election called for such purpose and approved by a vote of the majority of the electors voting on the proposition at such election. The board of trustees shall also have exclusive control, supervision, care, and custody of the grounds, rooms, and buildings purchased, constructed, leased, or set apart for such purposes. The board of trustees shall have power to pay all current bills, claims, and salaries of all employees of such facility by an order upon its treasurer, signed by the superintendent of such facility and countersigned by the chairperson and secretary of the board of trustees. Facsimile signatures of the superintendent and board members may be used to sign such orders. The board of trustees shall have power to lease such facility and equipment to a charitable nonprofit organization upon such terms and conditions as may be agreed, but no such facility or equipment shall be leased unless authorized by the voters of such county at a general election or a special election called for such purpose and approved by a majority vote of the electors voting on such proposition at any such election. The board of trustees shall also have the following powers:

(1) To expend hospital operating funds for the reimbursement of the reasonable expenses of persons interviewed or retained for employment or medical staff

~~appointment, and (2) all powers and authority granted to the boards of nonprofit corporations under the Nebraska Nonprofit Corporation Act, except to the extent that those powers are inconsistent with the Hospital Authorities Act, the Nebraska Local Hospital District Act, and sections 23-3501 to 23-3527 or are specifically prohibited by law.~~

The board of trustees:

(1) May purchase or lease a site for a facility established under section 23-3501 and provide and equip any building deemed necessary to fulfill the facility's mission;

(2) May accept property by gift, devise, bequest, or otherwise and may carry out any conditions connected to the receipt of any gift, devise, or bequest;

(3) May sell, lease, exchange, encumber, or otherwise dispose of a facility or any other property under the control of the board of trustees upon a concurring vote of a majority of the board of trustees. If such sale, lease, exchange, encumbrance, or disposal is of all or substantially all of the facility or property, the sale, lease, exchange, encumbrance, or disposal shall also be approved by the county board;

(4) May borrow money on an unsecured basis or secured by the facility and revenue of the facility for the purposes of initially financing or refinancing the construction, improvement, maintenance, or replacement of the facility or equipping the facility and acquiring other property or for any other purpose deemed appropriate by the board of trustees. Any issuance of revenue bonds for which the revenue of the facility has been pledged shall be subject to approval by the county board;

(5) Shall have exclusive control of the expenditures of all money collected to the credit of the fund for any such facility;

(6) Shall have exclusive control over any and all improvements or additions to the facility and equipment, including the authority to contract for improvements, additions, equipment, and other property. If any such improvement or addition to the facility costs more than fifty percent of the current replacement cost of the facility, the improvement or addition shall also be approved by the county board;

(7) Shall have exclusive control, supervision, care, and custody of the grounds, rooms, buildings, and other property purchased, constructed, leased, or set apart for the purposes set forth under section 23-3501;

(8) Shall have the authority to pay all bills and claims due and owing by the facility and the salaries of all employees of such facility;

(9) Shall have the authority to expend hospital operating funds for recruitment and reimbursement of the reasonable expenses of any person interviewed or retained for employment or for medical staff appointment at the facility;

(10) May authorize the delivery of any additional health care service, ambulance service, assisted-living or independent living service, or other ancillary service deemed by the board to be necessary for the betterment of the health status of the residents of the county;

(11) May control, own, and operate clinics and health care facilities both within and outside the county; and

(12) Is granted all other powers and duties necessary for the management, control, and governance of a facility, including, but not limited to, any applicable powers and duties granted to any board under Nebraska law relating to nonprofit corporations, except as otherwise provided in this section or section 23-3505.

Sec. 5. Section 23-3505, Reissue Revised Statutes of Nebraska, is amended to read:

~~23-3505 The board of trustees of such facility or facilities as provided by section 23-3501 shall have power to appoint, remove, and fix the compensation of a suitable administrator, superintendent or matron, or two or more of such officials, and necessary assistants and in general carry out the spirit and intent of sections 23-3501 to 23-3509 in establishing and maintaining such facility or facilities.~~

The board of trustees shall:

(1) Hold meetings at least once each month and keep a complete record of all of its proceedings;

(2) Adopt bylaws, rules, and regulations for its own guidance and for the governance of a facility. The board of trustees shall file such bylaws, rules, and regulations with the county board;

(3) Employ or contract for an administrator of a facility, fix the administrator's compensation, and review the administrator's job performance on at least an annual basis. The administrator shall oversee the day-to-day operations of the facility and its employees;

(4) If a facility maintains a medical staff, adopt and approve

medical staff bylaws that govern the medical staff of the facility, approve the appointment of a qualified medical staff, and oversee the quality of medical care and services provided at the facility;

(5) Manage and control a facility's funds in accordance with guidelines established for political subdivisions by the Nebraska Investment Council and invest such funds in investments as permitted for counties in the State of Nebraska;

(6) Fix the price to be charged to patients admitted to a facility for care and treatment;

(7) Establish charity-care policies for free treatment or financial assistance for care provided by a facility;

(8) Procure and pay premiums on any and all insurance policies required for the prudent management of a facility, including, but not limited to, general liability, professional malpractice liability, workers' compensation, vehicle liability, and directors' and officers' liability; and

(9) On or before July 15 of each year:

(a) File with the county board a report of its proceedings with reference to a facility and a statement of all receipts and expenditures during the year; and

(b) Certify the amount necessary, if any, to maintain and improve a facility for the ensuing year.

The treasurer of the board of trustees or his or her designee shall receive and pay out all money under the control of the board of trustees as ordered by the board and report such expenditures and receipts to the county board as required by subdivision (9) (a) of this section.

Sec. 6. Section 23-3508, Reissue Revised Statutes of Nebraska, is amended to read:

23-3508 (1) ~~The county board in counties in this state in which such a facility or facilities have has been established as provided in section 23-3501 may, by a majority vote of the board, issue and sell bonds of the county in such sums as the county board may deem advisable to defray the cost of improvements or additions thereto, and equipment, and other property deemed necessary for operation of the facility. Such bonds shall not exceed the amount authorized for improvements, additions, or equipment in section 23-3504.~~

~~(2) The county board may also, either on its own initiative or upon the recommendation of the board of trustees, from time to time submit to the electors of such county at a general election or at a special election called for that purpose the question of the issuance of the bonds of such county to defray the cost of improvements or additions to such facility or facilities or equipment therefor in an amount either within or exceeding the limitation of fifty percent of the current replacement cost of such existing facility or facilities and equipment. If approved by the vote of a majority of the electors voting on such proposition, the county board shall issue and sell such bonds. The county board, if it deems it best, may combine in one question to the voters the proposition of authorizing such improvements, additions, or equipment in excess of the limitation prescribed, as provided in section 23-3504, and the issuance of bonds under this section.~~

~~(3) (2) Such bonds shall (a) be payable in not to exceed twenty thirty years from after the date of issuance, (b) bear interest payable annually or semiannually, and (c) contain an option to the county to pay all or any part thereof at any time after five years from after the date of issuance. When such bonds have been issued under this section or section 23-3501, the county board shall cause to be levied and collected annually a tax upon all of the taxable property of such county sufficient to pay the interest and principal of the bonds as the same interest and principal become due and payable. If the county board deems it appropriate, the county board may submit to the electors of such county at a general or special election the question of whether to exceed the tax limitation set forth in Article VIII, section 5, of the Constitution of Nebraska or any other applicable statutory levy limitation.~~

~~(3) Any taxes levied to pay bonds issued under this section or section 23-3501 shall be kept in a separate fund in the county treasury. Any such bonds shall not be deemed to be payable from the general fund of the county.~~

~~(4) In addition to the issuance of bonds therefor, the county board may also place operating income from the operation of such facility which is not needed for current operations into a special reserve fund to be used to defray the cost of such improvements or additions and equipment. Income placed in such fund may be withdrawn and used for operating expenses with the approval of the county board.~~

~~(4) This section shall not apply to any bond or other indebtedness~~

authorized by the board of trustees pursuant to section 23-3504.

Sec. 7. Section 23-3510, Reissue Revised Statutes of Nebraska, is amended to read:

23-3510 Counties having ~~thirty-six~~ hundred inhabitants or more are hereby authorized and empowered to ~~(1) accept a gift or devise of or to purchase a building suitable for conversion into such facility or facilities as provided by section 23-3501, (2) purchase real estate and erect a building or buildings thereon for such facility or facilities, and (3) maintain, manage, improve, remodel, equip and operate such facility or facilities.~~ The county board of any county may, in its discretion, accept a gift or devise of a specific sum of money for the purposes above set forth in this section, of constructing, acquiring, or replacing a facility as provided by section 23-3501 and by tax levy raise such additional sum of money as may be necessary to ~~remodel, build or construct, acquire, or replace~~ such facility, or facilities, and support and maintain the same. Before any such gift or devise may be accepted, the same must be approved by the county board, and the total value of all gifts and devises accepted and approved for the original construction or acquisition of such facility or facilities must equal at least fifty percent of the cost of such construction or acquisition before any tax levy can be made for the purposes provided in this section.

Sec. 8. Section 23-3511, Reissue Revised Statutes of Nebraska, is amended to read:

23-3511 The county board shall have power to may levy a tax each year of not to exceed three and five-tenths cents on each one hundred dollars upon the taxable value of all the taxable property in such county for the purpose of acquiring, remodeling, improving, equipping, maintaining, and operating such a facility ~~or facilities~~ as provided by section 23-3501. In counties having a population of not more than seven thousand ~~persons,~~ inhabitants, such tax shall not exceed seven cents on each one hundred dollars of the taxable value. The county board shall by resolution determine and declare how the facility ~~or facilities~~ shall be managed.

Sec. 9. Section 23-3523, Reissue Revised Statutes of Nebraska, is amended to read:

23-3523 ~~Suit~~ Any suit to recover such any costs and fees for such the care and services as described in section 23-3522 shall be brought (1) in the name of the county maintaining and operating the hospital, board of trustees of the facility established under section 23-3501 (2) in the case of a county hospital maintained and operated by more than one county, in the name of the county in which the hospital facility, or any part of it, is located, and (3) in the case of a hospital maintained and operated by a hospital district, in the name of the hospital district.

Sec. 10. Section 23-3524, Reissue Revised Statutes of Nebraska, is amended to read:

23-3524 The governing board of any such hospital providing such the care and services shall have the power to described in section 23-3522 and its administrator or his or her designee may compromise and settle or completely write off the costs and fees for care and services rendered in or by its the hospital on any case where the board, in its sole judgment, decides such action is advisable for any reason. pursuant to any terms and conditions of policies approved by the board.

Sec. 11. Section 23-3525, Reissue Revised Statutes of Nebraska, is amended to read:

23-3525 Costs and fees collected for care and services rendered by a county hospital or a hospital district hospital shall be deposited in a fund for the exclusive use by the appropriate county hospital or hospital district for the maintenance, operation, and improvement of ~~its~~ the hospital.

Sec. 12. Section 23-3553, Reissue Revised Statutes of Nebraska, is amended to read:

23-3553 Nothing contained in the Nebraska Local Hospital District Act and sections 23-3501 to 23-3519 and 23-3528 to 23-3552 shall be construed to prohibit the board of trustees of any facility ~~specified in~~ established under section 23-3501 or a local hospital district from establishing depreciation funds from patient or other revenue income for the purpose of replacing equipment or providing for future improvements or additions or from using such patient or other revenue income for purchasing equipment or for retiring indebtedness incurred for improvements or additions not financed by bonds of the county or direct tax levies. The limitations upon expenditures provided for in ~~sections 23-3504 and~~ section 23-3508 shall not apply to expenditures made from patient or other revenue income or for the retiring of indebtedness or payment of other obligations from such patient or revenue income. ~~Any amounts expended by the board of trustees of any facility or facilities or a local hospital district for the purposes provided in this~~

~~section on or before July 6, 1965, without a bond issue or tax levy shall not be considered to have been expended without statutory authority but shall be considered proper expenditures if made for the purposes stated in this section.~~

Sec. 13. Section 71-2057, Reissue Revised Statutes of Nebraska, is amended to read:

71-2057 For purposes of sections 71-2056 to 71-2061, unless the context otherwise requires:

(1) Hospital health services means, but is not limited to, any health care clinical, diagnostic, or rehabilitation service and any administrative, managerial, health system, or operational service incident to such service;

(2) Market strategy means any plan, strategy, or device developed or intended to promote, sell, or offer to sell any hospital health service;

(3) Strategic plan means any plan, strategy, or device developed or intended to construct, operate, or maintain a health facility or to engage in providing, promoting, or selling a hospital health service; and

(4) Tangible benefit means, but is not limited to, any (a) reasonable expectation of a demonstrable increase in or maintenance of usage of the provider's services, (b) contractual provision requiring quality control of patient care and participation in a resource monitoring procedure, ~~or~~ (c) reasonable expectation of prompt payment for any service rendered, or (d) activity that promotes health or furthers the provider's mission.

Sec. 14. Section 71-2059, Reissue Revised Statutes of Nebraska, is amended to read:

71-2059 A political subdivision, state agency, or other governmental entity which owns or operates a hospital or hospital health service ~~shall, may,~~ relative to the delivery of health care services: ~~have the authority to:~~

(1) Enter into agreements with other health care providers, both governmental and nongovernmental, to share services or provide a tangible benefit to the hospital and into other cooperative ventures;

(2) Join or sponsor membership in organizations or associations intended to benefit the hospital or hospitals in general;

(3) Enter into ~~partnerships,~~ contractual joint ventures with other governmental hospitals and health care organizations or nonprofit hospitals and health care organizations when entering into such a joint venture provides a tangible benefit to the residents of the political subdivision, state agency, or other governmental entity that owns or operates a hospital or health service;

~~(4) Create or merge with other corporations;~~

~~(5) Create or merge with other limited liability companies;~~

(4) Hold a membership interest in a nonprofit corporation when holding such interest provides a tangible benefit to the residents of the political subdivision, state agency, or other governmental entity that owns or operates a hospital or health service;

~~(6) (5) Have members of its governing authority or its officers or administrators serve without pay as directors or officers of any such venture; organization, association, partnership, limited liability company, or corporation;~~

~~(7) (6) Offer, directly or indirectly, products and services of the hospital or any such venture, organization, association, partnership, limited liability company, or corporation to the general public; and~~

~~(8) (7) Acquire, erect, staff, equip, or operate one or more medical office buildings, clinic buildings, or other buildings or parts thereof for medical services both within and outside the jurisdiction of the political subdivision, state agency, or other governmental entity. Such buildings or parts may be freestanding facilities or additions to or parts of an existing hospital or health care facility. Unless the political subdivision, state agency, or other governmental entity declares otherwise, the building or parts shall be considered an addition or improvement to the existing facilities. The political subdivision, state agency, or other governmental entity may lease all or part of such building to one or more health care practitioners or groups of health care practitioners or otherwise allow health care practitioners the use thereof on such terms as the political subdivision, state agency, or other governmental entity deems appropriate. Such lease or other use shall not be required to comply with public bidding requirements or approval of the electorate.~~

Sec. 15. Section 71-2061, Reissue Revised Statutes of Nebraska, is amended to read:

71-2061 (1) All agreements and obligations undertaken and all securities issued, as permitted under sections 71-2056 to 71-2061, by a hospital which is owned or operated by a political subdivision, state agency,

or other governmental entity shall be exclusively an obligation of the hospital and shall not create an obligation or debt of the state or any political subdivision, state agency, or other governmental entity. The full faith and credit of the state or of any political subdivision, state agency, or other governmental entity shall not be pledged for the payment of any securities issued by such a hospital, nor shall the state or any political subdivision, state agency, or other governmental entity be liable in any manner for the payment of the principal of or interest on any securities of such a hospital or for the performance of any pledge, mortgage, obligation, or agreement of any kind that may be undertaken by such a hospital.

(2) Expenditures permitted by sections 71-2056 to 71-2061 to be made by or on behalf of a hospital shall be for operating and maintaining public hospitals and public facilities for a public purpose. No such expenditure shall be considered to be a giving or lending of the credit of the state, or a granting of public money or a thing of value, in aid of any individual, association, or corporation within the meaning of any constitutional or statutory provision.

(3) Membership interests and contractual joint ventures permitted by section 71-2059 that further the purposes of the political subdivision, state agency, or other governmental entity shall not be considered to cause the political subdivision, state agency, or other governmental entity to become a subscriber or owner of capital stock or any interest in a private corporation or association within the meaning of Nebraska law.

Sec. 16. Section 71-20,104, Reissue Revised Statutes of Nebraska, is amended to read:

71-20,104 (1) No person shall engage in the acquisition of a hospital owned by a nonprofit corporation without first having applied for and received the approval of the department and without first having notified the Attorney General and, if applicable, received approval from the Attorney General pursuant to the Nonprofit Hospital Sale Act. No person shall engage in the acquisition of a hospital not owned by a nonprofit corporation without first having applied for and received the approval of the department pursuant to the act unless such acquiring person is a nonprofit corporation exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code or is a governmental entity. For purposes of the act, approval of the department and the Attorney General shall not be required for the acquisition of a hospital not owned by a nonprofit corporation as follows: ~~(1)~~ (a) The lease or sale of a county hospital approved under subdivision (3) of section 23-3504; or ~~(2)~~ (b) the dissolution of a hospital district approved under sections 23-3544 to 23-3546 or the merger of hospital districts approved under sections 23-3573 to 23-3578.

(2) Any person not required to obtain the approval of the department under the ~~provisions of the~~ Nonprofit Hospital Sale Act shall give the Attorney General at least thirty days' notice of an impending acquisition, during which time the Attorney General may take any necessary and appropriate action consistent with his or her general duties of oversight with regard to the conduct of charities. The notice shall briefly describe the impending acquisition, including any change in ownership of tangible or intangible assets.

(3) The application shall be submitted to the department and the Attorney General on forms provided by the department and shall include the name of the seller, the name of the purchaser or other parties to an acquisition, the terms of the proposed agreement, the sale price, a copy of the acquisition agreement, a financial and economic analysis and report from an independent expert or consultant of the effect of the acquisition under the criteria set forth in section 71-20,108, and all other related documents. A copy of the application and copies of all additional related materials shall be submitted to the department and to the Attorney General at the same time. The applications and all related documents shall be considered public records for purposes of sections 84-712 to 84-712.09.

Sec. 17. Section 84-1410, Revised Statutes Supplement, 2011, is amended to read:

84-1410 (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; ~~or~~

(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.

Sec. 18. If any section in this act or any part of any section is declared invalid or unconstitutional, the declaration shall not affect the validity or constitutionality of the remaining portions.

Sec. 19. Original sections 23-3501, 23-3502, 23-3504, 23-3505, 23-3508, 23-3510, 23-3511, 23-3523, 23-3524, 23-3525, 23-3553, 71-2057, 71-2059, 71-2061, and 71-20,104, Reissue Revised Statutes of Nebraska, and sections 23-3104 and 84-1410, Revised Statutes Supplement, 2011, are repealed.

Sec. 20. The following sections are outright repealed: Sections 23-3506, 23-3507, and 23-3514, Reissue Revised Statutes of Nebraska.

Sec. 21. Since an emergency exists, this act takes effect when passed and approved according to law.