

STATE of NEBRASKA

CONTINUITY OF GOVERNMENT PLAN (COG)

August 2009



APPROVAL IMPLEMENTATION

This plan is hereby approved for implementation
and supersedes all previous editions.

A handwritten signature in blue ink, appearing to read "J. H. Hynes", is written over a horizontal line.

Director, Nebraska Emergency Management Agency

27 Aug 09

Date Signed

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STATE of NEBRASKA CONTUNITY of GOVERNMENT PLAN – OVERVIEW –

The purpose of the Nebraska Continuity of Government (COG) Plan is to provide the authority, policy, procedures, roles and responsibilities for the preservation, maintenance, or reconstitution of the state government's ability to carry out its constitutional responsibilities under all circumstances that may disrupt normal governmental operations. This plan describes the constitutional and statutory provisions related to the COG for the State of Nebraska.

The scope of this plan addresses state government continuation, resumption, and recovery from any incident, emergency, or disaster that threatens to obstruct state government's ability to carry out its constitutional responsibilities in three specific areas: seat of government, lines of succession, and emergency powers. It neither addresses the building of agency specific emergency action plans/planning nor agency specific Continuity of Operations Plans (COOP). This plan is not intended to address the Nebraska Emergency Management Agency's (NEMA) specific efforts to respond to any incident, emergency or disaster affecting state government. The above will be addressed in the State Emergency Operations Plan (SEOP) and within the individual state agency COOP plans and in the NEMA Continuity of Operations Plan.

The authority for this Plan includes:

The Constitution of the State of Nebraska – Articles III-29 and IV-16

Nebraska Revised and Reissued State Statutes 13-705, 32-559, 32-563, 32-564, 32-566, 32-567; 32-568, 32-569, 32-571, 32-572, 72-701.05; 81-829.36, 829.37 to 81-829.40, 84-1102; 84-127, 84-120, 84-121, 84-122, 84-1101, 84-1103, 84-1104, 84-1106.

United States Code (USC) -- Title 42, Section 5121 et seq., known as the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended.

The Governor of the State of Nebraska or the Governor's successor may enact the COG plan or any provisions contained within it at any time.

The Nebraska Emergency Management Agency (NEMA), in coordination with the Governor's Policy Research Office and the appropriate State Agencies supporting the SEOP, will coordinate all annual updates, revisions, or changes to the COG plan, consistent with State and Federal law, directives and guidelines.

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STATE of NEBRASKA CONTINUITY of GOVERNMENT

BASIC PLAN

I. PURPOSE

This plan describes the constitutional and statutory provisions related to the Continuity of Government for the State of Nebraska. Continuity of Government (COG) is the preservation, maintenance or reconstitution of the state government's ability to carry out its constitutional responsibilities under all circumstances that may disrupt normal governmental operations. The roles and responsibilities of essential departments, agencies, elected and appointed positions are defined for the duration of the incident that would precipitate implementing this plan.

II. SCOPE

A. Current State of Nebraska statutes define the responsibilities, limits and directs the functions and processes for implementing this plan. This plan addresses state government continuation, resumption, and recovery from any incident, emergency, or disaster that threatens to obstruct state government's ability to carry out its constitutional responsibilities in three specific areas:

1. Seat of government; state and local,
2. Lines of succession, and
3. Emergency powers.

B. This plan does not address the building or maintenance of agency specific emergency action plans/planning or agency specific Continuity of Operations Plans (COOP). This plan is not intended to address the Nebraska Emergency Management Agency's (NEMA) efforts to respond to any incident, emergency or disaster affecting state government. The above is addressed in the State Emergency Operations Plan (SEOP) and within the individual state agencies' COOP plans and in the NEMA Continuity of Operations Plan.

III. SITUATION

A. The State has recognized the need to provide essential functions and services to its citizens within the scope of capabilities at any given time and under adverse conditions.

B. Nebraska statutory law provides guidance with regard to vacancy and succession of essential chief elected officials; i.e. the Office of Governor, Lt. Governor, Secretary of State, et al.

IV. ASSUMPTIONS & PLANNING FACTORS

- A. The potential for catastrophic natural and human caused disasters, that would disrupt the normal governmental functions or operations and could impair or prevent the chief elected officials from fulfilling their public charge, exists.
- B. Under such circumstances above, the Nebraska Constitution and the Nebraska State Statutes address succession, the seat of government, emergency powers of the Governor and the Legislature's authority in times of disasters or emergencies.
- C. All state agencies and departments will conform to and support the emergency response legislative actions and Governor's orders, proclamations or directives.
- D. During a COG event, the Office of the Governor and all supporting state agencies and departments will operate in accordance with the current Nebraska State Emergency Operations Plan.
- E. The citizens of Nebraska will be promptly informed of the emergency and continuity of government activities.
- F. During a COG event, the Office of the Governor and all supporting state agencies' public information officers will operate from a Joint Information Center.

V. ORGANIZATIONAL RESPONSIBILITIES

- A. The Office of the Governor is responsible to implement appropriate and timely actions to insure the continuance of government functions and services, to include the ascendance of succession for the chief executive officials, if the individual holding that position is incapacitated or rendered unfit or unable to fulfill the obligations of office, and to implement the appropriate provisions of the Nebraska Emergency Management Act.
- B. The Legislature is responsible to implement appropriate and timely actions to insure the continuance of government functions and services, to include the ascendance of succession for the chief executive officials if the individual holding that position is incapacitated or rendered unfit or unable to fulfill the obligations of office, and to support the implementation of appropriate provisions of the Nebraska Emergency Management Act and all other statutes addressing the continuity of government, succession and emergency powers.
- C. The Secretary of State's Office shall follow and implement all statutes addressing the continuity of government, succession and emergency powers.
- D. All State Departments/Agencies will follow all proclamations, directives and orders from the Governor and implement the coordination and support for the COG as described in the SEOP and the individual organization's COOPs.

- E. NEMA is responsible for following all proclamations, directives and orders from the Governor and implementing the coordination and support management for the state emergency or disaster in accordance with all statutes and the State Emergency Operations Plan, with emphasis on ESF #5, Emergency Management, and other functions including, but not limited to, Communications, Response, and Recovery.
- F. The Nebraska State Patrol may provide heightened security for the chief executive officers and the relocated seat of government during the succession transitory period and thereafter for the duration of the event. As the disaster recovery reaches a non-threatening level, normal security will resume.
- G. The Department of Administrative Services will expedite the procurement of suitable facilities for relocation for the seat of government and allied support services. The DAS roles and responsibilities are further described in the SEOP, ESF # 7, Resource Support.
- H. The Department of Roads will provide logistical support for the physical transport of the seat of government, such as office hard goods and non-electronic stored records. Other roles and responsibilities as described in the SEOP will be met.

VI. CONCEPT of OPERATIONS

The Governor of the State of Nebraska or the Governor's successor may enact the COG plan or any provisions contained within it at any time. All state agencies and departments will cooperate and comply with incident directives from the Governor's Office, provide support as defined in the most current Nebraska State Emergency Operations Plan and will implement the appropriate sections of their agency's or department's COOP/COG plans. Nebraska statutes and constitution provide operative guides for changes to the seats of state and local governments, succession of the Governor and other Chief Executives, emergency powers of the Governor during a disaster or emergency and legislative authorities during such events. The statutes, directives and citations follow:

- A. The Nebraska Emergency Management Act section 81-829, var.
 - 1. 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.
 - 2. 81-829.37. Purpose of the act. The purposes of the emergency management Act and the policy of the state are to:
 - a. (2) Provide an emergency management system embodying all aspects of preparedness, response, recovery, and mitigation:
 - b. (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.

- c. (4) Authorize and provide for the 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;
3. 81-829.40. Governor; powers and duties.
 - a. (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, rule, and regulations to carry out the act.
 - b. (6) In addition to any other powers conferred upon the Governor by law, he or she may:
 - i. (a) Suspend the provisions of any regulatory statute prescribing the procedures for the 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;
 - ii. (c) Transfer the direction, personnel, or functions of state departments and agencies or units thereof for the purpose of performing or facilitating emergency management;
- B. Seat of State Government – Nebraska State Statute Section 72, et sequentia.
 1. 72-701.01 Act, how cited. Sections 72-701.01 to 72-701.06 shall be known and may be cited as the Nebraska Emergency Seat of State Government Act.
 2. 72-701.03 Emergency seat of state government; temporary location; designation. Temporary location of seat of government; location.

Whenever, due to an emergency resulting from the effects of an enemy attack or the imminent threat thereof, it becomes imprudent, inexpedient or impossible to conduct the affairs of the state government at the permanent seat of state government in the city of Lincoln, the Governor, by proclamation and as often as the exigencies of the situation may require, shall designate a temporary location or locations for an emergency seat of state government at such place or places, within or without this state, as he may deem proper and advisable under the circumstances, and he forthwith shall take such action and shall issue such orders and directives as may be necessary for the prompt and orderly transition of the affairs of the state government to such temporary location or locations. Such temporary location or locations shall be and remain the emergency seat of state government until another temporary location or locations shall be designated in the same

manner, or until the Governor, by proclamation, or the Legislature, by resolution approved by the Governor, shall declare the emergency to be ended, at which time the seat of state government shall be returned to its permanent location in Lincoln, or shall be removed to such other city in this state as shall be designated the new permanent seat of state government, in accordance with the Constitution of Nebraska and general laws of this state.

3. 72-701.04 Emergency seat of government; temporary location; validity of official acts.

During such time as such temporary location or locations shall remain the emergency seat of state government, all official acts done or performed thereat by or on the part of any officer, office, department, division, commission, court or board, or any other agency or authority of this state, including the Legislature, whether in regular, extraordinary, or emergency session, and all proceedings or court actions involving the state or its agencies or authorities, now or hereafter required to be brought or conducted at the seat of state government, shall be as valid, effective, and binding as if regularly done, performed, brought, or conducted at the permanent seat of state government.

4. 72-701.05 Emergency seat of state government; designation, when; plans and preparations; Governor; adopt; purchase of real estate prohibited; exception.
 - a. (1) The official designation of the location or locations of the emergency seat of state government, and the removal thereto of the government of the state, shall in no event precede: (a) The inception of an attack; or (b) the inception of a strategic or tactical warning period duly proclaimed by the President of the United States, the Governor of Nebraska, or by both such officials, and based on the imminence of an attack.
 - b. (2) Prior to any such attack or warning period, however, and subject to such rules and regulations as the Governor may promulgate, such preliminary plans and preparations may be made as shall be deemed necessary and advisable to facilitate the subsequent accomplishment, during such emergency, of the actions provided in sections 72-701.01 to 72-701.06. Such planning and preparations may include any or all of the following steps, but shall not necessarily be limited thereto: (a) Selection of a tentative location or locations for the emergency seat of state government in the event that, as provided in subsection (1) of this section, it subsequently becomes necessary and advisable to designate such tentative location or locations as the official location or locations of the emergency seat of state government; (b) negotiation with local authorities, property owners, and other proper persons, for the possible use and occupancy of specific buildings or areas or buildings and areas,

at or near such tentative location or locations, for the purposes mentioned in sections 72-701.01 to 72-701.06 during a subsequent emergency; and (c) storing and stockpiling, at or near the tentative location or locations, of essential supplies and equipment, and vital records or duplicates thereof which would be necessary to permit the continuity of the governmental operations of the state in an emergency.

- c. (3) Prior to an attack or warning period, as set out in subsection (1) of this section, neither the state, nor any official or agency thereof, shall, except only for the storage and safeguarding of vital records and duplicates thereof, purchase, contract for the purchase of, or obligate funds of the state for the purchase of any real estate or appurtenance thereto, for subsequent use as an emergency seat of state government.

C. Seat of Local Government – Nebraska State Statute Section 13 et sequentia

1. 13-701 Act, how cited. Sections 13-701 to 13-706 shall be known and may be cited as the Nebraska Emergency Seat of Local Government Act.
2. 13-705 Temporary location of seat of government; conditions; rules and regulations; preliminary plans and preparations; construction permitted.
 - a. (1) The official designation of the location or locations of an emergency seat of local government, and the removal thereto of the government of the political subdivision concerned, shall be subject to such rules and regulations as may be promulgated by the then Governor; and shall in no instance precede: (a) The inception of an attack; or (b) the inception of a strategic or tactical warning period duly proclaimed by the President of the United States, the Governor of Nebraska, or both such officials and based on the imminence of an attack.
 - b. (2) Prior to any such attack or warning period, any political subdivision is hereby authorized and empowered to make such preliminary plans and preparations as may be deemed necessary and advisable to facilitate the subsequent accomplishment, during such emergency, of the actions provided in sections 13-701 to 13-706. Such plans and preparations, which likewise shall be subject to such rules and regulations as may be promulgated by the then Governor, may include any or all of the following steps, but shall not necessarily be limited thereto: (a) Selection, by the governing body as mentioned in section 13-703, of a tentative location or locations for an emergency local seat of government, in the event that as provided in subsection (1) of this section, it subsequently becomes necessary and advisable to designate such tentative location or locations as the official location or locations of the emergency local seat of government; (b) negotiation with local authorities, property owners, and other proper persons, for the possible use and occupancy of specific buildings, areas, or buildings and areas, at or near such tentative location or locations, for the purposes mentioned in sections 13-701 to 13-706 during a subsequent emergency; and (c) storing and stockpiling, at or near the tentative

location or locations, of essential supplies and equipment, or vital records or duplicates thereof which would be necessary to permit the continuity of the governmental operation of the political subdivision concerned in an emergency.

- c. (3) Prior to an attack or warning period, as set out in subsection (1) of this section, neither any political subdivision, nor any official or agency of or on behalf thereof, shall, except only for the storage and safeguarding of vital records or duplicates thereof, purchase, contract for the purchase of, or obligate funds of the state or of such political subdivision for the purchase of any real estate or appurtenance thereto, for subsequent use as an emergency local seat of government; PROVIDED, that no political subdivision, nor any official or agency of or on behalf thereof, shall be prevented from constructing an emergency local seat of government on any property owned by such political subdivision or owned jointly with some other political subdivision, and such local seat of government may be constructed as a part of a joint city and county jail authorized under sections 47-302 to 47-308.

D. Lines of Succession: Nebraska State Statute section 84 - 1101 et sequentia.

1. 84-1101 Act, how cited. Sections 84-1101 to 84-1116 shall be known and may be cited as the Nebraska General Emergency Succession Act.
2. 84-1102 Declaration of policy.

Because of the existing possibility of an attack of unprecedented size and destructiveness upon the United States; and in order, in the event of such an attack, to assure continuity of government through legally constituted leadership, authority, and responsibility in offices of government of the state and in the governments of all political subdivisions in the state; to provide for the effective operation of governments during an emergency; and to facilitate the early resumption of functions temporarily suspended; the Legislature finds and declares it to be necessary to provide for emergency interim succession to governmental offices of all types of this state and of its various political subdivisions in the event the incumbents thereof are or become unavailable to perform the functions and duties of such offices; and to enable the governing bodies or the electors of political subdivisions in the state to invoke the provisions of sections 84-1101 to 84-1116 therein.

3. 84-1103 Terms, defined.

As used in sections 84-1101 to 84-1116, and unless otherwise clearly required by the context, the following terms, and the customary derivatives thereof, have the respective meanings and connotations shown:

- a. (1) An attack means any action or series of actions by an enemy of the United States, causing, or which may cause, substantial injury or damage to civilian persons and property in the United States in any manner, whether by sabotage, or by the use of bombs, missiles or

- shellfire, or by atomic, radiological, chemical, bacteriological or biological means, or by other weapons or processes;
- b. (2) The terms office and officer include all public offices and officers in the state government and in the governments of all local political subdivisions in the state, whose powers and duties are defined by the Constitution of Nebraska or statutes of the state, or by the charters, orders, resolutions, or other legal enactments of the political subdivisions concerned; and without regard to whether the functions and duties of any such office or officer are primarily of an executive, legislative, or judicial nature, or a combination thereof. If otherwise within the scope of the foregoing definition, an office may belong to a governmental body or group, such as a board, a commission, a council, a court or quasi-judicial tribunal, etc., in which event each member thereof is an officer;
 - c. (3) The terms state office and state officer include all offices and officers of the central state government, and district and sectional offices and officers not within the immediate jurisdiction or control of any political subdivision of the state; except as pertains to the Governor and to members of the Legislature;
 - d. (4) A deputy means any deputy, assistant, or subordinate to an officer, normally serving with and under him;
 - e. (5) A successor means a person who, in event of a legal vacancy in any office, and in pursuance to law, has been regularly elected or appointed to fill such vacancy, and has duly qualified therefore;
 - f. (6) An alternate or alternate officer means a person who is or has been duly appointed, as provided in sections 84-1101 to 84-1116, as a possible emergency interim successor to the powers and duties, but not to the office, of an officer;
 - g. (7) An acting officer means a person who actually is serving as an emergency interim successor to the powers and duties, but not to the office, or an officer, as provided by sections 84-1101 to 84-1116. In other words, an alternate officer becomes and is an acting officer when he assumes, and while he is exercising and performing, the powers and duties of an officer, as provided by sections 84-1101 to 84-1116;
 - h. (8) The term available, when applied to an officer, a successor, a deputy, or an alternate or acting officer, means that the individual referred to is legally, physically, and mentally qualified and able to exercise the powers and perform the duties of such office. Conversely, the term unavailable means that he is unable to exercise the powers and discharge the duties of the office concerned, either by virtue of circumstances which by general law would create a legal vacancy in the office, or by virtue of transitory causes, whether or not such

circumstances would create a legal vacancy in the office concerned under any other provision of law;

- i. (9) The term political subdivisions includes counties, townships, cities, villages, districts, authorities, and other public corporations and entities, whether organized and existing under direct provisions of the Constitution of

Nebraska or laws of the State of Nebraska, or by virtue of charters, corporate articles, or other legal instruments executed under authority of such constitution or laws;

- j. (10) The term obligated subdivision means a political subdivision wherein the provisions of sections 84-1101 to 84-1116 shall be invoked as provided in section 84-1105. The term obligated officers includes all state officers and all officers of obligated subdivisions; and
- k. (11) A resolve means an ordinance, resolution, resolve, or other proper proceedings, duly enacted by the governing body of a political subdivision in accordance with the Constitution of Nebraska or general laws of this state, the charter or corporate articles of such political subdivision, the usual and customary practices of such governing body, or any combination thereof.

4. 84-1104 Sections; applicability.

From and after the passage, approval, and taking effect of sections 84-1101 to 84-1116, their provisions shall apply to and shall be binding upon all state offices and officers.

5. 84-1106 Officers; alternates; appointment; qualifications.

As soon as possible after sections 84-1101 to 84-1116 shall go into effect or shall become applicable in his case, and in no event later than thirty days thereafter, each obligated officer shall appoint, by title or name, no fewer than three nor more than seven alternates to the powers and duties of his office, and shall specify the order of their succession; PROVIDED, that if any such officer has more than seven deputies, such maximum limitation shall not apply in his case. The alternates, or some of them, may be selected from among the officer's deputies, but this need not be done unless, in a particular case, the deputy is entitled by law or charter to succeed to such powers and duties in event of the officer's absence or disability. In no instance shall any person be appointed or serve as alternate who would be ineligible legally to be elected or appointed to, or serve in, the office concerned; PROVIDED, that no constitutional, statutory, or other legal provision prohibiting any official from holding another office during the term for which he has been elected or appointed shall apply to an alternate or acting officer. After making such appointments the officer shall review them periodically and shall make such revisions and additional appointments from time to time as may be necessary to insure that there are at all times at least

three alternates who have qualified as provided in section 84-1108 and are able to act.

- E. Order of Succession to become Governor; lieutenant governor; duties: Nebraska Constitution, Article IV, section 16
1. (1) In case of the conviction of the Governor on impeachment, his removal from office, his resignation or his death, the Lieutenant Governor, the Speaker of the Legislature and such other persons designated by law shall in that order be Governor for the remainder of the Governor's term.
 2. (2) In case of the death of the Governor-elect, the Lieutenant Governor-elect, the Speaker of the Legislature and such other persons designated by law shall become Governor in that order at the commencement of the Governor-elect's term.
 3. (3) If the Governor or the person in line of succession to serve as Governor is absent from the state, or suffering under an inability, the powers and duties of the office of Governor shall devolve in order of precedence until the absence or inability giving rise to the devolution of powers ceases as provided by law. After January 1, 1975, the Lieutenant Governor shall serve on all boards and commissions in lieu of the Governor whenever so designated by the Governor, shall perform such duties as may be delegated him by the Governor, and shall devote his full time to the duties of his office.
- F. Succession to the Office of the Governor: Nebraska State Statute Section 84-120, et sequentia.
1. 84-120 Governor; succession to office.

If the Lieutenant Governor or Speaker of the Legislature becomes incapable of performing the duties of Governor as provided by Article IV, section 16, of the Constitution of Nebraska, the duties of Governor shall be performed in the following order: Chairperson of the Executive Board of the Legislative Council, Chairperson of Committee on Committees, Chairperson of Committee on Judiciary, Chairperson of Committee on Government, Military and Veterans Affairs, Chairperson of Committee on Appropriations, Chairperson of Committee on Revenue, Chairperson of Committee on Education, Chairperson of Committee on Banking, Commerce and Insurance, Chairperson of Committee on Natural Resources, Chairperson of Committee on Agriculture, Chairperson of Committee on Health and Human Services, Chairperson of Committee on General Affairs, Chairperson of Committee on Urban Affairs, Chairperson of Committee on Business and Labor, and Chairperson of Committee on Transportation, until the vacancy is filled.

2. 84-121 Governor; succession to office; resignation required.

If, for any of the reasons mentioned in Article IV, section 16, of the Constitution of Nebraska, the Lieutenant Governor is unable to perform the

duties that devolve on him or her as Governor, then the Speaker of the Legislature shall, upon his or her resignation as speaker and as a member of the Legislature, become Governor.

3. 84-122 Governor; succession to office; oath of office; effect.

The taking of the oath of office by an individual specified in section 84-120, except the Lieutenant Governor, shall be held to constitute his resignation from the office by virtue of the holding of which he qualifies to act as Governor.

4. 84-127 Governor; disability; examination; conference; members; findings; effect.

- a. (1) Whenever it appears that the Governor is unable to discharge the duties of the office, the person next in line of succession to the office of Governor or the person who is dean of the College of Medicine of the University of Nebraska may call a conference consisting of the person who is dean of the College of Medicine of the University of Nebraska, the person who is chairperson of the Department of Psychiatry at the University of Nebraska Medical Center, and the dean of an accredited college of medicine located in the State of Nebraska to be selected by the other two members of the conference. The three members of the conference shall examine the Governor. After the examination, or if upon attempting to examine the Governor the members of the conference are unable to examine him or her because of circumstances beyond their control, they shall conduct a secret ballot and, by unanimous vote, may find that the Governor is temporarily unable to discharge the duties of the office.

- b. (2) The finding of or failure to find a disability shall be made public, and in case the Governor is found to be unable to discharge the duties of the office, the person next in line of succession to the office of Governor shall be notified. After receiving the notification, the powers, duties, and emoluments of the office of Governor shall, under Article IV, section 16, of the Constitution of Nebraska, devolve upon the person next in line of succession to the office of Governor.

G. Emergency Powers

1. 81-829.31. Act, how cited.

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

2. 81-829.37. Purposes of act.

The purposes of the Emergency Management Act and the policy of the state are to:

- a. (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;
- b. (2) Provide an emergency management system embodying all aspects of preparedness, response, recovery, and mitigation;
- c. (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;
- d. (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;
- e. (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
- f. (6) Provide for the funding of activities incidental to carrying out the purposes of the act

3. 81-829.40 Governor; powers and duties.

- a. (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 Emergency Management Agency and shall be responsible for carrying out the provisions of the Emergency management Act.
- b. (2) In order to affect 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.

- c. (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.
- d. (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.
- e. (6) In addition to any other powers conferred upon the Governor by law, he or she may:
 - i. (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;
 - ii. (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.
 - iii. (c) Transfer the direction, personnel, or functions of state departments and agencies or units thereof for the propose of performing or facilitating emergency management;

H. Legislative Authority in Emergencies; Nebraska Constitution Article III, Section 29

Article III-29 Legislative authority in emergencies due to enemy attack upon United States.

- a. (1) In order to insure continuity of state and local governmental operations in periods of emergency resulting from enemy attack upon the United States, or the imminent threat thereof, the Legislature shall have the power and the immediate duty, notwithstanding any other provision to the contrary in this Constitution, to provide by law for:
 - i. (a) The prompt and temporary succession to the powers and duties of all public offices, of whatever nature and whether filled by election or appointment, the incumbents of which, after an attack, may be or become unavailable or unable to carry on the powers and duties of such offices;
 - ii. (b) The convening of the Legislature into general or extraordinary session, upon or without call by the Governor, during or after a war or enemy caused disaster occurring in the United States; and, with respect to any such emergency session, the suspension or temporary change of the provisions of this Constitution or of general law relating to the length and purposes of any legislative session or prescribing the specific proportion or number of legislators whose presence or vote is necessary to constitute a quorum or to accomplish any legislative act or function;
 - iii. (c) The selection and changing from time to time of a temporary state seat of government, of temporary county seats, and of temporary seats of government for other political subdivisions; to be used if made necessary by enemy attack or imminent threat thereof;
 - iv. (d) The determination, selection, reproduction, preservation, and dispersal of public records necessary to the continuity of governmental operations in the event of enemy attack or imminent threat thereof; and
 - v. (e) Such other measures and procedures as may be necessary and proper for insuring the continuity of governmental operations in the event of enemy attack or imminent threat thereof.
- b. (2) In the exercise of the powers herein before conferred, the Legislature shall in all respects conform to the requirements of this Constitution except to the extent that, in the judgment of the Legislature, so to do would be impracticable or would admit of undue delay.

- I. Special Elections – State Statutes Section 32 various:
 1. Section 32-559 Political Subdivision; special election; procedure:
 - a. Except as provided in section 77-3444, any issue to be submitted to the registered voter at a special election by a political subdivision shall be certified by the clerk of the political subdivision to the election commissioner or county clerk at least fifty days prior to the election. A special election may be held by mail as provided in sections 32-952 to 32-959. Any other special election under this section shall be subject to section 32-405.
 2. 32-563 Vacancies; pending appointment or election; possession and control of the office and the functions of the office shall be exercised as follows:
 - a. (1) Of any of the county offices, by the deputy if there is one and, if not, by a replacement appointed by the county board to perform the functions of the office until a permanent successor is duly appointed or elected; and
 - b. (2) Of any of the state offices, by the Governor or, in his or her absence or inability at the time of the occurrence, as follows:
 - i. (a) Of the Secretary of State by the State Treasurer;
 - ii. (b) Of the Auditor of Public Accounts by the Secretary of State; and
 - iii. (c) Of the State Treasurer by the Secretary of State or Auditor of Public Accounts.

The officer performing the functions of the State Treasurer shall make and sign an inventory of the money and warrants in the care of the office and transmit it to the Governor if he or she is in the state, and the Secretary of State shall take the keys of the safes and desks after depositing the books, papers, money, and warrants in such safes and desks and shall keep the key to the office.

3. Section 32-563 Vacancies; pending appointment or election; possession and control of office; persons authorized.

When a vacancy occurs and before the election or appointment and qualification of a successor, possession shall be taken of all things pertaining to the office and the functions of the office shall be exercised as follows:

- a. (1) Of any of the county offices, by the deputy if there is one and, if not, by a replacement appointed by the county board to perform the functions of the office until a permanent successor is duly appointed or elected; and

- b. (2) Of any of the state offices, by the Governor or, in his or her absence or inability at the time of the occurrence, as follows:
 - i. (a) Of the Secretary of State by the State Treasurer;
 - ii. (b) Of the Auditor of Public Accounts by the Secretary of State; and
 - iii. (c) Of the State Treasurer by the Secretary of State or Auditor of Public Accounts.

The officer performing the functions of the State Treasurer shall make and sign an inventory of the money and warrants in the care of the office and transmit it to the Governor if he or she is in the state, and the Secretary of State shall take the keys of the safes and desks after depositing the books, papers, money, and warrants in such safes and desks and shall keep the key to the office.

4. 32-566 Legislature; vacancy; how filled.

When a vacancy occurs in the Legislature, the office shall be filled by the Governor. The Governor shall appoint a suitable person possessing the qualifications necessary for a member of the Legislature. If the vacancy occurs within sixty days of a regular general election and if the term vacated expires on the first Tuesday following the first Monday in the following January, the appointee shall serve until the first Tuesday following the first Monday in January, and if the term extends beyond the first Tuesday following the first Monday in the following January, the appointee shall serve until the first Tuesday following the first Monday in January following the second regular general election next succeeding his or her appointment. If the vacancy occurs more than sixty days before a regular general election, the appointee shall serve until the first Tuesday following the first Monday in January following such regular general election and at the regular general election a member of the Legislature shall be elected to serve the unexpired term.

5. 32-566 Legislature; vacancy; how filled.

When a vacancy occurs in the Legislature, the office shall be filled by the Governor. The Governor shall appoint a suitable person possessing the qualifications necessary for a member of the Legislature. If the vacancy occurs within sixty days of a regular general election and if the term vacated expires on the first Tuesday following the first Monday in the following January, the appointee shall serve until the first Tuesday following the first Monday in January, and if the term extends beyond the first Tuesday following the first Monday in the following January, the appointee shall serve until the first Tuesday following the first Monday in January following the second regular general election next succeeding his or her appointment. If the vacancy occurs more than sixty days before a regular general election, the appointee shall serve until the first Tuesday following the first Monday in

January following such regular general election and at the regular general election a member of the Legislature shall be elected to serve the unexpired term.

6. 32-567 Vacancies; offices listed; how filled.

Vacancies in office shall be filled as follows:

- a. (1) In state and judicial district offices and in the membership of any board or commission created by the state when no other method is provided, by the Governor;
- b. (2) In county offices, by the county board;
- c. (3) In the membership of the county board, by the county clerk, county attorney, and county treasurer;
- d. (4) In township offices, by the township board or, if there are two or more vacancies on the township board, by the county board;
- e. (5) In offices in public power and irrigation districts, according to section 70-615;
- f. (6) In offices in natural resources districts, according to section 2-3215;
- g. (7) In offices in community college areas, according to section 85-1514;
- h. (8) In offices in educational service units, according to section 79-1217;
- i. (9) In offices in hospital districts, according to section 23-3534;
- j. (10) In offices in metropolitan utilities districts, according to section 14-2104;
- k. (11) In membership on airport authority boards, according to section 3-502, 3-611, or 3-703, as applicable;
- l. (12) In membership on the board of trustees of a road improvement district, according to section 39-1607;
- m. (13) In membership on the council of a municipal county, by the council; and
- n. (14) For learning community coordinating councils, according to section 32-546.01.

Unless otherwise provided by law, all vacancies shall be filled within forty-five days after the vacancy occurs unless good cause is shown that the requirement imposes an undue burden.

7. 32-568 Cities and villages; vacancy; how filled.
- a. (1) If any vacancy occurs in the office of city council member of a city of the metropolitan class, the remaining members of the council shall appoint a person to fill such vacancy from the district in which the vacancy occurred for the remainder of the term. The person thus appointed shall qualify and give bond as by law provided for council members elected to such office. A vacancy in the office of mayor of a city of the metropolitan class shall be filled as provided by local law.
 - b. (2) The city council of a city of the primary class may provide for filling any vacancies that occur in any elective office by appointment by the mayor, with the advice and consent of the council, to hold office until the next general city election. In case of vacancy in the office of mayor of a city of the primary class or his or her absence or disability, the president of the council shall exercise the powers and duties of the office until such vacancy is filled or disability removed or, in case of temporary absence, until the mayor returns, and such acting mayor shall perform such other duties as may be required by law.
 - c. (3) In a city of the first class except a city which has adopted the commissioner or city manager plan of government, any vacancy on the council resulting from causes other than expiration of the term shall be filled by appointment by the mayor with the consent of the city council to hold office for the remainder of the term. When there is a vacancy in the office of the mayor in a city of the first class, the president of the city council shall serve as mayor for the unexpired term. In case of any temporary absence or disability on the part of the mayor, the president of the council shall exercise the powers and duties of the office of mayor until such disability is removed, or in case of temporary absence until the mayor returns, and shall perform such other duties as may be required by law.
 - d. (4) Any vacancy on the city council of a city of the second class shall be filled as provided in section 32-569. In the case of any vacancy in the office of mayor, or in case of his or her disability or absence, the president of the council shall exercise the office of mayor for the unexpired term, until such disability is removed, or in case of temporary absence, until the mayor returns. If the president of the council assumes the office of mayor for the unexpired term, there shall be a vacancy on the council.
 - e. (5) A vacancy on the board of trustees of a village shall be filled as provided in section 32-569, except that the board of trustees of a village situated in more than one county shall have power to fill by appointment any vacancy that may occur in their number.
 - f. (6) If any vacancy occurs in the office of council member in a city under the commission plan of government, the vacancy shall be filled as

provided in section 32-569. If an incumbent in a city under the commission plan of government files for a city office other than the office he or she holds, the office he or she holds shall become vacant as of the date of the commencement of the term of the office for which he or she has filed. If such vacancy results in an unexpired term, such vacancy shall be filled by election for the remainder of the unexpired term. In a city under the commission plan of government, the vice president of the city council shall perform the duties of the mayor of the city in the absence or inability of the mayor to serve. If a vacancy occurs in the office of mayor by death or otherwise, the vice president shall perform the duties of mayor of the city until such time as the council shall fill such vacancy, which shall be done at the first council meeting after such vacancy occurs or as soon thereafter as may be practicable.

- g. (7) If a vacancy occurs in the office of council member in a city under a city manager plan, a successor council member shall be elected at the next regular city election to serve for the remainder of the term, except that a majority of the remaining members of the council shall appoint a registered voter to serve as council member until the successor is so elected and has qualified. If the council members are elected by ward, the council member elected or appointed to fill the vacancy shall be a registered voter of the ward in which the vacancy exists. If for any reason the seats of a majority of the council become vacant, the Secretary of State shall conduct a special election to fill the vacancies for the unexpired portion of each term. A vacancy in any office to which the council elects shall be filled by the council for the unexpired term.
 - h. (8) Vacancies in city offices in any city under home rule charter shall be filled as provided in the home rule charter.
8. 32-569 Vacancies in city and village elected offices; procedure for filling.
- a. (1)(a) Except as otherwise provided in subsection (2) or (3) of this section or section 32-568, vacancies in city and village elected offices shall be filled by the mayor and council or board of trustees for the balance of the unexpired term. Notice of a vacancy, except a vacancy resulting from the death of the incumbent, shall be in writing and presented to the council or board of trustees at a regular or special meeting and shall appear as a part of the minutes of such meeting. The council or board of trustees shall at once give public notice of the vacancy by causing to be published in a newspaper of general circulation within the city or village or by posting in three public places in the city or village the office vacated and the length of the unexpired term.
 - b. (1)(b) The mayor or chairperson of the board shall call a special meeting of the council or board of trustees or place the issue of filling such vacancy on the agenda at the next regular meeting at which time the mayor or chairperson shall submit the name of a qualified registered

voter to fill the vacancy for the balance of the unexpired term. The regular or special meeting shall occur upon the death of the incumbent or within four weeks after the meeting at which such notice of vacancy has been presented. The council or board of trustees shall vote upon such nominee, and if a majority votes in favor of such nominee, the vacancy shall be declared filled. If the nominee fails to receive a majority of the votes, the nomination shall be rejected and the mayor or chairperson shall at the next regular or special meeting submit the name of another qualified registered voter to fill the vacancy. If the subsequent nominee fails to receive a majority of the votes, the mayor or chairperson shall continue at such meeting to submit the names of qualified registered voters in nomination and the council or board of trustees shall continue to vote upon such nominations at such meeting until the vacancy is filled. The mayor shall cast his or her vote for or against the nominee in the case of a tie vote of the council. All council members and trustees present shall cast a ballot for or against the nominee. Any member of the city council or board of trustees who has been appointed to fill a vacancy on the council or board shall have the same rights, including voting, as if such person were elected.

- c. (2) The mayor and council or chairperson and board of trustees may, in lieu of filling a vacancy in a city or village elected office as provided in subsection (1) of this section or subsection (3) of section 32-568, call a special city election to fill such vacancy.
 - d. (3) If vacancies exist in the offices of a majority of the members of a city council or village board, the Secretary of State shall conduct a special city election to fill such vacancies.
9. 32-572 Officers for a fixed term; service until successor qualified; vacancy.
- a. (1) Every officer elected or appointed for a fixed term shall hold office until his or her successor is elected or appointed and is qualified. The fixed term shall end and the successor, whether elected or appointed, shall qualify on the day for taking office as provided by law. This section shall not be construed in any way to prevent the removal or suspension of such officer during or after his or her term in cases provided by law.
 - b. (2) The appointment to fill any vacancy if the elective or appointive officer fails to qualify shall be made as provided in sections 32-566 to 32-570 and 32-573. If the vacancy is created by the elective or appointive officer on or before the day for taking office, the incumbent shall remain in office until his or her successor is appointed and qualified and sworn into office, and the swearing in shall not be more than one calendar month from the day for taking office as provided by law. The appointing board or officer shall have the authority to appoint any qualified registered voter to fill the vacancy.

J. Essential Records, retention, recovery, security

In the development of governmental agency/departments COOPs, essential records have been identified. NEMA, in cooperation with the Office of the Secretary of State, Department of Administrative Services – Nebraska Information System and the Office of the Chief Information Officer, the University of Nebraska-Lincoln and other such agencies as necessary, continues to develop and implement cyber security practices necessary to safeguard essential records. Such practices include redundant servers, regional and out of state, off-site cyber storage and development of electronic retrieval and recovery techniques.

VII. ADMINISTRATION and LOGISTICS

- A. In order to accomplish the policy and purposes of the COG, the Governor may issue proclamations and make, amend, and rescind existing orders, rules, and regulations (RRS 81-829.40 (2) and 81-829.40 (6) (a)). As such, administrative procedures may be suspended, relaxed, or made optional during an emergency/disaster. Such actions will be carefully considered and the consequences projected realistically.
- B. Administrative procedures must facilitate operations to carry out appropriate disaster response and recovery actions.
- C. During increased readiness periods, each departmental/agency representative will ensure that property, personnel, supplies, equipment, and vehicles are accounted for, protected and if necessary, dispersed to a staging area, and maintained in operational condition at all times.
- D. Responding state departments/agencies must implement the principles and practices of the NIMS. Emphasis is given to resource management following established resource controls, determination of the sources of, the types and kinds, quantities, availability and accessibility of resources. Departments and agencies must also identify any additional requirements needed to support emergency/disaster operations during the progression of the event.
- E. State departments/agencies will initially fund emergency/disaster related activities and use of resources from existing funds. If the demands exceed available funds, the Governor may make additional funds available through the Governor's Emergency Fund. (RRS 81-829.41 (3)).
- F. State departments/agencies will obtain supplies and equipment and provide staffing for the performance of assigned responsibilities in accordance with established procedures as described in the SEOP and the Emergency Management Act.
- G. State departments/agencies will implement exceptional activities to insure mission essential functions, i.e. support to the State's response and recovery

efforts, are accomplished during catastrophic or other incidents triggering individual agencies' continuity plan activation.

VIII. TRAINING and EXERCISING

Components of the State Continuity of Government Plan will be incorporated into state-wide training and exercises, such as the TERREX series, as appropriate and to meet defined objectives of such exercise activities. Changes to this plan will be made in accord with the Homeland Security Exercise and Evaluation Program process of after action reports and corrective action plans.

IX. PLAN DEVELOPMENT and MAINTENANCE

The Nebraska State COG will be reviewed annually by the Nebraska Emergency Management Agency (NEMA) and the Governor's Policy Research Office. NEMA, in cooperation with the Governor's Policy Research Office, will coordinate all updates, revisions or changes to the COG Plan, consistent with state and federal law.