

AMENDMENTS TO LB485

Introduced by Judiciary

1           1. Strike the original sections and insert the following  
2 sections:

3           Section 1. Section 23-2525, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           23-2525 The county personnel officer shall, with the  
6 assistance of two advisory groups, one of classified employees and  
7 one of department heads, prepare and submit to the personnel policy  
8 board proposed personnel rules and regulations for the classified  
9 service. He or she shall give reasonable notice thereof to the  
10 heads of all agencies, departments, county employee associations,  
11 and institutions affected thereby, and they shall be given an  
12 opportunity, upon request, to appear before the board and present  
13 their views thereon. The personnel policy board shall submit the  
14 rules and regulations for adoption or amendment and adoption by  
15 resolution of the board of county commissioners. Amendments thereto  
16 shall be made in the same manner. The rules and regulations shall  
17 provide:

18           (1) For a single integrated classification plan covering  
19 all positions in the county service except those expressly exempt  
20 from the County Civil Service Act, which shall group all positions  
21 into defined classes containing a descriptive class title and a  
22 code identifying each class, and which shall be based on similarity  
23 of duties performed and responsibilities assumed, so that the same

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

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

25 (3) For open competitive examinations to test the  
26 relative fitness of applicants for the respective positions.  
27 Competitive examination shall not be required for transferred

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

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

1 the vacancy occurs;

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

8 (6) ~~Prohibiting~~ For prohibiting disqualification of any  
9 person from taking an examination, from promotion or from holding  
10 a position because of race, sex, unless it constitutes a bona  
11 fide occupational qualification, or national origin, physical  
12 disabilities, age, political or religious opinions or affiliations,  
13 sexual orientation, gender identity, or other factors which have no  
14 bearing upon the individual's fitness to hold the position;

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

26 (8) ~~When~~ That when an employee has been promoted but  
27 fails to satisfactorily perform the duties of the new position

1 during the probationary period, he or she shall be returned to a  
2 position comparable to that held immediately prior to promotion at  
3 the current salary of such position;

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

6 (10) For part-time appointment ~~where~~ when the employee  
7 accrues benefits of full-time employment on a basis proportional to  
8 the time worked;

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

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

16 (13) For transfer from a position in one department  
17 to a similar position in another department involving similar  
18 qualifications, duties, responsibilities, and salary ranges;

19 (14) For the transfer of employees of the state or  
20 a political subdivision to the county pursuant to a merger of  
21 services or due to the assumption of functions of the state or a  
22 political subdivision by the county;

23 (15) For layoff by reason of lack of funds or work  
24 or abolition of the position, or material change in duties  
25 or organization, for the layoff of nontenured employees first,  
26 and for reemployment of permanent employees so laid off, giving  
27 consideration in both layoff and reemployment to performance record

1 and seniority in service;

2 (16) For establishment of a plan for resolving employee  
3 grievances and complaints;

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

8 (18) For the development of employee morale, safety, and  
9 training programs;

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

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

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

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

25 Sec. 2. Section 23-2531, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27 23-2531 (1) Discrimination against any person in

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

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

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

24 (4) No employee of the personnel office, examiner, or  
25 other person shall defeat, deceive, or obstruct any person in  
26 his or her right to examination, eligibility, certification, or  
27 appointment under the act, or furnish to any person any special

1 or secret information for the purpose of affecting the rights  
2 or prospects of any persons with respect to employment in the  
3 classified service.

4 Sec. 3. Section 23-2541, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 23-2541 The personnel policy board, if created, shall,  
7 with the assistance of two advisory groups, one of classified  
8 employees and one of department heads, adopt proposed personnel  
9 rules and regulations for the classified service and provide  
10 reasonable notice of proposed rules and regulations to the heads  
11 of all agencies, departments, county employee associations, and  
12 institutions affected thereby. Any person affected by such rules  
13 and regulations shall be given an opportunity, upon request, to  
14 appear before the personnel policy board and present his or her  
15 views on the rules and regulations. The personnel policy board  
16 shall submit proposed rules and regulations or amendments for  
17 adoption by the county board. The county board may consider and  
18 adopt only personnel rules and regulations or amendments proposed  
19 by the personnel policy board and may not repeal or revoke a  
20 rule or regulation except upon the recommendation of the personnel  
21 policy board.

22 The rules and regulations or amendments may provide:

23 (1) For a single integrated classification plan covering  
24 all positions in the county service except those expressly exempt  
25 from sections 23-2534 to 23-2544, which shall (a) group all  
26 positions into defined classes containing a descriptive class title  
27 and a code identifying each class and (b) be based on similarity



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

12 (2) For a compensation plan for all employees in  
13 the classified service, comprising salary schedules, attendance  
14 regulations, premium payments, special allowances, and fringe  
15 benefits, considering the amount of money available, the prevailing  
16 rates of pay in government and private employment, the cost of  
17 living, the level of each class of position in the classification  
18 plan, and other relevant factors. The compensation plan and  
19 amendments to such plan shall be adopted in the manner prescribed  
20 for rules and regulations and shall in no way limit the authority  
21 of the county board relative to appropriations for salary and wage  
22 expenditures;

23 (3) For open competitive examinations to test the  
24 relative fitness of applicants for the respective positions. The  
25 rules and regulations shall provide for the public announcement  
26 of the holding of examinations and shall authorize the county  
27 personnel officer to prescribe examination procedures and to place

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

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

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

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

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

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

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

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

26           (11) For provisional employment without competitive  
27 examination when there is no appropriate eligible list available.

1 Provisional employment shall not continue longer than six months  
2 and successive provisional appointments shall not be allowed;

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

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

12 (14) For establishment of a plan for resolving employee  
13 grievances and complaints;

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

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

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

26 (18) For granting of leave without pay to a permanent  
27 employee to accept a position in the unclassified service and for

1 his or her return to a position comparable to that formerly held in  
2 the classified service at the conclusion of such service;

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

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

8 Sec. 4. Section 29-401, Revised Statutes Cumulative  
9 Supplement, 2012, is amended to read:

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

24 Sec. 5. Section 48-215, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26 48-215 It shall be unlawful for any person, firm,  
27 or corporation, engaged to any extent whatsoever in the State

1 of Nebraska in the production, manufacture, or distribution of  
2 military or naval material, equipment, or supplies for the State  
3 of Nebraska or the government of the United States, to refuse to  
4 employ any person in any capacity, if ~~said~~ such person is a citizen  
5 and is qualified, on account of the race, color, ~~ereed~~, religion,  
6 sex, disability, ~~e~~ national origin, sexual orientation, or gender  
7 identity of ~~said~~ such person.

8           Sec. 6. Section 48-1101, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

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

1 sex, disability, ~~or~~ national origin, sexual orientation, or gender  
2 identity.

3 It is the public policy of this state that all people  
4 in Nebraska, both with and without disabilities, shall have  
5 the right and opportunity to enjoy the benefits of living,  
6 working, and recreating within this state. It is the intent  
7 of the Legislature that state and local governments, Nebraska  
8 businesses, Nebraska labor organizations, and Nebraskans with  
9 disabilities understand their rights and responsibilities under  
10 the law regarding employment discrimination and the prevention of  
11 discrimination on the basis of disability.

12 Sec. 7. Section 48-1103, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 48-1103 The Nebraska Fair Employment Practice Act shall  
15 not apply to:

16 (1) A religious corporation, organization, association,  
17 or society with respect to the employment of individuals of a  
18 particular religion to perform work connected with the carrying on  
19 by such corporation, organization, association, or society of its  
20 religious activities; ~~or~~

21 (2) Any school, college, university, or other educational  
22 institution if such educational institution is, in whole or in  
23 part, owned, supported, controlled, or managed by a particular  
24 religion or by a religious institution and if the curriculum of  
25 the educational institution is directed toward the propagation of  
26 a particular religion and the choice of employees is necessary  
27 to promote the religious principles for which the educational

1 institution is established or maintained; and

2           ~~(2)~~ (3) The employment of any individual (a) by his or  
3 her parent, grandparent, spouse, child, or grandchild or (b) in the  
4 domestic service of any person.

5           Sec. 8. Section 48-1104, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           48-1104 It shall be an unlawful employment practice for  
8 an employer:

9           (1) To fail or refuse to hire, to discharge, or to  
10 harass any individual, or otherwise to discriminate against any  
11 individual with respect to compensation, terms, conditions, or  
12 privileges of employment, because of such individual's race, color,  
13 religion, sex, disability, marital status, ~~or~~ national origin,  
14 sexual orientation, or gender identity; or

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

21           Sec. 9. Section 48-1105, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23           48-1105 It shall be an unlawful employment practice for  
24 an employment agency to fail or refuse to refer for employment,  
25 or otherwise to discriminate against, any individual because of  
26 race, color, religion, sex, disability, marital status, ~~or~~ national  
27 origin, sexual orientation, or gender identity or to classify or



1 refer for employment any individual on the basis of race, color,  
2 religion, sex, disability, marital status, ~~or~~ national origin,  
3 sexual orientation, or gender identity.

4 Sec. 10. Section 48-1106, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 48-1106 It shall be an unlawful employment practice for a  
7 labor organization:

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

12 (2) To limit, segregate, or classify its membership,  
13 or to classify or fail or refuse to refer for employment any  
14 individual, in any way which would deprive or tend to deprive  
15 any individual of employment opportunities, or would limit such  
16 employment opportunities or otherwise adversely affect such  
17 individual's status as an employee or as an applicant for  
18 employment, because of such individual's race, color, religion,  
19 sex, disability, marital status, ~~or~~ national origin, sexual  
20 orientation, or gender identity; or

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

23 Sec. 11. Section 48-1107, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 48-1107 It shall be an unlawful employment practice  
26 for any employer, labor organization, or joint labor-management  
27 committee controlling apprenticeship or other training or

1 retraining, including on-the-job training programs to discriminate  
2 against any individual because of race, color, religion, sex,  
3 disability, marital status, ~~or~~ national origin, sexual orientation,  
4 or gender identity in admission to, or employment in, any program  
5 established to provide apprenticeship or other training.

6           Sec. 12. Section 48-1108, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           48-1108 Notwithstanding any other provision of the  
9 Nebraska Fair Employment Practice Act:

10           (1) It shall not be an unlawful employment practice for  
11 an employer to hire and employ employees, for an employment agency  
12 to classify or refer for employment any individual, for a labor  
13 organization to classify its membership or to classify or refer for  
14 employment any individual, or for an employer, labor organization,  
15 or joint labor-management committee controlling apprenticeship or  
16 other training or retraining programs to admit or employ any  
17 individual in any such program on the basis of religion, sex,  
18 disability, marital status, ~~or~~ national origin, sexual orientation,  
19 or gender identity in those certain instances when religion,  
20 sex, disability, marital status, or national origin is a bona  
21 fide occupational qualification reasonably necessary to the normal  
22 operation of that particular business or enterprise; and

23           (2) It shall not be an unlawful employment practice for  
24 a school, college, university, or other educational institution  
25 or institution of learning to hire and employ employees of a  
26 particular religion if such school, college, university, or other  
27 educational institution or institution of learning is, in whole

1 or in substantial part, owned, supported, controlled, or managed  
2 by a particular religion or by a particular religious corporation,  
3 association, or society or if the curriculum of such school,  
4 college, university, or other educational institution of learning  
5 is directed toward the propagation of a particular religion.

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

8 48-1111 (1) Except as otherwise provided in the Nebraska  
9 Fair Employment Practice Act, it shall not be an unlawful  
10 employment practice for an employer to apply different standards  
11 of compensation, or different terms, conditions, or privileges  
12 of employment pursuant to a bona fide seniority or merit system  
13 or a system which measures earnings by quantity or quality of  
14 production or to employees who work in different locations, if  
15 such differences are not the result of an intention to discriminate  
16 because of race, color, religion, sex, disability, marital status,  
17 ~~or~~ national origin, sexual orientation, or gender identity nor  
18 shall it be an unlawful employment practice for an employer to give  
19 and to act upon the results of any professionally developed ability  
20 test if such test, its administration, or action upon the results  
21 is not designed, intended, or used to discriminate because of  
22 race, color, religion, sex, disability, marital status, ~~or~~ national  
23 origin, sexual orientation, or gender identity.

24 It shall not be an unlawful employment practice for a  
25 covered entity to deny privileges of employment to an individual  
26 with a disability when the qualification standards, tests, or  
27 selection criteria that screen out or tend to screen out or

1 otherwise deny a job or benefit to an individual with a disability:

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

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

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

14 (2) Women affected by pregnancy, childbirth, or  
15 related medical conditions shall be treated the same for  
16 all employment-related purposes, including receipt of employee  
17 benefits, as other persons not so affected but similar in their  
18 ability or inability to work, and nothing in this section shall be  
19 interpreted to provide otherwise.

20 This section shall not require an employer to provide  
21 employee benefits for abortion except when medical complications  
22 have arisen from an abortion.

23 Nothing in this section shall preclude an employer from  
24 providing employee benefits for abortion under fringe benefit  
25 programs or otherwise affect bargaining agreements in regard to  
26 abortion.

27 Sec. 14. Section 48-1113, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           48-1113 Nothing in the Nebraska Fair Employment Practice  
3 Act shall be interpreted to require any employer, employment  
4 agency, labor organization, or joint labor-management committee  
5 subject to the act to grant preferential treatment to any  
6 individual or to any group because of the race, color, religion,  
7 sex, disability, marital status, ~~or~~ national origin, sexual  
8 orientation, or gender identity of such individual or group on  
9 account of an imbalance which may exist with respect to the total  
10 number or percentage of persons of any race, color, religion, sex,  
11 disability, marital status, ~~or~~ national origin, sexual orientation,  
12 or gender identity employed by any employer, referred or classified  
13 for employment by any employment agency or labor organization,  
14 admitted to membership or classified by any labor organization, or  
15 admitted to, or employed in, any apprenticeship or other training  
16 program, in comparison with the total number or percentage of  
17 persons of such race, color, religion, sex, disability, marital  
18 status, ~~or~~ national origin, sexual orientation, or gender identity  
19 in any community, section, or other area, or in the available work  
20 force in any community, section, or other area.

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

23           48-1115 It shall be an unlawful employment practice  
24 for an employer, labor organization, or employment agency to  
25 print or publish or cause to be printed or published any notice  
26 or advertisement relating to employment by such an employer or  
27 membership in or any classification or referral for employment by

1 such a labor organization, or relating to any classification or  
2 referral for employment by such an employment agency, indicating  
3 any preference, limitation, specification, or discrimination based  
4 on race, color, religion, sex, disability, marital status, ~~or~~  
5 national origin, sexual orientation, or gender identity, except  
6 that such a notice or advertisement may indicate a preference,  
7 limitation, specification or discrimination based on religion, sex,  
8 disability, marital status, ~~or~~ national origin, sexual orientation,  
9 or gender identity when religion, sex, disability, marital status,  
10 ~~or~~ national origin, sexual orientation, or gender identity is a  
11 bona fide occupational qualification for employment.

12           Sec. 16. Section 48-1117, Revised Statutes Cumulative  
13 Supplement, 2012, is amended to read:

14           48-1117 The commission shall have the following powers  
15 and duties:

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

18           (2) To hold hearings, subpoena witnesses, compel their  
19 attendance, administer oaths, and take the testimony of any person  
20 under oath and, in connection therewith, to require the production  
21 for examination of any books and papers relevant to any allegation  
22 of unlawful employment practice pending before the commission. The  
23 commission may make rules as to the issuance of subpoenas, subject  
24 to the approval by a constitutional majority of the elected members  
25 of the Legislature;

26           (3) To cooperate with the federal government and with  
27 local agencies to effectuate the purposes of the Nebraska Fair

1 Employment Practice Act, including the sharing of information  
2 possessed by the commission on a case that has also been filed with  
3 the federal government or local agencies if both the employer and  
4 complainant have been notified of the filing;

5 (4) To attempt to eliminate ~~unfair~~ unlawful employment  
6 practices by means of conference, mediation, conciliation,  
7 arbitration, and persuasion;

8 (5) To require that every employer, employment agency,  
9 and labor organization subject to the act shall (a) make and keep  
10 such records relevant to the determinations of whether unlawful  
11 employment practices have been or are being committed, (b) preserve  
12 such records for such periods, and (c) make such reports therefrom,  
13 as the commission shall prescribe by regulation or order, after  
14 public hearing, as reasonable, necessary, or appropriate for the  
15 enforcement of the act or the regulations or orders thereunder.  
16 The commission shall, by regulation, require each employer, labor  
17 organization, and joint labor-management committee subject to the  
18 act which controls an apprenticeship or other training program to  
19 maintain such records as are reasonably necessary to carry out  
20 the purposes of the act, including, but not limited to, a list of  
21 applicants who wish to participate in such program, including the  
22 chronological order in which such applications were received, and  
23 to furnish to the commission, upon request, a detailed description  
24 of the manner in which persons are selected to participate in the  
25 apprenticeship or other training program. Any employer, employment  
26 agency, labor organization, or joint labor-management committee  
27 which believes that the application to it of any regulation or

1 order issued under this section would result in undue hardship  
2 may either apply to the commission for an exemption from the  
3 application of such regulation or order or bring a civil action in  
4 the district court for the district where such records are kept.  
5 If the commission or the court, as the case may be, finds that the  
6 application of the regulation or order to the employer, employment  
7 agency, or labor organization in question would impose an undue  
8 hardship, the commission or the court, as the case may be, may  
9 grant appropriate relief;

10 (6) To report, not less than once every two years, to  
11 the Clerk of the Legislature and the Governor, on the hearings it  
12 has conducted and the decisions it has rendered, the other work  
13 performed by it to carry out the purposes of the act, and to make  
14 recommendations for such further legislation concerning abuses and  
15 discrimination because of race, color, religion, sex, disability,  
16 marital status, ~~or~~ national origin, sexual orientation, or gender  
17 identity, as may be desirable. The report submitted to the Clerk  
18 of the Legislature shall be submitted electronically. Each member  
19 of the Legislature shall receive an electronic copy of the report  
20 required by this subdivision by making a request for it to the  
21 chairperson of the commission; and

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

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

26 48-1119 (1) In case of failure to eliminate any  
27 unlawful employment practice by informal methods of conference,



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

23 (2) No person shall be excused from testifying or  
24 from producing any book, document, paper, or account in any  
25 investigation by, ~~or~~ inquiry by, or hearing before the commission  
26 when ordered to do so, upon the ground that the testimony or  
27 evidence, book, document, paper, or account required of such person

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

15 (3) After the conclusion of the hearing, the commission  
16 shall, within ten days ~~of the~~ after receipt of the transcript or  
17 the receipt of the recommendations from the hearing officer, make  
18 and file its findings of fact and conclusions of law and make and  
19 enter an appropriate order. The hearing officer need not refer to  
20 the page and line numbers of the transcript when making his or  
21 her recommendation to the commission. Such findings of fact and  
22 conclusions of law shall be in sufficient detail to enable a court  
23 on appeal to determine the controverted questions presented by the  
24 proceedings and whether proper weight was given to the evidence.  
25 If the commission determines that the respondent has intentionally  
26 engaged in or is intentionally engaging in any unlawful employment  
27 practice, ~~it~~ the commission shall issue and cause to be served on

1 such respondent an order requiring such respondent to cease and  
2 desist from such unlawful employment practice and order such other  
3 affirmative action as may be appropriate which may include, but  
4 shall not be limited to, reinstatement or hiring of employees, with  
5 or without backpay. Backpay liability shall not accrue from a date  
6 more than two years prior to the filing of the charge with the  
7 commission. Interim earnings or amounts earnable with reasonable  
8 diligence by the person or persons discriminated against shall  
9 operate to reduce the backpay otherwise allowable.

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

23 (5) No order of the commission shall require the  
24 admission or reinstatement of an individual as a member of a  
25 labor organization or the hiring, reinstatement, or promotion of  
26 an individual as an employee, or the payment to him or her of  
27 any backpay, if such individual was refused admission, suspended,

1 or expelled, or was refused employment or advancement or was  
2 suspended or discharged for any reason other than discrimination  
3 on account of race, color, religion, sex, disability, marital  
4 status, ~~or~~ national origin, sexual orientation, or gender identity  
5 or in violation of section 48-1114. If the commission finds that  
6 a respondent has not engaged in any ~~unfair~~ unlawful employment  
7 practice, it shall within thirty days state its findings of fact  
8 and conclusions of law. A copy of any order shall be served upon  
9 the person against whom it runs or his or her attorney and notice  
10 thereof shall be given to the other parties to the proceedings or  
11 their attorneys. Such order shall take effect twenty days after  
12 service thereof unless otherwise provided and shall continue in  
13 force either for a period which may be designated therein or until  
14 changed or revoked by the commission.

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

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

23 48-1122 Every contract to which the state or any of  
24 its political subdivisions is a party shall contain a provision  
25 requiring the contractor and his or her subcontractors not to  
26 discriminate against any employee or applicant for employment, to  
27 be employed in the performance of such contract, with respect

1 to his or her hire, tenure, terms, conditions, or privileges of  
2 employment, because of his or her race, color, religion, sex,  
3 disability, ~~or~~ national origin, sexual orientation, or gender  
4 identity.

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

7 48-1124 Nothing contained in the Nebraska Fair Employment  
8 Practice Act shall be deemed to repeal any of the provisions of the  
9 civil rights law, any other law of this state, or any municipal  
10 ordinance relating to discrimination because of race,  ~~creed~~, color,  
11 religion, sex, disability, ~~or~~ national origin, sexual orientation,  
12 or gender identity.

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

15 49-801 Unless the context is shown to intend otherwise,  
16 words and phrases in the statutes of Nebraska hereafter enacted are  
17 used in the following sense:

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

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

23 (3) Attorney shall mean attorney at law;

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

27 (5) Domestic when applied to corporations shall mean all

1 those created by authority of this state;

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

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

5 (8) Gender identity shall mean the actual or perceived  
6 appearance, expression, identity, or behavior of an individual,  
7 whether or not that appearance, expression, identity, or behavior  
8 is different from the individual's assigned sex at birth;

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

11 ~~(9)~~ (10) Grantor shall include every person from or by  
12 whom any estate or interest passes in or by any conveyance;

13 ~~(10)~~ (11) Inhabitant shall be construed to mean a  
14 resident in the particular locality in reference to which that  
15 word is used;

16 ~~(11)~~ (12) Land or real estate shall include lands,  
17 tenements, and hereditaments and all rights thereto and interest  
18 therein other than a chattel interest;

19 ~~(12)~~ (13) Magistrate shall include judge of the county  
20 court and clerk magistrate;

21 ~~(13)~~ (14) Month shall mean calendar month;

22 ~~(14)~~ (15) Oath shall include affirmation in all cases in  
23 which an affirmation may be substituted for an oath;

24 ~~(15)~~ (16) Peace officer shall include sheriffs, coroners,  
25 jailers, marshals, police officers, state highway patrol officers,  
26 members of the National Guard on active service by direction of the  
27 Governor during periods of emergency, and all other persons with

1 similar authority to make arrests;

2 ~~(16)~~ (17) Person shall include bodies politic  
3 and corporate, societies, communities, the public generally,  
4 individuals, partnerships, limited liability companies, joint-stock  
5 companies, and associations;

6 ~~(17)~~ (18) Personal estate shall include money, goods,  
7 chattels, claims, and evidences of debt;

8 ~~(18)~~ (19) Process shall mean a summons, subpoena, or  
9 notice to appear issued out of a court in the course of judicial  
10 proceedings;

11 ~~(19)~~ (20) Service animal shall have the same meaning as  
12 in 28 C.F.R. 36.104, as such regulation existed on January 1, 2008;

13 (21) Sexual orientation means actual or perceived  
14 homosexuality, heterosexuality, or bisexuality;

15 ~~(20)~~ (22) State when applied to different states of  
16 the United States shall be construed to extend to and include  
17 the District of Columbia and the several territories organized by  
18 Congress;

19 ~~(21)~~ (23) Sworn shall include affirmed in all cases in  
20 which an affirmation may be substituted for an oath;

21 ~~(22)~~ (24) The United States shall include territories,  
22 outlying possessions, and the District of Columbia;

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

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

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

1           Sec. 21. Section 81-1355, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           81-1355 It is declared to be in the best interest of  
4 the State of Nebraska to insure that historic and any present  
5 patterns of sex and racial discrimination are eliminated and  
6 that each agency pursue a course of action in all areas of its  
7 operation to insure that all citizens are provided with fair  
8 and equal opportunities for employment and advancement regardless  
9 of race, color, religion, national origin, sexual orientation,  
10 gender identity, age, sex, marital status, or physical or mental  
11 disability.

12           Affirmative action shall be taken to insure the  
13 implementation of a policy in state government employment which  
14 provides equal employment opportunity. Such policy shall apply to:

- 15           (1) Hiring, placement, upgrading, transfer, or demotion
- 16 of employees;
- 17           (2) Recruitment, advertising, or solicitation for
- 18 employment;
- 19           (3) Treatment during employment;
- 20           (4) Rates of pay or other forms of compensation;
- 21           (5) Selection for training;
- 22           (6) Layoff, termination, or reinstatement; and
- 23           (7) Any other terms or conditions of employment.

24           Sec. 22. Section 81-1356, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26           81-1356 As used in sections 81-1355 to 81-1368, unless  
27 the context otherwise requires:



1           (1) Equal employment opportunity shall mean the right of  
2 all persons to work and to advance on the basis of merit and  
3 ability without regard to race, color, religion, national origin,  
4 sexual orientation, gender identity, age, sex, marital status, or  
5 physical or mental disability;

6           (2) Affirmative action shall mean a deliberate and  
7 sustained effort to identify and eliminate barriers to employment  
8 and advancement which may discriminate against various groups.  
9 Particular emphasis shall be focused on racial minorities, women,  
10 and the disabled but not to the exclusion of the criteria set  
11 forth in subdivision (1) of this section. The ultimate goal is  
12 to achieve, at all levels, a state government work force which is  
13 representative of the state working population. The composition of  
14 the state working population shall be determined annually through  
15 reports of the Department of Labor. Such a goal is to be an  
16 integral part of every aspect of personnel policy;

17           (3) Office shall mean the Affirmative Action Office;

18           (4) Program shall mean the Affirmative Action Program;

19           (5) Agency shall mean each department, agency, office,  
20 board, commission, and committee of the State of Nebraska under the  
21 executive authority of the Governor;

22           (6) Plan shall mean the Affirmative Action Plan prepared  
23 by the individual agencies; and

24           (7) Administrator shall mean the Affirmative Action  
25 Administrator.

26           Sec. 23. Original sections 23-2525, 23-2531, 23-2541,  
27 48-215, 48-1101, 48-1103, 48-1104, 48-1105, 48-1106, 48-1107,

1 48-1108, 48-1111, 48-1113, 48-1115, 48-1119, 48-1122, 48-1124,  
2 49-801, 81-1355, and 81-1356, Reissue Revised Statutes of Nebraska,  
3 and sections 29-401 and 48-1117, Revised Statutes Cumulative  
4 Supplement, 2012, are repealed.

5           Sec. 24. The following section is outright repealed:  
6 Section 48-1109, Reissue Revised Statutes of Nebraska.