

LEGISLATIVE BILL 43

Approved by the Governor March 27, 2024

Introduced by Sanders, 45; Conrad, 46.

A BILL FOR AN ACT relating to law; to amend sections 84-712, 84-712.01, and 84-712.07, Reissue Revised Statutes of Nebraska, and sections 84-712.03, 84-712.05, 84-920, and 84-1412, Revised Statutes Cumulative Supplement, 2022; to adopt the First Freedom Act; to authorize wearing of tribal regalia by students as prescribed; to change public records provisions relating to residents, nonresidents, fees, duties, and remedies; to allow certain records relating to cybersecurity to be withheld from the public as prescribed; to provide a duty for the Nebraska Information Technology Commission; to provide requirements regarding the interpretation of statutes, rules, and regulations as prescribed; to prohibit state agencies from imposing annual filing and reporting requirements on charitable organizations as prescribed; to state intent; to adopt the Personal Privacy Protection Act; to define terms; to change provisions relating to public meetings; to harmonize provisions; to provide operative dates; to provide severability; 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 5 of this act shall be known and may be cited as the First Freedom Act.

Sec. 2. For purposes of the First Freedom Act:

(1) Exercise of religion means the practice or observance of religion and includes any action that is motivated by a sincerely held religious belief, whether or not the exercise is compulsory or central to a larger system of religious belief;

(2) Person means any individual, association, partnership, corporation, church, religious institution, estate, trust, foundation, or other legal entity;

(3) Religious organization means:

(a) A house of worship;

(b) A religious group, corporation, association, educational institution, ministry, order, society, or similar entity, regardless of whether it is integrated or affiliated with a church or other house of worship; or

(c) An officer, owner, employee, manager, religious leader, clergy, or minister of an entity or organization described in subdivision (3)(a) or (b) of this section;

(4) Religious service means a meeting, gathering, or assembly of two or more persons organized by a religious organization for the purpose of worship, teaching, training, providing educational services, conducting religious rituals, or other activities that are deemed necessary by the religious organization for the exercise of religion;

(5) State action means the implementation or application of any law, including state and local laws, ordinances, rules, regulations, and policies, whether statutory or otherwise, or other action by the state or any political subdivision thereof and any local government, municipality, instrumentality, or public official authorized by state or local law; and

(6)(a) Substantially burden means any action that directly or indirectly constrains, inhibits, curtails, or denies the exercise of religion by any person or compels any action contrary to a person's exercise of religion.

(b) Substantially burden includes withholding benefits, imposing criminal, civil, or administrative penalties or damages, or exclusion from governmental programs or access to governmental facilities.

Sec. 3. Notwithstanding any other provision of law, state action shall not:

(1) Substantially burden a person's right to the exercise of religion unless it is demonstrated that applying the burden to that person's exercise of religion in this particular instance is essential to further a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest; or

(2) Restrict a religious organization from operating and engaging in religious services during a state of emergency to a greater extent than the state restricts other organizations or businesses from operating during a state of emergency.

Sec. 4. (1) A person or religious organization whose exercise of religion or religious service has been burdened or restricted, or is likely to be burdened or restricted, in violation of the First Freedom Act, may bring a civil action or assert such violation or impending violation as a defense in a judicial or administrative proceeding.

(2) This section applies regardless of whether the state or a political subdivision is a party to the judicial or administrative proceeding.

(3) A person or religious organization asserting a claim or defense under this section may obtain appropriate relief, including against the state or a political subdivision. Appropriate relief includes:

- (a) Actual damages;
- (b) Such preliminary and other equitable or declaratory relief as may be appropriate; and
- (c) Reasonable attorney's fees and other litigation costs reasonably incurred.

Sec. 5. The First Freedom Act applies to all state and local laws, and the implementation of those laws, whether statutory or otherwise, regardless of whether adopted before or after the operative date of this section.

Sec. 6. (1) A person who is a member of an indigenous tribe of the United States or another country and is a student attending an approved or accredited public school may wear tribal regalia in any public or private location where the person is otherwise authorized to be on such school grounds or at any school function. Nothing in this section limits the authority of administrative and teaching personnel to regulate student behavior as provided in section 79-258 or the authority of a school to regulate student behavior to further school purposes or to prevent interference with the educational process.

(2) A school may adopt a policy to accommodate this section. Such policy may specify the characteristics of any garment, jewelry, other adornment, or object that such school finds will endanger the safety of a student or others or interfere with school purposes or the educational process if worn by a student during a specified activity.

(3) For purposes of this section, tribal regalia means traditional garments, jewelry, other adornments, or similar objects of cultural significance worn by members of an indigenous tribe of the United States or another country. Tribal regalia does not include any firearm or other dangerous weapon. Tribal regalia also does not include, except in compliance with an appropriate federal permit, any object that is otherwise prohibited by federal law.

Sec. 7. (1) A person who is a member of an indigenous tribe of the United States or another country and is a student attending any Nebraska public postsecondary institution may wear traditional tribal regalia in any public or private location where the person is otherwise authorized to be on such school grounds or at any school function. Nothing in this section limits the authority of administrative and teaching personnel of a Nebraska public postsecondary institution to regulate student behavior to further school purposes or to prevent interference with the educational process.

(2) A Nebraska public postsecondary institution may adopt a policy to accommodate this section. Such policy may specify the characteristics of any garment, jewelry, other adornment, or object that such school finds will endanger the safety of a student or others or interfere with school purposes or the educational process if worn by such student during a specified activity.

(3) For purposes of this section:

(a) Nebraska public postsecondary institution has the same meaning as in section 85-2403; and

(b) Tribal regalia means traditional garments, jewelry, other adornments, or similar objects of cultural significance worn by members of an indigenous tribe of the United States or another country. Tribal regalia does not include any firearm or other dangerous weapon. Tribal regalia also does not include, except in compliance with an appropriate federal permit, any object that is otherwise prohibited by federal law.

Sec. 8. Section 84-712, Reissue Revised Statutes of Nebraska, is amended to read:

84-712 (1) Except as otherwise expressly provided by statute, all residents citizens of this state and all other persons interested in the examination of the public records as defined in section 84-712.01 are hereby fully empowered and authorized to (a) examine such records, and make memoranda, copies using their own copying or photocopying equipment in accordance with subsection (2) of this section, and abstracts therefrom, all free of charge, during the hours the respective offices may be kept open for the ordinary transaction of business and (b) except if federal copyright law otherwise provides, obtain copies of public records in accordance with subsection (3) of this section during the hours the respective offices may be kept open for the ordinary transaction of business.

(2) Copies made by residents citizens or other persons using their own copying or photocopying equipment pursuant to subdivision (1)(a) of this section shall be made on the premises of the custodian of the public record or at a location mutually agreed to by the requester and the custodian.

(3)(a) Copies may be obtained pursuant to subdivision (1)(b) of this section only if the custodian has copying equipment reasonably available. Such copies may be obtained in any form designated by the requester in which the public record is maintained or produced, including, but not limited to, printouts, electronic data, discs, tapes, and photocopies. This section shall not be construed to require a custodian to copy any public record that is available to the requester on the custodian's website on the Internet. The custodian of the public record is required to provide the location of the public record on the Internet to the requester. If the requester does not have reasonable access to the Internet due to lack of computer, lack of Internet availability, or inability to use a computer or the Internet, the custodian shall produce copies for the requester as provided in this section.

(b) Except as otherwise provided by statute, the public body, public entity, or public official which is the custodian of a public record may charge a fee for providing copies of such public record pursuant to subdivision (1)(b) of this section, which fee shall not exceed the actual added cost of making the

copies available. For purposes of this subdivision, (i) for photocopies, the actual added cost of making the copies available shall not exceed the amount of the reasonably calculated actual added cost of the photocopies, which may include a reasonably apportioned cost of the supplies, such as paper, toner, and equipment, used in preparing the copies, as well as any additional payment obligation of the custodian for time of contractors necessarily incurred to comply with the request for copies, (ii) for printouts of computerized data on paper, the actual added cost of making the copies available shall include the reasonably calculated actual added cost of computer run time and the cost of materials for making the copy, and (iii) for electronic data, the actual added cost of making the copies available shall include the reasonably calculated actual added cost of the computer run time, any necessary analysis and programming by the public body, public entity, public official, or third-party information technology services company contracted to provide computer services to the public body, public entity, or public official, and the production of the report in the form furnished to the requester.

(c) For residents of Nebraska, the actual added cost used as the basis for the calculation of a fee for records shall not include any charge for the existing salary or pay obligation to the public officers or employees with respect to the first eight ~~four~~ cumulative hours of searching, identifying, physically redacting, or copying. A special service charge reflecting the calculated labor cost may be included in the fee for time required in excess of eight ~~four~~ cumulative hours, since that large of a request may cause some delay or disruption of the other responsibilities of the custodian's office, except that the fee for records shall not include any charge for the services of an attorney or any other person to review the requested public records seeking a legal basis to withhold the public records from the public. No special service charge or fee shall be charged for copies of blank forms or pages that have all meaningful information redacted.

(d) For nonresidents of Nebraska, the actual added cost used as the basis for the calculation of a fee for records may include a charge for the proportion of the existing salary or pay obligation to the public officers or employees, including a proportional charge for the services of an attorney to review the requested public records, for the time spent searching, identifying, physically redacting, copying, or reviewing such records.

(e) ~~(d)~~ State agencies which provide electronic access to public records through a portal established under section 84-1204 shall obtain approval of their proposed reasonable fees for such records pursuant to sections 84-1205.02 and 84-1205.03, if applicable, and the actual added cost of making the copies available may include the approved fee for the portal.

(f) ~~(e)~~ This section shall not be construed to require a public body or custodian of a public record to produce or generate any public record in a new or different form or format modified from that of the original public record.

(g) ~~(f)~~ If copies requested in accordance with subdivision (1)(b) of this section are estimated by the custodian of such public records to cost more than fifty dollars, the custodian may require the requester to furnish a deposit prior to fulfilling such request.

(h) The custodian may waive or reduce any fee described in this section if the waiver or reduction of the fee would be in the public interest. Waiver or reduction of the fee is in the public interest if disclosure of the public record at issue is likely to contribute to the understanding of the operations or activities of government and is not primarily in the commercial interest of the person requesting such records.

(4) Upon receipt of a written request for access to or copies of a public record, the custodian of such record shall provide to the requester as soon as is practicable and without delay, but not more than four business days after actual receipt of the request, an estimate of the expected cost of the copies and either (a) access to or, if copying equipment is reasonably available, copies of the public record, (b) if there is a legal basis for denial of access or copies, a written denial of the request together with the information specified in section 84-712.04, or (c) if the entire request cannot with reasonable good faith efforts be fulfilled within four business days after actual receipt of the request due to the significant difficulty or the extensiveness of the request, a written explanation, including the earliest practicable date for fulfilling the request, an estimate of the expected cost of any copies, and an opportunity for the requester to modify or prioritize the items within the request. The requester shall have ten business days to review the estimated costs, including any special service charge, and request the custodian to fulfill the original request, negotiate with the custodian to narrow or simplify the request, or withdraw the request. If the requester does not respond to the custodian within ten business days, the custodian shall not proceed to fulfill the request. The four business days shall be computed by excluding the day the request is received, after which the designated period of time begins to run. Business day does not include a Saturday, a Sunday, or a day during which the offices of the custodian of the public records are closed.

(5) For purposes of sections 84-712 to 84-712.09, resident means a person domiciled in this state and includes news media without regard to domicile.

Sec. 9. Section 84-712.01, Reissue Revised Statutes of Nebraska, is amended to read:

84-712.01 (1) Except when any other statute expressly provides that particular information or records shall not be made public, public records shall include all records and documents, regardless of physical form, of or belonging to this state, any county, city, village, political subdivision, or

tax-supported district in this state, or any agency, branch, department, board, bureau, commission, council, subunit, or committee of any of the foregoing. Data which is a public record in its original form shall remain a public record when maintained in computer files.

(2) When a custodian of a public record of a county provides to a member of the public, upon request, a copy of the public record by transmitting it from a modem to an outside modem, a reasonable fee may be charged for such specialized service. Such fee may include a reasonable amount representing a portion of the amortization of the cost of computer equipment, including software, necessarily added in order to provide such specialized service. This subsection shall not be construed to require a governmental entity to acquire computer capability to generate public records in a new or different form when that new form would require additional computer equipment or software not already possessed by the governmental entity.

(3) Sections 84-712 to 84-712.03 shall be liberally construed whenever any state, county, or political subdivision fiscal records, audit, warrant, voucher, invoice, purchase order, requisition, payroll, check, receipt, or other record of receipt, cash, or expenditure involving public funds is involved in order that the residents ~~citizens~~ of this state shall have the full right to know of and have full access to information on the public finances of the government and the public bodies and entities created to serve them.

Sec. 10. Section 84-712.03, Revised Statutes Cumulative Supplement, 2022, is amended to read:

84-712.03 (1) Any person denied any rights granted by sections 84-712 to 84-712.03 may elect to:

(a) File for speedy relief by a writ of mandamus in the district court within whose jurisdiction the state, county, or political subdivision officer who has custody of the public record can be served; or

(b) Petition the Attorney General to review the matter to determine whether a record may be withheld from public inspection or whether the public body that is custodian of such record has otherwise failed to comply with such sections, including whether the fees estimated or charged by the custodian are actual added costs or special service charges as provided under section 84-712. This determination shall be made within fifteen calendar days after the submission of the petition. If the Attorney General determines that the record may not be withheld or that the public body is otherwise not in compliance, the public body shall be ordered to disclose the record immediately or otherwise comply. If the public body continues to withhold the record or remain in noncompliance, the person seeking disclosure or compliance may (i) bring suit in the trial court of general jurisdiction or (ii) demand in writing that the Attorney General bring suit in the name of the state in the trial court of general jurisdiction for the same purpose. If such demand is made, the Attorney General shall bring suit within fifteen calendar days after its receipt. The requester shall have an absolute right to intervene as a full party in the suit at any time.

(2) In any suit filed under this section, the court has jurisdiction to enjoin the public body from withholding records, to order the disclosure, and to grant such other equitable relief as may be proper. The court shall determine the matter de novo and the burden is on the public body to sustain its action. The court may view the records in controversy in camera before reaching a decision, and in the discretion of the court other persons, including the requester, counsel, and necessary expert witnesses, may be permitted to view the records, subject to necessary protective orders.

(3) Proceedings arising under this section shall be advanced on the trial docket and heard and decided by the court as soon as reasonably possible and ~~except as to the cases the court considers of greater importance,~~ shall take precedence on the trial docket over all other cases and shall be assigned for hearing, trial, or argument at the earliest practicable date and expedited in every way.

Sec. 11. Section 84-712.05, Revised Statutes Cumulative Supplement, 2022, is amended to read:

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

(1) Personal information in records regarding a student, prospective student, or former student of any educational institution or exempt school that has effectuated an election not to meet state approval or accreditation requirements pursuant to section 79-1601 when such records are maintained by and in the possession of a public entity, other than routine directory information specified and made public consistent with 20 U.S.C. 1232g, as such section existed on February 1, 2013, and regulations adopted thereunder;

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

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

(4) Records which represent the work product of an attorney and the public body involved which are related to preparation for litigation, labor negotiations, or claims made by or against the public body or which are

confidential communications as defined in section 27-503;

(5) Records developed or received by law enforcement agencies and other public bodies charged with duties of investigation or examination of persons, institutions, or businesses, when the records constitute a part of the examination, investigation, intelligence information, ~~citizen~~ complaints or inquiries from residents of this state or other interested persons, informant identification, or strategic or tactical information used in law enforcement training, except that this subdivision shall not apply to records so developed or received:

(a) Relating to the presence of and amount or concentration of alcohol or drugs in any body fluid of any person; or

(b) Relating to the cause of or circumstances surrounding the death of an employee arising from or related to his or her employment if, after an investigation is concluded, a family member of the deceased employee makes a request for access to or copies of such records. This subdivision does not require access to or copies of informant identification, the names or identifying information of members of the public ~~citizens~~ making complaints or inquiries, other information which would compromise an ongoing criminal investigation, or information which may be withheld from the public under another provision of law. For purposes of this subdivision, family member means a spouse, child, parent, sibling, grandchild, or grandparent by blood, marriage, or adoption;

(6) The identity and personal identifying information of an alleged victim of sexual assault or sex trafficking as provided in section 29-4316;

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

(8) Personal information in records regarding personnel of public bodies other than salaries and routine directory information;

(9) Information solely pertaining to protection of the security of public property and persons on or within public property, such as specific, unique vulnerability assessments or specific, unique response plans, either of which is intended to prevent or mitigate criminal acts the public disclosure of which would create a substantial likelihood of endangering public safety or property; computer or communications network schema, passwords, and user identification names; guard schedules; lock combinations; or public utility infrastructure specifications or design drawings the public disclosure of which would create a substantial likelihood of endangering public safety or property, unless otherwise provided by state or federal law;

(10) Information that relates details of physical and cyber assets of critical energy infrastructure or critical electric infrastructure, including (a) specific engineering, vulnerability, or detailed design information about proposed or existing critical energy infrastructure or critical electric infrastructure that (i) relates details about the production, generation, transportation, transmission, or distribution of energy, (ii) could be useful to a person in planning an attack on such critical infrastructure, and (iii) does not simply give the general location of the critical infrastructure and (b) the identity of personnel whose primary job function makes such personnel responsible for (i) providing or granting individuals access to physical or cyber assets or (ii) operating and maintaining physical or cyber assets, if a reasonable person, knowledgeable of the electric utility or energy industry, would conclude that the public disclosure of such identity could create a substantial likelihood of risk to such physical or cyber assets. Subdivision (10)(b) of this section shall not apply to the identity of a chief executive officer, general manager, vice president, or board member of a public entity that manages critical energy infrastructure or critical electric infrastructure. The lawful custodian of the records must provide a detailed job description for any personnel whose identity is withheld pursuant to subdivision (10)(b) of this section. For purposes of subdivision (10) of this section, critical energy infrastructure and critical electric infrastructure mean existing and proposed systems and assets, including a system or asset of the bulk-power system, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health or safety, or any combination of such matters;

(11) The security standards, procedures, policies, plans, specifications, diagrams, access lists, and other security-related records of the Lottery Division of the Department of Revenue and those persons or entities with which the division has entered into contractual relationships. Nothing in this subdivision shall allow the division to withhold from the public any information relating to amounts paid persons or entities with which the division has entered into contractual relationships, amounts of prizes paid, the name of the prize winner, and the city, village, or county where the prize winner resides;

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

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

(14) Correspondence, memoranda, and records of telephone calls related to the performance of duties by a member of the Legislature in whatever form. The lawful custodian of the correspondence, memoranda, and records of telephone

calls, upon approval of the Executive Board of the Legislative Council, shall release the correspondence, memoranda, and records of telephone calls which are not designated as sensitive or confidential in nature to any person performing an audit of the Legislature. A member's correspondence, memoranda, and records of confidential telephone calls related to the performance of his or her legislative duties shall only be released to any other person with the explicit approval of the member;

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

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

(17) Library, archive, and museum materials acquired from nongovernmental entities and preserved solely for reference, research, or exhibition purposes, for the duration specified in subdivision (17)(b) of this section, if:

(a) Such materials are received by the public custodian as a gift, purchase, bequest, or transfer; and

(b) The donor, seller, testator, or transferor conditions such gift, purchase, bequest, or transfer on the materials being kept confidential for a specified period of time;

(18) Job application materials submitted by applicants, other than finalists or a priority candidate for a position described in section 85-106.06 selected using the enhanced public scrutiny process in section 85-106.06, who have applied for employment by any public body as defined in section 84-1409. For purposes of this subdivision, (a) job application materials means employment applications, resumes, reference letters, and school transcripts and (b) finalist means any applicant who is not an applicant for a position described in section 85-106.06 and (i) who reaches the final pool of applicants, numbering four or more, from which the successful applicant is to be selected, (ii) who is an original applicant when the final pool of applicants numbers less than four, or (iii) who is an original applicant and there are four or fewer original applicants;

(19)(a) Records obtained by the Public Employees Retirement Board pursuant to section 84-1512 and (b) records maintained by the board of education of a Class V school district and obtained by the board of trustees or the Public Employees Retirement Board for the administration of a retirement system provided for under the Class V School Employees Retirement Act pursuant to section 79-989;

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

(21) Information exchanged between a jurisdictional utility and city pursuant to section 66-1867;

(22) Draft records obtained by the Nebraska Retirement Systems Committee of the Legislature and the Governor from Nebraska Public Employees Retirement Systems pursuant to subsection (4) of section 84-1503;

(23) All prescription drug information submitted pursuant to section 71-2454, all data contained in the prescription drug monitoring system, and any report obtained from data contained in the prescription drug monitoring system;

(24) Information obtained by any government entity, whether federal, state, county, or local, regarding firearm registration, possession, sale, or use that is obtained for purposes of an application permitted or required by law or contained in a permit or license issued by such entity. Such information shall be available upon request to any federal, state, county, or local law enforcement agency; ~~and~~

(25) The security standards, procedures, policies, plans, specifications, diagrams, and access lists and other security-related records of the State Racing and Gaming Commission, those persons or entities with which the commission has entered into contractual relationships, and the names of any individuals placed on the list of self-excluded persons with the commission as provided in section 9-1118. Nothing in this subdivision shall allow the commission to withhold from the public any information relating to the amount paid any person or entity with which the commission has entered into a contractual relationship, the amount of any prize paid, the name of the prize winner, and the city, village, or county where the prize winner resides; ~~and~~

(26) Records relating to the nature, location, or function of cybersecurity by the State of Nebraska or any of its political subdivisions or any other public entity subject to sections 84-712 to 84-712.09, including, but not limited to, devices, programs, or systems designed to protect computer, information technology, or communications systems against terrorist or other attacks. The Nebraska Information Technology Commission shall adopt and

promulgate rules and regulations to implement this subdivision.

Sec. 12. Section 84-712.07, Reissue Revised Statutes of Nebraska, is amended to read:

84-712.07 The provisions of sections 84-712, 84-712.01, 84-712.03 to 84-712.09, and 84-1413 pertaining to the rights of residents of this state and all other interested persons citizens to access to public records may be enforced by equitable relief, whether or not any other remedy is also available. In any case in which the complainant seeking access has substantially prevailed, the court may assess against the public body which had denied access to their records, reasonable attorney fees and other litigation costs reasonably incurred by the complainant.

Sec. 13. Any court reviewing an appeal from a contested case shall interpret the statute or rule or regulation de novo on the record and shall not defer to the agency's interpretation of such statute or rule or regulation.

Sec. 14. In actions brought by or against state agencies, after applying all customary tools of interpretation of a statute or rule or regulation, the court or hearing officer shall resolve any remaining doubt in favor of a reasonable interpretation which is consistent with an individual's fundamental constitutional rights.

Sec. 15. (1) The Legislature finds that this section is necessary to minimize burdens on the charitable sector and encourage a grantmaking environment that is free and independent from intrusive or politically motivated regulation.

(2) For purposes of this section:

(a) Agency means each board, commission, department, officer, division, or other administrative office or unit of the state government authorized by law to adopt and promulgate rules and regulations, except the Adjutant General's office as provided in Chapter 55, the Legislature, the courts, including the Nebraska Workers' Compensation Court, and the Commission of Industrial Relations; and

(b) Agency includes the Secretary of State and the Attorney General.

(3) Absent the showing of a compelling state interest or federal funding requirement, an agency shall not require any annual filing or reporting by a charitable organization, whether regulated or specifically exempted from regulation, that is more burdensome than any requirements authorized by state law. Any such filing or reporting requirement shall be narrowly tailored to achieve such compelling state interest.

(4) This section shall not be construed to limit or restrict the powers, duties, remedies, or penalties available to the Attorney General or Secretary of State under statute or common law, including, but not limited to, issuance of a civil investigative demand or subpoena.

Sec. 16. Section 84-920, Revised Statutes Cumulative Supplement, 2022, is amended to read:

84-920 Sections 84-901 to 84-920 and sections 13, 14, and 15 of this act, and the Occupational Board Reform Act, and the Personal Privacy Protection Act shall be known and may be cited as the Administrative Procedure Act.

Sec. 17. Sections 17 to 20 of this act shall be known and may be cited as the Personal Privacy Protection Act.

Sec. 18. For purposes of the Personal Privacy Protection Act:

(1) Nonprofit organization means a nonprofit organization holding a certificate of exemption under section 501(c) of the Internal Revenue Code;

(2) Person means any individual, partnership, limited liability company, corporation, association, firm, or agent or employee of any such individual or business entity;

(3) Personal information means any list, record, register, registry, roll, roster, or other compilation of data that directly or indirectly identifies a person as a member, supporter, or volunteer of, or donor of financial or nonfinancial support to, any nonprofit organization; and

(4) Public agency means any state or local governmental unit, including, but not limited to:

(a) The State of Nebraska;

(b) Any agency, department, division, office, commission, board, bureau, committee, council, or other entity of the state;

(c) The University of Nebraska or any state college;

(d) Any political subdivision of the state, including, but not limited to, any county, city, village, township, school district, community college area, public power district, rural fire district, or other local governmental unit, or agency, authority, council, board, or commission thereof;

(e) Any state or local court, tribunal, or other judicial or quasi-judicial body; or

(f) Any public corporation whose primary function is to act as an instrumentality or agency of the state or of any other public agency.

Sec. 19. (1) Notwithstanding any provision of law to the contrary, and except as otherwise provided in this section, each public agency is prohibited from:

(a) Requiring any individual to provide personal information or otherwise compelling the release of personal information;

(b) Requiring any nonprofit organization to provide such public agency with personal information or otherwise compelling the release of personal information;

(c) Publicizing or otherwise publicly disclosing personal information in the possession of such public agency without the express permission of every individual who is identifiable from the potential release of such personal

information, including individuals identifiable as members, supporters, or volunteers of, or donors to, a nonprofit organization; or

(d) Requesting or requiring a current or prospective contractor or grantee to provide such public agency with a list of nonprofit organizations to which such contractor or grantee has provided financial or nonfinancial support.

(2) Personal information is exempt from disclosure under public records laws, including, but not limited to, sections 84-712 to 84-712.09 and 84-1413.

(3) This section does not prohibit:

(a) Any report or disclosure required by the Nebraska Political Accountability and Disclosure Act;

(b) Any report or disclosure by a public agency regarding testimony received at a public hearing conducted by such public agency;

(c) Any lawful warrant, subpoena, or order issued by a court of competent jurisdiction for the production of personal information;

(d) Any lawful request for discovery of personal information in litigation if both of the following conditions are met:

(i) The requestor demonstrates a compelling need for such personal information by clear and convincing evidence; and

(ii) The requestor obtains an order barring disclosure of such personal information to any person not named in the litigation;

(e) Admission of personal information as relevant evidence before a court of competent jurisdiction. However, no court shall publicly reveal personal information absent a specific finding of good cause;

(f) Any report or disclosure required by state or federal law or regulation for an employee of the University of Nebraska or any state college. Except as otherwise required by law, no such report or disclosure shall be subject to release under the state public records laws;

(g) Any report or disclosure required by conflict of interest, conflict of commitment, or outside income policies for an employee or contractor of the University of Nebraska or any state college. Except as otherwise required by law, no such report or disclosure shall be subject to release under the state public records laws;

(h) Any document required or permitted to be filed with the Secretary of State disclosing the identity of any director, officer, incorporator, or registered agent of a nonprofit organization;

(i) Any request for information required by the Uniform Credentialing Act or Health Care Facility Licensure Act or by a federal funding agency;

(j) A request for information required for a criminal history record information check undertaken pursuant to express statutory authority, except that such information shall only be used in connection with the specific criminal history record information check and for any related proceedings;

(k)(i) The Auditor of Public Accounts from accessing personal information during an examination undertaken pursuant to express statutory authority. The auditor may publicly disclose personal information obtained during such examination only if that information:

(A) Pertains specifically to a person who has violated or is alleged to have violated a state or federal law, rule, or regulation or an ordinance of a city or village; or

(B) Pertains to a person directly associated with a violation described in subdivision (3)(k)(i)(A) of this section.

(ii) This subdivision (3)(k) shall be strictly construed and only authorizes disclosure of personal information pertaining to a person who meets the criteria described in subdivision (3)(k)(i) of this section.

(iii) All other personal information accessed by the Auditor of Public Accounts shall be subject to the restrictions on working papers contained in section 84-311; or

(l) Subject to compliance with section 8-112, any request for, or release of, information, a record, or a report, obtained by the Department of Banking and Finance from a nonprofit organization.

Sec. 20. Any person aggrieved by a violation of the Personal Privacy Protection Act may bring a civil action for appropriate relief. Appropriate relief includes:

(1) The greater of actual damages or two thousand five hundred dollars in liquidated damages per violation; and

(2) Such preliminary and other equitable or declaratory relief as may be appropriate.

Sec. 21. Section 84-1412, Revised Statutes Cumulative Supplement, 2022, is amended to read:

84-1412 (1) Subject to the Open Meetings Act, the public has the right to attend and the right to speak at meetings of public bodies, and all or any part of a meeting of a public body, except for closed sessions called pursuant to section 84-1410, may be videotaped, televised, photographed, broadcast, or recorded by any person in attendance by means of a tape recorder, a camera, video equipment, or any other means of pictorial or sonic reproduction or in writing. Except for closed sessions called pursuant to section 84-1410, a public body shall allow members of the public an opportunity to speak at each meeting.

(2) It shall not be a violation of subsection (1) of this section for any public body to make and enforce reasonable rules and regulations regarding the conduct of persons attending, speaking at, videotaping, televising, photographing, broadcasting, or recording its meetings, including meetings held by virtual conferencing. A body may not be required to allow citizens to speak at each meeting, but it may not forbid public participation at all meetings.

(3) No public body shall require members of the public to identify themselves as a condition for admission to the meeting nor shall such body require that the name of any member of the public be placed on the agenda prior to such meeting in order to speak about items on the agenda. The body shall require any member of the public desiring to address the body to identify himself or herself, including an address and the name of any organization represented by such person unless the address requirement is waived to protect the security of the individual.

(4) No public body shall, for the purpose of circumventing the Open Meetings Act, hold a meeting in a place known by the body to be too small to accommodate the anticipated audience.

(5) No public body shall be deemed in violation of this section if it holds its meeting in its traditional meeting place which is located in this state.

(6) No public body shall be deemed in violation of this section if it holds a meeting outside of this state if, but only if:

(a) A member entity of the public body is located outside of this state and the meeting is in that member's jurisdiction;

(b) All out-of-state locations identified in the notice are located within public buildings used by members of the entity or at a place which will accommodate the anticipated audience;

(c) Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including making virtual conferencing available at an in-state location to members, the public, or the press, if requested twenty-four hours in advance;

(d) No more than twenty-five percent of the public body's meetings in a calendar year are held out-of-state;

(e) Out-of-state meetings are not used to circumvent any of the public government purposes established in the Open Meetings Act; and

(f) The public body publishes notice of the out-of-state meeting at least twenty-one days before the date of the meeting in a legal newspaper of statewide circulation.

(7) Each public body shall, upon request, make a reasonable effort to accommodate the public's right to hear the discussion and testimony presented at a meeting.

(8) Public bodies shall make available at the meeting or the in-state location for virtual conferencing as required by subdivision (6)(c) of this section, for examination and copying by members of the public, at least one copy of all reproducible written material to be discussed at an open meeting, either in paper or electronic form. Public bodies shall make available at least one current copy of the Open Meetings Act posted in the meeting room at a location accessible to members of the public. At the beginning of the meeting, the public shall be informed about the location of the posted information.

Sec. 22. Sections 1, 2, 3, 4, 5, 8, 9, 10, 12, 13, 14, 15, 16, 21, and 24 of this act become operative three calendar months after the adjournment of this legislative session. Sections 17, 18, 19, and 20 of this act become operative on January 1, 2025. Sections 6 and 7 of this act become operative on July 1, 2025. The other sections of this act become operative on their effective date.

Sec. 23. 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. 24. Original sections 84-712, 84-712.01, and 84-712.07, Reissue Revised Statutes of Nebraska, and sections 84-712.03, 84-920, and 84-1412, Revised Statutes Cumulative Supplement, 2022, are repealed.

Sec. 25. Original section 84-712.05, Revised Statutes Cumulative Supplement, 2022, is repealed.

Sec. 26. Since an emergency exists, this act takes effect when passed and approved according to law.