

E AND R AMENDMENTS TO LB 390

Introduced by Larson, 40, Chairperson Enrollment and Review

1 1. Strike the original sections and all amendments
2 thereto and insert the following new sections:

3 Section 1. Section 29-2252, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 29-2252 The administrator shall:

6 (1) Supervise and administer the office;

7 (2) Establish and maintain policies, standards, and
8 procedures for the system, with the concurrence of the Supreme
9 Court;

10 (3) Prescribe and furnish such forms for records and
11 reports for the system as shall be deemed necessary for uniformity,
12 efficiency, and statistical accuracy;

13 (4) Establish minimum qualifications for employment as
14 a probation officer in this state and establish and maintain
15 such additional qualifications as he or she deems appropriate for
16 appointment to the system. Qualifications for probation officers
17 shall be established in accordance with subsection (4) of section
18 29-2253. An ex-offender released from a penal complex or a county
19 jail may be appointed to a position of deputy probation or parole
20 officer. Such ex-offender shall maintain a record free of arrests,
21 except for minor traffic violations, for one year immediately
22 preceding his or her appointment;

23 (5) Establish and maintain advanced periodic inservice

1 training requirements for the system;

2 (6) Cooperate with all agencies, public or private, which
3 are concerned with treatment or welfare of persons on probation;

4 (7) Organize and conduct training programs for probation
5 officers;

6 (8) Collect, develop, and maintain statistical
7 information concerning probationers, probation practices, and the
8 operation of the system;

9 (9) Interpret the probation program to the public with a
10 view toward developing a broad base of public support;

11 (10) Conduct research for the purpose of evaluating and
12 improving the effectiveness of the system;

13 (11) Adopt and promulgate such rules and regulations as
14 may be necessary or proper for the operation of the office or
15 system;

16 (12) Transmit a report during each even-numbered year
17 to the Supreme Court on the operation of the office for the
18 preceding two calendar years which shall include a historical
19 analysis of probation officer workload, including participation
20 in non-probation-based programs and services. The report shall be
21 transmitted by the Supreme Court to the Governor and the Clerk of
22 the Legislature;

23 (13) Administer the payment by the state of all salaries,
24 travel, and actual and necessary expenses incident to the conduct
25 and maintenance of the office;

26 (14) ~~In consultation with the Community Corrections~~
27 ~~Council, use~~ Use the funds provided under section 29-2262.07

1 to augment operational or personnel costs associated with
2 the development, implementation, and evaluation of enhanced
3 probation-based programs and non-probation-based programs
4 and services in which probation personnel or probation
5 resources are utilized pursuant to an interlocal agreement
6 authorized by subdivision (16) of this section and to purchase
7 services to provide such programs aimed at enhancing adult
8 probationer or non-probation-based program participant supervision
9 in the community and treatment needs of probationers and
10 non-probation-based program participants. Enhanced probation-based
11 programs include, but are not limited to, specialized units of
12 supervision, related equipment purchases and training, and programs
13 developed by ~~or through the council~~ that address a probationer's
14 vocational, educational, mental health, behavioral, or substance
15 abuse treatment needs;

16 (15) Ensure that any risk or needs assessment instrument
17 utilized by the system be periodically validated;

18 (16) Have the authority to enter into interlocal
19 agreements in which probation resources or probation personnel may
20 be utilized in conjunction with or as part of non-probation-based
21 programs and services. Any such interlocal agreement shall comply
22 with section 29-2255; and

23 (17) Collaborate with the Community Corrections Division
24 of the Nebraska Commission on Law Enforcement and Criminal Justice
25 and the Office of Parole Administration to develop rules governing
26 the participation of parolees in community corrections programs
27 operated by the Office of Probation Administration; and

1 ~~(17)~~ (18) Exercise all powers and perform all duties
2 necessary and proper to carry out his or her responsibilities.

3 Each member of the Legislature shall receive a copy of
4 the report required by subdivision (12) of this section by making a
5 request for it to the administrator.

6 Sec. 2. Section 29-2255, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 29-2255 Any interlocal agreement authorized by
9 subdivision (16) of section 29-2252 shall require the political
10 subdivision party to the agreement to provide sufficient resources
11 to cover all costs associated with the participation of probation
12 personnel or use of probation resources other than costs covered by
13 funds provided pursuant to section 29-2262.07 or substance abuse
14 treatment costs covered by funds appropriated to the Community
15 Corrections Council for such purpose.

16 Sec. 3. Section 29-2261, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 29-2261 (1) Unless it is impractical to do so, when an
19 offender has been convicted of a felony other than murder in the
20 first degree, the court shall not impose sentence without first
21 ordering a presentence investigation of the offender and according
22 due consideration to a written report of such investigation. When
23 an offender has been convicted of murder in the first degree and
24 (a) a jury renders a verdict finding the existence of one or more
25 aggravating circumstances as provided in section 29-2520 or (b) (i)
26 the information contains a notice of aggravation as provided in
27 section 29-1603 and (ii) the offender waives his or her right to

1 a jury determination of the alleged aggravating circumstances, the
2 court shall not commence the sentencing determination proceeding as
3 provided in section 29-2521 without first ordering a presentence
4 investigation of the offender and according due consideration to a
5 written report of such investigation.

6 (2) A court may order a presentence investigation in any
7 case, except in cases in which an offender has been convicted
8 of a Class IIIA misdemeanor, a Class IV misdemeanor, a Class V
9 misdemeanor, a traffic infraction, or any corresponding city or
10 village ordinance.

11 (3) The presentence investigation and report shall
12 include, when available, an analysis of the circumstances attending
13 the commission of the crime, the offender's history of delinquency
14 or criminality, physical and mental condition, family situation and
15 background, economic status, education, occupation, and personal
16 habits, and any other matters that the probation officer deems
17 relevant or the court directs to be included. All local and state
18 police agencies and Department of Correctional Services adult
19 correctional facilities shall furnish to the probation officer
20 copies of such criminal records, in any such case referred to
21 the probation officer by the court of proper jurisdiction, as the
22 probation officer shall require without cost to the court or the
23 probation officer.

24 Such investigation shall also include:

25 (a) Any written statements submitted to the county
26 attorney by a victim; and

27 (b) Any written statements submitted to the probation

1 officer by a victim.

2 (4) If there are no written statements submitted to the
3 probation officer, he or she shall certify to the court that:

4 (a) He or she has attempted to contact the victim; and

5 (b) If he or she has contacted the victim, such officer
6 offered to accept the written statements of the victim or to reduce
7 such victim's oral statements to writing.

8 For purposes of subsections (3) and (4) of this section,
9 the term victim shall be as defined in section 29-119.

10 (5) Before imposing sentence, the court may order the
11 offender to submit to psychiatric observation and examination for
12 a period of not exceeding sixty days or such longer period as the
13 court determines to be necessary for that purpose. The offender
14 may be remanded for this purpose to any available clinic or mental
15 hospital, or the court may appoint a qualified psychiatrist to make
16 the examination. The report of the examination shall be submitted
17 to the court.

18 (6) Any presentence report or psychiatric examination
19 shall be privileged and shall not be disclosed directly or
20 indirectly to anyone other than a judge, probation officers to whom
21 an offender's file is duly transferred, the probation administrator
22 or his or her designee, or others entitled by law to receive such
23 information, including personnel and mental health professionals
24 for the Nebraska State Patrol specifically assigned to sex offender
25 registration and community notification for the sole purpose of
26 using such report or examination for assessing risk and for
27 community notification of registered sex offenders. For purposes of

1 this subsection, mental health professional means (a) a practicing
2 physician licensed to practice medicine in this state under the
3 Medicine and Surgery Practice Act, (b) a practicing psychologist
4 licensed to engage in the practice of psychology in this state
5 as provided in section 38-3111, or (c) a practicing mental health
6 professional licensed or certified in this state as provided in
7 the Mental Health Practice Act. The court may permit inspection of
8 the report or examination of parts thereof by the offender or his
9 or her attorney, or other person having a proper interest therein,
10 whenever the court finds it is in the best interest of a particular
11 offender. The court may allow fair opportunity for an offender to
12 provide additional information for the court's consideration.

13 (7) If an offender is sentenced to imprisonment, a copy
14 of the report of any presentence investigation or psychiatric
15 examination shall be transmitted immediately to the Department of
16 Correctional Services. Upon request, the Board of Parole or the
17 Office of Parole Administration may receive a copy of the report
18 from the department.

19 ~~(8) Notwithstanding subsection (6) of this section, the~~
20 ~~Nebraska Commission on Law Enforcement and Criminal Justice under~~
21 ~~the direction and supervision of the Chief Justice of the Supreme~~
22 ~~Court shall have access to presentence investigations and reports~~
23 ~~for the sole purpose of carrying out the study required under~~
24 ~~subdivision (7) of section 81-1425. The commission shall treat such~~
25 ~~information as confidential, and nothing identifying any individual~~
26 ~~shall be released by the commission.~~

27 ~~(9)~~ (8) Notwithstanding subsection (6) of this section,

1 the Supreme Court or an agent of the Supreme Court acting under the
2 direction and supervision of the Chief Justice shall have access to
3 psychiatric examinations and presentence investigations and reports
4 for research purposes. The Supreme Court and its agent shall
5 treat such information as confidential, and nothing identifying any
6 individual shall be released.

7 Sec. 4. Section 29-2262.07, Revised Statutes Cumulative
8 Supplement, 2010, is amended to read:

9 29-2262.07 The Probation Program Cash Fund is created.
10 All funds collected pursuant to section 29-2262.06 shall be
11 remitted to the State Treasurer for credit to the fund. Except
12 as otherwise directed by the Supreme Court during the period
13 from November 21, 2009, until June 30, 2011, the fund shall be
14 utilized by the administrator, ~~in consultation with the Community~~
15 ~~Corrections Council,~~ for the purposes stated in ~~subdivision (14)~~
16 subdivisions (14) and (15) of section 29-2252, except that the
17 State Treasurer shall, on or before June 30, 2011, on such date
18 as directed by the budget administrator of the budget division
19 of the Department of Administrative Services, transfer the amount
20 set forth in Laws 2009, LB1, One Hundred First Legislature, First
21 Special Session. Any money in the fund available for investment
22 shall be invested by the state investment officer pursuant to
23 the Nebraska Capital Expansion Act and the Nebraska State Funds
24 Investment Act.

25 On July 15, 2010, the State Treasurer shall transfer
26 three hundred fifty thousand dollars from the Probation Program
27 Cash Fund to the Violence Prevention Cash Fund. The Office

1 of Violence Prevention shall distribute such funds as soon as
2 practicable after July 15, 2010, to organizations or governmental
3 entities that have submitted violence prevention plans and that
4 best meet the intent of reducing street and gang violence and
5 reducing homicides and injuries caused by firearms.

6 Sec. 5. Section 29-2521.02, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 29-2521.02 ~~(1)~~ The Supreme Court shall within a
9 reasonable time after July 22, 1978, review and analyze all cases
10 involving criminal homicide committed on or after April 20, 1973.
11 Such review and analysis shall examine ~~(a)~~ (1) the facts including
12 mitigating and aggravating circumstances, ~~(b)~~ (2) the charges
13 filed, ~~(c)~~ (3) the crime for which defendant was convicted, and
14 ~~(d)~~ (4) the sentence imposed. Such review shall be updated as new
15 criminal homicide cases occur.

16 ~~(2) Following the transmittal of a report of the Nebraska~~
17 ~~Commission on Law Enforcement and Criminal Justice pursuant to~~
18 ~~subdivision (7) of section 81-1425 and subsequent reports updating~~
19 ~~such report, the Supreme Court may take judicial notice of such~~
20 ~~reports in undertaking the determinations required by sections~~
21 ~~29-2521.01 to 29-2521.04.~~

22 Sec. 6. Section 47-621, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 47-621 For purposes of the Community Corrections Act:

25 (1) Community correctional facility or program means a
26 community-based or community-oriented facility or program which
27 (a) is operated either by the state or by a contractor which

1 may be a unit of local government or a nongovernmental agency,
2 (b) may be designed to provide residential accommodations for
3 adult offenders, (c) provides programs and services to aid adult
4 offenders in obtaining and holding regular employment, enrolling
5 in and maintaining participation in academic courses, participating
6 in vocational training programs, utilizing the resources of the
7 community to meet their personal and family needs, obtaining
8 mental health, alcohol, and drug treatment, and participating in
9 specialized programs that exist within the community, and (d)
10 offers community supervision options, including, but not limited
11 to, drug treatment, mental health programs, and day reporting
12 centers;

13 ~~(2) Council means the Community Corrections Council;~~

14 ~~(3) (2) Director means the executive director of~~
15 ~~the Community Corrections Council;~~ Nebraska Commission on Law
16 Enforcement and Criminal Justice;

17 (3) Division means the Community Corrections Division of
18 the Nebraska Commission on Law Enforcement and Criminal Justice;

19 (4) Nongovernmental agency means any person, private
20 nonprofit agency, corporation, association, labor organization, or
21 entity other than the state or a political subdivision of the
22 state; and

23 (5) Unit of local government means a county, city,
24 village, or entity established pursuant to the Interlocal
25 Cooperation Act or the Joint Public Agency Act.

26 Sec. 7. Section 47-622, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 47-622 The Legislature declares that the policy of the
2 State of Nebraska is that there shall be a coordinated effort to
3 (1) establish community correctional programs across the state in
4 order to divert adult felony offenders from the prison system
5 and (2) provide necessary supervision and services to adult
6 felony offenders with the goal of reducing the probability of
7 criminal behavior while maintaining public safety. To further such
8 policy, the Community Corrections ~~Council~~ Division is created. ~~For~~
9 ~~administrative support and budgetary purposes only,~~ the council
10 ~~shall be~~ within the Nebraska Commission on Law Enforcement and
11 Criminal Justice. The director shall appoint and remove employees
12 of the division and delegate appropriate powers and duties to such
13 employees.

14 Sec. 8. Section 47-624, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 47-624 The ~~council~~ division shall:

17 (1) Develop standards for eligible community correctional
18 facilities and programs in which offenders can participate, taking
19 into consideration the following factors:

- 20 (a) Qualifications of staff;
- 21 (b) Suitability of programs;
- 22 (c) Offender needs;
- 23 (d) Probation population;
- 24 (e) Parole population; and
- 25 (f) Other applicable criminal justice data;

26 (2) Develop and implement a plan to establish statewide
27 operation and use of a continuum of community correctional

1 facilities and programs;

2 (3) Develop, in consultation with the probation
3 administrator and the Parole Administrator, standards for the use
4 of community correctional facilities and programs by the Nebraska
5 Probation System and the parole system;

6 (4) Collaborate with the Office of Probation
7 Administration, the Office of Parole Administration, and the
8 Department of Correctional Services on the development of
9 additional reporting centers as set forth in section 47-624.01;

10 (5) Analyze and mandate the consistent use of offender
11 risk assessment tools;

12 (6) Educate the courts, the Board of Parole, criminal
13 justice system stakeholders, and the general public about the
14 availability and use of community correctional facilities and
15 programs;

16 (7) Enter into contracts, if necessary, for carrying out
17 the purposes of the Community Corrections Act;

18 (8) In order to ensure adequate funding for substance
19 abuse treatment programs for probationers, consult with the
20 probation administrator as provided in section 29-2262.07 and
21 develop or assist with the development of programs as provided in
22 subdivision (14) of section 29-2252;

23 (9) In order to ensure adequate funding for substance
24 abuse treatment programs for parolees, consult with the Office
25 of Parole Administration as provided in section 83-1,107.02 and
26 develop or assist with the development of programs as provided in
27 subdivision (8) of section 83-1,102;

1 ~~(10)~~ If necessary to perform the duties of the
2 council, hire, contract for, or otherwise obtain the services of
3 consultants, researchers, aides, and other necessary support staff;

4 ~~(11)~~ (10) Study substance abuse and mental health
5 treatment services in and related to the criminal justice
6 system, recommend improvements, and evaluate the implementation of
7 improvements;

8 ~~(12)~~ (11) Research and evaluate existing community
9 corrections facilities and programs, within the limits of available
10 funding;

11 ~~(13)~~ (12) Develop standardized definitions of outcome
12 measures for community corrections facilities and programs,
13 including, but not limited to, recidivism, employment, and
14 substance abuse;

15 ~~(14)~~ (13) Report annually to the Legislature and
16 the Governor on the development and performance of community
17 corrections facilities and programs. The report shall include the
18 following:

19 (a) A description of community corrections facilities
20 and programs, endorsed by the ~~council~~, division, currently serving
21 offenders in Nebraska, which includes the following information:

22 (i) The target population and geographic area served by
23 each facility or program, eligibility requirements, and the total
24 number of offenders utilizing the facility or program over the past
25 year;

26 (ii) Services provided to offenders at the facility or in
27 the program;

1 (iii) The costs of operating the facility or program and
2 the cost per offender; and

3 (iv) The funding sources for the facility or program;

4 (b) The progress made in expanding community corrections
5 facilities and programs statewide and an analysis of the need for
6 additional community corrections services;

7 (c) An analysis of the impact community corrections
8 facilities and programs have on the number of offenders
9 incarcerated within the Department of Correctional Services; and

10 (d) The recidivism rates and outcome data for
11 probationers, parolees, and problem-solving-court clients
12 participating in community corrections programs;

13 ~~(15)~~ (14) Grant funds to entities including local
14 governmental agencies, nonprofit organizations, and behavioral
15 health services which will support the intent of the act; and

16 (15) Administer contracts entered into by the division
17 with community correctional facilities or programs;

18 (16) Establish and administer grants, projects, and
19 programs for the operation of the division; and

20 ~~(16)~~ (17) Perform such other duties as may be necessary
21 to carry out the policy of the state established in the act.

22 Sec. 9. Section 47-624.01, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 47-624.01 (1)~~(a)~~ The ~~council~~ division shall collaborate
25 with the Office of Probation Administration, the Office of Parole
26 Administration, and the Department of Correctional Services in
27 developing a plan for the implementation and funding of reporting

1 centers in Nebraska.

2 ~~(b)~~ (2) The plan shall include recommended locations for
3 at least one reporting center in each district court judicial
4 district that currently lacks such a center and shall prioritize
5 the recommendations for additional reporting centers based upon
6 need.

7 ~~(c)~~ (3) The plan shall also identify and prioritize the
8 need for expansion of reporting centers in those district court
9 judicial districts which currently have a reporting center but
10 have an unmet need for additional reporting center services due to
11 capacity, distance, or demographic factors.

12 ~~(2)~~ The council shall submit the reporting center
13 expansion plan to the chairperson of the Sentencing and Recidivism
14 Task Force, as created in Legislative Resolution 171, One Hundred
15 First Legislature, First Session, 2009, by December 1, 2010. The
16 plan shall be implemented as state funding allows until each
17 district court judicial district has at least one reporting center.

18 Sec. 10. Section 47-627, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 47-627 The executive director of the Nebraska Commission
21 on Law Enforcement and Criminal Justice director shall develop
22 and maintain a uniform crime data analysis system in Nebraska
23 which shall include, but need not be limited to, the number
24 of offenses, arrests, charges, probation admissions, probation
25 violations, probation discharges, admissions to and discharges
26 from the Department of Correctional Services, parole reviews,
27 parole hearings, releases on parole, parole violations, and parole

1 discharges. The data shall be categorized by statutory crime. The
2 data shall be collected from the Board of Parole, the State Court
3 Administrator, the Department of Correctional Services, the Office
4 of Parole Administration, the Office of Probation Administration,
5 the Nebraska State Patrol, counties, local law enforcement, and
6 any other entity associated with criminal justice. The ~~council, the~~
7 ~~director,~~ division and the Supreme Court shall have access to such
8 data to implement the Community Corrections Act, and to develop
9 guidelines pursuant to section 47-630.

10 Sec. 11. Section 47-628, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 47-628 (1) A sentencing judge may sentence an offender
13 to probation conditioned upon community correctional programming.
14 ~~pursuant to section 47-630 and the guidelines developed by the~~
15 ~~Supreme Court.~~

16 (2) A sentence to a community correctional program or
17 facility shall be imposed as a condition of probation pursuant to
18 the Nebraska Probation Administration Act. The court may modify
19 the sentence of an offender serving a sentence in a community
20 correctional program in the same manner as if the offender had been
21 placed on probation.

22 (3) The Office of Probation Administration shall utilize
23 community correctional facilities and programs as appropriate.

24 Sec. 12. Section 47-629, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 47-629 (1) The Board of Parole may parole an offender to
27 a community correctional facility or program pursuant to guidelines

1 developed by the ~~council~~ division.

2 (2) The Department of Correctional Services and
3 the Office of Parole Administration shall utilize community
4 correctional facilities and programs as appropriate.

5 Sec. 13. Section 47-632, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 47-632 (1) The Community Corrections Uniform Data
8 Analysis Cash Fund is created. Except as provided in subsection (2)
9 of this section, the fund shall be ~~established for administrative~~
10 ~~purposes only~~ within the Nebraska Commission on Law Enforcement
11 and Criminal Justice, shall be administered by the ~~executive~~
12 ~~director of the Community Corrections Council~~, division, and shall
13 only be used to support operations costs and analysis relating
14 to the implementation and coordination of the uniform analysis of
15 crime data pursuant to the Community Corrections Act, including
16 associated information technology projects. 7 as specifically
17 approved by the executive director of the Community Corrections
18 Council. The fund shall consist of money collected pursuant to
19 section 47-633.

20 (2) Transfers may be made from the fund to the General
21 Fund at the direction of the Legislature.

22 (3) Any money in the Community Corrections Uniform Data
23 Analysis Cash Fund available for investment shall be invested
24 by the state investment officer pursuant to the Nebraska Capital
25 Expansion Act and the Nebraska State Funds Investment Act.

26 Sec. 14. Section 47-634, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 47-634 For a local entity to receive funds under the
2 Community Corrections Act, the ~~council~~ division shall ensure
3 there is a local advisory committee made up of a broad base
4 of community members concerned with the justice system. Submission
5 of a detailed plan including a budget, program standards, and
6 policies as developed by the local advisory committee ~~will~~ shall be
7 required as set forth by the ~~council~~, division. Such funds shall be
8 used for the implementation of the recommendations of the ~~council~~,
9 division, the expansion of sentencing options, the education of the
10 public, the provision of supplemental community-based corrections
11 programs, and the promotion of coordination between state and
12 county community-based corrections programs.

13 Sec. 15. Section 81-8,239.01, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 81-8,239.01 (1) For purposes of sections 81-8,239.01 to
16 81-8,239.08 and 81-8,239.11, unless the context otherwise requires,
17 the definition of state agencies found in section 81-8,210 shall
18 apply, except that such term shall not include the Board of Regents
19 of the University of Nebraska.

20 (2) There is hereby established a division within the
21 Department of Administrative Services to be known as the risk
22 management and state claims division. The division shall be headed
23 by the Risk Manager who shall be appointed by the Director of
24 Administrative Services. The division shall be responsible for
25 the Risk Management Program, which program is hereby created. The
26 program shall consist of the systematic identification of exposures
27 to risk of loss as provided in sections 11-201 to 11-203, 13-911,

1 25-2165, 43-1320, 44-1615, 44-1616, 48-194, 48-197, 48-1,103,
2 48-1,104, 48-1,107, 48-1,109, 81-8,212, 81-8,220, 81-8,225,
3 81-8,226, 81-8,233, 81-8,239.01 to 81-8,239.08, 81-8,239.11, ~~and~~
4 81-8,300, and 81-1801.02 and shall include the appropriate methods
5 for dealing with such exposures in relation to the state budget
6 pursuant to such sections. Such program shall be administered by
7 the Risk Manager and shall include the operations of the State
8 Claims Board and other operations provided in such sections.

9 (3) Under the Risk Management Program, the Risk Manager
10 shall have the authority and responsibility to:

11 (a) Employ any personnel necessary to administer the Risk
12 Management Program;

13 (b) Develop and maintain loss and exposure data on all
14 state property and liability risks;

15 (c) Develop and recommend risk reduction or elimination
16 programs for the state and its agencies and establish, implement,
17 and monitor a statewide safety program;

18 (d) Determine which risk exposures shall be insured and
19 which risk exposures shall be self-insured or assumed by the state;

20 (e) Establish standards for the purchase of necessary
21 insurance coverage or risk management services at the lowest
22 costs, consistent with good underwriting practices and sound risk
23 management techniques;

24 (f) Be the exclusive negotiating and contracting agency
25 to purchase insurance or risk management services and, after
26 consultation with the state agency for which the insurance or
27 services are purchased, enter into such contracts on behalf of

1 the state and its agencies, officials, and employees to the extent
2 deemed necessary and in the best interest of the state, and
3 authorize payment for such purchase out of the appropriate funds
4 created by section 81-8,239.02;

5 (g) Determine whether the state suffered a loss for which
6 self-insured property loss funds have been created and authorize
7 and administer payments for such loss from the State Self-Insured
8 Property Fund for the purpose of replacing or rebuilding state
9 property;

10 (h) Perform all duties assigned to the Risk Manager
11 under the Nebraska Workers' Compensation Act and sections 11-201
12 to 11-203, 81-8,239.05, 81-8,239.07, 81-8,239.11, and 84-1601 to
13 84-1615;

14 (i) Approve the use of risk management pools by any
15 department, agency, board, bureau, commission, or council of the
16 State of Nebraska; and

17 (j) Recommend to the Legislature such legislation as may
18 be necessary to carry out the purposes of the Risk Management
19 Program and make appropriation requests for the administration of
20 the program and the funding of the separate funds administered by
21 the Risk Manager.

22 (4) No official or employee of any entity created
23 pursuant to the Interlocal Cooperation Act or the Joint Public
24 Agency Act shall be considered a state official or employee for
25 purposes of sections 81-8,239.01 to 81-8,239.06.

26 Sec. 16. Section 81-1403, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 81-1403 Subject to review and approval by the commission,
2 the council shall:

3 (1) Adopt and promulgate rules and regulations for law
4 enforcement pre-certification, certification, continuing education,
5 and training requirements. Such rules and regulations may include
6 the authority to impose a fine on any individual, political
7 subdivision, or agency who or which violates such rules and
8 regulations. The fine for each separate violation of any rule or
9 regulation shall not exceed either (a) a one-time maximum fine
10 of five hundred dollars or (b) a maximum fine of one hundred
11 dollars per day until the individual, political subdivision, or
12 agency complies with such rules or regulations. All fines collected
13 pursuant to this subdivision shall be remitted to the State
14 Treasurer for ~~credit to the permanent school fund,~~ distribution
15 in accordance with Article VII, section 5, of the Constitution of
16 Nebraska;

17 (2) Adopt and promulgate rules and regulations for the
18 operation of the training center;

19 (3) Recommend to the executive director of the commission
20 the names of persons to be appointed to the position of director
21 of the training center; ~~delegate appropriate powers and duties to~~
22 ~~and provide direct supervision of the director, and when warranted~~
23 ~~recommend to the commission that the director be removed for cause;~~

24 (4) Establish requirements for satisfactory completion
25 of pre-certification programs, certification programs, and advanced
26 training programs;

27 (5) Issue certificates or diplomas attesting satisfactory

1 completion of pre-certification programs, certification programs,
2 and advanced training programs;

3 (6) Revoke or suspend such certificates or diplomas
4 according to rules and regulations established by the council
5 for reasons which shall include, but not be limited to, (a)
6 incompetence, (b) neglect of duty, (c) physical, mental, or
7 emotional incapacity, and (d) final conviction of or pleading
8 guilty or nolo contendere to a felony. The rules and regulations
9 shall provide for revocation of a certificate holder's certificate
10 without a hearing upon his or her final conviction of or pleading
11 guilty or nolo contendere to a felony. For purposes of this
12 subdivision, felony means a crime punishable by imprisonment for a
13 term of more than one year or a crime committed outside of Nebraska
14 which would be punishable by imprisonment for a term of more than
15 one year if committed in Nebraska. The rules and regulations shall
16 include a procedure for hearing appeals of any person who feels
17 that the revocation or suspension of his or her certificate or
18 diploma was in error;

19 (7) Set the tuition and fees for the training center
20 and all officers of other training academies not employed by
21 that training academy's agency. The tuition and fees set for the
22 training center pursuant to this subdivision shall be adjusted
23 annually pursuant to the training center budget approved by the
24 Legislature. All other tuition and fees shall be set in order to
25 cover the costs of administering sections 81-1401 to 81-1414. All
26 tuition and fees shall be remitted to the State Treasurer for
27 credit to the Nebraska Law Enforcement Training Center Cash Fund;

1 (8) Annually certify any training academies providing
2 a basic course of law enforcement training which complies with
3 the qualifications and standards promulgated by the council and
4 offering training that meets or exceeds training that is offered
5 by the training center. The council shall set the maximum
6 and minimum applicant enrollment figures for training academies
7 training non-agency officers;

8 (9) Extend the programs of the training center throughout
9 the state on a regional basis;

10 (10) Establish the qualifications and standards and
11 provide the training required by section 81-1439; and

12 (11) Do all things necessary to carry out the purpose of
13 the training center, except that functional authority for budget
14 and personnel matters shall remain with the commission.

15 Any administrative fine imposed under this section shall
16 constitute a debt to the State of Nebraska which may be collected
17 by lien foreclosure or sued for and recovered in any proper form
18 of action by the office of the Attorney General in the name
19 of the State of Nebraska in the district court of the county
20 where the final agency action was taken. All fines imposed by the
21 council shall be remitted to the State Treasurer for ~~credit to the~~
22 ~~permanent school fund.~~ distribution in accordance with Article VII,
23 section 5, of the Constitution of Nebraska.

24 Sec. 17. Section 81-1404, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 81-1404 The director of the Nebraska Law Enforcement
27 Training Center shall devote full time to the duties of the office

1 and shall not engage in any other business or profession or hold
2 any other state public office. The director shall be responsible to
3 the executive director of the commission ~~through the council~~ for
4 the operation of the training center and the conducting of training
5 programs. The director of the training center shall:

6 (1) Appoint and remove for cause such employees as may
7 be necessary for the operation of the training center and delegate
8 appropriate powers and duties to them;

9 (2) Conduct research for the purpose of evaluating and
10 improving the effectiveness of law enforcement training programs;

11 (3) Consult with the council on all matters pertaining to
12 training schools and training academies;

13 (4) Supervise the administration of the pre-certification
14 competency test;

15 (5) Ensure that all council rules and regulations
16 with respect to law enforcement pre-certification, certification,
17 continuing education, and training requirements are implemented and
18 followed, and in that capacity, act as the director of standards
19 for the council;

20 (6) Advise the council concerning the operation of the
21 training center, the requirements, as set by the council, for all
22 training schools and training academies, and the formulation of
23 training policies and regulations; and

24 (7) Issue diplomas to students who successfully complete
25 the prescribed basic course of study.

26 Sec. 18. Section 81-1423, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 81-1423 The commission shall have authority to:

2 (1) Adopt and promulgate rules and regulations for its
3 organization and internal management and rules and regulations
4 governing the exercise of its powers and the fulfillment of its
5 purposes under sections 81-1415 to 81-1426;

6 (2) Delegate to one or more of its members such powers
7 and duties as it may deem proper;

8 (3) Coordinate and jointly pursue its activities with the
9 Governor's Policy Research Office;

10 (4) Appoint and abolish such advisory committees as may
11 be necessary for the performance of its functions and delegate
12 appropriate powers and duties to them;

13 (5) Plan improvements in the administration of criminal
14 justice and promote their implementation;

15 (6) Make or encourage studies of any aspect of the
16 administration of criminal justice;

17 (7) Conduct research and stimulate research by public
18 and private agencies which shall be designed to improve the
19 administration of criminal justice;

20 (8) Coordinate activities relating to the administration
21 of criminal justice among agencies of state and local government;

22 (9) Cooperate with the federal and other state
23 authorities concerning the administration of criminal justice;

24 (10) Accept and administer loans, grants, and donations
25 from the United States, its agencies, the State of Nebraska, its
26 agencies, and other sources, public and private, for carrying out
27 any of its functions, except that no communications equipment shall

1 be acquired and no approval for acquisition of communications
2 equipment shall be granted without receiving the written approval
3 of the Director of Communications of the office of Chief
4 Information Officer;

5 (11) Enter into contracts, leases, and agreements
6 necessary, convenient, or desirable for carrying out its purposes
7 and the powers granted under sections 81-1415 to 81-1426 with
8 agencies of state or local government, corporations, or persons;

9 (12) Acquire, hold, and dispose of personal property in
10 the exercise of its powers;

11 (13) Conduct random annual audits of criminal justice
12 agencies to verify the accuracy and completeness of criminal
13 history record information maintained by such agencies and to
14 determine compliance with laws and regulations dealing with
15 the dissemination, security, and privacy of criminal history
16 information;

17 (14) Do all things necessary to carry out its purposes
18 and for the exercise of the powers granted in sections 81-1415 to
19 81-1426, except that no activities or transfers or expenditures
20 of funds available to the commission shall be inconsistent
21 with legislative policy as reflected in substantive legislation,
22 legislative intent legislation, or appropriations legislation;

23 (15) Exercise budgetary and administrative control over
24 the Crime Victim's Reparations Committee and the Jail Standards
25 Board; and

26 ~~(16) Appoint and remove for cause the director of the~~
27 ~~Nebraska Law Enforcement Training Center;~~

1 ~~(17) Provide budgetary and administrative support to the~~
2 ~~Community Corrections Council, and~~

3 ~~(18) (16) Do all things necessary to carry out sections~~
4 ~~81-1843 to 81-1851.~~

5 Sec. 19. Section 81-1425, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 81-1425 The executive director of the commission shall:

8 (1) Supervise and be responsible for the administration
9 of the policies established by the commission;

10 (2) Establish a Jail Standards subdivision and a
11 Community Corrections Division within the commission and establish,
12 consolidate, or abolish any ~~other~~ administrative subdivision within
13 the commission and appoint and remove for cause the heads thereof,
14 and delegate appropriate powers and duties to them;

15 (3) Establish and administer projects and programs for
16 the operation of the commission;

17 (4) Appoint and remove employees of the commission and
18 delegate appropriate powers and duties to them;

19 (5) Make rules and regulations for the management and the
20 administration of policies of the commission and the conduct of
21 employees under his or her jurisdiction;

22 (6) Collect, develop, maintain, and analyze statistical
23 information, records, and reports as the commission may determine
24 relevant to its functions, including, but not limited to, the
25 statistical information set forth in section 47-627;

26 ~~(7) Prior to August 1, 2001, review and analyze all cases~~
27 ~~involving criminal homicide committed on or after April 20, 1973.~~

1 The review and analysis shall examine (a) the facts, including
2 mitigating and aggravating circumstances, (b) to the extent such
3 can be ascertained, the race, gender, religious preference, and
4 economic status of the defendant and of the victim, (c) the charges
5 filed, (d) the result of the judicial proceeding in each case,
6 and (e) the sentence imposed. Upon the completion of such review,
7 the report of such shall be transmitted to the Governor, the Clerk
8 of the Legislature, and the Chief Justice of the Supreme Court.
9 The review and analysis shall be updated as new cases of criminal
10 homicide occur. The commission shall update such report annually to
11 the parties named in this subdivision;

12 ~~(8)~~ (7) Transmit monthly to the commission a report of
13 the operations of the commission for the preceding calendar month;

14 ~~(9)~~ (8) Execute and carry out the provisions of all
15 contracts, leases, and agreements authorized by the commission with
16 agencies of federal, state, or local government, corporations, or
17 persons;

18 ~~(10)~~ (9) Perform such additional duties as may be
19 assigned to him or her by the commission, by the chairperson
20 of the commission, or by law; and

21 (10) Appoint and remove for cause the director of the
22 Nebraska Law Enforcement Training Center;

23 (11) Appoint and remove for cause the director of the
24 Office of Violence Prevention; and

25 ~~(11)~~ (12) Exercise all powers and perform all duties
26 necessary and proper in carrying out his or her responsibilities.

27 Sec. 20. Section 81-1447, Revised Statutes Cumulative

1 Supplement, 2010, is amended to read:

2 81-1447 (1) There is established within the Nebraska
3 Commission on Law Enforcement and Criminal Justice the Office
4 of Violence Prevention. The office shall consist of a director,
5 appointed by the Governor, executive director of the Nebraska
6 Commission on Law Enforcement and Criminal Justice, and other
7 necessary support staff. There also is established an advisory
8 council to the Office of Violence Prevention. The members of the
9 advisory council shall be appointed by the Governor and serve
10 at his or her discretion. The advisory council shall consist of
11 six members and, of those members, each congressional district,
12 as such districts existed on May 28, 2009, shall have at least
13 one member on the council. The Governor shall consider appointing
14 members representing the following areas, if practicable: Two
15 members representing local government; two members representing
16 law enforcement; one member representing community advocacy; and
17 one member representing education with some expertise in law
18 enforcement and juvenile crime.

19 (2) Members of the advisory council shall serve for terms
20 of four years. A member may be reappointed at the expiration of his
21 or her term. Any vacancy occurring other than by expiration of a
22 term shall be filled for the remainder of the unexpired term in the
23 same manner as the original appointment.

24 Sec. 21. Section 81-1801, Revised Statutes Cumulative
25 Supplement, 2010, is amended to read:

26 81-1801 For purposes of the Nebraska Crime Victim's
27 Reparations Act, unless the context otherwise requires:

1 (1) Commission shall mean the Nebraska Commission on Law
2 Enforcement and Criminal Justice;

3 (2) Committee shall mean the Crime Victim's Reparations
4 Committee;

5 (3) Dependent shall mean a relative of a deceased victim
6 who was dependent upon the victim's income at the time of death,
7 including a child of a victim born after a victim's death;

8 (4) Executive director shall mean the executive director
9 of the commission;

10 (5) Personal injury shall mean actual bodily harm;

11 (6) Relative shall mean spouse, parent, grandparent,
12 stepparent, natural born child, stepchild, adopted child,
13 grandchild, brother, sister, half brother, half sister, or spouse's
14 parent; and

15 (7) Victim shall mean a person who is injured or killed
16 as a result of conduct specified in section 81-1818. ~~or as a result~~
17 ~~of a natural disaster.~~

18 Sec. 22. Section 81-1801.02, Revised Statutes Cumulative
19 Supplement, 2010, is amended to read:

20 81-1801.02 (1) A nonprofit organization, to be known
21 as the Community Trust, may be created. After a tragedy, the
22 Community Trust shall accept contributions from the public, manage
23 such funds, and make distributions to help individuals, families,
24 and communities in Nebraska ~~who~~ that have suffered from a tragedy
25 of violence or natural disaster. The committee shall oversee
26 the Community Trust. The committee shall require at least annual
27 reports from the Community Trust.

1 (2) The Community Trust shall be a qualified organization
2 under section 501(c)(3) of the Internal Revenue Code thereby
3 enabling contributions to the Community Trust to be tax deductible
4 for the donor if the donor itemizes deductions for income tax
5 purposes and distributions to be tax-free to the extent allowed
6 under applicable sections of the Internal Revenue Code.

7 (3) The Community Trust shall be governed by a board of
8 directors. A director may be represented by the Attorney General
9 in the same manner as a state officer or employee under sections
10 81-8,239.05 and 81-8,239.06 in any civil action that arises as
11 a result of any alleged act or omission occurring in the course
12 and scope of the director's duties. A director shall also be
13 indemnified for liability in the same manner as a state officer or
14 employee under section 81-8,239.05.

15 (4) The Community Trust shall create a separate fund for
16 each tragedy and shall begin accepting contributions immediately
17 after a tragedy. A report of distributions shall be made within
18 two weeks after the distribution, and contributions shall be
19 acknowledged within two weeks The Community Trust shall report
20 the distributions made for each tragedy to the committee, and the
21 Community Trust shall acknowledge all contributions as soon as
22 reasonably possible after receipt.

23 (5) The Community Trust may use up to ten percent of the
24 contributions received for administrative costs of the Community
25 Trust.

26 ~~(3)~~ (6) The procedures for applications, hearings, and
27 compensation orders for victims shall follow the procedures in the

1 ~~Nebraska Crime Victim's Reparations Act~~, as applicable, unless the
2 board of directors of the Community Trust ~~creates an alternative~~
3 ~~procedure~~. In any alternative procedure, the Community Trust
4 shall establish procedures for receiving contributions and making
5 distributions from the Community Trust. The board of directors
6 shall establish a distribution committee for the tragedy within
7 one week after the tragedy, establish eligible recipient criteria
8 and eligible uses of the fund, ~~begin initial distribution of~~
9 ~~the fund within three weeks after the tragedy~~, make subsequent
10 distributions within three months after the tragedy, and complete
11 all distributions ~~within six months~~ as soon as reasonably possible
12 after the tragedy.

13 (7) In the event that the Community Trust receives
14 contributions for a tragedy and the volume and size of claims,
15 along with the amount of contributions, make it impractical for
16 the Community Trust to follow its normal procedures for the
17 distribution of the funds, the board of directors, at its sole
18 discretion, may elect to forward such funds, in their entirety,
19 to another nonprofit organization that is also serving individuals
20 who are affected by the tragedy. In such case, the Community
21 Trust shall designate such contributions to be for the specific
22 individuals who are affected by the tragedy.

23 Sec. 23. Section 81-1818, Revised Statutes Cumulative
24 Supplement, 2010, is amended to read:

25 81-1818 The committee or hearing officer may order ~~+(1)~~
26 ~~The~~ the payment of compensation from the Victim's Compensation Fund
27 ~~or a distribution from the Community Trust~~ for personal injury or

1 death which resulted from:

2 ~~(a)~~ (1) An attempt on the part of the applicant to
3 prevent the commission of crime, to apprehend a suspected criminal,
4 to aid or attempt to aid a police officer in the performance of his
5 or her duties, or to aid a victim of a crime; or

6 ~~(b)~~ (2) The commission or attempt on the part of one
7 other than the applicant of an unlawful criminal act committed or
8 attempted in the State of Nebraska, ~~or~~

9 ~~(2) A distribution from the Community Trust for loss~~
10 ~~resulting from a natural disaster.~~

11 Sec. 24. Section 81-1822, Revised Statutes Cumulative
12 Supplement, 2010, is amended to read:

13 81-1822 No compensation shall be awarded from the
14 Victim's Compensation Fund:

15 (1) If the victim aided or abetted the offender in the
16 commission of the unlawful act;

17 (2) If the offender will receive economic benefit or
18 unjust enrichment from the compensation;

19 (3) If the victim violated a criminal law of the state,
20 which violation caused or contributed to his or her injuries or
21 death;

22 (4) If the victim is injured as a result of the operation
23 of a motor vehicle, boat, or airplane (a) unless the vehicle was
24 used in a deliberate attempt to injure or kill the victim, (b)
25 unless the operator is charged with a violation of section 60-6,196
26 or 60-6,197 or a city or village ordinance enacted in conformance
27 with either of such sections, or (c) unless any chemical test of

1 the operator's breath or blood indicates an alcohol concentration
2 equal to or in excess of the limits prescribed in section 60-6,196;
3 or

4 (5) If the victim incurs an economic loss which does
5 not exceed ten percent of his or her net financial resources. For
6 purposes of this subdivision, a victim's net financial resources
7 shall not include the present value of future earnings and shall
8 be determined by the committee by deducting from the victim's total
9 financial resources:

10 (a) One year's earnings;

11 (b) The victim's equity in his or her home, not exceeding
12 thirty thousand dollars;

13 (c) One motor vehicle; and

14 (d) Any other property which would be exempt from
15 execution under section 25-1552 or 40-101.

16 Nothing in this section shall limit payments to a victim
17 by an offender which are made as full or partial restitution of
18 the victim's actual pecuniary loss. ~~Subdivision (5) of this section~~
19 ~~shall not apply to distributions from the Community Trust.~~

20 Sec. 25. Section 83-1,102, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 83-1,102 The Parole Administrator shall:

23 (1) Supervise and administer the Office of Parole
24 Administration;

25 (2) Establish and maintain policies, standards, and
26 procedures for the field parole service and the community
27 supervision of sex offenders pursuant to section 83-174.03;

1 (3) Divide the state into parole districts and appoint
2 district parole officers, deputy parole officers, if required, and
3 such other employees as may be required to carry out adequate
4 parole supervision of all parolees, adequate probation supervision
5 of probationers as ordered by district judges, prescribe their
6 powers and duties, and obtain office quarters for staff in each
7 district as may be necessary;

8 (4) Cooperate with the Board of Parole, the courts, the
9 ~~Community Corrections Council,~~ Division of the Nebraska Commission
10 on Law Enforcement and Criminal Justice, and all other agencies,
11 public and private, which are concerned with the treatment or
12 welfare of persons on parole;

13 (5) Provide the Board of Parole and district judges with
14 any record of a parolee or probationer which it may require;

15 (6) Make recommendations to the Board of Parole or
16 district judge in cases of violation of the conditions of parole
17 or probation, issue warrants for the arrest of parole or probation
18 violators when so instructed by the board or district judge, notify
19 the Director of Correctional Services of determinations made by the
20 board, and upon instruction of the board, issue certificates of
21 parole and of parole revocation to the facilities and certificates
22 of discharge from parole to parolees;

23 (7) Organize and conduct training programs for the
24 district parole officers and other employees;

25 (8) ~~In consultation with the Community Corrections~~
26 ~~Council,~~ use the funds provided under section 83-1,107.02
27 to augment operational or personnel costs associated with

1 the development, implementation, and evaluation of enhanced
2 parole-based programs and purchase services to provide such
3 programs aimed at enhancing adult parolee supervision in
4 the community and treatment needs of parolees. Such enhanced
5 parole-based programs include, but are not limited to, specialized
6 units of supervision, related equipment purchases and training,
7 and programs developed by or through the council that address a
8 parolee's vocational, educational, mental health, behavioral, or
9 substance abuse treatment needs;

10 (9) Ensure that any risk or needs assessment instrument
11 utilized by the system be periodically validated; and

12 (10) Exercise all powers and perform all duties necessary
13 and proper in carrying out his or her responsibilities.

14 Sec. 26. Section 83-1,107.02, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 83-1,107.02 The Parole Program Cash Fund is created. All
17 funds collected pursuant to section 83-1,107.01 shall be remitted
18 to the State Treasurer for credit to the fund. The fund shall be
19 utilized by the Office of Parole Administration, ~~in consultation~~
20 ~~with the Community Corrections Council,~~ for the purposes stated
21 in subdivision (8) of section 83-1,102. Any money in the fund
22 available for investment shall be invested by the state investment
23 officer pursuant to the Nebraska Capital Expansion Act and the
24 Nebraska State Funds Investment Act.

25 Sec. 27. Section 83-4,126, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 83-4,126 ~~The~~ (1) Except as provided in subsection (2) of

1 this section, the Jail Standards Board shall have the authority and
2 responsibility:

3 ~~(1)~~ (a) To develop minimum standards for the
4 construction, maintenance, and operation of criminal detention
5 facilities;

6 ~~(2)~~ (b) To perform such other duties as may be necessary
7 to carry out the policy of the state regarding such criminal
8 detention facilities and juvenile detention facilities as stated in
9 sections 83-4,124 to 83-4,134; and

10 ~~(3)~~ (c) Consistent with the purposes and objectives
11 of the Juvenile Services Act, to develop standards for juvenile
12 detention facilities, including, but not limited to, standards for
13 physical facilities, care, programs, and disciplinary procedures,
14 and to develop guidelines pertaining to the operation of such
15 facilities.

16 (2) The Jail Standards Board shall not have authority
17 over or responsibility for correctional facilities that are
18 accredited by a nationally recognized correctional association. A
19 correctional facility that is accredited by a nationally recognized
20 correctional association shall show proof of accreditation annually
21 to the Jail Standards Board. For purposes of this subsection,
22 nationally recognized correctional association includes, but is not
23 limited to, the American Correctional Association or its successor.

24 Sec. 28. Section 84-1410, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 84-1410 (1) Any public body may hold a closed session
27 by the affirmative vote of a majority of its voting members

1 if a closed session is clearly necessary for the protection of
2 the public interest or for the prevention of needless injury to
3 the reputation of an individual and if such individual has not
4 requested a public meeting. The subject matter and the reason
5 necessitating the closed session shall be identified in the motion
6 to close. Closed sessions may be held for, but shall not be limited
7 to, such reasons as:

8 (a) Strategy sessions with respect to collective
9 bargaining, real estate purchases, pending litigation, or
10 litigation which is imminent as evidenced by communication of a
11 claim or threat of litigation to or by the public body;

12 (b) Discussion regarding deployment of security personnel
13 or devices;

14 (c) Investigative proceedings regarding allegations of
15 criminal misconduct; ~~or~~

16 (d) Evaluation of the job performance of a person when
17 necessary to prevent needless injury to the reputation of a person
18 and if such person has not requested a public meeting; or-

19 (e) For the Community Trust created under section
20 81-1801.02, discussion regarding the amounts to be paid to
21 individuals who have suffered from a tragedy of violence or natural
22 disaster.

23 Nothing in this section shall permit a closed meeting for
24 discussion of the appointment or election of a new member to any
25 public body.

26 (2) The vote to hold a closed session shall be taken
27 in open session. The entire motion, the vote of each member

1 on the question of holding a closed session, and the time when
2 the closed session commenced and concluded shall be recorded in
3 the minutes. If the motion to close passes, then the presiding
4 officer immediately prior to the closed session shall restate on
5 the record the limitation of the subject matter of the closed
6 session. The public body holding such a closed session shall
7 restrict its consideration of matters during the closed portions
8 to only those purposes set forth in the motion to close as the
9 reason for the closed session. The meeting shall be reconvened in
10 open session before any formal action may be taken. For purposes
11 of this section, formal action shall mean a collective decision
12 or a collective commitment or promise to make a decision on any
13 question, motion, proposal, resolution, order, or ordinance or
14 formation of a position or policy but shall not include negotiating
15 guidance given by members of the public body to legal counsel or
16 other negotiators in closed sessions authorized under subdivision
17 (1) (a) of this section.

18 (3) Any member of any public body shall have the right
19 to challenge the continuation of a closed session if the member
20 determines that the session has exceeded the reason stated in the
21 original motion to hold a closed session or if the member contends
22 that the closed session is neither clearly necessary for (a) the
23 protection of the public interest or (b) the prevention of needless
24 injury to the reputation of an individual. Such challenge shall
25 be overruled only by a majority vote of the members of the public
26 body. Such challenge and its disposition shall be recorded in the
27 minutes.

1 (4) Nothing in this section shall be construed to require
2 that any meeting be closed to the public. No person or public body
3 shall fail to invite a portion of its members to a meeting, and
4 no public body shall designate itself a subcommittee of the whole
5 body for the purpose of circumventing the Open Meetings Act. No
6 closed session, informal meeting, chance meeting, social gathering,
7 email, fax, or other electronic communication shall be used for the
8 purpose of circumventing the requirements of the act.

9 (5) The act does not apply to chance meetings or to
10 attendance at or travel to conventions or workshops of members
11 of a public body at which there is no meeting of the body then
12 intentionally convened, if there is no vote or other action taken
13 regarding any matter over which the public body has supervision,
14 control, jurisdiction, or advisory power.

15 Sec. 29. Section 19, Legislative Bill 374, One Hundred
16 Second Legislature, First Session, 2011, is amended to read:

17 Sec. 19. AGENCY NO. 5 - SUPREME COURT

18 Program No. 52 - Operations

	FY2011-12	FY2012-13
19 GENERAL FUND	26,990,554	27,400,012
20 CASH FUND est.	2,340,144	2,347,925
21 FEDERAL FUND est.	766,455	769,107
22 PROGRAM TOTAL	30,097,153	30,517,044
23 SALARY LIMIT	19,140,180	19,522,984

24 The Department of Administrative Services shall monitor
25 the appropriations and expenditures for this program according to
26 the following program classifications:
27

1 No. 34 - Court Administration

2 No. 40 - State Law Library

3 No. 396 - County Court System

4 No. 399 - District Court Reporters

5 No. 405 - Court of Appeals

6 The unexpended General Fund appropriation balance
7 existing on June 30, 2011, is hereby reappropriated.

8 The budget division of the Department of Administrative
9 Services shall administratively transfer General Fund
10 appropriations among Programs 52~~7~~ and 67~~7~~ ~~and 435~~ within Agency 5,
11 upon written certification by the State Court Administrator that
12 the Supreme Court has determined that such transfer is necessary
13 for the efficient functioning of statewide court operations and the
14 proper administration of justice. The Salary Limit for Agency 5,
15 Programs 52~~7~~ and 67~~7~~ ~~and 435~~, may be administratively increased
16 for any transfers made to Programs 52~~7~~ and 67~~7~~ ~~and 435~~ pursuant
17 to this section.

18 There is included in the appropriation to this program
19 for FY2011-12 \$270,000 Cash Funds for dispute resolution state
20 aid, which shall only be used for such purpose except as
21 otherwise directed by the Supreme Court. There is included in
22 the appropriation to this program for FY2012-13 \$270,000 Cash Funds
23 for dispute resolution state aid, which shall only be used for such
24 purpose except as otherwise directed by the Supreme Court.

25 There is included in the appropriation to this program
26 for FY2011-12 \$450,000 Cash Funds for parenting plan mediation for
27 indigent and lower-income persons involved in Parenting Act cases,

1 as state aid, which shall only be used for such purpose except
2 as otherwise directed by the Supreme Court. There is included in
3 the appropriation to this program for FY2012-13 \$450,000 Cash Funds
4 for parenting plan mediation for indigent and lower-income persons
5 involved in Parenting Act cases, as state aid, which shall only be
6 used for such purpose except as otherwise directed by the Supreme
7 Court.

8 Cash Fund expenditures for this program shall not be
9 limited to the amounts shown.

10 Sec. 30. Section 20, Legislative Bill 374, One Hundred
11 Second Legislature, First Session, 2011, is amended to read:

12 Sec. 20. AGENCY NO. 5 - SUPREME COURT

13 Program No. 67 - Probation Services

14		FY2011-12	FY2012-13
15	GENERAL FUND	20,438,228	20,755,789
16	CASH FUND est.	947,332	947,332
17	FEDERAL FUND est.	208,798	208,798
18	PROGRAM TOTAL	21,594,358	21,911,919
19	SALARY LIMIT	14,696,308	14,990,235

20 The Department of Administrative Services shall monitor
21 the appropriations and expenditures for this program according to
22 the following program classifications:

23 No. 397 - Statewide Probation

24 No. 398 - Intensive Supervision Probation

25 The unexpended General Fund appropriation balance
26 existing on June 30, 2011, is hereby reappropriated.

27 The budget division of the Department of Administrative

1 Services shall administratively transfer General Fund
2 appropriations among Programs 52~~7~~ and 67~~7~~ and 435 within Agency 5,
3 upon written certification by the State Court Administrator that
4 the Supreme Court has determined that such transfer is necessary
5 for the efficient functioning of statewide court operations and the
6 proper administration of justice. The Salary Limit for Agency 5,
7 Programs 52~~7~~ and 67~~7~~ and 435~~7~~, may be administratively increased
8 for any transfers made to Programs 52~~7~~ and 67~~7~~ and 435 pursuant
9 to this section.

10 Cash Fund expenditures for this program shall not be
11 limited to the amounts shown.

12 Sec. 31. Section 22, Legislative Bill 374, One Hundred
13 Second Legislature, First Session, 2011, is amended to read:

14 Sec. 22. AGENCY NO. 5 - SUPREME COURT

15 Program No. 420 - State Specialized Court Operations

	FY2011-12	FY2012-13
16		
17 <u>GENERAL FUND</u>	<u>2,060,526</u>	<u>2,060,521</u>
18 <u>CASH FUND est.</u>	<u>168,965</u>	<u>190,215</u>
19 CASH FUND est.	2,229,491	2,250,736
20 PROGRAM TOTAL	2,229,491	2,250,736
21 SALARY LIMIT	1,027,472	1,048,022

22 The supervision and management of the State Specialized
23 Courts shall be under the direct jurisdiction of the Supreme
24 Court and the State Court Administrator. Any contractual funds
25 received from the Community Corrections program, under the Nebraska
26 Commission on Law Enforcement and Criminal Justice, to support
27 the cost of operating the State Specialized Courts shall only be

1 credited and expended directly from the Probation Program Cash
2 Fund.

3 Cash Fund expenditures for this program shall not be
4 limited to the amounts shown.

5 Sec. 32. Section 23, Legislative Bill 374, One Hundred
6 Second Legislature, First Session, 2011, is amended to read:

7 Sec. 23. AGENCY NO. 5 - SUPREME COURT

8 Program No. 435 - Probation Community Corrections

	FY2011-12	FY2012-13
9		
10 GENERAL FUND	959,073	973,559
11 CASH FUND est.	8,333,836	8,353,812
12 <u>GENERAL FUND</u>	4,071,208	4,085,694
13 <u>CASH FUND est.</u>	5,221,701	5,241,677
14 PROGRAM TOTAL	9,292,909	9,327,371
15 SALARY LIMIT	1,673,312	1,706,778

16 The unexpended General Fund appropriation balance
17 existing on June 30, 2011, is hereby reappropriated.

18 Cash Fund expenditures for this program shall not be
19 limited to the amounts shown.

20 Sec. 33. Section 240, Legislative Bill 374, One Hundred
21 Second Legislature, First Session, 2011, is amended to read:

22 Sec. 240. AGENCY NO. 78 - NEBRASKA COMMISSION ON LAW
23 ENFORCEMENT AND CRIMINAL JUSTICE

24 Program No. 220 - Community Corrections Council Office

	FY2011-12	FY2012-13
25		
26 GENERAL FUND	5,484,959	5,488,959
27 <u>GENERAL FUND</u>	281,298	285,298

1	CASH FUND	405,917	406,951
2	PROGRAM TOTAL	5,890,876	5,895,910
3	<u>PROGRAM TOTAL</u>	<u>687,215</u>	<u>692,249</u>
4	SALARY LIMIT	218,643	223,016

5 The unexpended General Fund appropriation balance
6 existing on June 30, 2011, is hereby reappropriated.

7 Sec. 34. Section 7, Legislative Bill 376, One Hundred
8 Second Legislature, First Session, 2011, is amended to read:

9 Sec. 7. AGENCY NO. 5 - SUPREME COURT

10 Program No. 5 - Retired Judges' Salaries

11		FY2011-12	FY2012-13
12	GENERAL FUND	47,436	47,436
13	PROGRAM TOTAL	47,436	47,436
14	SALARY LIMIT	44,832	44,832

15 The unexpended General Fund appropriation balance
16 existing on June 30, 2011, is hereby reappropriated.

17 The unexpended General Fund appropriation balance
18 existing on June 30, 2012, is hereby reappropriated.

19 The budget division of the Department of Administrative
20 Services shall administratively transfer General Fund
21 appropriations among Programs 3, 4, 5, 6, 7, 52, and 67 ~~and~~
22 ~~435~~ within Agency 5, upon written certification by the State
23 Court Administrator that the Nebraska Supreme Court has determined
24 that such transfer is necessary for the efficient functioning
25 of statewide court operations and the proper administration of
26 justice. The Salary Limit for Agency 5, Programs 5, 52, and 67 ~~and~~
27 ~~435~~ may be administratively increased for any transfers made to

1 Programs 5, 52, and 67 ~~and 435~~ pursuant to this section.

2 Sec. 35. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12,
3 13, 14, 16, 17, 18, 19, 20, 25, 26, 27, 29, 30, 31, 32, 33, 34,
4 37, and 38 of this act become operative on July 1, 2011. The other
5 sections of this act becomes operative on their effective date.

6 Sec. 36. Original sections 81-8,239.01 and 84-1410,
7 Reissue Revised Statutes of Nebraska, and sections 81-1801,
8 81-1801.02, 81-1818, and 81-1822, Revised Statutes Cumulative
9 Supplement, 2010, are repealed.

10 Sec. 37. Original sections 29-2252, 29-2255, 29-2261,
11 29-2521.02, 47-621, 47-622, 47-624, 47-624.01, 47-627, 47-628,
12 47-629, 47-632, 47-634, 81-1403, 81-1404, 81-1423, 81-1425,
13 83-1,102, 83-1,107.02, and 83-4,126, Reissue Revised Statutes
14 of Nebraska; sections 29-2262.07 and 81-1447, Revised Statutes
15 Cumulative Supplement, 2010; sections 19, 20, 22, 23, and 240,
16 Legislative Bill 374, One Hundred Second Legislature, First
17 Session, 2011; and section 7, Legislative Bill 376, One Hundred
18 Second Legislature, First Session, 2011, are repealed.

19 Sec. 38. The following sections are outright repealed:
20 Sections 47-623, 47-625, 47-630, 47-631, 47-635, 47-636, 47-637,
21 47-638, and 47-639, Reissue Revised Statutes of Nebraska.

22 Sec. 39. Since an emergency exists, this act takes effect
23 when passed and approved according to law.

24 2. On page 1, strike beginning with "23-2802" in line 1
25 through line 17 and insert "29-2252, 29-2255, 29-2261, 29-2521.02,
26 47-621, 47-622, 47-624, 47-624.01, 47-627, 47-628, 47-629, 47-632,
27 47-634, 81-8,239.01, 81-1403, 81-1404, 81-1423, 81-1425, 83-1,102,

1 83-1,107.02, 83-4,126, and 84-1410, Reissue Revised Statutes
2 of Nebraska; sections 29-2262.07, 81-1447, 81-1801, 81-1801.02,
3 81-1818, and 81-1822, Revised Statutes Cumulative Supplement, 2010;
4 sections 19, 20, 22, 23, and 240, Legislative Bill 374, One Hundred
5 Second Legislature, First Session, 2011; and section 7, Legislative
6 Bill 376, One Hundred Second Legislature, First Session, 2011;
7 to eliminate the Community Corrections Council, the Probation and
8 Parole Services Study Act, and sentencing guidelines; to create
9 and provide duties for the Community Corrections Division of the
10 Nebraska Commission on Law Enforcement and Criminal Justice; to
11 change provisions relating to the Probation Program Cash Fund; to
12 change powers, duties, and provisions relating to the Nebraska
13 Commission on Law Enforcement and Criminal Justice, the Office of
14 Violence Prevention, the Jail Standards Board, and the Nebraska
15 Law Enforcement Training Center; to change and eliminate provisions
16 relating to the Nebraska Crime Victim's Reparations Act and the
17 Community Trust; to change provisions relating to closed sessions
18 of public bodies; to eliminate obsolete provisions; to harmonize
19 provisions; to appropriate funds to aid in carrying out the
20 provisions of Legislative Bill 390, One Hundred Second Legislature,
21 First Session, 2011; to change appropriations; to provide operative
22 dates; to repeal the original sections; to outright repeal sections
23 47-623, 47-625, 47-630, 47-631, 47-635, 47-636, 47-637, 47-638, and
24 47-639, Reissue Revised Statutes of Nebraska; and to declare an
25 emergency.".

26 3. On page 2, strike lines 1 through 11.