

LEGISLATURE OF NEBRASKA
NINETY-NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 701

Introduced by Synowiecki, 7

Read first time January 19, 2005

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to state government; to amend sections 23-2502,
2 49-506, 49-617, 49-14,121, 55-150, 72-1242, 73-509,
3 81-101, 81-102, 81-1301, 81-1302, 81-1304, 81-1306 to
4 81-1307.02, 81-1311, 81-1312, 81-1314, 81-1315, 81-1318
5 to 81-1318.02, 81-1353, 81-1354.01, 81-1354.03,
6 81-1354.04, 81-1357, 81-1371, 81-1374 to 81-1376,
7 81-1386, 81-1393, 81-1424, 84-1511, and 84-1617, Reissue
8 Revised Statutes of Nebraska, and sections 9-807,
9 77-5004, 81-1108, 81-1113, 81-1316, 81-1317, 81-1354.05,
10 81-1373, 81-3601, 84-1503.03, 84-1601 to 84-1603,
11 84-1605, 84-1606, 84-1613, and 84-1616, Revised Statutes
12 Supplement, 2004; to name the State Personnel System Act;
13 to create the Department of Personnel; to rename a fund;
14 to eliminate the personnel division of the Department of
15 Administrative Services; to transfer, change, and provide
16 powers and duties; to eliminate obsolete provisions; to
17 harmonize provisions; to provide an operative date; to

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1 repeal the original sections; and to outright repeal
2 sections 81-1303 and 81-1305, Reissue Revised Statutes of
3 Nebraska.
4 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 9-807, Revised Statutes Supplement,
2 2004, is amended to read: of Nebraska, is amended to read:

3 9-807. (1) Other than the director, all employees of the
4 division shall be classified employees under the rules and
5 regulations of the ~~personnel division of the Department of~~
6 ~~Administrative Services~~ Department of Personnel.

7 (2) Before entering upon the duties of the office, the
8 director and each employee of the division shall be bonded or
9 insured as required by section 11-201.

10 Sec. 2. Section 23-2502, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 23-2502. As used in sections 23-2501 to 23-2516, unless
13 the context otherwise requires:

14 (1) Employees ~~shall mean~~ means all county employees of
15 the county. The term employees shall not include part-time
16 employees, employees subject to the ~~state personnel service~~ State
17 Personnel System, court-appointed employees, employees of the
18 county attorney's office, employees of the public defender's
19 office, dentists, physicians, practicing attorneys, deputy
20 sheriffs, officers appointed by the Governor, or elected officers
21 or the chief deputy of each office or the deputy of each office if
22 there is not more than one deputy in the office;

23 (2) Part-time employee ~~shall mean~~ means any person whose
24 position is seasonal or temporary as defined by the commission;

25 (3) Department head ~~shall mean~~ means an officer holding
26 an elected office, an officer holding office by appointment of the
27 Governor, the chief deputy of any office or the deputy if there is
28 not more than one deputy, and such other persons holding positions

1 as are declared to be department heads by the county board; and

2 (4) Commission ~~shall mean~~ means the Civil Service
3 Commission.

4 Sec. 3. Section 49-506, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 49-506. After the Secretary of State has made the
7 distribution provided by section 49-503, he or she shall deliver
8 additional copies of the session laws and the journal of the
9 Legislature pursuant to this section in print or electronic format
10 as he or she determines, upon recommendation by the Clerk of the
11 Legislature and approval of the Executive Board of the Legislative
12 Council.

13 One copy of the session laws shall be delivered to the
14 Lieutenant Governor, the State Treasurer, the Auditor of Public
15 Accounts, the Reporter of the Supreme Court and Court of Appeals,
16 the State Court Administrator, the State Fire Marshal, the
17 Department of Administrative Services, the Department of
18 Aeronautics, the Department of Agriculture, the Department of
19 Banking and Finance, the State Department of Education, the
20 Department of Environmental Quality, the Department of Insurance,
21 the Department of Labor, the Department of Motor Vehicles, the
22 Department of Personnel, the Department of Property Assessment and
23 Taxation, the Department of Revenue, the Department of Roads, the
24 Department of Veterans' Affairs, the Department of Natural
25 Resources, the Military Department, the Nebraska State Patrol, the
26 Nebraska Commission on Law Enforcement and Criminal Justice, each
27 of the Nebraska state colleges, the Game and Parks Commission, the
28 Nebraska Library Commission, the Nebraska Liquor Control

1 Commission, the Nebraska Accountability and Disclosure Commission,
2 the Public Service Commission, the State Real Estate Commission,
3 the Nebraska State Historical Society, the Public Employees
4 Retirement Board, the Risk Manager, the Legislative Fiscal Analyst,
5 the Public Counsel, the materiel division of the Department of
6 Administrative Services, the State Records Administrator, the
7 budget division of the Department of Administrative Services, the
8 Department of Health and Human Services, the Department of Health
9 and Human Services Regulation and Licensure, the Department of
10 Health and Human Services Finance and Support, the Tax Equalization
11 and Review Commission, the inmate library at all state penal and
12 correctional institutions, the Commission on Public Advocacy, and
13 the Library of Congress; two copies to the Governor, the Secretary
14 of State, the Nebraska Workers' Compensation Court, the Commission
15 of Industrial Relations, and the Coordinating Commission for
16 Postsecondary Education, one of which shall be for use by the
17 community colleges; four copies to the Nebraska Publications
18 Clearinghouse; five copies to the Attorney General; nine copies to
19 the Revisor of Statutes; sixteen copies to the Supreme Court and
20 the Legislative Council; and thirty-five copies to the University
21 of Nebraska College of Law.

22 One copy of the journal of the Legislature shall be
23 delivered to the Governor, the Lieutenant Governor, the State
24 Treasurer, the Auditor of Public Accounts, the Reporter of the
25 Supreme Court and Court of Appeals, the State Court Administrator,
26 the Nebraska State Historical Society, the Legislative Fiscal
27 Analyst, the Tax Equalization and Review Commission, the Commission
28 on Public Advocacy, and the Library of Congress; two copies to the

1 Secretary of State, the Commission of Industrial Relations, and the
2 Nebraska Workers' Compensation Court; four copies to the Nebraska
3 Publications Clearinghouse; five copies to the Attorney General and
4 the Revisor of Statutes; eight copies to the Clerk of the
5 Legislature; thirteen copies to the Supreme Court and the
6 Legislative Council; and thirty-five copies to the University of
7 Nebraska College of Law. The remaining copies shall be delivered
8 to the State Librarian who shall use the same, so far as required
9 for exchange purposes, in building up the State Library and in the
10 manner specified in sections 49-507 to 49-509.

11 Sec. 4. Section 49-617, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 49-617. The Revisor of Statutes shall cause the statutes
14 to be printed. The printer shall deliver all completed copies to
15 the Supreme Court. These copies shall be held and disposed of by
16 the court as follows: Sixty copies to the State Library to
17 exchange for statutes of other states; five copies to the State
18 Library to keep for daily use; not to exceed twenty-five copies to
19 the Legislative Council for bill drafting and related services to
20 the Legislature and executive state officers; as many copies to the
21 Attorney General as he or she has attorneys on his or her staff; as
22 many copies to the Commission on Public Advocacy as it has
23 attorneys on its staff; up to sixteen copies to the State Court
24 Administrator; twelve copies to the Tax Commissioner; eight copies
25 to the Nebraska Publications Clearinghouse; six copies to the
26 Public Service Commission; four copies to the Secretary of State;
27 four copies to the Clerk of the Legislature for use in his or her
28 office and three copies to be maintained in the legislative

1 chamber, one copy on each side of the chamber and one copy at the
2 desk of the Clerk of the Legislature, under control of the sergeant
3 at arms; three copies to the Auditor of Public Accounts; two copies
4 each to the Governor of the state, the Chief Justice and each judge
5 of the Supreme Court, each judge of the Court of Appeals, the Clerk
6 of the Supreme Court, the Reporter of the Supreme Court and Court
7 of Appeals, the Commissioner of Labor, and the Revisor of Statutes;
8 one copy each to the Secretary of State of the United States, each
9 Indian tribal court located in the State of Nebraska, the library
10 of the Supreme Court of the United States, the Adjutant General,
11 the Air National Guard, the Commissioner of Education, the State
12 Treasurer, the Board of Educational Lands and Funds, the Director
13 of Agriculture, the Director of Administrative Services, the
14 Director of Aeronautics, the Director of Economic Development, the
15 director of the Public Employees Retirement Board, the
16 Director-State Engineer, the Director of Banking and Finance, the
17 Director of Insurance, the Director of Motor Vehicles, the Property
18 Tax Administrator, the Director of Veterans' Affairs, the Director
19 of Natural Resources, the Director of Correctional Services, the
20 Nebraska Emergency Operating Center, each judge of the Nebraska
21 Workers' Compensation Court, each judge of the Commission of
22 Industrial Relations, the Nebraska Liquor Control Commission, the
23 State Real Estate Commission, the Tax Equalization and Review
24 Commission, the secretary of the Game and Parks Commission, the
25 Board of Pardons, the Department of Health and Human Services, the
26 Department of Health and Human Services Regulation and Licensure,
27 the Department of Health and Human Services Finance and Support,
28 the Department of Personnel, each state institution under the

1 Department of Health and Human Services, each state institution
2 under the State Department of Education, the State Surveyor, the
3 Nebraska State Patrol, the materiel division of the Department of
4 Administrative Services, ~~the personnel division of the Department~~
5 ~~of Administrative Services,~~ the Nebraska Motor Vehicle Industry
6 Licensing Board, the Board of Trustees of the Nebraska State
7 Colleges, each of the Nebraska state colleges, each district judge
8 of the State of Nebraska, each judge of the county court, each
9 judge of a separate juvenile court, the Lieutenant Governor, each
10 United States Senator from Nebraska, each United States
11 Representative from Nebraska, each clerk of the district court for
12 the use of the district court, the clerk of the Nebraska Workers'
13 Compensation Court, each clerk of the county court, each county
14 attorney, each county public defender, each county law library, and
15 the inmate library at all state penal and correctional
16 institutions, and each member of the Legislature shall be entitled
17 to two complete sets, and two complete sets of such volumes as are
18 necessary to update previously issued volumes, but each member of
19 the Legislature and each judge of any court referred to in this
20 section shall be entitled, on request, to an additional complete
21 set. Copies of the statutes distributed without charge, as listed
22 in this section, shall be the property of the state or governmental
23 subdivision of the state and not the personal property of the
24 particular person receiving a copy. Distribution of statutes to
25 the library of the College of Law of the University of Nebraska
26 shall be as provided in sections 85-176 and 85-177.

27 Sec. 5. Section 49-14,121, Reissue Revised Statutes of
28 Nebraska, is amended to read:

1 49-14,121. The commission shall employ an executive
2 director and may employ a general counsel and such other staff as
3 are necessary to carry out its duties pursuant to the Nebraska
4 Political Accountability and Disclosure Act. The executive
5 director shall serve at the pleasure of the commission and shall be
6 solely responsible to it. The executive director shall be
7 responsible for the administrative operations of the commission and
8 shall perform such other duties as may be delegated or assigned to
9 him or her by the commission, except that the commission shall not
10 delegate the making of regulations to the executive director. The
11 commission may obtain the services of experts and consultants as
12 necessary to carry out its duties pursuant to the act. Unless
13 prohibited by law, the Tax Commissioner, the Auditor of Public
14 Accounts, the Attorney General, and the county attorneys shall make
15 available to the commission such personnel, facilities, and other
16 assistance as the commission may request. Members of the
17 commission shall be exempted from ~~the provisions of~~ Chapter 81,
18 article 13, except that they may be covered by the State Personnel
19 System through specific agreement between the commission and the
20 ~~personnel division of the Department of Administrative Services~~
21 Department of Personnel.

22 Sec. 6. Section 55-150, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 55-150. Commanders of organizations and units and all
25 other officers who are responsible for public military property
26 shall execute and deliver to the Adjutant General a bond, in such
27 sum as the Governor may direct, not exceeding five thousand
28 dollars, payable to the State of Nebraska, with sufficient

1 sureties, to be approved by the Governor, conditioned for the
2 proper care and use of such public property, and the return of
3 same, in good order, ordinary wear and unavoidable loss and damage
4 excepted; and in case of such loss or damage, the bond shall
5 require the officer to immediately furnish the Adjutant General
6 with properly attested affidavits, setting forth all the facts
7 attending such loss or damage. Officers who are employees, as
8 defined by section ~~§1-1302~~ 22 of this act, of the Military
9 Department shall be bonded or insured as required by section
10 11-201.

11 Sec. 7. Section 72-1242, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 72-1242. The state investment officer shall employ
14 qualified personnel as may be required to carry out the duties and
15 responsibilities required under the Nebraska State Funds Investment
16 Act. Such employees shall be deemed state employees and covered by
17 the State Personnel System pursuant to ~~sections §1-1301 to §1-1368~~
18 the State Personnel System Act and other personnel rules or
19 regulations. At the discretion of the Nebraska Investment Council,
20 investment managers who are employees of the council may be
21 exempted from the State Personnel System. The state investment
22 officer shall be exempt from the State Personnel System. All
23 employees shall comply with state accounting regulations and
24 applicable state and federal laws in the discharge of their duties.
25 With the approval of the Governor, the state investment officer may
26 retain counsel, auditors, financial advisors, and private
27 consultants on a contract basis or otherwise to render such
28 professional service or advice as he or she may require in the

1 performance of his or her duties.

2 Sec. 8. Section 73-509, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 73-509. Each proposed contract for services in excess of
5 fifty thousand dollars which requests services that are now
6 performed or have, within the year immediately preceding the date
7 of the proposed contract, been performed by a state employee
8 covered by the ~~classified personnel system~~ State Personnel System
9 or by any labor contract shall use a pre-process prescribed by the
10 materiel division. The pre-process shall include evaluation of the
11 displacement of the employee of the state agency or position held
12 by the employee of the state agency within the preceding year and
13 of the disadvantages of such a contract for services against the
14 expected advantages, whether economic or otherwise. Documentation
15 of each evaluation shall be maintained in the contract file by the
16 state agency.

17 Sec. 9. Section 77-5004, Revised Statutes Supplement,
18 2004, is amended to read:

19 77-5004. (1) Each commissioner shall be a qualified
20 voter and resident of the state and, for each commissioner
21 representing a congressional district, a domiciliary of the
22 district he or she represents.

23 (2) Each commissioner shall devote his or her full time
24 and efforts to the discharge of his or her duties and shall not
25 hold any other office under the laws of this state, any city or
26 county in this state, or the United States Government while serving
27 on the commission. Each commissioner shall possess:

28 (a) Appropriate knowledge of terms commonly used in or

1 related to real property appraisal and of the writing of appraisal
2 reports;

3 (b) Adequate knowledge of depreciation theories, cost
4 estimating, methods of capitalization, and real property appraisal
5 mathematics;

6 (c) An understanding of the principles of land economics,
7 appraisal processes, and problems encountered in the gathering,
8 interpreting, and evaluating of data involved in the valuation of
9 real property, including complex industrial properties and mass
10 appraisal techniques;

11 (d) Knowledge of the law relating to taxation, civil and
12 administrative procedure, due process, and evidence in Nebraska;

13 (e) At least thirty hours of successfully completed class
14 hours in courses of study, approved by the Real Estate Appraiser
15 Board, which relate to appraisal and which include a fifteen-hour
16 course in the Uniform Standards of Professional Appraisal Practice.
17 If a commissioner has not received such training prior to his or
18 her appointment, such training shall be completed within one year
19 after appointment; and

20 (f) Such other qualifications and skills as reasonably
21 may be requisite for the effective and reliable performance of the
22 commission's duties.

23 (3) One commissioner shall possess any certification or
24 training required to become a licensed real estate appraiser as set
25 forth in section 76-2230.

26 (4) Prior to January 1, 2002, the chairperson, and on and
27 after January 1, 2002, at least two commissioners, shall have been
28 engaged in the practice of law in the State of Nebraska for at

1 least five years, which may include prior service as a judge, and
2 shall be currently admitted to practice before the Nebraska Supreme
3 Court.

4 (5) No commissioner or employee of the commission shall
5 hold any position of profit or engage in any occupation or business
6 interfering with or inconsistent with his or her duties as a
7 commissioner or employee. A person is not eligible for appointment
8 and may not hold the office of commissioner or be appointed by the
9 commission to or hold any office or position under the commission
10 if he or she holds any official office or position.

11 (6) (a) Each commissioner who meets the requirements of
12 subsection (4) of this section on or after January 1, 2002, shall
13 annually attend a seminar or class of at least two days' duration
14 that is:

15 (i) Sponsored by a recognized assessment or appraisal
16 organization, in each of these areas: Utility and railroad
17 appraisal; appraisal of complex industrial properties; appraisal of
18 other hard to assess properties; and mass appraisal, residential or
19 agricultural appraisal, or assessment administration; or

20 (ii) Pertaining to management, law, civil or
21 administrative procedure, or other knowledge or skill necessary for
22 performing the duties of the office.

23 (b) Each commissioner who does not meet the requirements
24 of subsection (4) of this section on or after January 1, 2002,
25 shall within two years after his or her appointment attend at least
26 thirty hours of instruction that constitutes training for judges or
27 administrative law judges.

28 (7) The commissioners shall be considered employees of

1 the state for purposes of the State Employees Collective Bargaining
 2 Act, the State Personnel System Act, and sections ~~81-1301 to~~
 3 81-1391 and 84-1601 to 84-1615.

4 (8) The commissioners shall be reimbursed as prescribed
 5 in sections 81-1174 to 81-1177 for their actual and necessary
 6 expenses in the performance of their official duties pursuant to
 7 the Tax Equalization and Review Commission Act.

8 Sec. 10. Section 81-101, Reissue Revised Statutes of
 9 Nebraska, is amended to read:

10 81-101. The civil administration of the laws of the
 11 state is vested in the Governor. For the purpose of aiding the
 12 Governor in the execution and administration of the laws, the
 13 executive and administrative work shall be divided into the
 14 following departments: (1) Department of Agriculture; (2)
 15 Department of Labor; (3) Department of Roads; (4) Department of
 16 Natural Resources; (5) Department of Banking and Finance; (6)
 17 Department of Insurance; (7) Department of Motor Vehicles; (8)
 18 Department of Administrative Services; (9) Department of Economic
 19 Development; (10) Department of Correctional Services; (11)
 20 Nebraska State Patrol; (12) Department of Health and Human
 21 Services; (13) Department of Health and Human Services Regulation
 22 and Licensure; (14) Department of Health and Human Services Finance
 23 and Support; ~~and~~ (15) Department of Property Assessment and
 24 Taxation; and (16) Department of Personnel.

25 Sec. 11. Section 81-102, Reissue Revised Statutes of
 26 Nebraska, is amended to read:

27 81-102. The Governor shall appoint heads for the various
 28 departments, subject to confirmation by a majority vote of the

1 members elected to the Legislature. Such appointments shall be
2 submitted to the Legislature within sixty calendar days following
3 the first Thursday after the first Tuesday in each odd-numbered
4 year. The officers shall be designated as follows: (1) The
5 Director of Agriculture for the Department of Agriculture; (2) the
6 Commissioner of Labor for the Department of Labor; (3) the
7 Director-State Engineer for the Department of Roads; (4) the
8 Director of Natural Resources for the Department of Natural
9 Resources; (5) the Director of Banking and Finance for the
10 Department of Banking and Finance; (6) the Director of Insurance
11 for the Department of Insurance; (7) the Director of Motor Vehicles
12 for the Department of Motor Vehicles; (8) the Director of
13 Administrative Services for the Department of Administrative
14 Services; (9) the Director of Correctional Services for the
15 Department of Correctional Services; (10) the Director of Economic
16 Development for the Department of Economic Development; (11) the
17 Superintendent of Law Enforcement and Public Safety for the
18 Nebraska State Patrol; (12) the Director of Health and Human
19 Services for the Department of Health and Human Services; (13) the
20 Director of Regulation and Licensure for the Department of Health
21 and Human Services Regulation and Licensure; (14) the Director of
22 Finance and Support for the Department of Health and Human Services
23 Finance and Support; ~~and~~ (15) the Property Tax Administrator for
24 the Department of Property Assessment and Taxation; and (16) the
25 Director of Personnel for the Department of Personnel. Whoever
26 shall be so nominated by the Governor and shall fail to receive the
27 number of votes requisite for confirmation, shall not be subject to
28 nomination or appointment for this or any other appointive state

1 office requiring confirmation by the Legislature during the period
2 for which his or her appointment was sought. In case of a vacancy
3 in any of such offices during the recess of the Legislature, the
4 Governor shall make a temporary appointment until the next meeting
5 of the Legislature, when he or she shall nominate some person to
6 fill such office. Any person so nominated who is confirmed by the
7 Legislature, shall hold his or her office during the remainder of
8 the term if a specific term has been provided by law, otherwise
9 during the pleasure of the Governor subject to the provisions of
10 this section; except any such officers may be removed by the
11 Governor pursuant to Article IV of the Constitution of Nebraska.

12 Sec. 12. Section 81-1108, Revised Statutes Supplement,
13 2004, is amended to read:

14 81-1108. The Department of Administrative Services shall
15 fulfill the functions in the administration of state government of
16 fiscal control, of centralizing services, of personnel ~~services~~
17 contract negotiations, and of risk management. There shall be
18 separate divisions within the department to assist in fulfilling
19 these functions. The divisions shall be the accounting division
20 and the budget division in the area of fiscal control, the
21 information management services division, materiel division, state
22 building division, and division of communications in the area of
23 centralized services, ~~the personnel division and the Division of~~
24 Employee Relations in the area of personnel ~~services~~ contract
25 negotiations, and the risk management and state claims division in
26 the area of risk management. The Director of Administrative
27 Services shall appoint a separate administrator as head of each
28 division other than the Division of Employee Relations. The

1 director shall have the responsibility and authority for directing
2 and coordinating the programs and activities of the several
3 divisions and shall be empowered to remove the administrators of
4 any of the several divisions other than the Chief Negotiator at his
5 or her discretion. The director shall have the power to delegate
6 authority for administration of the State Employees Collective
7 Bargaining Act, sections 81-1101 to 81-1189, ~~and 81-1301 to 81-1391~~
8 and the Risk Management Program to any of the division heads as he
9 or she may deem appropriate except as otherwise provided by law.

10 Sec. 13. Section 81-1113, Revised Statutes Supplement,
11 2004, is amended to read:

12 81-1113. The budget division shall prepare the executive
13 budget in accordance with the wishes and policies of the Governor.
14 The budget division shall have the following duties, powers, and
15 responsibilities:

16 (1) Shall prescribe the forms and procedures to be
17 employed by all departments and agencies of the state in compiling
18 and submitting their individual budget requests and shall set up a
19 budget calendar which shall provide for (a) the date, not later
20 than July 15 of each even-numbered year, for distribution of
21 instructions, (b) the date by which time requests for
22 appropriations by each agency shall be submitted, and (c) the
23 period during which such public hearings as the Governor may elect
24 shall be held for each department and agency. The budget request
25 shall be submitted each even-numbered year no later than the date
26 provided in section 81-132, shall include the intended receipts and
27 expenditures by programs, subprograms, and activities and such
28 additional information as the administrator may deem appropriate

1 for each fiscal year, shall be made upon a biennial basis, and
2 shall include actual receipts and actual expenditures for each
3 fiscal year of the most recently completed biennium and the first
4 year of the current biennium and estimates for the second year of
5 the current biennium and each year of the next ensuing biennium;

6 (2) Shall work with each governmental department and
7 agency in developing performance standards for each program,
8 subprogram, and activity to measure and evaluate present as well as
9 projected levels of expenditures;

10 (3) Shall, following passage of legislative
11 appropriations, be responsible for the administration of the
12 approved budget through budgetary allotments;

13 (4) Shall be responsible for a monthly budgetary report
14 for each department and agency showing comparisons between actual
15 expenditures and allotments which report shall be subject to review
16 by the director and budget administrator; and

17 (5) Shall be responsible for the authorization of
18 employee positions. Such authorizations shall be based on the
19 following:

20 (a) A requirement that a sufficient budget program
21 appropriation and salary limitation exist to fully fund all
22 authorized positions;

23 (b) A requirement that permanent full-time positions
24 which have been vacant for ninety days or more be reviewed and
25 reauthorized prior to being filled. If requested by the budget
26 division, the ~~personnel division of the Department of~~
27 ~~Administrative Services~~ Department of Personnel shall review such
28 vacant position to determine the proper classification for the

1 position;

2 (c) A requirement that authorized positions accurately
3 reflect legislative intent contained in legislative appropriation
4 and intent bills; and

5 (d) Other relevant criteria as determined by the budget
6 administrator.

7 Sec. 14. Section 81-1301, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 81-1301. (1) Sections 81-1301 to 81-1368 and sections 16
10 to 37, 43, 44, 54, and 61 to 64 of this act shall be known and may
11 be cited as the State Personnel System Act.

12 (2) The purposes of sections 81-1301 to 81-1316 the act
13 are to:

14 ~~(1)~~ (a) Promote economy and efficiency in state
15 government through the selection, employment, and effective
16 utilization of qualified persons in all departments and agencies of
17 the state;

18 ~~(2)~~ (b) Provide equal opportunity to qualified persons
19 for employment on the basis of ability;

20 ~~(3)~~ (c) Avoid salary competition among government
21 departments and agencies to secure or retain the services of
22 equally qualified employees for similar positions in the state's
23 employ;

24 ~~(4)~~ (d) Retain maximum authority and responsibility at
25 the department and agency level for decisions to select or to
26 terminate employees and for other facets of personnel management as
27 may be consistent with the rulemaking authority of the ~~personnel~~
28 ~~division~~ department for the development of uniform state personnel

1 administrative procedures;

2 ~~(5)~~ (e) Establish the necessary procedures to assure
3 reasonably uniform and consistent personnel practices and provide a
4 reliable basis for personnel cost projections and staffing
5 patterns; and

6 ~~(6)~~ (f) Establish uniform control over the description of
7 and compensation for positions in all departments and agencies so
8 that position titles and duties have similar meanings throughout
9 the state service and provide equal pay for persons holding similar
10 positions in the state's service.

11 Sec. 15. Section 81-1302, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 81-1302. For purposes of the State Personnel System Act,
14 the definitions found in sections 16 to 37 of this act apply. As
15 used in sections 81-1301 to 81-1316 and 81-1354.01, unless the
16 context otherwise requires.

17 ~~(1) Gender when referring to masculine also includes~~
18 ~~feminine;~~

19 ~~(2) State personnel service shall refer to the personnel~~
20 ~~system established by such sections together with those aspects of~~
21 ~~personnel systems established under any other law as such systems~~
22 ~~may be affected by such sections;~~

23 ~~(3) Position shall mean an office or employment in an~~
24 ~~agency of this state, whether part time or full time, temporary or~~
25 ~~permanent, and whether occupied or vacant, or existing for the~~
26 ~~performance of specific duties;~~

27 ~~(4) Employee shall mean any person in the employ of an~~
28 ~~agency or department who receives a salary or wage;~~

1 ~~(5) Position title shall mean the title assigned a~~
2 ~~position having discrete characteristics relative to the duties,~~
3 ~~responsibilities, skills, training, experience, and other factors~~
4 ~~under the state position classification plan,~~

5 ~~(6) Job description shall mean the description of duties,~~
6 ~~responsibilities, typical tasks to be performed, degree of~~
7 ~~supervision to which subject or for which responsible, and~~
8 ~~conditions under which an incumbent in a given position shall~~
9 ~~perform, for each class and position in the state service,~~

10 ~~(7) Pay grade shall mean a specified range of salary or~~
11 ~~wage, the starting and intermediate rates within such range, and~~
12 ~~the maximum rate of such range as may be approved by legislative~~
13 ~~enactment,~~

14 ~~(8) Position classification plan shall mean the system of~~
15 ~~classifying each position in the state service in accordance with~~
16 ~~the kinds of skills, experience, working conditions, and other~~
17 ~~factors peculiar to each and the structuring of classes of~~
18 ~~positions in accordance with the different kinds of treatment~~
19 ~~necessary for each class and the positions within each class,~~

20 ~~(9) Salary or pay plan shall mean a plan by which~~
21 ~~positions, as previously arranged under the classification plan,~~
22 ~~are evaluated by classes in relation to one another, by which pay~~
23 ~~grades are specified for each class of positions, and which is~~
24 ~~governed by a set of fundamental rules authorizing and controlling~~
25 ~~changes in the pay of classes of positions and their incumbents as~~
26 ~~may be provided for by law and rules and regulations promulgated~~
27 ~~pursuant to such law,~~

28 ~~(10) Fiscal year shall mean the twelve months between~~

1 July 1 of one year and June 30 of the next succeeding year,

2 (11) Biennium shall mean the twenty-four months between
3 July 1 of each odd-numbered year and June 30 of the year following
4 the next succeeding calendar year,

5 (12) Qualified shall mean, with reference either to a
6 candidate for employment or an employee, that he or she has been
7 examined by appropriate means and found to possess the minimum
8 ability and the minimum requirements of training, experience, and
9 other requirements for the position sought or held and may therefor
10 be certified as eligible for employment in such position,

11 (13) Job specifications shall mean a formal statement of
12 skills, experience, personal qualities, education, and other
13 factors to be required of persons who hold or seek employment for
14 each position in the state's service,

15 (14) Recruiting shall mean the act or actions through
16 which potentially qualified persons are caused to apply for
17 employment with any agency of the state,

18 (15) Classification shall mean the process by which the
19 duties, responsibilities, working conditions, skills required,
20 experience required, supervision received or exercised, or both,
21 and other factors relative to a position are established in proper
22 relationship to the same factors for all other positions in the
23 state's service and from which there shall result a job
24 description, job specifications, and assignment to a pay grade for
25 the position so affected,

26 (16) Budget division shall mean the budget division of
27 the Department of Administrative Services,

28 (17) Staffing pattern shall mean the number of positions

1 in each class and the specific classes of positions as may be
2 authorized for each department or agency of state government by the
3 budget division;

4 ~~(18) Authorized position shall mean any position the~~
5 ~~creation of which has been approved by the budget division;~~

6 ~~(19) Merit increase shall mean any increase in the rate~~
7 ~~of pay for any position in the state's service beyond the starting~~
8 ~~rate and which shall be provided for by the pay plan and which~~
9 ~~shall be granted in recognition of length of service, superior or~~
10 ~~outstanding performance, or as otherwise provided for by law;~~

11 ~~(20) Grievance shall mean a management action resulting~~
12 ~~in an injury, injustice, or wrong involving a misinterpretation or~~
13 ~~misapplication of rules promulgated by the personnel division or~~
14 ~~agency rules and regulations;~~

15 ~~(21) Director shall mean the Director of Personnel, and~~

16 ~~(22) Personnel division shall mean the personnel division~~
17 ~~of the Department of Administrative Services.~~

18 Sec. 16. Authorized position means any position the
19 creation of which has been approved by the budget division.

20 Sec. 17. Biennium means the twenty-four months between
21 July 1 of each odd-numbered year and June 30 of the year following
22 the next succeeding calendar year.

23 Sec. 18. Budget division means the budget division of
24 the Department of Administrative Services.

25 Sec. 19. Classification means the process by which the
26 duties, responsibilities, working conditions, skills required,
27 experience required, supervision received or exercised or both, and
28 other factors relative to a position are established in proper

1 relationship to the same factors for all other positions in the
2 State Personnel System and from which there results a job
3 description, job specifications, and assignment to a pay grade for
4 the position so affected.

5 Sec. 20. Department means the Department of Personnel.

6 Sec. 21. Director means the Director of Personnel.

7 Sec. 22. Employee means any person in the employ of an
8 agency or department who receives a salary or wage.

9 Sec. 23. Fiscal year means the twelve months between
10 July 1 of one year and June 30 of the next succeeding year.

11 Sec. 24. Grievance means a management action resulting
12 in an injury, injustice, or wrong involving a misinterpretation or
13 misapplication of rules and regulations adopted and promulgated by
14 the department, rules and regulations of another state agency, or
15 applicable labor contracts if so agreed to by the appropriate
16 parties.

17 Sec. 25. Job description means the description of
18 duties, responsibilities, typical tasks to be performed, degree of
19 supervision to which subject or for which responsible, and
20 conditions under which an incumbent in a given position will
21 perform, for each class and position in the State Personnel System.

22 Sec. 26. Job specifications means a formal statement of
23 skills, experience, personal qualities, education, and other
24 factors to be required of persons who hold or seek employment for
25 each position in the State Personnel System.

26 Sec. 27. Manual means the Classified Personnel Rules
27 Manual developed and maintained by the department.

28 Sec. 28. Merit increase means any increase in the rate

1 of pay for any position in the State Personnel System beyond the
2 starting rate, which is provided for by the pay plan, and which is
3 granted in recognition of length of service, superior or
4 outstanding performance, or as otherwise provided for by law.

5 Sec. 29. Pay grade means a specified range of salary or
6 wage, the starting and intermediate rates within such range, and
7 the maximum rate of such range as may be approved by legislative
8 enactment.

9 Sec. 30. Position means an office or employment in an
10 agency of this state, whether part time or full time, whether
11 temporary or permanent, and whether occupied or vacant, or existing
12 for the performance of specific duties.

13 Sec. 31. Position classification plan means the system
14 of classifying each position in the State Personnel System in
15 accordance with the kinds of skills, experience, working
16 conditions, and other factors peculiar to each and the structuring
17 of classes of positions in accordance with the different kinds of
18 treatment necessary for each class and the positions within each
19 class.

20 Sec. 32. Position title means the title assigned a
21 position having discrete characteristics relative to the duties,
22 responsibilities, skills, training, experience, and other factors
23 under the position classification plan.

24 Sec. 33. Qualified means, with reference either to a
25 candidate for employment or an employee, that he or she has been
26 examined by appropriate means and found to possess the minimum
27 ability and the minimum requirements of training, experience, and
28 other requirements for the position sought or held and may therefor

1 be certified as eligible for employment in such position.

2 Sec. 34. Recruiting means the act or actions through
3 which potentially qualified persons are caused to apply for
4 employment with any agency of the state.

5 Sec. 35. Salary or pay plan means a plan by which
6 positions, as previously arranged under the position classification
7 plan, are evaluated by classes in relation to one another, by which
8 pay grades are specified for each class of positions, and which is
9 governed by a set of fundamental rules authorizing and controlling
10 changes in the pay of classes of positions and their incumbents as
11 may be provided for by the State Personnel System Act and rules and
12 regulations adopted and promulgated pursuant to the act.

13 Sec. 36. Staffing pattern means the number of positions
14 in each class and the specific classes of positions as may be
15 authorized for each department or agency of state government by the
16 budget division.

17 Sec. 37. State Personnel System means the personnel
18 system established by the State Personnel System Act.

19 Sec. 38. Section 81-1304, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 81-1304. ~~Any~~ The Governor may appoint any person who is
22 a graduate of an accredited four-year college or university and who
23 has at least five years of progressively responsible experience in
24 development and administration of a public or private personnel
25 program, including responsibility for development and
26 administration of company or agency policies, supervision of staff
27 or programs, negotiations of personnel matters with other agencies
28 or organizations and a demonstrated knowledge of public personnel

1 administration, testing, classification, wage and salary
 2 administration, recruiting, certification, and modern office
 3 procedures ~~may be appointed~~ as Director of Personnel. Not ~~+~~
 4 ~~PROVIDED, that not~~ more than two years' experience as a full-time
 5 paid faculty member with primary responsibilities for teaching in
 6 public or business administration, industrial engineering,
 7 sociology, or psychology may be substituted for two of the five
 8 years' experience required, and ~~+~~ ~~AND PROVIDED FURTHER, that not~~
 9 more than one year of graduate training in one of ~~the foregoing~~
 10 such fields may be substituted for one year of experience.

11 Sec. 39. Section 81-1306, Reissue Revised Statutes of
 12 Nebraska, is amended to read:

13 81-1306. The ~~Director of Personnel~~ director shall employ
 14 the necessary personnel to carry out the duties of the ~~personnel~~
 15 ~~division~~ department subject to the amount of funds appropriated for
 16 such purpose.

17 Sec. 40. Section 81-1307, Reissue Revised Statutes of
 18 Nebraska, is amended to read:

19 81-1307. ~~The Director of Personnel shall be responsible~~
 20 ~~for the administration of the personnel division.~~ Subject to the
 21 review powers of the State Personnel Board, the director shall be
 22 responsible for development of recommendations on personnel policy
 23 and for development of specific administrative systems and shall
 24 have the authority to adopt, promulgate, and enforce rules and
 25 regulations pertaining thereto. The director shall be responsible
 26 for specific administrative systems, including, but not limited to,
 27 the following:

28 (1) Employment Services:

- 1 (a) General employment policies and procedures;
- 2 (b) Position classification plans;
- 3 (c) Job descriptions;
- 4 (d) Job specifications;
- 5 (e) Salary or pay plans;
- 6 (f) Staffing patterns; and
- 7 (g) Recruiting of qualified applicants for employment and
- 8 the maintenance of qualified applicants for employment for all
- 9 positions in state government;
- 10 (2) Personnel Records:
- 11 (a) A system of records and statistical reports
- 12 containing general data on all employees, including current salary
- 13 levels and such other information as may be required by the
- 14 operating needs of state departments and agencies and the budget
- 15 division; and
- 16 (b) Standards for the development and maintenance of
- 17 personnel records to be maintained within operating departments of
- 18 the state government;
- 19 (3) Personnel Management:
- 20 (a) Minimum standards for evaluation of employee
- 21 efficiency and a system of regular evaluation of employee
- 22 performance;
- 23 (b) Administrative guidelines governing such matters as
- 24 hours of work, promotions, transfers, demotions, probation,
- 25 terminations, reductions in force, salary actions, and other such
- 26 matters as may not be otherwise provided for by law;
- 27 (c) Administrative policies and general procedural
- 28 instructions for use by all state agencies relating to such matters

1 as employee benefits, vacation, sick leave, holidays, insurance,
2 sickness and accident benefits, and other employee benefits as the
3 Legislature may from time to time prescribe; ~~and~~

4 (d) A system of formally defined relationships between
5 the ~~personnel division~~ Department of Personnel and the departments
6 and agencies to be covered by the State Personnel System; and

7 (e) Notification to departments, agencies, and personnel
8 of changes to the manual as provided in section 44 of this act;

9 (4) Salary and Wage Survey: Measuring, through the use
10 of surveys, the state's comparative level of employee compensation
11 with the labor market;

12 (5) Staffing Patterns:

13 (a) Staffing patterns for each department and agency of
14 state government that conform with those authorized by the budget
15 division;

16 (b) Revisions to staffing patterns of all departments and
17 agencies that have been approved by the budget division;

18 (c) Merit increases provided for any employee of the
19 state that are the result of positive action by the appropriate
20 supervisor; and

21 (d) The state's pay plan, as enacted by the Legislature,
22 together with such amendments as may occur, ~~is explained in~~
23 appropriate handbooks for employees of the state in the manual;

24 (6) Temporary Employees:

25 (a) ~~The director shall administer~~ Administration of the
26 Temporary Employee Pool containing applicants from which state
27 agencies can draw when in need of a short-term labor supply; and

28 (b) State agencies must receive approval from the

1 director before hiring any temporary employee; and

2 (7) Employee Recognition Program: ~~The director shall~~
3 ~~administer~~ Administration of an employee recognition program for
4 state employees. The program shall serve as the authorized program
5 for honoring state employees for dedicated and quality service to
6 the government of the State of Nebraska.

7 Sec. 41. Section 81-1307.01, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 81-1307.01. The ~~Director of Personnel~~ director shall
10 measure, through the use of salary surveys, the competitive
11 standing of state salaries with salary levels of the labor market.
12 The State Personnel Board shall review the methodology and results
13 of the survey. A report of the survey findings, including the
14 board's review, shall be provided to the Legislature and the
15 Governor along with the recommendations regarding wages, hours, and
16 terms and conditions of employment for unorganized employees by the
17 Chief Negotiator pursuant to section 81-1376.

18 Sec. 42. Section 81-1307.02, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 81-1307.02. The Legislature shall consider the results
21 of the salary survey and any recommendation from the Governor,
22 ~~Director of Personnel~~ director, or Chief Negotiator concerning
23 unorganized state employee salary increases when making
24 appropriations to state agencies. The Legislature shall attempt to
25 provide an appropriate balance between assuring that all employees
26 performing at a satisfactory level will receive appropriate salary
27 increases and the need for administrative flexibility to reward
28 those who perform at a superior level.

1 Sec. 43. The department shall prepare, maintain, and
2 publish, as appropriate, the Classified Personnel Rules Manual
3 which includes the rules and regulations adopted and promulgated
4 under the State Personnel System Act in accordance with the
5 Administrative Procedure Act.

6 Sec. 44. All rules and regulations adopted and
7 promulgated pursuant to the State Personnel System Act shall comply
8 with section 84-907 and shall be published in the manual. Each
9 state employee shall receive notice of all rules and regulations of
10 the department by receiving a copy of the manual and any updates to
11 the manual.

12 Sec. 45. Section 81-1311, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 81-1311. Agency heads and other management personnel so
15 designated by the agency head shall have the following authorities
16 and responsibilities, consistent with rules and regulations adopted
17 and promulgated by the personnel division pursuant to the State
18 Personnel System Act and applicable labor contracts so agreed to by
19 the appropriate parties:

- 20 (1) Decisions concerning the mission of the agency;
- 21 (2) Decisions on how to maintain and improve the
22 efficiency and effectiveness of government operations;
- 23 (3) Decisions on services to be rendered, operations to
24 be performed, technology to be utilized, or matters to be budgeted;
- 25 (4) Decisions concerning the overall methods, processes,
26 means, or personnel by which operations are to be conducted;
- 27 (5) Decisions concerning the processes and acts of
28 hiring, directing, or supervising employees;

1 (6) Determining the performance evaluation rating of
2 individual employees on at least an annual basis;

3 (7) Employee salary administration decisions;

4 (8) Assuring that position titles and job descriptions
5 are accurate;

6 (9) Decisions concerning employee job assignments,
7 employee work schedules, promotions of employees, transfers of
8 employees, and discipline of employees including terminations;

9 (10) Decisions to reimburse the best qualified job
10 applicants for travel, meals, and lodging expenses incurred in
11 traveling to and from the prospective job site, except that no more
12 than three applicants for any position may be reimbursed under this
13 subdivision;

14 (11) Decisions to relieve employees from duties because
15 of lack of work or funds or under conditions when the employer
16 determines continued work would be inefficient or nonproductive
17 including the contracting out for goods and services;

18 (12) Decisions concerning development and maintenance of
19 any personnel records necessary for the operation of the agency;

20 (13) Decisions to confer with any or all of its employees
21 in the process of developing policies; and

22 (14) Decisions to take any other action not otherwise
23 specified in this section.

24 Sec. 46. Section 81-1312, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 81-1312. (1) The ~~Director of Personnel~~ director may, for
27 reasons of practical difficulties anticipated or experienced in the
28 development of the ~~state personnel service~~ State Personnel System,

1 in anticipation of practical problems during the transition to
2 effective operation of the several technical aspects of the ~~state~~
3 ~~personnel service~~ State Personnel System by the staff of the
4 ~~personnel division~~ Department of Personnel by reason of existence
5 of agency personnel offices which, in the judgment of the director,
6 have adequate capability to undertake responsibilities for
7 development of or administration of ~~sections 81-1301 to 81-1316~~ the
8 State Personnel System Act, or for the convenience of either the
9 ~~personnel division~~ Department of Personnel or the individual
10 agencies of state government, or both, delegate responsibility for
11 administration of any of the requirements of ~~such sections~~ the act
12 to any other department or agency. Such delegation shall be
13 limited to the administration of ~~such sections~~ the act or of the
14 policies, rules, and regulations promulgated under ~~such sections~~
15 the act as such provisions may affect the other department or
16 agency.

17 (2) The director may make such arrangements for the
18 production, development, or maintenance of records and reports as
19 may be necessary, relying for such arrangements on the facilities
20 of other state agencies.

21 (3) Any position within any agency exempted from coverage
22 by the Constitution of Nebraska or by ~~sections 81-1301 to 81-1316~~
23 the State Personnel System Act may be covered by the ~~state~~
24 ~~personnel service~~ State Personnel System through specific agreement
25 between the exempted agency or the agency having responsibility for
26 exempted positions and the ~~personnel division~~ Department of
27 Personnel.

28 Sec. 47. Section 81-1314, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 81-1314. Any official named in ~~sections 81-1301 to~~
3 ~~81-1317~~ the State Personnel System Act shall have the power to
4 delegate authority for execution of responsibilities under ~~sections~~
5 ~~81-1301 to 81-1317~~ the act to any person such official may
6 designate.

7 Sec. 48. Section 81-1315, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 81-1315. State employees subject to ~~sections 81-1301 to~~
10 ~~81-1316~~ the State Personnel System Act shall be prohibited from
11 participation in political activities during office hours or while
12 otherwise engaged in the performance of official duties as
13 employees of this state. Any employee violating this section shall
14 be subject to disciplinary action under the rules and regulations
15 adopted and promulgated pursuant to ~~sections 81-1301 to 81-1328~~ the
16 act. Such disciplinary action may include demotion, dismissal,
17 reduction of salary, or suspension.

18 Sec. 49. Section 81-1316, Revised Statutes Supplement,
19 2004, is amended to read:

20 81-1316. (1) All agencies and personnel of state
21 government shall be covered by ~~sections 81-1301 to 81-1319~~ the
22 State Personnel System Act and shall be considered subject to the
23 State Personnel System, except the following:

24 (a) All personnel of the office of the Governor;

25 (b) All personnel of the office of the Lieutenant
26 Governor;

27 (c) All personnel of the office of the Secretary of
28 State;

- 1 (d) All personnel of the office of the State Treasurer;
- 2 (e) All personnel of the office of the Attorney General;
- 3 (f) All personnel of the office of the Auditor of Public
4 Accounts;
- 5 (g) All personnel of the Legislature;
- 6 (h) All personnel of the court systems;
- 7 (i) All personnel of the Board of Educational Lands and
8 Funds;
- 9 (j) All personnel of the Public Service Commission;
- 10 (k) All personnel of the Nebraska Brand Committee;
- 11 (l) All personnel of the Commission of Industrial
12 Relations;
- 13 (m) All personnel of the State Department of Education;
- 14 (n) All personnel of the Nebraska state colleges and the
15 Board of Trustees of the Nebraska State Colleges;
- 16 (o) All personnel of the University of Nebraska;
- 17 (p) All personnel of the Coordinating Commission for
18 Postsecondary Education;
- 19 (q) All personnel of the Governor's Policy Research
20 Office, but not to include personnel within the State Energy
21 Office;
- 22 (r) All personnel of the Commission on Public Advocacy;
- 23 (s) All agency heads;
- 24 (t) The Director of Medical Services established under
25 section 83-125 and the chief executive officers of the Beatrice
26 State Developmental Center, Lincoln Regional Center, Norfolk
27 Regional Center, Hastings Regional Center, Grand Island Veterans'
28 Home, Norfolk Veterans' Home, Thomas Fitzgerald Veterans' Home,

1 Western Nebraska Veterans' Home, Youth Rehabilitation and Treatment
 2 Center-Kearney, and Youth Rehabilitation and Treatment
 3 Center-Geneva;

4 (u) All personnel employed as pharmacists, physicians,
 5 psychiatrists, or psychologists of the Department of Health and
 6 Human Services, the Department of Health and Human Services Finance
 7 and Support, and the Department of Health and Human Services
 8 Regulation and Licensure; and

9 (v) Deputies and examiners of the Department of Banking
 10 and Finance and the Department of Insurance as set forth in
 11 sections 8-105 and 44-119, except for those deputies and examiners
 12 who remain in the State Personnel System.

13 (2) At each agency head's discretion, up to the following
 14 number of additional positions may be exempted from the State
 15 Personnel System, based on the following agency size categories:

16	Number of Agency	Number of Noncovered
17	Employees	Positions
18	less than 25	0
19	25 to 100	1
20	101 to 250	2
21	251 to 500	3
22	501 to 1000	4
23	1001 to 2000	5
24	2001 to 3000	8
25	3001 to 4000	11
26	4001 to 5000	14
27	over 5000	17

28 The purpose of having such noncovered positions shall be

1 to allow agency heads the opportunity to recruit, hire, and
2 supervise critical, confidential, or policymaking personnel without
3 restrictions from selection procedures, compensation rules, career
4 protections, and grievance privileges. Persons holding the
5 noncovered positions shall serve at the pleasure of the agency head
6 and shall be paid salaries set by the agency head.

7 (3) No changes to this section or to the number of
8 noncovered positions within an agency shall affect the status of
9 personnel employed on the date the changes become operative without
10 their prior written agreement. A state employee's career
11 protections or coverage by personnel rules and regulations shall
12 not be revoked by redesignation of the employee's position as a
13 noncovered position without the prior written agreement of such
14 employee.

15 Sec. 50. Section 81-1317, Revised Statutes Supplement,
16 2004, is amended to read:

17 81-1317. Except as may be prohibited by the Industrial
18 Relations Act or the State Employees Collective Bargaining Act and
19 except for the pay increases provided by the Legislature, the
20 ~~Director of Personnel~~ director shall have authority to establish
21 programs and otherwise adjust terms and conditions of employment
22 for employees not covered by collective-bargaining agreements,
23 including terms and conditions of employment which may not be
24 specifically provided or may otherwise be provided by law, in order
25 to make such terms and conditions of employment more consistent
26 with those of such covered employees or otherwise address changes
27 arising out of collective bargaining, but in no event shall the
28 adjustment exceed the benefits derived from collective bargaining.

1 Sec. 51. Section 81-1318, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 81-1318. (1) There is hereby created a State Personnel
4 Board composed of five persons appointed by the Governor subject to
5 confirmation by the Legislature. Not more than three of the
6 members shall be members of the same political party. Each board
7 member shall retain his or her position until resignation or until
8 a successor is appointed at the expiration of the member's
9 appointive term. Any member of the board may be removed by the
10 Governor, upon notice and hearing as determined by the Governor,
11 for neglect of duty or malfeasance in office, but for no other
12 cause. New members shall be appointed for terms of five years,
13 except that any person chosen to fill a vacancy shall be appointed
14 only for the unexpired term of the member succeeded. State
15 employees covered by ~~sections 81-1301 to 81-1319~~ the State
16 Personnel System Act shall not be appointed to the State Personnel
17 Board. At least three appointees to the board shall have
18 experience in personnel administration, business or public
19 administration, labor relations, or law. The board, by majority
20 vote, shall designate one member to serve as chairperson.

21 (2) The principal office and business address of the
22 board shall be the ~~personnel division of the Department of~~
23 ~~Administrative Services~~ Department of Personnel in Lincoln,
24 Nebraska, but the board may meet and exercise any or all of its
25 powers at any other location.

26 (3) The board may delegate to a group of three or more
27 members any or all of the powers which it may exercise. The board
28 shall be authorized to designate and delegate its powers under

1 section 81-1318.01 to hearing officers to conduct grievance appeal
2 hearings and recommend a decision to the board for final action. A
3 vacancy in the board shall not impair the right of the remaining
4 members to exercise all the powers of the board, and three members
5 of the board shall at all times constitute a quorum of the board.

6 Sec. 52. Section 81-1318.01, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 81-1318.01. The State Personnel Board shall ensure the
9 fair and equitable administration of the State Personnel System by:

10 (1) Operating as prescribed by rules and regulations
11 adopted and promulgated by the ~~personnel division of the Department~~
12 ~~of Administrative Services~~ department;

13 (2) Reviewing and approving, by majority vote, rules and
14 regulations adopted and promulgated by the ~~personnel division~~
15 department;

16 (3) Determining the grievability of issues or doing so
17 through the designation of a board member. Issues determined to be
18 not grievable shall be subject to summary dismissal;

19 (4) Adjudicating grievance appeals and rendering final
20 binding decisions;

21 (5) Rendering decisions consistent with the rules and
22 regulations adopted and promulgated by the ~~personnel division~~
23 department;

24 (6) Reviewing and providing counsel regarding any matter
25 affecting the State Personnel System;

26 (7) Review and publish all personnel rules and
27 regulations adopted and promulgated by any state agency subject to
28 the Administrative Procedure Act; and

1 ~~(7)~~ (8) Performing the actions required pursuant to the
2 State Government Effectiveness Act.

3 Sec. 53. Section 81-1318.02, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 81-1318.02. (1) Any employee appealing a ruling made
6 pursuant to ~~Chapter 81, article 13,~~ the State Employees Collective
7 Bargaining Act or the State Personnel System Act shall file a
8 grievance appeal with the State Personnel Board. The chairperson
9 of the board may assign the appeal to a hearing officer who shall
10 be chosen from a list of hearing officers established and
11 maintained by the board.

12 (2) The board shall establish the qualifications
13 necessary to be a hearing officer. Such qualifications shall be
14 consistent with experience in personnel administration, labor
15 relations, or administrative law proceedings. Persons eligible to
16 be hearing officers shall include ~~(1) employees of the personnel~~
17 ~~division of the Department of Administrative Services,~~ ~~(2)~~
18 ~~employees of the Division of Employee Relations of the Department~~
19 ~~of Administrative Services,~~ ~~(3)~~ (a) employees included within the
20 State Personnel System who the board determines are qualified. No
21 and ~~(4) other qualified persons,~~ ~~except that no person who has~~
22 ~~negotiated or assisted in the negotiation of the contract at issue,~~
23 or who is subject to such person as described in subsection (2) of
24 section 84-913.04, shall be eligible to be a hearing officer.

25 (4) After the chairperson of the State Personnel Board
26 assigns the grievance appeal to a hearing officer, the appellant
27 may disapprove such assignment and request that another person be
28 assigned as his or her hearing officer. The second assignment

1 shall be final.

2 Sec. 54. In a grievance appeal hearing, the inquiry
3 shall determine whether there was a misinterpretation or
4 misapplication of the manual, personnel rules and regulations of
5 other state agencies, applicable labor agreements, and state
6 statutes. The record of the hearing shall include all applicable
7 rules and regulations, receipts thereof, documentary evidence, and
8 testimony. The standard of proof for the aggrieved person shall be
9 substantial evidence.

10 Sec. 55. Section 81-1353, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 81-1353. No agency, board, or commission shall receive
13 additional appropriations to carry out sections 81-1346 to 81-1354
14 except the ~~personnel division of the Department of Administrative~~
15 ~~Services~~ department which shall be allocated funds to administer
16 such sections. All awards shall be made from the amount of
17 appropriated money saved by the suggestions of employees.

18 Sec. 56. Section 81-1354.01, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 81-1354.01. Nothing in ~~sections 81-1301 to 81-1354~~ the
21 State Personnel System Act shall prohibit state employees from
22 exercising their rights granted in ~~Chapter 48, article 8,~~ the
23 Industrial Relations Act or any other applicable sections of law.

24 Sec. 57. Section 81-1354.03, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 81-1354.03. There is hereby created the Training
27 Revolving Fund to be administered by the ~~personnel division of the~~
28 ~~Department of Administrative Services~~ department. All funds

1 received by the ~~personnel division~~ department for employee training
2 programs shall be remitted by the ~~personnel division~~ department to
3 the State Treasurer for credit to the fund. Any money in the fund
4 available for investment shall be invested by the state investment
5 officer pursuant to the Nebraska Capital Expansion Act and the
6 Nebraska State Funds Investment Act.

7 Sec. 58. Section 81-1354.04, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 81-1354.04. There is hereby created the Temporary
10 Employee Pool Revolving Fund. The fund shall be administered by
11 the ~~personnel division of the Department of Administrative Services~~
12 department. The fund shall consist of fees paid for services
13 provided to state agencies by the ~~division~~ department in providing
14 temporary employees. The fund shall be used to pay for expenses
15 incurred by the ~~division~~ department in providing temporary
16 employees. Any money in the fund available for investment shall be
17 invested by the state investment officer pursuant to the Nebraska
18 Capital Expansion Act and the Nebraska State Funds Investment Act.

19 Sec. 59. Section 81-1354.05, Revised Statutes
20 Supplement, 2004, is amended to read:

21 81-1354.05. The ~~Personnel Division~~ Department of
22 Personnel Revolving Fund is created. The fund shall be
23 administered by the ~~personnel division of the Department of~~
24 ~~Administrative Services~~ department. All funds received by the
25 ~~personnel division~~ department for employee recognition programs and
26 advertising shall be credited to the fund. Any money in the fund
27 available for investment shall be invested by the state investment
28 officer pursuant to the Nebraska Capital Expansion Act and the

1 Nebraska State Funds Investment Act. Any money in the ~~Employee~~
2 ~~Recognition~~ Personnel Division Revolving Fund on July 1, 2000, the
3 operative date of this act shall be transferred to the ~~Personnel~~
4 ~~Division~~ Department of Personnel Revolving Fund.

5 Sec. 60. Section 81-1357, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 81-1357. There is hereby created the Affirmative Action
8 Office which shall be within the ~~personnel division~~ of the
9 ~~Department of Administrative Services~~ department. The office shall
10 be under the administrative control of the ~~Director of Personnel~~
11 director.

12 Sec. 61. On and after the operative date of this act,
13 positions of employment in the personnel division of the Department
14 of Administrative Services related to the powers, duties, and
15 functions transferred to the Department of Personnel pursuant to
16 this legislative bill are transferred to the Department of
17 Personnel. For purposes of the transition, employees of the
18 division shall be considered employees of the Department of
19 Personnel and shall retain their rights under the State Personnel
20 System or pertinent bargaining agreement, and their service shall
21 be deemed continuous. This section does not grant employees any
22 new rights or benefits not otherwise provided by law or bargaining
23 agreement or preclude the department or the Director of Personnel
24 from exercising any of the prerogatives of management set forth in
25 section 81-1311 or as otherwise provided by law. This legislative
26 bill is not an amendment to or substitute for the provisions of any
27 existing bargaining agreements.

28 Sec. 62. On the operative date of this act, all items of

1 property, real and personal, including office furniture and
2 fixtures, books, documents, and records of the personnel division
3 of the Department of Administrative Services shall become the
4 property of the Department of Personnel.

5 Sec. 63. On and after the operative date of this act,
6 whenever the personnel division of the Department of Administrative
7 Services is referred to or designated by any contract or other
8 document in connection with the duties and functions transferred to
9 the Department of Personnel by this legislative bill such reference
10 or designation shall apply to such department. All contracts
11 entered into by the division prior to the operative date of this
12 act in connection with the duties and functions transferred to the
13 department are hereby recognized, with the department succeeding to
14 all rights and obligations under such contracts. Any cash funds,
15 custodial funds, gifts, trusts, grants, and any appropriations of
16 funds from prior fiscal years available to satisfy obligations
17 incurred under such contracts shall be transferred and appropriated
18 to the succeeding department for the payments of such obligations.
19 All certificates, seals, or other forms of approval issued by the
20 division in accordance with functions or duties transferred to the
21 Department of Personnel shall remain valid as issued under the
22 division unless revoked or their effectiveness is otherwise
23 terminated as provided by law. All documents and records
24 transferred, or copies of the same, may be authenticated or
25 certified by the Department of Personnel for all legal purposes.

26 Sec. 64. All rules, regulations, and orders of the
27 personnel division of the Department of Administrative Services
28 adopted prior to the operative date of this act, in connection with

1 the powers, duties, and functions transferred to the Department of
 2 Personnel by this legislative bill, shall continue to be effective
 3 until revised, amended, repealed, or nullified pursuant to law.

4 No suit, action, or other proceeding, judicial or
 5 administrative, lawfully commenced prior to the operative date of
 6 this act, or which could have been commenced prior to that date, by
 7 or against the division, or any director or employee thereof in
 8 such director's or employee's official capacity or in relation to
 9 the discharge of his or her official duties, shall abate by reason
 10 of the transfer of duties and functions from the division to the
 11 Department of Personnel.

12 On and after the operative date of this act, unless
 13 otherwise specified, whenever any provision of law refers to the
 14 division in connection with duties and functions transferred to the
 15 Department of Personnel, the law shall be construed as referring to
 16 such department.

17 Sec. 65. Section 81-1371, Reissue Revised Statutes of
 18 Nebraska, is amended to read:

19 81-1371. For purposes of the State Employees Collective
 20 Bargaining Act, unless the context otherwise requires:

21 (1) Chief Negotiator ~~shall mean~~ means the Chief
 22 Negotiator of the Division of Employee Relations of the Department
 23 of Administrative Services;

24 (2) Commission ~~shall mean~~ means the Commission of
 25 Industrial Relations;

26 (3) Division ~~shall mean~~ means the Division of Employee
 27 Relations of the Department of Administrative Services;

28 (4) Employee or state employee ~~shall mean~~ means any

1 employee of the State of Nebraska;

2 (5) Employer or state employer ~~shall mean~~ means the State
3 of Nebraska and ~~shall~~ does not include any political subdivision
4 thereof;

5 (6) Employer-representative ~~shall mean~~ means (a) for
6 negotiations involving employees of the University of Nebraska, the
7 Board of Regents, (b) for negotiations involving employees of the
8 Nebraska state colleges, the Board of Trustees of the Nebraska
9 State Colleges, (c) for negotiations involving employees of other
10 constitutional agencies, the governing officer or body for each
11 such agency, and (d) for negotiations involving other state
12 employees, the Governor;

13 (7) ~~Grievance shall mean a management action resulting in~~
14 ~~an injury, injustice, or wrong involving a misinterpretation or~~
15 ~~misapplication of applicable labor contracts if so agreed to by the~~
16 ~~appropriate parties;~~

17 ~~(8)~~ Issue ~~shall mean~~ means broad subjects of negotiation
18 which are presented to the Special Master pursuant to section
19 81-1382. All aspects of wages shall be a single issue, all aspects
20 of insurance shall be a single issue, and all other subjects of
21 negotiations classified in broad categories shall be single issues;

22 ~~(9)~~ (8) Mandatory topic or topics of bargaining ~~shall~~
23 ~~mean~~ means those subjects of negotiation on which employers must
24 negotiate pursuant to the Industrial Relations Act, including terms
25 and conditions of employment which may otherwise be provided by law
26 for state employees, except when specifically prohibited by law
27 from being a subject of bargaining;

28 ~~(10)~~ (9) Meet-and-confer rights ~~shall mean~~ means the

1 rights of employees to discuss wages, hours, and other terms and
2 conditions of employment with the appropriate
3 employer-representative but ~~shall~~ does not require either party to
4 enter into a written agreement. Employees afforded meet-and-confer
5 rights shall not be entitled to utilize the impasse resolution
6 procedures provided in the State Employees Collective Bargaining
7 Act or to file a petition with the commission invoking its
8 jurisdiction as provided in the Industrial Relations Act for the
9 purpose of obtaining an order or orders under section 48-818.
10 Meet-and-confer rights shall not apply to any bargaining unit other
11 than a supervisory unit; and

12 ~~(11)~~ (10) Special Master ~~shall mean~~ means a factfinder
13 chosen pursuant to section 81-1380.

14 Sec. 66. Section 81-1373, Revised Statutes Supplement,
15 2004, is amended to read:

16 81-1373. (1) For the purpose of implementing the state
17 employees' right to organize for the purpose of collective
18 bargaining, there are hereby created twelve bargaining units for
19 all state agencies except the University of Nebraska, the Nebraska
20 state colleges, and other constitutional offices. The units shall
21 consist of state employees whose job classifications are
22 occupationally and functionally related and who share a community
23 of interest. The bargaining units shall be:

24 (a) Maintenance, Trades, and Technical, which unit is
25 composed of generally recognized blue collar and technical classes,
26 including highway maintenance workers, carpenters, plumbers,
27 electricians, print shop workers, auto mechanics, engineering aides
28 and associates, and similar classes;

1 (b) Administrative Support, which unit is composed of
2 clerical and administrative nonprofessional classes, including
3 typists, secretaries, accounting clerks, computer operators, office
4 service personnel, and similar classes;

5 (c) Health and Human Care Nonprofessional, which unit is
6 composed of institutional care classes, including nursing aides,
7 psychiatric aides, therapy aides, and similar classes;

8 (d) Social Services and Counseling, which unit is
9 composed of generally professional-level workers providing services
10 and benefits to eligible persons. Classes shall include job
11 service personnel, income maintenance personnel, social workers,
12 counselors, and similar classes;

13 (e) Administrative Professional, which unit is composed
14 of professional employees with general business responsibilities,
15 including accountants, buyers, personnel specialists, data
16 processing personnel, and similar classes;

17 (f) Protective Service, which unit is composed of
18 institutional security personnel, including correctional officers,
19 building security guards, and similar classes;

20 (g) Law Enforcement, which unit is composed of employees
21 holding powers of arrest, including Nebraska State Patrol officers
22 and sergeants, conservation officers, fire marshal personnel, and
23 similar classes. Sergeants, investigators, and patrol officers
24 employed by the Nebraska State Patrol as authorized in section
25 81-2004 shall be presumed to have a community of interest with each
26 other and shall be included in this bargaining unit notwithstanding
27 any other provision of law which may allow for the contrary;

28 (h) Health and Human Care Professional, which unit is

1 composed of community health, nutrition, and health service
2 professional employees, including nurses, doctors, psychologists,
3 pharmacists, dietitians, licensed therapists, and similar classes;

4 (i) Examining, Inspection, and Licensing, which unit is
5 composed of employees empowered to review certain public and
6 business activities, including driver-licensing personnel, revenue
7 agents, bank and insurance examiners who remain in the State
8 Personnel System under sections 8-105 and 44-119, various public
9 health and protection inspectors, and similar classes;

10 (j) Engineering, Science, and Resources, which unit is
11 composed of specialized professional scientific occupations,
12 including civil and other engineers, architects, chemists,
13 geologists and surveyors, and similar classes;

14 (k) Teachers, which unit is composed of employees
15 required to be licensed or certified as a teacher; and

16 (l) Supervisory, which unit is composed of employees who
17 are supervisors as defined in section 48-801.

18 All employees who are excluded from bargaining units
19 pursuant to the Industrial Relations Act, all employees of the
20 ~~personnel division of the Department of Administrative Services~~
21 Department of Personnel, and all employees of the Division of
22 Employee Relations of the Department of Administrative Services
23 shall be excluded from any bargaining unit of state employees.

24 (2) Any employee organization, including one which
25 represents other state employees, may be certified or recognized as
26 provided in the Industrial Relations Act as the exclusive
27 collective-bargaining agent for a supervisory unit, except that
28 such unit shall not have full collective-bargaining rights but

1 shall be afforded only meet-and-confer rights.

2 (3) It is the intent of the Legislature that professional
3 and managerial employee classifications and office and service
4 employee classifications be grouped in broad occupational units for
5 the University of Nebraska and the Nebraska state colleges
6 established on a university-wide or college-system-wide basis,
7 including all campuses within the system. Any unit entirely
8 composed of supervisory employees of the University of Nebraska or
9 the Nebraska state colleges shall be afforded only meet-and-confer
10 rights. Except as provided in subsection (4) of this section, the
11 bargaining units for academic, faculty, and teaching employees of
12 the University of Nebraska and the Nebraska state colleges shall
13 continue as they exist on April 9, 1987, and any adjustments
14 thereto or new units therefor shall continue to be determined
15 pursuant to the Industrial Relations Act.

16 (4) Except as provided in subdivision (2)(c) of section
17 85-1,119, when the institution now known as Kearney State College
18 is transferred to the control and management of the Board of
19 Regents of the University of Nebraska, any academic, faculty, and
20 teaching employees of Kearney State College who are included in a
21 bargaining unit and represented by a certified or recognized
22 collective-bargaining agent as of June 30, 1991, shall, on and
23 after July 1, 1991, compose a separate bargaining unit of
24 University of Nebraska employees, and such agent shall be entitled
25 to certification by the commission for the new bargaining unit
26 without the necessity of a representation election. Any
27 adjustments to the unit or the representation thereof shall be
28 determined pursuant to the Industrial Relations Act.

1 (5) Other constitutional offices shall continue to
2 subscribe to the procedures for unit determination in the
3 Industrial Relations Act, except that the commission is further
4 directed to determine the bargaining units in such manner as to (a)
5 reduce the effect of overfragmentation of bargaining units on the
6 efficiency of administration and operations of the constitutional
7 office and (b) be consistent with the administrative structure of
8 the constitutional office. Any unit entirely composed of
9 supervisory employees of a constitutional office shall be afforded
10 only meet-and-confer rights.

11 Sec. 67. Section 81-1374, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 81-1374. The transition of bargaining units and
14 certified exclusive collective-bargaining agents existing prior to
15 and on April 9, 1987, to those units prescribed in section 81-1373
16 and certified exclusive collective-bargaining agents shall be
17 implemented as follows:

18 (1) (a) When the employees in a bargaining unit or units
19 existing prior to and on April 9, 1987, and represented by a single
20 certified exclusive collective-bargaining agent comprise at least
21 seventy percent of the employees to be included in a bargaining
22 unit prescribed in section 81-1373 and there is no other
23 collective-bargaining agent certified to represent any of the other
24 employees who would be included in the new unit, the certified
25 exclusive collective-bargaining agent for the existing unit or
26 units shall be entitled to a certification by the commission for
27 the new bargaining unit without the necessity of a representation
28 election.

1 (b) When the employees in two or more bargaining units
2 existing prior to and on April 9, 1987, and represented by two or
3 more certified exclusive collective-bargaining agents together
4 comprise at least eighty percent of the employees to be included in
5 a bargaining unit prescribed in section 81-1373, an election shall
6 be held between the certified exclusive collective-bargaining
7 agents for the existing units to determine which should be
8 certified by the commission as the exclusive collective-bargaining
9 agent for the new bargaining unit. The competing
10 collective-bargaining agents shall be the only choices on the
11 ballot.

12 If either of the competing collective-bargaining agents
13 disclaims an interest in certification for the new bargaining unit,
14 the remaining collective-bargaining agent, if it represents a
15 majority of the employees to be included in the new bargaining
16 unit, shall be entitled to a certification by the commission for
17 the new bargaining unit without the necessity of a representation
18 election. The disclaimer shall be in writing submitted to the
19 competing collective-bargaining agent, ~~and~~ the division, and the
20 Department of Personnel and filed with the commission.

21 (c) When, on April 9, 1987, less than seventy percent of
22 the employees to be included in a bargaining unit prescribed in
23 section 81-1373 are represented by existing certified
24 collective-bargaining agents, representation of employees in the
25 new bargaining unit shall be determined pursuant to procedures
26 prescribed in section 48-838 and any rules and regulations adopted
27 and promulgated pursuant thereto by the commission, except that the
28 commission shall recognize representation claims existing on April

1 9, 1987, when such claims are sufficient in number, as satisfying
2 the requirements of subsection (3) of section 48-838 for requests
3 in writing;

4 (2) Any employee organization which prior to and on April
5 9, 1987, has been the exclusive collective-bargaining agent of any
6 employees may disclaim any interest in representation of such
7 employees. The disclaimer shall be in writing and submitted to the
8 competing collective-bargaining agent, ~~and~~ the division, and the
9 Department of Personnel and filed with the commission. Any two or
10 more organizations which prior to and on April 9, 1987, were
11 exclusive collective-bargaining agents for any employees may
12 combine, merge, or affiliate for purposes of representation of
13 employees in a bargaining unit prescribed by section 81-1373;

14 (3) The appropriate employer-representative for the State
15 of Nebraska shall, upon receipt of a copy of the appropriate final
16 certification order from the commission, recognize any employee
17 organization's claim to certification as the exclusive
18 collective-bargaining agent which is based upon this section;

19 (4) The job classifications which compose each bargaining
20 unit and, only for purposes of determining transition to new
21 bargaining units as provided in this section, the number of
22 employees within each job classification shall be found in the
23 Appendix of the report entitled Nebraska State Government and
24 Collective Bargaining, which report is on file with the Clerk of
25 the Legislature on April 9, 1987. No job classification included
26 within any bargaining unit shall be removed or reassigned from a
27 unit until (a) two years after April 9, 1987, or (b) there is a
28 certified exclusive collective-bargaining agent for the unit,

1 whichever occurs first. After such period, adjustments in the job
2 classifications which compose any bargaining unit prescribed in
3 section 81-1373 shall comply with the Industrial Relations Act and
4 any rule and regulation adopted and promulgated pursuant thereto;
5 and

6 (5) Except as otherwise provided in this section,
7 procedures for determination of a certified exclusive
8 collective-bargaining agent for any bargaining unit prescribed in
9 section 81-1373 shall comply with section 48-838 and any rules and
10 regulations adopted and promulgated pursuant thereto by the
11 commission.

12 Sec. 68. Section 81-1375, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 81-1375. Certified collective-bargaining agents
15 representing bargaining units other than those prescribed in
16 section 81-1373 shall not utilize the impasse procedures provided
17 for in sections 81-1380 to 81-1385 nor file a petition with the
18 commission invoking its jurisdiction as provided in the Industrial
19 Relations Act. ~~but may, for two years from April 9, 1987, continue~~
20 ~~to meet and confer with employer-representatives regarding those~~
21 ~~employees in such units as long as no other employee organization~~
22 ~~has been certified as the exclusive collective-bargaining agent for~~
23 ~~such employees pursuant to section 81-1374 and may represent~~
24 ~~individual employees on grievance matters.~~ Parties engaged in the
25 meet-and-confer process shall not be entitled to file any case with
26 the commission to establish any rate of pay or condition of
27 employment. ~~except that if those parties which meet and confer~~
28 ~~during this two-year period do not reach an agreement by June 30~~

1 preceding the beginning of the fiscal year, the existing agreement
2 or contract shall be continued until such time as an agreement or
3 contract for the remainder of the fiscal year has been reached.

4 Sec. 69. Section 81-1376, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 81-1376. (1) There is hereby created within the
7 Department of Administrative Services the Division of Employee
8 Relations to be headed by the Chief Negotiator who shall be
9 appointed by, serve at the pleasure of, and represent the Governor.
10 The Director of Administrative Services may serve as the Chief
11 Negotiator. The division shall be responsible for negotiating and
12 administering all labor contracts entered into by the State of
13 Nebraska, except that the division shall not be responsible for
14 contracts entered into by constitutional offices, the Board of
15 Trustees of the Nebraska State Colleges, and the Board of Regents
16 of the University of Nebraska.

17 (2) The Chief Negotiator shall, for agencies within the
18 jurisdiction of the division:

19 ~~(1)~~ (a) Negotiate or supervise the negotiations of labor
20 contracts on a statewide basis;

21 ~~(2)~~ (b) Be responsible for the administration of all
22 collective-bargaining agreements, except that the Chief Negotiator
23 may delegate such responsibility to designated representatives who
24 may be employees of state agencies when the Chief Negotiator deems
25 it appropriate;

26 ~~(3)~~ (c) Be vested with authority on all mandatory topics
27 of bargaining to negotiate the contracts. Contracts may adjust or
28 change rates of pay and other terms and conditions of employment

1 that are mandatory topics of bargaining pursuant to the Industrial
2 Relations Act and the State Employees Collective Bargaining Act;

3 ~~(4)~~ (d) Make recommendations to the Governor and
4 Legislature regarding wages, hours, and conditions of employment
5 for all unorganized employees;

6 ~~(5)~~ (e) Consult with agency and department heads
7 regarding possible terms of labor contracts and administration of
8 agreements when appropriate; and

9 ~~(6)~~ (f) Manage the day-to-day operations of the division.

10 (3) The division and the Chief Negotiator may represent
11 any of the constitutional offices in labor contract negotiations
12 and administration of contracts if requested to do so by such
13 offices by resolution of the governing officer or body submitted to
14 the Chief Negotiator and affected collective-bargaining agent and
15 filed with the commission.

16 (4) The responsibilities for negotiating contracts with
17 employees of the Nebraska state colleges and the University of
18 Nebraska shall not be exercised by the division and the Chief
19 Negotiator. The Board of Regents and the Board of Trustees of the
20 Nebraska State Colleges shall be responsible for negotiating
21 contracts with exclusive collective-bargaining agents for their
22 employees.

23 (5) The division and the Chief Negotiator shall not have
24 responsibility for grievance proceedings filed under sections
25 81-1318 and 81-1319.

26 Sec. 70. Section 81-1386, Reissue Revised Statutes of
27 Nebraska, is amended to read:

28 81-1386. (1) It shall be a prohibited practice for any

1 employer, employee, employee organization, or exclusive
2 collective-bargaining agent to refuse to negotiate in good faith
3 with respect to mandatory topics of bargaining.

4 (2) It shall be a prohibited practice for any employer or
5 the employer's negotiator to:

6 (a) Interfere with, restrain, or coerce state employees
7 in the exercise of rights granted by the State Employees Collective
8 Bargaining Act or the Industrial Relations Act;

9 (b) Dominate or interfere in the administration of any
10 employee organization;

11 (c) Encourage or discourage membership in any employee
12 organization, committee, or association by discrimination in
13 hiring, tenure, or other terms or conditions of employment;

14 (d) Discharge or discriminate against a state employee
15 because the employee has filed an affidavit, petition, or complaint
16 or given any information or testimony under the Industrial
17 Relations Act or the State Employees Collective Bargaining Act or
18 because the employee has formed, joined, or chosen to be
19 represented by any employee organization;

20 (e) Refuse to negotiate collectively with representatives
21 of exclusive collective-bargaining agents as required in the
22 Industrial Relations Act and the State Employees Collective
23 Bargaining Act;

24 (f) Deny the rights accompanying certification or
25 exclusive recognition granted in the Industrial Relations Act or
26 the State Employees Collective Bargaining Act; and

27 (g) Refuse to participate in good faith in any impasse
28 procedures for state employees as set forth in sections 81-1380 to

1 81-1385.

2 (3) It shall be a prohibited practice for any employees,
3 employee organization, or bargaining unit or for any of their
4 representatives or exclusive collective-bargaining agents to:

5 (a) Interfere with, restrain, coerce, or harass any state
6 employee with respect to any of the employee's rights under the
7 Industrial Relations Act or the State Employees Collective
8 Bargaining Act;

9 (b) Interfere, restrain, or coerce an employer with
10 respect to rights granted in the Industrial Relations Act or the
11 State Employees Collective Bargaining Act; ~~or with respect to~~
12 ~~selecting a representative for the purposes of negotiating~~
13 ~~collectively on the adjustment of grievances;~~

14 (c) Refuse to bargain collectively with an employer as
15 required in the Industrial Relations Act or the State Employees
16 Collective Bargaining Act; and

17 (d) Refuse to participate in good faith in any impasse
18 procedures for state employees set forth in sections 81-1380 to
19 81-1385.

20 (4) The expressing of any views, argument, or opinion, or
21 the dissemination thereof, whether in written, printed, graphic, or
22 visual form, shall not constitute or be evidence of any unfair
23 labor practice under any of the provisions of the Industrial
24 Relations Act or the State Employees Collective Bargaining Act if
25 such expression contains no threat of reprisal or force or promise
26 of benefit.

27 Sec. 71. Section 81-1393, Reissue Revised Statutes of
28 Nebraska, is amended to read:

1 81-1393. (1) The Information Technology Retraining
2 Program is created. The purpose of the program is to identify and
3 reeducate qualified state employees. The program shall be
4 administered by the ~~personnel division of the Department of~~
5 ~~Administrative Services~~ Department of Personnel.

6 (2) Eligibility for the program may be granted to
7 employees who:

8 (a) Demonstrate an aptitude for information technology as
9 determined by the ~~personnel division~~ department;

10 (b) Agree to enroll in an education program approved by
11 the ~~personnel division~~ department; and

12 (c) Agree to the conditions of repayment of loans granted
13 for information technology training.

14 (3) The ~~personnel division~~ Department of Personnel shall
15 consult with the information management services division of the
16 ~~department~~ Department of Administrative Services and other
17 information technology personnel to:

18 (a) Develop a screening process and criteria for program
19 eligibility;

20 (b) Identify information technology professions that are
21 areas of critical or emerging need for which a shortage of skills
22 exist; and

23 (c) Identify or establish approved education programs in
24 areas of critical need. The ~~personnel division~~ Department of
25 Personnel may establish a training program only after a detailed
26 analysis of the cost and benefits of contracting with an existing
27 educational institution, including courses and programs which may
28 be available through the Western Governors University.

1 (4) The ~~personnel division~~ department shall by rule and
2 regulation set the terms of employee eligibility, placement of
3 trained employees, and fiscal administration of the program,
4 including conditions for employee repayment.

5 (5) A trained employee, in exchange for the training,
6 shall agree to at least three years of continued state employment
7 after completion of the program and shall repay a prorated amount
8 of the training cost if state employment is voluntarily
9 discontinued prior to three years. The prorated amount shall equal
10 one thirty-sixth of the training cost for each month of state
11 employment less than three years.

12 Sec. 72. Section 81-1424, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 81-1424. The Governor shall appoint and set the salary
15 of the executive director consistent with any compensation and pay
16 plan established by the ~~personnel division of the Department of~~
17 ~~Administrative Services~~ Department of Personnel. The executive
18 director shall be qualified for the position by appropriate
19 training and experience in the field of criminal law and justice.
20 The executive director may be removed only for cause by the
21 Governor after a hearing, if requested.

22 Sec. 73. Section 81-3601, Revised Statutes Supplement,
23 2004, is amended to read:

24 81-3601. There is hereby created the Rural Development
25 Commission. The commission shall advocate and recommend programs
26 that encourage regional cooperation and foster community
27 sustainability and economic development initiatives in rural areas
28 of Nebraska. The chairperson and vice-chairperson of the

1 commission shall supervise the hiring of the executive director
2 using the ~~state personnel hiring process~~ State Personnel System and
3 may employ personnel necessary to carry out the powers and duties
4 of the commission. The Lieutenant Governor, the Governor's Policy
5 Research Office, the Department of Economic Development, the
6 Department of Agriculture, and other state agencies may provide
7 administrative and technical support under the direct supervision
8 of the Governor. The commission may secure cooperation and
9 assistance of other appropriate government and private-sector
10 entities specifically for rural programs.

11 Sec. 74. Section 84-1503.03, Revised Statutes
12 Supplement, 2004, is amended to read:

13 84-1503.03. The director of the Nebraska Public
14 Employees Retirement Systems shall employ qualified personnel as
15 may be required to carry out the duties and responsibilities
16 required under sections 84-1501 to 84-1514. Such employees shall
17 be deemed state employees and covered by the State Personnel System
18 pursuant to ~~sections 81-1301 to 81-1368~~ the State Personnel System
19 Act and other personnel rules or regulations. The director shall
20 be exempt from the State Personnel System. All employees shall
21 comply with state accounting regulations and applicable state and
22 federal laws in the discharge of their duties.

23 Sec. 75. Section 84-1511, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 84-1511. (1) The Public Employees Retirement Board shall
26 establish a comprehensive preretirement planning program for state
27 patrol officers, state employees, judges, county employees, and
28 school employees who are members of the retirement systems

1 established pursuant to the Class V School Employees Retirement
2 Act, the County Employees Retirement Act, the Judges Retirement
3 Act, the School Employees Retirement Act, the Nebraska State Patrol
4 Retirement Act, and the State Employees Retirement Act. The
5 program shall provide information and advice regarding the many
6 changes employees face upon retirement including, but not limited
7 to, changes in physical and mental health, housing, family life,
8 leisure activity, and retirement income.

9 (2) The preretirement planning program shall be available
10 to all employees who have attained the age of fifty or are within
11 five years of qualifying for retirement or early retirement under
12 their retirement systems.

13 (3) The preretirement planning program shall include
14 information on the federal and state income tax consequences of the
15 various annuity or retirement benefit options available to the
16 employee, information on social security benefits, information on
17 various local, state, and federal government programs and programs
18 in the private sector designed to assist elderly persons, and
19 information and advice the board deems valuable in assisting public
20 employees in the transition from public employment to retirement.

21 (4) The board shall work with the Department of Health
22 and Human Services, the ~~personnel division of the Department of~~
23 ~~Administrative Services~~ Department of Personnel, employee groups,
24 and any other governmental agency, including political subdivisions
25 or bodies whose services or expertise may enhance the development
26 or implementation of the preretirement planning program.

27 (5) Funding to cover the expense of the preretirement
28 planning program shall be charged back to each retirement fund on a

1 pro rata share based on the number of employees in each plan.

2 (6) The employer shall provide each eligible employee
3 leave with pay to attend up to two preretirement planning programs.
4 For purposes of this subsection, leave with pay shall mean a day
5 off paid by the employer and shall not mean vacation, sick,
6 personal, or compensatory time. An employee may choose to attend a
7 program more than twice, but such leave shall be at the expense of
8 the employee and shall be at the discretion of the employer. An
9 eligible employee shall not be entitled to attend more than one
10 preretirement planning program per fiscal year prior to actual
11 election of retirement.

12 (7) A nominal registration fee shall be charged each
13 person attending a preretirement planning program to cover the
14 costs for meals, meeting rooms, or other expenses incurred under
15 such program.

16 Sec. 76. Section 84-1601, Revised Statutes Supplement,
17 2004, is amended to read:

18 84-1601. (1) There is hereby established a program of
19 group life and health insurance for all permanent employees of this
20 state who work one-half or more of the regularly scheduled hours
21 during each pay period, excluding employees of the University of
22 Nebraska, the state colleges, and the community colleges. ~~Such~~ The
23 program shall be known as the Nebraska State Insurance Program.
24 ~~and shall replace any current program of such insurance in effect~~
25 ~~in any agency and funded in whole or in part by state~~
26 ~~contributions.~~

27 (2) Temporary employees of the state who have a work
28 assignment of at least six months' duration and who work at least

1 twenty hours per week may purchase health insurance through the
2 Nebraska State Insurance Program. The state shall pay the same
3 proportion of the insurance premium for temporary employees as is
4 established through the collective bargaining process for permanent
5 employees. For purposes of this subsection, temporary employees
6 means individuals (a) employed in the Temporary Employee Pool as
7 described in subdivision (6) of section 81-1307 and (b) hired
8 directly by state agencies. In no event shall a temporary employee
9 mean an individual hired through a private employment agency.

10 (3) For purposes of sections 84-1601 to 84-1615, health
11 insurance may be construed to include coverage for disability and
12 dental health care services.

13 (4) Any commissioned employee of the Nebraska State
14 Patrol who on or after July 17, 1986, has reached fifty-one years
15 of age or becomes medically disabled and who will not receive
16 benefits from the federal social security program shall be afforded
17 the opportunity to remain enrolled in the state employees group
18 health insurance program until age sixty-five. Employees electing
19 this option shall be responsible for the entire premium cost,
20 including the state's share, the employee's share, and an
21 administrative fee consistent with that allowed by federal
22 guidelines for continuation of health insurance.

23 Sec. 77. Section 84-1602, Revised Statutes Supplement,
24 2004, is amended to read:

25 84-1602. Sections 84-1601 to 84-1615 shall be
26 administered by the ~~personnel division of the Department of~~
27 ~~Administrative Services~~ Department of Personnel. The Director of
28 Personnel may employ such administrative, clerical, secretarial,

1 and technical assistants and consultants as are required for the
2 administration of such sections.

3 Sec. 78. Section 84-1603, Revised Statutes Supplement,
4 2004, is amended to read:

5 84-1603. The ~~personnel division of the Department of~~
6 ~~Administrative Services~~ Department of Personnel shall select, with
7 the assistance of the Risk Manager and the Chief Negotiator, one or
8 more carriers or combinations of carriers licensed to do insurance
9 business in Nebraska to serve as administrator of the insurance
10 contract or contracts. Such selection shall be made after open
11 competitive bidding in which any carrier authorized to provide the
12 type or types of insurance coverage involved shall be eligible to
13 participate. The ~~personnel division~~ department may develop bid
14 specifications which provide for various forms of plan design and
15 funding methods, including plans of self-insurance or any
16 combination of such methods. The ~~personnel division~~ department may
17 utilize such expert technical assistance provided by the Risk
18 Manager, the Chief Negotiator, and other state agencies or outside
19 consultants as may be required to establish and evaluate criteria
20 for selection of carriers. The insurance contract or contracts may
21 be subject to rebidding at any time after the inception of this
22 program at the discretion of the ~~personnel division~~ department.

23 Sec. 79. Section 84-1605, Revised Statutes Supplement,
24 2004, is amended to read:

25 84-1605. Out of appropriations made for that purpose,
26 the ~~personnel division of the Department of Administrative Services~~
27 Department of Personnel shall (1) first enter into a contract
28 providing, entirely at state expense, ten thousand dollars of basic

1 life insurance protection and (2) enter into a contract to purchase
2 a contract of group health insurance to be financed by the state to
3 the extent that appropriations made for that purpose are available
4 and, if necessary, by contributions from each employee. Each such
5 contract shall provide insurance coverage for each employee
6 specified in section 84-1601. Participation in the program of
7 group health and life insurance shall be optional with the
8 employee.

9 Sec. 80. Section 84-1606, Revised Statutes Supplement,
10 2004, is amended to read:

11 84-1606. The ~~personnel division of the Department of~~
12 ~~Administrative Services~~ Department of Personnel may elect to offer
13 a group health insurance option to employees subject to sections
14 84-1601 to 84-1615. Such benefits shall be offered at the rates
15 listed in section 84-1611, and additional contributions necessary
16 to cover the costs of such benefits may be required from employees.

17 Sec. 81. Section 84-1613, Revised Statutes Supplement,
18 2004, is amended to read:

19 84-1613. The State Employees Insurance Fund is
20 established. The fund shall be administered by the ~~personnel~~
21 ~~division of the Department of Administrative Services~~ Department of
22 Personnel. All funds appropriated to pay the state's share of the
23 cost of the coverages provided by sections 84-1601 to 84-1615 and
24 all payroll deductions made under sections 84-1601 to 84-1615 shall
25 be credited to the fund. The ~~division~~ department shall make
26 premium payments to the carrier, carriers, or combinations of
27 carriers selected under section 84-1603 from this fund.

28 Any funds in the State Employees Insurance Fund available

1 for investment shall be invested by the state investment officer
 2 pursuant to the Nebraska Capital Expansion Act and the Nebraska
 3 State Funds Investment Act.

4 ~~On or before October 1, 2001, the State Treasurer shall~~
 5 ~~transfer one million five hundred thousand dollars from the excess~~
 6 ~~state share of life insurance history money of the State Employees~~
 7 ~~Insurance Fund to the Workers' Compensation Claims Revolving Fund.~~

8 Sec. 82. Section 84-1616, Revised Statutes Supplement,
 9 2004, is amended to read:

10 84-1616. The Health and Life Benefit Administration Cash
 11 Fund is created. The fund shall consist of payments made by
 12 individuals eligible for program benefits, transfers from the State
 13 Employees Insurance Fund for administrative and operation expenses
 14 as authorized by the Legislature, and interest earnings as
 15 authorized by the Legislature. The fund shall be used by the
 16 ~~personnel division of the Department of Administrative Services~~
 17 Department of Personnel to administer the provisions of the federal
 18 Public Health Service Act and for the administration of the section
 19 125 plan. Any money in the fund available for investment shall be
 20 invested by the state investment officer pursuant to the Nebraska
 21 Capital Expansion Act and the Nebraska State Funds Investment Act.

22 Sec. 83. Section 84-1617, Reissue Revised Statutes of
 23 Nebraska, is amended to read:

24 84-1617. The ~~personnel division of the Department of~~
 25 ~~Administrative Services~~ Department of Personnel shall provide an
 26 annual report to the Clerk of the Legislature. The report shall
 27 include the following information based on the prior fiscal year:
 28 (1) The number of temporary employees employed by the state; (2)

1 the number of such temporary employees who were eligible for health
2 insurance coverage pursuant to section 84-1601; (3) the number of
3 such temporary employees who elected coverage; and (4) the average
4 length of health insurance coverage for those temporary employees
5 who elected coverage.

6 Sec. 84. This act becomes operative on July 1, 2006.

7 Sec. 85. Original sections 23-2502, 49-506, 49-617,
8 49-14,121, 55-150, 72-1242, 73-509, 81-101, 81-102, 81-1301,
9 81-1302, 81-1304, 81-1306 to 81-1307.02, 81-1311, 81-1312, 81-1314,
10 81-1315, 81-1318 to 81-1318.02, 81-1353, 81-1354.01, 81-1354.03,
11 81-1354.04, 81-1357, 81-1371, 81-1374 to 81-1376, 81-1386, 81-1393,
12 81-1424, 84-1511, and 84-1617, Reissue Revised Statutes of
13 Nebraska, and sections 9-807, 77-5004, 81-1108, 81-1113, 81-1316,
14 81-1317, 81-1354.05, 81-1373, 81-3601, 84-1503.03, 84-1601 to
15 84-1603, 84-1605, 84-1606, 84-1613, and 84-1616, Revised Statutes
16 Supplement, 2004, are repealed.

17 Sec. 86. The following sections are outright repealed:
18 Sections 81-1303 and 81-1305, Reissue Revised Statutes of Nebraska.