

AMENDMENTS TO LB660

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 19 of this act shall be known and may be
4 cited as the State Building Construction Alternatives Act.

5 **Sec. 2.** For purposes of the State Building Construction
6 Alternatives Act:

7 (1) Alternative technical concept means changes suggested by a
8 qualified, eligible, short-listed design-builder to the basic
9 configurations, project scope, design, or construction criteria of the
10 authorized agency;

11 (2) Authorized agency means the Department of Correctional Services,
12 the Department of Transportation, the Military Department, or the state
13 building division;

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

17 (4) Construction manager means the legal entity which proposes to
18 enter into a construction manager-general contractor contract pursuant to
19 the State Building Construction Alternatives Act;

20 (5) Construction manager-general contractor contract means a
21 contract which is subject to a qualification-based selection process
22 between an authorized agency and a construction manager to furnish
23 preconstruction services during the design development phase of the
24 project and, if an agreement can be reached which is satisfactory to the
25 authorized agency, construction services for the construction phase of
26 the project;

27 (6) Construction services means activities associated with building

1 the project;

2 (7) Design-build contract means a contract between an authorized
3 agency and a design-builder which is subject to a best value-based
4 selection process to furnish (a) architectural, engineering, and related
5 design services and (b) labor, materials, supplies, equipment, and
6 construction services;

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

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

15 (10) Project performance criteria means the performance requirements
16 of the project suitable to allow the design-builder to make a proposal.
17 Performance requirements shall include, but are not limited to, the
18 following, if required by the project: Capacity, durability, standards,
19 ingress and egress requirements, description of the site, surveys, soil
20 and environmental information concerning the site, material quality
21 standards, design and milestone dates, site development requirements,
22 compliance with applicable law, and other criteria for the intended use
23 of the project;

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

28 (12) Qualification-based selection process means a process of
29 selecting a construction manager based on qualifications;

30 (13) Request for proposals means the documentation by which an
31 authorized agency solicits proposals; and

1 (14) Request for qualifications means the documentation or
2 publication by which an authorized agency solicits qualifications.

3 **Sec. 3.** (1) Except as otherwise provided in subsection (3) of this
4 section, the purpose of the State Building Construction Alternatives Act
5 is to provide each authorized agency with alternative methods of
6 contracting for state buildings for which the authorized agency has
7 responsibility.

8 (2) The alternative methods of contracting shall be available to
9 each authorized agency for use on any project regardless of the funding
10 source. An authorized agency may enter into a construction manager-
11 general contractor contract only if the total cost of the project is more
12 than thirty million dollars. The State Building Construction Alternatives
13 Act shall govern the design-build and construction manager-general
14 contractor procurement processes for authorized agencies.

15 (3) The State Building Construction Alternatives Act does not apply
16 to projects to which the Public Water and Natural Resources Project
17 Contracting Act, the State Park System Construction Alternatives Act, or
18 the Transportation Innovation Act apply. The State Building Construction
19 Alternatives Act does not apply to the University of Nebraska or the
20 state colleges.

21 **Sec. 4.** (1) An authorized agency, in accordance with the State
22 Building Construction Alternatives Act, may solicit and execute a design-
23 build contract or a construction manager-general contractor contract for
24 state buildings for which the authorized agency has responsibility except
25 as otherwise provided in section 3 of this act.

26 (2) Before executing a design-build contract or construction
27 manager-general contractor contract, an authorized agency shall submit a
28 request for approval from the Director of Administrative Services or his
29 or her designee. The request shall include the following:

30 (a) A written determination that, due to the nature, detail, or
31 circumstances of a project, the use of a design-build contract or

1 construction manager-general contractor contract is justified. The
2 determination shall include a description of facts justifying such use
3 and state whether the authorized agency is planning to use a design-build
4 contract or a construction manager-general contractor contract;

5 (b) The criteria for making such determination, including the
6 following factors:

7 (i) The cost of the project;

8 (ii) The anticipated schedule for the project from preparation for
9 contracting through completion of construction;

10 (iii) The overall complexity of the project;

11 (iv) The need to overlap design and construction phases of the
12 project; or

13 (v) An emergency exists that requires the use of an accelerated
14 schedule to make repairs; and

15 (c) An explanation of how using a design-build contract or
16 construction manager-general contractor contract will not result in
17 favoritism or substantially diminish competition in awarding such
18 contract for such project.

19 **Sec. 5.** An authorized agency shall hire an architect licensed
20 pursuant to the Engineers and Architects Regulation Act or an engineer
21 licensed pursuant to the act to assist the authorized agency with the
22 development of project performance criteria and requests for proposals,
23 with evaluation of proposals, with evaluation of the construction to
24 determine adherence to the project performance criteria, and with any
25 additional services requested by the authorized agency to represent its
26 interests in relation to a project. The procedures used to hire such
27 person or organization shall comply with the Nebraska Consultants'
28 Competitive Negotiation Act. The person or organization hired shall be
29 ineligible to be included as a provider of other services in a proposal
30 for the project for which he or she has been hired and shall not be
31 employed by or have a financial or other interest in a design-builder or

1 construction manager who will submit a proposal.

2 **Sec. 6.** The state building division shall adopt guidelines for
3 entering into a design-build contract or construction manager-general
4 contractor contract. The guidelines shall include the following:

5 (1) Preparation and content of requests for qualifications;

6 (2) Preparation and content of requests for proposals;

7 (3) Qualification and short-listing of design-builders and
8 construction managers. The guidelines shall provide that an authorized
9 agency will evaluate prospective design-builders and construction
10 managers based on the information submitted to the authorized agency in
11 response to a request for qualifications and will select a short list of
12 design-builders or construction managers who shall be considered
13 qualified and eligible to respond to the request for proposals;

14 (4) Preparation and submittal of proposals;

15 (5) Procedures and standards for evaluating proposals;

16 (6) Procedures for negotiations between the authorized agency and
17 the design-builders or construction managers submitting proposals prior
18 to the acceptance of a proposal if any such negotiations are
19 contemplated; and

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

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

26 **Sec. 8.** (1) An authorized agency shall prepare a request for
27 qualifications for design-build proposals and shall prequalify design-
28 builders. The request for qualifications shall describe the project in
29 sufficient detail to permit a design-builder to respond. The request for
30 qualifications shall identify the maximum number of design-builders the
31 authorized agency will place on a short list as qualified and eligible to

1 receive a request for proposals.

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

6 (3)(a) The request for qualifications shall be published:

7 (i) In a newspaper of statewide circulation once a week for three
8 consecutive weeks prior to the deadline for receiving requests for
9 qualifications; or

10 (ii) For twenty-one consecutive calendar days prior to the deadline
11 for receiving requests for qualifications on a website designated by the
12 state building division that is accessible to the public.

13 (b) The authorized agency may publish notice both in such a
14 newspaper and on such a website as described in this subsection.

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

23 **Sec. 9. An authorized agency shall prepare a request for proposals**
24 **for each design-build contract. The request for proposals shall contain,**
25 **at a minimum, the following elements:**

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

30 (2) The proposed terms and conditions of the design-build contract,
31 including any terms and conditions which are subject to further

1 negotiation;

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

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

8 (5) Project performance criteria;

9 (6) Budget parameters for the project;

10 (7) Any bonding and insurance required by law or as may be
11 additionally required by the authorized agency;

12 (8) The criteria for evaluation of proposals and the relative weight
13 of each criterion. The criteria shall include, but are not limited to,
14 the cost of the work, construction experience, design experience, and the
15 financial, personnel, and equipment resources available for the project.
16 The relative weight to apply to any criterion shall be at the discretion
17 of the authorized agency based on each project, except that in all cases,
18 the cost of the work shall be given a relative weight of at least fifty
19 percent;

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

25 (10) A requirement that the design-builder agree to the following
26 conditions:

27 (a) At the time of the design-build proposal, the design-builder
28 must furnish to the authorized agency a written statement identifying the
29 architect or engineer who will perform the architectural or engineering
30 work for the project. The architect or engineer engaged by the design-
31 builder to perform the architectural or engineering work with respect to

1 the project must have direct supervision of such work and may not be
2 removed by the design-builder prior to the completion of the project
3 without the written consent of the authorized agency;

4 (b) At the time of the design-build proposal, the design-builder
5 must furnish to the authorized agency a written statement identifying the
6 general contractor who will provide the labor, material, supplies,
7 equipment, and construction services. The general contractor identified
8 by the design-builder may not be removed by the design-builder prior to
9 completion of the project without the written consent of the authorized
10 agency;

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

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

20 (11) Other information or requirements which the authorized agency,
21 in its discretion, chooses to include in the request for proposals.

22 **Sec. 10.** An authorized agency shall pay a stipend to qualified
23 design-builders that submit responsive proposals but are not selected.
24 Payment of the stipend shall give the authorized agency ownership of the
25 intellectual property contained in the proposals and alternative
26 technical concepts. The amount of the stipend shall be at the discretion
27 of the authorized agency. The refusal to pay or accept the stipend shall
28 leave the intellectual property contained in the proposals and
29 alternative technical concepts in the possession of the creator of the
30 proposals and alternative technical concepts.

31 **Sec. 11.** (1) Design-builders shall submit proposals as required by

1 the request for proposals. An authorized agency may meet with individual
2 design-builders prior to the time of submitting the proposal and may have
3 discussions concerning alternative technical concepts. If an alternative
4 technical concept provides a solution that is equal to or considered a
5 better value than the requirements in the request for proposals and the
6 alternative technical concept is acceptable to the authorized agency, it
7 may be incorporated as part of the proposal by the design-builder.
8 Notwithstanding any other provision of state law to the contrary,
9 alternative technical concepts shall be confidential and not disclosed to
10 other design-builders or members of the public from the time the
11 proposals are submitted until such proposals are opened by the authorized
12 agency.

13 (2) A proposal may be submitted in paper or electronic format. All
14 proposals shall be sealed and shall not be opened until expiration of the
15 time established for making the proposals as set forth in the request for
16 proposals.

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

24 (4) The authorized agency shall rank the design-builders in order of
25 best value pursuant to the criteria in the request for proposals. The
26 authorized agency may meet with design-builders prior to ranking.

27 (5) The authorized agency may attempt to negotiate a design-build
28 contract with the highest ranked design-builder selected by the
29 authorized agency and may enter into a design-build contract after
30 negotiations. If the authorized agency is unable to negotiate a
31 satisfactory design-build contract with the highest ranked design-

1 builder, the authorized agency may terminate negotiations with that
2 design-builder. The authorized agency may then undertake negotiations
3 with the second highest ranked design-builder and may enter into a
4 design-build contract after negotiations. If the authorized agency is
5 unable to negotiate a satisfactory contract with the second highest
6 ranked design-builder, the authorized agency may undertake negotiations
7 with the third highest ranked design-builder, if any, and may enter into
8 a design-build contract after negotiations.

9 (6) If the authorized agency is unable to negotiate a satisfactory
10 contract with any of the ranked design-builders, the authorized agency
11 may either revise the request for proposals and solicit new proposals or
12 cancel the design-build process under the State Building Construction
13 Alternatives Act.

14 **Sec. 12.** The process for selecting a construction manager and
15 entering into a construction manager-general contractor contract shall be
16 in accordance with sections 13 to 16 of this act.

17 **Sec. 13.** (1) An authorized agency shall prepare a request for
18 qualifications for construction manager-general contractor contract
19 proposals and shall prequalify construction managers. The request for
20 qualifications shall describe the project in sufficient detail to permit
21 a construction manager to respond. The request for qualifications shall
22 identify the maximum number of eligible construction managers the
23 authorized agency will place on a short list as qualified and eligible to
24 receive a request for proposals.

25 (2)(a) The request for qualifications shall be published:

26 (i) In a newspaper of statewide circulation once a week for three
27 consecutive weeks prior to the deadline for receiving requests for
28 qualifications; or

29 (ii) For twenty-one consecutive calendar days prior to the deadline
30 for receiving requests for qualifications on a website designated by the
31 authorized agency that is accessible to the public.

1 (b) The authorized agency may publish notice both in such a
2 newspaper and on such a website as described in this subsection.

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

11 **Sec. 14.** The authorized agency shall prepare a request for
12 proposals for each construction manager-general contractor contract. The
13 request for proposals shall contain, at a minimum, the following
14 elements:

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

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

21 (3) Any bonding and insurance required by law or as may be
22 additionally required by the authorized agency;

23 (4) General information about the project which will assist the
24 authorized agency in its selection of the construction manager, including
25 a project statement which contains information about the scope and nature
26 of the project, the project site, the schedule, and the estimated budget;

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

29 (6) A statement that the construction manager shall not be allowed
30 to sublet, assign, or otherwise dispose of any portion of the contract
31 without consent of the authorized agency. In no case shall the authorized

1 agency allow the construction manager to sublet more than seventy percent
2 of the work, excluding specialty items; and

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

5 **Sec. 15.** (1) Construction managers shall submit proposals as
6 required by the request for proposals.

7 (2) A proposal may be submitted in paper or electronic format. All
8 proposals shall be sealed and shall not be opened until expiration of the
9 time established for making the proposals as set forth in the request for
10 proposals.

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

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

20 (5) The authorized agency may attempt to negotiate a contract for
21 preconstruction services with the highest ranked construction manager and
22 may enter into a contract for preconstruction services after
23 negotiations. If the authorized agency is unable to negotiate a
24 satisfactory contract for preconstruction services with the highest
25 ranked construction manager, the authorized agency may terminate
26 negotiations with that construction manager. The authorized agency may
27 then undertake negotiations with the second highest ranked construction
28 manager and may enter into a contract for preconstruction services after
29 negotiations. If the authorized agency is unable to negotiate a
30 satisfactory contract with the second highest ranked construction
31 manager, the authorized agency may undertake negotiations with the third

1 highest ranked construction manager, if any, and may enter into a
2 contract for preconstruction services after negotiations.

3 (6) If the authorized agency is unable to negotiate a satisfactory
4 contract for preconstruction services with any of the ranked construction
5 managers, the authorized agency may either revise the request for
6 proposals and solicit new proposals or cancel the construction manager-
7 general contractor contract process under the State Building Construction
8 Alternatives Act.

9 **Sec. 16.** (1) Before the construction manager begins any
10 construction services, the authorized agency shall:

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

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

15 (2) If the construction manager and the authorized agency are unable
16 to negotiate a contract, the authorized agency may use other contract
17 procurement processes as provided by law. Persons or organizations who
18 submitted proposals but were unable to negotiate a contract with the
19 authorized agency shall be eligible to compete in the other contract
20 procurement processes.

21 **Sec. 17.** A design-build contract and a construction manager-general
22 contractor contract may be conditioned upon later refinements in scope
23 and price and may permit an authorized agency in agreement with the
24 design-builder or construction manager to make changes in the project
25 without invalidating the contract.

26 **Sec. 18.** Nothing in the State Building Construction Alternatives
27 Act shall limit or reduce statutory or regulatory requirements regarding
28 insurance.

29 **Sec. 19.** The state building division may adopt and promulgate rules
30 and regulations to carry out the State Building Construction Alternatives
31 Act.

1 **Sec. 20.** Sections 20 to 24 of this act shall be known and may be
2 cited as the Secure Drone Purchasing Act.

3 **Sec. 21.** The Legislature finds that it is in the interest of
4 Nebraska to ensure its security against espionage, surveillance, and
5 theft of intellectual property by the People's Republic of China and
6 other hostile actors. It is the intent of the Legislature to limit the
7 purchase of unmanned aircraft systems known to present a security threat
8 to the state, its businesses, and its residents and to encourage the
9 purchase of unmanned aircraft systems that are deemed secure.

10 **Sec. 22.** For purposes of the Secure Drone Purchasing Act:

11 (1) Division means the Division of Aeronautics of the Department of
12 Transportation; and

13 (2) The terms unmanned aerial system and drone are synonymous as
14 used in the act and mean a powered, aerial vehicle that:

15 (a) Does not carry a human operator and is operated without the
16 possibility of direct human intervention from within or on the aircraft;

17 (b) Uses aerodynamic forces to provide vehicle lift;

18 (c) Can fly autonomously or be piloted remotely; and

19 (d) Can be expendable or recoverable.

20 **Sec. 23.** (1) Effective January 1, 2027, no state agency shall
21 purchase or acquire a drone or unmanned aerial system other than those
22 cleared by the division pursuant to section 24 of this act.

23 (2) To the extent practicable, political subdivisions shall purchase
24 or acquire only those drones and unmanned aerial systems cleared by the
25 division pursuant to section 24 of this act.

26 (3) Effective January 1, 2027, no state funds shall be used to
27 purchase or acquire a drone or unmanned aerial system whose purchase
28 would be prohibited by section 24 of this act.

29 (4) A contract or agreement for the purchase or acquisition of a
30 drone or unmanned aerial system in violation of this section is void and
31 unenforceable.

1 (5) Any electric supplier supplying, producing, or distributing
2 electricity within the state for sale at retail is exempt from the Secure
3 Drone Purchasing Act if the electric supplier is in compliance with the
4 critical infrastructure protection requirements issued by the North
5 American Electric Reliability Corporation.

6 **Sec. 24.** (1) On or before January 1, 2026, the division, in
7 consultation with the Department of Administrative Services, the
8 Committee on Pacific Conflict, the Nebraska State Patrol, and the Law
9 Enforcement Drone Association or any other organization that creates and
10 implements best practices and standards of training for the use of drones
11 in law enforcement, shall create and regularly maintain a document known
12 as the List of Secure Drones Authorized for Purchase that contains names
13 of devices and vendors of drones and unmanned aerial systems that are:

14 (a) Cleared by the United States Department of Defense through its
15 Blue UAS Program;

16 (b) Determined to be compliant with the requirements of the National
17 Defense Authorization Act for Fiscal Year 2024, Public Law 118-31;

18 (c) Determined by the division to be designed, maintained, modified,
19 or operated in such a manner that they are incapable, under normal
20 operating conditions, of transmitting data to unauthorized persons or
21 entities; or

22 (d) Otherwise determined to present no threat to the security of the
23 State of Nebraska as specified in subsection (2) of this section.

24 (2) For purposes of the Secure Drone Purchasing Act, drones are
25 considered to present no threat to the security of the State of Nebraska
26 if the following cybersecurity and data protection requirements are met:

27 (a) All video footage, images, and telemetry data collected,
28 transmitted, or stored by the drone is housed in the United States and
29 managed in accordance with federal and state privacy laws, cybersecurity
30 standards, and guidelines issued by the Cybersecurity and Infrastructure
31 Security Agency and the Federal Bureau of Investigation;

1 (b) The system enforces end-to-end encryption for data-at-rest and
2 data-in-transit using AES-256 encryption and transport layer security
3 protocols to prevent unauthorized access;

4 (c) The system operates on a secured, segmented network to mitigate
5 cybersecurity risks. Multifactor authentication and role-based access
6 controls are enforced for all drone platform access;

7 (d) The drone incorporates tamper-proof hardware to prevent
8 unauthorized modifications;

9 (e) The drone incorporates real-time monitoring systems capable of
10 detecting unauthorized access, cyber threats, or operational anomalies
11 and automated countermeasures; and

12 (f) State agencies, political subdivisions, and their contractors
13 conduct annual independent security audits and obtain certifications
14 demonstrating compliance with the National Institute of Standards and
15 Technology Cybersecurity Framework 2.0, ISO27001, and SDC 2.

16 (3) In creating and maintaining the List of Secure Drones Authorized
17 for Purchase, the division may consult with recognized cybersecurity
18 experts from the private and public sectors, the Nebraska State Patrol
19 and other law enforcement agencies, the Nebraska National Guard, the
20 Nebraska Emergency Management Agency, the office of the Chief Information
21 Officer, or other pertinent entities to ensure the integrity and security
22 of all data collected by unmanned aerial systems used in this state.

23 (4) The List of Secure Drones Authorized for Purchase shall be
24 published on the division's website and updated at least every six
25 months. The division may maintain the confidentiality of any information
26 and documents related to its assessment and decisionmaking process
27 collected or created under the Secure Drone Purchasing Act and withhold
28 such information from public disclosure pursuant to subdivision (5) of
29 section 84-712.05.

30 (5) Those devices and vendors on the division's List of Secure
31 Drones Authorized for Purchase shall be preferred over others in state

1 and local procurement actions.

2 **Sec. 25.** (1) For purposes of this section, expenditures of federal
3 funds means expenditures by the state of any financial assistance that is
4 received from the United States Government or any agency thereof required
5 to be submitted to the budget request and reporting system of the
6 Department of Administrative Services, whether such assistance is
7 received by contract, grant subsidy, augmentation, or reimbursement or in
8 any other form.

9 (2) All agencies of the state government for which the Legislature
10 appropriates funds shall submit a federal funding inventory to the office
11 of the Director of Administrative Services on or before September 15 of
12 each even-numbered year. The federal funding inventory shall include:

13 (a) The aggregate value of the expenditures of federal funds by the
14 agency for the preceding fiscal year;

15 (b) The aggregate amount of federal funds appropriated to the agency
16 by the Legislature for the preceding fiscal year;

17 (c) The percentage of the agency's total budget for the preceding
18 fiscal year that constitutes expenditures of federal funds by the agency
19 for that fiscal year;

20 (d) Any requirement for a state match and a copy of any agreement,
21 including a memorandum of understanding, a maintenance-of-effort
22 agreement, or a contract, entered into with any federal entity to receive
23 federal funds for the preceding fiscal year, with a cover sheet that
24 details the obligations imposed on the state agency, including any state
25 monetary match requirements, the number of full-time and part-time
26 positions obligated by the agreement, and a description of any other
27 resources and obligations incurred by the state agency, and the citation
28 to the applicable federal law, regulation, or grant provision;

29 (e) An operating plan in the event that federal funds are reduced by
30 ten percent or more from the preceding fiscal year;

31 (f) A detailed description of the actions or results that were

1 promised by the state agency in order to receive federal funds;

2 (g) The state or federal statutory objective that is being met by
3 the expenditures of federal funds; and

4 (h) A detailed list of federal funds that have a foreseeable or
5 potential end date, the date, and the schedule of expenditures of federal
6 funds expected until that date.

7 **Sec. 26.** Section 72-803, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 72-803 (1) The state and any department or agency thereof, subject
10 to the powers of the state building division of the Department of
11 Administrative Services, shall have general charge of the erection of new
12 buildings which are being erected for such department or agency, the
13 repair and improvement of buildings under the control of such department
14 or agency, including fire escapes, and the improvement of grounds under
15 the control of such department or agency.

16 (2) Buildings and other improvements costing more than one hundred
17 fifty thousand dollars shall be (a) constructed under the general charge
18 of the department or agency as provided in subsection (1) of this section
19 and (b) let by contract to the lowest responsible bidder after proper
20 advertisement as set forth in subsection (4) of this section. The
21 Department of Administrative Services shall adjust the dollar amounts in
22 this subsection every four years beginning January 1, 2026, to account
23 for inflationary and market changes. The department shall select a
24 construction cost index or any other published index relevant to
25 operations and utilities costs and shall base the adjustments on the
26 percentage changes in such index.

27 (3) The successful bidder at the letting shall enter into a contract
28 with the department or agency, prepared as provided for by subsection (4)
29 of this section, and shall furnish a bond for the faithful performance of
30 his or her contract, except that a performance bond shall not be required
31 for any project which has a total cost of one hundred thousand dollars or

1 less unless the department or agency includes a bond requirement in the
2 specifications for the project.

3 (4) When contracts are to be let by the department or agency as
4 provided in subsection (2) of this section, advertisements shall be
5 published in accordance with rules and regulations adopted and
6 promulgated by the state building division stating that sealed proposals
7 will be received by the department or agency at its office on the date
8 therein stated for the furnishing of materials, the construction of
9 buildings, or the making of repairs or improvements and that plans and
10 specifications can be seen at the office of the department or agency. All
11 bids or proposals shall be accompanied by a certified check or by a bid
12 bond in a sum fixed by the department or agency and payable thereto. All
13 such contracts shall be awarded to the lowest responsible bidder, but the
14 right shall be reserved to reject any and all bids. Whenever any material
15 described in any contract can be obtained from any state institution, the
16 department or agency shall exclude it from such a contract.

17 **Sec. 27.** Section 73-101, Revised Statutes Cumulative Supplement,
18 2024, is amended to read:

19 73-101 Whenever the State of Nebraska, or any department or any
20 agency thereof, any county board, county clerk, county highway
21 superintendent, the mayor and city council or commissioner of any
22 municipality, any entity created pursuant to the Interlocal Cooperation
23 Act or the Joint Public Agency Act, or the officers of any school
24 district, township, or other governmental subdivision, shall advertise
25 for bids in pursuance of any statutes of the State of Nebraska, on any
26 road contract work or any public improvements work, or for supplies,
27 construction, repairs, and improvements, and in all other cases where
28 bids for supplies or work, of any character whatsoever, are received for
29 the various departments and agencies of the state, and other subdivisions
30 and agencies enumerated in this section, they shall fix not only the day
31 upon which such bids shall be returned, received, or opened, as provided

1 by other statutes, but shall also fix the hour at which such bids shall
2 close, or be received or opened, and they shall also provide that such
3 bids shall be immediately and simultaneously opened in the presence of
4 the bidders, or representatives of the bidders, when the hour is reached
5 for the bids to close. Such bids may be withheld from disclosure until an
6 intent to award is issued. If bids are being opened on more than one
7 contract, the officials having in charge the opening of such bids may, if
8 they deem it advisable, award each contract as the bids are opened.
9 Sections 73-101 to 73-106 shall not apply to the State Building
10 Construction Alternatives Act, the State Park System Construction
11 Alternatives Act, or sections 39-2808 to 39-2823.

12 **Sec. 28.** Section 73-307, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 73-307 Sections 73-301 to 73-306 shall not apply to the Nebraska
15 Consultants' Competitive Negotiation Act, the State Building Construction
16 Alternatives Act, the State Park System Construction Alternatives Act,
17 sections 39-2808 to 39-2823, or section 57-1503.

18 Sections 73-301 to 73-306 shall not be construed to apply to
19 renewals of contracts already approved pursuant to or not subject to such
20 sections, to amendments to such contracts, or to renewals of such
21 amendments unless the amendments would directly cause or result in the
22 replacement by the private entity of additional permanent state employees
23 or positions greater than the replacement caused by the original
24 contract.

25 **Sec. 29.** Section 81-1108.15, Reissue Revised Statutes of Nebraska,
26 is amended to read:

27 81-1108.15 (1) Except as provided in the Nebraska State Capitol
28 Preservation and Restoration Act, the division shall have the primary
29 functions and responsibilities of statewide facilities planning,
30 facilities construction, and facilities administration and shall adopt
31 and promulgate rules and regulations to carry out this section.

1 (2) Facilities planning shall include the following responsibilities
2 and duties:

3 (a) To maintain utilization records of all state-owned, state-
4 occupied, and vacant facilities;

5 (b) To coordinate comprehensive capital facilities planning;

6 (c) To define and review program statements based on space
7 utilization standards;

8 (d) To prepare or review planning and construction documents;

9 (e) To develop and maintain time-cost schedules for capital
10 construction projects;

11 (f) To assist the Governor and the Legislative Fiscal Analyst in the
12 preparation of the capital construction budget recommendations;

13 (g) To maintain a complete inventory of all state-owned, state-
14 occupied, and vacant sites and structures and to review the proposals for
15 naming such sites and structures;

16 (h) To determine space needs of all state agencies and establish
17 space-allocation standards; ~~and~~

18 (i) To cause a state comprehensive capital facilities plan to be
19 developed; and -

20 (j) To carry out the State Building Construction Alternatives Act.

21 (3) Facilities construction shall include the following powers and
22 duties:

23 (a) To maintain close contact with and conduct inspections of each
24 project so as to assure execution of time-cost schedules and efficient
25 contract performance if such project's total design and construction cost
26 is equal to or greater than the project cost set by subdivision (1)(a) of
27 section 81-1108.43 as adjusted by subsection (2) of section 81-1108.43;

28 (b) To perform final acceptance inspections and evaluations; and

29 (c) To coordinate all change or modification orders and progress
30 payment orders.

31 (4) Facilities administration shall include the following powers and

1 duties:

2 (a) To serve as state leasing administrator or agent for all
3 facilities to be leased for use by the state and for all state-owned
4 facilities to be rented to state agencies or other parties subject to
5 section 81-1108.22. The division shall remit the proceeds from any
6 rentals of state-owned facilities to the State Treasurer for credit to
7 the State Building Revolving Fund and the State Building Renewal
8 Assessment Fund;

9 (b) To provide all maintenance, repairs, custodial duties, security,
10 and administration for all buildings and grounds owned or leased by the
11 State of Nebraska except as provided in subsections (5) and (6) of this
12 section;

13 (c) To be responsible for adequate parking and the designation of
14 parking stalls or spaces, including access aisles, in offstreet parking
15 facilities for the exclusive use of handicapped or disabled or
16 temporarily handicapped or disabled persons pursuant to section 18-1737;

17 (d) To ensure that all state-owned, state-occupied, and vacant
18 facilities are maintained or utilized to their maximum capacity or to
19 dispose of such facilities through lease, sale, or demolition;

20 (e) To submit electronically a report ~~an annual report to the~~
21 ~~Appropriations Committee of the Legislature and the Committee on Building~~
22 ~~Maintenance~~ regarding the amount of property leased by the state and the
23 availability of state-owned property for the needs of state agencies,
24 upon request by the Appropriations Committee of the Legislature, the
25 Committee on Building Maintenance, or a member of the Legislature;

26 ~~(f) To report monthly time-cost data on projects to the Governor and~~
27 ~~the Clerk of the Legislature. The report submitted to the Clerk of the~~
28 ~~Legislature shall be submitted electronically;~~

29 ~~(f)~~ (g) To administer the State Emergency Capital Construction
30 Contingency Fund;

31 ~~(g)~~ (h) To submit status reports to the Governor and the Legislative

1 Fiscal Analyst after each quarter of a construction project is completed
2 detailing change orders and expenditures to date. The report submitted to
3 the Legislative Fiscal Analyst shall be submitted electronically. Such
4 reports shall be required on all projects costing an amount equal to or
5 greater than the amount set forth in subdivision (1)(a) of section
6 81-1108.43 as adjusted by subsection (2) of section 81-1108.43 and on
7 such other projects as may be designated by the division; and

8 (h) ~~(i)~~ To submit a final report on each project to the Governor and
9 the Legislative Fiscal Analyst. The report submitted to the Legislative
10 Fiscal Analyst shall be submitted electronically. Such report shall
11 include, but not be limited to, a comparison of final costs and
12 appropriations made for the project, change orders, and modifications and
13 whether the construction complied with the related approved program
14 statement. Such reports shall be required on all projects costing an
15 amount equal to or greater than the amount set forth in subdivision (1)
16 (a) of section 81-1108.43 as adjusted by subsection (2) of section
17 81-1108.43 and on such other projects as may be designated by the
18 division.

19 (5) Subdivisions (4)(b), (c), and (d) of this section shall not
20 apply to (a) state-owned facilities to be rented to state agencies or
21 other parties by the University of Nebraska, the Nebraska state colleges,
22 the Department of Transportation, and the Board of Educational Lands and
23 Funds, (b) buildings and grounds owned or leased for use by the
24 University of Nebraska, the Nebraska state colleges, and the Board of
25 Educational Lands and Funds, (c) buildings and grounds owned, leased, or
26 operated by the Department of Correctional Services, (d) facilities to be
27 leased for nonoffice use by the Department of Transportation, (e)
28 buildings or grounds owned or leased by the Game and Parks Commission if
29 the application of such subdivisions to the buildings or grounds would
30 result in ineligibility for or repayment of federal funding, (f)
31 buildings or grounds of the state park system, state recreation areas,

1 state historical parks, state wildlife management areas, or state
2 recreational trails, or (g) other buildings or grounds owned or leased by
3 the State of Nebraska which are specifically exempted by the division
4 because the application of such subdivisions would result in the
5 ineligibility for federal funding or would result in hardship on an
6 agency, board, or commission due to other exceptional or unusual
7 circumstances, except that nothing in this subdivision shall prohibit the
8 assessment of building rental depreciation charges to tenants of
9 facilities owned by the state and under the direct control and
10 maintenance of the division.

11 (6) Security for all buildings and grounds owned or leased by the
12 State of Nebraska in Lincoln, Nebraska, except the buildings and grounds
13 described in subsection (5) of this section, shall be the responsibility
14 of the Nebraska State Patrol. The Nebraska State Patrol shall consult
15 with the Governor, the Chief Justice, the Executive Board of the
16 Legislative Council, and the State Capitol Administrator regarding
17 security policy within the State Capitol and capitol grounds.

18 (7) Each member of the Legislature shall receive an electronic copy
19 of the reports required by subdivisions (4)(g) and (h) ~~(4)(f), (h), and~~
20 ~~(i)~~ of this section by making a request for them to the State Building
21 Administrator. The information on such reports shall be submitted to the
22 division by the agency responsible for the project.

23 **Sec. 30.** Section 81-1701, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 81-1701 The purpose of the Nebraska Consultants' Competitive
26 Negotiation Act is to provide managerial control over competitive
27 negotiations by the state for acquisition of professional architectural,
28 engineering, landscape architecture, or land surveying services. The act
29 does not apply to (1) contracts under section 57-1503, (2) contracts
30 under subsection (6) of section 39-1349, (3) contracts under sections
31 39-2808 to 39-2823 except as provided in section 39-2810, ~~or~~ (4)

1 contracts under the State Park System Construction Alternatives Act
2 except as provided in section 37-1719, or (5) contracts under the State
3 Building Construction Alternatives Act except as provided in section 5 of
4 this act.

5 **Sec. 31.** Section 82-317, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 82-317 The Legislature recognizes the responsibility of the state to
8 foster culture and the arts and its interest in the viable development of
9 its artists. The Legislature declares it to be the policy of this state
10 that a portion of all appropriations made after January 1, 1979, for
11 capital expenditures be set aside for the acquisition of artworks to be
12 used in public buildings except as otherwise provided in section 82-319.

13 **Sec. 32.** Section 82-318, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 82-318 As used in sections 82-317 to 82-329, 85-106 to 85-106.03,
16 and 85-304 to 85-304.03, unless the context otherwise requires:

17 (1) Appropriation means ~~shall mean~~ the amount of money set by the
18 Legislature in excess of one million five hundred thousand dollars for
19 new construction or in excess of five ~~two~~ hundred fifty thousand dollars
20 for remodeling for the particular project which is not limited by law,
21 rule, or regulation less the amount of money spent for planning, land
22 acquisition, and site work;

23 (2) Art means ~~shall mean~~ the conscious use of skill, taste, and
24 creative imagination in the production of aesthetic objects;

25 (3) Original construction means ~~shall mean~~ the erection of a new
26 building or facility and does not include remodeling if the cost is five
27 ~~two~~ hundred fifty thousand dollars or less or expansion of existing
28 structures; ~~and~~

29 ~~(4)(a) (4)~~ Public building means ~~shall mean~~ buildings and facilities
30 used by or open to the public as guests or business invitees ~~and shall~~
31 ~~exclude repair shops, garages, warehouses, and buildings of a similar~~

1 nature.

2 (b) Public building excludes repair shops, garages, warehouses,
3 laboratories, and industrial, agricultural, mechanical, and other
4 buildings of a similar nature; and

5 (5) Waiver means an exemption approved by the construction project
6 committee pursuant to section 82-321.

7 **Sec. 33.** Section 82-319, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 82-319 (1) Except as otherwise provided in subsection (2) or (3) of
10 this section, all All boards, agencies, commissions, or departments of
11 state government shall ~~, after January 1, 1979,~~ spend at least one
12 percent of any appropriation for the original construction of any state
13 building for the acquisition of works of art.

14 (2) Subsection (1) of this section does not apply if (a) a waiver is
15 approved pursuant to section 82-321 or (b) more than seventy-five percent
16 of the project cost represents improvements to mechanical systems.

17 (3) The expenditure per project for works of art shall not exceed
18 three hundred thousand dollars.

19 (4) The works of art may be:

20 (a) An an integral part of the structure; ~~or~~

21 (b) Attached attached to the structure; ~~or~~

22 (c) Detached detached within or outside of the structure; ~~or~~

23 (d) Exhibited or may be exhibited by the board, agency, commission,
24 or department in other public facilities.

25 **Sec. 34.** Section 82-321, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 82-321 (1) A committee shall be established for each construction
28 project which comes under sections 82-317 to 82-329, 85-106 to 85-106.03,
29 and 85-304 to 85-304.03. The committee shall consist of the architect,
30 three members from the board, agency, commission, or department for which
31 the building is being constructed, and three members of the Nebraska Arts

1 Council or three members chosen by the council. The committee shall
2 consult with the Nebraska Arts Council in carrying out ~~the provisions of~~
3 sections 82-317 to 82-329, 85-106 to 85-106.03, and 85-304 to 85-304.03.

4 (2) A board, agency, commission, or department of state government
5 may request approval of a waiver from the committee for a construction
6 project. The committee shall consider whether extraordinary circumstances
7 exist such that the installation of works of art would not be
8 appropriate. If the committee makes such a finding, the committee shall
9 notify the requesting party of the approval of the waiver of the
10 requirements of section 82-319.

11 **Sec. 35.** Section 84-906.02, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 84-906.02 (1) In addition to seeking information by other methods
14 and before publication of a notice under section 84-907, an agency is
15 encouraged to and may solicit comments from the public on a subject
16 matter of possible rule or regulation making by causing notice to be
17 published in a newspaper of general circulation of the subject matter and
18 indicating where, when, and how persons may comment.

19 (2) When considering the proposal or adoption of a rule or
20 regulation, an agency shall:

21 (a) Allow any person to submit comments or written materials or
22 other documentation in support or opposition to such proposal or
23 adoption;

24 (b) Allow for such submission to be accomplished electronically or
25 by mail; and

26 (c) Not require a person wishing to make such a submission to travel
27 to any particular location.

28 **Sec. 36.** Section 84-911, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 84-911 (1) The validity of any rule or regulation may be determined
31 upon a petition for a declaratory judgment ~~thereon addressed to the~~

1 ~~district court of Lancaster County~~ if it appears that the rule or
2 regulation or its threatened application interferes with or impairs or
3 threatens to interfere with or impair the legal rights or privileges of
4 the petitioner. The petition shall be filed in the district court for any
5 county in which venue is proper under subsection (3) of this section. The
6 agency shall be made a party to the proceeding. The declaratory judgment
7 may be rendered whether or not the petitioner has first requested the
8 agency to pass upon the validity of the rule or regulation in question.

9 (2)(a) {2} The court shall declare the rule or regulation invalid if
10 it finds that it violates constitutional provisions, exceeds the
11 statutory authority of the agency, or was adopted without compliance with
12 the statutory procedures.

13 (b) For purposes of this subsection, statutory procedures shall not
14 include procedures provided under the Negotiated Rulemaking Act.

15 (3) Venue for filing a petition under this section shall be proper
16 in any of the following counties in Nebraska:

17 (a) The county where the petitioner resides;

18 (b) The county where the petitioner's principal place of business is
19 located;

20 (c) Lancaster County; or

21 (d) The county in which the agency has its headquarters.

22 (4) An agency shall not take any action to restrict venue in
23 contravention of this section.

24 **Sec. 37.** (1) Beginning January 1, 2026, each agency shall conduct a
25 review of all existing and pending rules and regulations and every five
26 years thereafter.

27 (2) Each agency head shall designate an individual who is
28 responsible for oversight of the review.

29 (3) Each agency shall submit electronically a detailed report of its
30 findings along with any supporting documentation to the Clerk of the
31 Legislature on or before June 30 in the year the review is conducted. The

1 report shall indicate whether:

2 (a) The rule or regulation is essential to the health, safety, or
3 welfare of the public;

4 (b) The costs of the rule or regulation outweigh the benefits;

5 (c) The agency has a process in place to measure the effectiveness
6 of the rule or regulation;

7 (d) A less restrictive alternative has been considered; and

8 (e) The rule or regulation was promulgated as the result of a (i)
9 state statutory requirement, (ii) federal mandate, or (iii) court
10 decision.

11 (4) Upon receipt of the agency reports required by this section, the
12 Reference Committee of the Legislature shall reference each report to the
13 appropriate standing committee of the Legislature based on each
14 committee's jurisdictional oversight. The committee shall review the
15 agency report and submit a report electronically to the Clerk of the
16 Legislature by December 15 of such year. Each committee report shall
17 include recommendations for legislation, if necessary, to clarify any
18 rule or regulation or provide recommendations for clarifications to any
19 rule or regulation.

20 (5) Agency rulemaking and regulationmaking authorized by the
21 Administrative Procedure Act shall be suspended during the pendency of
22 the agency review process mandated by this section with the exception of
23 any proposed rule or regulation that:

24 (a) Affects the health, safety, or welfare of the public;

25 (b) Is time sensitive; or

26 (c) Is subject to state or federal statutory deadlines.

27 **Sec. 38.** Section 84-920, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 84-920 Sections 84-901 to 84-920 and section 37 of this act, the
30 Occupational Board Reform Act, and the Personal Privacy Protection Act
31 shall be known and may be cited as the Administrative Procedure Act.

1 **Sec. 39.** Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14,
2 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32,
3 33, 34, 37, 38, and 41 of this act become operative three calendar months
4 after the adjournment of this legislative session. The other sections of
5 this act become operative on their effective date.

6 **Sec. 40.** Original sections 84-906.02 and 84-911, Reissue Revised
7 Statutes of Nebraska, are repealed.

8 **Sec. 41.** Original sections 72-803, 73-307, 81-1108.15, 81-1701,
9 82-317, 82-318, 82-319, 82-321, and 84-920, Reissue Revised Statutes of
10 Nebraska, and section 73-101, Revised Statutes Cumulative Supplement,
11 2024, are repealed.

12 **Sec. 42.** Since an emergency exists, this act takes effect when
13 passed and approved according to law.