

## LEGISLATURE OF NEBRASKA

## ONE HUNDREDTH LEGISLATURE

## FIRST SESSION

**LEGISLATIVE BILL 296**

Introduced By: Johnson, 37; Burling, 33; Erdman, 47; Fischer, 43;  
Flood, 19; Friend, 10; Gay, 14; Hansen, 42;  
Hudkins, 21; Janssen, 15; Kruse, 13; Louden, 49;  
Nantkes, 46; Pankonin, 2; Pedersen, 39; Stuthman,  
22; at the request of the Governor

Read first time: January 10, 2007

Committee: Health and Human Services

## A BILL

1 FOR AN ACT relating to health and human services; to amend  
2 sections 43-404, 80-317, 80-319, 80-320, 80-321, 80-322,  
3 81-101, and 81-102, Reissue Revised Statutes of Nebraska,  
4 and sections 80-318 and 81-1316, Revised Statutes Cumulative  
5 Supplement, 2006; to adopt the Health and Human Services  
6 System Act; to create a new agency and departments; to state  
7 intent; to eliminate the Department of Health and Human  
8 Services, the Department of Health and Human Services  
9 Finance and Support, the Department of Health and Human  
10 Services Regulation and Licensure, the Policy Secretary, the  
11 Director of Medical Services, and the Policy Cabinet; to  
12 eliminate an administrator; to change provisions relating to  
13 the veterans homes review board; to harmonize provisions; to  
14 provide an operative date; to repeal the original sections;  
15 and to outright repeal sections 81-3103, 81-3108, 81-3203,  
16 81-3303, and 83-125, Reissue Revised Statutes of Nebraska,

17                   and sections 81-3001, 81-3001.01, 81-3004, 81-3006,  
1                   81-3007.01, 81-3008, 81-3009, 81-3101, 81-3102, 83-3106,  
2                   81-3107, 81-3109, 81-3201, 81-3202, 81-3206, 81-3207,  
3                   81-3208, 81-3209, 81-3210, 81-3211, 81-3301, 81-3302,  
4                   81-3306, 81-3307, 81-3308, 81-3309, 81-3310, and 81-3311,  
5                   Revised Statutes Cumulative Supplement, 2006; and to declare  
6                   an emergency.

7                   Be it enacted by the people of the State of Nebraska,

1           Section 1. Sections 1 to 16 of this act shall be known and  
2 may be cited as the Health and Human Services System Act.

3           Sec. 2. It is the intent of the Legislature by enacting the  
4 Health and Human Services System Act to refine the Health and Human  
5 Services System into a single agency to clarify the agency's core  
6 missions, scope, functions, and responsibilities; enhance services  
7 provided to Nebraskans; and ensure and improve accountability,  
8 collaboration, and coordination.

9           Sec. 3. The purpose of the Health and Human Services System  
10 Act is to provide for the administration of publicly funded health and  
11 human services programs and services in the State of Nebraska through  
12 the Health and Human Services System.

13           Sec. 4. Effective July 1, 2007, all programs, services, and  
14 duties of the Department of Health and Human Services, the Department  
15 of Health and Human Services Regulation and Licensure, and the  
16 Department of Health and Human Services Finance and Support shall be  
17 transferred to the Health and Human Services System.

18           Sec. 5. The Governor shall appoint the chief executive  
19 officer of the Health and Human Services System who shall have a  
20 recognized and demonstrated expertise in and knowledge of the issues  
21 of health and human services delivery and administrative experience  
22 in an executive capacity. The chief executive officer shall report to  
23 the Governor and serve at the pleasure of the Governor. The chief  
24 executive officer shall be subject to confirmation by a majority vote  
25 of the members of the Legislature as provided in section 81-102.

26           Sec. 6. (1) The Health and Human Services System shall have  
27 six departments. Each department shall have a director appointed by

1 the Governor and confirmed by a majority of the members of the  
2 Legislature who shall serve at the pleasure of the Governor and shall  
3 report to the chief executive officer. The departments shall be known  
4 as the Department of Behavioral Health, the Department of Children  
5 and Family Services, the Department of Developmental Disabilities,  
6 the Department of Medicaid, the Department of Public Health, and the  
7 Department of Veterans' Homes.

8 (2) If the Director of Public Health is licensed to  
9 practice medicine and surgery in the State of Nebraska, he or she  
10 shall be the chief medical officer. If the Director of Public Health  
11 is not licensed to practice medicine and surgery in the State of  
12 Nebraska, the Governor shall appoint a chief medical officer in  
13 addition to the Director of Public Health. The Director of Public  
14 Health shall also have administrative experience in an executive  
15 capacity and some special training in public health. If a chief  
16 medical officer is appointed, he or she shall serve at the pleasure  
17 of the Governor, shall be licensed to practice medicine and surgery  
18 in the State of Nebraska, and shall have some special training in  
19 public health. If a chief medical officer is appointed, he or she  
20 shall perform the duties under the Uniform Licensing Law specified in  
21 section 71-155.01 and shall be the final decisionmaker in contested  
22 cases of (1) the health care facilities defined in the Health Care  
23 Facility Licensure Act arising under the act and sections 71-6042 and  
24 81-604.03, (2) occupations defined in subdivisions (2) and (4) of  
25 section 71-6038, and (3) the Medication Aide Act.

26 Sec. 7. The responsibilities of the departments include,  
27 but are not limited to, the following:

1           (1) The Department of Behavioral Health shall administer  
2 the regional centers and community-based behavioral health services;

3           (2) The Department of Children and Family Services shall  
4 administer protection and safety, including child welfare and the  
5 Office of Juvenile Services; economic and family support; and the  
6 service areas;

7           (3) The Department of Developmental Disabilities shall  
8 administer the Beatrice State Developmental Center and community-based  
9 developmental disability services;

10          (4) The Department of Medicaid shall administer the  
11 medicaid program including claims payment and control, long-term care,  
12 hospital and primary care, and the medicaid state plan and waivers;  
13 aging services; and other related programs;

14          (5) The Department of Public Health shall administer  
15 preventive and community health and regulation and licensure of health  
16 professions, occupations, and facilities; and

17          (6) The Department of Veterans' Homes shall administer the  
18 Eastern Nebraska Veterans' Home, the Grand Island Veterans' Home, the  
19 Norfolk Veterans' Home, and the Western Nebraska Veterans' Home.

20          Sec. 8. The chief executive officer of the Health and Human  
21 Services System shall:

22           (1) Supervise and be responsible for the administration of  
23 the system and the appointment and removal of employees;

24           (2) Manage services and programs of the system, whether  
25 contracted or delivered directly by the state, including, but not  
26 limited to: (a) Delegating appropriate powers and duties to  
27 department directors and employees of the system; (b) assuring

1 coordination throughout the system for consumers of services; (c)  
2 providing services in accordance with established policies, desired  
3 outcomes, priorities, and goals; (d) identifying strategies jointly  
4 with communities for accomplishing identified goals and outcomes; and  
5 (e) assuring service coordination and access through public education  
6 and information, community resource development, technical  
7 assistance, and coordinated service management;

8 (3) Enter into such agreements as may be necessary or  
9 appropriate to provide services and manage funds as provided under the  
10 Health and Human Services System Act, including the administration of  
11 federal funds granted to the state in the furtherance of the  
12 activities of the system;

13 (4) Allow for the transfer of personnel and for the  
14 authority of one department of the system to act as the agent for  
15 another department of the system in carrying out certain services or  
16 functions, or a portion of them, or for the joint implementation of  
17 public or private grants or performance of contracts;

18 (5) Recommend to the Legislature and the Governor  
19 legislation he or she deems necessary or appropriate;

20 (6) Consult and cooperate with other state agencies so as  
21 to coordinate activities in an effective manner with related  
22 activities in other agencies;

23 (7) Adopt and promulgate necessary rules and regulations to  
24 implement programs and activities as required by state law or under  
25 federal law or regulation governing federal funds, grants or  
26 contracts administered by the system. The authority to adopt and  
27 promulgate rules and regulations may be delegated by the chief

1 executive officer to the department directors of the system;

2 (8) Under the direction and guidance of the Adjutant  
3 General and the Nebraska Emergency Management Agency, to coordinate  
4 assistance programs established by the Adjutant General under section  
5 81-829.72 with the programs of the system;

6 (9) Coordinate budget, research, and data collection  
7 efforts to insure effectiveness of the system;

8 (10) Ensure that the Appropriations Committee of the  
9 Legislature is provided any information the committee requires to make  
10 funding determinations and budget recommendations to the Legislature,  
11 including, but not limited to, specific program budgets, internal  
12 budget requests, fiscal reports, and appearances by department  
13 directors, division administrators, program administrators, and  
14 subprogram directors before the committee to present system,  
15 department, division, program, and subprogram budget requests;

16 (11) Seek grants and other funds from federal and other  
17 public and private sources to carry out the purposes of the act and  
18 the missions and purposes of the system and to accept and administer  
19 programs or resources delegated, designated, assigned, or awarded by  
20 the Governor or by other public and private sources;

21 (12) Act as the agent of the federal government in matters  
22 of mutual concern in conformity with the act and the scope of  
23 authority of the system as provided by law;

24 (13) Facilitate joint planning initiatives in the system;

25 (14) Adopt and promulgate confidentiality rules and  
26 regulations as provided in section 9 of this act;

27 (15) Delegate the authority to act as decisionmaker in

1 contested cases to the department directors;

2 (16) Encourage and direct initiatives and collaboration in  
3 the system; and

4 (17) Perform such other duties as are provided by law.

5 Sec. 9. (1) The chief executive officer of the Health and  
6 Human Services System may adopt and promulgate rules and regulations  
7 which prescribe standards and procedures for access to and security  
8 of confidential information among the departments within the system  
9 and within each department. These include standards for collection,  
10 maintenance, and use of information in electronic or other storage  
11 media. Procedures for disclosure of confidential information among  
12 the departments shall include a determination by the chief executive  
13 officer on whether confidential information should be shared among  
14 the departments. In making the determination, the following factors  
15 shall be considered:

16 (a) The law governing the confidentiality of the  
17 information and the original purpose for which the information was  
18 collected;

19 (b) The potential for harm to an individual if the  
20 disclosure is made;

21 (c) Whether the disclosure will enhance the coordination of  
22 policy development, service provision, eligibility determination,  
23 program management, quality assurance, financial services, or support  
24 services;

25 (d) Whether the information is a trade secret, academic or  
26 scientific research work which is in progress and unpublished, or  
27 other proprietary or commercial information;



1           (e) Any limitations placed on the use of the information by  
2 the original source of the information;

3           (f) Whether the proposed use is for a bona fide research  
4 project or study, the procedures and methodology of which meet the  
5 standards for research in the particular body of knowledge;

6           (g) The security of the information, including the scope of  
7 access, ongoing security, publication, and disposal of the information  
8 at the end of its use;

9           (h) The degree to which aggregate or summary data may  
10 identify an individual whose privacy would otherwise be protected;  
11 and

12           (i) Whether such information constitutes criminal  
13 intelligence information maintained by correctional or law enforcement  
14 authorities.

15           (2) Otherwise confidential information may be disclosed  
16 among the departments pursuant to subsection (1) of this section if  
17 not expressly prohibited by law. Such disclosure shall not be  
18 considered a public disclosure or make the record a public record.  
19 Any further disclosure may be made only if permitted by law or a  
20 policy governing the originating department. Each department shall  
21 observe confidentiality of human resources information and employment  
22 records, except that the departments shall act and be considered to  
23 be one agency for purposes of human resources issues, employment  
24 records, and related matters.

25           (3) All officials and employees shall be informed regarding  
26 laws, rules and regulations, and policies governing confidential  
27 information and acknowledge receipt of that information.

1           Sec. 10. The Health and Human Services System Cash Fund is  
2           created and shall consist of funds from contracts, grants, gifts, or  
3           fees. Any money in the Department of Health and Human Services Cash  
4           Fund, the Department of Health and Human Services Finance and Support  
5           Cash Fund, and the Department of Health and Human Services Regulation  
6           and Licensure Cash Fund on July 1, 2007, shall be transferred to the  
7           Health and Human Services System Cash Fund. Any money in the fund  
8           available for investment shall be invested by the state investment  
9           officer pursuant to the Nebraska Capital Expansion Act and the  
10           Nebraska State Funds Investment Act.

11           Sec. 11. The chief executive officer of the Health and  
12           Human Services System may request that petty cash funds be created at  
13           specific locations which may be used for fees and costs related to  
14           the prosecution of support establishment, modification, and  
15           enforcement cases, including, but not limited to, court costs, filing  
16           fees, service of process fees, sheriff's costs, garnishment and  
17           execution fees, court reporter and transcription costs, costs related  
18           to appeals, witness and expert witness fees, and fees or costs for  
19           obtaining necessary documents. The petty cash funds shall be created  
20           and administered as provided in section 81-104.01, except that the  
21           amount in each petty cash fund shall not be less than twenty-five  
22           dollars nor more than one thousand dollars.

23           Sec. 12. On and after July 1, 2007, whenever the Department  
24           of Health and Human Services, the Department of Health and Human  
25           Services Finance and Support, or the Department of Health and Human  
26           Services Regulation and Licensure is referred to or designated by any  
27           contract or other document in connection with the duties and

1 functions transferred to the Health and Human Services System  
2 pursuant to the Health and Human Services System Act, such reference  
3 or designation shall apply to such system. All contracts entered into  
4 by the agencies prior to July 1, 2007, in connection with the duties  
5 and functions transferred to the system are hereby recognized, with  
6 the system succeeding to all rights and obligations under such  
7 contracts. Any cash funds, custodial funds, gifts, trusts, grants,  
8 and any appropriations of funds from prior fiscal years available to  
9 satisfy obligations incurred under such contracts shall be  
10 transferred and appropriated to the system for the payments of such  
11 obligations. All licenses, certificates, registrations, permits,  
12 seals, or other forms of approval issued by the departments in  
13 accordance with functions or duties transferred to the system shall  
14 remain valid as issued under the names of the original departments  
15 unless revoked or their effectiveness is otherwise terminated as  
16 provided by law. All documents and records transferred, or copies of  
17 the same, may be authenticated or certified by the system for all  
18 legal purposes.

19           Sec. 13. All rules, regulations, and orders of the  
20 Department of Health and Human Services, the Department of Health and  
21 Human Services Finance and Support, or the Department of Health and  
22 Human Services Regulation and Licensure or their predecessor agencies  
23 adopted prior to July 1, 2007, in connection with the powers, duties,  
24 and functions transferred to the Health and Human Services System  
25 pursuant to the Health and Human Services System Act, shall continue  
26 to be effective until revised, amended, repealed, or nullified  
27 pursuant to law.

1           No suit, action, or other proceeding, judicial or  
2           administrative, lawfully commenced prior to July 1, 2007, or which  
3           could have been commenced prior to that date, by or against any of  
4           such departments, or any director or employee thereof in such  
5           director's or employee's official capacity or in relation to the  
6           discharge of his or her official duties, shall abate by reason of the  
7           transfer of duties and functions from the Department of Health and  
8           Human Services, the Department of Health and Human Services Finance  
9           and Support, or the Department of Health and Human Services  
10           Regulation and Licensure to the Health and Human Services System.

11           On and after July 1, 2007, unless otherwise specified,  
12           whenever any provision of law refers to the Department of Health and  
13           Human Services, the Department of Health and Human Services Finance  
14           and Support, or the Department of Health and Human Services  
15           Regulation and Licensure in connection with duties and functions  
16           transferred to the Health and Human Services System, such law shall  
17           be construed as referring to such system.

18           Sec. 14. On and after July 1, 2007, positions of employment  
19           in the Department of Health and Human Services, the Department of  
20           Health and Human Services Finance and Support, and the Department of  
21           Health and Human Services Regulation and Licensure related to the  
22           powers, duties, and functions transferred pursuant to the Health and  
23           Human Services System Act are transferred to the Health and Human  
24           Services System. For purposes of the transition, employees of the  
25           former departments shall be considered employees of the system and  
26           shall retain their rights under the state personnel system or  
27           pertinent bargaining agreement, and their service shall be deemed

1 continuous. This section does not grant employees any new rights or  
2 benefits not otherwise provided by law or bargaining agreement or  
3 preclude the departments or the chief executive officer of the Health  
4 and Human Services System from exercising any of the prerogatives of  
5 management set forth in section 81-1311 or as otherwise provided by  
6 law. This section is not an amendment to or substitute for the  
7 provisions of any existing bargaining agreements.

8           Sec. 15. On July 1, 2007, all items of property, real and  
9 personal, including office furniture and fixtures, books, documents,  
10 and records of the Department of Health and Human Services, the  
11 Department of Health and Human Services Finance and Support, and the  
12 Department of Health and Human Services Regulation and Licensure  
13 pertaining to the duties and functions transferred to the Health and  
14 Human Services System pursuant to the Health and Human Services  
15 System Act shall become the property of such system.

16           Sec. 16. An amendment shall be prepared to harmonize this  
17 legislative bill and to transfer the powers and duties of the  
18 Department of Health and Human Services, the Department of Health and  
19 Human Services Finance and Support, and the Department of Health and  
20 Human Services Regulation and Licensure to the Health and Human  
21 Services System.

22           Sec. 17. Section 43-404, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           43-404. There is created within the ~~Department~~ of Health  
25 and Human Services System the Office of Juvenile Services. The  
26 office shall have oversight and control of state juvenile correctional  
27 facilities and programs other than the secure youth confinement

1 facility which is under the control of the Department of Correctional  
2 Services. ~~The Administrator of the Office of Juvenile Services shall~~  
3 ~~be appointed by the Governor with the approval of a majority of the~~  
4 ~~Legislature and shall be responsible for the administration of the~~  
5 ~~facilities and programs of the office. The Department of Health and~~  
6 ~~Human Services~~ system may contract with a state agency or private  
7 provider to operate any facilities and programs of the Office of  
8 Juvenile Services.

9 Sec. 18. Section 80-317, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 80-317. ~~The Board of Inquiry and Review~~ Veterans' Homes  
12 Board shall prescribe rules of membership in the Nebraska veterans  
13 homes in accordance with sections 80-314 to 80-331. An application  
14 for membership in a Nebraska veterans home shall be made to a county  
15 veterans service officer who shall coordinate the required financial  
16 and medical information and, if necessary, provide an opinion  
17 regarding its validity. ~~If it is found that the applicant is unable~~  
18 ~~by reason of disability or old age to earn a livelihood for himself or~~  
19 ~~herself and is dependent wholly or partially upon public charities~~  
20 ~~for maintenance, or the type of care needed is available only at a~~  
21 ~~state institution, the~~ The county veterans service officer shall  
22 at once forward the application together with his or her finding in  
23 regard to the condition of the applicant to the ~~Board of Inquiry and~~  
24 ~~Review,~~ board, whose duty it is to receive, review, and act upon  
25 applications for membership. During the interim between meetings of  
26 the board, the secretary of the board is authorized to adjudicate  
27 applications, subject to the approval of the full board at its next

1 meeting.

2 Sec. 19. Section 80-318, Revised Statutes Cumulative  
3 Supplement, 2006, is amended to read:

4 80-318. For the purpose of determining continued eligibility  
5 of members to remain in one of the Nebraska veterans homes and for the  
6 purpose of recommending matters of policy, rules and regulations,  
7 administration, and maintenance pertaining to each of the Nebraska  
8 veterans homes, the ~~Board of Inquiry and Review~~ Veterans' Homes  
9 Board is established. The board shall be composed of ~~the department~~  
10 ~~commander and immediate past commander of~~ two members selected by  
11 each of the recognized veterans organizations in Nebraska identified  
12 in subdivision (1) of section 80-401.01, and the Director of  
13 Veterans' Affairs who shall serve as the permanent board secretary.  
14 Such members shall be selected in the manner and serve for such term  
15 as the veterans organization may prescribe. If a ~~commander or~~  
16 ~~immediate past commander of~~ member elected by any such veterans  
17 ~~organizations~~ organization is unavailable to attend a meeting of  
18 the board or unable to serve for any reason, the incumbent department  
19 commander of such organization may appoint some other member of his or  
20 her organization to serve on the board, ~~in the absence of the~~  
21 ~~department commander or the immediate past department commander, or~~  
22 ~~both.~~ Any of the veterans organizations mentioned in this section may  
23 appoint two representatives of their organization to serve on the  
24 board in place of the department commander and immediate past  
25 department commander. Such representatives shall be selected in the  
26 manner and serve for such term as the veterans organization may  
27 prescribe. The chairperson shall be selected from among the members

1 of the board. No salary shall be paid to any member of the board,  
2 but actual expenses of the members of the board when attending  
3 regularly called meetings of that board shall be paid as provided in  
4 sections 81-1174 to 81-1177 from the administrative funds of the  
5 Department of Veterans' Affairs.

6 Sec. 20. Section 80-319, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 80-319. ~~The Board of Inquiry and Review~~ Veterans' Homes  
9 Board shall meet at least quarterly and at other times at the request  
10 of either the chairperson or the secretary of the board at a site  
11 selected by the secretary after consultation with the chairperson.  
12 The board shall review all applications submitted for admission to  
13 the Nebraska veterans homes system and shall make all final  
14 determinations regarding admission, or continued admission, to one of  
15 the homes. The board may check periodically on members of the  
16 Nebraska veterans homes to determine whether or not their physical or  
17 financial status has so changed since admission that they should no  
18 longer be maintained there. ~~For purposes of making such~~  
19 ~~determination, the~~ The board has power to subpoena witnesses and  
20 take testimony under oath relative to the duties of the board. ~~the~~  
21 ~~corpus of estate, financial status, and income of any member.~~ No  
22 specified amount, either as to income or accumulated reserve, shall  
23 be arbitrarily fixed for determining the eligibility of an applicant  
24 to membership or to continuing rights of membership, but each case  
25 shall be considered solely on its merits and the evidence presented.  
26 ~~The board shall meet at least quarterly and at other times at the~~  
27 ~~request of either the chairperson or secretary of the board at a site~~



1 ~~selected by the secretary after consultation with the chairperson.~~  
2 ~~Recommendations of the board shall constitute authority for the~~ The  
3 ~~Department of Veterans' Homes shall consult with the board prior to~~  
4 ~~denying Health and Human Services to deny further residence to~~  
5 ~~members~~ it the board finds should no longer be supported there.

6 Sec. 21. Section 80-320, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 80-320. Nothing in sections 80-314 to 80-331 shall be  
9 construed as limiting the authority vested with the Director of  
10 ~~Health and Human Services~~ Veterans' Homes to adopt and promulgate  
11 rules and regulations, not inconsistent herewith, for the  
12 administration of the Nebraska veterans homes. The ~~director,~~  
13 ~~system,~~ in conjunction and after consultation with the ~~Board of~~  
14 ~~Inquiry and Review,~~ Veterans' Homes Board, shall adopt and  
15 promulgate rules and regulations governing admission to and  
16 administration of the homes. ~~authorizing all members of a home to~~  
17 ~~perform such duties in the home and on the institutional grounds as~~  
18 ~~the member is physically able to perform. No member shall be excused~~  
19 ~~from the performance of such duty without a disability statement~~  
20 ~~signed by the physician of the home.~~

21 Sec. 22. Section 80-321, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 80-321. Nothing in sections 80-314 to 80-331 shall be  
24 construed to deny any person who has been properly admitted to one of  
25 the Nebraska veterans homes the privilege of paying the cost of his or  
26 her care, or any part thereof, if he or she so desires or if it has  
27 been determined by the ~~Board of Inquiry and Review~~ Veterans' Homes

1 Board that his or her financial status is such that he or she should  
2 no longer be maintained there at public expense.

3 Sec. 23. Section 80-322, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 80-322. Any veteran, spouse, surviving spouse, or parent  
6 admitted to one of the Nebraska veterans homes under section 80-316  
7 who has an income in excess of forty dollars per month, including  
8 federal pension, compensation, or social security, or has sufficient  
9 assets will be required to reimburse the state monthly a reasonable  
10 amount for the expense of his or her maintenance. The amount shall be  
11 determined by the ~~Board of Inquiry and Review.~~ Veterans' Homes  
12 Board. All money paid to the state by members of the Nebraska  
13 veterans homes in compliance with this section shall be remitted to  
14 the State Treasurer for credit to the ~~Department of Health and Human~~  
15 ~~Services~~ Health and Human Services System Cash Fund.

16 Sec. 24. Section 81-101, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

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

1 ~~Health and Human Services; (13) Department of Health and Human~~  
2 ~~Services Regulation and Licensure; (14) Department of Health and~~  
3 ~~Human Services Finance and Support; and (15) Department of Property~~  
4 ~~Assessment and Taxation; and (13) Health and Human Services System.~~

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

7 81-102. The Governor shall appoint heads for the various  
8 ~~departments,~~ agencies listed in section 81-101, subject to  
9 confirmation by a majority vote of the members elected to the  
10 Legislature. Such appointments shall be submitted to the Legislature  
11 within sixty calendar days following the first Thursday after the  
12 first Tuesday in each odd-numbered year. The officers shall be  
13 designated as follows: (1) The Director of Agriculture for the  
14 Department of Agriculture; (2) the Commissioner of Labor for the  
15 Department of Labor; (3) the Director-State Engineer for the  
16 Department of Roads; (4) the Director of Natural Resources for the  
17 Department of Natural Resources; (5) the Director of Banking and  
18 Finance for the Department of Banking and Finance; (6) the Director of  
19 Insurance for the Department of Insurance; (7) the Director of Motor  
20 Vehicles for the Department of Motor Vehicles; (8) the Director of  
21 Administrative Services for the Department of Administrative Services;  
22 (9) the Director of Correctional Services for the Department of  
23 Correctional Services; (10) the Director of Economic Development for  
24 the Department of Economic Development; (11) the Superintendent of Law  
25 Enforcement and Public Safety for the Nebraska State Patrol; (12) ~~the~~  
26 ~~Director of Health and Human Services for the Department of Health and~~  
27 ~~Human Services; (13) the Director of Regulation and Licensure for the~~

1 ~~Department of Health and Human Services Regulation and Licensure;~~  
2 ~~(14) the Director of Finance and Support for the Department of Health~~  
3 ~~and Human Services Finance and Support; and (15) the Property Tax~~  
4 Administrator for the Department of Property Assessment and  
5 Taxation; and (13) the chief executive officer of the Health and  
6 Human Services System for the Health and Human Services System.

7 Whoever shall be so nominated by the Governor and shall fail to  
8 receive the number of votes requisite for confirmation, shall not be  
9 subject to nomination or appointment for this or any other appointive  
10 state office requiring confirmation by the Legislature during the  
11 period for which his or her appointment was sought. In case of a  
12 vacancy in any of such offices during the recess of the Legislature,  
13 the Governor shall make a temporary appointment until the next meeting  
14 of the Legislature, when he or she shall nominate some person to fill  
15 such office. Any person so nominated who is confirmed by the  
16 Legislature, shall hold his or her office during the remainder of the  
17 term if a specific term has been provided by law, otherwise during the  
18 pleasure of the Governor subject to the provisions of this section;  
19 except any such officers may be removed by the Governor pursuant to  
20 Article IV of the Constitution of Nebraska.

21 Sec. 26. Section 81-1316, Revised Statutes Cumulative  
22 Supplement, 2006, is amended to read:

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

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

- 1 (b) All personnel of the office of the Lieutenant Governor;
- 2 (c) All personnel of the office of the Secretary of State;
- 3 (d) All personnel of the office of the State Treasurer;
- 4 (e) All personnel of the office of the Attorney General;
- 5 (f) All personnel of the office of the Auditor of Public  
6 Accounts;
- 7 (g) All personnel of the Legislature;
- 8 (h) All personnel of the court systems;
- 9 (i) All personnel of the Board of Educational Lands and  
10 Funds;
- 11 (j) All personnel of the Public Service Commission;
- 12 (k) All personnel of the Nebraska Brand Committee;
- 13 (l) All personnel of the Commission of Industrial Relations;
- 14 (m) All personnel of the State Department of Education;
- 15 (n) All personnel of the Nebraska state colleges and the  
16 Board of Trustees of the Nebraska State Colleges;
- 17 (o) All personnel of the University of Nebraska;
- 18 (p) All personnel of the Coordinating Commission for  
19 Postsecondary Education;
- 20 (q) All personnel of the Governor's Policy Research Office,  
21 but not to include personnel within the State Energy Office;
- 22 (r) All personnel of the Commission on Public Advocacy;
- 23 (s) All agency and department heads;
- 24 (t) The ~~Director of Medical Services~~ chief medical  
25 officer established under section ~~83-125,~~ the director of the  
26 Division of Veterans Homes created in section 80-314, 6 of this act  
27 and the chief executive officers of the Beatrice State Developmental

1 Center, Lincoln Regional Center, Norfolk Regional Center, Hastings  
 2 Regional Center, Grand Island Veterans' Home, Norfolk Veterans' Home,  
 3 ~~Thomas Fitzgerald Veterans' Home prior to July 1, 2007, and the~~  
 4 ~~Eastern Nebraska Veterans' Home, on and after July 1, 2007,~~  
 5 Western Nebraska Veterans' Home, Youth Rehabilitation and Treatment  
 6 Center-Kearney, and Youth Rehabilitation and Treatment Center-Geneva;

7 (u) All personnel employed as pharmacists, physicians,  
 8 psychiatrists, ~~or~~ psychologists, service area administrators, or  
 9 facility operating officers of the ~~Department of Health and Human~~  
 10 ~~Services, the Department of Health and Human Services Finance and~~  
 11 ~~Support, and the Department of Health and Human Services Regulation~~  
 12 ~~and Licensure;~~ Health and Human Services System; and

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

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

20 Number of Agency 21 Employees	Number of Noncovered Positions
22 less than 25	0
23 25 to 100	1
24 101 to 250	2
25 251 to 500	3
26 501 to 1000	4
27 1001 to 2000	5

1	2001 to 3000	8
2	3001 to 4000	11
3	4001 to 5000	14
4	over 5000	<u>1725</u>

5           The purpose of having such noncovered positions shall be to  
6 allow agency heads the opportunity to recruit, hire, and supervise  
7 critical, confidential, or policymaking personnel without restrictions  
8 from selection procedures, compensation rules, career protections, and  
9 grievance privileges. Persons holding the noncovered positions shall  
10 serve at the pleasure of the agency head and shall be paid salaries  
11 set by the agency head.

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

19           Sec. 27. This act becomes operative on July 1, 2007.

20           Sec. 28. Original sections 43-404, 80-317, 80-319, 80-320,  
21 80-321, 80-322, 81-101, and 81-102, Reissue Revised Statutes of  
22 Nebraska, and sections 80-318 and 81-1316, Revised Statutes Cumulative  
23 Supplement, 2006, are repealed.

24           Sec. 29. The following sections are outright repealed:  
25 Sections 81-3103, 81-3108, 81-3203, and 81-3303, Reissue Revised  
26 Statutes of Nebraska, and sections 81-3001, 81-3001.01, 81-3004,  
27 81-3006, 81-3007.01, 81-3008, 81-3009, 81-3101, 81-3102, 83-3106,

1 81-3107, 81-3109, 81-3201, 81-3202, 81-3206, 81-3207, 81-3208,  
2 81-3209, 81-3210, 81-3211, 81-3301, 81-3302, 81-3306, 81-3307,  
3 81-3308, 81-3309, 81-3310, and 81-3311, Revised Statutes Cumulative  
4 Supplement, 2006.

5 Sec. 30. Since an emergency exists, this act takes effect  
6 when passed and approved according to law.