

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 867

FINAL READING

Introduced by Bostelman, 23.

Read first time January 03, 2024

Committee: Natural Resources

1 A BILL FOR AN ACT relating to natural resources; to amend sections 37-420
2 and 37-421, Reissue Revised Statutes of Nebraska, and sections
3 37-201, 37-438, 66-1519, 66-1523, 66-1525, 66-1529.02, and 70-1003,
4 Revised Statutes Cumulative Supplement, 2022; to provide under the
5 Game Law for a database for guides and outfitters, a migratory
6 waterfowl hunting season for veterans as prescribed, a one-day
7 hunting permit and stamps for certain veterans for use on Veterans
8 Day, and active-duty military permits as a type of state park motor
9 vehicle entry permit; to change reimbursement, transfer, investment,
10 and remedial action provisions relating to the Petroleum Release
11 Remedial Action Cash Fund; to change provisions relating to service
12 on the Nebraska Power Review Board; to prohibit restrictions on the
13 provision of certain energy services; to harmonize provisions; to
14 provide operative dates; to repeal the original sections; and to
15 declare an emergency.
16 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 37-201, Revised Statutes Cumulative Supplement,
2 2022, is amended to read:

3 37-201 Sections 37-201 to 37-811 and 37-1501 to 37-1510 and sections
4 2 and 3 of this act and the State Park System Construction Alternatives
5 Act shall be known and may be cited as the Game Law.

6 Sec. 2. (1) For purposes of this section:

7 (a) Guide means a person who advertises or otherwise holds himself
8 or herself out to the public for hire as a guide for hunting or fishing,
9 or both, to provide services to any person for the purpose of hunting or
10 fishing for any animal; and

11 (b) Outfitter means a person who advertises or otherwise holds
12 himself or herself out to the public for hire to assist any person in the
13 taking of animals by providing facilities, equipment, accommodations, or
14 other services for use in hunting or fishing for any animal. Outfitter
15 does not mean any self-guided excursion or group hunt.

16 (2) The commission may establish and maintain on its website a
17 voluntary hunting and fishing guide and outfitter database. The
18 commission may establish a registration fee for guides and outfitters
19 applying for placement on the database. Such fee shall be in a reasonable
20 amount the commission deems necessary to cover the costs of administering
21 the database.

22 (3) A person may apply to the commission for placement as a guide or
23 an outfitter on the database for a period of three years. An applicant
24 for placement on the database as a guide or an outfitter may be included
25 in the database if such applicant:

26 (a) Has never been convicted of any felony, has never been cited for
27 trespassing, has not violated any state or federal game law within the
28 three years prior to application, and does not have his or her privilege
29 or right to hunt or fish suspended in Nebraska, another state, or a
30 participating state in the Interstate Wildlife Violator Compact;

31 (b) Has completed a commission-sponsored hunter education program or

1 a similar program approved by the commission. This subdivision does not
2 apply to fishing guides or fishing outfitters;

3 (c) Provides proof of adequate liability insurance or similar bond
4 security;

5 (d) Is a registered business in the State of Nebraska; and

6 (e) Agrees to comply with any other requirements established under
7 the Game Law and pursuant to the rules and regulations of the commission.

8 (4) The commission may remove a guide or an outfitter from the
9 database for any violation of the Game Law or the rules and regulations
10 of the commission or for any failure by such guide or outfitter to
11 maintain compliance with the requirements set forth in subsection (3) of
12 this section. The commission shall not be liable for any such failure by
13 a guide or outfitter.

14 (5) The commission may adopt and promulgate rules and regulations to
15 carry out this section. This section does not apply to licensees of
16 licensed game breeding and controlled shooting areas.

17 Sec. 3. (1) For purposes of this section:

18 (a) Member of the armed forces means any member of the armed forces
19 on active duty, including any member of the National Guard or reserves on
20 active duty other than active duty for training; and

21 (b) Veteran has the same meaning as in 38 U.S.C. 101, as such
22 section existed on January 1, 2024.

23 (2) The commission shall prescribe a migratory waterfowl hunting
24 season for veterans and members of the armed forces.

25 (3) Any veteran or member of the armed forces may hunt during such
26 season as long as such veteran or member of the armed forces has a valid
27 hunting permit issued under the Game Law and all required stamps
28 necessary to hunt migratory waterfowl in Nebraska.

29 (4) No motor vehicle entry permit or fee shall be required for entry
30 into a permit area as defined in section 37-435 by such veteran or member
31 of the armed forces during such season.

1 (5) Nothing in this section shall affect the applicability of
2 statutes, rules, regulations, and orders other than the permit and stamp
3 requirements described in this section.

4 (6) The commission may adopt and promulgate rules and regulations
5 and pass and publish orders to carry out this section.

6 Sec. 4. Section 37-420, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 37-420 (1) Any veteran who is a legal resident of the State of
9 Nebraska shall, upon application and without payment of any fee, be
10 issued a combination fishing, fur-harvesting, and hunting permit, habitat
11 stamp, aquatic habitat stamp, and Nebraska migratory waterfowl stamp if
12 the veteran:

13 (a) Was discharged or separated with a characterization of honorable
14 or general (under honorable conditions); and

15 (b)(i) Is rated by the United States Department of Veterans Affairs
16 as fifty percent or more disabled as a result of service in the armed
17 forces of the United States; or

18 (ii) Is receiving a pension from the department as a result of total
19 and permanent disability, which disability was not incurred in the line
20 of duty in the military service.

21 (2) If disabled persons are unable by reason of physical infirmities
22 to hunt and fish in the normal manner, the commission may issue special
23 permits without cost to those persons to hunt and fish from a vehicle,
24 but such permits shall not authorize any person to shoot from any public
25 highway.

26 (3) All permits issued without the payment of any fees pursuant to
27 this section shall be perpetual and become void only upon termination of
28 eligibility as provided in this section.

29 (4) The commission may adopt and promulgate rules and regulations
30 necessary to carry out this section.

31 (5) Permits issued under subdivision (3) of this section as it

1 existed prior to January 1, 2006, shall not expire as provided in
2 subsection (1) of section 37-421.

3 Sec. 5. Section 37-421, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 37-421 (1)(a) ~~(1)~~ The commission may issue an annual combination
6 fishing, fur-harvesting, and hunting permit, habitat stamp, aquatic
7 habitat stamp, and Nebraska migratory waterfowl stamp upon application
8 and payment of a fee of five dollars to (i) ~~(a)~~ any Nebraska resident who
9 is a veteran, who is sixty-four years of age or older, and who was
10 discharged or separated with a characterization of honorable or general
11 (under honorable conditions) or (ii) ~~(b)~~ any Nebraska resident who is
12 sixty-nine years of age or older.

13 (b) ~~(2)~~ A permit issued as provided in this subsection ~~section~~ shall
14 expire as provided in subdivision (3)(a) of section 37-405. Permits
15 issued under this section as it existed before January 1, 2006, shall not
16 expire as provided in section 37-405.

17 (2) The commission shall issue a one-day hunting permit, habitat
18 stamp, and Nebraska migratory waterfowl stamp upon application and
19 without payment of any fee to any veteran who is a Nebraska resident who
20 was discharged or separated with a characterization of honorable or
21 general (under honorable conditions) for use on Veterans Day. A permit
22 and stamps issued under this subsection shall only be valid on November
23 11 in the year in which such permit and stamps are issued.

24 (3) If disabled persons are unable by reason of physical infirmities
25 to hunt and fish in the normal manner, the commission may issue special
26 permits without cost to those persons to hunt and fish from a vehicle,
27 but such permits shall not authorize any person to shoot from any public
28 highway.

29 (4) The commission may adopt and promulgate rules and regulations
30 necessary to carry out this section.

31 Sec. 6. Section 37-438, Revised Statutes Cumulative Supplement,

1 2022, is amended to read:

2 37-438 (1) The commission shall devise annual, temporary, ~~and~~
3 disabled veteran, and active-duty military permits.

4 (2) The annual permit may be purchased by any person and shall be
5 valid through December 31 in the year for which the permit is issued. The
6 fee for the annual permit for a resident motor vehicle shall be not more
7 than thirty-five dollars per permit. The fee for the annual permit for a
8 nonresident motor vehicle shall be two times the fee for a resident motor
9 vehicle or sixty dollars, whichever is greater. The commission shall
10 establish such fees by the adoption and promulgation of rules and
11 regulations.

12 (3) A temporary permit may be purchased by any person and shall be
13 valid until noon of the day following the date of issue. The fee for the
14 temporary permit for a resident motor vehicle shall be not more than
15 seven dollars. The fee for the temporary permit for a nonresident motor
16 vehicle shall be two times the fee for a resident motor vehicle or twelve
17 dollars, whichever is greater. The commission shall establish such fees
18 by the adoption and promulgation of rules and regulations. The commission
19 may issue temporary permits which are either valid for any area or valid
20 for a single area.

21 (4)(a) A veteran who is a resident of Nebraska shall, upon
22 application and without payment of any fee, be issued one disabled
23 veteran permit for a resident motor vehicle if the veteran:

24 (i) Was discharged or separated with a characterization of honorable
25 or general (under honorable conditions); and

26 (ii)(A) Is rated by the United States Department of Veterans Affairs
27 as fifty percent or more disabled as a result of service in the armed
28 forces of the United States; or

29 (B) Is receiving a pension from the United States Department of
30 Veterans Affairs as a result of total and permanent disability, which
31 disability was not incurred in the line of duty in the military service.

1 (b) All disabled veteran permits issued pursuant to this subsection
2 shall be perpetual and shall become void only upon termination of
3 eligibility as provided in this subsection.

4 ~~(c) The commission may adopt and promulgate rules and regulations~~
5 ~~necessary to carry out this subsection.~~

6 (5) An active-duty military permit may be purchased by any
7 individual who is active-duty military and shall be valid through
8 December 31 in the year for which the permit is issued. The fee for the
9 active-duty military permit is five dollars, regardless of residency. To
10 qualify for an active-duty military permit, the individual shall present:

11 (a) Such individual's military identification card; and

12 (b) Proof that such individual is stationed at a military base
13 located in Nebraska for active-duty military service.

14 ~~(6) (5)~~ The commission may offer permits or combinations of permits
15 at temporarily reduced rates for specific events or during specified
16 timeframes.

17 (7) The commission may adopt and promulgate rules and regulations to
18 carry out this section.

19 Sec. 7. Section 66-1519, Revised Statutes Cumulative Supplement,
20 2022, is amended to read:

21 66-1519 (1) There is hereby created the Petroleum Release Remedial
22 Action Cash Fund to be administered by the department. Revenue from the
23 following sources shall be remitted to the State Treasurer for credit to
24 the fund:

25 (a) The fees imposed by sections 66-1520 and 66-1521;

26 (b) Money paid under an agreement, stipulation, cost-recovery award
27 under section 66-1529.02, or settlement; and

28 (c) Money received by the department in the form of gifts, grants,
29 reimbursements, property liquidations, or appropriations from any source
30 intended to be used for the purposes of the fund.

31 (2) Money in the fund may be spent for: (a) Reimbursement for the

1 costs of remedial action by a responsible person or his or her designated
2 representative and costs of remedial action undertaken by the department
3 in response to a release first reported after July 17, 1983, and on or
4 before June 30, ~~2028~~ 2024, including reimbursement for damages caused by
5 the department or a person acting at the department's direction while
6 investigating or inspecting or during remedial action on property other
7 than property on which a release or suspected release has occurred; (b)
8 payment of any amount due from a third-party claim; (c) fee collection
9 expenses incurred by the State Fire Marshal; (d) direct expenses incurred
10 by the department in carrying out the Petroleum Release Remedial Action
11 Act; (e) other costs related to fixtures and tangible personal property
12 as provided in section 66-1529.01; (f) interest payments as allowed by
13 section 66-1524; (g) claims approved by the State Claims Board authorized
14 under section 66-1531; (h) the direct and indirect costs incurred by the
15 department in responding to spills and other environmental emergencies
16 related to petroleum or petroleum products; and (i) up to one million
17 five hundred thousand dollars each fiscal year of the department's cost-
18 share obligations and operation and maintenance obligations under the
19 federal Comprehensive Environmental Response, Compensation, and Liability
20 Act of 1980, 42 U.S.C. 9601 et seq.

21 ~~(3) Transfers may be made from the Petroleum Release Remedial Action~~
22 ~~Cash Fund to the General Fund at the direction of the Legislature.~~

23 (3) ~~(4)~~ Transfers may be made from the Petroleum Release Remedial
24 Action Cash Fund to the Superfund Cost Share Cash Fund at the direction
25 of the Legislature.

26 (4) ~~(5)~~ Any money in the Petroleum Release Remedial Action Cash Fund
27 available for investment shall be invested by the state investment
28 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
29 State Funds Investment Act. Investment earnings on and after the
30 operative date of this section shall be credited to the fund.

31 Sec. 8. Section 66-1523, Revised Statutes Cumulative Supplement,

1 2022, is amended to read:

2 66-1523 (1) Except as provided in subsection (2) of this section,
3 the department shall provide reimbursement from the fund in accordance
4 with section 66-1525 to eligible responsible persons for the cost of
5 remedial action for releases reported after July 17, 1983, and on or
6 before June 30, ~~2028~~ 2024, and for the cost of paying third-party claims.
7 The reimbursement for the cost of remedial action shall not exceed nine
8 hundred seventy-five thousand dollars per occurrence. The total of the
9 claims paid under section 66-1531 and the reimbursement for third-party
10 claims shall not exceed one million dollars per occurrence. The
11 responsible person shall pay the first ten thousand dollars of the cost
12 of the remedial action or third-party claim, twenty-five percent of the
13 remaining cost of the remedial action or third-party claim not to exceed
14 fifteen thousand dollars, and the amount of any reduction authorized
15 under subsection (5) of section 66-1525. If the department determines
16 that a responsible person was ordered to take remedial action for a
17 release which was later found to be from a tank not owned or operated by
18 such person, (a) such person shall be fully reimbursed and shall not be
19 required to pay the first cost or percent of the remaining cost as
20 provided in this subsection and (b) the first cost and percent of the
21 remaining cost not required to be paid by the person ordered to take
22 remedial action shall be paid to the fund as a cost of remedial action by
23 the owner or operator of the tank found to be the cause of the release.
24 In no event shall reimbursements or payments from the fund exceed the
25 annual aggregate of one million nine hundred seventy-five thousand
26 dollars per responsible person. Reimbursement of a cost incurred as a
27 result of a suspension ordered by the department shall not be limited by
28 this subsection if the suspension was caused by insufficiency in the fund
29 to provide reimbursement.

30 (2) Upon the determination by the department that the responsible
31 person sold no less than two thousand gallons of petroleum and no more

1 than two hundred fifty thousand gallons of petroleum during the calendar
2 year immediately preceding the first report of the release or stored less
3 than ten thousand gallons of petroleum in the calendar year immediately
4 preceding the first report of the release, the department shall provide
5 reimbursement from the fund in accordance with section 66-1525 to such an
6 eligible person for the cost of remedial action for releases reported
7 after July 17, 1983, and on or before June 30, ~~2028~~ 2024, and for the
8 cost of paying third-party claims. The reimbursement for the cost of
9 remedial action shall not exceed nine hundred eighty-five thousand
10 dollars per occurrence. The total of the claims paid under section
11 66-1531 and the reimbursement for third-party claims shall not exceed one
12 million dollars per occurrence. The responsible person shall pay the
13 first five thousand dollars of the cost of the remedial action or third-
14 party claim, twenty-five percent of the remaining cost of the remedial
15 action or third-party claim not to exceed ten thousand dollars, and the
16 amount of any reduction authorized under subsection (5) of section
17 66-1525. If the department determines that a responsible person was
18 ordered to take remedial action for a release which was later found to be
19 from a tank not owned or operated by such person, (a) such person shall
20 be fully reimbursed and shall not be required to pay the first cost or
21 percent of the remaining cost as provided in this subsection and (b) the
22 first cost and percent of the remaining cost not required to be paid by
23 the person ordered to take remedial action shall be paid to the fund as a
24 cost of remedial action by the owner or operator of the tank found to be
25 the cause of the release. In no event shall reimbursements or payments
26 from the fund exceed the annual aggregate of one million nine hundred
27 eighty-five thousand dollars per responsible person. Reimbursement of a
28 cost incurred as a result of a suspension ordered by the department shall
29 not be limited by this subsection if the suspension was caused by
30 insufficiency in the fund to provide reimbursement.

31 (3) The department may make partial reimbursement during the time

1 that remedial action is being taken if the department is satisfied that
2 the remedial action being taken is as required by the department.

3 (4) If the fund is insufficient for any reason to reimburse the
4 amount set forth in this section, the maximum amount that the fund shall
5 be required to reimburse is the amount in the fund. If reimbursements
6 approved by the department exceed the amount in the fund, reimbursements
7 with interest shall be made when the fund is sufficiently replenished in
8 the order in which the applications for them were received by the
9 department, except that an application pending before the department on
10 January 1, 1996, submitted by a local government as defined in section
11 13-2202 shall, after July 1, 1996, be reimbursed first when funds are
12 available. This exception applies only to local government applications
13 pending on and not submitted after January 1, 1996.

14 (5) Applications for reimbursement properly made before, on, or
15 after April 16, 1996, shall be considered bills for goods or services
16 provided for third parties for purposes of the Prompt Payment Act.

17 (6) There shall be no reimbursement from the fund for the cost of
18 remedial action or for the cost of paying third-party claims for any
19 releases reported on or after July 1, ~~2028~~ 2024.

20 (7) For purposes of this section, occurrence shall mean an accident,
21 including continuous or repeated exposure to conditions, which results in
22 a release from a tank.

23 Sec. 9. Section 66-1525, Revised Statutes Cumulative Supplement,
24 2022, is amended to read:

25 66-1525 (1) Any responsible person or his or her designated
26 representative who has taken remedial action in response to a release
27 first reported after July 17, 1983, and on or before June 30, ~~2028~~ 2024,
28 or against whom there is a third-party claim may apply to the department
29 under the rules and regulations adopted and promulgated pursuant to
30 section 66-1518 for reimbursement for the costs of the remedial action or
31 third-party claim. Partial payment of such reimbursement to the

1 responsible person may be authorized by the department at the approved
2 stages prior to the completion of remedial action when a remedial action
3 plan has been approved. If any stage is projected to take more than
4 ninety days to complete partial payments may be requested every sixty
5 days. Such partial payment may include the eligible and reasonable costs
6 of such plan or pilot projects conducted during the remedial action.

7 (2) No reimbursement may be made unless the department makes the
8 following eligibility determinations:

9 (a) The tank was in substantial compliance with any rules and
10 regulations of the United States Environmental Protection Agency, the
11 State Fire Marshal, and the department which were applicable to the tank.
12 Substantial compliance shall be determined by the department taking into
13 consideration the purposes of the Petroleum Release Remedial Action Act
14 and the adverse effect that any violation of the rules and regulations
15 may have had on the tank thereby causing or contributing to the release
16 and the extent of the remedial action thereby required;

17 (b) Either the State Fire Marshal or the department was given notice
18 of the release in substantial compliance with the rules and regulations
19 adopted and promulgated pursuant to the Environmental Protection Act and
20 the Petroleum Products and Hazardous Substances Storage and Handling Act.
21 Substantial compliance shall be determined by the department taking into
22 consideration the purposes of the Petroleum Release Remedial Action Act
23 and the adverse effect that any violation of the notice provisions of the
24 rules and regulations may have had on the remedial action being taken in
25 a prompt, effective, and efficient manner;

26 (c) The responsible person reasonably cooperated with the department
27 and the State Fire Marshal in responding to the release;

28 (d) The department has approved the plan submitted by the
29 responsible person for the remedial action in accordance with rules and
30 regulations adopted and promulgated by the department pursuant to the
31 Environmental Protection Act or the Petroleum Products and Hazardous

1 Substances Storage and Handling Act or that portion of the plan for which
2 payment or reimbursement is requested. However, responsible persons may
3 undertake remedial action prior to approval of a plan by the department
4 or during the time that remedial action at a site was suspended at any
5 time after April 1995 because the fund was insufficient to pay
6 reimbursements and be eligible for reimbursement at a later time if the
7 responsible person complies with procedures provided to the responsible
8 party by the department or set out in rules and regulations adopted and
9 promulgated by the Environmental Quality Council;

10 (e) The costs for the remedial action were actually incurred by the
11 responsible person or his or her designated representative after May 27,
12 1989, and were eligible and reasonable;

13 (f) If reimbursement for a third-party claim is involved, the cause
14 of action for the third-party claim accrued after April 26, 1991, and the
15 Attorney General was notified by any person of the service of summons for
16 the action within ten days of such service; and

17 (g) The responsible person or his or her designated representative
18 has paid the amount specified in subsection (1) or (2) of section
19 66-1523.

20 (3) The State Fire Marshal shall review each application prior to
21 consideration by the department and provide to the department any
22 information the State Fire Marshal deems relevant to subdivisions (2)(a)
23 through (g) of this section. The State Fire Marshal shall issue a
24 determination with respect to an applicant's compliance with rules and
25 regulations adopted and promulgated by the State Fire Marshal. The State
26 Fire Marshal shall issue a compliance determination to the department
27 within thirty days after receiving an application from the department.

28 (4) The department may withhold taking action on an application
29 during the pendency of an enforcement action by the state or federal
30 government related to the tank or a release from the tank.

31 (5) Reimbursements made for a remedial action may be reduced as much

1 as one hundred percent for failure by the responsible person to comply
2 with applicable statutory or regulatory requirements. In determining the
3 amount of the reimbursement reduction, the department shall consider:

4 (a) The extent of and reasons for noncompliance;

5 (b) The likely environmental impact of the noncompliance; and

6 (c) Whether noncompliance was negligent, knowing, or willful.

7 (6) Except as provided in subsection (4) of this section, the
8 department shall notify the responsible person of its approval or denial
9 of the remedial action plan within one hundred twenty days after receipt
10 of a remedial action plan which contains all the required information. If
11 after one hundred twenty days the department fails to either deny,
12 approve, or amend the remedial action plan submitted, the proposed plan
13 shall be deemed approved. If the remedial action plan is denied, the
14 department shall provide the reasons for such denial.

15 Sec. 10. Section 66-1529.02, Revised Statutes Cumulative Supplement,
16 2022, is amended to read:

17 66-1529.02 (1) The department may undertake remedial actions in
18 response to a release first reported after July 17, 1983, and on or
19 before June 30, ~~2028~~ 2024, with money available in the fund if:

20 (a) The responsible person cannot be identified or located;

21 (b) An identified responsible person cannot or will not comply with
22 the remedial action requirements; or

23 (c) Immediate remedial action is necessary, as determined by the
24 Director of Environment and Energy, to protect human health or the
25 environment.

26 (2) The department may pay the costs of a third-party claim meeting
27 the requirements of subdivision (2)(f) of section 66-1525 with money
28 available in the fund if the responsible person cannot or will not pay
29 the third-party claim.

30 (3) Reimbursement for any damages caused by the department or a
31 person acting at the department's direction while investigating or

1 inspecting or during remedial action on property other than property on
2 which a release or suspected release has occurred shall be considered as
3 part of the cost of remedial action involving the site where the release
4 or suspected release occurred. The costs shall be reimbursed from money
5 available in the fund. If such reimbursement is deemed inadequate by the
6 party claiming the damages, the party's claim for damages caused by the
7 department shall be filed as provided in section 76-705.

8 (4) All expenses paid from the fund under this section, court costs,
9 and attorney's fees may be recovered in a civil action in the district
10 court of Lancaster County. The action may be brought by the county
11 attorney or Attorney General at the request of the director against the
12 responsible person. All recovered expenses shall be deposited into the
13 fund.

14 Sec. 11. Section 70-1003, Revised Statutes Cumulative Supplement,
15 2022, is amended to read:

16 70-1003 (1)(a) {1} There is hereby established an independent board
17 to be known as the Nebraska Power Review Board. The board shall ~~to~~
18 consist of five members, including at least one of whom shall be an
19 engineer, at least ~~, one an~~ attorney, and three additional persons. No
20 more than one ~~, one an~~ accountant, and two laypersons. No person who is
21 or who has within four years preceding such person's his or her
22 appointment been either a director, an officer, or an employee of any
23 electric utility or an elective state officer shall serve be eligible for
24 membership on the board at the same time. Any board member who previously
25 was either a director, an officer, or an employee of any electric utility
26 within four years preceding such board member's appointment shall refrain
27 from taking any action or making any decision in any proceeding before
28 the board that involves such electric utility for a period of four years
29 after the date such board member ceased being a director, an officer, or
30 an employee of such electric utility.

31 (b) Members of the board shall be appointed by the Governor subject

1 to the approval of the Legislature. Upon expiration of the terms of the
2 members first appointed, the successors shall be appointed for terms of
3 four years. No member of the board shall serve more than three ~~two~~
4 consecutive terms. Any vacancy on the board arising other than from the
5 expiration of a term shall be filled by appointment for the unexpired
6 portion of the term, and any person appointed to fill a vacancy on the
7 board shall be eligible for reappointment for two more consecutive terms.
8 No more than three members of the board shall be registered members of
9 that political party represented by the Governor.

10 (2) Each member of the board shall receive one hundred ~~sixty~~ dollars
11 per day for each day actually and necessarily engaged in the performance
12 of his or her duties, but not to exceed seven ~~six~~ thousand dollars in any
13 one year, except for the member designated to represent the board on the
14 Southwest Power Pool Regional State Committee or its equivalent
15 successor, who shall receive two hundred fifty dollars for each day
16 actually and necessarily engaged in the performance of his or her duties,
17 not to exceed thirty-five thousand dollars in any one year. If the member
18 designated to represent the board on the Southwest Power Pool Regional
19 State Committee should for any reason no longer serve in that capacity
20 during a year, the pay received while serving in such capacity shall not
21 be used for purposes of calculating the seven-thousand-dollar ~~six-~~
22 ~~thousand-dollar~~ limitation for board members not serving in that
23 capacity. When another board member acts as the proxy for the designated
24 Southwest Power Pool Regional State Committee member, he or she shall
25 receive the same pay as the designated member would have for that
26 activity. Pay received while serving as proxy for such designated member
27 shall not be used for purposes of determining whether the seven-thousand-
28 dollar ~~six-thousand-dollar~~ limitation has been met for board members not
29 serving as such designated member. Total pay to board members for
30 activities related to the Southwest Power Pool shall not exceed an
31 aggregate total of forty thousand dollars in any one year. Each member

1 shall be reimbursed for expenses while so engaged as provided in sections
2 81-1174 to 81-1177. The board shall have jurisdiction as provided in
3 Chapter 70, article 10.

4 (3) The board shall elect from their members a chairperson and a
5 vice-chairperson. Decisions of the board shall require the approval of a
6 majority of the members of the board.

7 (4) The board shall employ an executive director and may employ such
8 other staff necessary to carry out the duties pursuant to Chapter 70,
9 article 10. The executive director shall serve at the pleasure of the
10 board and shall be solely responsible to the board. The executive
11 director shall be responsible for the administrative operations of the
12 board and shall perform such other duties as may be delegated or assigned
13 to him or her by the board. The board may obtain the services of experts
14 and consultants necessary to carry out the board's duties pursuant to
15 Chapter 70, article 10.

16 (5) The board shall publish and submit a biennial report with annual
17 data to the Governor, with copies to be filed with the Clerk of the
18 Legislature and with the Department of Environment and Energy. The report
19 submitted to the Clerk of the Legislature shall be submitted
20 electronically. The department shall consider the information in the
21 Nebraska Power Review Board's report when the department prepares its own
22 reports pursuant to sections 81-1606 and 81-1607. The report of the board
23 shall include:

24 (a) The assessments for the fiscal year imposed pursuant to section
25 70-1020;

26 (b) The gross income totals for each category of the industry and
27 the industry total;

28 (c) The number of suppliers against whom the assessment is levied,
29 by category and in total;

30 (d) The projected dollar costs of generation, transmission, and
31 microwave applications, approved and denied;

1 (e) The actual dollar costs of approved applications upon
2 completion, and a summary of an informational hearing concerning any
3 significant divergence between the projected and actual costs;

4 (f) A description of Nebraska's current electric system and
5 information on additions to and retirements from the system during the
6 fiscal year, including microwave facilities;

7 (g) A statistical summary of board activities and an expenditure
8 summary;

9 (h) A roster of power suppliers in Nebraska and the assessment each
10 paid; and

11 (i) Appropriately detailed historical and projected electric supply
12 and demand statistics, including information on the total generating
13 capacity owned by Nebraska suppliers and the total peak load demand of
14 the previous year, along with an indication of how the industry will
15 respond to the projected situation.

16 (6) The board may, in its discretion, hold public hearings
17 concerning the conditions that may indicate that retail competition in
18 the electric industry would benefit Nebraska's citizens and what steps,
19 if any, should be taken to prepare for retail competition in Nebraska's
20 electricity market. In determining whether to hold such hearings, the
21 board shall consider the sufficiency of public interest.

22 (7) The board may, at any time deemed beneficial by the board,
23 submit a report to the Governor with copies to be filed with the Clerk of
24 the Legislature and the Natural Resources Committee of the Legislature.
25 The report filed with the Clerk of the Legislature and the committee
26 shall be filed electronically. The report may include:

27 (a) Whether or not a viable regional transmission organization and
28 adequate transmission exist in Nebraska or in a region which includes
29 Nebraska;

30 (b) Whether or not a viable wholesale electricity market exists in a
31 region which includes Nebraska;

1 (c) To what extent retail rates have been unbundled in Nebraska;

2 (d) A comparison of Nebraska's wholesale electricity prices to the
3 prices in the region; and

4 (e) Any other information the board believes to be beneficial to the
5 Governor, the Legislature, and Nebraska's citizens when considering
6 whether retail electric competition would be beneficial, such as, but not
7 limited to, an update on deregulation activities in other states and an
8 update on federal deregulation legislation.

9 (8) The board may establish working groups of interested parties to
10 assist the board in carrying out the powers set forth in subsections (6)
11 and (7) of this section.

12 Sec. 12. (1) No county, city, village, or other political
13 subdivision of the state shall enact or implement any ordinance, code,
14 resolution, rule, regulation, or policy that restricts, prohibits, or has
15 the effect of restricting or prohibiting the types or fuel sources of
16 energy that may be used, delivered, converted, or supplied by the
17 following entities to serve customers that such entities are authorized
18 to serve:

19 (a) A natural gas utility;

20 (b) A natural gas transmission company; or

21 (c) A retail marketer or dispenser of propane.

22 (2) This section does not apply to ordinances, codes, resolutions,
23 rules, regulations, or policies:

24 (a) Governing a natural gas utility owned or operated and directly
25 controlled by a city or village; or

26 (b) Regulating a retail marketer or dispenser of propane.

27 Sec. 13. Sections 1, 2, 3, 4, 5, 6, 11, 12, and 14 of this act
28 become operative three calendar months after the adjournment of this
29 legislative session. The other sections of this act become operative on
30 their effective date.

31 Sec. 14. Original sections 37-420 and 37-421, Reissue Revised

1 Statutes of Nebraska, and sections 37-201, 37-438, and 70-1003, Revised
2 Statutes Cumulative Supplement, 2022, are repealed.

3 Sec. 15. Original sections 66-1519, 66-1523, 66-1525, and
4 66-1529.02, Revised Statutes Cumulative Supplement, 2022, are repealed.

5 Sec. 16. Since an emergency exists, this act takes effect when
6 passed and approved according to law.