

AMENDMENTS TO LB565

Introduced by Natural Resources.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. Sections 1 to 20 of this act shall be known and may be
4 cited as the Public Water and Natural Resources Project Contracting Act.

5 Sec. 2. For purposes of the Public Water and Natural Resources
6 Project Contracting Act:

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

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

13 (3) Construction manager means the legal entity which proposes to
14 enter into a construction manager-general contractor contract pursuant to
15 the act;

16 (4) Construction manager-general contractor contract means a
17 contract which is subject to a qualification-based selection process
18 between the department and a construction manager to furnish
19 preconstruction services during the design development phase of the
20 project and, if an agreement can be reached which is satisfactory to the
21 department, construction services for the construction phase of the
22 project;

23 (5) Construction services means activities associated with building
24 the project;

25 (6) Department means the Department of Natural Resources;

26 (7) Design-build contract means a contract between the department
27 and a design-builder which is subject to a best value-based selection

1 process to furnish (a) architectural, engineering, and related design
2 services and (b) labor, materials, supplies, equipment, and construction
3 services;

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

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

12 (10) Private partner means any entity that is a partner in a public-
13 private partnership other than the State of Nebraska, any agency of the
14 State of Nebraska, the federal government, any agency of the federal
15 government, any other state government, or any agency of any government
16 at any level;

17 (11) Progressive design-build means a project-delivery process in
18 which both the design and construction of a project are procured from a
19 single entity that is selected through a qualification-based selection
20 process at the earliest feasible stage of the project;

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

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

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

3 (14) Public-private partnership means a project delivery method for
4 construction or financing of capital projects or procurement of services
5 under a written public-private partnership agreement entered into
6 pursuant to section 20 of this act between at least one private partner
7 and the State of Nebraska or any agency of the state;

8 (15) Qualification-based selection process means a process of
9 selecting a construction manager or progressive design-builder based on
10 qualifications;

11 (16) Request for proposals means the documentation by which the
12 department solicits proposals; and

13 (17) Request for qualifications means the documentation or
14 publication by which the department solicits qualifications.

15 Sec. 3. The purpose of the Public Water and Natural Resources
16 Project Contracting Act is to provide the department alternative methods
17 of contracting for public water and natural resources projects. The
18 alternative methods of contracting shall be available to the department
19 for use on any project regardless of the funding source. Notwithstanding
20 any other provision of state law to the contrary, the Public Water and
21 Natural Resources Project Contracting Act shall govern the design-build,
22 progressive design-build, and construction manager-general contractor
23 procurement processes.

24 Sec. 4. The department, in accordance with the Public Water and
25 Natural Resources Project Contracting Act, may solicit and execute a
26 design-build contract, a progressive design-build contract, or a
27 construction manager-general contractor contract for a public surface
28 water or groundwater-related infrastructure project.

29 Sec. 5. The department may hire an engineering or architectural
30 consultant to assist the department with the development of project
31 performance criteria and requests for proposals, with evaluation of

1 proposals, with evaluation of the construction to determine adherence to
2 the project performance criteria, and with any additional services
3 requested by the department to represent its interests in relation to a
4 project. The procedures used to hire such person or organization shall
5 comply with the Nebraska Consultants' Competitive Negotiation Act. The
6 person or organization hired shall be ineligible to be included as a
7 provider of other services in a proposal for the project for which the
8 person or organization has been hired and shall not be employed by or
9 have a financial or other interest in a design-builder or construction
10 manager who will submit a proposal.

11 Sec. 6. The department shall adopt guidelines for entering into a
12 design-build contract, a progressive design-build contract, or a
13 construction manager-general contractor contract. The department's
14 guidelines shall include the following:

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

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

17 (3) Qualification and short-listing of design-builders, progressive
18 design-builders, and construction managers. The guidelines shall provide
19 that the department will evaluate prospective design-builders,
20 progressive design-builders, and construction managers based on the
21 information submitted to the department in response to a request for
22 qualifications and will select a short list of design-builders,
23 progressive design-builders, or construction managers who shall be
24 considered qualified and eligible to respond to the request for
25 proposals;

26 (4) Preparation and submittal of proposals;

27 (5) Procedures and standards for evaluating proposals;

28 (6) Procedures for negotiations between the department and the
29 design-builders, progressive design-builders, or construction managers
30 submitting proposals prior to the acceptance of a proposal if any such
31 negotiations are contemplated; and

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

4 Sec. 7. (1) The process for selecting a design-builder and entering
5 into a design-build contract shall be in accordance with sections 8 to 11
6 of this act.

7 (2) Except as otherwise specifically provided in the Public Water
8 and Natural Resources Project Contracting Act, the process for selecting
9 a progressive design-builder and entering into a progressive design-build
10 contract shall be in accordance with sections 8 to 11 of this act.

11 Sec. 8. (1) The department shall prepare a request for
12 qualifications for design-build and progressive design-build proposals
13 and shall prequalify design-builders and progressive design-builders. The
14 request for qualifications shall describe the project in sufficient
15 detail to permit a design-builder or a progressive design-builder to
16 respond. The request for qualifications shall identify the maximum number
17 of design-builders or progressive design-builders the department will
18 place on a short list as qualified and eligible to receive a request for
19 proposals.

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

23 (3) The request for qualifications shall be (a) published in a
24 newspaper of statewide circulation at least thirty days prior to the
25 deadline for receiving the request for qualifications and (b) sent by
26 first-class mail to any design-builder or progressive design-builder upon
27 request.

28 (4) The department shall create a short list of qualified and
29 eligible design-builders or progressive design-builders in accordance
30 with the guidelines adopted pursuant to section 6 of this act. The
31 department shall select at least two prospective design-builders or

1 progressive design-builders, except that if only one design-builder or
2 progressive design-builder has responded to the request for
3 qualifications, the department may, in its discretion, proceed or cancel
4 the procurement. The request for proposals shall be sent only to the
5 design-builders or progressive design-builders placed on the short list.

6 Sec. 9. The department shall prepare a request for proposals for
7 each design-build or progressive design-build contract. The request for
8 proposals shall contain, at a minimum, the following elements:

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

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

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

18 (4) If applicable, a statement regarding alternative technical
19 concepts including the process and time period in which such concepts may
20 be submitted, confidentiality of the concepts, and ownership of the
21 rights to the intellectual property contained in such concepts;

22 (5) Project performance criteria;

23 (6) Budget parameters for the project;

24 (7) Any bonding and insurance required by law or as may be
25 additionally required by the department;

26 (8) The criteria for evaluation of proposals and the relative weight
27 of each criterion. For both design-build and progressive design-build
28 contracts, the criteria shall include, but are not limited to,
29 construction experience, design experience, and the financial, personnel,
30 and equipment resources available for the project. For design-build
31 contracts only, the criteria shall also include the cost of the work. For

1 progressive design-build contracts only, the criteria shall also include
2 consideration of the historic reasonableness of the progressive design-
3 builder's costs and expenses when bidding and completing projects,
4 whether such projects were completed using the progressive design-build
5 process or another bidding and contracting process. The relative weight
6 to apply to any criterion shall be at the discretion of the department
7 based on each project, except that for all design-build contracts, the
8 cost of the work shall be given a relative weight of at least fifty
9 percent;

10 (9) A requirement that the design-builder or progressive design-
11 builder provide a written statement of the design-builder's or
12 progressive design-builder's proposed approach to the design and
13 construction of the project, which may include graphic materials
14 illustrating the proposed approach to design and construction and shall
15 include price proposals;

16 (10) A requirement that the design-builder or progressive design-
17 builder agree to the following conditions:

18 (a) At the time of the design-build or progressive design-build
19 proposal, the design-builder or progressive design-builder must furnish
20 to the department a written statement identifying the architect or
21 engineer who will perform the architectural or engineering work for the
22 project. The architect or engineer engaged by the design-builder or
23 progressive design-builder to perform the architectural or engineering
24 work with respect to the project must have direct supervision of such
25 work and may not be removed by the design-builder or progressive design-
26 builder prior to the completion of the project without the written
27 consent of the department;

28 (b) At the time of the design-build or progressive design-build
29 proposal, the design-builder or progressive design-builder must furnish
30 to the department a written statement identifying the general contractor
31 who will provide the labor, material, supplies, equipment, and

1 construction services. The general contractor identified by the design-
2 builder or progressive design-builder may not be removed by the design-
3 builder or progressive design-builder prior to completion of the project
4 without the written consent of the department;

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

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

16 (11) The amount and terms of the stipend required pursuant to
17 section 10 of this act, if any; and

18 (12) Other information or requirements which the department, in its
19 discretion, chooses to include in the request for proposals.

20 Sec. 10. The department shall pay a stipend to qualified design-
21 builders that submit responsive proposals but are not selected. Payment
22 of the stipend shall give the department ownership of the intellectual
23 property contained in the proposals and alternative technical concepts.
24 The amount of the stipend shall be at the discretion of the department as
25 disclosed in the request for proposals.

26 Sec. 11. (1) Design-builders and progressive design-builders shall
27 submit proposals as required by the request for proposals. The department
28 may meet with individual design-builders and progressive design-builders
29 prior to the time of submitting the proposal and may have discussions
30 concerning alternative technical concepts. If an alternative technical
31 concept provides a solution that is equal to or better than the

1 requirements in the request for proposals and the alternative technical
2 concept is acceptable to the department, it may be incorporated as part
3 of the proposal by the design-builder or progressive design-builder.
4 Notwithstanding any other provision of state law to the contrary,
5 alternative technical concepts shall be confidential and not disclosed to
6 other design-builders, progressive design-builders, or members of the
7 public from the time the proposals are submitted until such proposals are
8 opened by the department.

9 (2) Proposals shall be sealed and shall not be opened until
10 expiration of the time established for making the proposals as set forth
11 in the request for proposals.

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

19 (4) The department shall rank the design-builders or progressive
20 design-builders in order of best value pursuant to the criteria in the
21 request for proposals. The department may meet with design-builders or
22 progressive design-builders prior to ranking.

23 (5) The department may attempt to negotiate a design-build or
24 progressive design-build contract with the highest ranked design-builder
25 or progressive design-builder selected by the department and may enter
26 into a design-build or progressive design-build contract after
27 negotiations. If the department is unable to negotiate a satisfactory
28 design-build or progressive design-build contract with the highest ranked
29 design-builder or progressive design-builder, the department may
30 terminate negotiations with that design-builder or progressive design-
31 builder. The department may then undertake negotiations with the second

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

9 (6) If the department is unable to negotiate a satisfactory contract
10 with any of the ranked design-builders or progressive design-builders,
11 the department may either revise the request for proposals and solicit
12 new proposals or cancel the design-build or progressive design-build
13 process under the Public Water and Natural Resources Project Contracting
14 Act.

15 Sec. 12. (1) The process for selecting a construction manager and
16 entering into a construction manager-general contractor contract shall be
17 in accordance with this section and sections 13 to 15 of this act.

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

26 (3) The request for qualifications shall be (a) published in a
27 newspaper of statewide circulation at least thirty days prior to the
28 deadline for receiving the request for qualifications and (b) sent by
29 first-class mail to any construction manager upon request.

30 (4) The department shall create a short list of qualified and
31 eligible construction managers in accordance with the guidelines adopted

1 pursuant to section 6 of this act. The department shall select at least
2 two construction managers, except that if only one construction manager
3 has responded to the request for qualifications, the department may, in
4 its discretion, proceed or cancel the procurement. The request for
5 proposals shall be sent only to the construction managers placed on the
6 short list.

7 Sec. 13. The department shall prepare a request for proposals for
8 each construction manager-general contractor contract. The request for
9 proposals shall contain, at a minimum, the following elements:

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

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

16 (3) Any bonding and insurance required by law or as may be
17 additionally required by the department;

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

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

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

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

31 Sec. 14. (1) Construction managers shall submit proposals as

1 required by the request for proposals.

2 (2) Proposals shall be sealed and shall not be opened until
3 expiration of the time established for making the proposals as set forth
4 in the request for proposals.

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

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

14 (5) The department may attempt to negotiate a contract for
15 preconstruction services with the highest ranked construction manager and
16 may enter into a contract for preconstruction services after
17 negotiations. If the department is unable to negotiate a satisfactory
18 contract for preconstruction services with the highest ranked
19 construction manager, the department may terminate negotiations with that
20 construction manager. The department may then undertake negotiations with
21 the second highest ranked construction manager and may enter into a
22 contract for preconstruction services after negotiations. If the
23 department is unable to negotiate a satisfactory contract with the second
24 highest ranked construction manager, the department may undertake
25 negotiations with the third highest ranked construction manager, if any,
26 and may enter into a contract for preconstruction services after
27 negotiations.

28 (6) If the department is unable to negotiate a satisfactory contract
29 for preconstruction services with any of the ranked construction
30 managers, the department may either revise the request for proposals and
31 solicit new proposals or cancel the construction manager-general

1 contractor contract process under the Public Water and Natural Resources
2 Project Contracting Act.

3 Sec. 15. (1) Before the construction manager begins any
4 construction services, the department shall:

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

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

9 (2) If the construction manager and the department are unable to
10 negotiate a contract, the department may use other contract procurement
11 processes. Persons or organizations who submitted proposals but were
12 unable to negotiate a contract with the department shall be eligible to
13 compete in the other contract procurement processes.

14 Sec. 16. A design-build contract, a progressive design-build
15 contract, and a construction manager-general contractor contract may be
16 conditioned upon later refinements in scope and price and may permit the
17 department in agreement with the design-builder, progressive design-
18 builder, or construction manager to make changes in the project without
19 invalidating the contract.

20 Sec. 17. The department may enter into agreements under the Public
21 Water and Natural Resources Project Contracting Act to let, design, and
22 construct projects for political subdivisions when any of the funding for
23 such projects is provided by or through the department. In such
24 instances, the department may enter into contracts with the design-
25 builder, progressive design-builder, or construction manager. The
26 Political Subdivisions Construction Alternatives Act shall not apply to
27 projects let, designed, and constructed under the supervision of the
28 department pursuant to agreements with political subdivisions under the
29 Public Water and Natural Resources Project Contracting Act.

30 Sec. 18. Nothing in the Public Water and Natural Resources Project
31 Contracting Act shall limit or reduce statutory or regulatory

1 requirements regarding insurance.

2 Sec. 19. The department may adopt and promulgate rules and
3 regulations to carry out the Public Water and Natural Resources Project
4 Contracting Act.

5 Sec. 20. (1) A public-private partnership delivery method may be
6 used for projects under the Public Water and Natural Resources Project
7 Contracting Act as provided in this section and rules and regulations
8 adopted and promulgated pursuant to this section only to the extent
9 allowed under the Constitution of Nebraska. State contracts using this
10 method shall be awarded by competitive negotiation.

11 (2) The department utilizing a public-private partnership shall
12 continue to be responsible for oversight of any function that is
13 delegated to or otherwise performed by a private partner.

14 (3) On or before July 1, 2024, the Director of Natural Resources
15 shall adopt and promulgate rules and regulations setting forth criteria
16 to be used in determining when a public-private partnership is to be used
17 for a particular project. The rules and regulations shall reflect the
18 intent of the Legislature to promote and encourage the use of public-
19 private partnerships in the State of Nebraska. The Director of Natural
20 Resources shall consult with design-builders, progressive design-
21 builders, construction managers, other contractors and design
22 professionals, including engineers and architects, and other appropriate
23 professionals during the development of the rules and regulations.

24 (4) A request for proposals for a project utilizing a public-private
25 partnership shall include at a minimum:

26 (a) The parameters of the proposed public-private partnership
27 agreement;

28 (b) The duties and responsibilities to be performed by the private
29 partner or private partners;

30 (c) The methods of oversight to be employed by the department;

31 (d) The duties and responsibilities that are to be performed by the

1 department and any other parties to the contract;

2 (e) The evaluation factors and the relative weight of each factor to
3 be used in the scoring of awards;

4 (f) Plans for financing and operating the project and the revenue,
5 service payments, bond financings, and appropriations of public funds
6 needed for the qualifying project;

7 (g) Comprehensive documentation of the experience, capabilities,
8 capitalization and financial condition, and other relevant qualifications
9 of the private entity submitting the proposal;

10 (h) The ability of a private partner or private partners to quickly
11 respond to the needs presented in the request for proposals and the
12 importance of economic development opportunities represented by the
13 project. In evaluating proposals, preference shall be given to a plan
14 that includes the involvement of small businesses as subcontractors, to
15 the extent that small businesses can provide services in a competitive
16 manner, unless any preference interferes with the qualification for
17 federal or other funds; and

18 (i) Other information required by the department to evaluate the
19 proposals submitted and the overall proposed public-private partnership.

20 (5) A private entity desiring to be a private partner shall
21 demonstrate to the satisfaction of the department that it is capable of
22 performing any duty, responsibility, or function it may be authorized or
23 directed to perform as a term or condition of the public-private
24 partnership agreement.

25 (6) A request for proposals may be canceled, or all proposals may be
26 rejected, if it is determined in writing that such action is taken in the
27 best interest of the State of Nebraska and approved by the purchasing
28 officer.

29 (7) Upon execution of a public-private partnership agreement, the
30 department shall ensure that the contract clearly identifies that a
31 public-private partnership is being utilized.

1 (8) The department shall:

2 (a) Adhere to the rules and regulations adopted and promulgated
3 under this section when utilizing a public-private partnership for
4 financing capital projects; and

5 (b) Electronically report annually to the Natural Resources
6 Committee of the Legislature regarding private-public partnerships which
7 have been considered or are approved pursuant to this section.

8 Sec. 21. Section 66-2301, Revised Statutes Cumulative Supplement,
9 2022, is amended to read:

10 66-2301 (1) The Legislature finds that there is a unique benefit
11 for the state to compete for designation by the United States Department
12 of Energy as a location for a regional clean hydrogen hub. The
13 development of a clean hydrogen hub in the state would provide the
14 potential for significant investments in clean energy production, new
15 infrastructure, and high-paying careers. The Legislature further finds
16 that Nebraska is in a unique position to compete due to its central
17 location, existing clean hydrogen-producing industry, synthetic and
18 biofuels industry, demand for fertilizer used by its large agricultural
19 industry, and railroad and trucking transportation network.

20 (2)(a) ~~(1)~~ The Department of Economic Development shall create the
21 Nebraska Hydrogen Hub Industry Work Group. The Governor shall appoint
22 members to the work group that include, but are not limited to,
23 representatives from the following sectors: ~~(i)~~ ~~(a)~~ Manufacturing or
24 industry, ~~(ii)~~ ~~(b)~~ agriculture, ~~(iii)~~ ~~(c)~~ transportation, and ~~(iv)~~ ~~(d)~~
25 energy. The work group may include a representative of a clean hydrogen
26 manufacturer.

27 (b) ~~(2)~~ The purpose of the work group is to develop and draft a
28 competitive proposal which may be submitted to the United States
29 Department of Energy to be selected as one of the ~~four~~ regional clean
30 hydrogen hubs authorized under the federal Infrastructure Investment and
31 Jobs Act, Public Law 117-58.

1 (c) ~~(3)~~ The Department of Economic Development may contract with
2 private consultants to create the competitive proposal. Specifically, the
3 work group shall determine how to maximize the state's geographic
4 location to connect a nationwide hydrogen network. Additionally, the work
5 group shall build a plan to make the case for an agricultural-based clean
6 hydrogen hub, expanding the existing eligible purposes.

7 (3) It is the intent of the Legislature to appropriate two hundred
8 fifty thousand dollars from the General Fund for FY2023-24 and two
9 hundred fifty thousand dollars from the General Fund for FY2024-25 to the
10 Department of Economic Development for the purpose of providing grants to
11 any public power district that serves a majority of the counties in the
12 state to be used for engineering and modeling work to prepare and support
13 the state in competing for one of the United States Department of
14 Energy's regional clean hydrogen hub designations and associated federal
15 funding.

16 (4) The Department of Economic Development may adopt and promulgate
17 rules and regulations to carry out the grant program described in
18 subsection (3) of this section.

19 Sec. 22. Sections 22 to 28 of this act shall be known and may be
20 cited as the Nuclear and Hydrogen Development Act.

21 Sec. 23. The Legislature finds and declares that it is the policy of
22 the Legislature to support the advanced nuclear and hydrogen industries.

23 Sec. 24. For purposes of the Nuclear and Hydrogen Development Act:

24 (1) Department means the Department of Economic Development; and

25 (2) Work group means the Nuclear and Hydrogen Industry Work Group
26 created in section 25 of this act.

27 Sec. 25. (1) The department shall create the Nuclear and Hydrogen
28 Industry Work Group.

29 (2) The work group shall consist of the following twelve members:

30 (a) One representative of the Nebraska community college system;

31 (b) One representative of the Nebraska state college system;

- 1 (c) Two representatives of the nuclear industry;
2 (d) Two representatives of the hydrogen industry;
3 (e) One representative of a public power district;
4 (f) Two at-large members;
5 (g) The Director of Economic Development or a designee of the
6 director;
7 (h) The chairperson of the Natural Resources Committee of the
8 Legislature or a designee of the chairperson; and
9 (i) The chairperson of the Government, Military and Veterans Affairs
10 Committee of the Legislature or a designee of the chairperson.

11 (3) The work group members described in subdivisions (2)(a) through
12 (f) of this section shall be appointed by the Governor. The work group
13 members described in subdivisions (2)(h) and (i) of this section shall
14 serve as ex officio, nonvoting members.

15 (4)(a) Each work group member described in subdivisions (2)(a)
16 through (f) of this section may receive a per diem of sixty dollars for
17 each day such member attends a meeting of the work group or is engaged in
18 matters concerning the work group, except that no work group member shall
19 receive more than one thousand dollars in per diems per year under this
20 subdivision.

21 (b) Each such work group member shall be reimbursed for travel and
22 lodging expenses for the performance of such member's duties while
23 carrying out the Nuclear and Hydrogen Development Act as provided in
24 sections 81-1174 to 81-1177 to be paid out of the Nuclear and Hydrogen
25 Development Fund.

26 Sec. 26. The work group shall examine and make recommendations to
27 the department regarding the workforce training needs of the nuclear and
28 hydrogen industries and provide an opportunity for collaboration of such
29 industries with the Nebraska community college system and Nebraska state
30 college system to develop education training courses.

31 Sec. 27. The department shall establish procedures and criteria for

1 awarding grants to community colleges and state colleges that implement
2 education training courses designed to alleviate the workforce training
3 needs of the nuclear and hydrogen industries based on the recommendations
4 of the work group. The grants awarded by the department shall be used for
5 equipment, curriculum, programming, or marketing needed to provide such
6 education training courses.

7 Sec. 28. (1) The Nuclear and Hydrogen Development Fund is created.
8 The department shall administer the fund to provide per diems and travel
9 and lodging reimbursement to members of the work group as provided under
10 section 25 of this act. The fund shall consist of money transferred by
11 the Legislature. The State Treasurer shall transfer two hundred thousand
12 dollars to the fund from the General Fund as soon as administratively
13 possible after the operative date of this section.

14 (2) The Nuclear and Hydrogen Development Fund terminates on July 31,
15 2028, and the State Treasurer shall transfer any money in the fund on
16 such date to the General Fund.

17 Sec. 29. Section 70-619, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 70-619 (1) The corporate powers of the district shall be vested in
20 and exercised by the board of directors of the district. No person shall
21 be qualified to hold office as a member of the board of directors unless
22 (a) he or she is a registered voter (i) of such chartered territory, (ii)
23 of the subdivision from which a director is to be elected if such
24 chartered territory is subdivided for election purposes as provided in
25 subsection (1), (2), or (3) of section 70-612, or (iii) of one of the
26 combined subdivisions from which directors are to be elected at large as
27 provided in section 70-612 or (b) he or she is a retail customer duly
28 certified in accordance with subsection (3) of section 70-604.03.

29 (2) (2)(a) No person who is a full-time or part-time employee of the
30 district shall be eligible to serve as a member of the board of directors
31 of that district and no high-level manager employed by a district may

1 ~~serve as a member of the board of directors of any district unless such~~
2 ~~person (i) resigns or (ii) assumes an unpaid leave of absence for the~~
3 ~~term as a member. The employing district shall grant such leave of~~
4 ~~absence when requested by any employee for the purpose of the employee~~
5 ~~-serving as a member of such board. A member of a governing body of any~~
6 one of the municipalities within the areas of the district may not serve
7 on the original board of directors under sections 70-603 to 70-609.

8 ~~(b) For purposes of this subsection, high-level manager means a~~
9 ~~person employed by a district who serves in a high-level managerial~~
10 ~~position, including chief executive officer, president, vice president,~~
11 ~~chief financial officer, chief operations officer, general manager, or~~
12 ~~assistant general manager.~~

13 Sec. 30. Section 70-1001, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 70-1001 (1) In order to provide the citizens of the state with
16 adequate and reliable electric service at as low overall cost as
17 possible, consistent with sound business practices, it is the policy of
18 this state to avoid and eliminate conflict and competition between public
19 power districts, public power and irrigation districts, individual
20 municipalities, registered groups of municipalities, electric membership
21 associations, and cooperatives in furnishing electric energy to retail
22 and wholesale customers, to avoid and eliminate the duplication of
23 facilities and resources which result therefrom, and to facilitate the
24 settlement of rate disputes between suppliers of electricity.

25 (2) It is also the policy of the state to prepare for an evolving
26 retail electricity market if certain conditions are met which indicate
27 that retail competition is in the best interests of the citizens of the
28 state. The determination on the timing and form of competitive markets is
29 a matter properly left to the states as each state must evaluate the
30 costs and benefits of a competitive retail market based on its own unique
31 conditions. Consequently, there is a need for the state to monitor

1 whether the conditions necessary for its citizens to benefit from retail
2 competition exist.

3 (3) It is also the policy of the state to encourage and allow
4 opportunities for private developers to develop, own, and operate
5 renewable energy facilities intended for sale at wholesale under a
6 statutory framework which protects the ratepayers of consumer-owned
7 utility systems operating in the state from subsidizing the costs of such
8 export facilities through their rates.

9 Sec. 31. Section 70-1001.01, Reissue Revised Statutes of Nebraska,
10 is amended to read:

11 70-1001.01 For purposes of sections 70-1001 to 70-1028, unless the
12 context otherwise requires:

13 (1) Board means the Nebraska Power Review Board;

14 (2) Electric ~~supplier suppliers~~ or ~~supplier suppliers~~ of electricity
15 means any legal entity supplying, producing, or distributing electricity
16 within the state for sale at wholesale or retail;

17 (3) Private electric supplier means an electric supplier producing
18 electricity from a privately developed renewable energy generation
19 facility that is not a public power district, a public power and
20 irrigation district, a municipality, a registered group of
21 municipalities, an electric cooperative, an electric membership
22 association, any other governmental entity, or any combination thereof;

23 (4) Privately developed renewable energy generation facility means a
24 facility that (a) generates electricity using solar, wind, geothermal,
25 biomass, landfill gas, or biogas, including all electrically connected
26 equipment used to produce, collect, and store the facility output up to
27 and including the transformer that steps up the voltage to sixty thousand
28 volts or greater, and including supporting structures, buildings, and
29 roads, unless otherwise agreed to in a joint transmission development
30 agreement, (b) is developed, constructed, and owned, in whole or in part,
31 by one or more private electric suppliers, and (c) is not wholly owned by

1 a public power district, a public power and irrigation district, a
2 municipality, a registered group of municipalities, an electric
3 cooperative, an electric membership association, any other governmental
4 entity, or any combination thereof;

5 (5) Regional transmission organization means an entity independent
6 from those entities generating or marketing electricity at wholesale or
7 retail, which has operational control over the electric transmission
8 lines in a designated geographic area in order to reduce constraints in
9 the flow of electricity and ensure that all power suppliers have open
10 access to transmission lines for the transmission of electricity;

11 (6) Reliable or reliability means the ability of an electric
12 supplier to supply the aggregate electric power and energy requirements
13 of its electricity consumers in Nebraska at all times under normal
14 operating conditions, taking into account scheduled and unscheduled
15 outages, including sudden disturbances or unanticipated loss of system
16 components that are to be reasonably expected for any electric utility
17 following prudent utility practices, recognizing certain weather
18 conditions and other contingencies may cause outages at the distribution,
19 transmission, and generation level;

20 (7) (6) Representative organization means an organization designated
21 by the board and organized for the purpose of providing joint planning
22 and encouraging maximum cooperation and coordination among electric
23 suppliers. Such organization shall represent electric suppliers owning a
24 combined electric generation plant accredited capacity of at least ninety
25 percent of the total electric generation plant accredited capacity
26 constructed and in operation within the state;

27 (8) (7) State means the State of Nebraska; and

28 (9) (8) Unbundled retail rates means the separation of utility bills
29 into the individual price components for which an electric supplier
30 charges its retail customers, including, but not limited to, the separate
31 charges for the generation, transmission, and distribution of

1 electricity.

2 Sec. 32. Section 70-1025, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 70-1025 (1) The representative organization shall file with the
5 board a coordinated long-range power supply plan containing the following
6 information:

7 (a) The identification of all electric generation plants operating
8 or authorized for construction within the state that have a rated
9 capacity of at least twenty-five thousand kilowatts;

10 (b) The identification of all transmission lines located or
11 authorized for construction within the state that have a rated capacity
12 of at least two hundred thirty kilovolts; and

13 (c) The identification of all additional planned electric generation
14 and transmission requirements needed to serve estimated power supply
15 demands within the state for a period of twenty years.

16 (2) ~~The Beginning in 1986,~~ the representative organization shall
17 file with the board the coordinated long-range power supply plan
18 specified in subsection (1) of this section, and the board shall
19 determine the date on which such report is to be filed, except that such
20 report shall not be required to be filed more often than biennially.

21 (3) An annual load and capability report shall be filed with the
22 board by the representative organization. The report shall include:

23 (a) Statewide statewide utility load forecasts and the resources
24 available to satisfy the loads over a twenty-year period; and -

25 (b) Such other information as the board requests if such request is
26 submitted in writing to the representative organization, is consistent
27 with the board's statutory responsibilities, and can be performed at a
28 reasonable cost.

29 (4) The annual load and capability report shall be filed on dates
30 specified by the board.

31 Sec. 33. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14,

1 15, 16, 17, 18, 19, 20, 29, 30, 31, 32, and 34 of this act become
2 operative three calendar months after the adjournment of this legislative
3 session. The other sections of this act become operative on their
4 effective date.

5 Sec. 34. Original sections 70-619, 70-1001, 70-1001.01, and
6 70-1025, Reissue Revised Statutes of Nebraska, are repealed.

7 Sec. 35. Original section 66-2301, Revised Statutes Cumulative
8 Supplement, 2022, is repealed.

9 Sec. 36. Since an emergency exists, this act takes effect when
10 passed and approved according to law.