NEBRASKA EMERGENCY MANAGEMENT ACT

Reissue Revised Statutes of Nebraska
Section 81-829.31
Sections 81-829.36 to 81-829.75

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Revised Statutes of Nebraska

by
Nebraska Emergency Management Agency
2433 NW 24th Street
Lincoln, Nebraska 68524-1801
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81-829.31. Adjutant General; Emergency Management Act; administer. There is hereby created in the office of the Adjutant General the Nebraska Emergency Management Agency. The Adjutant General shall administer the Emergency Management Act.

81-829.36. Act, how cited. Sections 81-829.36 to 81-829.75 shall be known and may be cited as the Emergency Management Act.

81-829.37. Purposes of act. The purposes of the Emergency Management Act and the policy of the state are to:

(1) Reduce the vulnerability of people and communities of this state to damage, injury, and loss of life and property resulting from natural, technological, or manmade disasters and emergencies, civil disturbances, or hostile military or paramilitary action;

(2) Provide an emergency management system embodying all aspects of preparedness, response, recovery, and mitigation;

(3) Clarify and strengthen the roles of the Governor, state agencies, and local governments in the mitigation of, prevention of, preparation for, response to, and recovery from disasters, emergencies, or civil defense emergencies;

(4) Authorize and provide for cooperation and coordination of activities relating to mitigation of, prevention of, preparedness for, response to, and recovery from disasters, emergencies and civil defense emergencies by agencies and officers of this state and its political subdivisions and similar state, local, interstate, federal-state, and foreign activities in which the state and its political subdivisions may participate;

(5) Assist in mitigation and prevention of disasters, emergencies, and civil defense emergencies caused or aggravated by inadequate planning for and regulation of public and private facilities and land use; and

(6) Provide for the funding of activities incidental to carrying out the purposes of the act

81-829.38 Act, how construed. Nothing in the Emergency Management Act shall be construed to:

(1) Interfere with the course or conduct of a labor dispute, except that actions otherwise authorized by the act or other laws may be taken when necessary to forestall or mitigate imminent or existing danger to public health or safety;

(2) Interfere with the dissemination of news or comment on public affairs, but any communications facility or organization, including, but not limited to, radio and television stations, wire services, and newspapers, may be required to transmit or print public service messages furnishing information or instructions in connection with a disaster, emergency, or civil defense emergency;

81-829.38. (continued)

(3) Affect the jurisdiction or responsibilities of police forces, firefighting forces, units of the armed forces of the United States, or any personnel thereof, when on active duty, but state, city, village, county, and interjurisdictional emergency operations plans shall place reliance upon the forces available for performance of functions related to disasters, emergencies, or civil defense emergencies; or

(4) Limit, modify, or abridge the authority of the Governor to proclaim martial law or exercise any other powers vested in him or her under the Constitution of
Nebraska or the statues or common law of this state independent of or in conjunction with any provisions of the Emergency Management Act.

81-829.39. Terms, defined. For purposes of the Emergency Management Act, unless the context otherwise requires:

(1) Civil defense emergency means an emergency declared by the President of the United States or Congress pursuant to applicable federal law finding that an attack upon the United States has occurred or is anticipated and that the national safety therefor requires the invocation of the emergency authority provided for by federal law. Civil defense emergency also means an enemy attack or other hostile action within the State of Nebraska or a determination by the President of the United States that any attack has been made upon or is anticipated within a designated geographic area which includes all or a part of the State of Nebraska. Any such emergency shall terminate in the manner provided by federal law or by proclamation of the Governor or resolution of the Legislature terminating such emergency;

(2) Disaster means any event or the imminent threat thereof causing widespread or severe damage, injury, or loss of life or property resulting from any natural or manmade cause;

(3) Emergency means any event or the imminent threat thereof causing serious damage, injury, or loss of life or property resulting from any natural or manmade cause which, in the determination of the Governor or the principal executive officer of a local government, requires immediate action to accomplish the purposes of the Emergency Management Act and to effectively respond to the event or threat of the event;

(4) Emergency management means the preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to mitigate, prevent, minimize, respond to, and recover from injury and damage resulting from disasters, emergencies, or civil defense emergencies. Emergency management functions include, but need not be limited to, firefighting services, police services, medical and health services, search and rescue services, engineering services,

81-829.39 (continued)
communications and warning systems, radiological preparedness, hazardous materials response, evacuation of persons from stricken areas, emergency welfare services, emergency transportation services, restoration of public utility services, and other functions related to civilian protection, together with all other activities necessary or incidental to the preparation for and carrying out of the functions listed in this subdivision;

(5) Emergency management worker includes any full-time or part-time paid, volunteer, or auxiliary employee of this state or other states, territories, or possessions of the federal government or any neighboring country or of any political subdivision thereof, of the District of Columbia, or of any agency or organization performing emergency management services at any place in this state subject to the order or control of or pursuant to a request of the state government or any political subdivision thereof and also includes instructors and students in emergency management educational programs approved by the Nebraska Emergency Management Agency or otherwise under the provisions of the Emergency Management Act;

(6) Hazard mitigation means measures which will eliminate or reduce the potential for damage to an area or facility from the effects of a future disaster, emergency, or civil defense emergency;

(7) Local government means a county, village or city of any class;

(8) Political subdivision means a city, village, county, school district, public power district, natural resources district, and any other unit of government below the state level, including any entity created by local public agencies pursuant to the Interlocal Cooperation Act;

(9) Principal executive officer means the mayor in a city of any class or the elected chairperson of the governing body of a village or county;

(10) State emergency response team means an organization for emergency management established in accordance with the provisions of sections 81-829.52 to 81-829.54 by state authority to supplement city, village, county, or interjurisdictional emergency management organizations in a stricken area; and

(11) Technological hazard means a hazard emanating from the manufacture, transportation, and use of such substances as radioactive materials, chemicals, explosives, flammables, agricultural pesticides, herbicides, disease agents, oil spills, and debris from space.

81-829.40 Governor; powers and duties. (1) The Governor shall be responsible for meeting the dangers to the state and people presented by disasters, emergencies, and civil defense emergencies, and in the event of disaster, emergency, or civil defense emergency beyond local control, he or she may assume direct operational control over all or any part of the emergency management functions within this state. He or she shall have general direction and control of emergency management and the Nebraska

81-829.40. (continued)
Emergency Management Agency and shall be responsible for carrying out the provisions of the Emergency Management Act.

(2) In order to effect the policy and purposes of the act, the Governor may issue proclamations and make, amend, and rescind the necessary orders, rules, and regulations to carry out the act.

(3) A state of emergency proclamation shall be issued by the Governor if he or she finds that a disaster, emergency, or civil defense emergency has occurred or that the occurrence or threat thereof is imminent. All proclamations issued under this subsection shall indicate the nature of the disaster, emergency, or civil defense emergency, the area or areas threatened, and the conditions which have brought about the state of emergency. All proclamations shall be disseminated promptly by means calculated to bring the contents to the attention of the general public and shall be promptly filed with the Nebraska Emergency Management Agency, the Secretary of State, and the clerks of the local governments in the area to which it applies. The proclamation shall continue in effect until the Governor finds that the threat or danger has passed or the disaster, emergency, or civil defense emergency has been dealt with to the extent that those conditions no longer exist and terminates the proclamation by letter of notice to such agency, the Secretary of State, and the clerks of the local governments in the area to which it applies. The Legislature by resolution may terminate a state of emergency proclamation at any time, whereupon the Governor shall terminate the proclamation by letter of notice to such agency, the Secretary of State, and the clerks of the local governments in the area to which it applies.

(4) A state of emergency proclamation shall activate state, city, village, county, and interjurisdictional emergency management organizations and emergency operations plans applicable to the local government or area in question and shall be the authority for the deployment and use of any forces to which the plan or plans apply and for use or distribution of any supplies, equipment, materials, and facilities assembled, stockpiled, or arranged to be made available pursuant to the act or any other provision of law relating to disasters, emergencies, or civil defense emergencies.

(5) During the continuance of any state of emergency the Governor shall be commander in chief of the organized and unorganized militia and of all other forces available for emergency management duty. To the greatest extent practicable, the Governor shall delegate or assign command authority by prior arrangement embodied in appropriate proclamations, orders, rules, and regulations, but nothing shall restrict his or her authority to do so by orders issued at the time of the disaster, emergency, or civil defense emergency.

(6) In addition to any other powers conferred upon the Governor by law, he or she may:

81-829.40. (continued)

(a) Suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or the orders, rules, or regulations of any state agency if strict compliance with the provisions of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the disaster, emergency, or civil defense emergency;

(b) Utilize all available resources of the state government and of each political subdivision of the state as are reasonably necessary to cope with the disaster, emergency, or civil defense emergency.

(c) Transfer the direction, personnel, or functions of state departments and agencies or units thereof for the purpose of performing or facilitating emergency management;

(d) Subject to any applicable requirements for compensation under section 81-829.57, commandeer or utilize any private property if he or she finds this necessary to cope with the disaster, emergency, or civil defense emergency;

(e) Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the state if he or she deems this action necessary for the preservation of life or other emergency management;

(f) Prescribe routes, modes of transportation, and destinations in connection with evacuation;

(g) Control ingress and egress to and from a disaster area, the movement of persons within the area, and the occupancy of premises in the area;

(h) Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, explosives, and combustibles; and

(i) Make provisions for the availability and use of temporary emergency housing.

(7) In the event of a civil defense emergency the Governor shall assume direct operational control over all or any part of the emergency management functions within this state.

81-829.41. Agency; Adjutant General; powers and duties. (1) The Nebraska Emergency Management Agency shall be maintained in the office of the Adjutant General. The Adjutant General shall be the director of the agency, shall administer the Emergency Management Act subject to the direction and control of the Governor, and shall receive such compensation for these services as shall be determined by the Governor. The agency shall have an assistant director and such other professional, technical, secretarial, and clerical employees as are necessary for the performance of its functions.

(2) The agency shall maintain an emergency operations plan and keep it current. The plan may include, but need not be limited to:

81-829.41. (continued)

(a) A history of Nebraska disasters, emergencies, and civil defense emergencies;

(b) An analysis of past and potential disasters, emergencies, and civil defense emergencies, including an identification of the functions and resources required to cope with such occurrences. The expected frequency of occurrence, along with the severity of effect, shall indicate the priority of preparedness efforts of the emergency management organizations of the state;

(c) Measures to be undertaken to accomplish damage assessment and situation analysis, warning, direction and control, coordination of operating forces, emergency resource management, emergency information and official instructions, communications and other necessary support to emergency response operations, and coordination and cooperation of federal, state, local, and nongovernmental agencies so as to provide a prompt and effective response to disasters, emergencies, and civil defense emergencies to prevent and minimize the injury and damage;

(d) The provision of relief and recovery assistance to individuals, political subdivisions of the state, and state agencies;

(e) Identification of areas of the state particularly vulnerable to disaster, emergency, or civil defense emergency;

(f) Recommendations for preventive and preparedness measures designed to eliminate or reduce disasters, emergencies, or civil defense emergencies or their impact, including, but not limited to, zoning, building, and other land-use control, and safety measures for securing mobile homes or other nonpermanent or semipermanent structures;

(g) Authorization and procedures for the erection or other construction of temporary works designed to protect against or mitigate danger, damage, or loss from flood, conflagration, or other disaster, emergency, or civil defense emergency;

(h) Assistance in designing city, village, county, and interjurisdictional emergency operations plans;

(i) Preparation and distribution to the appropriate state and political subdivision officials of catalogs of federal, state, and private disaster assistance programs; and

(j) Other necessary matters.

(3) The Nebraska Emergency Management Agency shall take an integral part in the development and revision of city, village, county, and interjurisdictional emergency operations plans prepared under section 81-829.46. It shall employ or otherwise secure the services of professional and technical personnel capable of providing expert assistance to political subdivisions and to city, village, county and interjurisdictional emergency management organizations. Such personnel shall consult with such political subdivisions and organizations on a regularly scheduled basis and shall make field examinations of the areas, circumstances, and conditions to which

81-829.41. (continued)
particular city, village, county, and interjurisdictional emergency operations plans are intended to apply and may suggest or require revisions.

(4) In preparing and revising the Nebraska emergency operations plans, the agency shall seek the advice and assistance of other agencies of government and the private sector. In advising city, village, county, and interjurisdictional emergency management organizations, the Nebraska Emergency Management Agency shall encourage them to also seek advice from these sources.

(5) The Nebraska emergency operations plans or any part thereof may be incorporated in rules or regulations of the agency.

(6) The agency shall:

(a) Determine the requirements of the state and its political subdivisions for basic necessities such as food, clothing and shelter in various disaster, emergency, or civil defense emergency situations;

(b) Procure and pre-position emergency supplies, materials, and equipment;

(c) Adopt and promulgate rules and regulations setting out standards and requirements for city, village, county, and interjurisdictional emergency operations plans;

(d) Periodically review city, village, county, and interjurisdictional emergency operations plans;

(e) Provide for state emergency response teams;

(f) Establish and operate or assist local governments, their emergency management organizations, and interjurisdictional emergency management organizations in establishing and operating training programs and programs of public information;

(g) Make surveys of such industries, resources, and facilities, both public and private, within the state as are necessary to carry out the purposes of the Emergency Management Act;

(h) Plan and make arrangements for the availability and use of any private facilities, services, and property and, if necessary and if in fact used, provide for payment for use under terms and conditions agreed upon;

(i) Establish a register of persons with training and skills important in disaster prevention, mitigation, preparedness, response, and recovery and emergency management;

(j) Establish a register of mobile and construction equipment and temporary housing available for use in a disaster or emergency;

(k) Prepare for issuance by the Governor proclamations, orders, rules, and regulations as are necessary or appropriate in coping with disasters, emergencies, and civil defense emergencies;

(l) Cooperate with the federal government and any public or private agency or entity in achieving any purpose of the act and in implementing programs for disaster prevention, mitigation, preparedness, response, and recovery and emergency management;

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(m) Coordinate state emergency response as directed by the Governor

(n) Cooperate with other emergency management agencies and public agencies in the development of emergency management registries which include persons with functional needs and the families and guardians of such persons for purposes of planning for assistance for such persons and their families and guardians before, during, and after a disaster or other emergency. Participation in an emergency management registry by persons with functional needs and their families shall be voluntary. Information obtained by emergency management agencies or other public agencies for such purposes shall not be considered a public record under section 84-712.01. All information acquired pursuant to this subdivision is confidential and shall not be disclosed or released except to other agencies which have a legitimate and official interest in the information for carrying out the purposes of this subdivision. Any person acquiring information pursuant to this subdivision who intentionally discloses or releases such information in violation of this subdivision is guilty of a Class III misdemeanor; and

(o) Do other things necessary, incidental, or appropriate for the implementation of the act.

81-829.42. Governor's Emergency Program; established. (1) The Legislature recognizes that, while appropriations are adequate to meet the normal needs, the necessity exists for anticipating and making advance provision to care for the unusual and extraordinary burdens imposed on the state and its political subdivisions by disasters, emergencies, or civil defense emergencies. To meet such situations, it is the intention of the Legislature to confer emergency powers on the Governor, acting through the Adjutant General and the Nebraska Emergency Management Agency, and to vest him or her with adequate power and authority within the limitation of available funds appropriated to the Governor's Emergency Program to meet any disaster, emergency, or civil defense emergency.

(2) There is hereby established the Governor's Emergency Program. Funds appropriated to the program shall be expended, upon direction of the Governor, for any state of emergency. The state of emergency proclamation shall set forth the emergency and shall state that it requires the expenditure of public funds to furnish immediate aid and relief. The Adjutant General shall administer the funds appropriated to the program.

(3) It is the intent of the Legislature that the first recourse shall be to funds regularly appropriated to state and local agencies. If the Governor finds that the demands placed upon these funds are unreasonably great, he or she may make funds available from the Governor's Emergency Program. Expenditures may be made upon the direction of the Governor for

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any or all emergency management functions or to meet the intent of the state emergency operations plans as outlined in section 81-829.41. Expenditures may also be made to state and federal agencies to meet the matching requirement of any applicable assistance programs.

(4) Assistance shall be provided from the funds appropriated to the Governor's Emergency Program to political subdivisions of this state which have suffered from a disaster, emergency, or civil defense emergency to such an extent as to impose a severe financial burden exceeding the ordinary capacity of the subdivision affected. Applications for aid under this section shall be made to the Nebraska Emergency Management Agency on such forms as shall be prescribed and furnished by the agency. The forms shall require the furnishing of sufficient information to determine eligibility for aid and the extent of the financial burden incurred. The agency may call upon other agencies of the state in evaluating such applications. The Adjutant General shall review each application for aid under this section and recommend its approval or disapproval, in whole or in part, to the Governor. If the Governor approves, he or she shall determine and certify to the Adjutant General the amount of aid to be furnished. The Adjutant General shall thereupon issue his or her voucher to the Director of Administrative Services who shall issue his or her warrants therefor to the applicant.

(5) When a state of emergency has been proclaimed by the Governor, the Adjutant General, upon order of the Governor, shall have authority to expend funds for purposes including, but not limited to:

(a) The purposes of the Emergency Management Act, including emergency management functions and the responsibilities of the Governor as outlined in the act;

(b) Employing for the duration of the state of emergency additional personnel and contracting or otherwise procuring all necessary appliances, supplies, and equipment;

(c) Performing services for and furnishing materials and supplies to state government agencies and local governments with respect to performance of any duties enjoined by law upon such agencies and local governments which they are unable to perform because of extreme climatic phenomena and receiving reimbursement in whole or in part from such agencies and local governments able to pay therefor under such terms and conditions as may be agreed upon by the Adjutant General and any such agency or local government;

(d) Performing services for and furnishing materials to any individual in connection with alleviating hardship and distress growing out of extreme climatic phenomena and receiving reimbursement in whole or in part from such individual under such terms as may be agreed upon by the Adjutant General and such individual;

(e) Opening up, repairing, and restoring roads and highways;

(f) Repairing and restoring bridges;

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(g) Furnishing transportation for supplies to alleviate suffering and distress;

(h) Restoring means of communication;

(i) Furnishing medical services and supplies to prevent the spread of disease and epidemics;

(j) Quelling riots and civil disturbances;

(k) Training individuals or governmental agencies for the purpose of perfecting the performance of emergency management duties as provided in the Nebraska emergency operations plans;

(l) Procurement and storage of special emergency supplies or equipment, determined by the Adjutant General to be required to provide rapid response by state government to assist local governments in impending or actual disasters, emergencies, or civil defense emergencies;

(m) Clearing or removing debris and wreckage which may threaten public health or safety from publicly owned or privately owned land or water; and

(n) Such other measures as are customarily necessary to furnish adequate relief in cases of disaster, emergency, or civil defense emergency.

(6) If response to a disaster or emergency is immediately required, the Adjutant General may make expenditures of up to twenty-five thousand dollars per event without a state of emergency proclamation issued by the Governor. Such expenditures shall be used for the purposes provided in subsection (5) of this section.

(7) The Governor may receive such voluntary contributions as may be made from any nonfederal source to aid in carrying out the purposes of this section and shall credit the same to the Governor's Emergency Cash Fund.

(8) All obligations and expenses incurred by the Governor in the exercise of the powers and duties vested in the Governor by this section shall be paid by the State Treasurer out of available funds appropriated to the Governor's Emergency Program, and the Director of Administrative Services shall draw his or her warrants upon the State Treasurer for the payment of such sum, or so much thereof as may be required, upon receipt by him or her of proper vouchers duly approved by the Adjutant General.

(9) This section shall be liberally construed in order to accomplish the purposes of the Emergency Management Act and to permit the Governor to adequately cope with any disaster, emergency, or civil defense emergency which may arise, and the powers vested in the Governor by this section shall be construed as being in addition to all other powers presently vested in him or her and not in derogation of any existing powers.

(10) Such funds as may be made available by the government of the United States for the purpose of alleviating distress from disasters,

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emergencies, and civil defense emergencies may be accepted by the State Treasurer and shall be credited to a separate and distinct fund unless otherwise specifically provided in the act of Congress making such funds available or as otherwise allowed and provided by state law.

(11) It is the intent of the Legislature that the four million dollars saved due to the elimination of funding for the Angel Investment Tax Credit Act be used to increase the appropriation to the Military Department for the Governor's Emergency Program by four million dollars for fiscal year 2020-21.

81-829.43. Prevention measures; procedure. (1) In addition to prevention measures included in the state, city, village, county, and interjurisdictional emergency operations plans, the Governor shall consider on a continuing basis steps that could be taken to prevent or reduce the harmful consequences of disasters, emergencies, and civil defense emergencies. At his or her direction and pursuant to any other authority and competence they have, state agencies, including, but not limited to, those charged with responsibilities in connection with flood plain management, stream encroachment and flow regulation, fire prevention and control, air quality, public works, land use and land-use planning, and construction standards, shall make studies of prevention-related matters. The Governor, from time to time, shall make such recommendations to the Legislature, local governments, and other appropriate public and private entities as may facilitate measures for prevention or mitigation of the harmful consequences of disasters, emergencies, and civil defense emergencies. The recommendations submitted to the Legislature shall be submitted electronically.

(2) The appropriate state agencies, in conjunction with the Nebraska Emergency Management Agency, shall keep land uses and construction of structures and other facilities under continuing study and identify areas which are particularly susceptible to severe land shifting, subsidence, flood, or other catastrophic occurrence. The studies under this subsection shall concentrate on means of mitigating or avoiding the dangers caused by any such occurrence or the consequences thereof.

(3) If the agency believes on the basis of the studies or other competent evidence that an area is susceptible to a disaster, emergency, or civil defense emergency of catastrophic proportions without adequate warning, that existing building standards and land-use controls in that area are inadequate and could add substantially to the magnitude thereof, and that changes in zoning regulations, other land-use regulations, or building requirements are essential in order to further the purposes of this section, it shall specify the essential changes to the Governor. If the Governor upon review of the recommendation finds after public hearing that the changes are essential, he or she shall so recommend to the agencies or local

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governments with jurisdiction over the area and subject matter. If no action or insufficient action pursuant to his or her recommendations is taken within the time specified by the Governor, he or she shall so inform the Legislature electronically and request appropriate legislative action to mitigate the impact of a disaster, emergency, or civil defense emergency.

(4) The Governor, at the same time that he or she makes recommendations pursuant to subsection (3) of this section, may suspend the standard or control which he or she finds to be inadequate to protect the public safety and by regulation place a new standard or control in effect. The new standard or control shall remain in effect until rejected by resolution of the Legislature or amended by the Governor. During the time it is in effect, the standard or control contained in the Governor's regulation shall be administered and given full effect by all relevant regulatory agencies of the state and local governments to which it applies. The Governor's action shall be subject to judicial review but shall not be subject to temporary stay pending litigation.

81-829.44 Repealed. Laws 1996, LB 43, § 54.

81-829.45. Agency; weather conditions; continuously apprise. The Nebraska Emergency Management Agency shall keep continuously apprised of weather conditions which present danger of precipitation or other climatic activity severe enough to constitute a disaster or emergency.

81-829.46. Local government; Governor; powers; duties; performance of functions. (1) The elected officers of local governments shall be responsible for ensuring that emergency management services are provided to their citizens and for coordinating emergency operations in their respective jurisdictions.

(2) Each local government shall be within the jurisdiction of and served by the Nebraska Emergency Management Agency and shall participate in a city, village, county, or interjurisdictional emergency management organization. Each county or interjurisdictional emergency management organization shall cooperate with and perform emergency management functions for the local governments located within the organization’s boundaries but shall not have responsibility for emergency management services within a city or village having its own emergency management organization. Each city or village may maintain a city or village emergency management organization which, if formed, shall be the primary organization for emergency management serving that city or village. Any county or interjurisdictional emergency management organization may assist in emergency management functions for that city or village if approved by the city or village emergency management organization. Each county may

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maintain a county emergency management organization which shall be the primary organization for emergency management for that county. Any city, village, or interjurisdictional emergency management organization may assist in emergency management functions for that county if approved by the county emergency management organization.

(3) Each city, village, county, or interjurisdictional emergency management organization, if formed, shall have either (a) a full-time director or (b) a full-time deputy director and such additional personnel as may be needed, appointed in accordance with the agreement establishing the organization. Such director shall have direct responsibility for the organization, administration, and operation of such emergency management organization subject to the direction and control of the principal executive officer for the local government or in accordance with such agreement. A person may serve as a director for more than one emergency management organization serving an area.

(4) The Governor may determine that some cities need emergency management organizations of their own. The Governor shall, after making such determination, require that such emergency management organizations be established and maintained by issuing a directive in the form of a rule or regulation. The Governor shall make the determination on the basis of a city's vulnerability and capability of response related to population size and concentration. The Nebraska Emergency Management Agency shall publish and keep current a list of cities required to have an emergency management organization.

(5) Any provision of the Emergency Management Act or other law to the contrary notwithstanding, the Governor may require a local government to establish and maintain an emergency management organization jointly with one or more contiguous local governments if he or she finds that the establishment and maintenance of or participation in such an organization is made necessary by circumstances or conditions that make it unusually difficult to provide disaster prevention, preparedness, response, or recovery services or emergency management functions under other provisions of the act. Such interjurisdictional organizations shall be organized generally in accord with the Interlocal Cooperation Act and the planning and development regions created in section 13-1901.

(6) City, Village, county, or interjurisdictional emergency management directors or coordinators or their assistants or deputies, who are required by the Emergency Management Act or rules and regulations of the Governor to devote full time to their duties, shall be qualified and certified in accord with criteria established for the state by the Nebraska Emergency Management Agency. Such directors or coordinators shall be paid for their services in an amount comparable to other officers of local governments.

(7) Each local government shall have a liaison officer designated to facilitate cooperation with emergency management

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organizations and to ensure that emergency management services are provided to the citizens of that local government. The liaison officers of local governments and the directors of the emergency management organizations shall communicate frequently to facilitate joint emergency preparedness efforts. For local governments which maintain an emergency management organization, the director or coordinator may serve as the liaison officer.

(8) The principal executive officer of each local government of the state shall notify the Nebraska Emergency Management Agency of the manner in which the local government is providing or securing emergency management services, identify the person who heads the entity from which the service is obtained, and furnish such additional information as the agency requires.

(9) Each city, village, county or interjurisdictional emergency management organization shall prepare and keep current a city, village, county, or interjurisdictional emergency operations plan for its jurisdiction. Such plans shall be in conformance with the requirements established in the act.

(10) Each city, village, county, or interjurisdictional emergency management organization shall prepare, keep current, and distribute to all appropriate officials in written form a clear and complete statement of the disaster and emergency management responsibilities of all local entities and officials and of the emergency response chain of command.

81-829.47. Interjurisdictional emergency management arrangement; Governor findings. (1) If the Governor finds that two or more adjoining counties would be better served by an interjurisdictional emergency management arrangement than by maintaining separate emergency management organizations and services, the Governor may delineate by order or regulation an interjurisdictional area adequate to plan for, prevent, or respond to a disaster, emergency, or civil defense emergency in that area and direct such steps to be taken as are necessary, including the creation of an interjurisdictional emergency management relationship, a joint emergency operations plan, mutual aid, or an interjurisdictional emergency management organization. A finding of the Governor pursuant to this subsection shall be based on one or more factors related to the difficulty of maintaining an efficient and effective disaster prevention, mitigation, preparedness, response, and recovery and emergency management system without such interjurisdictional arrangement, such as:

(a) Small or sparse population;

(b) Limitations on public financial resources severe enough to make maintenance of separate emergency management organizations and services unreasonably burdensome;

(c) Unusual vulnerability to disaster, emergency, or civil defense emergency as evidenced by past history, topographical features,

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drainage characteristics, potential for disaster, emergency, or civil defense emergency, and presence of facilities or operations prone to disaster, emergency, or civil defense emergency;

(d) The interrelated character of the counties multicounty area, or

(e) Other relevant conditions or circumstances.

(2) If the Governor finds that a vulnerable area lies only partly within this state and includes territory in another state or states and that it would be desirable to establish an interstate relationship, mutual aid, or an interstate emergency management organization, the Governor shall take steps to that end as desirable. If this action is taken with jurisdictions that have enacted the Emergency Management Assistance Compact, any resulting agreements may be considered supplementary agreements pursuant to Article VII of that compact.

(3) If the other jurisdictions with which the Governor proposes to cooperate pursuant to subsection (2) of this section have not enacted the compact, the Governor may negotiate special agreements with the jurisdictions. Any agreement, if sufficient authority for the making thereof does not otherwise exist, shall become effective only after its text has been communicated electronically to the Legislature and if the Legislature has not disapproved it prior to adjournment of the next session competent to consider it or within thirty days of its submission, whichever is later.

81-829.48. Emergency management aid and assistance; mutual aid arrangements; interjurisdictional emergency management agreement.

(1) The director or coordinator of each city, village, county or interjurisdictional emergency management organization shall, in collaboration with other public and private entities within this state, develop or cause to be developed mutual aid arrangements for reciprocal emergency management aid and assistance in case of disaster, emergency, or civil defense emergency too great to be dealt with unassisted. Such arrangements shall be consistent with the state emergency operations plan, and in time of emergency it shall be the duty of each city, village, county, or interjurisdictional emergency management organization to render assistance in accordance with the provisions of such mutual aid arrangements.

(2) The director or coordinator of each city, village, county, or interjurisdictional emergency management organization may, subject to the approval of the Governor, enter into mutual aid organizations in other states for reciprocal emergency management aid and assistance in case of disaster, emergency, or civil defense emergency too great to be dealt with unassisted.

(3) It shall be a sufficient reason for the Governor to require an interjurisdictional emergency management agreement or arrangement pursuant to section 81-829.47 if the area and local governments involved

81-829.48. (continued)
have available equipment, supplies, and forces necessary to provide mutual aid on a regional basis and that the local governments have not already made adequate provision for mutual aid, but in requiring the making of an adequate provision for mutual aid, but in requiring the making of an interjurisdictional emergency management arrangement to accomplish the purposes of this section, the Governor need not require establishment and maintenance of an interjurisdictional emergency management organization or arrangement for any other disaster, emergency or civil defense emergency purposes.

81-829.49. Local government, school district, or educational service unit appropriations. Each local government, school district, or educational service unit shall have the power to make appropriations in the manner provided by law for making appropriations for the ordinary expenses of such local government, school district, or educational service unit for the payment of expenses of its city, village, county, school district, educational service unit, or interjurisdictional emergency management organization and in furthering the purposes of the Emergency Management Act.

81-829.50. Local emergency; declared; principal executive officer of a local government; effect; interjurisdictional emergency management organization.

(1) A local emergency may be declared only by the principal executive officer of a local government who finds that conditions defined as a disaster or an emergency exist or by a person who by resolution has been authorized and designated by the governing board of a local government to determine that an emergency within the scope of his or her authorization exists. A copy of the resolution shall be filed with the Nebraska Emergency Management Agency to be effective. The proclamation shall continue in effect until the principal executive officer finds that the disaster or emergency has been dealt with to the extent that those conditions no longer exist. The local governing body by resolution may terminate a local state of emergency proclamation at any time, and upon such termination the principal executive officer shall terminate the proclamation. Any order or proclamation declaring, continuing, or terminating a local emergency shall be given prompt and general publicity and shall be filed promptly with the clerk of the local government and the Nebraska Emergency Management Agency.

(2) The effect of a declaration of a local emergency shall be to activate the response and recovery aspects of any and all applicable city, village, county, or interjurisdictional emergency operations plans and to authorize the furnishing of aid and assistance under such plans.

(3) No interjurisdictional emergency management organization or official thereof may declare a local emergency unless expressly authorized by the agreement pursuant to which the organization functions, but an

81-829.50. (continued)
interjurisdictional emergency management organization shall provide aid and services in accordance with the agreement and emergency operations plan pursuant to which it functions.

81-829.51. Local government; school district; educational service unit; emergency expenditures; vote of governing body; when.

(1)(a) In the event of a disaster, emergency, or civil defense emergency, each local government may make emergency expenditures, enter into contracts, and incur obligations for emergency management purposes regardless of existing statutory limitations and requirements pertaining to appropriation, budgeting, levies, or the manner of entering into contracts.

(b) In the event of a disaster, emergency, or civil defense emergency, each school district or educational service unit may make emergency expenditures, enter into contracts, and incur obligations for emergency management purposes and to minimize the disruption to education services regardless of existing statutory limitations and requirements pertaining to appropriation, budgeting, or the manner of entering into contracts.

(2) If any such expenditure, contract, or obligation will be in excess of or in violation of existing statutory limitations or requirements, then before any such expenditure, contract, or obligation is undertaken it shall be approved by a vote of the governing body of such local government, school district, or educational service unit. The governing body may not vote its approval unless it has secured a copy of the proclamation as provided in section 81-829.50 from the city, village, county, or interjurisdictional emergency management director serving such local government, school district, or educational service unit. For school districts and educational service units, the proclamation shall be secured from the county in which the school district or principal office of the educational service unit is located.

81-829.52. State emergency response teams; establish; team leader; appointment; duties. Upon orders of the Governor, the Adjutant General is authorized to establish such number of state emergency response teams as may be necessary to reinforce emergency management organizations in stricken areas and with due consideration of the plans of the federal government and of other states. The Adjutant General shall appoint a team leader for each team who shall have primary responsibility for the organization, administration, and operation of such team. The team leader shall keep and maintain a roster of members of the team, and only such persons whose names appear on the roster shall be deemed members of such team and entitled to the benefits provided by section 81-829.53. No political subdivision shall be entitled to reimbursement as provided in section 81-829.54 unless the individual on whose behalf reimbursement is sought

81-829.52. (continued)
was duly enrolled on the roster as provided in this section at the time the obligation was incurred. State emergency response teams shall perform their functions in any part of the state or, upon the conditions specified in mutual aid plans and emergency management agreements, in accordance with the Emergency Management Assistance Compact, and in this section, in other states.

81-829.53. State emergency response teams; personnel; powers; duties; rights; immunities; compensation. Personnel of state emergency response teams while on duty, whether within or without the state shall:

(1) If they are employees of the state, have the powers, duties, rights, privileges, and immunities and receive the compensation incidental to their employment;

(2) if they are employees of a political subdivision of the state, and whether serving within or without such political subdivision, have the powers, duties, rights, privileges, and immunities and receive the compensation incidental to their employment; and

(3) if they are not employees of the state or a political subdivision thereof, be entitled to compensation by the state at rates to be established by the Governor and shall be entitled to the same rights and immunities as are provided by law for the employees of this state. State emergency response teams shall, while on duty, be subject to the operational control of the authority in charge of emergency management activities in the area in which they are serving and shall be reimbursed for expenses in accordance with sections 81-1174 to 81-1177.

81-829.54. State emergency response teams; employees; expenses; political subdivisions; reimbursement by state; rental of equipment; payment; damages. (1) The state shall reimburse a political subdivision for (a) the compensation paid expenses of employees of such political subdivision while serving as members of a state emergency response team as provided in sections 81-1174 to 81-1177, (b) all payments for death, disability, or injury of such employees incurred in the course of such duty as provided in the Nebraska Workers' Compensation Act, and (c) all losses of or damage to supplies and equipment of such political subdivision resulting from the operation of such state emergency response team.

(2) The state shall pay a fee for rental of privately owned equipment used in the operation of a state emergency response team and shall also pay for any loss or damage to privately owned equipment used in emergency response. The fee for rental of such privately owned equipment shall be fixed, and any loss or damage to such equipment shall be assessed by a board consisting of three persons to be appointed by the Governor, one of whom shall be the material administrator of the material division of the Department of Administrative Services.

81-829.55. Immunity from liability for activities; covered by Nebraska Workers' Compensation Act; licenses, not required; emergency management worker; powers, duties, immunities, privileges. (1) All functions provided for in the Emergency Management Act and all other activities relating to emergency management are hereby declared to be governmental functions. The United States, the state, any political subdivision thereof, and, except in cases of willful misconduct, gross negligence, or bad faith, any emergency management worker complying with or reasonably attempting to comply with the provisions of the act, any emergency management act of Congress, or any order, rule, or regulation promulgated pursuant to the act or any emergency management act of Congress or acting pursuant to any ordinance relating to black-out or other precautionary measures enacted by any political subdivision of the state shall not be liable for the death of or injury to persons or for damage to property as a result of any such activity. This section shall not affect the right of any person to receive benefits to which he or she would otherwise be entitled under the Emergency Management Act, under the Nebraska Workers' compensation Act, or under any pension law or the right of any person to receive any benefits or compensation under any act of Congress.

(2) Any requirement for a license to practice any professional, mechanical, or other skill shall not apply to any authorized emergency management worker who in the course of performing duties as such practices such professional, mechanical, or other skill during a civil defense emergency or declared state of emergency.

(3) Any emergency management worker performing emergency management services at any place in this state pursuant to agreements, compacts, or arrangements for mutual aid and assistance to which the state or a political subdivision thereof is a party shall possess the same powers, duties, immunities, and privileges he or she would ordinarily possess if performing such duties in the state, province, or political subdivision thereof in which normally employed or rendering services.

81-829.56. Interstate Civil Defense and Disaster Compact; enactment; other agreements or compacts; approval.

(1) The State of Nebraska hereby withdraws from the Interstate Civil Defense and Disaster Compact pursuant to Article 13 of such compact

(2) If any person holds a license, certificate, or other permit issued by any state or political subdivision thereof evidencing the meeting of qualifications for professional, mechanical, or other skills, the person may render aid involving that skill in this state to meet an emergency or disaster, and the State of Nebraska shall give due recognition to the license, certificate, or other permit.

(3) The Governor may enter into, and execute on behalf of the State of Nebraska, mutual aid agreements or emergency preparedness compacts with other states. Any such agreement or compact shall provide for

81-829.56. (continued)
reimbursement of all costs incurred by the State of Nebraska for actions taken in another state, for indemnification of the State of Nebraska and its employees against all claims, costs, or fees arising from actions taken in another state, and for termination of the agreement or assistance as necessary to meet disasters, emergencies, or other needs of the State of Nebraska. Any mutual aid agreement or emergency preparedness compact other than the Emergency Management Assistance Compact that does not meet the requirements specified in this subsection shall be submitted electronically to the Legislature for approval by the Legislature before such agreement or compact can become effective.

81-829.57. Persons within the state; conduct; personal services; compensation for property; claim; file. (1) Each person within this state shall conduct himself or herself and keep and manage his or her affairs and property in ways that will reasonably assist and will not unreasonably detract from the ability of the state and the public successfully to meet disasters, emergencies, or civil defense emergencies. This obligation shall include appropriate personal service and use or restriction on the use of property in time of disaster, emergency, or civil defense emergency. The Emergency Management Act shall not be construed to increase or decrease these obligations, but the act recognizes their existence under the Constitution of Nebraska and statutes of this state and the common law. Compensation for services or for the taking or use of property shall be only to the extent that obligations recognized in this subsection are exceeded in a particular case and then only to the extent that the claimant may not be deemed to have volunteered his or her services or property without compensation.

(2) No personal services may be compensated by the state or any subdivision or agency thereof, except pursuant to statute or local law, resolution, or ordinance.

(3) Compensation for property shall be made only if the property was commandeered or otherwise used in coping with a disaster, emergency, or civil defense emergency and its use or destruction was ordered by the Governor or a member of the emergency management forces of this state to whom the Governor has duly delegated such authority.

(4) Any person claiming compensation for the use, damage, loss, or destruction of property under the act shall file a claim therefor with the Nebraska Emergency Management Agency in the form and manner the agency provides.

(5) Unless the amount of compensation on account of property damaged, lost or destroyed is agreed upon between the claimant and the agency, the amount of compensation shall be calculated in the same manner as compensation due for a taking of property pursuant to the condemnation laws of this state.

81-829.57. (continued)

(6) Nothing in this section shall apply to or authorize compensation for the destruction or damaging of standing timber or other property in order to provide a fire break or to the release of waters or the breach of impoundments in order to reduce pressure or other danger from actual or threatened flood.

81-829.58. Emergency management; supplies and services from federal government; funds; disposition. Whenever the federal government or any agency or officer thereof offers to the state or, through the state, to any political subdivision thereof services, equipment, supplies, materials, or funds by way of gift, grant, or loan for purposes of disaster response and emergency management, the state, acting through the Governor, or such political subdivision, acting with the consent of the Governor and through its principal executive officer or governing body, may accept such offer. Upon such acceptance the Governor of the state or principal executive officer or governing body of such political subdivision may authorize any officer of the state or such political subdivision to receive such services, equipment, supplies, materials, or funds on behalf of the state or such political subdivision, subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer. All such funds received on behalf of the state shall be remitted to the State Treasurer for credit to a separate and distinct fund unless otherwise specifically provided in the act of Congress making such funds available, or as otherwise allowed and provided by state law.

81-829.59. Emergency management; supplies and services from private entities; funds; disposition.

Whenever any person, firm, or corporation offers to the state or to any political subdivision thereof services, equipment, supplies, materials, or funds by way of gift, grant, or loan for purposes of disaster response and emergency management, the state, acting through the Governor, or such political subdivision, acting through its principal executive officer or governing body, may accept such offer. Upon such acceptance the Governor of the state or principal executive officer or governing body of such political subdivision may authorize any officer of the state or of the political subdivision to receive such services, equipment, supplies, materials, or funds on behalf of the state or such political subdivision, subject to the terms of the offer. All such funds received on behalf of the state shall be remitted to the State Treasurer for credit to the Governor's Emergency Fund.

81-829.60. Emergency management; utilization of services, equipment, supplies, and facilities of existing departments and agencies of state. In carrying out the Emergency Management Act, the Governor and the principal executive officers or governing bodies of the political subdivisions of

81-829.60. (continued)
the state shall utilize the services, equipment, supplies, and facilities of existing departments, offices, and agencies of the state and its political subdivisions to the maximum extent practicable. The officers and personnel of all such departments, offices, and agencies shall cooperate with and extend such services and facilities to the Governor and to the disaster response and emergency management organizations of the state upon request.

81-829.61. Emergency management organizations; political activities prohibited. No emergency management organization established under the Emergency Management Act shall participate in any form of political activity nor shall it be employed directly or indirectly for political purposes.

81-829.62. Emergency management; personnel; advocation of subversive activities against government; prohibited. No person shall be employed or associated in any capacity in any emergency management organization established under the Emergency Management Act who advocates or has advocated a change by force or violence in the constitutional form of the government of the United States or in this state or the overthrow of any government in the United States by force or violence or who has been convicted of or is under indictment or information charging any subversive act against the United States.

81-829.63. Repealed. Laws 1996, LB43, s. 54.

81-829.64. Emergency management organizations; enforce orders, rules, and regulations. Every emergency management organization established pursuant to the Emergency Management Act and the officers thereof shall execute and enforce such orders, rules, and regulations as may be made by the Governor under the act. Each such organization shall have available for inspection at its office all orders, rules, and regulations made by the Governor or under his or her authority.

81-829.65. Emergency operations; moving of equipment outside limits of local government; law enforcement personnel; powers; insurance. The governing body of each local government of this state shall take the necessary action to permit the movement of its emergency equipment and personnel, utility equipment and personnel, or such equipment and personnel as defined in the state, city, village, county, or interjurisdictional emergency operations plans outside the limits of such local government in order to render aid in the event of disaster, emergency, or civil defense emergency or in connection with any program of practice or training for such disaster, emergency, or civil defense emergency when such program is conducted or participated in by the Nebraska Emergency Management Agency or with any

81-829.65. (continued)
other related training program. If such personnel includes law enforcement personnel rendering aid in their law enforcement capacity, the law enforcement personnel shall have the power and authority to enforce the laws of this state or any legal ordinances or resolutions of the local government where they are rendering aid or otherwise perform the functions of their office, including the authority to arrest and detain suspects, as if enforcing the laws or performing the functions within the territorial limits of their primary jurisdiction. Such movement may be to any point in this state or may be into any adjoining state when mutual aid arrangements have been entered into on behalf of this state with such other state as authorized by section 81-829.56. Each local government shall self-insure or contract for insurance against any liability for personal injuries or property damage that may be incurred by it or by its personnel as the result of any movement made pursuant to this section.

81-829.66. Emergency operations; immunity from liability for licensors of shelter space. Any person owning or controlling real estate or other premises who voluntarily and without compensation grants a license or privilege, or otherwise permits the designation or use of the whole or any part or parts of such real estate or premises for the purpose of sheltering persons during an actual, impending, mock or practice attack or disaster shall, together with his successors in interest, if any, not be civilly liable for negligently causing the death of, or injury to, any person on or about such real estate or premises, or loss of, or damage to, the property of such person, at any time such real estate or premises are actually used for such purpose.

81-829.67. Storm spotter or emergency management worker; training, identification, and credentialing.

(1) The Nebraska Emergency Management Agency shall develop training, identification, and credentialing standards for a storm spotter or emergency management worker.

(2) For purposes of this section, storm spotter means an individual who performs weather spotting services as an employee or a volunteer of a local emergency management organization and who has been credentialed by the Nebraska Emergency Management Agency under this section.

81-829.68. Repealed. Laws 1976, LB 847, § 2.

81-829.69. State of emergency; proclaimed by Governor; powers.
Whenever the Governor has proclaimed a state of emergency pursuant to section 81-829.40, the Governor shall be authorized:

81-829.69. (continued)

(1) To enter into purchase, lease, or other arrangements with any agency of the United States for temporary housing units to be occupied by disaster, emergency, or civil defense emergency victims and to make such units available to any local government of the state;

(2) To assist any local government of the state which is the location of temporary housing for victims to acquire sites necessary for such temporary housing and to do all things required to prepare such sites to receive and utilize temporary housing units; and

(3) Under such regulations as he or she shall prescribe, to temporarily suspend or modify for not to exceed sixty days any public health, safety, zoning, transportation, or other requirement of law or regulation within this state when by proclamation he or she deems such suspension or modification essential to provide temporary housing for victims.

81-829.70. Temporary housing units; powers of local governments. Any local government of this state is expressly authorized to acquire, temporarily or permanently, by purchase, lease, or otherwise, sites required for installation of temporary housing units for disaster, emergency, or civil defense emergency victims and to enter into whatever arrangements are necessary to prepare or equip such sites to utilize the housing units.

81-829.71. Major disaster; powers of Governor; apply for federal community disaster loans; cancellation of repayment; when. Whenever a major disaster has been declared to exist in this state, the Governor shall be authorized:

(1) Upon his determination that a local government of the state will suffer a substantial loss of tax and other revenue from a major disaster and has demonstrated a need for financial assistance to perform its governmental functions, to apply to the federal government, on behalf of the local government, for a loan, and to receive and disburse the proceeds of any approved loan to any applicant local government subject to the terms of the loan. The Governor shall determine the amount needed by any applicant local government to restore or resume its governmental functions, and certify such amount to the federal government; and

(2) To recommend to the federal government, based upon his review, the cancellation of all or any part of repayment when, in the first three full fiscal years following the major disaster, the revenue of the local government is insufficient to meet its operating expenses, including additional disaster-related expenses of municipal operation.

81-829.72. State of emergency; powers of Governor; Adjutant General; duty.

(1) Whenever a state of emergency has been declared to exist in this state, the Governor is authorized, upon his or her determination that

81-829.72. (continued)
financial assistance is essential to meet related necessary expenses or serious needs of individuals or families adversely affected by a disaster, emergency, or civil defense emergency that may not be otherwise met from other means of assistance, to (a) accept a grant by the federal government to provide such financial assistance, subject to such terms and conditions as may be imposed upon the grant, and (b) provide assistance from the Governor's Emergency Program to such individual assistance programs as may be required by terms and conditions of the federal program.

(2) The Adjutant General shall establish such individual assistance programs as shall be necessary to carry out the purposes of subsection (1) of this section.

81-829.73. Misstatement concerning financial assistance; penalty. Any person who fraudulently or willfully makes a misstatement of fact in connection with an application for financial assistance under the Emergency Management Act shall, upon conviction of each offense, be guilty of a Class I misdemeanor.

81-829.74. Repealed. Laws 1996, LB 43, s. 54.

81-829.75. References to prior act and agency; how construed. On and after July 19, 1996, all references in statutes, rules, regulations, ordinances, resolutions, and other documents to the Nebraska Disaster and Civil Defense Act of 1973 shall be construed to mean the Emergency Management Act and all references in statutes, rules, regulations, ordinances, resolutions, and other documents to the civil defense agency in the Adjutant General's office shall be construed to mean the Nebraska Emergency Management Agency.

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