

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 565

Introduced by Quick, 35.

Read first time January 22, 2025

Committee: Government, Military and Veterans Affairs

- 1 A BILL FOR AN ACT relating to the Administrative Procedure Act; to amend
- 2 section 84-901.03, Reissue Revised Statutes of Nebraska; to provide
- 3 and change requirements for guidance documents; to provide an
- 4 operative date; to repeal the original section; and to declare an
- 5 emergency.
- 6 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 84-901.03, Reissue Revised Statutes of Nebraska,
2 is amended to read:

3 84-901.03 (1) Upon the issuance of a guidance document, an agency
4 shall make such document available at one public location and on the
5 agency's website. The agency shall also publish on its website an index
6 summarizing the subject matter of all currently applicable rules and
7 regulations and guidance documents. Such agency shall provide the index
8 electronically to the Clerk of the Legislature by December 31 of each
9 year.

10 (2) An agency shall ensure that the first page of each guidance
11 document includes (a) the following notice: This guidance document is
12 advisory in nature but is binding on an agency until amended by such
13 agency. A guidance document does not include internal procedural
14 documents that only affect the internal operations of the agency and does
15 not impose additional requirements or penalties on regulated parties or
16 include confidential information or rules and regulations made in
17 accordance with the Administrative Procedure Act. If you believe that
18 this guidance document imposes additional requirements or penalties on
19 regulated parties, you may request a review of the document and (b) a
20 description, including an estimated quantification, of the fiscal impact
21 on state agencies, political subdivisions, and regulated persons or
22 businesses.

23 (3) A person may request in writing that an agency revise or repeal
24 a guidance document or convert a guidance document into a rule or
25 regulation. No later than sixty calendar days after the agency receives
26 such a request, the agency shall advise the requestor in writing of its
27 decision to (a) revise or repeal the guidance document, (b) initiate a
28 proceeding to consider a revision or repeal of a guidance document, (c)
29 initiate the rulemaking or regulationmaking process to convert the
30 guidance document into a rule or regulation, or (d) deny the request and
31 state the reason for the denial.

1 (4) All decisions made by an agency under this section shall be made
2 available at one public location and on the agency's website.

3 (5) An agency shall not issue guidance documents on or after July 1,
4 2025, and before July 1, 2027, unless specifically required by amendments
5 to existing federal rules or to become compliant with new federal rules
6 and regulations.

7 (6) A guidance document shall not impose greater regulations on
8 Nebraska residents or businesses than federal requirements.

9 (7) All guidance documents and provider bulletins issued on or after
10 July 1, 2022, and before July 1, 2025, are revoked pending a formal
11 rulemaking process as provided in the Administrative Procedure Act unless
12 explicitly required for federal compliance.

13 **Sec. 2.** This act becomes operative on July 1, 2025.

14 **Sec. 3.** Original section 84-901.03, Reissue Revised Statutes of
15 Nebraska, is repealed.

16 **Sec. 4.** Since an emergency exists, this act takes effect when
17 passed and approved according to law.