

AMENDMENTS TO LB43

Introduced by Government, Military and Veterans Affairs.

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

3 Section 1. Sections 1 to 5 of this act shall be known and may be
4 cited as the First Freedom Act.

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

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

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

13 (3) Religious organization means:

14 (a) A house of worship;

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

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

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

27 (5) State action means the implementation or application of any law,

1 including state and local laws, ordinances, rules, regulations, and
2 policies, whether statutory or otherwise, or other action by the state or
3 any political subdivision thereof and any local government, municipality,
4 instrumentality, or public official authorized by state or local law; and

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

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

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

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

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

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

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

31 (3) A person or religious organization asserting a claim or defense

1 under this section may obtain appropriate relief, including against the
2 state or a political subdivision. Appropriate relief includes:

3 (a) Actual damages;

4 (b) Such preliminary and other equitable or declaratory relief as
5 may be appropriate; and

6 (c) Reasonable attorney's fees and other litigation costs reasonably
7 incurred.

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

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

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

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

1 otherwise prohibited by federal law.

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

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

17 (3) For purposes of this section:

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

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

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

28 84-712 (1) Except as otherwise expressly provided by statute, all
29 residents ~~citizens~~ of this state and all other persons interested in the
30 examination of the public records as defined in section 84-712.01 are
31 hereby fully empowered and authorized to (a) examine such records, and

1 make memoranda, copies using their own copying or photocopying equipment
2 in accordance with subsection (2) of this section, and abstracts
3 therefrom, all free of charge, during the hours the respective offices
4 may be kept open for the ordinary transaction of business and (b) except
5 if federal copyright law otherwise provides, obtain copies of public
6 records in accordance with subsection (3) of this section during the
7 hours the respective offices may be kept open for the ordinary
8 transaction of business.

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

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

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

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

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

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

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

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

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

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

29 (4) Upon receipt of a written request for access to or copies of a
30 public record, the custodian of such record shall provide to the
31 requester as soon as is practicable and without delay, but not more than

1 four business days after actual receipt of the request, an estimate of
2 the expected cost of the copies and either (a) access to or, if copying
3 equipment is reasonably available, copies of the public record, (b) if
4 there is a legal basis for denial of access or copies, a written denial
5 of the request together with the information specified in section
6 84-712.04, or (c) if the entire request cannot with reasonable good faith
7 efforts be fulfilled within four business days after actual receipt of
8 the request due to the significant difficulty or the extensiveness of the
9 request, a written explanation, including the earliest practicable date
10 for fulfilling the request, an estimate of the expected cost of any
11 copies, and an opportunity for the requester to modify or prioritize the
12 items within the request. Such estimate shall be provided to the
13 requester in writing, and such written estimate shall be attested to
14 under oath by the custodian of the public records. The requester shall
15 have ten business days to review the estimated costs, including any
16 special service charge, and request the custodian to fulfill the original
17 request, negotiate with the custodian to narrow or simplify the request,
18 or withdraw the request. If the requester does not respond to the
19 custodian within ten business days, the custodian shall not proceed to
20 fulfill the request. The four business days shall be computed by
21 excluding the day the request is received, after which the designated
22 period of time begins to run. Business day does not include a Saturday, a
23 Sunday, or a day during which the offices of the custodian of the public
24 records are closed.

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

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

30 84-712.01 (1) Except when any other statute expressly provides that
31 particular information or records shall not be made public, public

1 records shall include all records and documents, regardless of physical
2 form, of or belonging to this state, any county, city, village, political
3 subdivision, or tax-supported district in this state, or any agency,
4 branch, department, board, bureau, commission, council, subunit, or
5 committee of any of the foregoing. Data which is a public record in its
6 original form shall remain a public record when maintained in computer
7 files.

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

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

27 Sec. 10. Section 84-712.03, Revised Statutes Cumulative Supplement,
28 2022, is amended to read:

29 84-712.03 (1) Any person denied any rights granted by sections
30 84-712 to 84-712.03 may elect to:

31 (a) File for speedy relief by a writ of mandamus in the district

1 court within whose jurisdiction the state, county, or political
2 subdivision officer who has custody of the public record can be served;
3 or

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

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

31 (3) Proceedings arising under this section shall be advanced on the

1 trial docket and heard and decided by the court as soon as reasonably
2 possible and , ~~except as to the cases the court considers of greater~~
3 ~~importance,~~ shall take precedence on the trial docket over all other
4 cases and shall be assigned for hearing, trial, or argument at the
5 earliest practicable date and expedited in every way.

6 Sec. 11. Section 84-712.05, Revised Statutes Cumulative Supplement,
7 2022, is amended to read:

8 84-712.05 The following records, unless publicly disclosed in an
9 open court, open administrative proceeding, or open meeting or disclosed
10 by a public entity pursuant to its duties, may be withheld from the
11 public by the lawful custodian of the records:

12 (1) Personal information in records regarding a student, prospective
13 student, or former student of any educational institution or exempt
14 school that has effectuated an election not to meet state approval or
15 accreditation requirements pursuant to section 79-1601 when such records
16 are maintained by and in the possession of a public entity, other than
17 routine directory information specified and made public consistent with
18 20 U.S.C. 1232g, as such section existed on February 1, 2013, and
19 regulations adopted thereunder;

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

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

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

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

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

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

22 (6) The identity and personal identifying information of an alleged
23 victim of sexual assault or sex trafficking as provided in section
24 29-4316;

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

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

30 (9) Information solely pertaining to protection of the security of
31 public property and persons on or within public property, such as

1 specific, unique vulnerability assessments or specific, unique response
2 plans, either of which is intended to prevent or mitigate criminal acts
3 the public disclosure of which would create a substantial likelihood of
4 endangering public safety or property; computer or communications network
5 schema, passwords, and user identification names; guard schedules; lock
6 combinations; or public utility infrastructure specifications or design
7 drawings the public disclosure of which would create a substantial
8 likelihood of endangering public safety or property, unless otherwise
9 provided by state or federal law;

10 (10) Information that relates details of physical and cyber assets
11 of critical energy infrastructure or critical electric infrastructure,
12 including (a) specific engineering, vulnerability, or detailed design
13 information about proposed or existing critical energy infrastructure or
14 critical electric infrastructure that (i) relates details about the
15 production, generation, transportation, transmission, or distribution of
16 energy, (ii) could be useful to a person in planning an attack on such
17 critical infrastructure, and (iii) does not simply give the general
18 location of the critical infrastructure and (b) the identity of personnel
19 whose primary job function makes such personnel responsible for (i)
20 providing or granting individuals access to physical or cyber assets or
21 (ii) operating and maintaining physical or cyber assets, if a reasonable
22 person, knowledgeable of the electric utility or energy industry, would
23 conclude that the public disclosure of such identity could create a
24 substantial likelihood of risk to such physical or cyber assets.
25 Subdivision (10)(b) of this section shall not apply to the identity of a
26 chief executive officer, general manager, vice president, or board member
27 of a public entity that manages critical energy infrastructure or
28 critical electric infrastructure. The lawful custodian of the records
29 must provide a detailed job description for any personnel whose identity
30 is withheld pursuant to subdivision (10)(b) of this section. For purposes
31 of subdivision (10) of this section, critical energy infrastructure and

1 critical electric infrastructure mean existing and proposed systems and
2 assets, including a system or asset of the bulk-power system, whether
3 physical or virtual, the incapacity or destruction of which would
4 negatively affect security, economic security, public health or safety,
5 or any combination of such matters;

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

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

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

22 (14) Correspondence, memoranda, and records of telephone calls
23 related to the performance of duties by a member of the Legislature in
24 whatever form. The lawful custodian of the correspondence, memoranda, and
25 records of telephone calls, upon approval of the Executive Board of the
26 Legislative Council, shall release the correspondence, memoranda, and
27 records of telephone calls which are not designated as sensitive or
28 confidential in nature to any person performing an audit of the
29 Legislature. A member's correspondence, memoranda, and records of
30 confidential telephone calls related to the performance of his or her
31 legislative duties shall only be released to any other person with the

1 explicit approval of the member;

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

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

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

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

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

28 (18) Job application materials submitted by applicants, other than
29 finalists or a priority candidate for a position described in section
30 85-106.06 selected using the enhanced public scrutiny process in section
31 85-106.06, who have applied for employment by any public body as defined

1 in section 84-1409. For purposes of this subdivision, (a) job application
2 materials means employment applications, resumes, reference letters, and
3 school transcripts and (b) finalist means any applicant who is not an
4 applicant for a position described in section 85-106.06 and (i) who
5 reaches the final pool of applicants, numbering four or more, from which
6 the successful applicant is to be selected, (ii) who is an original
7 applicant when the final pool of applicants numbers less than four, or
8 (iii) who is an original applicant and there are four or fewer original
9 applicants;

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

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

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

21 (22) Draft records obtained by the Nebraska Retirement Systems
22 Committee of the Legislature and the Governor from Nebraska Public
23 Employees Retirement Systems pursuant to subsection (4) of section
24 84-1503;

25 (23) All prescription drug information submitted pursuant to section
26 71-2454, all data contained in the prescription drug monitoring system,
27 and any report obtained from data contained in the prescription drug
28 monitoring system;

29 (24) Information obtained by any government entity, whether federal,
30 state, county, or local, regarding firearm registration, possession,
31 sale, or use that is obtained for purposes of an application permitted or

1 required by law or contained in a permit or license issued by such
2 entity. Such information shall be available upon request to any federal,
3 state, county, or local law enforcement agency;~~and~~

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

15 (26) Records relating to the nature, location, or function of
16 cybersecurity by the State of Nebraska or any of its political
17 subdivisions, including, but not limited to, devices, programs, or
18 systems designed to protect computer, information technology, or
19 communications systems against terrorist or other attacks. The Nebraska
20 Information Technology Commission shall adopt and promulgate rules and
21 regulations to implement this subdivision.

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

24 84-712.07 The provisions of sections 84-712, 84-712.01, 84-712.03 to
25 84-712.09, and 84-1413 pertaining to the rights of residents of this
26 state and all other interested persons ~~citizens~~ to access to public
27 records may be enforced by equitable relief, whether or not any other
28 remedy is also available. In any case in which the complainant seeking
29 access has substantially prevailed, the court may assess against the
30 public body which had denied access to their records, reasonable attorney
31 fees and other litigation costs reasonably incurred by the complainant.

1 Sec. 13. In interpreting a state statute or rule or regulation, a
2 hearing officer or judge hearing a contested case shall not defer to the
3 agency's interpretation of such statute or rule or regulation. Any court
4 reviewing an appeal from a contested case shall interpret the statute or
5 rule or regulation de novo on the record and shall not defer to the
6 agency's interpretation of such statute or rule or regulation.

7 Sec. 14. In actions brought by or against state agencies, after
8 applying all customary tools of interpretation of a statute or rule or
9 regulation, the court or hearing officer shall resolve any remaining
10 doubt in favor of a reasonable interpretation which limits agency power
11 and maximizes individual liberty.

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

16 (2) For purposes of this section:

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

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

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

30 (4) This section shall not be construed to limit or restrict the
31 powers, duties, remedies, or penalties available to the Attorney General

1 or Secretary of State under statute or common law, including, but not
2 limited to, issuance of a civil investigative demand or subpoena.

3 Sec. 16. Section 84-920, Revised Statutes Cumulative Supplement,
4 2022, is amended to read:

5 84-920 Sections 84-901 to 84-920 and sections 13, 14, and 15 of this
6 act, and the Occupational Board Reform Act, and the Personal Privacy
7 Protection Act shall be known and may be cited as the Administrative
8 Procedure Act.

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

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

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

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

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

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

24 (a) The State of Nebraska;

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

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

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

1 commission thereof;

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

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

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

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

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

14 (c) Publicizing or otherwise publicly disclosing personal
15 information in the possession of such public agency without the express
16 permission of every individual who is identifiable from the potential
17 release of such personal information, including individuals identifiable
18 as members, supporters, or volunteers of, or donors to, a nonprofit
19 organization; or

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

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

27 (3) This section does not prohibit:

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

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

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

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

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

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

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

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

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

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

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

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

1 proceedings; or

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

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

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

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

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

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

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

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

24 Sec. 21. Sections 1, 2, 3, 4, 5, 8, 9, 10, 12, 13, 14, 15, 16, and
25 23 of this act become operative three calendar months after the
26 adjournment of this legislative session. Sections 17, 18, 19, and 20 of
27 this act become operative on January 1, 2025. Sections 6 and 7 of this
28 act become operative on July 1, 2025. The other sections of this act
29 become operative on their effective date.

30 Sec. 22. If any section in this act or any part of any section is
31 declared invalid or unconstitutional, the declaration shall not affect

1 the validity or constitutionality of the remaining portions.

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

5 Sec. 24. Original section 84-712.05, Revised Statutes Cumulative
6 Supplement, 2022, is repealed.

7 Sec. 25. Since an emergency exists, this act takes effect when
8 passed and approved according to law.