

LEGISLATIVE BILL 658

Approved by the Governor May 29, 2009

Introduced by Friend, 10.

FOR AN ACT relating to the State Natural Gas Regulation Act; to amend sections 66-1802, 66-1839, and 84-712.05, Reissue Revised Statutes of Nebraska, and section 66-1801, Revised Statutes Cumulative Supplement, 2008; to define and redefine terms; to provide for loans for negotiations; to provide procedures for infrastructure system replacement cost recovery; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 66-1801, Revised Statutes Cumulative Supplement, 2008, is amended to read:

66-1801 Sections 66-1801 to 66-1864 and sections 4, 5, and 6 of this act shall be known and may be cited as the State Natural Gas Regulation Act.

Sec. 2. Section 66-1802, Reissue Revised Statutes of Nebraska, is amended to read:

66-1802 For purposes of the State Natural Gas Regulation Act:

(1) Agricultural ratepayer means a ratepayer whose usage of natural gas does not qualify the ratepayer as a high-volume ratepayer and (a) whose principal use of natural gas is for agricultural crop or livestock production, irrigation pumping, crop drying, or animal feed or food production or (b) whose service is provided on an interruptible basis;

(2) Appropriate pretax revenue means the revenue necessary to produce net operating income equal to:

(a) The jurisdictional utility's weighted cost of capital multiplied by the net original cost of eligible infrastructure system replacements, including recognition of accumulated deferred income taxes and accumulated depreciation associated with eligible infrastructure system replacements which are included in an infrastructure system replacement cost recovery charge;

(b) Recovery of state, federal, and local income or excise taxes applicable to such income; and

(c) Recovery of depreciation expenses;

~~(2)~~ (3) BTU means the amount of energy necessary to raise the temperature of one pound of water one degree Fahrenheit;

~~(3)~~ (4) City means any city or village in the State of Nebraska;

~~(4)~~ (5) Commission means the Public Service Commission;

(6) Eligible infrastructure system replacement means jurisdictional utility plant projects that:

(a) Do not increase revenue by directly connecting the infrastructure system replacement to new customers;

(b) Are in service and used and required to be used;

(c) Were not included in the jurisdictional utility's rate base in its most recent general rate proceeding; and

(d) May enhance the capacity of the system but are only eligible for infrastructure system replacement cost recovery to the extent the jurisdictional utility plant project constitutes a replacement of existing infrastructure;

~~(5)~~ (7) Gas gathering system means a natural gas pipeline system used primarily for transporting natural gas from a wellhead, or from a metering point for natural gas produced by one or more wells, to a point of entry into a main transmission line;

~~(6)~~ (8) General rate filing means any filing which requests changes in overall revenue requirements for a jurisdictional utility but does not include a filing for an infrastructure system replacement cost recovery charge;

~~(7)~~ (9) High-volume ratepayer means a ratepayer whose natural gas requirements equal or exceed five hundred therms per day as determined by average daily consumption;

(10) Infrastructure system replacement cost recovery charge revenue means revenue produced through an infrastructure system replacement cost recovery charge exclusive of revenue from all other rates and charges;

~~(8)~~ (11) Interstate pipeline means any corporation, company, individual, or association of persons or their trustees, lessees, or receivers engaged in natural gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under the federal Natural Gas Act, 15 U.S.C. 717 et seq., as such act existed on January 1, 2003;

~~(9)~~ (12) Intrastate natural gas utility business means all of that

portion of the business of a natural gas public utility over which the commission has jurisdiction under the State Natural Gas Regulation Act;

~~(10)~~ (13) Jurisdictional utility means a natural gas public utility subject to the jurisdiction of the commission. Jurisdictional utility does not mean a natural gas public utility which is not subject to the jurisdiction of the commission pursuant to section 66-1803;

(14) Jurisdictional utility plant projects means only the following:

(a) Mains, valves, service lines, regulator stations, vaults, and other pipeline system components installed to comply with state or federal safety requirements as replacements for existing facilities;

(b) Main relining projects, service line insertion projects, joint encapsulation projects, and other similar projects extending the useful life or enhancing the integrity of pipeline system components undertaken to comply with state or federal safety requirements; and

(c) Facility relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of the United States, this state, a political subdivision of this state, or another entity having the power of eminent domain, if the costs related to such relocations have not been reimbursed to the jurisdictional utility;

~~(11)~~ (15) Natural gas public utility means any corporation, company, individual, or association of persons or their trustees, lessees, or receivers that owns, controls, operates, or manages, except for private use, any equipment, plant, or machinery, or any part thereof, for the conveyance of natural gas through pipelines in or through any part of this state. Natural gas public utility does not mean a natural gas utility owned or operated by a city or a metropolitan utilities district. Natural gas public utility does not include any activity of an otherwise jurisdictional corporation, company, individual, or association of persons or their trustees, lessees, or receivers as to the marketing or sale of compressed natural gas for end use as motor vehicle fuel. Natural gas public utility does not include any gas gathering system or interstate pipeline;

~~(12)~~ (16) Rate means every compensation, charge, fare, toll, tariff, rental, and classification, or any of them, demanded, observed, charged, or collected by any jurisdictional utility for any service;

~~(13)~~ (17) Rate area means the geographic area within the state served by a single natural gas public utility through a common pipeline system from the same natural gas supply source within the common system for which the utility has similar costs for serving ratepayers of the same class; and

~~(14)~~ (18) Therm is equivalent to one hundred thousand BTUs.

Sec. 3. Section 66-1839, Reissue Revised Statutes of Nebraska, is amended to read:

66-1839 (1) The Municipal Rate Negotiations Revolving Loan Fund is created. The fund shall be used to make loans to cities for rate negotiations under section 66-1838 or negotiations or litigation under section 6 of this act. Only one loan may be made for each rate filing made by a jurisdictional utility within the scope of ~~such~~ each section. Money in the Municipal Natural Gas Regulation Revolving Loan Fund that is not necessary to finance rate proceedings initiated prior to May 31, 2003, shall be transferred to the Municipal Rate Negotiations Revolving Loan Fund on May 31, 2003, and repayments of loans or other obligations owing to the Municipal Natural Gas Regulation Revolving Loan Fund on May 31, 2003, shall be deposited in the Municipal Rate Negotiations Revolving Loan Fund upon receipt. Any obligations against or commitments of money from the Municipal Natural Gas Regulation Revolving Loan Fund on May 31, 2003, shall be obligations or commitments of the Municipal Rate Negotiations Revolving Loan Fund.

(2) The Municipal Rate Negotiations Revolving Loan Fund shall be administered by the commission which shall adopt and promulgate rules and regulations to carry out this section. The rules and regulations shall include:

(a) Loan application procedures and forms; and

(b) Fund-use monitoring and quarterly accounting of fund use.

(3) Applicants for a loan from the fund shall provide a budget statement which specifies the proposed use of the loan proceeds. Such proceeds may only be used for the costs and expenses incurred by the city to analyze rate filings for the purposes specified in section 66-1838 or section 6 of this act. Such costs and expenses may include the cost of rate consultants and attorneys and any other necessary costs related to the negotiation process or litigation under section 6 of this act. Disbursements from the fund shall be audited by the commission. The affected jurisdictional utility may petition the commission to initiate a proceeding to determine whether the disbursements from the fund were expended by the negotiating cities consistent with the requirements of this section.

(4) The fund shall be audited as part of the regular audit of the commission's budget, and copies of the audit shall be available to all cities and any jurisdictional utility. Audits conducted pursuant to this section are public records.

(5) Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. If the fund balance exceeds four hundred thousand dollars, the income on the money in the fund shall be credited to the permanent school fund until the balance of the Municipal Rate Negotiations Revolving Loan Fund falls below such amount.

(6) A city which receives a loan under this section shall be responsible to provide for the opportunity for all other cities engaged in the same negotiations with the same jurisdictional utility to participate in all negotiations. Such city shall not exclude any other city from the information or benefits accruing from the use of loan funds.

(7) Upon the conclusion of negotiations, regardless of the result, the loan shall be repaid by the jurisdictional utility to the commission within thirty days after the date upon which it is billed by the commission. The utility shall recover the amount paid on the loan by a special surcharge on ratepayers who are or will be affected by the rate increase request. These ratepayers may be billed on their monthly statements for a period not to exceed twelve months, and the surcharge may be shown as a separate item on the statements as a charge for rate negotiation expenses.

Sec. 4. (1) Beginning January 1, 2010, a jurisdictional utility may file an application and proposed rate schedules with the commission to establish or change infrastructure system replacement cost recovery charge rate schedules that will allow for the adjustment of the jurisdictional utility's rates and charges to provide for the recovery of costs for eligible infrastructure system replacements. The commission shall not approve any infrastructure system replacement cost recovery charge rate schedules if such schedules would produce total annualized infrastructure system replacement cost recovery charge revenue below the lesser of one million dollars or one-half percent of the jurisdictional utility's base revenue level approved by the commission in the jurisdictional utility's most recent general rate proceeding. The commission shall not approve any infrastructure system replacement cost recovery charge rate schedules if such schedules would produce total annualized infrastructure system replacement cost recovery charge revenue exceeding ten percent of the jurisdictional utility's base revenue level approved by the commission in the jurisdictional utility's most recent general rate proceeding. Any infrastructure system replacement cost recovery charge rate schedules and any future changes thereto shall be calculated and implemented in accordance with the State Natural Gas Regulation Act. Infrastructure system replacement cost recovery charge revenue shall be subject to a refund based upon a finding and order of the commission to the extent provided in subsections (6) and (8) of section 5 of this act or as approved by the affected cities to the extent provided in subsection (6) and subdivision (7)(c) of section 6 of this act.

(2) The commission shall not approve any infrastructure system replacement cost recovery charge rate schedules for any jurisdictional utility that has not had a general rate proceeding decided or dismissed by issuance of a commission order within the sixty months immediately preceding the application by the jurisdictional utility for an infrastructure system replacement cost recovery charge.

(3) A jurisdictional utility shall not collect an infrastructure system replacement cost recovery charge rate for a period exceeding sixty months after its initial approval unless within such sixty-month period the jurisdictional utility has filed for or is the subject of a new general rate proceeding, except that the infrastructure system replacement cost recovery charge rate may be collected until the effective date of new rate schedules established as a result of the new general rate proceeding or until the general rate proceeding is otherwise decided or dismissed by issuance of a commission order without new rates being established.

Sec. 5. (1) This section applies to applications for an infrastructure system replacement cost recovery charge by a jurisdictional utility whose last general rate filing was not the subject of negotiations with affected cities as provided for in section 66-1838.

(2) When a jurisdictional utility governed by this section files an application with the commission seeking to establish or change any infrastructure system replacement cost recovery charge rate schedules, it shall submit to the commission with the application proposed infrastructure system replacement cost recovery charge rate schedules and supporting documentation regarding the calculation of the proposed infrastructure system

replacement cost recovery charge rate schedules, including (a) a list of eligible projects, (b) a description of the projects, (c) the location of the projects, (d) the purpose of the projects, (e) the dates construction began and ended, (f) the total expenses for each project at completion, and (g) the extent to which such expenses are eligible for inclusion in the calculation of the infrastructure system replacement cost recovery charge.

(3) (a) When an application, along with any associated proposed rate schedules and documentation, is filed pursuant to subsection (2) of this section, the public advocate shall conduct an examination of the proposed infrastructure system replacement cost recovery charge rate schedules.

(b) The public advocate shall cause an examination to be made of information regarding the jurisdictional utility to confirm that the underlying costs are in accordance with the State Natural Gas Regulation Act and to confirm proper calculation of the proposed infrastructure system replacement cost recovery charge rates and rate schedules. The commission shall require a report regarding such examination to be prepared and filed with the commission not later than sixty days after the application is filed. No other revenue requirement or ratemaking issue shall be examined in consideration of the application or associated proposed rate schedules filed pursuant to the act unless the consideration of such affects the determination of the validity of the proposed infrastructure system replacement cost recovery charge rate schedules.

(c) The commission shall hold a hearing on the application and any associated rate schedules at which the public advocate shall present his or her report and shall act as trial staff before the commission. The commission shall issue an order to become effective not later than one hundred twenty days after the application is filed, except that the commission may, for good cause, extend such period for an additional thirty days.

(d) If the commission finds that an application complies with the requirements of the act, the commission shall enter an order authorizing the jurisdictional utility to impose an infrastructure system replacement cost recovery charge rate that is sufficient to recover appropriate pretax revenue, as determined by the commission pursuant to the act.

(4) A jurisdictional utility may apply for a change in any infrastructure system replacement cost recovery charge rate schedules approved pursuant to this section no more than once in any twelve-month period. Any such application for a change shall be pursued in the manner provided for in this section.

(5) In determining the appropriate pretax revenue, the commission shall consider the following factors:

(a) The net original cost of eligible infrastructure system replacements. For purposes of this section, the net original cost means the original cost of eligible infrastructure system replacements minus associated retirements of existing infrastructure;

(b) The accumulated deferred income taxes associated with the eligible infrastructure system replacements;

(c) The accumulated depreciation associated with the eligible infrastructure system replacements;

(d) The state, federal, and local income tax or excise tax rates at the time of such determination;

(e) The jurisdictional utility's actual regulatory capital structure as determined during the most recent general rate proceeding of the jurisdictional utility;

(f) The actual cost rates for the jurisdictional utility's debt and preferred stock as determined during the most recent general rate proceeding of the jurisdictional utility;

(g) The jurisdictional utility's cost of common equity as determined during the most recent general rate proceeding of the jurisdictional utility; and

(h) The depreciation rates applicable to the eligible infrastructure system replacements at the time of the most recent general rate proceeding of the jurisdictional utility.

(6) (a) The monthly infrastructure system replacement cost recovery charge rate shall be allocated among the jurisdictional utility's classes of customers in the same manner as costs for the same type of facilities were allocated among classes of customers in the jurisdictional utility's most recent general rate proceeding. An infrastructure system replacement cost recovery charge rate shall be assessed to customers as a monthly fixed charge and not based on volumetric consumption. Such monthly charge shall not increase more than fifty cents per residential customer over the base rates in effect at the time of the initial filing for any infrastructure system replacement cost recovery charge rate schedules. Thereafter, each subsequent

filing shall not increase the monthly charge by more than fifty cents per residential customer over that charge in existence at the time of the most recent application for any infrastructure system replacement cost recovery charge rate schedules.

(b) At the end of each twelve-month period during which the infrastructure system replacement cost recovery charge rate schedules are in effect, the jurisdictional utility shall reconcile the differences between the revenue resulting from the infrastructure system replacement cost recovery charge and the appropriate pretax revenue as found by the commission for that period and shall submit the reconciliation and any proposed infrastructure system replacement cost recovery charge rate schedules adjustment to the commission for approval to recover or refund the difference, as appropriate, through adjustments of the infrastructure system replacement cost recovery charge rate.

(7) (a) A jurisdictional utility that has implemented any infrastructure system replacement cost recovery charge rate schedules pursuant to the act shall cease to collect such charges when new base rates and charges become effective for the jurisdictional utility following a commission order establishing customer rates in a general rate proceeding.

(b) In any subsequent general rate proceeding involving a jurisdictional utility which is collecting charges pursuant to any infrastructure system replacement cost recovery charge rate schedules, the commission shall reconcile any previously unreconciled infrastructure system replacement cost recovery charge revenue as necessary to ensure that the revenue matches as closely as possible to the appropriate pretax revenue as found by the commission for that period.

(8) In the event the commission disallows, during a subsequent general rate proceeding, recovery of costs associated with eligible infrastructure system replacements previously included in any infrastructure system replacement cost recovery charge rate schedules, the commission shall order the jurisdictional utility to make such rate adjustments as necessary to recognize and account for any such overcollections.

(9) Nothing in this section shall be construed to limit the authority of the commission to review and consider infrastructure system replacement costs along with other costs during any general rate proceeding of any jurisdictional utility.

Sec. 6. (1) This section applies to applications for an infrastructure system replacement cost recovery charge by a jurisdictional utility whose last general rate filing was the subject of negotiations with affected cities as provided for in section 66-1838.

(2) When a jurisdictional utility governed by this section files an application with the commission seeking to establish or change any infrastructure system replacement cost recovery charge rate schedules, it shall submit proposed infrastructure system replacement cost recovery charge rate schedules and supporting documentation regarding the calculation of the proposed infrastructure system replacement cost recovery charge rate schedules with the application and shall provide written notice to each city that will be affected by the proposed infrastructure system replacement cost recovery charge rates simultaneously with the filing with the commission. Such notice shall identify the cities that will be affected by the filing. The jurisdictional utility shall file copies of the notice with the commission and shall file with the affected cities the information prescribed by this section with each city affected by the proposed infrastructure system replacement cost recovery charge in electronic or digital form or, upon request, in paper form.

(3) The jurisdictional utility shall file with the cities and the commission the infrastructure system replacement cost recovery charge rate schedules and supporting documentation regarding the calculation of the proposed infrastructure system replacement cost recovery charge rate schedules, including (a) a list of eligible projects, (b) a description of the projects, (c) the location of the projects, (d) the purpose of the projects, (e) the dates construction began and ended, (f) the total expenses for each project at completion, and (g) the extent to which such expenses are eligible for inclusion in the calculation of the infrastructure system replacement cost recovery charge rate.

(4) (a) Affected cities shall have a period of thirty days after the date of such filing within which to adopt a resolution evidencing their intent to negotiate an infrastructure system replacement cost recovery charge rate with the jurisdictional utility. A copy of the resolution in support of negotiations adopted by each city under this section or a copy of the resolution of the rejection of the offer of negotiations shall be provided to the commission and the jurisdictional utility within seven days after its adoption.

(b) If the commission receives resolutions adopted prior to the expiration of the thirty-day period provided for in subdivision (a) of this subsection evidencing the intent from cities representing more than fifty percent of the ratepayers within the affected cities to negotiate with the jurisdictional utility an infrastructure system replacement cost recovery charge rate, the commission shall certify the case for negotiation between such cities and the jurisdictional utility and shall take no action upon the application and filings regarding such charge until the negotiation period and any stipulated extension has expired or an agreement on rates is submitted, whichever occurs first.

(c) If the commission receives copies of resolutions from cities representing more than fifty percent of the ratepayers within the affected cities which expressly reject negotiations, the infrastructure system replacement cost recovery charge rate review shall proceed immediately from the date when the commission makes such a determination in the manner provided for in section 5 of this act.

(d) If commission certification to pursue negotiations is entered, the cities that have adopted resolutions to negotiate and the jurisdictional utility shall enter into good faith negotiations over the proposed infrastructure system replacement cost recovery charge rate.

(e) Negotiations between the cities and the jurisdictional utility shall continue for a period not to exceed thirty days after the date of the commission's certification to pursue negotiations, except that the parties may mutually agree to extend such period to a future date certain and shall provide such stipulation to the commission.

(f) If the cities and the jurisdictional utility reach agreement upon the proposed infrastructure system replacement cost recovery charge rate schedules, such agreement shall be put into writing and filed with the commission. If cities representing more than fifty percent of the ratepayers within the cities affected by the proposed infrastructure system replacement cost recovery charge rate schedules enter into an agreement upon such charges and the agreement is filed with and approved by the commission, such infrastructure system replacement cost recovery charge rate schedules shall be effective and binding upon all of the jurisdictional utility's ratepayers within the affected cities. The commission shall enter its order either approving or rejecting such infrastructure system replacement cost recovery charge rate schedules within thirty days after the date of the filing of the agreement with the commission.

(g) Any agreement filed with the commission shall be presumed in the public interest, and absent any clear evidence on the face of the agreement that it is contrary to the standards and provisions of the State Natural Gas Regulation Act, the agreement shall be approved by the commission.

(h) If the negotiations fail to result in an agreement upon any infrastructure system replacement cost recovery charge rate schedules within the time permitted by this section for such negotiations, the jurisdictional utility may formally notify the commission of this fact and the matter shall be submitted for determination by the commission as a contested proceeding with the affected cities as one party and the jurisdictional utility as the other. The affected cities and the jurisdictional utility shall submit any documents, data, or information in support of the city's or jurisdictional utility's position to the commission in a report to be filed not later than fourteen days after the commission receives notice that negotiations have failed and formally notifies the parties that it will be hearing the matter as a contested case. The commission shall hold a hearing in the case not later than thirty-five days after the receipt of the reports of both parties. In determining the appropriate pretax revenue of the jurisdictional utility, the commission shall consider the factors set out in subsection (5) of section 5 of this act. A final determination by the commission shall be rendered by the commission within twenty-one days after the adjournment of the hearing.

(i) If information filed pursuant to subdivision (h) of this subsection is not considered a public record within the meaning of sections 84-712 to 84-712.09, such information may be submitted to the commission by the jurisdictional utility or affected cities for the limited purpose of consideration by the commission under this section subject to a protective order issued by the commission.

(j) Within thirty days after any infrastructure system replacement cost recovery charge rate schedules approved by the commission pursuant to this section become effective, copies of all documents relating to such infrastructure system replacement cost recovery charge rate schedules, except those determined to be confidential under rules and regulations adopted and promulgated by the commission or that may be withheld from the public pursuant to subdivision (h) or (j) of this subsection, shall be available for public

inspection in every office and facility open to the general public of the jurisdictional utility in this state.

(5) A jurisdictional utility may apply for a change in any infrastructure system replacement cost recovery charge rate schedules approved pursuant to this section no more than once in any twelve-month period. Any such application for a change shall be pursued in the manner provided for in this section.

(6) (a) The monthly infrastructure system replacement cost recovery charge rate shall be allocated among the jurisdictional utility's classes of customers in the same manner as costs for the same type of facilities were allocated among classes of customers in the jurisdictional utility's most recent general rate proceeding. An infrastructure system replacement cost recovery charge rate shall be assessed to customers as a monthly fixed charge and not based on volumetric consumption. Such monthly charge shall not increase more than fifty cents per residential customer over the base rates in effect at the time of the initial filing for any infrastructure system replacement cost recovery charge rate schedules. Thereafter, each subsequent filing shall not increase the monthly charge by more than fifty cents per residential customer over that charge in existence at the time of the most recent application for any infrastructure system replacement cost recovery charge rate schedules.

(b) At the end of each twelve-month period during which the infrastructure system replacement cost recovery charge rate schedules are in effect, the jurisdictional utility shall reconcile the differences between the revenue resulting from an infrastructure system replacement cost recovery charge and the appropriate pretax revenue for that period and shall submit the reconciliation and any proposed infrastructure system replacement cost recovery charge rate schedules adjustment to the affected cities for approval to recover or refund the difference, as appropriate, through adjustments of the infrastructure system replacement cost recovery charge rate. Review and approval of such reconciliation or adjustment shall proceed in the manner set out in the commission order on the initial application for an infrastructure system replacement cost recovery charge rate.

(7) (a) A jurisdictional utility that has implemented any infrastructure system replacement cost recovery charge rate schedules pursuant to this section shall cease to collect such charges when new base rates and charges become effective for the jurisdictional utility following a commission order establishing or approving customer rates in a subsequent general rate proceeding.

(b) In any subsequent general rate proceeding involving a jurisdictional utility which is collecting charges pursuant to any infrastructure system replacement cost recovery charge rate schedules, the new general rates shall reflect a reconciliation of any previously unreconciled infrastructure system replacement cost recovery charge revenue as necessary to ensure that the revenue matches as closely as possible to the appropriate pretax revenue for that period as determined in the general rate proceeding.

(c) If, during a subsequent general rate proceeding, the recovery of certain costs associated with eligible infrastructure system replacements are disallowed, the new general rates approved shall include such adjustments as are necessary to recognize and account for any overcollections.

(8) Nothing in this section shall be construed to limit the authority of the commission or affected cities engaged in negotiations regarding a general rate filing with a jurisdictional utility to review and consider infrastructure system replacement cost recovery charge rates along with other costs during any general rate proceeding of such jurisdictional utility.

Sec. 7. Section 84-712.05, Reissue Revised Statutes of Nebraska, is amended to read:

84-712.05 The following records, unless publicly disclosed in an open court, open administrative proceeding, or open meeting or disclosed by a public entity pursuant to its duties, may be withheld from the public by the lawful custodian of the records:

(1) Personal information in records regarding a student, prospective student, or former student of any educational institution or exempt school that has effectuated an election not to meet state approval or accreditation requirements pursuant to section 79-1601 when such records are maintained by and in the possession of a public entity, other than routine directory information specified and made public consistent with 20 U.S.C. 1232g, as such section existed on January 1, 2003;

(2) Medical records, other than records of births and deaths and except as provided in subdivision (5) of this section, in any form concerning any person; records of elections filed under section 44-2821; and patient

safety work product under the Patient Safety Improvement Act;

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

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

(5) Records developed or received by law enforcement agencies and other public bodies charged with duties of investigation or examination of persons, institutions, or businesses, when the records constitute a part of the examination, investigation, intelligence information, citizen complaints or inquiries, informant identification, or strategic or tactical information used in law enforcement training, except that this subdivision shall not apply to records so developed or received relating to the presence of and amount or concentration of alcohol or drugs in any body fluid of any person;

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

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

(8) Information solely pertaining to protection of the security of public property and persons on or within public property, such as specific, unique vulnerability assessments or specific, unique response plans, either of which is intended to prevent or mitigate criminal acts the public disclosure of which would create a substantial likelihood of endangering public safety or property; computer or communications network schema, passwords, and user identification names; guard schedules; or lock combinations;

(9) The security standards, procedures, policies, plans, specifications, diagrams, access lists, and other security-related records of the Lottery Division of the Department of Revenue and those persons or entities with which the division has entered into contractual relationships. Nothing in this subdivision shall allow the division to withhold from the public any information relating to amounts paid persons or entities with which the division has entered into contractual relationships, amounts of prizes paid, the name of the prize winner, and the city, village, or county where the prize winner resides;

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

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

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

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

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

(15) Job application materials submitted by applicants, other than finalists, who have applied for employment by any public body as defined in section 84-1409. For purposes of this subdivision, (a) job application materials means employment applications, resumes, reference letters, and school transcripts and (b) finalist means any applicant (i) who reaches the final pool of applicants, numbering four or more, from which the successful applicant is to be selected, (ii) who is an original applicant when the final pool of applicants numbers less than four, or (iii) who is an original applicant and there are four or fewer original applicants; ~~and~~

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

(17) Information exchanged between a jurisdictional utility and city pursuant to section 6 of this act.

Sec. 8. Original sections 66-1802, 66-1839, and 84-712.05, Reissue Revised Statutes of Nebraska, and section 66-1801, Revised Statutes Cumulative Supplement, 2008, are repealed.