

LEGISLATURE OF NEBRASKA  
ONE HUNDRED EIGHTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 277**

Introduced by Brewer, 43; Albrecht, 17; Ballard, 21; Bostelman, 23;  
Clements, 2; DeKay, 40; Dover, 19; Erdman, 47; Halloran,  
33; Hansen, B., 16; Hardin, 48; Holdcroft, 36; Lippincott,  
34; Lowe, 37; McDonnell, 5; Moser, 22; Murman, 38; Sanders,  
45; Slama, 1; von Gillern, 4.

Read first time January 10, 2023

Committee:

- 1 A BILL FOR AN ACT relating to government; to adopt the First Freedom Act;
- 2 to authorize wearing of tribal regalia by students as prescribed; to
- 3 define terms; to harmonize provisions; and to provide operative
- 4 dates.
- 5 Be it enacted by the people of the State of Nebraska,

1           Section 1. Sections 1 to 5 of this act shall be known and may be  
2 cited as the First Freedom Act.

3           Sec. 2. For purposes of the First Freedom Act:

4           (1) Exercise of religion means the practice or observance of  
5 religion and includes any action that is motivated by a sincerely held  
6 religious belief, whether or not the exercise is compulsory or central to  
7 a larger system of religious belief;

8           (2) Person means any individual, association, partnership,  
9 corporation, church, religious institution, estate, trust, foundation, or  
10 other legal entity;

11           (3) Religious organization means:

12           (a) A house of worship;

13           (b) A religious group, a corporation, an association, an educational  
14 institution, a ministry, an order, a society, or a similar entity,  
15 regardless of whether it is integrated or affiliated with a church or  
16 other house of worship; or

17           (c) An officer, owner, employee, manager, religious leader, clergy,  
18 or minister of an entity or organization described in subdivision (3)(a)  
19 or (b) of this section;

20           (4) Religious service means a meeting, gathering, or assembly of two  
21 or more persons organized by a religious organization for the purpose of  
22 worship, teaching, training, providing educational services, conducting  
23 religious rituals, or other activities that are deemed necessary by the  
24 religious organization for the exercise of religion;

25           (5) State action means the implementation or application of any law,  
26 including state and local laws, ordinances, rules, regulations, and  
27 policies, whether statutory or otherwise, or other action by the state or  
28 any political subdivision thereof and any local government, municipality,  
29 instrumentality, or public official authorized by state or local law; and

30           (6)(a) Substantially burden means any action that directly or  
31 indirectly constrains, inhibits, curtails, or denies the exercise of

1 religion by any person or compels any action contrary to a person's  
2 exercise of religion.

3 (b) Substantially burden includes withholding benefits, imposing  
4 criminal, civil, or administrative penalties or damages, or exclusion  
5 from governmental programs or access to governmental facilities.

6 Sec. 3. Notwithstanding any other provision of law, state action  
7 shall not:

8 (1) Substantially burden a person's right to the exercise of  
9 religion unless it is demonstrated that applying the burden to that  
10 person's exercise of religion in this particular instance is essential to  
11 further a compelling governmental interest and is the least restrictive  
12 means of furthering that compelling governmental interest; and

13 (2) Restrict a religious organization from operating and engaging in  
14 religious services during a state of emergency to a greater extent than  
15 the state restricts other organizations or businesses from operating  
16 during a state of emergency.

17 Sec. 4. (1) A person or religious organization whose exercise of  
18 religion or religious service has been burdened or restricted, or is  
19 likely to be burdened or restricted, in violation of the First Freedom  
20 Act, may bring a civil action or assert such violation or impending  
21 violation as a defense in a judicial or administrative proceeding.

22 (2) This section applies regardless of whether the state or a  
23 political subdivision is a party to the judicial or administrative  
24 proceeding.

25 (3) A person or religious organization asserting a claim or defense  
26 under this section may obtain appropriate relief, including against the  
27 state or a political subdivision. Appropriate relief includes:

28 (a) Actual damages;

29 (b) Such preliminary and other equitable or declaratory relief as  
30 may be appropriate; and

31 (c) Reasonable attorney's fees and other litigation costs reasonably

1 incurred.

2       Sec. 5. The First Freedom Act applies to all state and local laws,  
3 and the implementation of those laws, whether statutory or otherwise,  
4 regardless of whether adopted before or after the effective date of this  
5 act.

6       Sec. 6. (1) A person who is a member of an indigenous tribe of the  
7 United States or another country and is a student attending an approved  
8 or accredited public school may wear tribal regalia in any public or  
9 private location where the person is otherwise authorized to be on such  
10 school grounds or at any school function. Nothing in this section limits  
11 the authority of administrative and teaching personnel to regulate  
12 student behavior as provided in section 79-258 or the authority of a  
13 school to regulate student behavior to further school purposes or to  
14 prevent interference with the educational process.

15       (2) A school may adopt a policy to accommodate this section. Such  
16 policy may specify the characteristics of any garment, jewelry, other  
17 adornment, or object that such school finds will endanger the safety of a  
18 student or others or interfere with school purposes or the educational  
19 process if worn by a student during a specified activity.

20       (3) For purposes of this section, tribal regalia means traditional  
21 garments, jewelry, other adornments, or similar objects of cultural  
22 significance worn by members of an indigenous tribe of the United States  
23 or another country. Tribal regalia does not include any firearm or other  
24 dangerous weapon. Tribal regalia also does not include, except in  
25 compliance with an appropriate federal permit, any object that is  
26 otherwise prohibited by federal law.

27       Sec. 7. (1) A person who is a member of an indigenous tribe of the  
28 United States or another country and is a student attending any Nebraska  
29 public postsecondary institution may wear traditional tribal regalia in  
30 any public or private location where the person is otherwise authorized  
31 to be on such school grounds or at any school function. Nothing in this

1 section limits the authority of administrative and teaching personnel of  
2 a Nebraska public postsecondary institution to regulate student behavior  
3 to further school purposes or to prevent interference with the  
4 educational process.

5 (2) A Nebraska public postsecondary institution may adopt a policy  
6 to accommodate this section. Such policy may specify the characteristics  
7 of any garment, jewelry, other adornment, or object that such school  
8 finds will endanger the safety of a student or others or interfere with  
9 school purposes or the educational process if worn by such student during  
10 a specified activity.

11 (3) For purposes of this section:

12 (a) Nebraska public postsecondary institution has the same meaning  
13 as in section 85-2403; and

14 (b) Tribal regalia means traditional garments, jewelry, other  
15 adornments, or similar objects of cultural significance worn by members  
16 of an indigenous tribe of the United States or another country. Tribal  
17 regalia does not include any firearm or other dangerous weapon. Tribal  
18 regalia also does not include, except in compliance with an appropriate  
19 federal permit, any object that is otherwise prohibited by federal law.

20 Sec. 8. Sections 6 and 7 of this act become operative on July 1,  
21 2024. The other sections of this act become operative on their effective  
22 date.