

LEGISLATIVE BILL 821

Approved by the Governor March 19, 2004

Introduced by Schimek, 27

AN ACT relating to the Open Meetings Act; to amend sections 2-261, 28-731, 58-230, 66-1619, 71-121, 71-3406, 71-5176, 71-5705, 71-6224, 72-1704, 74-1308, 77-5005, 79-317, 79-554, 79-560, 79-561, 79-814.01, 79-832, 79-1239, 81-1505.03, 81-15,217, 81-1712, 84-1408 to 84-1410, 84-1414, 84-1502, 85-104, and 85-1502, Reissue Revised Statutes of Nebraska, sections 2-101, 2-238, 13-2515, 13-2517, 13-2801, 13-2812, 16-1037, 46-2,120, 50-307, 84-1411, 84-1412, 86-327, and 86-413, Revised Statutes Supplement, 2002, and sections 25-2937 and 39-1108, Revised Statutes Supplement, 2003; to name the act; to provide for applicability of the act; to redefine terms; to change penalty provisions; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 2-101, Revised Statutes Supplement, 2002, is amended to read:

2-101. (1) The Nebraska State Fair Board, formerly known as the State Board of Agriculture, shall hold an annual meeting for the purpose of deliberating and consulting as to the wants, prospects, and conditions of the agricultural, horticultural, industrial, mechanical, and other interests throughout the state, as well as those interests in the encouragement and perpetuation of the arts, skilled crafts, and sciences.

(2) The Nebraska State Fair Board may provide in its constitution and bylaws for the qualification and participation of delegates at the annual meeting from such associations incorporated under the laws of the state for purposes of promoting and furthering the interests of participants in agricultural, horticultural, industrial, mechanical, or other pursuits or for the encouragement and perpetuation of the arts, skilled crafts, and sciences, and from such associations as provide for the training, encouragement, and competition of the youth of Nebraska in such endeavors. The annual meeting shall be held in every odd-numbered year at the capital of the state and in every even-numbered year at such location as the board determines. The chairperson of the board shall also have the power to call meetings of the board whenever he or she may deem it expedient. All meetings of the board shall be conducted in accordance with the Open Meetings Act.

(3) The state fair shall be held at or near the city of Lincoln, in Lancaster County, under the direction and supervision of the Nebraska State Fair Board, upon the site and tract of land selected and now owned by the state for that purpose and known as the Nebraska State Fairgrounds. The board may, at its discretion, hold or dispense with the holding of the fair, in any year.

Sec. 2. Section 2-238, Revised Statutes Supplement, 2002, is amended to read:

2-238. County fair boards established under sections 2-221 to 2-231 shall comply with the Open Meetings Act and the Records Management Act. ~~and with sections 84-1408 to 84-1414.~~

Sec. 3. Section 2-261, Reissue Revised Statutes of Nebraska, is amended to read:

2-261. (1) County agricultural societies are subject to the Nebraska Budget Act. County agricultural societies shall comply with the Open Meetings Act and the Records Management Act. ~~and with sections 84-1408 to 84-1414.~~

(2) The budget of each county agricultural society is subject to annual review, audit, and approval by the county board of the county in which such society is located.

Sec. 4. Section 13-2515, Revised Statutes Supplement, 2002, is amended to read:

13-2515. (1) Each participating public agency shall at all times be entitled to appoint at least one representative. A joint public agency's rules of governance may allow any participating public agency to appoint additional representatives and shall specify the number of representatives to be appointed by each participating public agency. The number of representatives may be increased or decreased from time to time by an amendment to the rules of governance approved by each participating public agency as evidenced by a resolution of the governing body thereof unless the

agreement provides for approval by less than all participating public agencies.

(2) Each representative shall be entitled to one vote. With the approval of each participating public agency as evidenced by a resolution of the governing body thereof unless the agreement provides for approval by less than all participating public agencies, a joint public agency's rules of governance may allow the representative of any participating public agency to cast more than one vote and shall specify the number of votes such representative may cast.

(3) A quorum of the board is required for conducting the business and exercising the powers of the joint public agency and for all other purposes. Unless the rules of governance require a larger quorum, the presence at the meeting of the number of representatives entitled to cast a majority of the total votes which may be cast by all of the representatives constitutes a quorum. Action may be taken upon a vote of a majority of the votes which the representatives present are entitled to cast unless the rules of governance require a larger vote.

(4) The manner of scheduling regular meetings and the method of calling special board meetings, including the giving or waiving of notice, shall be as provided in the rules of governance within the constraints of ~~sections 84-1408 to 84-1414~~ the Open Meetings Act.

Sec. 5. Section 13-2517, Revised Statutes Supplement, 2002, is amended to read:

13-2517. (1) The board may create an executive committee the composition of which shall be set forth in the joint public agency's rules of governance. The executive committee shall have and exercise the power and authority of the board during intervals between the board's meetings in accordance with the rules of governance, motions, or resolutions creating the executive committee. The terms of office of the members of the executive committee and the method of filling vacancies shall be fixed by the rules of governance.

(2) The board may also create one or more committees to which the board may delegate such powers and duties as the board shall specify. In no event shall any committee be empowered to authorize the issuance of bonds. The membership and voting requirements for action by a committee shall be specified by the board.

(3) The board shall be subject to ~~sections 84-1408 to 84-1414~~ the Open Meetings Act.

Sec. 6. Section 13-2801, Revised Statutes Supplement, 2002, is amended to read:

13-2801. (1) One or more counties and at least one of the municipalities in each county may create a municipal county to carry out all county services and all municipal services. The process of creating a municipal county shall begin by passage of a joint resolution by the governing bodies of the counties and municipalities involved. The joint resolution may be initiated by the governing bodies or by petition as provided in subsection (2) of this section.

(2) Whenever registered voters of any county and of at least one municipality in the county, equal in number to ten percent of the total vote cast for Governor in the county or municipality at the preceding election, petition the respective county board and city council or village board of trustees to pass a resolution as contemplated by this section, it shall be the duty of the county board and city council or village board to pass a joint resolution creating an interjurisdictional planning commission. Petitions shall be filed with the county clerk, election commissioner, city clerk, or other officer having charge of the records of the governing body. The official shall ascertain the number of registered voters signing such petitions and transmit his or her findings, along with the petition, to the county board and city council or village board of trustees.

(3) Within ninety days after the passage of the joint resolution or within ninety days after receipt of a petition by the registered voters, the governing bodies of the counties and municipalities involved shall create an interjurisdictional planning commission. A commission may also be created by the district court having jurisdiction over the counties and municipalities involved upon the failure by the counties and municipalities to pass a joint resolution after submission of a petition by the registered voters. The commission shall have no less than nine members and no more than twenty-one members representing the counties and municipalities involved as determined by the governing bodies of the counties and municipalities involved in order to achieve proportionate representation. The governing bodies shall select the members. Representation on the commission shall be prorated based upon population of the counties and municipalities involved, except that (a) each

county and each municipality involved shall have at least one representative selected by its respective governing body and (b) not more than forty percent of the total membership shall be public officials. Meetings of the commission shall be subject to ~~sections 84-1408 to 84-1414~~ the Open Meetings Act.

(4) (a) The commission shall hold at least one public hearing prior to preparing the plan for the creation of the municipal county, study all governmental subdivisions in the affected area, and then make a determination of whether creation of a municipal county is in the public interest. If it is not in the public interest to do so, the commission shall issue a report stating its findings, including, but not limited to, any recommendations regarding (i) interlocal agreements, (ii) agreements to provide for the joint delivery of services, or (iii) any other such recommendations. If it is in the public interest to do so, the commission shall prepare one plan for the creation of the municipal county. Such plan shall be approved by the governing body of each county and each municipality involved prior to submission of the issue to a vote of the registered voters unless the commission was created by a petition of the registered voters.

(b) The plan shall specify (i) which counties and municipalities will be dissolved upon creation of the municipal county, (ii) the form of government, with an elected executive officer, a professional municipal county manager or administrator appointed by the commission, or both, to operate the executive functions of the municipal county, (iii) the number of council members of the municipal county and whether they will be elected by district or at large, and (iv) which elected officials, if any, will be eliminated.

(c) At least ninety days prior to submission of the issue to a vote of the registered voters, the commission and the governing body of each county and each municipality involved shall hold at least one public hearing in its respective jurisdiction and make available for review by residents of the county and municipality all material terms and conditions set forth in the resolution to create the municipal county, including information regarding the tax implications and quality and cost of services to be provided by the proposed plan to create the municipal county.

(5) Upon approval of the plan by the governing body of each county and each municipality involved, if required, or upon the governing bodies' approval or failure to approve if the commission was created by a petition of the registered voters, the county clerks or election commissioners shall place the issue on the ballot at the next primary, general, or special election.

Sec. 7. Section 13-2812, Revised Statutes Supplement, 2002, is amended to read:

13-2812. (1) A municipal county may be dissolved by submitting the question of dissolution at a primary, general, or special election held within the county or counties involved and in which all registered voters are entitled to vote on such question. The ballot question may combine the issues of dissolution of the municipal county, the division of the municipal county into the county or counties and its offices, and the division of each merged municipality. The process of dissolving a municipal county shall begin by passage of a resolution by the council of the municipal county. The resolution may be initiated by the council or by petition as provided in subsection (2) of this section.

(2) Whenever registered voters of the municipal county, equal in number to ten percent of the total vote cast for Governor in the municipal county at the preceding election, petition the council to pass a resolution as contemplated by this section, it shall be the duty of the council to pass a resolution creating a dissolution planning commission. Petitions shall be filed with the election official. The election official shall ascertain the number of registered voters signing such petitions and transmit his or her findings, along with the petition, to the council.

(3) Within ninety days after the passage of the resolution or within ninety days after receipt of a petition by the registered voters, the council shall create a dissolution planning commission. A commission may also be created by the district court having jurisdiction over the municipal county upon the failure by the municipal county to pass a resolution after submission of a petition by the registered voters. The commission shall have no less than nine members and no more than twenty-one members representing the proposed counties and proposed municipalities to be reestablished as determined by the council in order to achieve proportionate representation. The council shall select the members. Representation on the commission shall be prorated based upon population of the proposed counties and proposed municipalities involved, except that (a) each proposed county and each proposed municipality involved shall have at least one representative selected by the council and (b) not more than forty percent of the total membership shall be public officials. Meetings of the commission shall be subject to

~~sections 84-1408 to 84-1414~~ the Open Meetings Act.

(4) The commission shall hold at least one public hearing prior to preparing the plan for the dissolution of the municipal county, study the affected area, and then make a determination of whether dissolution of a municipal county is in the public interest. If it is not in the public interest to do so, the commission shall issue a report stating its findings. If it is in the public interest to do so, the commission shall prepare one plan for the dissolution of the municipal county. Such plan shall be approved by the council prior to submission of the issue to a vote of the registered voters unless the commission was created by a petition of the registered voters. The plan shall specify (a) which counties and municipalities will be reestablished upon dissolution of the municipal county, and (b) which elected officials, if any, will be reestablished. At least ninety days prior to submission of the issue to a vote of the registered voters, the commission and the council shall hold at least one public hearing in each county and municipality proposed to be reestablished and make available for review by residents of the municipal county all material terms and conditions set forth in the resolution to dissolve the municipal county, including information regarding the tax implications and quality and cost of services to be provided by the proposed plan to dissolve the municipal county.

(5) Upon approval of the plan by the council, if required, or upon the council's approval or failure to approve if the commission was created by a petition of registered voters, the election official shall place the issue on the ballot at the next primary, general, or special election. The question may include any terms or conditions set forth in the resolution, such as the services to be provided by the municipalities and the timing of the dissolution implementation, and shall include any offices to be reestablished.

(6) The election official shall give notice of the submission of the question not more than thirty days nor less than ten days before the election by publication one time in one or more newspapers published in or of general circulation in the municipal county in which the question is to be submitted. This notice is in addition to any other notice required under the Election Act.

(7) The vote shall be tabulated in each municipality which is proposed to be created by the dissolution separately from the areas outside the boundaries of the proposed municipalities. If a majority of those voting on the question in the area within the boundaries of any proposed municipality and the areas outside the proposed municipalities vote in favor of dissolution, the municipal county shall be deemed to be dissolved according to the terms of the resolution. If the dissolution is not approved by a majority of those voting in the election in the area within the boundaries of any proposed municipality or the areas outside the proposed municipalities, the dissolution shall be deemed rejected.

(8) Any election under this section shall be conducted in accordance with the procedures provided in the Election Act.

Sec. 8. Section 16-1037, Revised Statutes Supplement, 2002, is amended to read:

16-1037. (1) It shall be the duty of the retirement committee to:

(a) Elect a chairperson, a vice-chairperson, and such other officers as the committee deems appropriate;

(b) Hold regular quarterly meetings and special meetings upon the call of the chairperson;

(c) Conduct meetings pursuant to ~~sections 84-1408 to 84-1414~~ the Open Meetings Act;

(d) Provide each employee a summary of plan eligibility requirements, benefit provisions, and investment options available to such employee;

(e) Provide, within thirty days after a request is made by a participant, a statement describing the amount of benefits such participant is eligible to receive; and

(f) Make available for review an annual report of the system's operations describing both (i) the amount of contributions to the system from both employee and employer sources and (ii) an identification of the total assets of the retirement system.

(2)(a) Beginning December 31, 1998, and each December 31 thereafter, the chairperson of the retirement committee shall file with the Public Employees Retirement Board an annual report on each retirement plan established pursuant to section 401(a) of the Internal Revenue Code and administered by a retirement system established pursuant to sections 16-1020 to 16-1042 and shall submit copies of such report to the members of the Nebraska Retirement Systems Committee of the Legislature. The annual report shall be in a form prescribed by the Public Employees Retirement Board and

shall contain the following information for each such retirement plan:

- (i) The number of persons participating in the retirement plan;
- (ii) The contribution rates of participants in the plan;
- (iii) Plan assets and liabilities;
- (iv) The names and positions of persons administering the plan;
- (v) The names and positions of persons investing plan assets;
- (vi) The form and nature of investments;
- (vii) For each defined contribution plan, a full description of investment policies and options available to plan participants; and
- (viii) For each defined benefit plan, the levels of benefits of participants in the plan, the number of members who are eligible for a benefit, and the total present value of such members' benefits, as well as the funding sources which will pay for such benefits.

If a plan contains no current active participants, the chairperson may file in place of such report a statement with the Public Employees Retirement Board indicating the number of retirees still drawing benefits, and the sources and amount of funding for such benefits.

(b) Beginning December 31, 1998, and every four years thereafter, if such retirement plan is a defined benefit plan, the retirement committee shall cause to be prepared a quadrennial report and the chairperson shall file the same with the Public Employees Retirement Board and submit to the members of the Nebraska Retirement Systems Committee of the Legislature a copy of such report. The report shall consist of a full actuarial analysis of each such retirement plan administered by a system established pursuant to sections 16-1020 to 16-1042. The analysis shall be prepared by an independent private organization or public entity employing actuaries who are members in good standing of the American Academy of Actuaries, and which organization or entity has demonstrated expertise to perform this type of analysis and is unrelated to any organization offering investment advice or which provides investment management services to the retirement plan.

Sec. 9. Section 25-2937, Revised Statutes Supplement, 2003, is amended to read:

25-2937. Unless subject to the Open Meetings Act or sections 84-712 to 84-712.09, ~~or 84-1408 to 84-1414~~, mediation communications are confidential to the extent agreed by the parties or provided by other law or rule of this state.

Sec. 10. Section 28-731, Reissue Revised Statutes of Nebraska, is amended to read:

28-731. The teams established by sections 28-728 to 28-730 shall not be considered a public body for purposes of ~~sections 84-1408 to 84-1414~~ the Open Meetings Act.

Sec. 11. Section 39-1108, Revised Statutes Supplement, 2003, is amended to read:

39-1108. Regular meetings of the State Highway Commission shall be held upon call of the chairperson, but not less than six times per year. Special meetings may be held upon call of the chairperson, or pursuant to a call signed by three other members, of which the chairperson shall have three days' written notice.

All regular meetings shall be held in suitable offices to be provided in Lincoln unless a majority of the members deem it necessary to hold a regular meeting at another location within this state. Members of the commission may participate by telephone conference call or videoconference as long as the chairperson or vice-chairperson conducts the meeting in an open forum where the public is able to participate by attendance at the scheduled meeting.

Five members of the commission constitute a quorum for the transaction of business. Every act of a majority of the members of the commission shall be deemed to be the act of the commission.

All meetings shall be open to the public and shall be conducted in accordance with ~~sections 84-1408 to 84-1414~~ the Open Meetings Act.

The minutes of the meetings shall show the action of the commission on matters presented. The minutes shall be open to public inspection.

Sec. 12. Section 46-2,120, Revised Statutes Supplement, 2002, is amended to read:

46-2,120. (1) Any irrigation district, reclamation district, public power and irrigation district, rural water district, or mutual irrigation or canal company using the procedure described in sections 46-2,121 to 46-2,129 and which is exempt from ~~sections 84-1408 to 84-1414~~ the Open Meetings Act shall provide notice by mail to each owner of land in the district or served by the company not less than seven days before any meeting or hearing under sections 46-2,121 to 46-2,129.

(2) For purposes of sections 46-2,120 to 46-2,130:

(a) Department means the Department of Natural Resources; and

(b) Director means the Director of Natural Resources.

Sec. 13. Section 50-307, Revised Statutes Supplement, 2002, is amended to read:

50-307. The Nebraska Futures Center and the Nebraska Futures Center Board shall comply with the Open Meetings Act and the Records Management Act. ~~and with sections 84-1408 to 84-1414.~~

Sec. 14. Section 58-230, Reissue Revised Statutes of Nebraska, is amended to read:

58-230. Meetings of the members of the authority shall be held at least once every three months to attend to the business of the authority and may be held at the call of the chairperson or whenever any five members so request. Such meetings shall at all times be subject to ~~sections 84-1408 to 84-1414~~ the Open Meetings Act, and such meetings may be held by means of videoconferencing in accordance with subsection (2) of section 84-1411.

Sec. 15. Section 66-1619, Reissue Revised Statutes of Nebraska, is amended to read:

66-1619. (1) The council shall provide rules and regulations to carry out its responsibilities under the Propane Education and Research Act.

(2) The council may enter into contracts with, use facilities and equipment of, or employ the personnel of a qualified industry organization in carrying out the council's responsibilities under the act.

(3) The council shall protect the handling of council funds through fidelity bonds.

(4) The administrative costs of operating the council shall not exceed twenty percent of the funds collected pursuant to section 66-1621 in any fiscal year.

(5) The council shall operate in accordance with ~~sections 84-1408 to 84-1414~~ the Open Meetings Act.

(6) At the beginning of each fiscal year, the council shall prepare a budget plan which includes the estimated costs of all programs, projects, and contracts. The council shall provide an opportunity for public comment on the budget. The council shall prepare and make available to the public an annual report detailing the activities of the council in the previous year, those planned for the coming year, and the costs related to the activities.

(7) The council shall keep minutes, books, and records that clearly reflect all of the acts and transactions of the council. The books of the council shall be audited by a certified public accountant at least once each fiscal year and at such other times as the council may designate. Copies of the audit shall be provided to the executive director, if one is appointed by the council, to all members of the council, to the Clerk of the Legislature, and to any other member of the industry upon request.

(8) The council shall issue notice of meetings and shall require reports on the activities of the committees and subcommittees and on compliance, violations, and complaints regarding the implementation of the Propane Education and Research Act.

Sec. 16. Section 71-121, Reissue Revised Statutes of Nebraska, is amended to read:

71-121. The department shall, as far as practicable, provide for the conducting of the business of the professional boards by mail and may hold meetings by teleconference subject to ~~Chapter 84, article 14~~ the Open Meetings Act. Any official action or vote of the members of a professional board taken by mail shall be preserved in the records of the department and shall be embodied in the proper minute book by the department.

Sec. 17. Section 71-3406, Reissue Revised Statutes of Nebraska, is amended to read:

71-3406. (1) The Director of Health and Human Services shall appoint a minimum of eight and a maximum of twelve members to the State Child Death Review Team. The core members shall be ~~(1)~~ (a) a physician employed by the Nebraska Health and Human Services System, as referred to in section 81-3006, who shall be a permanent member and shall serve as the chairperson of the team, ~~(2)~~ (b) a senior staff member with child protective services of the Department of Health and Human Services, ~~(3)~~ (c) a forensic pathologist, ~~(4)~~ (d) a law enforcement representative, and ~~(5)~~ (e) an attorney. The remaining members appointed may be, but shall not be limited to, the following: A county attorney; a Federal Bureau of Investigation agent responsible for investigations on Native American reservations; a social worker; and members of organizations which represent hospitals or physicians.

(2) Members shall serve four-year terms with the exception of the chairperson. In the absence of the chairperson, the Director of Health and Human Services may appoint another member of the core team to serve as chairperson.

(3) The team shall not be considered a public body for purposes of ~~sections 84-1408 to 84-1414~~ the Open Meetings Act. The team shall meet a minimum of four times a year. Members of the team shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

Sec. 18. Section 71-5176, Reissue Revised Statutes of Nebraska, is amended to read:

71-5176. (1) The Board of Emergency Medical Services is established. The board shall have seventeen members appointed by the Governor with the approval of a majority of the Legislature. The appointees may begin to serve immediately following appointment and prior to approval by the Legislature.

(2) (a) Seven members of the Board of Emergency Medical Services shall be active out-of-hospital emergency care providers at the time of and for the duration of their appointment, and each shall have at least five years of experience in his or her level of certification at the time of his or her appointment or reappointment. Two of the seven members who are out-of-hospital emergency care providers shall be first responders, two shall be emergency medical technicians, one shall be an emergency medical technician-intermediate, and two shall be emergency medical technicians-paramedic.

(b) Three of the members shall be qualified physicians actively involved in emergency medical care. At least one of the physician members shall be a board-certified surgeon, and at least one of the physician members shall be a board-certified emergency physician.

(c) Five members shall be appointed to include one member who is a representative of an approved training agency, one member who is a physician assistant with at least five years of experience and active in out-of-hospital emergency medical care education, one member who is a registered nurse with at least five years of experience and active in out-of-hospital emergency medical care education, and two members who are consumers who have been residents of the State of Nebraska for five years with an expressed interest in the provision of out-of-hospital emergency medical care.

(d) The remaining two members shall have any of the qualifications listed in subdivision (a), (b), or (c) of this subsection.

(e) In addition to any other criteria for appointment, among the members of the board there shall be at least one member who is a volunteer emergency medical care provider, at least one member who is a paid emergency medical care provider, at least one member who is a firefighter, at least one member who is a law enforcement officer, and at least one member who is active in the Critical Incident Stress Management Program. If a person appointed to the board is qualified to serve as a member in more than one capacity, all qualifications of such person shall be taken into consideration to determine whether or not the diversity in qualifications required in this subsection has been met.

(f) At least five members of the board shall be appointed from each congressional district. No more than one physician member shall reside in any single congressional district.

(3) The Governor shall make the initial appointments to the board within ninety days after September 13, 1997. Five of the initial members shall be appointed for terms of one year as determined by the Governor. Six of the initial members shall be appointed for terms of two years as determined by the Governor. Six of the initial members shall be appointed for terms of three years as determined by the Governor. After the initial appointments, all members shall serve three-year terms. Each member shall hold office until the expiration of his or her term. Any vacancy in membership, other than by expiration of a term, shall be filled within ninety days by the Governor by appointment as provided in subsection (2) of this section.

(4) Members of the board shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

(5) The board shall meet within ninety days after the appointment of the initial members and shall meet at least once each year thereafter. Special meetings of the board may be called by the department or upon the written request of any six members of the board explaining the reason for such meeting. The place of the meetings shall be set by the department. At the first meeting of the board, such officers as the board deems necessary shall be elected. A majority of the members shall constitute a quorum for the transaction of business. Every act of the majority of the members of the board present at a meeting of the board shall be deemed to be the act of the board. The board shall comply with ~~sections 84-1408 to 84-1414~~ the Open Meetings Act.

(6) The department shall adopt and promulgate rules and regulations

which establish definitions of conflicts of interest for members of the board and which establish procedures for resolution of conflicts of interest.

(7) The Governor upon recommendation of the department shall have power to remove from office at any time any member of the board for physical or mental incapacity to carry out the duties of a board member, for continued neglect of duty, for incompetency, for acting beyond the individual member's scope of authority, for malfeasance in office, for any cause for which a professional license or certificate may be suspended or revoked pursuant to the Uniform Licensing Law, or for a lack of license or certificate required by the Emergency Medical Services Act.

(8) Except as provided in subsection (7) of this section and notwithstanding subsection (2) of this section, a member of the board who changes his or her certification classification after appointment when such certification classification was a qualification for appointment shall be permitted to continue to serve as a member of the board until the expiration of his or her term.

Sec. 19. Section 71-5705, Reissue Revised Statutes of Nebraska, is amended to read:

71-5705. Public meeting shall mean all meetings as defined in ~~Chapter 84, article 14~~ the Open Meetings Act.

Sec. 20. Section 71-6224, Reissue Revised Statutes of Nebraska, is amended to read:

71-6224. (1) The director with the advice of the board shall appoint an appropriate technical committee to examine and investigate each application. The committee shall consist of six appointed members and one member of the board designated by the board who shall serve as chairperson of the committee. The chairperson of the committee shall not be a member of the applicant group, any health profession sought to be regulated by the application, or any health profession which is directly or indirectly affected by the application. The director shall ensure that the total composition of the committee is fair, impartial, and equitable. In no event shall more than two members of the same regulated health profession, the applicant group, or the health profession sought to be regulated by an application serve on a technical committee.

(2) As soon as possible after its appointment, the committee shall meet and review the application assigned to it. Each committee shall conduct public factfinding hearings and shall otherwise investigate the application. Each committee shall comply with ~~sections 84-1408 to 84-1414~~ the Open Meetings Act.

(3) Applicant groups shall have the burden of bringing forth evidence upon which the committee shall make its findings. Each committee shall detail its findings in a report and file the report with the board and the director. Each committee shall evaluate the application presented to it on the basis of the appropriate criteria as established in sections 71-6221 to 71-6223. If a committee finds that all appropriate criteria are not met, it shall recommend denial of the application. If it finds that all appropriate criteria are met by the application as submitted, it shall recommend approval. If the committee finds that the criteria would be met if amendments were made to the application, it may recommend such amendments to the applicant group and it may allow such amendments to be made before making its final recommendations. If the committee recommends approval of an application for regulation of a health profession not currently regulated, it shall also recommend the least restrictive method of regulation to be implemented consistent with the cost-effective protection of the public and with section 71-6222. The committee may recommend a specific method of regulation not listed in section 71-6222 if it finds that such method is the best alternative method of regulation. Whether it recommends approval or denial of an application, the committee may make additional recommendations regarding solutions to problems identified during the review.

Sec. 21. Section 72-1704, Reissue Revised Statutes of Nebraska, is amended to read:

72-1704. (1) A political subdivision, educational institution, or other organization that desires to have a vacant or partially vacant public building designated, in whole or in part, as a business incubation center shall appoint, in conjunction with political subdivisions or private organizations that agree to contribute monetarily or in kind to the center, a community board to perform the duties required by the Nebraska Small Business Incubator Act. The appointing body may designate an existing board of an economic development entity, upon consent of that entity, as the community board.

(2) Except as provided in subsection (3) of this section, the community board shall consist of not more than fifteen persons. The members

of the community board shall consist of representatives from key segments of the community, including, but not limited to, political, financial, business, labor, and educational representatives. The community board shall elect from its members a chairperson.

(3) An existing board of an economic development entity designated as a community board pursuant to subsection (1) of this section need not meet the number requirements of subsection (2) of this section but shall meet the composition requirements of subsection (2) of this section.

(4) Community board members shall serve at the pleasure of the appointing bodies or until the community board is dissolved by the appointing body. Dissolution shall not occur before the expiration of any lease agreement between the community board and a public agency.

(5) Except as provided in subsection (7) of this section, the business which the community board may perform shall be conducted at a public meeting held in compliance with ~~sections 84-1408 to 84-1414~~ the Open Meetings Act.

(6) Except as provided in subsection (7) of this section, a community board shall be subject to sections 84-712 to 84-712.09.

(7) The community board shall not disclose, orally or in writing, matters of a proprietary nature as described in subsection (7) of section 72-1708 without the consent of the applicant or tenant submitting the information.

Sec. 22. Section 74-1308, Reissue Revised Statutes of Nebraska, is amended to read:

74-1308. (1) The board of directors shall annually elect a president, vice president, secretary, and such other officers as may be necessary. The board shall cause to be kept accurate minutes of its meetings and accurate records and books of account, conforming to approved methods of bookkeeping, clearly setting out and reflecting the entire operation, management, and business of the district, which shall be kept at the principal place of business of the district. All books, papers, and vouchers shall be subject to public inspection at reasonable hours, and the district shall be subject to ~~Chapter 84, article 14~~ the Open Meetings Act.

(2) The treasurer of such district shall be the treasurer of the county of such district and shall annually make a detailed report in writing of all receipts and disbursements. The report shall contain a statement of (a) the funds on hand belonging to the district, + (b) the amount, if any, in the hands of the county treasurer, + (c) all money received during the preceding year from all sources, + and (d) all items of disbursement during such year and the purposes for which the same have been paid out, including all compensation paid to officers of the district and all other expenses of administration. The report shall be verified under oath. A copy of the same shall be filed annually with the county clerk of the county.

(3) Such officers and employees as may be designated by the board of directors shall furnish bonds in such amounts as may be fixed by the board of directors. Such bonds shall be conditioned upon the faithful performance of the duties of each such officer or employee and the proper accounting for all funds or property coming into the hands of each such officer or employee. Such bonds shall (a) run to the district, + (b) be signed by a surety or sureties to be approved by the county clerk of the county, + and (c) be filed and recorded in the office of such county clerk.

(4) If any such treasurer ~~shall fail or neglect~~ fails or neglects to make out the report or file the same with the county clerk, ~~as required by subsection (2) of this section, or if any officer of such district neglects or refuses shall neglect or refuse~~ to submit for inspection any records or papers of such district upon demand of any person interested, or shall otherwise neglect if any person otherwise neglects to perform any duties imposed upon him or her by this section, he or she shall be guilty of a Class V misdemeanor.

Sec. 23. Section 77-5005, Reissue Revised Statutes of Nebraska, is amended to read:

77-5005. (1) Within ten days after appointment, the commissioners shall meet at their office in Lincoln, Nebraska, and enter upon the duties of their office.

(2) A majority of the commission or, in cases when a panel of three commissioners hears a case, a majority of the panel shall at all times constitute a quorum to transact business, and one vacancy shall not impair the right of the remaining commissioners to exercise all the powers of the commission.

(3) Any investigation, inquiry, or hearing held or undertaken by the commission may be held or undertaken by or before a panel of three commissioners with the approval of the commission.

(4) The commission shall issue its final decision, accompanied by findings of fact and conclusions of law, in writing or on the record.

(5) All investigations, inquiries, hearings, and decisions of a panel of commissioners and every order made by a panel of commissioners shall be deemed to be the order of the commission. The full commission may grant a rehearing and determine de novo any decisions of or orders made by a panel of commissioners. The thirty-day filing period for appeals under subsection (2) of section 77-5019 shall be tolled while a motion for rehearing is pending.

(6) All hearings or proceedings of the commission shall be open to the public.

(7) ~~Sections 84-1408 to 84-1414 shall only apply~~ The Open Meetings Act applies only to hearings or proceedings of the commission held pursuant to the rulemaking authority of the commission.

Sec. 24. Section 79-317, Reissue Revised Statutes of Nebraska, is amended to read:

79-317. (1) The State Board of Education shall meet regularly and periodically in the office of the State Department of Education at least four times annually. Meetings shall be held during the first full week in June and during the first full week in December of each year. The board may meet at such other times and places as it may determine necessary for the proper and efficient conduct of its duties. Special meetings may be called in accordance with this section and ~~sections 84-1408 to 84-1414~~ the Open Meetings Act. Five members of the board shall constitute a quorum.

(2) The public shall be admitted to all meetings of the State Board of Education except to such closed sessions as the board may direct in accordance with ~~such sections~~ the Open Meetings Act. The board shall cause to be kept a record of all public meetings and proceedings of the board. The commissioner, or his or her designated representative, shall be present at all meetings except when the order of business for the board is the selection of a Commissioner of Education.

(3) The members of the State Board of Education shall receive no compensation for their services but shall be reimbursed for actual and essential expenses incurred in attending meetings or incurred in the performance of duties as directed by the board as provided in sections 81-1174 to 81-1177.

Sec. 25. Section 79-554, Reissue Revised Statutes of Nebraska, is amended to read:

79-554. In all meetings of a school board of a Class I, II, III, or VI school district, a majority of the members shall constitute a quorum for the transaction of business. Regular meetings shall be held on or before the third Monday of every month. All meetings of the board shall be subject to ~~sections 84-1408 to 84-1414~~ the Open Meetings Act. Special meetings may be called by the president or any two members, but all members shall have notice of the time and place of meeting. If a school district is participating in an approved unified system as provided in section 79-4,108, regular meetings of such district's school board shall be held at least twice during the school year.

Sec. 26. Section 79-560, Reissue Revised Statutes of Nebraska, is amended to read:

79-560. The board of education of a Class IV school district shall hold one or more regular meetings each month, the time of which shall be fixed by the bylaws adopted by such board. Special meetings may be held as circumstances may demand. All meetings of the board shall be subject to ~~sections 84-1408 to 84-1414~~ the Open Meetings Act.

Sec. 27. Section 79-561, Reissue Revised Statutes of Nebraska, is amended to read:

79-561. The regular meetings of the board of education of a Class V school district shall be held one or more times each month. Special meetings may be held as circumstances may demand at the call of the president of the board or on petition of a majority of the members of the board. All meetings of the board shall be subject to ~~sections 84-1408 to 84-1414~~ the Open Meetings Act.

Sec. 28. Section 79-814.01, Reissue Revised Statutes of Nebraska, is amended to read:

79-814.01. (1) Upon request by the commissioner, the Nebraska State Patrol shall undertake a search for criminal history record information relating to an applicant for a certificate pursuant to subdivision (1)(c) of section 79-808, including transmittal of the applicant's fingerprints to the Federal Bureau of Investigation for a national criminal history record information check. The criminal history record information check shall include information concerning the applicant from federal repositories of such information and repositories of such information in other states if authorized

by federal law. The Nebraska State Patrol shall issue a report to the commissioner that shall include the criminal history record information concerning the applicant.

(2) The commissioner may deny issuance of a certificate or permit to any applicant who has a felony conviction or who has any misdemeanor conviction involving abuse, neglect, or sexual misconduct. In reviewing an applicant's criminal history record information, the commissioner shall take into consideration any information, including information submitted by the applicant, regarding (a) the facts and circumstances surrounding a conviction, (b) the type of offense and the sentence imposed, (c) whether the conduct resulting in a conviction would constitute a crime in Nebraska, (d) the date of the offense, (e) the age of the applicant at the time of the offense, and (f) the applicant's conduct and positive social contributions since the offense.

(3) The board shall determine and set the costs for processing criminal history record information checks pursuant to this section and section 79-808 which shall be borne by the applicant for a certificate or permit. The costs shall be limited to the actual direct costs arising from the processing of the criminal history record information checks.

(4) Criminal history record information subject to federal confidentiality requirements shall remain confidential and may be released only upon the written authorization by the applicant, except that if the applicant appeals the denial of a certificate or permit by the commissioner, the filing of an administrative appeal shall constitute a release of the information for the limited purpose of the appeal. If the applicant requests a closed hearing, such request shall be subject to ~~sections 84-1408 to 84-1414~~ the Open Meetings Act.

Sec. 29. Section 79-832, Reissue Revised Statutes of Nebraska, is amended to read:

79-832. (1) A formal due process hearing for the purposes of sections 79-827 and 79-829 means a hearing procedure adopted by the school board which contains at least the following: (a) Notification to the certificated employee in writing at least five days prior to the hearing of the grounds alleged for action, cancellation, termination, or nonrenewal of the teacher's contract; (b) upon request of the certificated employee a notification, at least five days prior to the hearing, of the names of any witnesses who will be called to testify against the certificated employee and an opportunity to examine any documents that will be presented at the hearing; (c) the right to be represented; and (d) an opportunity to cross-examine all witnesses and to examine all documents and to present evidence material to the issues.

(2) Due and proper notice of the hearing shall be given in accordance with ~~sections 84-1408 to 84-1414~~ the Open Meetings Act. Upon an affirmative vote of a majority of the school board's members present and voting and upon specific request of the certificated employee or the certificated employee's representative, the hearing shall be conducted in a closed session, but the formal action of the school board shall be taken in open session.

(3) A majority of the members of the school board shall render the decision to amend, cancel, terminate, or not renew a certificated employee's contract, based solely upon the evidence produced at the hearing, shall reduce its findings and determinations to writing, and shall deliver a written copy thereof to the certificated employee.

Sec. 30. Section 79-1239, Reissue Revised Statutes of Nebraska, is amended to read:

79-1239. (1) The board by a vote of the majority of its members may determine that a permanent certificated employee's contract shall be amended or terminated for any of the following reasons: (a) Just cause as defined in section 79-1234; (b) reduction in force as set forth in sections 79-846 to 79-849; (c) a change of leave-of-absence policy; (d) failure of the permanent certificated employee upon written request of the board or the administrators of the educational service unit to accept employment for the next school year within the time designated in the request, except that the permanent certificated employee shall not be required to signify such acceptance prior to March 15 of each year; or (e) revocation or suspension of the permanent certificated employee's certificate by the State Board of Education.

(2) If a hearing is requested by the permanent certificated employee, the formal due process hearing for the purpose of this section means a hearing procedure adopted by the board which contains at least the following: (a) Notification to the permanent certificated employee in writing at least five days prior to the hearing of the grounds alleged for the termination or amendment of the permanent certificated employee's contract;

(b) upon request of the permanent certificated employee, a list of the names of any witnesses who will be called to testify against the certificated employee and an opportunity to examine any documents that will be presented at the hearing shall be provided at least five days prior to the hearing; (c) the right to be represented; and (d) an opportunity to cross-examine all witnesses, examine all documents, and present evidence material to the issues.

(3) Notice of the hearing shall be given in accordance with ~~sections 84-1408 to 84-1414~~ the Open Meetings Act. Upon an affirmative vote of a majority of the board's members present and voting and upon specific request of the permanent certificated employee or the permanent certificated employee's representative, the hearing shall be conducted in a closed session, but the formal action of the board shall be taken in open session.

(4) A majority of the members of the board shall render its decision to amend or terminate a permanent certificated employee's contract based solely upon the evidence produced at the hearing, shall reduce its findings and determination to writing, and shall deliver a written copy of the findings and determination to the permanent certificated employee.

Sec. 31. Section 81-1505.03, Reissue Revised Statutes of Nebraska, is amended to read:

81-1505.03. (1) There is hereby created the Small Business Compliance Advisory Panel. The panel shall consist of the following:

~~(1)~~ (a) Two members who are not owners or representatives of owners of small business stationary sources of air emissions selected by the Governor to represent the general public;

~~(2)~~ (b) Four members selected by the Legislature who are owners or who represent owners of small business stationary sources of air emissions; and

~~(3)~~ (c) One member selected by the director.

(2) The panel shall be responsible for all requirements of the Clean Air Act, ~~as amended~~, 42 U.S.C. 7401 et seq., as such act existed on January 1, 2004. Members shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177. The panel shall conduct its meetings in accordance with ~~sections 84-1408 to 84-1414~~ the Open Meetings Act and shall submit an annual report to the Governor no later than January 1 of each year. The panel shall receive necessary staff support from the department.

Sec. 32. Section 81-15,217, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,217. (1) Each local emergency planning committee shall:

(a) Establish rules governing the functioning of the committee consistent with the Open Meetings Act and sections 84-712 to 84-712.09. ~~and 84-1408 to 84-1414~~. The rules shall include provisions for public notification of committee activities, public meetings to discuss the emergency plan required under subdivision (c) of this subsection, public comments, response to such comments by the committee, and distribution of the emergency plan;

(b) Establish procedures for receiving and processing requests from the public for information required to be provided under the Nebraska Emergency Planning and Community Right to Know Act. The procedures shall include provisions to inform members of the public of the right to bring an action under federal law to enforce the act. The procedures shall include the designation of an official to serve as coordinator for information;

(c) Complete preparation of an emergency plan in accordance with the act not later than January 1, 1998, unless a plan for the emergency planning district has previously been submitted and approved by the commission. The committee shall review and update the plan once a year beginning March 1, 1999, and each March 1 thereafter, or more frequently as changed circumstances in the community or at any facility may require;

(d) Evaluate the need for resources necessary to develop, implement, and exercise the emergency plan and make recommendations with respect to additional resources that may be required and the means for providing such additional resources; and

(e) Designate a public library in each county within its district as a depository for the emergency plan, deliver the plan to the designated library, and update the plan as necessary.

(2) Each local emergency planning committee may receive gifts, bequests, grants, or other contributions or donations from public or private sources to carry out its duties and the purposes of the act, including, but not limited to, administrative costs and reimbursement to committee members for their actual and necessary travel expenses. Any gifts, bequests, grants, or other contributions or donations received from public or private sources shall be accounted for in an annual report to the commission. The commission shall adopt and promulgate rules and regulations governing the receipt and use

of any gifts, bequests, grants, or other contributions or donations from public or private sources.

Sec. 33. Section 81-1712, Reissue Revised Statutes of Nebraska, is amended to read:

81-1712. (1) Public notice shall be given by each agency, in a uniform and consistent manner, when professional services are required to be contracted for a project whose basic construction cost is estimated by the agency to be more than four hundred thousand dollars and for professional services when the estimated fee for such professional services exceeds forty thousand dollars, except in cases of public emergencies so certified by the agency head. The Department of Administrative Services shall adjust the dollar amounts in this section every four years beginning January 1, 2002, to account for inflationary and market changes. The adjustments shall be based on percentage changes in a construction cost index and any other published index relevant to operations and utilities costs, as selected by the department. The public notice shall include a general description of the project and shall indicate how interested firms can apply for consideration for such contract.

(2) Each agency shall encourage firms engaged in the lawful practice of their profession who desire to provide professional services to the agency to submit annually a statement of qualifications and performance data. The agency may request a firm to update the file statement before the anniversary date to reflect changed conditions of the firm.

(3) Any firm desiring to provide professional services to an agency must first be certified by the agency as qualified pursuant to law and the regulations of the agency. The agency shall make a finding that the firm to be employed is fully qualified to render the required service. Factors to be considered in making this finding shall include capabilities to perform, adequacy of personnel, past record and performance, and experience.

(4) The Department of Administrative Services shall, with the advice of each agency, adopt administrative procedures for the evaluation of professional services, including capabilities to perform, adequacy of personnel, past record and performance, experience, and such other factors as may be determined by the agency to be applicable to its particular requirements.

(5) The public shall not be excluded from the meetings or proceedings under this section in accordance with ~~Chapter 84, article 14~~ the Open Meetings Act.

Sec. 34. This section and sections 84-1408 to 84-1414 shall be known and may be cited as the Open Meetings Act.

Sec. 35. Section 84-1408, Reissue Revised Statutes of Nebraska, is amended to read:

84-1408. It is hereby declared to be the policy of this state that the formation of public policy is public business and may not be conducted in secret.

Every meeting of a public body shall be open to the public in order that citizens may exercise their democratic privilege of attending and speaking at meetings of public bodies, except as otherwise provided by the Constitution of Nebraska, federal statutes, and ~~sections 79-317, 84-1408 to 84-1414, and 85-104~~ the Open Meetings Act.

Sec. 36. Section 84-1409, Reissue Revised Statutes of Nebraska, is amended to read:

84-1409. For purposes of ~~sections 84-1408 to 84-1414~~ the Open Meetings Act, unless the context otherwise requires:

(1) (a) Public body shall mean ~~(a)~~ means (i) governing bodies of all political subdivisions of the State of Nebraska, ~~(b)~~ (ii) governing bodies of all agencies, ~~now or hereafter~~ created by the Constitution of Nebraska, statute, or otherwise pursuant to law, of the executive department of the State of Nebraska, ~~(c)~~ (iii) all independent boards, commissions, bureaus, committees, councils, subunits, or any other bodies, ~~now or hereafter~~ created by the Constitution of Nebraska, statute, or otherwise pursuant to law, ~~(d)~~ (iv) all study or advisory committees of the executive department of the State of Nebraska whether having continuing existence or appointed as special committees with limited existence, ~~(e)~~ (v) advisory committees of the bodies referred to in subdivisions ~~(a)~~, ~~(b)~~, and ~~(c)~~ (i), (ii), and (iii) of this subdivision, and ~~(f)~~ (vi) instrumentalities exercising essentially public functions. ~~Sections 84-1408 to 84-1414 shall not apply to~~

(b) Public body does not include (i) subcommittees of such bodies unless a quorum of the public body attends a subcommittee meeting or unless such subcommittees are holding hearings, making policy, or taking formal action on behalf of their parent body, (ii) entities conducting judicial proceedings unless a court or other judicial body is exercising rulemaking

authority, deliberating, or deciding upon the issuance of administrative orders, and (iii) ~~meetings of~~ the Policy Cabinet created in section 81-3009;

(2) Meeting ~~shall mean~~ means all regular, special, or called meetings, formal or informal, of any public body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action of the public body; and

(3) Videoconferencing ~~shall mean~~ means conducting a meeting involving participants at two or more locations through the use of audio-video equipment which allows participants at each location to hear and see each meeting participant at each other location, including public input. Interaction between meeting participants shall be possible at all meeting locations.

Sec. 37. Section 84-1410, Reissue Revised Statutes of Nebraska, is amended to read:

84-1410. (1) Any public body may hold a closed session by the affirmative vote of a majority of its voting members if a closed session is clearly necessary for the protection of the public interest or for the prevention of needless injury to the reputation of an individual and if such individual has not requested a public meeting. Closed sessions may be held for, but shall not be limited to, such reasons as:

(a) Strategy sessions with respect to collective bargaining, real estate purchases, pending litigation, or litigation which is imminent as evidenced by communication of a claim or threat of litigation to or by the public body;

(b) Discussion regarding deployment of security personnel or devices;

(c) Investigative proceedings regarding allegations of criminal misconduct; or

(d) Evaluation of the job performance of a person when necessary to prevent needless injury to the reputation of a person and if such person has not requested a public meeting.

Nothing in this section shall permit a closed meeting for discussion of the appointment or election of a new member to any public body.

(2) The vote to hold a closed session shall be taken in open session. The vote of each member on the question of holding a closed session, the reason for the closed session, and the time when the closed session commenced and concluded shall be recorded in the minutes. The public body holding such a closed session shall restrict its consideration of matters during the closed portions to only those purposes set forth in the minutes as the reason for the closed session. The meeting shall be reconvened in open session before any formal action may be taken. For purposes of this section, formal action shall mean a collective decision or a collective commitment or promise to make a decision on any question, motion, proposal, resolution, order, or ordinance or formation of a position or policy but shall not include negotiating guidance given by members of the public body to legal counsel or other negotiators in closed sessions authorized under subdivision (1)(a) of this section.

(3) Any member of any public body shall have the right to challenge the continuation of a closed session if the member determines that the session has exceeded the reason stated in the original motion to hold a closed session or if the member contends that the closed session is neither clearly necessary for (a) the protection of the public interest or (b) the prevention of needless injury to the reputation of an individual. Such challenge shall be overruled only by a majority vote of the members of the public body. Such challenge and its disposition shall be recorded in the minutes.

(4) Nothing in this section shall be construed to require that any meeting be closed to the public. No person or public body shall fail to invite a portion of its members to a meeting, and no public body shall designate itself a subcommittee of the whole body for the purpose of circumventing ~~sections 79-317, 84-1408 to 84-1414, or 85-104~~ the Open Meetings Act. No closed session, informal meeting, chance meeting, social gathering, or electronic communication shall be used for the purpose of circumventing the requirements of ~~such sections~~ the act.

(5) ~~Such sections shall~~ The act does not apply to chance meetings or to attendance at or travel to conventions or workshops of members of a public body at which there is no meeting of the body then intentionally convened, if there is no vote or other action taken regarding any matter over which the public body has supervision, control, jurisdiction, or advisory power.

Sec. 38. Section 84-1411, Revised Statutes Supplement, 2002, is amended to read:

84-1411. (1) Each public body shall give reasonable advance publicized notice of the time and place of each meeting by a method designated

by each public body and recorded in its minutes. Such notice shall be transmitted to all members of the public body and to the public. Such notice shall contain an agenda of subjects known at the time of the publicized notice or a statement that the agenda, which shall be kept continually current, ~~shall~~ ~~be~~ is readily available for public inspection at the principal office of the public body during normal business hours. Except for items of an emergency nature, the agenda shall not be altered later than (a) twenty-four hours before the scheduled commencement of the meeting or (b) forty-eight hours before the scheduled commencement of a meeting of a city council or village board scheduled outside the corporate limits of the municipality. The public body shall have the right to modify the agenda to include items of an emergency nature only at such public meeting.

(2) A meeting of a state agency, state board, state commission, state council, or state committee, of an advisory committee of any such state entity, of an organization created under the Interlocal Cooperation Act, the Joint Public Agency Act, or the Municipal Cooperative Financing Act, of the governing body of a public power district having a chartered territory of more than fifty counties in this state, or of the governing body of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act may be held by means of videoconferencing or, in the case of the Judicial Resources Commission in those cases specified in section 24-1204, by telephone conference, if:

- (a) Reasonable advance publicized notice is given;
- (b) Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including seating, recordation by audio or visual recording devices, and a reasonable opportunity for input such as public comment or questions to at least the same extent as would be provided if videoconferencing or telephone conferencing was not used;
- (c) At least one copy of all documents being considered is available to the public at each site of the videoconference or telephone conference;
- (d) At least one member of the state entity, advisory committee, or governing body is present at each site of the videoconference or telephone conference; and
- (e) No more than one-half of the state entity's, advisory committee's, or governing body's meetings in a calendar year are held by videoconference or telephone conference.

Videoconferencing or telephone conferencing shall not be used to circumvent any of the public government purposes established in ~~sections 24-1402 to 24-1414~~ the Open Meetings Act.

(3) A meeting of the governing body of an entity formed under the Interlocal Cooperation Act or the Joint Public Agency Act or of the governing body of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act may be held by telephone conference call if:

- (a) The territory represented by the member public agencies of the entity or pool covers more than one county;
- (b) Reasonable advance publicized notice is given which identifies each telephone conference location at which a member of the entity's or pool's governing body will be present;
- (c) All telephone conference meeting sites identified in the notice are located within public buildings used by members of the entity or pool or at a place which will accommodate the anticipated audience;
- (d) Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including seating, recordation by audio recording devices, and a reasonable opportunity for input such as public comment or questions to at least the same extent as would be provided if a telephone conference call was not used;
- (e) At least one copy of all documents being considered is available to the public at each site of the telephone conference call;
- (f) At least one member of the governing body of the entity or pool is present at each site of the telephone conference call identified in the public notice;
- (g) The telephone conference call lasts no more than one hour; and
- (h) No more than one-half of the entity's or pool's meetings in a calendar year are held by telephone conference call.

Nothing in this subsection shall prevent the participation of consultants, members of the press, and other nonmembers of the governing body at sites not identified in the public notice. Telephone conference calls shall not be used to circumvent any of the public government purposes established in ~~sections 24-1402 to 24-1414~~ the Open Meetings Act.

(4) The secretary or other designee of each public body shall maintain a list of the news media requesting notification of meetings and

shall make reasonable efforts to provide advance notification to them of the time and place of each meeting and the subjects to be discussed at that meeting.

(5) When it is necessary to hold an emergency meeting without reasonable advance public notice, the nature of the emergency shall be stated in the minutes and any formal action taken in such meeting shall pertain only to the emergency. Such emergency meetings may be held by means of electronic or telecommunication equipment. The provisions of subsection (4) of this section shall be complied with in conducting emergency meetings. Complete minutes of such emergency meetings specifying the nature of the emergency and any formal action taken at the meeting shall be made available to the public by no later than the end of the next regular business day.

(6) A public body may allow a member of the public or any other witness other than a member of the public body to appear before the public body by means of video or telecommunications equipment.

Sec. 39. Section 84-1412, Revised Statutes Supplement, 2002, is amended to read:

84-1412. (1) Subject to ~~sections 79-317, 84-1408 to 84-1414, and 85-104~~ the Open Meetings Act, the public ~~shall have~~ 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, camera, video equipment, or any other means of pictorial or sonic reproduction or in writing.

(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. 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. The body may require any member of the public desiring to address the body to identify himself or herself.

(4) No public body shall, for the purpose of circumventing ~~sections 84-1408 to 84-1414~~ 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 a telephone conference call 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 ~~sections 84-1408 to 84-1414~~ the Open Meetings Act;

(f) Reasonable arrangements are made to provide viewing at other in-state locations for a videoconference meeting if requested fourteen days in advance and if economically and reasonably available in the area; and

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

(8) Public bodies shall make available at the meeting or the in-state location for a telephone conference call or videoconference, 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.

Sec. 40. Section 84-1414, Reissue Revised Statutes of Nebraska, is amended to read:

84-1414. (1) Any motion, resolution, rule, regulation, ordinance, or formal action of a public body made or taken in violation of ~~sections 79-317, 84-1408 to 84-1414, and 85-104~~ the Open Meetings Act shall be declared void by the district court if the suit is commenced within one hundred twenty days of the meeting of the public body at which the alleged violation occurred. Any motion, resolution, rule, regulation, ordinance, or formal action of a public body made or taken in substantial violation of ~~such sections~~ the Open Meetings Act shall be voidable by the district court if the suit is commenced more than one hundred twenty days after but within one year of the meeting of the public body in which the alleged violation occurred. A suit to void any final action shall be commenced within one year of the action.

(2) The Attorney General and the county attorney of the county in which the public body ordinarily meets shall enforce ~~such sections~~ the Open Meetings Act.

(3) Any citizen of this state may commence a suit in the district court of the county in which the public body ordinarily meets or in which the plaintiff resides for the purpose of requiring compliance with or preventing violations of ~~such sections~~ the Open Meetings Act, for the purpose of declaring an action of a public body void, or for the purpose of determining the applicability of ~~such sections~~ the act to discussions or decisions of the public body. The court may order payment of reasonable attorney's fees and court costs to a successful plaintiff in a suit brought under this section.

(4) Any member of a public body who knowingly violates or conspires to violate or who attends or remains at a meeting knowing that the public body is in violation of any provision of ~~sections 79-317, 84-1408 to 84-1414, and 85-104~~ the Open Meetings Act shall be guilty of a Class IV misdemeanor for a first offense and a Class III misdemeanor for a second or subsequent offense.

Sec. 41. Section 84-1502, Reissue Revised Statutes of Nebraska, is amended to read:

84-1502. Within thirty days after its appointment, the board shall meet and select a chairperson and secretary. Thereafter, the chairperson and the secretary shall be elected in January of each year. The board shall meet upon call of the chairperson or upon the request of three members of the board filed with the board office. Meetings of the board shall be held in this state and may be held by telecommunication equipment if the requirements of ~~sections 84-1408 to 84-1414~~ the Open Meetings Act are met.

Sec. 42. Section 85-104, Reissue Revised Statutes of Nebraska, is amended to read:

85-104. All meetings of the Board of Regents shall be open to the public. The board may hold closed sessions in accordance with ~~this section and sections 84-1408 to 84-1414~~ the Open Meetings Act. Public record shall be made and kept of all meetings and proceedings of the board. The regents shall meet at least twice each year at the administration building. They shall receive for their services no compensation, but they may be reimbursed their actual expenses incurred in the performance of their official duties as provided in sections 81-1174 to 81-1177.

Sec. 43. Section 85-1502, Reissue Revised Statutes of Nebraska, is amended to read:

85-1502. (1) It is the intent of the Legislature that a clear distinction between area governance and statewide coordination for the community college areas be recognized and that such coordination is appropriate in order to provide the most cost-effective programs for residents of each community college area. It is further the intent of the Legislature that coordination of the community colleges by the Coordinating Commission for Postsecondary Education be conducted through an association of the boards.

(2) All of the boards shall be a part of and shall be represented by such association. Coordination services provided by such association shall include ~~(1)~~ (a) preparation of a system strategic plan, ~~(2)~~ (b) coordination of the budget request for the biennium, ~~(3)~~ (c) facilitation of program-needs assessment and articulation, ~~(4)~~ (d) recommendation and facilitation of the appointment of representatives to committees, boards, commissions, task forces, and any other state-level bodies requesting or requiring participation from the community college system, and ~~(5)~~ (e) facilitation of responses to data and information requests for the system.

(3) All activities conducted pursuant to this section by such association shall be conducted in accordance with ~~sections 84-1408 to 84-1414~~ the Open Meetings Act.

(4) Nothing in this section shall be construed to require or provide for state control of the operations of any community college area or to abridge the governance ability, rights, or responsibilities of any board. Nothing in this section shall be construed to limit the ability or authority

of the commission to fulfill its responsibilities and duties regarding the individual community college areas and the individual community college area campuses.

Sec. 44. Section 86-327, Revised Statutes Supplement, 2002, is amended to read:

86-327. The commission shall oversee and the administrator, if a third-party administrator is selected, shall administer the fund with the advice of an advisory board appointed by the commission.

The number of members on such advisory board shall be not less than seven nor more than nine members. The composition of the membership of the advisory board shall be determined by the commission and shall include the following representatives: One member shall represent the commission; one member shall represent elementary and secondary schools; one member shall represent libraries; one member shall represent rural health care providers; two members, but not more than three members, shall represent telecommunications companies; and one member, but not more than two members, shall represent the public.

The advisory board shall provide recommendations to the commission at the public hearing held pursuant to ~~section 84-1408~~ the Open Meetings Act. The advisory board shall also, on an annual basis, recommend the services to be supported by the fund.

Sec. 45. Section 86-413, Revised Statutes Supplement, 2002, is amended to read:

86-413. (1) A member of the executive board may serve until his or her successor is appointed or selected by the Governor as provided in section 86-412.

(2) Each executive board member may have one vote.

(3) A majority of all voting executive board members may constitute a quorum for the transaction of any alliance business.

(4) The executive board may elect a chairperson, a vice-chairperson, and a secretary-treasurer. The chairperson or, in his or her absence, the vice-chairperson may preside at executive board meetings. The executive board may appoint an assistant secretary-treasurer who is not a board member.

(5) Meetings of the executive board may be called by the chairperson, vice-chairperson, or secretary-treasurer. A written notice of the meeting and agenda may be provided to each executive board member at least five days prior to any meeting. Public notice of an executive board meeting may be provided in accordance with ~~sections 84-1408 to 84-1414~~ the Open Meetings Act.

(6) An executive board may prepare and adopt a budget based on a fiscal year as determined for the operation of the alliance.

Sec. 46. Original sections 2-261, 28-731, 58-230, 66-1619, 71-121, 71-3406, 71-5176, 71-5705, 71-6224, 72-1704, 74-1308, 77-5005, 79-317, 79-554, 79-560, 79-561, 79-814.01, 79-832, 79-1239, 81-1505.03, 81-15,217, 81-1712, 84-1408 to 84-1410, 84-1414, 84-1502, 85-104, and 85-1502, Reissue Revised Statutes of Nebraska, sections 2-101, 2-238, 13-2515, 13-2517, 13-2801, 13-2812, 16-1037, 46-2,120, 50-307, 84-1411, 84-1412, 86-327, and 86-413, Revised Statutes Supplement, 2002, and sections 25-2937 and 39-1108, Revised Statutes Supplement, 2003, are repealed.