

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 981

Introduced by Pirsch, 4.

Read first time January 15, 2008

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to state government; to amend section 81-108,
2 Reissue Revised Statutes of Nebraska, section 49-1499.03,
3 Revised Statutes Cumulative Supplement, 2006, and section
4 49-1401, Revised Statutes Supplement, 2007; to define
5 terms; to prohibit nepotism; to eliminate provisions
6 relating to employment of family members; to eliminate a
7 penalty; to harmonize provisions; to repeal the original
8 sections; and to outright repeal section 49-1499.01,
9 Revised Statutes Cumulative Supplement, 2006.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 49-1401, Revised Statutes Supplement,
2 2007, is amended to read:

3 49-1401 Sections 49-1401 to 49-14,141 and section 2 of
4 this act shall be known and may be cited as the Nebraska Political
5 Accountability and Disclosure Act.

6 Sec. 2. (1) For purposes of this section:

7 (a) Family member means an individual who is the spouse,
8 child, parent, brother, sister, grandchild, or grandparent, by
9 blood, marriage, or adoption, of a state employee or state official
10 or an individual so related to the spouse of a state employee or
11 state official;

12 (b) Nepotism means the act of hiring, promoting, or
13 advancing a family member in state government or recommending,
14 directly or indirectly, the hiring, promotion, or advancement of
15 a family member in state government, including initial appointment
16 and transfer to other positions in state government; and

17 (c) Supervisor means an individual having authority,
18 in the interest of the state, to hire, transfer, suspend, lay
19 off, recall, promote, discharge, assign, reward, or discipline
20 employees, responsibility to direct them or to adjust their
21 grievances, or effectively to recommend any such action, if the
22 exercise of such authority is not merely of a routine or clerical
23 nature but requires the use of independent judgment.

24 (2) Except as otherwise allowed in subsection (7) of this
25 section, a state employee or state official shall not engage in

1 nepotism.

2 (3) Except as otherwise allowed in subsection (7) of this
3 section, a state employee or state official shall not act as a
4 supervisor to his or her family member.

5 (4) Prior to, upon, or as soon as reasonably possible
6 after the official date of taking office or upon any change in
7 circumstance, a state employee or state official shall disclose
8 to the commission, on a form developed by the Department of
9 Administrative Services, any family member employed or serving in
10 state government.

11 (5) An applicant for a position as a state employee or
12 state official who knows that his or her family member is employed
13 or serving in a position in the same agency and who is granted an
14 interview shall disclose the relationship to the head of the agency
15 as soon as practicable on a form developed by the Department of
16 Administrative Services.

17 (6) Any person violating this section shall be subject to
18 disciplinary action.

19 (7) The head of an agency may, upon written showing of
20 good cause, grant an exception to subsection (2) or (3) of this
21 section. The written showing of good cause shall be filed with the
22 commission and shall be considered a public record.

23 Sec. 3. Section 49-1499.03, Revised Statutes Cumulative
24 Supplement, 2006, is amended to read:

25 49-1499.03 (1)(a) An official of a political subdivision

1 designated in section 49-1493 who would be required to take any
2 action or make any decision in the discharge of his or her official
3 duties that may cause financial benefit or detriment to him or her,
4 a member of his or her immediate family, or a business with which
5 he or she is associated, which is distinguishable from the effects
6 of such action on the public generally or a broad segment of the
7 public, shall take the following actions as soon as he or she is
8 aware of such potential conflict or should reasonably be aware of
9 such potential conflict, whichever is sooner:

10 (i) Prepare a written statement describing the matter
11 requiring action or decision and the nature of the potential
12 conflict; and

13 (ii) Deliver a copy of the statement to the commission
14 and to the person in charge of keeping records for the political
15 subdivision who shall enter the statement onto the public records
16 of the subdivision.

17 (b) The official shall take such action as the commission
18 shall advise or prescribe to remove himself or herself from
19 influence over the action or decision on the matter.

20 (c) This subsection does not prevent such a person from
21 making or participating in the making of a governmental decision to
22 the extent that the individual's participation is legally required
23 for the action or decision to be made. A person acting pursuant to
24 this subdivision shall report the occurrence to the commission.

25 (2) (a) Any person holding an elective office of a city or

1 village not designated in section 49-1493 and any person holding
2 an elective office of a school district who would be required to
3 take any action or make any decision in the discharge of his or her
4 official duties that may cause financial benefit or detriment to
5 him or her, a member of his or her immediate family, or a business
6 with which he or she is associated, which is distinguishable from
7 the effects of such action on the public generally or a broad
8 segment of the public, shall take the following actions as soon as
9 he or she is aware of such potential conflict or should reasonably
10 be aware of such potential conflict, whichever is sooner:

11 (i) Prepare a written statement describing the matter
12 requiring action or decision and the nature of the potential
13 conflict;

14 (ii) Deliver a copy of the statement to the person in
15 charge of keeping records for the city, village, or school district
16 who shall enter the statement onto the public records of the city,
17 village, or school district; and

18 (iii) Abstain from participating or voting on the matter
19 in which the person holding elective office has a conflict of
20 interest.

21 (b) The person holding elective office may apply to the
22 commission for an opinion as to whether the person has a conflict
23 of interest.

24 (3) Matters involving an interest in a contract are
25 governed either by sections 49-14,102 and 49-14,103 or by sections

1 49-14,103.01 to 49-14,103.06. Matters involving the hiring of an
2 immediate family member are governed by section ~~49-1499.01~~ or
3 49-1499.04.

4 Sec. 4. Section 81-108, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 81-108 (1) Except as provided in subsection (2) of this
7 section, no head of any department referred to in section 81-101
8 shall hold any other public office or receive any profit from any
9 other public or private employment. For purposes of this section,
10 employment shall not be interpreted to mean membership on the board
11 of directors of any corporation, business, or association, whether
12 or not the head of the department receives compensation for such
13 membership.

14 (2) Nothing in this section shall be interpreted as
15 prohibiting the head of one of the departments referred to in
16 section 81-101 from serving on any public advisory or policymaking
17 board, commission, committee, or council.

18 ~~(3) No person shall be hired as an employee of any~~
19 ~~department referred to in section 81-101 while a member of his~~
20 ~~or her family is serving as the head of the department. This~~
21 ~~subsection shall not require the termination of employment of (a)~~
22 ~~any person who is an employee of a department at the time a member~~
23 ~~of his or her family is appointed to head the department or (b) any~~
24 ~~person who is an employee of a department on May 18, 1991.~~

25 ~~(4) For purposes of this section, member of his or her~~

1 ~~family shall mean any individual related to the employee by blood,~~
2 ~~marriage, or adoption as the employee's spouse, child, parent,~~
3 ~~brother, sister, grandchild, or grandparent or any individual so~~
4 ~~related to the employee's spouse.~~

5 Sec. 5. Original section 81-108, Reissue Revised Statutes
6 of Nebraska, section 49-1499.03, Revised Statutes Cumulative
7 Supplement, 2006, and section 49-1401, Revised Statutes Supplement,
8 2007, are repealed.

9 Sec. 6. The following section is outright repealed:
10 Section 49-1499.01, Revised Statutes Cumulative Supplement, 2006.