

ENGROSSED LEGISLATIVE BILL 660

Introduced by Andersen, 49; Bosn, 25; Holdcroft, 36; Sorrentino, 39; Storer, 43; DeKay, 40; Sanders, 45.

A BILL FOR AN ACT relating to government; to amend sections 72-803, 73-307, 81-1108.15, 81-1701, 82-317, 82-318, 82-319, 82-321, 84-906.02, 84-911, and 84-920, Reissue Revised Statutes of Nebraska, and section 73-101, Revised Statutes Cumulative Supplement, 2024; to adopt the State Building Construction Alternatives Act and the Secure Drone Purchasing Act; to require agencies to submit a federal funding inventory as prescribed; to change provisions relating to planning, building, construction, and procurement for state buildings; to define and redefine terms; to change provisions related to the acquisition of works of art for state buildings; to change provisions relating to agency rules and regulations; to harmonize provisions; to provide operative dates; to repeal the original sections; and to declare an emergency.

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

Section 1. Sections 1 to 19 of this act shall be known and may be cited as the State Building Construction Alternatives Act.

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

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

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

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

(4) Construction manager means the legal entity which proposes to enter into a construction manager-general contractor contract pursuant to the State

Building Construction Alternatives Act;

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

(6) Construction services means activities associated with building the project;

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

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

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

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

(11) Proposal means an offer in response to a request for proposals (a) by a design-builder to enter into a design-build contract or (b) by a construction

manager to enter into a construction manager-general contractor contract;

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

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

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

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

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

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

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

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

The request shall include the following:

(a) A written determination that, due to the nature, detail, or circumstances of a project, the use of a design-build contract or construction manager-general contractor contract is justified. The determination shall include a description of facts justifying such use and state whether the authorized agency is planning to use a design-build contract or a construction manager-general contractor contract;

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

(i) The cost of the project;

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

(iii) The overall complexity of the project;

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

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

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

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

construction manager who will submit a proposal.

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

- (1) Preparation and content of requests for qualifications;
- (2) Preparation and content of requests for proposals;

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

- (4) Preparation and submittal of proposals;

- (5) Procedures and standards for evaluating proposals;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (5) Project performance criteria;
- (6) Budget parameters for the project;
- (7) Any bonding and insurance required by law or as may be additionally required by the authorized agency;
- (8) The criteria for evaluation of proposals and the relative weight of each criterion. The criteria shall include, but are not limited to, the cost of the work, construction experience, design experience, and the financial, personnel, and equipment resources available for the project. The relative weight to apply to any criterion shall be at the discretion of the authorized agency based on each project, except that in all cases, the cost of the work shall be given a relative weight of at least fifty percent;
- (9) A requirement that the design-builder provide a written statement of the design-builder's proposed approach to the design and construction of the project, which may include graphic materials illustrating the proposed approach to design and construction and shall include price proposals;
- (10) A requirement that the design-builder agree to the following conditions:
 - (a) At the time of the design-build proposal, the design-builder must furnish to the authorized agency a written statement identifying the architect or engineer who will perform the architectural or engineering work for the project. The architect or engineer engaged by the design-builder to perform the architectural or engineering work with respect to the project must have direct supervision of such work and may not be removed by the design-builder prior to the completion of the project without the written consent of the authorized agency;
 - (b) At the time of the design-build proposal, the design-builder must furnish to the authorized agency a written statement identifying the general contractor who will provide the labor, material, supplies, equipment, and construction services. The general contractor identified by the design-builder may not be removed by the design-builder prior to completion of the project without the written consent of the authorized agency;

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

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

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

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

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

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

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

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

(5) The authorized agency may attempt to negotiate a design-build contract with the highest ranked design-builder selected by the authorized agency and may enter into a design-build contract after negotiations. If the authorized agency is unable to negotiate a satisfactory design-build contract with the highest ranked design-builder, the authorized agency may terminate negotiations with that design-builder. The authorized agency may then undertake negotiations with the second highest ranked design-builder and may enter into a design-build contract after negotiations. If the authorized agency is unable to negotiate a satisfactory contract with the second highest ranked design-builder, the authorized agency may undertake negotiations with the third highest ranked design-builder, if any, and may enter into a design-build contract after negotiations.

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

Sec. 12. The process for selecting a construction manager and entering into a construction manager-general contractor contract shall be in accordance

with sections 13 to 16 of this act.

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

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

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

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

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

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

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

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

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

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

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

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

(6) A statement that the construction manager shall not be allowed to sublet, assign, or otherwise dispose of any portion of the contract without consent of the authorized agency. In no case shall the authorized agency allow the construction manager to sublet more than seventy percent of the work, excluding specialty items; and

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

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

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

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

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

(5) The authorized agency may attempt to negotiate a contract for preconstruction services with the highest ranked construction manager and may enter into a contract for preconstruction services after negotiations. If the authorized agency is unable to negotiate a satisfactory contract for preconstruction services with the highest ranked construction manager, the authorized agency may terminate negotiations with that construction manager. The authorized agency may then undertake negotiations with the second highest ranked construction manager and may enter into a contract for preconstruction services after negotiations. If the authorized agency is unable to negotiate a satisfactory contract with the second highest ranked construction manager, the authorized agency may undertake negotiations with the third highest ranked construction manager, if any, and may enter into a contract for preconstruction services after negotiations.

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

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

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

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

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

Sec. 17. A design-build contract and a construction manager-general contractor contract may be conditioned upon later refinements in scope and price and may permit an authorized agency in agreement with the design-builder

or construction manager to make changes in the project without invalidating the contract.

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

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

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

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

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

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

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

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

(b) Uses aerodynamic forces to provide vehicle lift;

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

(d) Can be expendable or recoverable.

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

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

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

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

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

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

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

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

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

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

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

(a) All video footage, images, and telemetry data collected, transmitted,

or stored by the drone is housed in the United States and managed in accordance with federal and state privacy laws, cybersecurity standards, and guidelines issued by the Cybersecurity and Infrastructure Security Agency and the Federal Bureau of Investigation;

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

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

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

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

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

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

(4) The List of Secure Drones Authorized for Purchase shall be published on the division's website and updated at least every six months. The division may maintain the confidentiality of any information and documents related to its assessment and decisionmaking process collected or created under the Secure Drone Purchasing Act and withhold such information from public disclosure

pursuant to subdivision (5) of section 84-712.05.

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

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

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

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

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

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

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

(e) An operating plan in the event that federal funds are reduced by ten

percent or more from the preceding fiscal year;

(f) A detailed description of the actions or results that were promised by the state agency in order to receive federal funds;

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

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

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

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

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

(3) The successful bidder at the letting shall enter into a contract with the department or agency, prepared as provided for by subsection (4) of this section, and shall furnish a bond for the faithful performance of his or her contract, except that a performance bond shall not be required for any project

which has a total cost of one hundred thousand dollars or less unless the department or agency includes a bond requirement in the specifications for the project.

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

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

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

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

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

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

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

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

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

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

(a) To maintain utilization records of all state-owned, state-occupied,

and vacant facilities;

(b) To coordinate comprehensive capital facilities planning;

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

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

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

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

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

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

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

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

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

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

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

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

(4) Facilities administration shall include the following powers and duties:

(a) To serve as state leasing administrator or agent for all facilities to be leased for use by the state and for all state-owned facilities to be rented to state agencies or other parties subject to section 81-1108.22. The division

shall remit the proceeds from any rentals of state-owned facilities to the State Treasurer for credit to the State Building Revolving Fund and the State Building Renewal Assessment Fund;

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

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

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

(e) To submit electronically a report regarding the amount of property leased by the state and the availability of state-owned property for the needs of state agencies, upon request by the Appropriations Committee of the Legislature, the Committee on Building Maintenance, or a member of the Legislature;

(f) To administer the State Emergency Capital Construction Contingency Fund;

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

(h) To submit a final report on each project to the Governor and the Legislative Fiscal Analyst. The report submitted to the Legislative Fiscal Analyst shall be submitted electronically. Such report shall include, but not

be limited to, a comparison of final costs and appropriations made for the project, change orders, and modifications and whether the construction complied with the related approved program statement. Such reports shall be required on all projects costing an amount equal to or greater than the amount set forth in subdivision (1)(a) of section 81-1108.43 as adjusted by subsection (2) of section 81-1108.43 and on such other projects as may be designated by the division.

(5) Subdivisions (4)(b), (c), and (d) of this section shall not apply to (a) state-owned facilities to be rented to state agencies or other parties by the University of Nebraska, the Nebraska state colleges, the Department of Transportation, and the Board of Educational Lands and Funds, (b) buildings and grounds owned or leased for use by the University of Nebraska, the Nebraska state colleges, and the Board of Educational Lands and Funds, (c) buildings and grounds owned, leased, or operated by the Department of Correctional Services, (d) facilities to be leased for nonoffice use by the Department of Transportation, (e) buildings or grounds owned or leased by the Game and Parks Commission if the application of such subdivisions to the buildings or grounds would result in ineligibility for or repayment of federal funding, (f) buildings or grounds of the state park system, state recreation areas, state historical parks, state wildlife management areas, or state recreational trails, or (g) other buildings or grounds owned or leased by the State of Nebraska which are specifically exempted by the division because the application of such subdivisions would result in the ineligibility for federal funding or would result in hardship on an agency, board, or commission due to other exceptional or unusual circumstances, except that nothing in this subdivision shall prohibit the assessment of building rental depreciation charges to tenants of facilities owned by the state and under the direct control and maintenance of the division.

(6) Security for all buildings and grounds owned or leased by the State of Nebraska in Lincoln, Nebraska, except the buildings and grounds described in subsection (5) of this section, shall be the responsibility of the Nebraska

State Patrol. The Nebraska State Patrol shall consult with the Governor, the Chief Justice, the Executive Board of the Legislative Council, and the State Capitol Administrator regarding security policy within the State Capitol and capitol grounds.

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

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

81-1701 The purpose of the Nebraska Consultants' Competitive Negotiation Act is to provide managerial control over competitive negotiations by the state for acquisition of professional architectural, engineering, landscape architecture, or land surveying services. The act does not apply to (1) contracts under section 57-1503, (2) contracts under subsection (6) of section 39-1349, (3) contracts under sections 39-2808 to 39-2823 except as provided in section 39-2810, (4) contracts under the State Park System Construction Alternatives Act except as provided in section 37-1719, or (5) contracts under the State Building Construction Alternatives Act except as provided in section 5 of this act.

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

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

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

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

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

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

(3) Original construction means the erection of a new building or facility and does not include remodeling if the cost is five hundred thousand dollars or less or expansion of existing structures;

(4)(a) Public building means buildings and facilities used by or open to the public as guests or business invitees.

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

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

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

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

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

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

(4) The works of art may be:

- (a) An integral part of the structure;
- (b) Attached to the structure;
- (c) Detached within or outside of the structure; or
- (d) Exhibited by the board, agency, commission, or department in other public facilities.

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

82-321 (1) A committee shall be established for each construction project which comes under sections 82-317 to 82-329, 85-106 to 85-106.03, and 85-304 to 85-304.03. The committee shall consist of the architect, three members from the board, agency, commission, or department for which the building is being constructed, and three members of the Nebraska Arts Council or three members chosen by the council. The committee shall consult with the Nebraska Arts Council in carrying out sections 82-317 to 82-329, 85-106 to 85-106.03, and 85-304 to 85-304.03.

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

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

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

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

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

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

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

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

84-911 (1) The validity of any rule or regulation may be determined upon a petition for a declaratory judgment if it appears that the rule or regulation or its threatened application interferes with or impairs or threatens to interfere with or impair the legal rights or privileges of the petitioner. The petition shall be filed in the district court for any county in which venue is proper under subsection (3) of this section. The agency shall be made a party to the proceeding. The declaratory judgment may be rendered whether or not the petitioner has first requested the agency to pass upon the validity of the rule or regulation in question.

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

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

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

(a) The county where the petitioner resides;

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

(c) Lancaster County; or

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

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

Sec. 37. (1) Beginning January 1, 2026, each agency shall begin a review of all existing and pending rules and regulations. Every rule or regulation shall be reviewed every five years.

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

(3) Each agency shall submit electronically a detailed report of its findings along with any supporting documentation to the Clerk of the Legislature on or before June 30 of each year for reviews conducted in the previous year. The report shall indicate whether:

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

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

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

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

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

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

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

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

(b) Is time sensitive; or

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

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

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

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

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

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

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

PRESIDENT OF THE LEGISLATURE

*THIS IS TO CERTIFY that the within LB 660 was passed by the One Hundred Ninth
Legislature of Nebraska at its First Session on the day
of 20.....*

CLERK OF THE LEGISLATURE

Approved:

..... 20....., o'clockM.

GOVERNOR