

LEGISLATIVE BILL 565

Approved by the Governor May 26, 2023

Introduced by Bostelman, 23; Slama, 1; Raybould, 28.

A BILL for an act relating to natural resources; to amend sections 18-2441, 37-104, 37-451, 37-453, 37-457, 37-492, 37-559, 37-708, 57-904, 70-619, 70-1001, 70-1001.01, and 70-1025, Reissue Revised Statutes of Nebraska, and sections 37-407, 37-447, 37-448, 37-449, 66-2301, and 81-15,160, Revised Statutes Cumulative Supplement, 2022; to adopt the Public Water and Natural Resources Project Contracting Act; to change provisions relating to agency powers under the Municipal Cooperative Financing Act; to change a quorum requirement for Game and Parks Commission meetings; to change provisions of the Game Law relating to fees charged, permits issued, destruction of predators, and prohibited acts in game refuges; to change provisions relating to the compensation of members of the Nebraska Oil and Gas Conservation Commission; to state legislative findings, to state intent regarding appropriations, to provide for a grant program as prescribed, and to provide powers and duties for the Department of Economic Development relating to a regional clean hydrogen hub; to adopt the Nuclear and Hydrogen Development Act; to change eligibility qualifications for members of the board of directors of public power and irrigation districts; to change Nebraska Power Review Board provisions relating to state policy and requirements for an annual report as prescribed; to define and redefine terms; to extend available grant funding for new scrap tire projects under the Waste Reduction and Recycling Incentive Act; to harmonize provisions; to provide operative dates; to repeal the original sections; and to declare an emergency.

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

Section 1. Sections 1 to 20 of this act shall be known and may be cited as the Public Water and Natural Resources Project Contracting Act.

Sec. 2. For purposes of the Public Water and Natural Resources Project Contracting Act:

(1) Alternative technical concept means changes suggested by a qualified, eligible, short-listed design-builder to the department's basic configurations, project scope, design, or construction criteria;

(2) Best value-based selection process means a process of selecting a design-builder using price, schedule, and qualifications for evaluation factors;

(3) Construction manager means the legal entity which proposes to enter into a construction manager-general contractor contract pursuant to the act;

(4) Construction manager-general contractor contract means a contract which is subject to a qualification-based selection process between the department and a construction manager to furnish preconstruction services during the design development phase of the project and, if an agreement can be reached which is satisfactory to the department, construction services for the construction phase of the project;

(5) Construction services means activities associated with building the project;

(6) Department means the Department of Natural Resources;

(7) Design-build contract means a contract between the department and a design-builder which is subject to a best value-based selection process to furnish (a) architectural, engineering, and related design services and (b) labor, materials, supplies, equipment, and construction services;

(8) Design-builder means the legal entity which proposes to enter into a design-build contract;

(9) Preconstruction services means all nonconstruction-related services that a construction manager performs in relation to the design of the project before execution of a contract for construction services. Preconstruction services includes, but is not limited to, cost estimating, value engineering studies, constructability reviews, delivery schedule assessments, and life-cycle analysis;

(10) Private partner means any entity that is a partner in a public-private partnership other than the State of Nebraska, any agency of the State of Nebraska, the federal government, any agency of the federal government, any other state government, or any agency of any government at any level;

(11) Progressive design-build means a project-delivery process in which both the design and construction of a project are procured from a single entity that is selected through a qualification-based selection process at the earliest feasible stage of the project;

(12) Project performance criteria means the performance requirements of the project suitable to allow the design-builder to make a proposal. Performance requirements shall include, but are not limited to, the following, if required by the project: Capacity, durability, standards, ingress and egress requirements, description of the site, surveys, soil and environmental information concerning the site, material quality standards, design and milestone dates, site development requirements, compliance with applicable law,

and other criteria for the intended use of the project;

(13) Proposal means an offer in response to a request for proposals (a) by a design-builder to enter into a design-build contract or (b) by a construction manager to enter into a construction manager-general contractor contract;

(14) Public-private partnership means a project delivery method for construction or financing of capital projects or procurement of services under a written public-private partnership agreement entered into pursuant to section 20 of this act between at least one private partner and the State of Nebraska or any agency of the state;

(15) Qualification-based selection process means a process of selecting a construction manager or progressive design-builder based on qualifications;

(16) Request for proposals means the documentation by which the department solicits proposals; and

(17) Request for qualifications means the documentation or publication by which the department solicits qualifications.

Sec. 3. The purpose of the Public Water and Natural Resources Project Contracting Act is to provide the department alternative methods of contracting for public water and natural resources projects. The alternative methods of contracting shall be available to the department for use on any project regardless of the funding source. Notwithstanding any other provision of state law to the contrary, the Public Water and Natural Resources Project Contracting Act shall govern the design-build, progressive design-build, and construction manager-general contractor procurement processes.

Sec. 4. The department, in accordance with the Public Water and Natural Resources Project Contracting Act, may solicit and execute a design-build contract, a progressive design-build contract, or a construction manager-general contractor contract for a public surface water or groundwater-related infrastructure project.

Sec. 5. The department may hire an engineering or architectural consultant to assist the department with the development of project performance criteria and requests for proposals, with evaluation of proposals, with evaluation of the construction to determine adherence to the project performance criteria, and with any additional services requested by the department to represent its interests in relation to a project. The procedures used to hire such person or organization shall comply with the Nebraska Consultants' Competitive Negotiation Act. The person or organization hired shall be ineligible to be included as a provider of other services in a proposal for the project for which the person or organization has been hired and shall not be employed by or have a financial or other interest in a design-builder or construction manager who will submit a proposal.

Sec. 6. The department shall adopt guidelines for entering into a design-build contract, a progressive design-build contract, or a construction manager-general contractor contract. The department's guidelines shall include the following:

(1) Preparation and content of requests for qualifications;

(2) Preparation and content of requests for proposals;

(3) Qualification and short-listing of design-builders, progressive design-builders, and construction managers. The guidelines shall provide that the department will evaluate prospective design-builders, progressive design-builders, and construction managers based on the information submitted to the department in response to a request for qualifications and will select a short list of design-builders, progressive design-builders, or construction managers who shall be considered qualified and eligible to respond to the request for proposals;

(4) Preparation and submittal of proposals;

(5) Procedures and standards for evaluating proposals;

(6) Procedures for negotiations between the department and the design-builders, progressive design-builders, or construction managers submitting proposals prior to the acceptance of a proposal if any such negotiations are contemplated; and

(7) Procedures for the evaluation of construction under a design-build contract or a progressive design-build contract to determine adherence to the project performance criteria.

Sec. 7. (1) The process for selecting a design-builder and entering into a design-build contract shall be in accordance with sections 8 to 11 of this act.

(2) Except as otherwise specifically provided in the Public Water and Natural Resources Project Contracting Act, the process for selecting a progressive design-builder and entering into a progressive design-build contract shall be in accordance with sections 8 to 11 of this act.

Sec. 8. (1) The department shall prepare a request for qualifications for design-build and progressive design-build proposals and shall prequalify design-builders and progressive design-builders. The request for qualifications shall describe the project in sufficient detail to permit a design-builder or a progressive design-builder to respond. The request for qualifications shall identify the maximum number of design-builders or progressive design-builders the department will place on a short list as qualified and eligible to receive a request for proposals.

(2) A person or organization hired by the department under section 5 of this act shall be ineligible to compete for a design-build contract on the same project for which the person or organization was hired.

(3) The request for qualifications shall be (a) published in a newspaper of statewide circulation at least thirty days prior to the deadline for

receiving the request for qualifications and (b) sent by first-class mail to any design-builder or progressive design-builder upon request.

(4) The department shall create a short list of qualified and eligible design-builders or progressive design-builders in accordance with the guidelines adopted pursuant to section 6 of this act. The department shall select at least two prospective design-builders or progressive design-builders, except that if only one design-builder or progressive design-builder has responded to the request for qualifications, the department may, in its discretion, proceed or cancel the procurement. The request for proposals shall be sent only to the design-builders or progressive design-builders placed on the short list.

Sec. 9. The department shall prepare a request for proposals for each design-build or progressive design-build contract. The request for proposals shall contain, at a minimum, the following elements:

(1) The guidelines adopted in accordance with section 6 of this act. The identification of a publicly accessible location of the guidelines, either physical or electronic, shall be considered compliance with this subdivision;

(2) The proposed terms and conditions of the design-build or progressive design-build contract, including any terms and conditions which are subject to further negotiation;

(3) A project statement which contains information about the scope and nature of the project;

(4) If applicable, a statement regarding alternative technical concepts including the process and time period in which such concepts may be submitted, confidentiality of the concepts, and ownership of the rights to the intellectual property contained in such concepts;

(5) Project performance criteria;

(6) Budget parameters for the project;

(7) Any bonding and insurance required by law or as may be additionally required by the department;

(8) The criteria for evaluation of proposals and the relative weight of each criterion. For both design-build and progressive design-build contracts, the criteria shall include, but are not limited to, construction experience, design experience, and the financial, personnel, and equipment resources available for the project. For design-build contracts only, the criteria shall also include the cost of the work. For progressive design-build contracts only, the criteria shall also include consideration of the historic reasonableness of the progressive design-builder's costs and expenses when bidding and completing projects, whether such projects were completed using the progressive design-build process or another bidding and contracting process. The relative weight to apply to any criterion shall be at the discretion of the department based on each project, except that for all design-build contracts, the cost of the work shall be given a relative weight of at least fifty percent;

(9) A requirement that the design-builder or progressive design-builder provide a written statement of the design-builder's or progressive design-builder's proposed approach to the design and construction of the project, which may include graphic materials illustrating the proposed approach to design and construction and shall include price proposals;

(10) A requirement that the design-builder or progressive design-builder agree to the following conditions:

(a) At the time of the design-build or progressive design-build proposal, the design-builder or progressive design-builder must furnish to the department a written statement identifying the architect or engineer who will perform the architectural or engineering work for the project. The architect or engineer engaged by the design-builder or progressive design-builder to perform the architectural or engineering work with respect to the project must have direct supervision of such work and may not be removed by the design-builder or progressive design-builder prior to the completion of the project without the written consent of the department;

(b) At the time of the design-build or progressive design-build proposal, the design-builder or progressive design-builder must furnish to the department a written statement identifying the general contractor who will provide the labor, material, supplies, equipment, and construction services. The general contractor identified by the design-builder or progressive design-builder may not be removed by the design-builder or progressive design-builder prior to completion of the project without the written consent of the department;

(c) A design-builder or progressive design-builder offering design-build or progressive design-build services with its own employees who are design professionals licensed to practice in Nebraska must (i) comply with the Engineers and Architects Regulation Act by procuring a certificate of authorization to practice architecture or engineering and (ii) submit proof of sufficient professional liability insurance in the amount required by the department; and

(d) The rendering of architectural or engineering services by a licensed architect or engineer employed by the design-builder or progressive design-builder must conform to the Engineers and Architects Regulation Act;

(11) The amount and terms of the stipend required pursuant to section 10 of this act, if any; and

(12) Other information or requirements which the department, in its discretion, chooses to include in the request for proposals.

Sec. 10. The department shall pay a stipend to qualified design-builders that submit responsive proposals but are not selected. Payment of the stipend shall give the department ownership of the intellectual property contained in

the proposals and alternative technical concepts. The amount of the stipend shall be at the discretion of the department as disclosed in the request for proposals.

Sec. 11. (1) Design-builders and progressive design-builders shall submit proposals as required by the request for proposals. The department may meet with individual design-builders and progressive design-builders prior to the time of submitting the proposal and may have discussions concerning alternative technical concepts. If an alternative technical concept provides a solution that is equal to or better than the requirements in the request for proposals and the alternative technical concept is acceptable to the department, it may be incorporated as part of the proposal by the design-builder or progressive design-builder. Notwithstanding any other provision of state law to the contrary, alternative technical concepts shall be confidential and not disclosed to other design-builders, progressive design-builders, or members of the public from the time the proposals are submitted until such proposals are opened by the department.

(2) Proposals shall be sealed and shall not be opened until expiration of the time established for making the proposals as set forth in the request for proposals.

(3) Proposals may be withdrawn at any time prior to the opening of such proposals, in which case no stipend shall be paid. The department shall have the right to reject any and all proposals at no cost to the department other than any stipend for design-builders who have submitted responsive proposals. The department may thereafter solicit new proposals using the same or different project performance criteria or may cancel the design-build or progressive design-build solicitation.

(4) The department shall rank the design-builders or progressive design-builders in order of best value pursuant to the criteria in the request for proposals. The department may meet with design-builders or progressive design-builders prior to ranking.

(5) The department may attempt to negotiate a design-build or progressive design-build contract with the highest ranked design-builder or progressive design-builder selected by the department and may enter into a design-build or progressive design-build contract after negotiations. If the department is unable to negotiate a satisfactory design-build or progressive design-build contract with the highest ranked design-builder or progressive design-builder, the department may terminate negotiations with that design-builder or progressive design-builder. The department may then undertake negotiations with the second highest ranked design-builder or progressive design-builder and may enter into a design-build or progressive design-build contract after negotiations. If the department is unable to negotiate a satisfactory contract with the second highest ranked design-builder or progressive design-builder, the department may undertake negotiations with the third highest ranked design-builder or progressive design-builder, if any, and may enter into a design-build or progressive design-build contract after negotiations.

(6) If the department is unable to negotiate a satisfactory contract with any of the ranked design-builders or progressive design-builders, the department may either revise the request for proposals and solicit new proposals or cancel the design-build or progressive design-build process under the Public Water and Natural Resources Project Contracting Act.

Sec. 12. (1) The process for selecting a construction manager and entering into a construction manager-general contractor contract shall be in accordance with this section and sections 13 to 15 of this act.

(2) The department shall prepare a request for qualifications for construction manager-general contractor contract proposals and shall prequalify construction managers. The request for qualifications shall describe the project in sufficient detail to permit a construction manager to respond. The request for qualifications shall identify the maximum number of eligible construction managers the department will place on a short list as qualified and eligible to receive a request for proposals.

(3) The request for qualifications shall be (a) published in a newspaper of statewide circulation at least thirty days prior to the deadline for receiving the request for qualifications and (b) sent by first-class mail to any construction manager upon request.

(4) The department shall create a short list of qualified and eligible construction managers in accordance with the guidelines adopted pursuant to section 6 of this act. The department shall select at least two construction managers, except that if only one construction manager has responded to the request for qualifications, the department may, in its discretion, proceed or cancel the procurement. The request for proposals shall be sent only to the construction managers placed on the short list.

Sec. 13. The department shall prepare a request for proposals for each construction manager-general contractor contract. The request for proposals shall contain, at a minimum, the following elements:

(1) The guidelines adopted by the department in accordance with section 6 of this act. The identification of a publicly accessible location of the guidelines, either physical or electronic, shall be considered compliance with this subdivision;

(2) The proposed terms and conditions of the contract, including any terms and conditions which are subject to further negotiation;

(3) Any bonding and insurance required by law or as may be additionally required by the department;

(4) General information about the project which will assist the department

in its selection of the construction manager, including a project statement which contains information about the scope and nature of the project, the project site, the schedule, and the estimated budget;

(5) The criteria for evaluation of proposals and the relative weight of each criterion;

(6) A statement that the construction manager shall not be allowed to sublet, assign, or otherwise dispose of any portion of the contract without consent of the department. In no case shall the department allow the construction manager to sublet more than seventy percent of the work, excluding specialty items; and

(7) Other information or requirements which the department, in its discretion, chooses to include in the request for proposals.

Sec. 14. (1) Construction managers shall submit proposals as required by the request for proposals.

(2) Proposals shall be sealed and shall not be opened until expiration of the time established for making the proposals as set forth in the request for proposals.

(3) Proposals may be withdrawn at any time prior to signing a contract for preconstruction services. The department shall have the right to reject any and all proposals at no cost to the department. The department may thereafter solicit new proposals or may cancel the construction manager-general contractor procurement process.

(4) The department shall rank the construction managers in accordance with the qualification-based selection process and pursuant to the criteria in the request for proposals. The department may meet with construction managers prior to the ranking.

(5) The department may attempt to negotiate a contract for preconstruction services with the highest ranked construction manager and may enter into a contract for preconstruction services after negotiations. If the department is unable to negotiate a satisfactory contract for preconstruction services with the highest ranked construction manager, the department may terminate negotiations with that construction manager. The department may then undertake negotiations with the second highest ranked construction manager and may enter into a contract for preconstruction services after negotiations. If the department is unable to negotiate a satisfactory contract with the second highest ranked construction manager, the department may undertake negotiations with the third highest ranked construction manager, if any, and may enter into a contract for preconstruction services after negotiations.

(6) If the department is unable to negotiate a satisfactory contract for preconstruction services with any of the ranked construction managers, the department may either revise the request for proposals and solicit new proposals or cancel the construction manager-general contractor contract process under the Public Water and Natural Resources Project Contracting Act.

Sec. 15. (1) Before the construction manager begins any construction services, the department shall:

(a) Conduct an independent cost estimate for the project; and

(b) Conduct contract negotiations with the construction manager to develop a construction manager-general contractor contract for construction services.

(2) If the construction manager and the department are unable to negotiate a contract, the department may use other contract procurement processes. Persons or organizations who submitted proposals but were unable to negotiate a contract with the department shall be eligible to compete in the other contract procurement processes.

Sec. 16. A design-build contract, a progressive design-build contract, and a construction manager-general contractor contract may be conditioned upon later refinements in scope and price and may permit the department in agreement with the design-builder, progressive design-builder, or construction manager to make changes in the project without invalidating the contract.

Sec. 17. The department may enter into agreements under the Public Water and Natural Resources Project Contracting Act to let, design, and construct projects for political subdivisions when any of the funding for such projects is provided by or through the department. In such instances, the department may enter into contracts with the design-builder, progressive design-builder, or construction manager. The Political Subdivisions Construction Alternatives Act shall not apply to projects let, designed, and constructed under the supervision of the department pursuant to agreements with political subdivisions under the Public Water and Natural Resources Project Contracting Act.

Sec. 18. Nothing in the Public Water and Natural Resources Project Contracting Act shall limit or reduce statutory or regulatory requirements regarding insurance.

Sec. 19. The department may adopt and promulgate rules and regulations to carry out the Public Water and Natural Resources Project Contracting Act.

Sec. 20. (1) A public-private partnership delivery method may be used for projects under the Public Water and Natural Resources Project Contracting Act as provided in this section and rules and regulations adopted and promulgated pursuant to this section only to the extent allowed under the Constitution of Nebraska. State contracts using this method shall be awarded by competitive negotiation.

(2) The department utilizing a public-private partnership shall continue to be responsible for oversight of any function that is delegated to or otherwise performed by a private partner.

(3) On or before July 1, 2024, the Director of Natural Resources shall

adopt and promulgate rules and regulations setting forth criteria to be used in determining when a public-private partnership is to be used for a particular project. The rules and regulations shall reflect the intent of the Legislature to promote and encourage the use of public-private partnerships in the State of Nebraska. The Director of Natural Resources shall consult with design-builders, progressive design-builders, construction managers, other contractors and design professionals, including engineers and architects, and other appropriate professionals during the development of the rules and regulations.

(4) A request for proposals for a project utilizing a public-private partnership shall include at a minimum:

(a) The parameters of the proposed public-private partnership agreement;

(b) The duties and responsibilities to be performed by the private partner or private partners;

(c) The methods of oversight to be employed by the department;

(d) The duties and responsibilities that are to be performed by the department and any other parties to the contract;

(e) The evaluation factors and the relative weight of each factor to be used in the scoring of awards;

(f) Plans for financing and operating the project and the revenue, service payments, bond financings, and appropriations of public funds needed for the qualifying project;

(g) Comprehensive documentation of the experience, capabilities, capitalization and financial condition, and other relevant qualifications of the private entity submitting the proposal;

(h) The ability of a private partner or private partners to quickly respond to the needs presented in the request for proposals and the importance of economic development opportunities represented by the project. In evaluating proposals, preference shall be given to a plan that includes the involvement of small businesses as subcontractors, to the extent that small businesses can provide services in a competitive manner, unless any preference interferes with the qualification for federal or other funds; and

(i) Other information required by the department to evaluate the proposals submitted and the overall proposed public-private partnership.

(5) A private entity desiring to be a private partner shall demonstrate to the satisfaction of the department that it is capable of performing any duty, responsibility, or function it may be authorized or directed to perform as a term or condition of the public-private partnership agreement.

(6) A request for proposals may be canceled, or all proposals may be rejected, if it is determined in writing that such action is taken in the best interest of the State of Nebraska and approved by the purchasing officer.

(7) Upon execution of a public-private partnership agreement, the department shall ensure that the contract clearly identifies that a public-private partnership is being utilized.

(8) The department shall:

(a) Adhere to the rules and regulations adopted and promulgated under this section when utilizing a public-private partnership for financing capital projects; and

(b) Electronically report annually to the Natural Resources Committee of the Legislature regarding private-public partnerships which have been considered or are approved pursuant to this section.

Sec. 21. Section 18-2441, Reissue Revised Statutes of Nebraska, is amended to read:

18-2441 The powers of an agency shall include the power:

(1) To plan, develop, construct, reconstruct, operate, manage, dispose of, participate in, maintain, repair, extend, improve, or acquire by purchase, gift, lease, or otherwise, one or more projects within or outside this state and act as agent, or designate one or more other persons to act as its agent, in connection with the planning, acquisition, construction, operation, maintenance, repair, extension, or improvement of such project, except that before any power project is constructed by an agency, approval of the power project shall have been obtained from the Nebraska Power Review Board under sections 70-1012 to 70-1016;

(2) To produce, acquire, sell, and distribute commodities, including, without limitation, fuels necessary to the ownership, use, operation, or maintenance of one or more projects;

(3) To enter into franchises, exchange, interchange, pooling, wheeling, transmission, and other similar agreements;

(4) To make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the agency;

(5) To employ agents and employees;

(6) To contract with any person within or outside this state for the sale or transmission of any service, product, or commodity supplied, transmitted, conveyed, transformed, produced, or generated by any project, or for any interest therein or any right to capacity thereof, on such terms and for such period of time as the agency's board shall determine;

(7) To purchase, sell, exchange, produce, generate, transmit, or distribute any service, product, or commodity within and outside the state in such amounts as it shall determine to be necessary and appropriate to make the most effective use of its powers and to meet its responsibilities, and to enter into agreements with any person with respect to such purchase, sale, exchange, production, generation, transmission, or distribution on such terms and for such period of time as the agency's board shall determine;

(8) To acquire, own, hold, use, lease, as lessor or lessee, sell, or

otherwise dispose of, mortgage, pledge, or grant a security interest in any real or personal property, commodity, product, or service or any interest therein or right thereto;

(9) To exercise the power of eminent domain in the manner set forth in Chapter 76, article 7. No real property of the state, any municipality, or any political subdivision of the state, may be so acquired without the consent of the state, such municipality, or such subdivision;

(10) To incur debts, liabilities, or obligations including the borrowing of money and the issuance of bonds, secured or unsecured, pursuant to the Municipal Cooperative Financing Act sections 18-2401 to 18-2485;

(11) To borrow money or accept contributions, grants, or other financial assistance from a public authority and to comply with such conditions and enter into such contracts, covenants, mortgages, trust indentures, leases, or agreements as may be necessary, convenient, or desirable;

(12) To fix, maintain, revise, and collect fees, rates, rents, and charges for functions, services, facilities, or commodities provided by the agency, and it shall be the mandatory duty of each agency to fix, maintain, revise, and collect such fees, rates, rents, and charges as will always be sufficient to pay all operating and maintenance expenses of the agency, to pay for costs of renewals and replacements to a project, to pay interest on and principal of, whether at maturity or upon sinking-fund redemption, any outstanding bonds or other indebtedness of the agency, and to provide, as may be required by a resolution, trust indenture, security instrument, or other agreement of the agency, for any reasonable reserves for any such expenses, costs, or debt service or for any margins or coverages over and above debt service;

(13) Subject to any agreements with holders of outstanding bonds, to invest any funds held in reserve or sinking funds, or any funds not required for immediate disbursement, including the proceeds from the sale of any bonds, in such obligations, securities, and other investments as the board shall deem proper;

(14) To join and pay dues to organizations, membership in which is deemed by the board to be beneficial to the accomplishment of the agency's purposes; and

(15) To own and operate, contract to operate, or lease advanced metering infrastructure technology and provide advanced metering infrastructure services regarding publicly owned utility systems, including, without limitation, electric, water, and natural gas systems. The agency shall not engage in the sale of the natural gas commodity;

(16) To provide services related to information technology, physical security, physical infrastructure management, regulatory reporting, and administration regarding publicly owned utility and municipal infrastructure systems; and

(17) ~~(15)~~ To exercise any other powers which are deemed necessary and convenient to carry out the Municipal Cooperative Financing Act sections 18-2401 to 18-2485.

Sec. 22. Section 37-104, Reissue Revised Statutes of Nebraska, is amended to read:

37-104 Regular meetings of the Game and Parks Commission shall be held quarterly. Special meetings may be held upon call of the chairperson or pursuant to a call signed by three other members, of which the chairperson shall have three days' written notice. No official action shall be taken except at a public meeting at the headquarters of the commission or at a public meeting at a location within the state as determined by a majority of members of the commission. Five ~~Four~~ members of the commission shall constitute a quorum for the transaction of business.

All regular meetings held in Lincoln, Nebraska, shall be held in suitable offices to be provided under the authority of Chapter 72, article 14. The Game and Parks Commission is authorized to enter into an agreement with the city of Lincoln providing for the supplying by the city of Lincoln to the State of Nebraska for the commission of a headquarters office building and related buildings and facilities therefor, including the parking of motor vehicles, to be located on real estate which is north of Holdrege Street and east of 33rd Street.

Sec. 23. Section 37-407, Revised Statutes Cumulative Supplement, 2022, is amended to read:

37-407 (1) The commission may offer multiple-year permits or combinations of permits at reduced rates and may establish fees pursuant to section 37-327 to be paid to the state for resident and nonresident annual hunting permits, annual fishing permits, three-day fishing permits, one-day fishing permits, combination hunting and fishing permits, fur-harvesting permits, and nonresident two-day hunting permits issued for periods of two consecutive days, as provided in this section.

(2) The fee for a multiple-year permit shall be established by the commission pursuant to section 37-327 and shall not be more than the number of years the permit will be valid times the fee required for an annual permit as provided in subsection (3) or (4) of this section. Payment for a multiple-year permit shall be made in a lump sum at the time of application. A replacement multiple-year permit may be issued under section 37-409 if the original is lost or destroyed.

(3) Resident fees shall be (a) not more than eighteen dollars for an annual hunting permit, (b) not more than twenty-four dollars for an annual fishing permit, (c) not more than fifteen dollars for a three-day fishing permit, (d) not more than nine dollars for a one-day fishing permit, (e) not

more than thirty-nine dollars for an annual fishing and hunting permit, and (f) not more than twenty dollars for an annual fur-harvesting permit.

(4) Nonresident fees shall be (a) not more than two hundred sixty dollars for a period of time specified by the commission for fur harvesting one thousand or less fur-bearing animals and not more than seventeen dollars and fifty cents additional for each one hundred or part of one hundred fur-bearing animals harvested, (b)(i) for persons sixteen years of age and older, not more than one hundred ~~thirty-eight~~ six dollars for an annual hunting permit and (ii) for persons under sixteen years of age, not less than the fee required pursuant to subdivision (3)(a) of this section for an annual hunting permit, (c) not more than ~~ninety-five~~ seventy-three dollars for a two-day hunting permit plus the cost of a habitat stamp, (d) not more than ~~fifteen~~ twelve dollars for a one-day fishing permit, (e) not more than ~~twenty-nine~~ twenty-two dollars for a three-day fishing permit, (f) not more than ~~eighty-six~~ sixty-six dollars for an annual fishing permit, and (g)(i) for persons sixteen years of age and older, not more than ~~two hundred seven~~ one hundred fifty-nine dollars for an annual fishing and hunting permit and (ii) for persons under sixteen years of age, not less than the fee required pursuant to subdivision (3)(e) of this section for an annual fishing and hunting permit.

(5) The commission may offer permits or combinations of permits at temporarily reduced rates for specific events or during specified timeframes.

Sec. 24. Section 37-447, Revised Statutes Cumulative Supplement, 2022, is amended to read:

37-447 (1) The commission may issue permits for the hunting of deer and adopt and promulgate rules and regulations and pass commission orders pursuant to section 37-314 to prescribe limitations for the hunting, transportation, and possession of deer. The commission may offer permits or combinations of permits at temporarily reduced rates for specific events or during specified timeframes. The commission may specify by rule and regulation the information to be required on applications for such permits. Rules and regulations for the hunting, transportation, and possession of deer may include, but not be limited to, rules and regulations as to the type, caliber, and other specifications of firearms and ammunition used and specifications for bows and arrows used. Such rules and regulations may further specify and limit the method of hunting deer and may provide for dividing the state into management units or areas, and the commission may enact different deer hunting regulations for the different management units pertaining to sex, species, and age of the deer hunted.

(2) The number of such permits may be limited as provided by the rules and regulations of the commission, and except as provided in section 37-454, the permits shall be allocated in an impartial manner. Whenever the commission deems it advisable to limit the number of permits issued for any or all management units, the commission shall, by rules and regulations, determine eligibility to obtain such permits. In establishing eligibility, the commission may give preference to persons who did not receive a permit or a specified type of permit during the previous year or years.

(3) Such permits may be issued to allow deer hunting in the Nebraska National Forest and other game reserves and such other areas as the commission may designate whenever the commission deems that permitting such hunting will not be detrimental to the proper preservation of wildlife in Nebraska in such forest, reserves, or areas.

(4)(a) The commission may, pursuant to section 37-327, establish and charge a nonrefundable application fee of not more than seven dollars for deer permits in those management units awarded on the basis of a random drawing. The commission shall, pursuant to section 37-327, establish and charge a fee of not more than thirty-nine dollars for residents and not more than ~~three~~ three ~~two~~ hundred sixty-nine ~~eighty-four~~ dollars for nonresidents for each permit issued under this section except as otherwise provided in subdivision (b) of this subsection and subsection (6) of this section. The commission may, pursuant to section 37-327, establish and charge a fee of not more than twenty-four dollars for residents and not more than seventy-two dollars for nonresidents for the issuance of a preference point, in addition to any application fee, in lieu of entering the draw for a deer permit during the application period for the random drawing.

(b) The fee for a statewide buck-only permit limited to white-tailed deer shall be no more than two and one-half times the amount of a regular deer permit. The fee for a statewide buck-only deer permit that allows harvest of mule deer shall be no more than five times the amount of a regular deer permit.

(5)(a) The commission may issue nonresident permits after preference has been given for the issuance of resident permits as provided in rules and regulations adopted and promulgated by the commission.

(b) In management units specified by the commission, the commission may issue nonresident permits after resident preference has been provided by allocating at least eighty-five percent of the available permits to residents. The commission may require a predetermined application period for permit applications in specified management units. Such permits shall be issued after a reasonable period for making application, as established by the commission, has expired. When more valid applications are received for a designated management unit than there are permits available, such permits shall be allocated on the basis of a random drawing. All valid applications received during the predetermined application period shall be considered equally in any such random drawing without regard to time of receipt of such applications by the commission.

(6) The commission shall, pursuant to section 37-327, establish and charge

a fee of not more than twenty-five dollars for residents and not more than forty-five dollars for nonresidents for a youth deer permit.

(7) Any person violating the rules and regulations adopted and promulgated or commission orders passed pursuant to this section shall be guilty of a Class II misdemeanor and shall be fined at least one hundred dollars upon conviction.

Sec. 25. Section 37-448, Revised Statutes Cumulative Supplement, 2022, is amended to read:

37-448 (1) Subject to rules and regulations adopted and promulgated by the commission, the secretary of the commission may designate, by order, special deer, antelope, and elk depredation seasons or extensions of existing hunting seasons. The secretary may designate a depredation season or an extension of an existing hunting season whenever he or she determines that deer, antelope, or elk are causing excessive property damage. The secretary shall specify the number of permits to be issued, the species, sex, and number or quota of animals allowed to be taken, the bag limit for such species, the beginning and ending dates for the depredation season or hunting season extension, any limitations on nonresident permits, shooting hours, the length of the depredation season or hunting season extension, and the geographic area in which hunting will be permitted. The rules and regulations shall allow use of any weapon permissible for use during the regular deer, antelope, or elk season.

(2) The depredation season may commence not less than five days after the first public announcement that the depredation season has been established. Permits shall be issued in an impartial manner at a location determined by the secretary. The commission shall, pursuant to section 37-327, establish and charge a fee of not more than twenty-five dollars for a resident special depredation season permit and a fee of not more than seventy-five dollars for a nonresident special depredation season permit. The commission shall, pursuant to section 37-327, establish and charge a fee of not more than ten dollars for a landowner special depredation season permit for the taking of deer and antelope for any person owning or operating at least twenty acres of farm or ranch land within the geographic area in which hunting will be permitted and to any member of the immediate family of any such person as defined in subdivision (2)(a) of section 37-455, and for the taking of elk for any person owning or operating at least eighty acres of farm or ranch land within the geographic area in which hunting will be permitted and to any member of the immediate family of such person as defined in subdivision (2)(a) of section 37-455. A special depredation season permit shall be valid only within such area and only during the designated depredation season. The commission shall use the income from the sale of special depredation season permits for abatement of damage caused by deer, antelope, and elk. Receipt of a depredation season permit shall not in any way affect a person's eligibility for a permit issued under section 37-447, 37-449, 37-450, or 37-455.

Sec. 26. Section 37-449, Revised Statutes Cumulative Supplement, 2022, is amended to read:

37-449 (1) The commission may issue permits for hunting antelope and may adopt and promulgate separate and, when necessary, different rules and regulations therefor within the limitations prescribed in sections 37-447 and 37-452 for hunting deer. The commission may offer permits or combinations of permits at reduced rates for specific events or during specified timeframes.

(2) The commission may, pursuant to section 37-327, establish and charge a nonrefundable application fee of not more than seven dollars for antelope permits in those management units awarded on the basis of a random drawing. The commission shall, pursuant to section 37-327, establish and charge a fee of not more than thirty-nine dollars for residents and not more than ~~two~~ fifty-seven ~~ninety-eight~~ dollars for nonresidents for each permit issued under this section except as provided in subsection (4) of this section. The commission may, pursuant to section 37-327, establish and charge a fee of not more than twenty-four dollars for residents and not more than seventy-two dollars for nonresidents for the issuance of a preference point, in addition to any application fee, in lieu of entering the draw for an antelope permit during the application period for the random drawing.

(3) The provisions for the distribution of deer permits and the authority of the commission to determine eligibility of applicants for permits as described in sections 37-447 and 37-452 shall also apply to the distribution of antelope permits.

(4) The commission shall, pursuant to section 37-327, establish and charge a fee of not more than twenty-five dollars for residents and not more than forty-five dollars for nonresidents for a youth antelope permit.

(5) Any person violating the rules and regulations adopted and promulgated pursuant to this section shall be guilty of a Class II misdemeanor and shall be fined at least one hundred dollars upon conviction.

Sec. 27. Section 37-451, Reissue Revised Statutes of Nebraska, is amended to read:

37-451 (1) The commission may issue permits for hunting mountain sheep and may adopt and promulgate separate and, when necessary, different rules and regulations therefor within the limitations prescribed in subsection (1) of section 37-447 and section 37-452 for hunting deer. Such rules and regulations shall include provisions allowing persons who find dead mountain sheep, or any part of a mountain sheep, to turn over to the commission such mountain sheep or part of a mountain sheep. The commission may dispose of such mountain sheep or part of a mountain sheep as it deems reasonable and prudent. Except as otherwise provided in this section, the permits shall be issued to residents of

Nebraska.

(2) The commission shall, pursuant to section 37-327, establish and charge a nonrefundable application fee of not more than thirty-four dollars for permits issued only to residents. Any number of resident-only permits, as authorized by the commission, shall be awarded by random drawing to eligible applicants. No permit fee shall be charged in addition to the nonrefundable application fee.

(3) No more than one additional permit may be authorized and issued pursuant to an auction open to residents and nonresidents. The auction shall be conducted according to rules and regulations prescribed by the commission. Any money derived from the sale of permits by auction shall be used only for perpetuation and management of mountain sheep, elk, and deer.

(4) If the commission determines to limit the number of permits issued for any or all management units, the commission shall by rule and regulation determine eligibility requirements for the permits.

(5) A person may obtain only one mountain sheep permit in his or her lifetime, except that an auction permit issued in accordance with subsection (3) of this section to harvest a mountain sheep shall not count against such total.

(6) Any person violating the rules and regulations adopted and promulgated pursuant to this section shall be guilty of a Class III misdemeanor and shall be fined at least five hundred dollars upon conviction.

Sec. 28. Section 37-453, Reissue Revised Statutes of Nebraska, is amended to read:

37-453 Applications for the special permits provided for in section 37-447 or 37-449 shall be made individually or on a unit basis. If such application is made on a unit basis, not more than ~~six~~ ~~two~~ applicants may apply for such permit in one application. If such application is granted, such special permits shall be issued to the persons so applying. If any one of the persons so applying shall be ineligible to receive such special permit, the entire group so applying shall be disqualified. No person applying for such special permit on a unit basis shall also apply individually.

Sec. 29. Section 37-457, Reissue Revised Statutes of Nebraska, is amended to read:

37-457 (1) The commission may issue permits for hunting wild turkey and prescribe and establish regulations and limitations for the hunting, transportation, and possession of wild turkey. The commission may offer multiple-year permits or combinations of permits at reduced rates. The number of such permits may be limited as provided by the regulations of the commission, but the permits shall be disposed of in an impartial manner. Such permits may be issued to allow wild turkey hunting in the Nebraska National Forest and other game reserves and such other areas as the commission may designate whenever the commission deems that permitting such hunting would not be detrimental to the proper preservation of wildlife in such forest, reserves, or areas.

(2) The commission shall, pursuant to section 37-327, establish and charge a fee of not more than thirty-one dollars for residents and not more than one hundred ~~sixty-four~~ ~~twenty-six~~ dollars for nonresidents for each permit issued under this section except as provided in subsection (5) of this section.

(3) The commission may issue nonresident permits after preference has been given for the issuance of resident permits as provided in rules and regulations adopted and promulgated by the commission. The commission may require a predetermined application period for permit applications in specified management units.

(4) The provisions of section 37-447 for the distribution of deer permits also may apply to the distribution of wild turkey permits. No permit to hunt wild turkey shall be issued without payment of the fee required by this section.

(5) The commission shall, pursuant to section 37-327, establish and charge a fee of not more than twenty-five dollars for residents and not more than forty-five dollars for nonresidents for a youth wild turkey permit.

Sec. 30. Section 37-492, Reissue Revised Statutes of Nebraska, is amended to read:

37-492 The commission may adopt and promulgate rules and regulations and pass commission orders for carrying out, administering, and enforcing the provisions of sections 37-484 to 37-496. The commission shall limit the number of areas proposed for licensing so that the total acreage licensed for game breeding and controlled shooting areas in any one county does not exceed five ~~two~~ percent of the total acreage of the county in which the areas are sought to be licensed. The commission shall not require distances between boundaries of game breeding and controlled shooting areas to be greater than two miles. No license shall be issued for any area whereon mallard ducks are shot or to be shot if the area lies within three miles of any river or within three miles of any lake with an area exceeding three acres, except that a license may be issued for such area for the shooting of upland game birds only, and the rearing or shooting of mallard ducks thereon is prohibited.

Sec. 31. Section 37-559, Reissue Revised Statutes of Nebraska, is amended to read:

37-559 (1) Any private landowner or tenant farmer or rancher owning or operating a farm or ranch may destroy or have destroyed any predator preying on livestock or poultry or suspected of causing other damage agricultural depredation on land owned or controlled by such person ~~him or her~~ without a permit issued by the commission. For purposes of this subsection, predator

means a badger, bobcat, coyote, gray fox, long-tailed weasel, mink, opossum, raccoon, red fox, or skunk.

(2) ~~Any private landowner or tenant or farmer or rancher owning or operating a farm or ranch, or his or her agent of such person~~ , may kill a mountain lion immediately without prior notice to or permission from the commission if such person or agent ~~he or she~~ encounters a mountain lion and the mountain lion is in the process of stalking, killing, or consuming livestock on such person's ~~the farmer's or rancher's~~ property. Such private landowner or tenant or ~~The farmer or rancher or his or her agent~~ shall be responsible for immediately notifying the commission and arranging with the commission to transfer the mountain lion to the commission.

(3) Any person shall be entitled to defend himself or herself or another person without penalty if, in the presence of such person, a mountain lion stalks, attacks, or shows unprovoked aggression toward such person or another person.

(4) This section shall not be construed to allow any private landowner or tenant or a farmer or rancher or his or her agent of such person to destroy or have destroyed species which are protected by the Nongame and Endangered Species Conservation Act or rules and regulations adopted and promulgated under the act, the federal Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 et seq., the federal Fish and Wildlife Coordination Act, as amended, 16 U.S.C. 661 et seq., the federal Bald and Golden Eagle Protection Act, as amended, 16 U.S.C. 668 et seq., the federal Migratory Bird Treaty Act, as amended, 16 U.S.C. 703 et seq., or federal regulations under such federal acts.

Sec. 32. Section 37-708, Reissue Revised Statutes of Nebraska, is amended to read:

37-708 (1) It shall be unlawful within the boundaries of the state game refuges designated in section 37-706 for any person (a) to hunt or chase with dogs any game birds, game animals, or other birds or animals of any kind or description whatever, (b) to carry firearms of any kind, or (c) from October 15 through January 15 each year to operate a motorboat as defined in section 37-1204.

(2) This section shall not prevent highway or railroad transport of firearms or dogs across the refuge, retrieval of game birds lawfully killed from such refuge, or the taking of fur-bearing animals by the use of traps during lawful open seasons on the refuge.

(3) This section shall not prevent the commission from issuing such permits as may be necessary for the killing of animal or bird predators that may endanger game birds or game animals or the domestic property of adjacent landowners or from issuing permits as provided in sections 37-447 to 37-452 for the taking of deer or elk from such refuges whenever the number of deer or elk on such refuges is deemed detrimental to habitat conditions on the refuges or to adjacent privately owned real or personal property.

(4) This section shall not prevent the owners of land or dwellings or their relatives or invitees from operating any motorboat within the boundaries of the refuge for purposes of access by the most direct route to and from such land or dwellings.

Sec. 33. Section 57-904, Reissue Revised Statutes of Nebraska, is amended to read:

57-904 There is hereby established the Nebraska Oil and Gas Conservation Commission. The commission shall consist of three members to be appointed by the Governor. The director of the state geological survey shall serve the commission in the capacity as its technical advisor, but with no power to vote. Any two commissioners shall constitute a quorum for all purposes. At least one member of the commission shall have had experience in the production of oil or gas and shall have resided in the State of Nebraska for at least one year. Each of the other members of the commission shall have resided in the State of Nebraska for at least three years. Initially, two of said members shall be appointed for a term of two years each; and one shall be appointed for a term of four years. At the expiration of the initial terms all members thereafter appointed shall serve for a term of four years. The Governor may at any time remove any appointed member of the commission for cause, and by appointment, with the approval of the Legislature, shall fill any vacancy on the commission.

The members of the commission shall receive as compensation for their services the sum of five not more than four hundred dollars per day for each day actually devoted to the business of the commission, ~~except that they shall not receive a sum in any one year in excess of four thousand dollars each. Such amount shall be adjusted on July 1, 2025, and on July 1 of each odd-numbered year thereafter by the percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers for the two-year period preceding the date of adjustment.~~ In addition, each member of the commission shall be reimbursed for expenses incurred in connection with the carrying out of his or her duties as provided in sections 81-1174 to 81-1177.

Sec. 34. Section 66-2301, Revised Statutes Cumulative Supplement, 2022, is amended to read:

66-2301 (1) The Legislature finds that there is a unique benefit for the state to compete for designation by the United States Department of Energy as a location for a regional clean hydrogen hub. The development of a clean hydrogen hub in the state would provide the potential for significant investments in clean energy production, new infrastructure, and high-paying careers. The Legislature further finds that Nebraska is in a unique position to compete due to its central location, existing clean hydrogen-producing industry, synthetic and biofuels industry, demand for fertilizer used by its large agricultural

industry, and railroad and trucking transportation network.

(2)(a) (1) The Department of Economic Development shall create the Nebraska Hydrogen Hub Industry Work Group. The Governor shall appoint members to the work group that include, but are not limited to, representatives from the following sectors: (i) (a) Manufacturing or industry, (ii) (b) agriculture, (iii) (c) transportation, and (iv) (d) energy. The work group may include a representative of a clean hydrogen manufacturer.

(b) (2) The purpose of the work group is to develop and draft a competitive proposal which may be submitted to the United States Department of Energy to be selected as one of the four regional clean hydrogen hubs authorized under the federal Infrastructure Investment and Jobs Act, Public Law 117-58.

(c) (3) The Department of Economic Development may contract with private consultants to create the competitive proposal. Specifically, the work group shall determine how to maximize the state's geographic location to connect a nationwide hydrogen network. Additionally, the work group shall build a plan to make the case for an agricultural-based clean hydrogen hub, expanding the existing eligible purposes.

(3) It is the intent of the Legislature to appropriate two hundred fifty thousand dollars from the General Fund for FY2023-24 and two hundred fifty thousand dollars from the General Fund for FY2024-25 to the Department of Economic Development for the purpose of providing grants to any public power district that serves a majority of the counties in the state to be used for engineering and modeling work to prepare and support the state in competing for one of the United States Department of Energy's regional clean hydrogen hub designations and associated federal funding.

(4) The Department of Economic Development may adopt and promulgate rules and regulations to carry out the grant program described in subsection (3) of this section.

Sec. 35. Sections 35 to 41 of this act shall be known and may be cited as the Nuclear and Hydrogen Development Act.

Sec. 36. The Legislature finds and declares that it is the policy of the Legislature to support the advanced nuclear and hydrogen industries.

Sec. 37. For purposes of the Nuclear and Hydrogen Development Act:

(1) Department means the Department of Economic Development; and

(2) Work group means the Nuclear and Hydrogen Industry Work Group created in section 38 of this act.

Sec. 38. (1) The department shall create the Nuclear and Hydrogen Industry Work Group.

(2) The work group shall consist of the following twelve members:

(a) One representative of the Nebraska community college system;

(b) One representative of the Nebraska state college system;

(c) Two representatives of the nuclear industry;

(d) Two representatives of the hydrogen industry;

(e) One representative of a public power district;

(f) Two at-large members;

(g) The Director of Economic Development or a designee of the director;

(h) The chairperson of the Natural Resources Committee of the Legislature or a designee of the chairperson; and

(i) The chairperson of the Government, Military and Veterans Affairs Committee of the Legislature or a designee of the chairperson.

(3) The work group members described in subdivisions (2)(a) through (f) of this section shall be appointed by the Governor. The work group members described in subdivisions (2)(h) and (i) of this section shall serve as ex officio, nonvoting members.

(4)(a) Each work group member described in subdivisions (2)(a) through (f) of this section may receive a per diem of sixty dollars for each day such member attends a meeting of the work group or is engaged in matters concerning the work group, except that no work group member shall receive more than one thousand dollars in per diems per year under this subdivision.

(b) Each such work group member shall be reimbursed for travel and lodging expenses for the performance of such member's duties while carrying out the Nuclear and Hydrogen Development Act as provided in sections 81-1174 to 81-1177 to be paid out of the Nuclear and Hydrogen Development Fund.

Sec. 39. The work group shall examine and make recommendations to the department regarding the workforce training needs of the nuclear and hydrogen industries and provide an opportunity for collaboration of such industries with the Nebraska community college system and Nebraska state college system to develop education training courses.

Sec. 40. The department shall establish procedures and criteria for awarding grants to community colleges and state colleges that implement education training courses designed to alleviate the workforce training needs of the nuclear and hydrogen industries based on the recommendations of the work group. The grants awarded by the department shall be used for equipment, curriculum, programming, or marketing needed to provide such education training courses.

Sec. 41. (1) The Nuclear and Hydrogen Development Fund is created. The department shall administer the fund to provide per diems and travel and lodging reimbursement to members of the work group as provided under section 38 of this act. The fund shall consist of money transferred by the Legislature. The State Treasurer shall transfer two hundred thousand dollars to the fund from the General Fund as soon as administratively possible after the operative date of this section.

(2) The Nuclear and Hydrogen Development Fund terminates on July 31, 2028, and the State Treasurer shall transfer any money in the fund on such date to the General Fund.

Sec. 42. Section 70-619, Reissue Revised Statutes of Nebraska, is amended to read:

70-619 (1) The corporate powers of the district shall be vested in and exercised by the board of directors of the district. No person shall be qualified to hold office as a member of the board of directors unless (a) he or she is a registered voter (i) of such chartered territory, (ii) of the subdivision from which a director is to be elected if such chartered territory is subdivided for election purposes as provided in subsection (1), (2), or (3) of section 70-612, or (iii) of one of the combined subdivisions from which directors are to be elected at large as provided in section 70-612 or (b) he or she is a retail customer duly certified in accordance with subsection (3) of section 70-604.03.

~~(2) (2)(a) No person who is a full-time or part-time employee of the district shall be eligible to serve as a member of the board of directors of that district and no high-level manager employed by a district may serve as a member of the board of directors of any district unless such person (i) resigns or (ii) assumes an unpaid leave of absence for the term as a member. The employing district shall grant such leave of absence when requested by any employee for the purpose of the employee serving as a member of such board. A member of a governing body of any one of the municipalities within the areas of the district may not serve on the original board of directors under sections 70-603 to 70-609.~~

~~(b) For purposes of this subsection, high-level manager means a person employed by a district who serves in a high-level managerial position, including chief executive officer, president, vice president, chief financial officer, chief operations officer, general manager, or assistant general manager.~~

Sec. 43. Section 70-1001, Reissue Revised Statutes of Nebraska, is amended to read:

70-1001 (1) In order to provide the citizens of the state with adequate and reliable electric service at as low overall cost as possible, consistent with sound business practices, it is the policy of this state to avoid and eliminate conflict and competition between public power districts, public power and irrigation districts, individual municipalities, registered groups of municipalities, electric membership associations, and cooperatives in furnishing electric energy to retail and wholesale customers, to avoid and eliminate the duplication of facilities and resources which result therefrom, and to facilitate the settlement of rate disputes between suppliers of electricity.

(2) It is also the policy of the state to prepare for an evolving retail electricity market if certain conditions are met which indicate that retail competition is in the best interests of the citizens of the state. The determination on the timing and form of competitive markets is a matter properly left to the states as each state must evaluate the costs and benefits of a competitive retail market based on its own unique conditions. Consequently, there is a need for the state to monitor whether the conditions necessary for its citizens to benefit from retail competition exist.

(3) It is also the policy of the state to encourage and allow opportunities for private developers to develop, own, and operate renewable energy facilities intended for sale at wholesale under a statutory framework which protects the ratepayers of consumer-owned utility systems operating in the state from subsidizing the costs of such export facilities through their rates.

Sec. 44. Section 70-1001.01, Reissue Revised Statutes of Nebraska, 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 ~~suppliers~~ or supplier ~~suppliers~~ of electricity means any legal entity supplying, producing, or distributing electricity within the state for sale at wholesale or retail;

(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;

(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;

(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;

(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;

~~(7)~~ (6) 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;

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

~~(9)~~ (8) 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. 45. Section 70-1025, Reissue Revised Statutes of Nebraska, is amended to read:

70-1025 (1) The representative organization shall file with the board a coordinated long-range power supply plan containing the following information:

(a) The identification of all electric generation plants operating or authorized for construction within the state that have a rated capacity of at least twenty-five thousand kilowatts;

(b) The identification of all transmission lines located or authorized for construction within the state that have a rated capacity of at least two hundred thirty kilovolts; and

(c) The identification of all additional planned electric generation and transmission requirements needed to serve estimated power supply demands within the state for a period of twenty years.

(2) ~~The Beginning in 1986,~~ the representative organization shall file with the board the coordinated long-range power supply plan specified in subsection (1) of this section, and the board shall determine the date on which such report is to be filed, except that such report shall not be required to be filed more often than biennially.

(3) An annual load and capability report shall be filed with the board by the representative organization. The report shall include:

~~(a) Statewide statewide utility load forecasts and the resources available to satisfy the loads over a twenty-year period; and -~~

(b) Such other information as the board requests if such request is submitted in writing to the representative organization, is consistent with the board's statutory responsibilities, and can be performed at a reasonable cost.

~~(4)~~ The annual load and capability report shall be filed on dates specified by the board.

Sec. 46. Section 81-15,160, Revised Statutes Cumulative Supplement, 2022, is amended to read:

81-15,160 (1) The Waste Reduction and Recycling Incentive Fund is created. The department shall deduct from the fund amounts sufficient to reimburse itself for its costs of administration of the fund. The fund shall be administered by the department. The fund shall consist of proceeds from the fees imposed pursuant to the Waste Reduction and Recycling Incentive Act.

(2) The fund may be used for purposes which include, but are not limited to:

(a) Technical and financial assistance to political subdivisions for creation of recycling systems and for modification of present recycling systems;

(b) Recycling and waste reduction projects, including public education, planning, and technical assistance;

(c) Market development for recyclable materials separated by generators, including public education, planning, and technical assistance;

(d) Capital assistance for establishing private and public intermediate processing facilities for recyclable materials and facilities using recyclable materials in new products;

(e) Programs which develop and implement composting of yard waste and composting with sewage sludge;

(f) Technical assistance for waste reduction and waste exchange for waste generators;

(g) Programs to assist communities and counties to develop and implement household hazardous waste management programs;

(h) Capital assistance for establishing private and public facilities to manufacture combustible waste products and to incinerate combustible waste to generate and recover energy resources, except that no disbursements shall be made under this section for scrap tire processing related to tire-derived fuel; and

(i) Grants for reimbursement of costs to cities of the first class, cities

of the second class, villages, and counties of five thousand or fewer population for the deconstruction of abandoned buildings. Eligible deconstruction costs will be related to the recovery and processing of recyclable or reusable material from the abandoned buildings.

(3) Grants up to one million five hundred thousand dollars annually shall be available until June 30, ~~2029~~ 2024, for new scrap tire projects only, if acceptable scrap tire project applications are received. Eligible categories of disbursement under section 81-15,161 may include, but are not limited to:

(a) Reimbursement for the purchase of crumb rubber generated and used in Nebraska, with disbursements not to exceed fifty percent of the cost of the crumb rubber;

(b) Reimbursement for the purchase of tire-derived product which utilizes a minimum of twenty-five percent recycled tire content, with disbursements not to exceed twenty-five percent of the product's retail cost;

(c) Participation in the capital costs of building, equipment, and other capital improvement needs or startup costs for scrap tire processing or manufacturing of tire-derived product, with disbursements not to exceed fifty percent of such costs or five hundred thousand dollars, whichever is less;

(d) Participation in the capital costs of building, equipment, or other startup costs needed to establish collection sites or to collect and transport scrap tires, with disbursements not to exceed fifty percent of such costs;

(e) Cost-sharing for the manufacturing of tire-derived product, with disbursements not to exceed twenty dollars per ton or two hundred fifty thousand dollars, whichever is less, to any person annually;

(f) Cost-sharing for the processing of scrap tires, with disbursements not to exceed twenty dollars per ton or two hundred fifty thousand dollars, whichever is less, to any person annually;

(g) Cost-sharing for the use of scrap tires for civil engineering applications for specified projects, with disbursements not to exceed twenty dollars per ton or two hundred fifty thousand dollars, whichever is less, to any person annually;

(h) Disbursement to a political subdivision up to one hundred percent of costs incurred in cleaning up scrap tire collection and disposal sites; and

(i) Costs related to the study provided in section 81-15,159.01.

The director shall give preference to projects which utilize scrap tires generated and used in Nebraska.

(4) Priority for grants made under section 81-15,161 shall be given to grant proposals demonstrating a formal public/private partnership except for grants awarded from fees collected under subsection (6) of section 13-2042.

(5) Grants awarded from fees collected under subsection (6) of section 13-2042 may be renewed for up to a five-year grant period. Such applications shall include an updated integrated solid waste management plan pursuant to section 13-2032. Annual disbursements are subject to available funds and the grantee meeting established grant conditions. Priority for such grants shall be given to grant proposals showing regional participation and programs which address the first integrated solid waste management hierarchy as stated in section 13-2018 which shall include toxicity reduction. Disbursements for any one year shall not exceed fifty percent of the total fees collected after rebates under subsection (6) of section 13-2042 during that year.

(6) Any person who stores waste tires in violation of section 13-2033, which storage is the subject of abatement or cleanup, shall be liable to the State of Nebraska for the reimbursement of expenses of such abatement or cleanup paid by the department.

(7) The department may receive gifts, bequests, and any other contributions for deposit in the Waste Reduction and Recycling Incentive Fund. Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Waste Reduction and Recycling Incentive Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 47. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 42, 43, 44, 45, 46, and 48 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. 48. Original sections 18-2441, 37-104, 37-451, 37-453, 37-457, 37-492, 37-559, 37-708, 57-904, 70-619, 70-1001, 70-1001.01, and 70-1025, Reissue Revised Statutes of Nebraska, and sections 37-407, 37-447, 37-448, 37-449, and 81-15,160, Revised Statutes Cumulative Supplement, 2022, are repealed.

Sec. 49. Original section 66-2301, Revised Statutes Cumulative Supplement, 2022, is repealed.

Sec. 50. Since an emergency exists, this act takes effect when passed and approved according to law.