

LEGISLATURE OF NEBRASKA  
ONE HUNDRED NINTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 289**

Introduced by Urban Affairs Committee: McKinney, 11, Chairperson;  
Cavanaugh, J., 9; Clouse, 37; Quick, 35; Rountree, 3;  
Sorrentino, 39.

Read first time January 15, 2025

Committee: Urban Affairs

1 A BILL FOR AN ACT relating to cities and villages; to amend sections  
2 17-201, 17-202, and 19-911, Reissue Revised Statutes of Nebraska,  
3 and section 18-2709, Revised Statutes Cumulative Supplement, 2024;  
4 to change provisions relating to the incorporation of a village and  
5 the number, election, and term of members on a village board of  
6 trustees; to provide a procedure for changing the number of members  
7 on a village board of trustees; to allow certain city councils to  
8 constitute a board of adjustment; to redefine qualifying business  
9 under the Local Option Municipal Economic Development Act; and to  
10 repeal the original sections.  
11 Be it enacted by the people of the State of Nebraska,

1           **Section 1.** Section 17-201, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3           17-201 (1) Any municipality containing not less than one hundred nor  
4 more than eight hundred inhabitants as determined by the most recent  
5 federal decennial census or the most recent revised certified count by  
6 the United States Bureau of the Census incorporated as a village under  
7 the laws of this state, any village that votes to retain village  
8 government as provided in section 17-312, and any city of the second  
9 class that has adopted village government as provided by sections 17-306  
10 to 17-309 shall be a village and shall have the rights, powers, and  
11 immunities granted by law to villages. The population of a village shall  
12 consist of the people residing within the territorial boundaries of such  
13 village and the residents of any territory duly and properly annexed to  
14 such village.

15           (2) Whenever a majority of the inhabitants of any village, not  
16 incorporated under any laws of this state, present a petition to the  
17 county board of the county in which the petitioners reside, requesting  
18 that they may be incorporated as a village and designating the name they  
19 wish to assume, whether the village board of trustees will have three or  
20 five members, and the metes and bounds of the proposed village, and a  
21 majority of the members of such county board are satisfied that a  
22 majority of the inhabitants of the proposed village have signed such  
23 petition and that inhabitants to the number of one hundred or more are  
24 actual residents of the territory described in the petition, the county  
25 board shall declare the proposed village incorporated, enter the order of  
26 incorporation upon its records, and designate the metes and bounds of  
27 such village. Thereafter the village shall be governed by the provisions  
28 of law applicable to the government of villages. The county board shall,  
29 at the time of the incorporation of the village, appoint three or five  
30 persons pursuant to the number of members of the village board designated  
31 in the petition, having the qualifications provided in section 17-203, as

1 the village board of trustees, who shall hold their offices and perform  
2 all the duties required of them by law until the election and  
3 qualification of their successors at the time and in the manner provided  
4 in section 17-202, except that the county board shall not declare a  
5 proposed village incorporated or enter an order of incorporation if any  
6 portion of the territory of such proposed village is within five miles of  
7 another incorporated municipality.

8 **Sec. 2.** Section 17-202, Reissue Revised Statutes of Nebraska, is  
9 amended to read:

10 17-202 The corporate powers and duties of every village shall be  
11 vested in a board of trustees which shall consist of three or five  
12 members. At the first statewide general election held after the  
13 incorporation of a village with five members, two trustees shall be  
14 elected to serve two years and three trustees shall be elected to serve  
15 four years. At the first statewide general election held after the  
16 incorporation of a village with three members, two trustees shall be  
17 elected to serve four years and one trustee shall be elected to serve two  
18 years. At the first statewide general election held after changing the  
19 number of trustees from five to three, one trustee shall be elected to  
20 serve two years and two trustees shall be elected to serve four years.  
21 The two trustees receiving the highest and second highest number of votes  
22 or tied for the highest number of votes shall serve the four-year terms,  
23 and the trustee receiving the next highest numbers of votes shall serve  
24 the two-year term. Thereafter the board members shall be elected as  
25 provided in the Election Act. The terms shall begin on the first regular  
26 meeting of the board in December following the statewide general  
27 election. The changes made to this section by Laws 1994, LB 76, and Laws  
28 1995, LB 194, shall not change the staggering of the terms of the board  
29 members in villages established prior to January 1, 1995.

30 **Sec. 3.** (1) Pursuant to petitions filed or a vote of the village  
31 board of trustees under subsection (2) of this section, the registered

1 voters in any village may vote at any statewide general election as to  
2 whether the village board of trustees shall consist of three or five  
3 members. Upon the completion of the canvass by the county canvassing  
4 board, the proposition shall be decided and, if the number of members is:

5 (a) Increased from three to five members, vacancies shall be deemed  
6 to exist and the procedures set forth in sections 32-568 and 32-569 shall  
7 be followed; or

8 (b) Decreased from five to three members, the procedures set forth  
9 in section 17-202 shall be followed.

10 (2)(a) A registered voter of a village may file a petition or  
11 petitions for the submission of the question regarding the number of  
12 members on the village board of trustees. The petition or petitions shall  
13 be signed by registered voters equal in number to five percent of the  
14 electors registered to vote in the village at the preceding statewide  
15 general election.

16 (b) A village board of trustees may, by majority vote of all  
17 members, adopt a resolution for the submission of the question regarding  
18 the number of members on the village board.

19 (3) When the petition or petitions or the resolution is filed with  
20 the election commissioner or county clerk not less than seventy days  
21 before the date of any general election, the election commissioner or  
22 county clerk shall cause the question to be submitted to the voters of  
23 the village at such election and give notice thereof in the general  
24 notice of such election. The forms of ballots shall be respectively: For  
25 three members of the village board of trustees and For five members of  
26 the village board; and the same shall be printed upon the regular ballots  
27 cast for officers voted for at such election and shall be counted and  
28 canvassed in the same manner.

29 (4) If a majority of votes cast at the election favor the  
30 proposition For three members of the village board of trustees,  
31 thereafter the village shall have three members, and if a majority of the

1 ballots cast at the election favor the proposition For five members of  
2 the village board, thereafter the village shall have five members.

3       **Sec. 4.** Section 18-2709, Revised Statutes Cumulative Supplement,  
4 2024, is amended to read:

5       18-2709 (1) Qualifying business means any corporation, partnership,  
6 limited liability company, or sole proprietorship which derives its  
7 principal source of income from any of the following: The manufacture of  
8 articles of commerce; the conduct of research and development; the  
9 processing, storage, transport, or sale of goods or commodities which are  
10 sold or traded in interstate commerce; the sale of services in interstate  
11 commerce; headquarters facilities relating to eligible activities as  
12 listed in this section; telecommunications activities, including services  
13 providing advanced telecommunications capability; tourism-related  
14 activities; or the production of films, including feature, independent,  
15 and documentary films, commercials, and television programs.

16       (2) Qualifying business also means:

17       (a) In cities of the first class, cities of the second class, and  
18 villages, a business that derives its principal source of income from the  
19 construction or rehabilitation of housing;

20       (b) In cities of the first class, cities of the second class, and  
21 villages, a business that derives its principal source of income from  
22 early childhood care and education programs;

23       (c) A business that derives its principal source of income from  
24 retail trade,  ~~, except that no more than forty percent of the total~~  
25 ~~revenue generated pursuant to the Local Option Municipal Economic~~  
26 ~~Development Act for an economic development program in any twelve-month~~  
27 ~~period and no more than twenty percent of the total revenue generated~~  
28 ~~pursuant to the act for an economic development program in any five-year~~  
29 ~~period, commencing from the date of municipal approval of an economic~~  
30 ~~development program, shall be used by the city for or devoted to the use~~  
31 ~~of retail trade businesses.~~ For purposes of this subdivision, retail

1 trade means a business which is principally engaged in the sale of goods  
2 or commodities to ultimate consumers for their own use or consumption and  
3 not for resale; and

4 (d) In cities with a population of five thousand inhabitants or less  
5 as determined by the most recent federal decennial census or the most  
6 recent revised certified count by the United States Bureau of the Census,  
7 a business shall be a qualifying business even though it derives its  
8 principal source of income from activities other than those set out in  
9 this section.

10 (3) If a business which would otherwise be a qualifying business  
11 employs people and carries on activities in more than one city in  
12 Nebraska or will do so at any time during the first year following its  
13 application for participation in an economic development program, it  
14 shall be a qualifying business only if, in each such city, it maintains  
15 employment for the first two years following the date on which such  
16 business begins operations in the city as a participant in its economic  
17 development program at a level not less than its average employment in  
18 such city over the twelve-month period preceding participation.

19 (4) A qualifying business need not be located within the territorial  
20 boundaries of the city from which it is or will be receiving financial  
21 assistance.

22 (5) Qualifying business does not include a political subdivision, a  
23 state agency, or any other governmental entity, except as allowed for  
24 cities of the first class, cities of the second class, and villages for  
25 rural infrastructure development as provided for in subdivision (3)(b) of  
26 section 18-2705.

27 **Sec. 5.** Section 19-911, Reissue Revised Statutes of Nebraska, is  
28 amended to read:

29 19-911 Notwithstanding the provisions of sections 19-907 and 19-908,  
30 the city council of a city of the first class, the city council of a city  
31 of the second class, or a the village board of trustees may, except as

1 set forth in section 19-912.01, provide by ordinance that such city  
2 council or village board ~~it~~ shall constitute a board of adjustment, and  
3 in the regulations and restrictions adopted pursuant to the authority of  
4 sections 19-901 to 19-905 may provide that as such board of adjustment it  
5 may exercise only the powers granted to boards of adjustment by section  
6 19-910. As such board of adjustment, the city council or the village  
7 board of trustees shall adopt rules and procedures that are in harmony  
8 with sections 19-907 to 19-910 and shall have the powers and duties of a  
9 board of adjustment provided for in such sections, and other parties  
10 shall have all the rights and privileges provided for in such sections.  
11 The concurring vote of two-thirds of the members of the city council or  
12 the village board of trustees acting as a board of adjustment shall  
13 decide any question upon which it is required to pass as such board of  
14 adjustment.

15 **Sec. 6.** Original sections 17-201, 17-202, and 19-911, Reissue  
16 Revised Statutes of Nebraska, and section 18-2709, Revised Statutes  
17 Cumulative Supplement, 2024, are repealed.