

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 169

Introduced by Hunt, 8; Fredrickson, 20.

Read first time January 09, 2023

Committee: Judiciary

1 A BILL FOR AN ACT relating to discrimination; to amend sections 18-1724,
2 23-2525, 23-2531, 23-2541, 29-401, 48-215, 48-628.13, 48-1101,
3 48-1104, 48-1105, 48-1106, 48-1107, 48-1111, 48-1113, 48-1115,
4 48-1117, 48-1119, 48-1122, 48-1124, and 49-801, Reissue Revised
5 Statutes of Nebraska; to prohibit discrimination based upon sexual
6 orientation and gender identity as prescribed; to define terms; to
7 harmonize provisions; and to repeal the original sections.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 18-1724, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 18-1724 Notwithstanding any other provision of law, all cities and
4 villages in this state shall have the power by ordinance to define,
5 regulate, suppress, and prevent discrimination on the basis of race,
6 color, creed, religion, ancestry, sex, marital status, national origin,
7 sexual orientation, gender identity, familial status as defined in
8 section 20-311, disability as defined in section 20-308.01, or age in
9 employment, public accommodation, and housing and may provide for the
10 enforcement of such ordinances by providing appropriate penalties for the
11 violation thereof. It shall not be an unlawful employment practice to
12 refuse employment based on a policy of not employing both spouses if such
13 policy is equally applied to both sexes.

14 Sec. 2. Section 23-2525, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 23-2525 The county personnel officer shall, with the assistance of
17 two advisory groups, one of classified employees and one of department
18 heads, prepare and submit to the personnel policy board proposed
19 personnel rules and regulations for the classified service. He or she
20 shall give reasonable notice thereof to the heads of all agencies,
21 departments, county employee associations, and institutions affected
22 thereby, and they shall be given an opportunity, upon request, to appear
23 before the board and present their views thereon. The personnel policy
24 board shall submit the rules and regulations for adoption or amendment
25 and adoption by resolution of the board of county commissioners.
26 Amendments thereto shall be made in the same manner. The rules and
27 regulations shall provide:

28 (1) For a single integrated classification plan covering all
29 positions in the county service except those expressly exempt from the
30 County Civil Service Act, which shall group all positions into defined
31 classes containing a descriptive class title and a code identifying each

1 class, and which shall be based on similarity of duties performed and
2 responsibilities assumed, so that the same qualifications may reasonably
3 be required and the same schedule of pay may be equitably applied to all
4 positions in the same class. After the classification plan has been
5 approved by the personnel policy board, the county personnel officer
6 shall be responsible for the administration and maintenance of the plan
7 and for the allocation of each classified position. Any employee affected
8 by the allocation of a position to a class shall, upon request, be given
9 a reasonable opportunity to be heard thereon by the personnel policy
10 board who shall issue an advisory opinion to the personnel officer;

11 (2) For a compensation plan for all employees in the classified
12 service, comprising salary schedules, hours of work, premium payments,
13 special allowances, and fringe benefits, considering the amount of money
14 available, the prevailing rates of pay in government and private
15 employment, the cost of living, the level of each class of position in
16 the classification plan, and other relevant factors. Initial,
17 intervening, and maximum rates of pay for each class shall be established
18 to provide for steps in salary advancement without change of duty in
19 recognition of demonstrated quality and length of service. The
20 compensation plan and amendments thereto shall be adopted in the manner
21 prescribed for rules and regulations and shall in no way limit the
22 authority of the board of county commissioners relative to appropriations
23 for salary and wage expenditures;

24 (3) For open competitive examinations to test the relative fitness
25 of applicants for the respective positions. Competitive examination shall
26 not be required for transferred employees transferring from positions in
27 the state or a political subdivision to positions in the county pursuant
28 to a merger of services or transferred employees transferring from
29 positions in the state or a political subdivision to positions in the
30 county due to the assumption of functions of the state or a political
31 subdivision by the county. The rules and regulations shall provide for

1 the public announcement of the holding of examinations and shall
2 authorize the personnel officer to prescribe examination procedures and
3 to place the names of successful candidates on eligible lists in
4 accordance with their respective ratings. Examinations may be assembled
5 or unassembled and may include various job-related examining techniques,
6 such as rating training and experience, written tests, oral interviews,
7 recognition of professional licensing, performance tests, investigations,
8 and any other measures of ability to perform the duties of the position.
9 Examinations shall be scored objectively and employment registers shall
10 be established in the order of final score. Certification of eligibility
11 for appointment to vacancies shall be in accordance with a formula which
12 limits selection by the hiring department from among the highest ranking
13 available and eligible candidates, but which also permits selective
14 certification under appropriate conditions as prescribed in the rules and
15 regulations;

16 (4) For promotions which shall give appropriate consideration to
17 examinations and to record of performance, seniority, and conduct.
18 Vacancies shall be filled by promotion whenever practicable and in the
19 best interest of the service, and preference may be given to employees
20 within the department in which the vacancy occurs;

21 (5) For the rejection of candidates who fail to comply with
22 reasonable requirements of the personnel officer in regard to such
23 factors as physical conditions, training, and experience or who have been
24 guilty of infamous or disgraceful conduct, who are addicted to alcohol or
25 narcotics, or who have attempted any deception or fraud in connection
26 with an examination;

27 (6) For prohibiting ~~Prohibiting~~ disqualification of any person from
28 taking an examination, from promotion, or from holding a position because
29 of race; ~~sex~~, unless it constitutes a bona fide occupational
30 qualification; ~~or~~ national origin; ~~physical disabilities~~; ~~age~~; ~~sexual orientation~~; gender identity; political or religious opinions or

1 affiliations; ~~r~~ or other factors which have no bearing upon the
2 individual's fitness to hold the position;

3 (7) For a period of probation not to exceed one year before
4 appointment or promotion may be made complete, and during which period a
5 probationer may be separated from his or her position without the right
6 of appeal or hearing except as provided in section 23-2531. After a
7 probationer has been separated, he or she may again be placed on the
8 eligible list at the discretion of the personnel officer. The rules shall
9 provide that a probationer shall be dropped from the payroll at the
10 expiration of his or her probationary period if, within ten days prior
11 thereto, the appointing authority has notified the personnel officer in
12 writing that the services of the employee have been unsatisfactory;

13 (8) When an employee has been promoted but fails to satisfactorily
14 perform the duties of the new position during the probationary period, he
15 or she shall be returned to a position comparable to that held
16 immediately prior to promotion at the current salary of such position;

17 (9) For temporary or seasonal appointments of limited terms of not
18 to exceed one year;

19 (10) For part-time appointment where the employee accrues benefits
20 of full-time employment on a basis proportional to the time worked;

21 (11) For emergency employment for not more than thirty days with or
22 without examination, with the consent of the county personnel officer and
23 department head;

24 (12) For provisional employment without competitive examination when
25 there is no appropriate eligible list available. No such provisional
26 employment shall continue longer than six months, nor shall successive
27 provisional appointments be allowed;

28 (13) For transfer from a position in one department to a similar
29 position in another department involving similar qualifications, duties,
30 responsibilities, and salary ranges;

31 (14) For the transfer of employees of the state or a political

1 subdivision to the county pursuant to a merger of services or due to the
2 assumption of functions of the state or a political subdivision by the
3 county;

4 (15) For layoff by reason of lack of funds or work or abolition of
5 the position, or material change in duties or organization, for the
6 layoff of nontenured employees first, and for reemployment of permanent
7 employees so laid off, giving consideration in both layoff and
8 reemployment to performance record and seniority in service;

9 (16) For establishment of a plan for resolving employee grievances
10 and complaints;

11 (17) For hours of work, holidays, and attendance regulations in the
12 various classes of positions in the classified service, and for annual,
13 sick, and special leaves of absence, with or without pay, or at reduced
14 pay;

15 (18) For the development of employee morale, safety, and training
16 programs;

17 (19) For a procedure whereby an appointing authority may suspend,
18 reduce, demote, or dismiss an employee for misconduct, inefficiency,
19 incompetence, insubordination, malfeasance, or other unfitness to render
20 effective service and for the investigation and public hearing of appeals
21 of such suspended, reduced, demoted, or dismissed employee;

22 (20) For granting of leave without pay to a permanent employee to
23 accept a position in the unclassified service, and for his or her return
24 to a position comparable to that formerly held in the classified service
25 at the conclusion of such service;

26 (21) For regulation covering political activity of employees in the
27 classified service; and

28 (22) For other regulations not inconsistent with the County Civil
29 Service Act and which may be necessary for its effective implementation.

30 Sec. 3. Section 23-2531, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 23-2531 (1) Discrimination against any person in recruitment,
2 examination, appointment, training, promotion, retention, discipline, or
3 any other aspect of personnel administration because of political or
4 religious opinions or affiliations or because of race, national origin,
5 sexual orientation, gender identity, or other nonmerit factors shall be
6 prohibited. Discrimination on the basis of age or sex or physical
7 disability shall be prohibited unless specific age, sex, or physical
8 requirements constitute a bona fide occupational qualification necessary
9 to proper and efficient administration. The rules and regulations shall
10 provide for appeals in cases of alleged discrimination to the personnel
11 policy board whose determination shall be binding upon a finding of
12 discrimination.

13 (2) No person shall make any false statement, certificate, mark,
14 rating, or report with regard to any test, certification, or appointment
15 made under the County Civil Service Act or in any manner commit or
16 attempt to commit any fraud preventing the impartial execution of the act
17 and the rules and regulations promulgated pursuant to the act.

18 (3) No person shall, directly or indirectly, give, render, pay,
19 offer, solicit, or accept any money, service, or other valuable
20 consideration for or on account of any appointment, proposed appointment,
21 promotion, or proposed promotion to, or any advantage in, a position in
22 the classified service.

23 (4) No employee of the personnel office, examiner, or other person
24 shall defeat, deceive, or obstruct any person in his or her right to
25 examination, eligibility, certification, or appointment under the act, or
26 furnish to any person any special or secret information for the purpose
27 of affecting the rights or prospects of any persons with respect to
28 employment in the classified service.

29 Sec. 4. Section 23-2541, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 23-2541 The personnel policy board, if created, shall, with the

1 assistance of two advisory groups, one of classified employees and one of
2 department heads, adopt proposed personnel rules and regulations for the
3 classified service and provide reasonable notice of proposed rules and
4 regulations to the heads of all agencies, departments, county employee
5 associations, and institutions affected thereby. Any person affected by
6 such rules and regulations shall be given an opportunity, upon request,
7 to appear before the personnel policy board and present his or her views
8 on the rules and regulations. The personnel policy board shall submit
9 proposed rules and regulations or amendments for adoption by the county
10 board. The county board may consider and adopt only personnel rules and
11 regulations or amendments proposed by the personnel policy board and may
12 not repeal or revoke a rule or regulation except upon the recommendation
13 of the personnel policy board.

14 The rules and regulations or amendments may provide:

15 (1) For a single integrated classification plan covering all
16 positions in the county service except those expressly exempt from
17 sections 23-2534 to 23-2544, which shall (a) group all positions into
18 defined classes containing a descriptive class title and a code
19 identifying each class and (b) be based on similarity of duties performed
20 and responsibilities assumed, so that the same qualifications may
21 reasonably be required and the same schedule of pay may be equitably
22 applied to all positions in the same class. After the classification plan
23 has been approved by the personnel policy board, the county personnel
24 officer shall be responsible for the administration and maintenance of
25 the plan and for the allocation of each classified position. Any employee
26 affected by the allocation of a position to a class shall, upon request,
27 be given a reasonable opportunity to be heard on such allocation by the
28 personnel policy board which shall issue an advisory opinion to the
29 county personnel officer;

30 (2) For a compensation plan for all employees in the classified
31 service, comprising salary schedules, attendance regulations, premium

1 payments, special allowances, and fringe benefits, considering the amount
2 of money available, the prevailing rates of pay in government and private
3 employment, the cost of living, the level of each class of position in
4 the classification plan, and other relevant factors. The compensation
5 plan and amendments to such plan shall be adopted in the manner
6 prescribed for rules and regulations and shall in no way limit the
7 authority of the county board relative to appropriations for salary and
8 wage expenditures;

9 (3) For open competitive examinations to test the relative fitness
10 of applicants for the respective positions. The rules and regulations
11 shall provide for the public announcement of the holding of examinations
12 and shall authorize the county personnel officer to prescribe examination
13 procedures and to place the names of successful candidates on eligible
14 lists in accordance with their respective ratings. Examinations may be
15 assembled or unassembled and may include various job-related examining
16 techniques, such as rating training and experience, written tests, oral
17 interviews, recognition of professional licensing, performance tests,
18 investigations, and any other measures of ability to perform the duties
19 of the position. Examinations shall be scored objectively and employment
20 registers shall be established in the order of final score. Certification
21 of eligibility for appointment to vacancies shall be in accordance with a
22 formula which limits selection by the hiring department from among the
23 highest ranking available and eligible candidates, but which also permits
24 selective certification under appropriate conditions as prescribed in the
25 rules and regulations;

26 (4) For promotions which shall give appropriate consideration to
27 examinations and to record of performance, seniority, and conduct.
28 Vacancies shall be filled by promotion whenever practicable and in the
29 best interest of the service and preference may be given to employees
30 within the department in which the vacancy occurs;

31 (5) For the rejection of candidates who fail to comply with

1 reasonable requirements of the county personnel officer in regard to such
2 factors as physical conditions, training, and experience, who have been
3 guilty of infamous or disgraceful conduct, who are currently abusing
4 alcohol or narcotics, or who have attempted any deception or fraud in
5 connection with an examination;

6 (6) For prohibiting disqualification of any person from (a) taking
7 an examination, (b) promotion, or (c) holding a position, solely because
8 of race, sex, national origin, physical disabilities, age, sexual
9 orientation, gender identity, political or religious opinions or
10 affiliations, or other factors which have no bearing upon the
11 individual's fitness to hold the position;

12 (7) For a period of probation, not to exceed one year, before
13 appointment or promotion may be made complete and during which period a
14 probationer may be separated from his or her position without the right
15 of appeal or hearing. After a probationer has been separated, he or she
16 may again be placed on the eligible list at the discretion of the county
17 personnel officer. The rules and regulations shall provide that a
18 probationer shall be dropped from the payroll at the expiration of his or
19 her probationary period if, within ten days prior thereto, the appointing
20 authority has notified the county personnel officer in writing that the
21 services of the employee have been unsatisfactory;

22 (8) For temporary or seasonal appointments of limited terms of not
23 to exceed one year;

24 (9) For part-time appointment in which the employee accrues benefits
25 of full-time employment on a basis proportional to the time worked;

26 (10) For emergency employment for not more than thirty days with or
27 without examination with the consent of the county personnel officer and
28 department head;

29 (11) For provisional employment without competitive examination when
30 there is no appropriate eligible list available. Provisional employment
31 shall not continue longer than six months and successive provisional

1 appointments shall not be allowed;

2 (12) For transfer from a position in one department to a similar
3 position in another department involving similar qualifications, duties,
4 responsibilities, and salary ranges;

5 (13) For layoff by reason of lack of funds or work, abolition of the
6 position, or material change in duties or organization, for the layoff of
7 nontenured employees first, and for reemployment of permanent employees
8 so laid off, giving consideration in both layoff and reemployment to
9 performance record and seniority in service;

10 (14) For establishment of a plan for resolving employee grievances
11 and complaints;

12 (15) For holidays, for attendance regulations in the various classes
13 of positions in the classified service, and for annual, sick, and special
14 leaves of absence, with or without pay or at reduced pay;

15 (16) For the development of employee morale, safety, and training
16 programs;

17 (17) For a procedure whereby an appointing authority may suspend,
18 reduce, demote, or dismiss an employee for misconduct, inefficiency,
19 incompetence, insubordination, malfeasance, or other unfitness to render
20 effective service and for the investigation and public hearing of appeals
21 of such suspended, reduced, demoted, or dismissed employee;

22 (18) For granting of leave without pay to a permanent employee to
23 accept a position in the unclassified service and for his or her return
24 to a position comparable to that formerly held in the classified service
25 at the conclusion of such service;

26 (19) For regulation covering political activity of employees in the
27 classified service; and

28 (20) For other rules and regulations not inconsistent with sections
29 23-2534 to 23-2544 and the implementation of personnel policy in the
30 county.

31 Sec. 5. Section 29-401, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 29-401 Every sheriff, deputy sheriff, marshal, deputy marshal,
3 security guard, police officer, or peace officer as defined in
4 ~~subdivision (15)~~ of section 49-801 shall arrest and detain any person
5 found violating any law of this state or any legal ordinance of any city
6 or incorporated village until a legal warrant can be obtained, except
7 that (1) any such law enforcement officer taking a juvenile under the age
8 of eighteen years into his or her custody for any violation herein
9 defined shall proceed as set forth in sections 43-248, 43-248.01, 43-250,
10 43-251, 43-251.01, and 43-253 and (2) the court in which the juvenile is
11 to appear shall not accept a plea from the juvenile until finding that
12 the parents of the juvenile have been notified or that reasonable efforts
13 to notify such parents have been made as provided in section 43-250.

14 Sec. 6. Section 48-215, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 48-215 It shall be unlawful for any person, firm, or corporation,
17 engaged to any extent whatsoever in the State of Nebraska in the
18 production, manufacture, or distribution of military or naval material,
19 equipment, or supplies for the State of Nebraska or the government of the
20 United States, to refuse to employ any person in any capacity, if such
21 ~~said~~ person is a citizen and is qualified, on account of the race, color,
22 creed, religion, ~~or~~ national origin, sexual orientation, or gender
23 identity of such ~~said~~ person.

24 Sec. 7. Section 48-628.13, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 48-628.13 Good cause for voluntarily leaving employment shall
27 include, but not be limited to, the following reasons:

28 (1) An individual has made all reasonable efforts to preserve the
29 employment but voluntarily leaves his or her work for the necessary
30 purpose of escaping abuse at the place of employment or abuse as defined
31 in section 42-903 between household members;

1 (2) An individual left his or her employment voluntarily due to a
2 bona fide non-work-connected illness or injury that prevented him or her
3 from continuing the employment or from continuing the employment without
4 undue risk of harm to the individual;

5 (3) An individual left his or her employment to accompany his or her
6 spouse to the spouse's employment in a different city or new military
7 duty station;

8 (4) An individual left his or her employment because his or her
9 employer required the employee to relocate;

10 (5)(a) An individual is a construction worker and left his or her
11 employment voluntarily for the purpose of accepting previously secured
12 insured work in the construction industry if the commissioner finds that:

13 (i)(A) The quit occurred within thirty days immediately prior to the
14 established termination date of the job which the individual voluntarily
15 leaves, (B) the specific starting date of the new job is prior to the
16 established termination date of the job which the worker quits, (C) the
17 new job offered employment for a longer period of time than remained
18 available on the job which the construction worker voluntarily quit, and
19 (D) the worker had worked at least twenty days or more at the new job
20 after the established termination date of the previous job unless the new
21 job was terminated by a contract cancellation; or

22 (ii)(A) The construction worksite of the job which the worker quit
23 was more than fifty miles from his or her place of residence, (B) the new
24 construction job was fifty or more miles closer to his or her residence
25 than the job which he or she quit, and (C) the worker actually worked
26 twenty days or more at the new job unless the new job was terminated by a
27 contract cancellation.

28 (b) The provisions of this subdivision (5) shall not apply if the
29 individual is separated from the new job under conditions resulting in a
30 disqualification from benefits under section 48-628.10 or 48-628.12;

31 (6) An individual accepted a voluntary layoff to avoid bumping

1 another worker;

2 (7) An individual left his or her employment as a result of being
3 directed to perform an illegal act;

4 (8) An individual left his or her employment because of unlawful
5 discrimination or workplace harassment on the basis of race, sex, ~~or~~ age,
6 sexual orientation, or gender identity;

7 (9) An individual left his or her employment because of unsafe
8 working conditions;

9 (10) An individual left his or her employment to attend school;

10 (11) An individual has made all reasonable efforts to preserve
11 employment but voluntarily leaves employment for the purpose of caring
12 for a family member with a serious health condition. For purposes of this
13 subdivision:

14 (a) Family member means:

15 (i) A biological, adopted, or foster child, a stepchild, or a legal
16 ward of the individual or the individual's spouse or a person to whom the
17 individual or the individual's spouse stood in loco parentis when such
18 person was a minor child, regardless of the age or dependency status of
19 such child, stepchild, legal ward, or person;

20 (ii) A biological, adoptive, or foster parent, a stepparent, or a
21 legal guardian of the individual or the individual's spouse or a person
22 who stood in loco parentis to the individual or the individual's spouse
23 when the individual or the individual's spouse was a minor child;

24 (iii) The individual's spouse; or

25 (iv) A grandparent, grandchild, or sibling, whether of a biological,
26 foster, adoptive, or step relationship, of the individual or the
27 individual's spouse; and

28 (b) Serious health condition has the same meaning as in 29 U.S.C.
29 2611, as such section existed on January 1, 2021; or

30 (12) Equity and good conscience demand a finding of good cause.

31 Sec. 8. Section 48-1101, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 48-1101 It is the policy of this state to foster the employment of
3 all employable persons in the state on the basis of merit regardless of
4 their race, color, religion, sex, disability, ~~or~~ national origin, sexual
5 orientation, or gender identity and to safeguard their right to obtain
6 and hold employment without discrimination because of their race, color,
7 religion, sex, disability, ~~or~~ national origin, sexual orientation, or
8 gender identity. Denying equal opportunity for employment because of
9 race, color, religion, sex, disability, ~~or~~ national origin, sexual
10 orientation, or gender identity is contrary to the principles of freedom
11 and is a burden on the objectives of the public policy of this state. The
12 policy of this state does not require any person to employ an applicant
13 for employment because of his or her race, color, religion, sex,
14 disability, ~~or~~ national origin, sexual orientation, or gender identity,
15 and the policy of this state does not require any employer, employment
16 agency, labor organization, or joint labor-management committee to grant
17 preferential treatment to any individual or to any group because of race,
18 color, religion, sex, disability, ~~or~~ national origin, sexual orientation,
19 or gender identity.

20 It is the public policy of this state that all people in Nebraska,
21 both with and without disabilities, shall have the right and opportunity
22 to enjoy the benefits of living, working, and recreating within this
23 state. It is the intent of the Legislature that state and local
24 governments, Nebraska businesses, Nebraska labor organizations, and
25 Nebraskans with disabilities understand their rights and responsibilities
26 under the law regarding employment discrimination and the prevention of
27 discrimination on the basis of disability.

28 Sec. 9. Section 48-1104, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 48-1104 It shall be an unlawful employment practice for an employer:
31 (1) To fail or refuse to hire, to discharge, or to harass any

1 individual, or otherwise to discriminate against any individual with
2 respect to compensation, terms, conditions, or privileges of employment,
3 because of such individual's race, color, religion, sex, disability,
4 marital status, ~~or~~ national origin, sexual orientation, or gender
5 identity; or

6 (2) To limit, advertise, solicit, segregate, or classify employees
7 in any way which would deprive or tend to deprive any individual of
8 employment opportunities or otherwise adversely affect such individual's
9 status as an employee, because of such individual's race, color,
10 religion, sex, disability, marital status, ~~or~~ national origin, sexual
11 orientation, or gender identity.

12 Sec. 10. Section 48-1105, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 48-1105 It shall be an unlawful employment practice for an
15 employment agency to fail or refuse to refer for employment, or otherwise
16 to discriminate against, any individual because of race, color, religion,
17 sex, disability, marital status, ~~or~~ national origin, sexual orientation,
18 or gender identity, or to classify or refer for employment any individual
19 on the basis of race, color, religion, sex, disability, marital status,
20 ~~or~~ national origin, sexual orientation, or gender identity.

21 Sec. 11. Section 48-1106, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 48-1106 It shall be an unlawful employment practice for a labor
24 organization:

25 (1) To exclude or to expel from its membership, or otherwise to
26 discriminate against, any individual because of race, color, religion,
27 sex, disability, marital status, ~~or~~ national origin, sexual orientation,
28 or gender identity;

29 (2) To limit, segregate, or classify its membership, or to classify
30 or fail or refuse to refer for employment any individual, in any way
31 which would deprive or tend to deprive any individual of employment

1 opportunities, or would limit such employment opportunities or otherwise
2 adversely affect such individual's status as an employee or as an
3 applicant for employment, because of such individual's race, color,
4 religion, sex, disability, marital status, ~~or~~ national origin, sexual
5 orientation, or gender identity; or

6 (3) To cause or attempt to cause an employer to discriminate against
7 an individual in violation of this section.

8 Sec. 12. Section 48-1107, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 48-1107 It shall be an unlawful employment practice for any
11 employer, labor organization, or joint labor-management committee
12 controlling apprenticeship or other training or retraining, including on-
13 the-job training programs to discriminate against any individual because
14 of race, color, religion, sex, disability, marital status, ~~or~~ national
15 origin, sexual orientation, or gender identity in admission to, or
16 employment in, any program established to provide apprenticeship or other
17 training.

18 Sec. 13. Section 48-1111, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 48-1111 (1) Except as otherwise provided in the Nebraska Fair
21 Employment Practice Act, it shall not be an unlawful employment practice
22 for an employer to apply different standards of compensation, or
23 different terms, conditions, or privileges of employment pursuant to a
24 bona fide seniority or merit system or a system which measures earnings
25 by quantity or quality of production or to employees who work in
26 different locations, if such differences are not the result of an
27 intention to discriminate because of race, color, religion, sex,
28 disability, marital status, ~~or~~ national origin, sexual orientation, or
29 gender identity, nor shall it be an unlawful employment practice for an
30 employer to give and to act upon the results of any professionally
31 developed ability test if such test, its administration, or action upon

1 the results is not designed, intended, or used to discriminate because of
2 race, color, religion, sex, disability, marital status, ~~or~~ national
3 origin, sexual orientation, or gender identity.

4 It shall not be an unlawful employment practice for a covered entity
5 to deny privileges of employment to an individual with a disability when
6 the qualification standards, tests, or selection criteria that screen out
7 or tend to screen out or otherwise deny a job or benefit to an individual
8 with a disability:

9 (a) Have been shown to be job-related and consistent with business
10 necessity and such performance cannot be accomplished by reasonable
11 accommodation, as required by the Nebraska Fair Employment Practice Act
12 and the federal Americans with Disabilities Act of 1990; or

13 (b) Include a requirement that an individual shall not pose a direct
14 threat, involving a significant risk to the health or safety of other
15 individuals in the workplace, that cannot be eliminated by reasonable
16 accommodation.

17 It shall not be an unlawful employment practice to refuse employment
18 based on a policy of not employing both husband and wife if such policy
19 is equally applied to both sexes.

20 (2) Except as otherwise provided in the Nebraska Fair Employment
21 Practice Act, women affected by pregnancy, childbirth, or related medical
22 conditions shall be treated the same for all employment-related purposes,
23 including receipt of employee benefits, as other persons not so affected
24 but similar in their ability or inability to work, and nothing in this
25 section shall be interpreted to provide otherwise.

26 This section shall not require an employer to provide employee
27 benefits for abortion except when medical complications have arisen from
28 an abortion.

29 Nothing in this section shall preclude an employer from providing
30 employee benefits for abortion under fringe benefit programs or otherwise
31 affect bargaining agreements in regard to abortion.

1 Sec. 14. Section 48-1113, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 48-1113 Nothing in the Nebraska Fair Employment Practice Act shall
4 be interpreted to require any employer, employment agency, labor
5 organization, or joint labor-management committee subject to the act to
6 grant preferential treatment to any individual or to any group because of
7 the race, color, religion, sex, disability, marital status, ~~or~~ national
8 origin, sexual orientation, or gender identity of such individual or
9 group on account of an imbalance which may exist with respect to the
10 total number or percentage of persons of any race, color, religion, sex,
11 disability, marital status, ~~or~~ national origin, sexual orientation, or
12 gender identity employed by any employer, referred or classified for
13 employment by any employment agency or labor organization, admitted to
14 membership or classified by any labor organization, or admitted to, or
15 employed in, any apprenticeship or other training program, in comparison
16 with the total number or percentage of persons of such race, color,
17 religion, sex, disability, marital status, ~~or~~ national origin, sexual
18 orientation, or gender identity in any community, section, or other area,
19 or in the available work force in any community, section, or other area.

20 Sec. 15. Section 48-1115, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 48-1115 It shall be an unlawful employment practice for an employer,
23 labor organization, or employment agency to print or publish or cause to
24 be printed or published any notice or advertisement relating to
25 employment by such an employer or membership in or any classification or
26 referral for employment by such a labor organization, or relating to any
27 classification or referral for employment by such an employment agency,
28 indicating any preference, limitation, specification, or discrimination
29 based on race, color, religion, sex, disability, marital status, ~~or~~
30 national origin, sexual orientation, or gender identity, except that such
31 a notice or advertisement may indicate a preference, limitation,

1 specification, or discrimination based on religion, sex, disability,
2 marital status, or national origin when religion, sex, disability,
3 marital status, or national origin is a bona fide occupational
4 qualification for employment.

5 Sec. 16. Section 48-1117, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 48-1117 The commission shall have the following powers and duties:

8 (1) To receive, investigate, and pass upon charges of unlawful
9 employment practices anywhere in the state;

10 (2) To hold hearings, subpoena witnesses, compel their attendance,
11 administer oaths, and take the testimony of any person under oath and, in
12 connection therewith, to require the production for examination of any
13 books and papers relevant to any allegation of unlawful employment
14 practice pending before the commission. The commission may make rules as
15 to the issuance of subpoenas, subject to the approval by a constitutional
16 majority of the elected members of the Legislature;

17 (3) To cooperate with the federal government and with local agencies
18 to effectuate the purposes of the Nebraska Fair Employment Practice Act,
19 including the sharing of information possessed by the commission on a
20 case that has also been filed with the federal government or local
21 agencies if both the employer and complainant have been notified of the
22 filing;

23 (4) To attempt to eliminate unfair employment practices by means of
24 conference, mediation, conciliation, arbitration, and persuasion;

25 (5) To require that every employer, employment agency, and labor
26 organization subject to the act shall (a) make and keep such records
27 relevant to the determinations of whether unlawful employment practices
28 have been or are being committed, (b) preserve such records for such
29 periods, and (c) make such reports therefrom, as the commission shall
30 prescribe by regulation or order, after public hearing, as reasonable,
31 necessary, or appropriate for the enforcement of the act or the

1 regulations or orders thereunder. The commission shall, by regulation,
2 require each employer, labor organization, and joint labor-management
3 committee subject to the act which controls an apprenticeship or other
4 training program to maintain such records as are reasonably necessary to
5 carry out the purposes of the act, including, but not limited to, a list
6 of applicants who wish to participate in such program, including the
7 chronological order in which such applications were received, and to
8 furnish to the commission, upon request, a detailed description of the
9 manner in which persons are selected to participate in the apprenticeship
10 or other training program. Any employer, employment agency, labor
11 organization, or joint labor-management committee which believes that the
12 application to it of any regulation or order issued under this section
13 would result in undue hardship may either apply to the commission for an
14 exemption from the application of such regulation or order or bring a
15 civil action in the district court for the district where such records
16 are kept. If the commission or the court, as the case may be, finds that
17 the application of the regulation or order to the employer, employment
18 agency, or labor organization in question would impose an undue hardship,
19 the commission or the court, as the case may be, may grant appropriate
20 relief;

21 (6) To report, not less than once every two years, to the Clerk of
22 the Legislature and the Governor, on the hearings it has conducted and
23 the decisions it has rendered, the other work performed by it to carry
24 out the purposes of the act, and to make recommendations for such further
25 legislation concerning abuses and discrimination because of race, color,
26 religion, sex, disability, marital status, ~~or~~ national origin, sexual
27 orientation, or gender identity, as may be desirable. The report shall
28 also include the number of complaints filed under the act alleging a
29 violation of subdivision (2) of section 48-1107.01 and the resolution of
30 such complaints. The report submitted to the Clerk of the Legislature
31 shall be submitted electronically. Each member of the Legislature shall

1 receive an electronic copy of the report required by this subdivision by
2 making a request for it to the chairperson of the commission; and

3 (7) To adopt and promulgate rules and regulations necessary to carry
4 out the duties prescribed in the act.

5 Sec. 17. Section 48-1119, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 48-1119 (1) In case of failure to eliminate any unlawful employment
8 practice by informal methods of conference, conciliation, persuasion,
9 mediation, or arbitration, the commission may order a public hearing. If
10 such hearing is ordered, the commission shall cause to be issued and
11 served a written notice, together with a copy of the complaint, requiring
12 the person, employer, labor organization, or employment agency named in
13 the complaint, hereinafter referred to as respondent, to answer such
14 charges at a hearing before the commission at a time and place which
15 shall be specified in such notice. Such hearing shall be within the
16 county where the alleged unlawful employment practice occurred. The
17 complainant shall be a party to the proceeding, and in the discretion of
18 the commission any other person whose testimony has a bearing on the
19 matter may be allowed to intervene therein. Both the complainant and the
20 respondent, in addition to the commission, may introduce witnesses at the
21 hearing. The respondent may file a verified answer to the allegations of
22 the complaint and may appear at such hearing in person and with or
23 without counsel. Testimony or other evidence may be introduced by either
24 party. All evidence shall be under oath and a record thereof shall be
25 made and preserved. Such proceedings shall, so far as practicable, be
26 conducted in accordance with the rules of evidence applicable in the
27 district courts of the State of Nebraska, and shall be of public record.

28 (2) No person shall be excused from testifying or from producing any
29 book, document, paper, or account in any investigation, or inquiry by, or
30 hearing before the commission when ordered to do so, upon the ground that
31 the testimony or evidence, book, document, paper, or account required of

1 such person may tend to incriminate such person in or subject such person
2 to penalty or forfeiture; but no person shall be prosecuted, punished, or
3 subjected to any forfeiture or penalty for or on account of any act,
4 transaction, matter, or thing concerning which such person shall have
5 been compelled under oath to testify or produce documentary evidence,
6 except that no person so testifying shall be exempt from prosecution or
7 punishment for any perjury committed by such person in his or her
8 testimony. Such immunity shall extend only to a natural person who, in
9 obedience to a subpoena, gives testimony under oath or produces evidence,
10 documentary or otherwise, under oath. Nothing in this subsection shall be
11 construed as precluding any person from claiming any right or privilege
12 available to such person under the fifth amendment to the Constitution of
13 the United States.

14 (3) After the conclusion of the hearing, the commission shall,
15 within ten days of the receipt of the transcript or the receipt of the
16 recommendations from the hearing officer, make and file its findings of
17 fact and conclusions of law and make and enter an appropriate order. The
18 hearing officer need not refer to the page and line numbers of the
19 transcript when making his or her recommendation to the commission. Such
20 findings of fact and conclusions of law shall be in sufficient detail to
21 enable a court on appeal to determine the controverted questions
22 presented by the proceedings and whether proper weight was given to the
23 evidence. If the commission determines that the respondent has
24 intentionally engaged in or is intentionally engaging in any unlawful
25 employment practice, it shall issue and cause to be served on such
26 respondent an order requiring such respondent to cease and desist from
27 such unlawful employment practice and order such other affirmative action
28 as may be appropriate which may include, but shall not be limited to,
29 reinstatement or hiring of employees, with or without backpay. Backpay
30 liability shall not accrue from a date more than two years prior to the
31 filing of the charge with the commission. Interim earnings or amounts

1 earnable with reasonable diligence by the person or persons discriminated
2 against shall operate to reduce the backpay otherwise allowable.

3 (4) A complainant who has suffered physical, emotional, or financial
4 harm as a result of a violation of section 48-1104 or 48-1114 may, at any
5 stage of the proceedings prior to dismissal, file an action directly in
6 the district court of the county where such alleged violation occurred.
7 If the complainant files a district court action on the charge, the
8 complainant shall provide written notice of such filing to the
9 commission, and such notification shall immediately terminate all
10 proceedings before the commission. The district court shall file and try
11 such case as any other civil action, and any successful complainant shall
12 be entitled to appropriate relief, including temporary or permanent
13 injunctive relief, general and special damages, reasonable attorney's
14 fees, and costs.

15 (5) No order of the commission shall require the admission or
16 reinstatement of an individual as a member of a labor organization or the
17 hiring, reinstatement, or promotion of an individual as an employee, or
18 the payment to him or her of any backpay, if such individual was refused
19 admission, suspended, or expelled, or was refused employment or
20 advancement or was suspended or discharged for any reason other than
21 discrimination on account of race, color, religion, sex, disability,
22 marital status, ~~or~~ national origin, sexual orientation, or gender
23 identity or in violation of section 48-1114. If the commission finds that
24 a respondent has not engaged in any unfair employment practice, it shall
25 within thirty days state its findings of fact and conclusions of law. A
26 copy of any order shall be served upon the person against whom it runs or
27 his or her attorney and notice thereof shall be given to the other
28 parties to the proceedings or their attorneys. Such order shall take
29 effect twenty days after service thereof unless otherwise provided and
30 shall continue in force either for a period which may be designated
31 therein or until changed or revoked by the commission.

1 (6) Except as provided in subsection (4) of this section, until a
2 transcript of the record of the proceedings is filed in the district
3 court as provided in section 48-1120, the commission may, at any time
4 upon reasonable notice and in such a manner it shall deem proper, modify
5 or set aside, in whole or in part, any finding or order made by it.

6 Sec. 18. Section 48-1122, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 48-1122 Every contract to which the state or any of its political
9 subdivisions is a party shall contain a provision requiring the
10 contractor and its ~~his~~ subcontractors not to discriminate against any
11 employee or applicant for employment, to be employed in the performance
12 of such contract, with respect to such person's ~~his~~ hire, tenure, terms,
13 conditions, or privileges of employment, because of such person's ~~his~~
14 race, color, religion, sex, disability, ~~or~~ national origin, sexual
15 orientation, or gender identity.

16 Sec. 19. Section 48-1124, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 48-1124 Nothing contained in the Nebraska Fair Employment Practice
19 Act shall be deemed to repeal any of the provisions of the civil rights
20 law, any other law of this state, or any municipal ordinance relating to
21 discrimination because of race, creed, color, religion, sex, disability,
22 ~~or~~ national origin, sexual orientation, or gender identity.

23 Sec. 20. Section 49-801, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 49-801 Unless the context is shown to intend otherwise, words and
26 phrases in the statutes of Nebraska hereafter enacted are used in the
27 following sense:

28 (1) Acquire when used in connection with a grant of power or
29 property right to any person shall include the purchase, grant, gift,
30 devise, bequest, and obtaining by eminent domain;

31 (2) Action shall include any proceeding in any court of this state;

1 (3) Attorney shall mean attorney at law;

2 (4) Company shall include any corporation, partnership, limited
3 liability company, joint-stock company, joint venture, or association;

4 (5) Domestic when applied to corporations shall mean all those
5 created by authority of this state;

6 (6) Federal shall refer to the United States;

7 (7) Foreign when applied to corporations shall include all those
8 created by authority other than that of this state;

9 (8) Gender identity shall mean an individual's internal sense of the
10 individual's own gender, regardless of the sex the individual was
11 assigned at birth;

12 (9) ~~(8)~~ Grantee shall include every person to whom any estate or
13 interest passes in or by any conveyance;

14 (10) ~~(9)~~ Grantor shall include every person from or by whom any
15 estate or interest passes in or by any conveyance;

16 (11) ~~(10)~~ Inhabitant shall be construed to mean a resident in the
17 particular locality in reference to which that word is used;

18 (12) ~~(11)~~ Land or real estate shall include lands, tenements, and
19 hereditaments and all rights thereto and interest therein other than a
20 chattel interest;

21 (13) ~~(12)~~ Magistrate shall include judge of the county court and
22 clerk magistrate;

23 (14) ~~(13)~~ Month shall mean calendar month;

24 (15) ~~(14)~~ Oath shall include affirmation in all cases in which an
25 affirmation may be substituted for an oath;

26 (16) ~~(15)~~ Peace officer shall include sheriffs, coroners, jailers,
27 marshals, police officers, state highway patrol officers, members of the
28 National Guard on active service by direction of the Governor during
29 periods of emergency, and all other persons with similar authority to
30 make arrests;

31 (17) ~~(16)~~ Person shall include bodies politic and corporate,

1 societies, communities, the public generally, individuals, partnerships,
2 limited liability companies, joint-stock companies, and associations;

3 ~~(18)~~ ~~(17)~~ Personal estate shall include money, goods, chattels,
4 claims, and evidences of debt;

5 ~~(19)~~ ~~(18)~~ Process shall mean a summons, subpoena, or notice to
6 appear issued out of a court in the course of judicial proceedings;

7 ~~(20)~~ ~~(19)~~ Service animal shall have the same meaning as in 28 C.F.R.
8 36.104, as such regulation existed on January 1, 2008;

9 ~~(21)~~ Sexual orientation shall mean actual or perceived
10 homosexuality, heterosexuality, or bisexuality;

11 ~~(22)~~ ~~(20)~~ State when applied to different states of the United
12 States shall be construed to extend to and include the District of
13 Columbia and the several territories organized by Congress;

14 ~~(23)~~ ~~(21)~~ Sworn shall include affirmed in all cases in which an
15 affirmation may be substituted for an oath;

16 ~~(24)~~ ~~(22)~~ The United States shall include territories, outlying
17 possessions, and the District of Columbia;

18 ~~(25)~~ ~~(23)~~ Violate shall include failure to comply with;

19 ~~(26)~~ ~~(24)~~ Writ shall signify an order or citation in writing issued
20 in the name of the state out of a court or by a judicial officer; and

21 ~~(27)~~ ~~(25)~~ Year shall mean calendar year.

22 Sec. 21. Original sections 18-1724, 23-2525, 23-2531, 23-2541,
23 29-401, 48-215, 48-628.13, 48-1101, 48-1104, 48-1105, 48-1106, 48-1107,
24 48-1111, 48-1113, 48-1115, 48-1117, 48-1119, 48-1122, 48-1124, and
25 49-801, Reissue Revised Statutes of Nebraska, are repealed.