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STATE of NEBRASKA
EXECUTIVE OFFICE
LINCOLN

EXECUTIVE ORDER 95-9

PROTECTION OF PRIVATE PROPERTY RIGHTS

WHEREAS, the State of Nebraska has clear moral and legal responsibilities to promote public health and safety and to protect human rights and the environment and, as such, the State of Nebraska is committed to the prudent and necessary enforcement of public policies to carry out these responsibilities; and

WHEREAS, regulatory actions taken by Nebraska state agencies may result in the compensable taking of private property; and

WHEREAS, private property rights are constitutionally protected by the 5th and the 14th Amendments of the United States Constitution and by Article 1, Section 21 of the Nebraska Constitution; and

WHEREAS, it is therefore very important that the State of Nebraska give due consideration to the protection of private property rights.

NOW, THEREFORE, I, E. Benjamin Nelson, Governor of the State of Nebraska, by the authority vested in me by the Constitution and the laws of the State of Nebraska, in order to anticipate compensable takings of private property, to avoid negative impacts to private property, to establish accurate and accountable regulatory actions by Nebraska state agencies, to further the goals of regulatory reform and relief from unfunded mandates, to enhance the provisions contained within the Negotiated Rulemaking Act (LB 446), to enhance the provisions contained within my Executive Order regarding relief from unfunded mandates (Executive Order 94-1), and to enhance the provisions contained within my Executive Order regarding increasing accountability and integrity of rules and regulations of the State of Nebraska (Executive Order 95-6), it is hereby ordered as follows:


1. To the extent feasible and permitted by law, executive departments and agencies shall determine if a proposed rule or regulatory action affecting real property may: (1) Result in a permanent physical occupation of private property; (2) Require a private property owner to dedicate a portion of property or grant an easement; (3) Result in depriving a private property owner of all economically viable use of said property; or (4) Result in a compensable taking of private property on any basis indicated by the Supreme Court of the United States or the Supreme Court of the State of Nebraska.

2. To the extent feasible and permitted by law, executive departments or agencies shall develop procedures to determine if any of the above four conditions exist within a proposed rule or regulatory action. If such conditions exist, the executive department or agency shall immediately notify the Governor's Policy

Research Office in writing and explain the need and/or justification for such a proposed rule or regulatory action and the potential fiscal impact on the state, if any. The notification process provided in Executive Order 95-6 may be used for this purpose.

Executive Order 95-9 shall exist until repealed or superseded.

IN WITNESS WHEREOF, I have hereunto set my hand, and caused the Great Seal of the State of Nebraska to be affixed this 20th day of July, in the year of our Lord one thousand nine hundred ninety-five.


E. Benjamin Nelson
Governor

Attest:


Scott Moore
Secretary of State

