

LEGISLATURE OF NEBRASKA  
ONE HUNDRED EIGHTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 43**

FINAL READING

Introduced by Sanders, 45; Conrad, 46.

Read first time January 05, 2023

Committee: Government, Military and Veterans Affairs

1 A BILL FOR AN ACT relating to law; to amend sections 84-712, 84-712.01,  
2 and 84-712.07, Reissue Revised Statutes of Nebraska, and sections  
3 84-712.03, 84-712.05, 84-920, and 84-1412, Revised Statutes  
4 Cumulative Supplement, 2022; to adopt the First Freedom Act; to  
5 authorize wearing of tribal regalia by students as prescribed; to  
6 change public records provisions relating to residents,  
7 nonresidents, fees, duties, and remedies; to allow certain records  
8 relating to cybersecurity to be withheld from the public as  
9 prescribed; to provide a duty for the Nebraska Information  
10 Technology Commission; to provide requirements regarding the  
11 interpretation of statutes, rules, and regulations as prescribed; to  
12 prohibit state agencies from imposing annual filing and reporting  
13 requirements on charitable organizations as prescribed; to state  
14 intent; to adopt the Personal Privacy Protection Act; to define  
15 terms; to change provisions relating to public meetings; to  
16 harmonize provisions; to provide operative dates; to provide  
17 severability; to repeal the original sections; and to declare an  
18 emergency.  
19 Be it enacted by the people of the State of Nebraska,

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

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

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

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

11           (3) Religious organization means:

12           (a) A house of worship;

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

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

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

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

30           (6)(a) Substantially burden means any action that directly or  
31 indirectly constrains, inhibits, curtails, or denies the exercise of

1 religion by any person or compels any action contrary to a person's  
2 exercise of religion.

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

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

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

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

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

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

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

28 (a) Actual damages;

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

31 (c) Reasonable attorney's fees and other litigation costs reasonably

1 incurred.

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

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

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

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

27       Sec. 7. (1) A person who is a member of an indigenous tribe of the  
28 United States or another country and is a student attending any Nebraska  
29 public postsecondary institution may wear traditional tribal regalia in  
30 any public or private location where the person is otherwise authorized  
31 to be on such school grounds or at any school function. Nothing in this

1 section limits the authority of administrative and teaching personnel of  
2 a Nebraska public postsecondary institution to regulate student behavior  
3 to further school purposes or to prevent interference with the  
4 educational process.

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

11 (3) For purposes of this section:

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

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

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

22 84-712 (1) Except as otherwise expressly provided by statute, all  
23 residents ~~citizens~~ of this state and all other persons interested in the  
24 examination of the public records as defined in section 84-712.01 are  
25 hereby fully empowered and authorized to (a) examine such records, and  
26 make memoranda, copies using their own copying or photocopying equipment  
27 in accordance with subsection (2) of this section, and abstracts  
28 therefrom, all free of charge, during the hours the respective offices  
29 may be kept open for the ordinary transaction of business and (b) except  
30 if federal copyright law otherwise provides, obtain copies of public  
31 records in accordance with subsection (3) of this section during the

1 hours the respective offices may be kept open for the ordinary  
2 transaction of business.

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

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

21 (b) Except as otherwise provided by statute, the public body, public  
22 entity, or public official which is the custodian of a public record may  
23 charge a fee for providing copies of such public record pursuant to  
24 subdivision (1)(b) of this section, which fee shall not exceed the actual  
25 added cost of making the copies available. For purposes of this  
26 subdivision, (i) for photocopies, the actual added cost of making the  
27 copies available shall not exceed the amount of the reasonably calculated  
28 actual added cost of the photocopies, which may include a reasonably  
29 apportioned cost of the supplies, such as paper, toner, and equipment,  
30 used in preparing the copies, as well as any additional payment  
31 obligation of the custodian for time of contractors necessarily incurred

1 to comply with the request for copies, (ii) for printouts of computerized  
2 data on paper, the actual added cost of making the copies available shall  
3 include the reasonably calculated actual added cost of computer run time  
4 and the cost of materials for making the copy, and (iii) for electronic  
5 data, the actual added cost of making the copies available shall include  
6 the reasonably calculated actual added cost of the computer run time, any  
7 necessary analysis and programming by the public body, public entity,  
8 public official, or third-party information technology services company  
9 contracted to provide computer services to the public body, public  
10 entity, or public official, and the production of the report in the form  
11 furnished to the requester.

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

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

1 records.

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

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

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

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

23       (4) Upon receipt of a written request for access to or copies of a  
24 public record, the custodian of such record shall provide to the  
25 requester as soon as is practicable and without delay, but not more than  
26 four business days after actual receipt of the request, an estimate of  
27 the expected cost of the copies and either (a) access to or, if copying  
28 equipment is reasonably available, copies of the public record, (b) if  
29 there is a legal basis for denial of access or copies, a written denial  
30 of the request together with the information specified in section  
31 84-712.04, or (c) if the entire request cannot with reasonable good faith



1 efforts be fulfilled within four business days after actual receipt of  
2 the request due to the significant difficulty or the extensiveness of the  
3 request, a written explanation, including the earliest practicable date  
4 for fulfilling the request, an estimate of the expected cost of any  
5 copies, and an opportunity for the requester to modify or prioritize the  
6 items within the request. The requester shall have ten business days to  
7 review the estimated costs, including any special service charge, and  
8 request the custodian to fulfill the original request, negotiate with the  
9 custodian to narrow or simplify the request, or withdraw the request. If  
10 the requester does not respond to the custodian within ten business days,  
11 the custodian shall not proceed to fulfill the request. The four business  
12 days shall be computed by excluding the day the request is received,  
13 after which the designated period of time begins to run. Business day  
14 does not include a Saturday, a Sunday, or a day during which the offices  
15 of the custodian of the public records are closed.

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

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

21 84-712.01 (1) Except when any other statute expressly provides that  
22 particular information or records shall not be made public, public  
23 records shall include all records and documents, regardless of physical  
24 form, of or belonging to this state, any county, city, village, political  
25 subdivision, or tax-supported district in this state, or any agency,  
26 branch, department, board, bureau, commission, council, subunit, or  
27 committee of any of the foregoing. Data which is a public record in its  
28 original form shall remain a public record when maintained in computer  
29 files.

30 (2) When a custodian of a public record of a county provides to a  
31 member of the public, upon request, a copy of the public record by

1 transmitting it from a modem to an outside modem, a reasonable fee may be  
2 charged for such specialized service. Such fee may include a reasonable  
3 amount representing a portion of the amortization of the cost of computer  
4 equipment, including software, necessarily added in order to provide such  
5 specialized service. This subsection shall not be construed to require a  
6 governmental entity to acquire computer capability to generate public  
7 records in a new or different form when that new form would require  
8 additional computer equipment or software not already possessed by the  
9 governmental entity.

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

18 Sec. 10. Section 84-712.03, Revised Statutes Cumulative Supplement,  
19 2022, is amended to read:

20 84-712.03 (1) Any person denied any rights granted by sections  
21 84-712 to 84-712.03 may elect to:

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

26 (b) Petition the Attorney General to review the matter to determine  
27 whether a record may be withheld from public inspection or whether the  
28 public body that is custodian of such record has otherwise failed to  
29 comply with such sections, including whether the fees estimated or  
30 charged by the custodian are actual added costs or special service  
31 charges as provided under section 84-712. This determination shall be

1 made within fifteen calendar days after the submission of the petition.  
2 If the Attorney General determines that the record may not be withheld or  
3 that the public body is otherwise not in compliance, the public body  
4 shall be ordered to disclose the record immediately or otherwise comply.  
5 If the public body continues to withhold the record or remain in  
6 noncompliance, the person seeking disclosure or compliance may (i) bring  
7 suit in the trial court of general jurisdiction or (ii) demand in writing  
8 that the Attorney General bring suit in the name of the state in the  
9 trial court of general jurisdiction for the same purpose. If such demand  
10 is made, the Attorney General shall bring suit within fifteen calendar  
11 days after its receipt. The requester shall have an absolute right to  
12 intervene as a full party in the suit at any time.

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

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

28 Sec. 11. Section 84-712.05, Revised Statutes Cumulative Supplement,  
29 2022, is amended to read:

30 84-712.05 The following records, unless publicly disclosed in an  
31 open court, open administrative proceeding, or open meeting or disclosed

1 by a public entity pursuant to its duties, may be withheld from the  
2 public by the lawful custodian of the records:

3 (1) Personal information in records regarding a student, prospective  
4 student, or former student of any educational institution or exempt  
5 school that has effectuated an election not to meet state approval or  
6 accreditation requirements pursuant to section 79-1601 when such records  
7 are maintained by and in the possession of a public entity, other than  
8 routine directory information specified and made public consistent with  
9 20 U.S.C. 1232g, as such section existed on February 1, 2013, and  
10 regulations adopted thereunder;

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

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

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

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

31 (a) Relating to the presence of and amount or concentration of

1 alcohol or drugs in any body fluid of any person; or

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

13 (6) The identity and personal identifying information of an alleged  
14 victim of sexual assault or sex trafficking as provided in section  
15 29-4316;

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

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

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

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

28 (11) The security standards, procedures, policies, plans,  
29 specifications, diagrams, access lists, and other security-related  
30 records of the Lottery Division of the Department of Revenue and those  
31 persons or entities with which the division has entered into contractual

1 relationships. Nothing in this subdivision shall allow the division to  
2 withhold from the public any information relating to amounts paid persons  
3 or entities with which the division has entered into contractual  
4 relationships, amounts of prizes paid, the name of the prize winner, and  
5 the city, village, or county where the prize winner resides;

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

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

13 (14) Correspondence, memoranda, and records of telephone calls  
14 related to the performance of duties by a member of the Legislature in  
15 whatever form. The lawful custodian of the correspondence, memoranda, and  
16 records of telephone calls, upon approval of the Executive Board of the  
17 Legislative Council, shall release the correspondence, memoranda, and  
18 records of telephone calls which are not designated as sensitive or  
19 confidential in nature to any person performing an audit of the  
20 Legislature. A member's correspondence, memoranda, and records of  
21 confidential telephone calls related to the performance of his or her  
22 legislative duties shall only be released to any other person with the  
23 explicit approval of the member;

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

1 the federal Native American Graves Protection and Repatriation Act;

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

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

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

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

19 (18) Job application materials submitted by applicants, other than  
20 finalists or a priority candidate for a position described in section  
21 85-106.06 selected using the enhanced public scrutiny process in section  
22 85-106.06, who have applied for employment by any public body as defined  
23 in section 84-1409. For purposes of this subdivision, (a) job application  
24 materials means employment applications, resumes, reference letters, and  
25 school transcripts and (b) finalist means any applicant who is not an  
26 applicant for a position described in section 85-106.06 and (i) who  
27 reaches the final pool of applicants, numbering four or more, from which  
28 the successful applicant is to be selected, (ii) who is an original  
29 applicant when the final pool of applicants numbers less than four, or  
30 (iii) who is an original applicant and there are four or fewer original  
31 applicants;



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

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

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

12 (22) Draft records obtained by the Nebraska Retirement Systems  
13 Committee of the Legislature and the Governor from Nebraska Public  
14 Employees Retirement Systems pursuant to subsection (4) of section  
15 84-1503;

16 (23) All prescription drug information submitted pursuant to section  
17 71-2454, all data contained in the prescription drug monitoring system,  
18 and any report obtained from data contained in the prescription drug  
19 monitoring system;

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

26 (25) The security standards, procedures, policies, plans,  
27 specifications, diagrams, and access lists and other security-related  
28 records of the State Racing and Gaming Commission, those persons or  
29 entities with which the commission has entered into contractual  
30 relationships, and the names of any individuals placed on the list of  
31 self-excluded persons with the commission as provided in section 9-1118.

1 Nothing in this subdivision shall allow the commission to withhold from  
2 the public any information relating to the amount paid any person or  
3 entity with which the commission has entered into a contractual  
4 relationship, the amount of any prize paid, the name of the prize winner,  
5 and the city, village, or county where the prize winner resides; and -

6 (26) Records relating to the nature, location, or function of  
7 cybersecurity by the State of Nebraska or any of its political  
8 subdivisions or any other public entity subject to sections 84-712 to  
9 84-712.09, including, but not limited to, devices, programs, or systems  
10 designed to protect computer, information technology, or communications  
11 systems against terrorist or other attacks. The Nebraska Information  
12 Technology Commission shall adopt and promulgate rules and regulations to  
13 implement this subdivision.

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

16 84-712.07 The provisions of sections 84-712, 84-712.01, 84-712.03 to  
17 84-712.09, and 84-1413 pertaining to the rights of residents of this  
18 state and all other interested persons ~~citizens~~ to access to public  
19 records may be enforced by equitable relief, whether or not any other  
20 remedy is also available. In any case in which the complainant seeking  
21 access has substantially prevailed, the court may assess against the  
22 public body which had denied access to their records, reasonable attorney  
23 fees and other litigation costs reasonably incurred by the complainant.

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

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

1 individual's fundamental constitutional rights.

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

6       (2) For purposes of this section:

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

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

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

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

24       Sec. 16. Section 84-920, Revised Statutes Cumulative Supplement,  
25 2022, is amended to read:

26       84-920 Sections 84-901 to 84-920 and sections 13, 14, and 15 of this  
27 act, and the Occupational Board Reform Act, and the Personal Privacy  
28 Protection Act shall be known and may be cited as the Administrative  
29 Procedure Act.

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

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

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

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

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

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

14           (a) The State of Nebraska;

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

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

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

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

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

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

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

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

4       (c) Publicizing or otherwise publicly disclosing personal  
5 information in the possession of such public agency without the express  
6 permission of every individual who is identifiable from the potential  
7 release of such personal information, including individuals identifiable  
8 as members, supporters, or volunteers of, or donors to, a nonprofit  
9 organization; or

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

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

17       (3) This section does not prohibit:

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

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

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

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

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

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

30       (e) Admission of personal information as relevant evidence before a  
31 court of competent jurisdiction. However, no court shall publicly reveal

1 personal information absent a specific finding of good cause;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17        Sec. 21. Section 84-1412, Revised Statutes Cumulative Supplement,  
18 2022, is amended to read:

19        84-1412 (1) Subject to the Open Meetings Act, the public has the  
20 right to attend and the right to speak at meetings of public bodies, and  
21 all or any part of a meeting of a public body, except for closed sessions  
22 called pursuant to section 84-1410, may be videotaped, televised,  
23 photographed, broadcast, or recorded by any person in attendance by means  
24 of a tape recorder, a camera, video equipment, or any other means of  
25 pictorial or sonic reproduction or in writing. Except for closed sessions  
26 called pursuant to section 84-1410, a public body shall allow members of  
27 the public an opportunity to speak at each meeting.

28        (2) It shall not be a violation of subsection (1) of this section  
29 for any public body to make and enforce reasonable rules and regulations  
30 regarding the conduct of persons attending, speaking at, videotaping,  
31 televising, photographing, broadcasting, or recording its meetings,

1 including meetings held by virtual conferencing. ~~A body may not be~~  
2 ~~required to allow citizens to speak at each meeting, but it may not~~  
3 ~~forbid public participation at all meetings.~~

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

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

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

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

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

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

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

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

31 (e) Out-of-state meetings are not used to circumvent any of the



1 public government purposes established in the Open Meetings Act; and

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

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

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

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

23 Sec. 23. If any section in this act or any part of any section is  
24 declared invalid or unconstitutional, the declaration shall not affect  
25 the validity or constitutionality of the remaining portions.

26 Sec. 24. Original sections 84-712, 84-712.01, and 84-712.07,  
27 Reissue Revised Statutes of Nebraska, and sections 84-712.03, 84-920, and  
28 84-1412, Revised Statutes Cumulative Supplement, 2022, are repealed.

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

31 Sec. 26. Since an emergency exists, this act takes effect when

1 passed and approved according to law.