

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 475

Introduced by Chambers, 11

Read first time January 17, 2007

Committee: Judiciary

A BILL

1 FOR AN ACT relating to discrimination; to amend sections 13-1102,
2 18-1724, 20-113, 20-131, 23-2541, 48-215, 48-1101,
3 48-1102, 48-1103, 48-1104, 48-1105, 48-1106, 48-1107,
4 48-1107.02, 48-1108, 48-1110, 48-1111, 48-1112, 48-1113,
5 48-1114, 48-1115, 48-1116, 48-1117, 48-1118, 48-1119,
6 48-1120, 48-1121, 48-1122, 48-1123, 48-1124, 48-1125,
7 48-1126, 79-2,123, 81-1355, 81-1356, and 85-9,175,
8 Reissue Revised Statutes of Nebraska, and sections
9 20-139, 23-2525, 23-2531, and 25-2602.01, Revised
10 Statutes Cumulative Supplement, 2006; to rename the
11 Nebraska Fair Employment Practice Act; to prohibit
12 discrimination based upon sexual orientation or marital
13 status as prescribed; to eliminate obsolete provisions;
14 to harmonize provisions; to repeal the original sections;

LB 475

LB 475

1 and to outright repeal section 48-1109, Reissue Revised

2 Statutes of Nebraska.

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

1 Section 1. Section 13-1102, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 13-1102 In addition to any other powers which it may
4 now have, each municipality and each county shall have without any
5 other authority the following powers:

6 (1) To acquire, whether by construction, purchase,
7 devise, gift, or lease, or any one or more of such methods, one or
8 more projects, which shall be located within this state, and may
9 be located within, without, partially within, or partially without
10 the municipality or county;

11 (2) To lease to others any or all of its projects for
12 such rentals and upon such terms and conditions as the governing
13 body may deem advisable and as shall not conflict with the
14 provisions of sections 13-1101 to 13-1110;

15 (3) To finance the acquisition, construction,
16 rehabilitation, or purchase of projects in blighted areas.
17 The power to finance such projects in blighted areas shall mean and
18 include the power to enter into any type of agreement, including
19 a loan agreement, when the other party to the agreement agrees
20 (a) to use the proceeds of money provided under the agreement to
21 pay the costs of such acquisition, construction, rehabilitation,
22 or purchase and any costs incident to the issuance of the related
23 bonds and the funding of any reserve funds, (b) to be bound by the
24 terms of the Act Prohibiting Unjust Discrimination in Employment
25 Because of Age, the ~~Nebraska Fair Employment Practice~~ Employment

1 Nondiscrimination Act, and sections 48-1219 to 48-1227, regardless
2 of the number of employees, and (c) to make payments to the
3 municipality or county sufficient to enable it to pay on a timely
4 basis all principal, redemption premiums, and interest on the
5 related revenue bonds issued to provide such financing, and any
6 amounts necessary to repay such municipality or county for any and
7 all costs incurred by it that are incidental to such financing.
8 Title to any such project in a blighted area need not be in the
9 name of the municipality or county, but may be in the name of a
10 private party;

11 (4) To issue revenue bonds for the purpose of defraying
12 the cost of acquiring, improving, or financing any project or
13 projects, including the cost of any real estate previously
14 purchased and used for such project or projects, or the cost
15 of any option in connection with acquiring such property, and to
16 secure the payment of such bonds as provided in sections 13-1101 to
17 13-1110, which revenue bonds may be issued in two or more series
18 or issues where deemed advisable, and each such series or issue
19 may contain different maturity dates, interest rates, priorities
20 on revenue available for payment of such bonds and priorities on
21 securities available for guaranteeing payment thereof, and such
22 other differing terms and conditions as are deemed necessary and
23 are not in conflict with the provisions of sections 13-1101 to
24 13-1110; and

25 (5) To sell and convey any real or personal property

1 acquired as provided by subdivision (1) of this section, and make
2 such order respecting the same as may be deemed conducive to the
3 best interest of the municipality or county, ~~except + PROVIDED,~~
4 that such sale or conveyance shall be subject to the terms of any
5 lease but shall be free and clear of any other encumbrance.

6 No municipality or county shall have the power to (a)
7 operate any project, referred to in this section, as a business or
8 in any manner except as the lessor thereof, (b) lease any project
9 acquired under powers conferred by this section for use principally
10 for commercial feeding of livestock, (c) issue bonds under this
11 section principally for the purpose of financing the construction
12 or acquisition of commercial feeding facilities for livestock, or
13 (d) acquire any project or any part thereof by condemnation.

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

16 18-1724 Notwithstanding any other law or laws heretofore
17 enacted, all cities and villages in this state shall have the
18 power by ordinance to define, regulate, suppress, and prevent
19 discrimination on the basis of race, color, creed, religion,
20 ancestry, sex, marital status, national origin, sexual orientation,
21 familial status as defined in section 20-311, handicap as defined
22 in section 20-313, age, or disability in employment, public
23 accommodation, and housing and may provide for the enforcement
24 of such ordinances by providing appropriate penalties for the
25 violation thereof. It shall not be an unlawful employment practice

1 to refuse employment based on a policy of not employing both
2 husband and wife if such policy is equally applied to both sexes.

3 Sec. 3. Section 20-113, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 20-113 Any incorporated city may enact ordinances and any
6 county may adopt resolutions which are substantially equivalent
7 to the Act Prohibiting Unjust Discrimination in Employment
8 Because of Age, the ~~Nebraska Fair Employment Practice~~ Employment
9 Nondiscrimination Act, the Nebraska Fair Housing Act, and sections
10 20-126 to 20-143 and 48-1219 to 48-1227 or which are more
11 comprehensive than such acts and sections in the protection of
12 civil rights. No such ordinance or resolution shall place a duty or
13 liability on any person, other than an employer, employment agency,
14 or labor organization, for acts similar to those prohibited by
15 section 48-1115. Such ordinance or resolution may include authority
16 for a local agency to seek an award of damages or other equitable
17 relief on behalf of the complainant by the filing of a petition
18 in the district court in the county with appropriate jurisdiction.
19 The local agency shall have within its authority jurisdiction
20 substantially equivalent to or more comprehensive than the Equal
21 Opportunity Commission or other enforcement agencies provided under
22 such acts and sections and shall have authority to order backpay
23 and other equitable relief or to enforce such orders or relief
24 in the district court with appropriate jurisdiction. Certified
25 copies of such ordinances or resolutions shall be transmitted to

1 the commission. When the commission determines that any such city
2 or county has enacted an ordinance or adopted a resolution that
3 is substantially equivalent to such acts and sections or is more
4 comprehensive than such acts and sections in the protection of
5 civil rights and has established a local agency to administer such
6 ordinance or resolution, the commission may thereafter refer all
7 complaints arising in such city or county to the appropriate local
8 agency. All complaints arising within a city shall be referred
9 to the appropriate agency in such city when both the city and
10 the county in which the city is located have established agencies
11 pursuant to this section. When the commission refers a complaint to
12 a local agency, it shall take no further action on such complaint
13 if the local agency proceeds promptly to handle such complaint
14 pursuant to the local ordinance or resolution. If the commission
15 determines that a local agency is not handling a complaint with
16 reasonable promptness or that the protection of the rights of
17 the parties or the interests of justice require such action, the
18 commission may regain jurisdiction of the complaint and proceed
19 to handle it in the same manner as other complaints which are
20 not referred to local agencies. In cases of conflict between this
21 section and section 20-332, for complaints subject to the Nebraska
22 Fair Housing Act, section 20-332 shall control.

23 Any club which has been issued a license by the Nebraska
24 Liquor Control Commission to sell, serve, or dispense alcoholic
25 liquor shall have that license revoked if the club discriminates

1 because of race, color, religion, sex, familial status as defined
2 in section 20-311, handicap as defined in section 20-313, or
3 national origin in the sale, serving, or dispensing of alcoholic
4 liquor to any person who is a guest of a member of such club.
5 The procedure for revocation shall be as prescribed in sections
6 53-134.04, 53-1,115, and 53-1,116.

7 Sec. 4. Section 20-131, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 20-131 It is the policy of this state that persons
10 with disabilities shall be employed by the state, the political
11 subdivisions of the state, the public schools, and all other
12 employment supported in whole or in part by public funds on
13 the same terms and conditions as persons without disabilities
14 as required by the ~~Nebraska Fair Employment Practice~~ Employment
15 Nondiscrimination Act.

16 Sec. 5. Section 20-139, Revised Statutes Cumulative
17 Supplement, 2006, is amended to read:

18 20-139 The Nebraska Fair Housing Act and sections 20-123,
19 20-124, and 20-132 to 20-143 shall be administered by the Equal
20 Opportunity Commission, except that the State Fire Marshal shall
21 administer the act and sections as they relate to accessibility
22 standards and specifications set forth in sections 81-5,147 and
23 81-5,148. The county attorneys are granted the authority to enforce
24 such act and sections 20-123, 20-124, and 20-132 to 20-143 and
25 shall possess the same powers and duties with respect thereto as

1 the commission. If a complaint is filed with the county attorney,
2 the commission shall be notified. Powers granted to and duties
3 imposed upon the commission pursuant to such act and sections
4 shall be in addition to the provisions of the ~~Nebraska Fair~~
5 ~~Employment Practice~~ Employment Nondiscrimination Act and shall not
6 be construed to amend or restrict those provisions. In carrying
7 out the Nebraska Fair Housing Act and sections 20-123, 20-124, and
8 20-132 to 20-143, the commission shall have the power to:

9 (1) Seek to eliminate and prevent discrimination in
10 places of public accommodation because of race, color, sex,
11 religion, national origin, familial status as defined in section
12 20-311, handicap as defined in section 20-313, or ancestry;

13 (2) Effectuate the purposes of sections 20-132 to 20-143
14 by conference, conciliation, and persuasion so that persons may be
15 guaranteed their civil rights and goodwill may be fostered;

16 (3) Formulate policies to effectuate the purposes of
17 sections 20-132 to 20-143 and make recommendations to agencies and
18 officers of the state or local subdivisions of government in aid of
19 such policies and purposes;

20 (4) Adopt and promulgate rules and regulations to carry
21 out the powers granted by the Nebraska Fair Housing Act and
22 sections 20-123, 20-124, and 20-132 to 20-143, subject to the
23 provisions of the Administrative Procedure Act. The commission
24 shall, ~~not later than one hundred eighty days after September 6,~~
25 ~~1991,~~ issue draft rules and regulations to implement subsection (3)

1 of section 20-336, which regulations may incorporate regulations
2 of the federal Department of Housing and Urban Development as
3 applicable;

4 (5) Designate one or more members of the commission or
5 a member of the commission staff to conduct investigations of
6 any complaint alleging discrimination because of race, color, sex,
7 religion, national origin, familial status, handicap, or ancestry,
8 attempt to resolve such complaint by conference, conciliation, and
9 persuasion, and conduct such conciliation meetings and conferences
10 as are deemed necessary to resolve a particular complaint, which
11 meetings shall be held in the county in which the complaint arose;

12 (6) Determine that probable cause exists for crediting
13 the allegations of a complaint;

14 (7) Determine that a complaint cannot be resolved by
15 conference, conciliation, or persuasion, such determination to be
16 made only at a meeting where a quorum is present;

17 (8) Dismiss a complaint when it is determined there is
18 not probable cause to credit the allegations;

19 (9) Hold hearings, subpoena witnesses and compel their
20 attendance, administer oaths, take the testimony of any person
21 under oath, and in connection therewith require for examination any
22 books or papers relating to any matter under investigation or in
23 question before the commission; and

24 (10) Issue publications and the results of studies and
25 research which will tend to promote goodwill and minimize or

1 eliminate discrimination because of race, color, sex, religion,
2 national origin, familial status, handicap, or ancestry.

3 Sec. 6. Section 23-2525, Revised Statutes Cumulative
4 Supplement, 2006, 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
24 qualifications may reasonably be required and the same schedule of
25 pay may be equitably applied to all positions in the same class.

1 After the classification plan has been approved by the personnel
2 policy board, the county personnel officer shall be responsible
3 for the administration and maintenance of the plan and for the
4 allocation of each classified position. Any employee affected by
5 the allocation of a position to a class shall, upon request, be
6 given a reasonable opportunity to be heard thereon by the personnel
7 policy board who shall issue an advisory opinion to the personnel
8 officer;

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

23 (3) For open competitive examinations to test the
24 relative fitness of applicants for the respective positions.
25 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

1 whenever practicable and in the best interest of the service, and
2 preference may be given to employees within the department in which
3 the vacancy occurs;

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

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

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

1 appointing authority has notified the personnel officer in writing
2 that the services of the employee have been unsatisfactory;

3 (8) ~~When~~ That when an employee has been promoted but
4 fails to satisfactorily perform the duties of the new position
5 during the probationary period, he or she shall be returned to a
6 position comparable to that held immediately prior to promotion at
7 the current salary of such position;

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

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

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

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

20 (13) For transfer from a position in one department
21 to a similar position in another department involving similar
22 qualifications, duties, responsibilities, and salary ranges;

23 (14) For the transfer of employees of the state or
24 a political subdivision to the county pursuant to a merger of
25 services or due to the assumption of functions of the state or a

1 political subdivision by the county;

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

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

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

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

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

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

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

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

6 Sec. 7. Section 23-2531, Revised Statutes Cumulative
7 Supplement, 2006, is amended to read:

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

21 (2) No person shall make any false statement,
22 certificate, mark, rating, or report with regard to any test,
23 certification, or appointment made under the County Civil Service
24 Act or in any manner commit or attempt to commit any fraud
25 preventing the impartial execution of the act and the rules and

1 regulations adopted and promulgated pursuant to the act.

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

7 (4) No employee of the personnel office, examiner, or
8 other person shall defeat, deceive, or obstruct any person in
9 his or her right to examination, eligibility, certification, or
10 appointment under the act, or furnish to any person any special
11 or secret information for the purpose of affecting the rights
12 or prospects of any persons with respect to employment in the
13 classified service.

14 Sec. 8. Section 23-2541, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 23-2541 The personnel policy board, if created, shall,
17 with the assistance of two advisory groups, one of classified
18 employees and one of department heads, adopt proposed personnel
19 rules and regulations for the classified service and provide
20 reasonable notice of proposed rules and regulations to the heads
21 of all agencies, departments, county employee associations, and
22 institutions affected thereby. Any person affected by such rules
23 and regulations shall be given an opportunity, upon request, to
24 appear before the personnel policy board and present his or her
25 views on the rules and regulations. The personnel policy board

1 shall submit proposed rules and regulations or amendments for
2 adoption by the county board. The county board may consider and
3 adopt only personnel rules and regulations or amendments proposed
4 by the personnel policy board and may not repeal or revoke a
5 rule or regulation except upon the recommendation of the personnel
6 policy board.

7 The rules and regulations or amendments may provide:

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

24 (2) For a compensation plan for all employees in
25 the classified service, comprising salary schedules, attendance

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

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

1 available and eligible candidates, but which also permits selective
2 certification under appropriate conditions as prescribed in the
3 rules and regulations;

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

10 (5) For the rejection of candidates who fail to comply
11 with reasonable requirements of the county personnel officer in
12 regard to such factors as physical conditions, training, and
13 experience, who have been guilty of infamous or disgraceful
14 conduct, who are currently abusing alcohol or narcotics, or who
15 have attempted any deception or fraud in connection with an
16 examination;

17 (6) For prohibiting disqualification of any person from
18 (a) taking an examination, (b) promotion, or (c) holding a
19 position, solely because of race, sex, marital status, national
20 origin, sexual orientation, physical disabilities, age, political
21 or religious opinions or affiliations, or other factors which have
22 no bearing upon the individual's fitness to hold the position;

23 (7) For a period of probation, not to exceed one
24 year, before appointment or promotion may be made complete and
25 during which period a probationer may be separated from his or

1 her position without the right of appeal or hearing. After a
2 probationer has been separated, he or she may again be placed
3 on the eligible list at the discretion of the county personnel
4 officer. The rules and regulations shall provide that a probationer
5 shall be dropped from the payroll at the expiration of his or
6 her probationary period if, within ten days prior thereto, the
7 appointing authority has notified the county personnel officer in
8 writing that the services of the employee have been unsatisfactory;

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

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

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

17 (11) For provisional employment without competitive
18 examination when there is no appropriate eligible list available.
19 Provisional employment shall not continue longer than six months
20 and successive provisional appointments shall not be allowed;

21 (12) For transfer from a position in one department
22 to a similar position in another department involving similar
23 qualifications, duties, responsibilities, and salary ranges;

24 (13) For layoff by reason of lack of funds or work,
25 abolition of the position, or material change in duties or

1 organization, for the layoff of nontenured employees first, and
2 for reemployment of permanent employees so laid off, giving
3 consideration in both layoff and reemployment to performance record
4 and seniority in service;

5 (14) For establishment of a plan for resolving employee
6 grievances and complaints;

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

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

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

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

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

25 (20) For other rules and regulations not inconsistent

1 with sections 23-2534 to 23-2544 and the implementation of
2 personnel policy in the county.

3 Sec. 9. Section 25-2602.01, Revised Statutes Cumulative
4 Supplement, 2006, is amended to read:

5 25-2602.01 (a) A written agreement to submit any existing
6 controversy to arbitration is valid, enforceable, and irrevocable
7 except upon such grounds as exist at law or in equity for the
8 revocation of any contract.

9 (b) A provision in a written contract to submit to
10 arbitration any controversy thereafter arising between the parties
11 is valid, enforceable, and irrevocable, except upon such grounds as
12 exist at law or in equity for the revocation of any contract, if
13 the provision is entered into voluntarily and willingly.

14 (c) The Uniform Arbitration Act applies to arbitration
15 agreements between employers and employees or between their
16 respective representatives.

17 (d) Contract provisions agreed to by the parties to a
18 contract control over contrary provisions of the act other than
19 subsections (e) and (f) of this section.

20 (e) Subsections (a) and (b) of this section do not apply
21 to a claim for workers' compensation.

22 (f) Subsection (b) of this section does not apply to:

23 (1) A claim arising out of personal injury based on tort;

24 (2) A claim under the ~~Nebraska Fair Employment Practice~~
25 Employment Nondiscrimination Act;

1 (3) Any agreement between parties covered by sections
2 60-1401.01 to 60-1440; and

3 (4) Except as provided in section 44-811, any agreement
4 concerning or relating to an insurance policy other than a contract
5 between insurance companies including a reinsurance contract.

6 (g) When a conflict exists, the Uniform Arbitration Act
7 shall not apply to the Uniform Act on Interstate Arbitration and
8 Compromise of Death Taxes and sections 44-811, 44-4824, 54-404 to
9 54-406, 60-2701 to 60-2709, and 70-1301 to 70-1329.

10 Sec. 10. Section 48-215, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 48-215 It shall be unlawful for any person, firm,
13 or corporation, engaged to any extent whatsoever in the State
14 of Nebraska in the production, manufacture, or distribution of
15 military or naval material, equipment, or supplies for the State
16 of Nebraska or the government of the United States, to refuse to
17 employ any person in any capacity, if said such person is a citizen
18 and is qualified, on account of the race, color, ~~ereed~~, religion,
19 sex, disability, marital status, or national origin, or sexual
20 orientation of said such person.

21 Sec. 11. Section 48-1101, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 48-1101 It is the policy of this state to foster the
24 employment of all employable persons in the state on the basis of
25 merit regardless of their race, color, religion, sex, disability,

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

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

1 discrimination on the basis of disability.

2 Sec. 12. Section 48-1102, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 48-1102 For purposes of the ~~Nebraska Fair Employment~~
5 ~~Practice~~ Employment Nondiscrimination Act, unless the context
6 otherwise requires:

7 (1) Person ~~shall include~~ includes one or more
8 individuals, labor unions, partnerships, limited liability
9 companies, associations, corporations, legal representatives,
10 mutual companies, joint-stock companies, trusts, unincorporated
11 organizations, trustees, trustees in bankruptcy, or receivers;

12 (2) Employer ~~shall mean~~ means a person engaged in an
13 industry who has fifteen or more employees for each working day
14 in each of twenty or more calendar weeks in the current or
15 preceding calendar year, any agent of such a person, and any
16 party whose business is financed in whole or in part under the
17 Nebraska Investment Finance Authority Act regardless of the number
18 of employees and ~~shall include~~ includes the State of Nebraska,
19 governmental agencies, and political subdivisions, but such term
20 ~~shall~~ does not include (a) the United States, a corporation wholly
21 owned by the government of the United States, or an Indian tribe
22 or (b) a bona fide private membership club, other than a labor
23 organization, which is exempt from taxation under section 501(c) of
24 the Internal Revenue Code;

25 (3) Labor organization ~~shall mean~~ means any organization

1 which exists wholly or in part for one or more of the following
2 purposes: Collective bargaining; dealing with employers concerning
3 grievances, terms, or conditions of employment; or mutual aid or
4 protection in relation to employment;

5 (4) Employment agency ~~shall mean~~ means any person
6 regularly undertaking with or without compensation to procure
7 employees for an employer or to procure for employees opportunities
8 to work for an employer and ~~shall include~~ includes an agent of such
9 a person but ~~shall~~ does not include an agency of the United States,
10 except that such term ~~shall include~~ includes the United States
11 Employment Service and the system of state and local employment
12 services receiving federal assistance;

13 (5) Covered entity ~~shall mean~~ means an employer,
14 an employment agency, a labor organization, or a joint
15 labor-management committee;

16 (6) Privileges of employment ~~shall mean~~ means terms and
17 conditions of any employer-employee relationship, opportunities for
18 advancement of employees, and plant conveniences;

19 (7) Employee ~~shall mean~~ means an individual employed by
20 an employer;

21 (8) Commission ~~shall mean~~ means the Equal Opportunity
22 Commission;

23 (9) Disability ~~shall mean~~ means (a) a physical or mental
24 impairment that substantially limits one or more of the major
25 life activities of such individual, (b) a record of such an

1 impairment, or (c) being regarded as having such an impairment.
2 Disability ~~shall~~ does not include homosexuality, bisexuality,
3 transvestism, transsexualism, pedophilia, exhibitionism, voyeurism,
4 gender-identity disorders not resulting in physical impairments,
5 other sexual behavior disorders, problem gambling, kleptomania,
6 pyromania, or psychoactive substance use disorders resulting from
7 current illegal use of drugs;

8 (10)(a) Qualified individual with a disability ~~shall~~
9 ~~mean~~ means an individual with a disability who, with or without
10 reasonable accommodation, can perform the essential functions of
11 the employment position that such individual holds or desires.
12 Consideration shall be given to the employer's judgment as to what
13 functions of a job are essential, and if an employer has prepared
14 a written description before advertising or interviewing applicants
15 for the job, this description shall be considered evidence of the
16 essential functions of the job;

17 (b) Qualified individual with a disability ~~shall~~ does not
18 include any employee or applicant who is currently engaged in the
19 illegal use of drugs when the covered entity acts on the basis of
20 such use; and

21 (c) Nothing in this subdivision ~~shall be construed to~~
22 ~~exclude~~ excludes as a qualified individual with a disability an
23 individual who:

24 (i) Has successfully completed a supervised drug
25 rehabilitation program or otherwise been rehabilitated successfully

1 and is no longer engaging in the illegal use of drugs;

2 (ii) Is participating in a supervised rehabilitation
3 program and is no longer engaging in such use; or

4 (iii) Is erroneously regarded as engaging in such use but
5 is not engaging in such use;

6 (11) Reasonable accommodation ~~shall include~~ includes
7 making existing facilities used by employees readily accessible
8 to and usable by individuals with disabilities, job-restructuring,
9 part-time or modified work schedules, reassignment to a vacant
10 position, acquisition or modification of equipment or devices,
11 appropriate adjustment or modification of examinations, training
12 manuals, or policies, the provision of qualified readers or
13 interpreters, and other similar accommodations for individuals
14 with disabilities. Reasonable accommodation ~~shall~~ does not include
15 accommodations which the covered entity can demonstrate require
16 significant difficulty or expense thereby posing an undue hardship
17 upon the covered entity. Factors to be considered in determining
18 whether an accommodation would pose an undue hardship ~~shall~~
19 ~~include:~~ includes:

20 (a) The nature and the cost of the accommodation
21 needed under the ~~Nebraska Fair Employment Practice~~ Employment
22 Nondiscrimination Act;

23 (b) The overall financial resources of the facility
24 or facilities involved in the provision of the reasonable
25 accommodation, the number of persons employed at such facility, the

1 effect on expenses and resources, or the impact otherwise of such
2 accommodation upon the operation of the facility;

3 (c) The overall financial resources of the covered
4 entity, the overall size of the business of a covered entity
5 with respect to the number of its employees, and the number, type,
6 and location of its facilities; and

7 (d) The type of operation or operations of the covered
8 entity, including the composition, structure, and functions of the
9 work force of such entity, and the geographic separateness and
10 administrative or fiscal relationship of the facility or facilities
11 in question to the covered entity;

12 (12) Marital status ~~shall mean~~ means the status of a
13 person whether married or single;

14 (13) Because of sex or on the basis of sex ~~shall include,~~
15 includes, but ~~not be~~ is not limited to, because of or on the basis
16 of pregnancy, childbirth, or related medical conditions;

17 (14) Harass because of sex ~~shall include~~ includes making
18 unwelcome sexual advances, requesting sexual favors, and engaging
19 in other verbal or physical conduct of a sexual nature if (a)
20 submission to such conduct is made either explicitly or implicitly
21 a term or condition of an individual's employment, (b) submission
22 to or rejection of such conduct by an individual is used as the
23 basis for employment decisions affecting such individual, or (c)
24 such conduct has the purpose or effect of unreasonably interfering
25 with an individual's work performance or creating an intimidating,

1 hostile, or offensive working environment;

2 (15) Unlawful under federal law or the laws of this state
3 ~~shall mean~~ means acting contrary to or in defiance of the law or
4 disobeying or disregarding the law;

5 (16) Drug ~~shall mean~~ means a controlled substance as
6 defined in section 28-401; and

7 (17) Illegal use of drugs ~~shall mean~~ means the use of
8 drugs, the possession or distribution of which is unlawful under
9 the Uniform Controlled Substances Act, but ~~shall~~ does not include
10 the use of a drug taken under supervision by a licensed health care
11 professional or any other use authorized by the Uniform Controlled
12 Substances Act or other provisions of state law.

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

15 48-1103 The Nebraska Fair ~~Employment Practice~~ Employment
16 Nondiscrimination Act shall not apply to:

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

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

25 Sec. 14. Section 48-1104, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 48-1104 It shall be an unlawful employment practice for
3 an employer:

4 (1) To fail or refuse to hire, to discharge, or to harass
5 any individual, or otherwise to discriminate against any individual
6 with respect to compensation, terms, conditions, or privileges of
7 employment, because of such individual's race, color, religion,
8 sex, disability, marital status, ~~or~~ national origin, or sexual
9 orientation; or

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

16 Sec. 15. Section 48-1105, Reissue Revised Statutes of
17 Nebraska, is amended to read:

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

1 Sec. 16. Section 48-1106, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 48-1106 It shall be an unlawful employment practice for a
4 labor organization:

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

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

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

20 Sec. 17. Section 48-1107, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 48-1107 It shall be an unlawful employment practice
23 for any employer, labor organization, or joint labor-management
24 committee controlling apprenticeship or other training or
25 retraining, including on-the-job training programs to discriminate

1 against any individual because of race, color, religion, sex,
2 disability, marital status, ~~or~~ national origin, or sexual
3 orientation in admission to, or employment in, any program
4 established to provide apprenticeship or other training.

5 Sec. 18. Section 48-1107.02, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 48-1107.02 When referring to a qualified individual with
8 a disability, discrimination shall include:

9 (1) Limiting, segregating, or classifying a job applicant
10 or employee in a way that adversely affects the opportunities or
11 status of the applicant or employee because of the disability of
12 the applicant or employee;

13 (2) Participating in a contractual or other arrangement
14 or relationship that has the effect of subjecting a qualified
15 individual with a disability to discrimination in the application
16 or employment process, including a relationship with an employment
17 agency, a labor union, an organization providing fringe benefits
18 to an employee of the covered entity, or an organization providing
19 training and apprenticeship programs;

20 (3) Utilizing standards, criteria, or methods of
21 administration (a) that have the effect of discrimination on the
22 basis of disability or (b) that perpetuate the discrimination
23 against others who are subject to common administrative control;

24 (4) Excluding or otherwise denying equal jobs or benefits
25 to a qualified individual with a disability because of the known

1 disability of an individual with whom the qualified individual with
2 a disability is known to have a relationship or association;

3 (5) Not making reasonable accommodations to the known
4 physical or mental limitations of an otherwise qualified individual
5 with a disability who is an applicant or employee unless such
6 covered entity can demonstrate that the accommodation would impose
7 an undue hardship on the operation of the business of the covered
8 entity;

9 (6) Denying employment opportunities to a job applicant
10 or employee who is otherwise a qualified individual with a
11 disability if the denial is based upon the need of such covered
12 entity to make reasonable accommodation to the physical or mental
13 impairments of the employee or applicant;

14 (7) Using qualification standards, employment tests, or
15 other selection criteria that screen out or tend to screen out
16 an individual with a disability or a class of individuals
17 with disabilities unless the standard, test, or other selection
18 criteria, as used by the covered entity, is shown to be job-related
19 for the position in question and is consistent with business
20 necessity;

21 (8) Failing to select and administer tests concerning
22 employment in the most effective manner to ensure that, when the
23 test is administered to a job applicant or employee who has a
24 disability that impairs sensory, manual, or speaking skills, the
25 test results accurately reflect the skills, aptitude, or whatever

1 other factor of the applicant or employee that the test purports
2 to measure rather than reflecting the impaired sensory, manual,
3 or speaking skills of the employee or applicant except when such
4 skills are the factors that the test purports to measure;

5 (9) Conducting a medical examination or making inquiries
6 of a job applicant as to whether the applicant is an individual
7 with a disability or as to the nature or severity of the
8 disability, except that:

9 (a) A covered entity may make preemployment inquiries
10 into the ability of an applicant to perform job-related functions;

11 (b) A test to determine the illegal use of drugs shall
12 not be considered a medical examination; and

13 (c) A covered entity may require a medical examination
14 after an offer of employment has been made to a job applicant and
15 prior to the commencement of the employment duties of the applicant
16 and may condition an offer of employment on the results of the
17 examination if:

18 (i) All entering employees are subjected to such an
19 examination regardless of disability;

20 (ii) Information obtained regarding the medical condition
21 or history of the applicant is collected and maintained on
22 separate forms and in separate medical files and is treated as
23 a confidential medical record, except that (A) supervisors and
24 managers may be informed regarding necessary restrictions on the
25 work or duties of the employee and necessary accommodations,

1 (B) first-aid and safety personnel may be informed, when
2 appropriate, if the disability might require emergency treatment,
3 (C) government officials investigating compliance with the ~~Nebraska~~
4 ~~Fair Employment Practice~~ Employment Nondiscrimination Act shall
5 be provided relevant information on request, and (D) information
6 shall be made available in accordance with the Nebraska Workers'
7 Compensation Act; and

8 (iii) The results of the examination are used only in a
9 manner not inconsistent with the ~~Nebraska Fair Employment Practice~~
10 Employment Nondiscrimination Act; and

11 (10) Requiring a medical examination or making inquiries
12 of an employee as to whether the employee is an individual
13 with a disability or as to the nature or severity of the
14 disability, unless the examination or inquiry is shown to be
15 job-related and consistent with business necessity. A test to
16 determine the illegal use of drugs shall not be considered a
17 medical examination. A covered entity may conduct voluntary medical
18 examinations, including voluntary medical histories, which are
19 part of an employee health program available to employees at the
20 worksite and may make inquiries into the ability of an employee to
21 perform job-related functions if the information obtained regarding
22 the medical condition or history of the employee is subject to the
23 requirements in subdivisions (9)(c)(ii) and (iii) of this section.

24 Sec. 19. Section 48-1108, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 48-1108 Notwithstanding any other provision of the
2 ~~Nebraska Fair Employment Practice~~ Employment Nondiscrimination Act:

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

17 (2) It shall not be an unlawful employment practice for
18 a school, college, university, or other educational institution
19 or institution of learning to hire and employ employees of a
20 particular religion if such school, college, university, or other
21 educational institution or institution of learning is, in whole
22 or in substantial part, owned, supported, controlled, or managed
23 by a particular religion or by a particular religious corporation,
24 association, or society or if the curriculum of such school,
25 college, university, or other educational institution of learning

1 is directed toward the propagation of a particular religion.

2 Sec. 20. Section 48-1110, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 48-1110 Notwithstanding any other provision of the
5 ~~Nebraska Fair Employment Practice~~ Employment Nondiscrimination Act,
6 it shall not be an unlawful employment practice for an employer to
7 fail or refuse to hire and employ any individual for any position,
8 for an employer to discharge any individual from any position, for
9 an employment agency to fail or refuse to refer any individual for
10 employment in any position, or for a labor organization to fail or
11 refuse to refer any individual for employment in any position, if:

12 (1) The occupancy of such position, or access to the
13 premises in or upon which any part of the duties of such
14 position is performed or is to be performed, is subject to
15 any requirement imposed in the interest of the national security
16 of the United States under any security program in effect pursuant
17 to or administered under any statute of the United States or any
18 Executive Order of the President; and

19 (2) Such individual has not fulfilled or has ceased to
20 fulfill that requirement.

21 Sec. 21. Section 48-1111, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 48-1111 (1) Except as otherwise provided in the ~~Nebraska~~
24 ~~Fair Employment Practice~~ Employment Nondiscrimination Act, it
25 shall not be an unlawful employment practice for an employer

1 to apply different standards of compensation, or different terms,
2 conditions, or privileges of employment pursuant to a bona fide
3 seniority or merit system or a system which measures earnings by
4 quantity or quality of production or to employees who work in
5 different locations, if such differences are not the result of
6 an intention to discriminate because of race, color, religion,
7 sex, disability, marital status, ~~or~~ national origin, or sexual
8 orientation, nor shall it be an unlawful employment practice for an
9 employer to give and to act upon the results of any professionally
10 developed ability test if such test, its administration, or action
11 upon the results is not designed, intended, or used to discriminate
12 because of race, color, religion, sex, disability, marital status,
13 ~~or~~ national origin, or sexual orientation.

14 It shall not be an unlawful employment practice for a
15 covered entity to deny privileges of employment to an individual
16 with a disability when the qualification standards, tests, or
17 selection criteria that screen out or tend to screen out or
18 otherwise deny a job or benefit to an individual with a disability:

19 (a) Have been shown to be job-related and consistent
20 with business necessity and such performance cannot be accomplished
21 by reasonable accommodation, as required by the ~~Nebraska Fair~~
22 ~~Employment Practice~~ Employment Nondiscrimination Act and the
23 federal Americans with Disabilities Act of 1990; or

24 (b) Include a requirement that an individual shall not
25 pose a direct threat, involving a significant risk to the health

1 or safety of other individuals in the workplace, that cannot be
2 eliminated by reasonable accommodation.

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

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

12 This section shall not require an employer to provide
13 employee benefits for abortion except when medical complications
14 have arisen from an abortion.

15 Nothing in this section shall preclude an employer from
16 providing employee benefits for abortion under fringe benefit
17 programs or otherwise affect bargaining agreements in regard to
18 abortion.

19 Sec. 22. Section 48-1112, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 48-1112 Nothing in the ~~Nebraska Fair Employment Practice~~
22 Employment Nondiscrimination Act shall apply to any business or
23 enterprise on or near an Indian reservation with respect to
24 any publicly announced employment practice of such business or
25 enterprise under which a preferential treatment is given to any

1 individual because he or she is an Indian living on or near a
2 reservation.

3 Sec. 23. Section 48-1113, Reissue Revised Statutes of
4 Nebraska, is amended to read:

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

24 Sec. 24. Section 48-1114, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 48-1114 It shall be an unlawful employment practice for
2 an employer to discriminate against any of his or her employees or
3 applicants for employment, for an employment agency to discriminate
4 against any individual, or for a labor organization to discriminate
5 against any member thereof or applicant for membership, because he
6 or she (1) has opposed any practice made an unlawful employment
7 practice by the ~~Nebraska Fair Employment Practice~~ Employment
8 Discrimination Act, (2) has made a charge, testified, assisted,
9 or participated in any manner in an investigation, proceeding, or
10 hearing under the act, or (3) has opposed any practice or refused
11 to carry out any action unlawful under federal law or the laws of
12 this state.

13 Sec. 25. Section 48-1115, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 48-1115 It shall be an unlawful employment practice
16 for an employer, labor organization, or employment agency to
17 print or publish or cause to be printed or published any notice
18 or advertisement relating to employment by such an employer or
19 membership in or any classification or referral for employment by
20 such a labor organization, or relating to any classification or
21 referral for employment by such an employment agency, indicating
22 any preference, limitation, specification, or discrimination based
23 on race, color, religion, sex, disability, marital status, ~~or~~
24 national origin, or sexual orientation, except that such a
25 notice or advertisement may indicate a preference, limitation,

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

6 Sec. 26. Section 48-1116, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 48-1116 There is hereby established an Equal Opportunity
9 Commission to consist of seven members to be appointed by the
10 Governor. Terms of members shall be three years. As the terms of
11 the members expire, the Governor shall appoint or reappoint the
12 members of the commission for terms of three years to succeed the
13 members whose terms expire. The commission shall elect one member
14 to serve as chairperson of the commission.

15 Four members of the commission shall constitute a quorum
16 for the purpose of conducting the business thereof. Any action of
17 the commission shall require at least four votes. A vacancy in the
18 commission shall not impair the right of the remaining members to
19 exercise all the powers of the commission.

20 Members of the commission shall receive fifty dollars per
21 day for their services and shall be reimbursed for their expenses
22 actually and necessarily incurred in the performance of their
23 duties as provided in sections 81-1174 to 81-1177. Reimbursement
24 shall be for not more than two regular meetings per month and
25 not more than three training sessions for any one fiscal year.

1 Any member of the commission may be removed by the Governor for
2 inefficiency, neglect of duty, misconduct, or malfeasance in office
3 after being given a written statement of the charges and an
4 opportunity to be heard thereon.

5 The commission shall establish and maintain its principal
6 office in the city of Lincoln and such other offices within
7 the state as it may deem necessary. The commission may meet and
8 function at any place within the state. The commission shall
9 appoint an executive director who shall be directly responsible to
10 the commission. The executive director may appoint such assistants,
11 clerks, agents, and other employees as such executive director
12 may deem necessary, fix their compensation within the limitations
13 provided by law, and prescribe duties of such employees. The
14 executive director may appoint additional staff as the commission
15 deems necessary.

16 The Attorney General shall represent and appear for
17 the commission in all actions and proceedings involving any
18 question under the ~~Nebraska Fair Employment Practice~~ Employment
19 Nondiscrimination Act, the Nebraska Fair Housing Act, or section
20 20-123, 20-124, or 20-132 and shall aid in any investigation
21 or hearing had under either act or any of such sections. The
22 commission shall have an official seal which shall be judicially
23 noticed.

24 Sec. 27. Section 48-1117, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 48-1117 The commission shall have the following powers
2 and duties:

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

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

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

20 (4) To attempt to eliminate ~~unfair~~ unlawful employment
21 practices by means of conference, mediation, conciliation,
22 arbitration, and persuasion;

23 (5) To require that every employer, employment agency,
24 and labor organization subject to the act shall (a) make and keep
25 such records relevant to the determinations of whether unlawful

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

1 grant appropriate relief;

2 (6) To report, not less than once every two years, to
3 the Clerk of the Legislature and the Governor, on the hearings it
4 has conducted and the decisions it has rendered, the other work
5 performed by it to carry out the purposes of the act, and to make
6 recommendations for such further legislation concerning abuses and
7 discrimination because of race, color, religion, sex, disability,
8 marital status, ~~or~~ national origin, or sexual orientation, as may
9 be desirable. Each member of the Legislature shall receive a copy
10 of the report required by this subdivision by making a request for
11 it to the chairperson of the commission; and

12 (7) To adopt and promulgate rules and regulations
13 necessary to carry out the duties prescribed in the act. + and

14 ~~(8) To examine and review the policies and procedures~~
15 ~~of the commission, its investigators, and staff and deliver to~~
16 ~~the Legislature by January 1, 1994, a report detailing specific~~
17 ~~proposals designed to expedite the complaint, investigation, and~~
18 ~~hearing process of the commission. Such report shall include, but~~
19 ~~not be limited to, an examination of the:~~

20 ~~(a) Intake procedures and guidelines of the commission;~~

21 ~~(b) Mediation, conciliation, arbitration, and informal~~
22 ~~conferences designed to settle cases;~~

23 ~~(c) Investigation and supervisory procedures which~~
24 ~~duplicate similar current procedures or which are burdensome to a~~
25 ~~prompt investigation of a complaint;~~

1 ~~(d) Handling of reports and investigations of the~~
2 ~~commission to develop adequate clerical staff;~~

3 ~~(e) Feasibility of revising and developing standard~~
4 ~~final investigative formats for employment, housing, and harassment~~
5 ~~cases; and~~

6 ~~(f) Proper role and function of the commission in the~~
7 ~~hearing process.~~

8 The review and examination of such policies and
9 procedures in subdivision ~~(8)~~ of this section shall include
10 information from the executive director, commission members,
11 investigators, supervisory personnel, clerical staff, and the
12 public.

13 Sec. 28. Section 48-1118, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 48-1118 (1) Whenever it is charged in writing under
16 oath or affirmation by or on behalf of a person or persons
17 claiming to be aggrieved and such charge sets forth the facts upon
18 which it is based that an employer, employment agency, or labor
19 organization has engaged in an unlawful employment practice, the
20 commission staff shall furnish such employer, employment agency,
21 or labor organization with a copy of such charge within ten
22 days, including a statement of the date, place, and circumstances
23 of the alleged unlawful employment practice. Prior to initiating
24 any investigation, the commission staff shall screen a charge
25 pursuant to an established, clearly defined prescreening procedure

1 to determine subject matter jurisdiction to handle such charge. Any
2 charge without sufficient subject matter jurisdiction shall not be
3 investigated and notice of such prescreening determination shall be
4 promptly conveyed by the executive director to the person claiming
5 to be aggrieved. When a charge is determined to be within the
6 subject matter jurisdiction of the commission, the commission staff
7 shall make an investigation of such charge, but such charge shall
8 not be made public by the commission. If the executive director
9 determines after such investigation that there is not reasonable
10 cause to believe that the charge is true, the executive director
11 shall dismiss the charge and promptly notify the person claiming
12 to be aggrieved and the respondent of his or her action. If
13 the executive director determines after such investigation that
14 there is reasonable cause to believe that the charge is true, the
15 commission shall endeavor to eliminate any such alleged unlawful
16 employment practice and settle any claim by informal methods of
17 conference, conciliation, persuasion, mediation, or arbitration.
18 The settlement efforts shall be scheduled and completed within
19 thirty days of the probable cause finding. Nothing said or done
20 during and as a part of such endeavors may be made public by
21 the commission without the written consent of the parties or used
22 as evidence in a subsequent proceeding. Any officer or employee
23 of the commission who makes public in any manner whatever any
24 information in violation of this subsection shall be guilty of
25 a Class III misdemeanor except as provided in subdivision (3) of

1 section 48-1117.

2 (2) A written charge of violation of the ~~Nebraska Fair~~
3 ~~Employment Practice~~ Employment Nondiscrimination Act shall be filed
4 within three hundred days after the occurrence of the alleged
5 unlawful employment practice and notice of the charge, including
6 a statement of the date, place, and circumstances of the alleged
7 unlawful employment practice, shall be served upon the person
8 against whom such charge is made within ten days thereafter.

9 (3) A respondent shall be required to file with the
10 commission a written response to the written charge of violation
11 within thirty days after service upon the respondent. Failure
12 to file a written response within thirty days, except for good
13 cause shown, shall result in a mandatory reasonable cause finding
14 against the respondent by the executive director. Failure by any
15 complainant to cooperate with the commission, its investigators, or
16 staff, except for good cause shown, shall result in dismissal of
17 the complaint by the executive director.

18 (4) In connection with any investigation of a charge
19 filed under this section, the commission or its authorized agents
20 may, at any time after a charge is filed, issue or cause to be
21 served interrogatories and shall have at all reasonable times
22 access to, for the purposes of examination, and the right to
23 copy any evidence or records of any person being investigated or
24 proceeded against that relate to unlawful employment practices
25 covered by the act and are relevant to the charge under

1 investigation. The commission may seek preparation of and judicial
2 enforcement of any legal process or interrogatories through the
3 office of the Attorney General.

4 Sec. 29. Section 48-1119, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 48-1119 (1) In case of failure to eliminate any
7 unlawful employment practice by informal methods of conference,
8 conciliation, persuasion, mediation, or arbitration, the commission
9 may order a public hearing. If such hearing is ordered, the
10 commission shall cause to be issued and served a written notice,
11 together with a copy of the complaint, requiring the person,
12 employer, labor organization, or employment agency named in the
13 complaint, hereinafter referred to as respondent, to answer such
14 charges at a hearing before the commission at a time and place
15 which shall be specified in such notice. Such hearing shall be
16 within the county where the alleged unlawful employment practice
17 occurred. The complainant shall be a party to the proceeding,
18 and in the discretion of the commission any other person whose
19 testimony has a bearing on the matter may be allowed to intervene
20 therein. Both the complainant and the respondent, in addition
21 to the commission, may introduce witnesses at the hearing. The
22 respondent may file a verified answer to the allegations of the
23 complaint and may appear at such hearing in person and with or
24 without counsel. Testimony or other evidence may be introduced by
25 either party. All evidence shall be under oath and a record thereof

1 shall be made and preserved. Such proceedings shall, so far as
2 practicable, be conducted in accordance with the rules of evidence
3 applicable in the district courts of the State of Nebraska, and
4 shall be of public record.

5 (2) No person shall be excused from testifying or
6 from producing any book, document, paper, or account in any
7 investigation by, ~~or~~ inquiry by, or hearing before the commission
8 when ordered to do so, upon the ground that the testimony or
9 evidence, book, document, paper, or account required of such person
10 may tend to incriminate such person in or subject such person
11 to penalty or forfeiture; but no person shall be prosecuted,
12 punished, or subjected to any forfeiture or penalty for or on
13 account of any act, transaction, matter, or thing concerning which
14 such person shall have been compelled under oath to testify or
15 produce documentary evidence, except that no person so testifying
16 shall be exempt from prosecution or punishment for any perjury
17 committed by such person in his or her testimony. Such immunity
18 shall extend only to a natural person who, in obedience to
19 a subpoena, gives testimony under oath or produces evidence,
20 documentary or otherwise, under oath. Nothing in this subsection
21 shall be construed as precluding any person from claiming any right
22 or privilege available to such person under the fifth amendment to
23 the Constitution of the United States.

24 (3) After the conclusion of the hearing, the commission
25 shall, within ten days ~~of the~~ after receipt of the transcript or

1 ~~the~~ receipt of the recommendations from the hearing officer, make
2 and file its findings of fact and conclusions of law and make and
3 enter an appropriate order. The hearing officer need not refer to
4 the page and line numbers of the transcript when making his or
5 her recommendation to the commission. Such findings of fact and
6 conclusions of law shall be in sufficient detail to enable a court
7 on appeal to determine the controverted questions presented by the
8 proceedings and whether proper weight was given to the evidence.
9 If the commission determines that the respondent has intentionally
10 engaged in or is intentionally engaging in any unlawful employment
11 practice, ~~it~~ the commission shall issue and cause to be served on
12 such respondent an order requiring such respondent to cease and
13 desist from such unlawful employment practice and order such other
14 affirmative action as may be appropriate which may include, but
15 shall not be limited to, reinstatement or hiring of employees, with
16 or without backpay. Backpay liability shall not accrue from a date
17 more than two years prior to the filing of the charge with the
18 commission. Interim earnings or amounts earnable with reasonable
19 diligence by the person or persons discriminated against shall
20 operate to reduce the backpay otherwise allowable.

21 (4) A complainant who has suffered physical, emotional,
22 or financial harm as a result of a violation of section 48-1104 or
23 48-1114 may, at any stage of the proceedings prior to dismissal,
24 file an action directly in the district court of the county
25 where such alleged violation occurred. If the complainant files

1 a district court action on the charge, the complainant shall
2 provide written notice of such filing to the commission, and such
3 notification shall immediately terminate all proceedings before
4 the commission. The district court shall docket and try such
5 case as any other civil action, and any successful complainant
6 shall be entitled to appropriate relief, including temporary
7 or permanent injunctive relief, general and special damages,
8 reasonable attorney's fees, and costs.

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

1 which may be designated therein or until changed or revoked by the
2 commission.

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

9 Sec. 30. Section 48-1120, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 48-1120 (1) Any party to a proceeding before the
12 commission aggrieved by such decision and order and directly
13 affected thereby may appeal the decision and order, and the appeal
14 shall be in accordance with the Administrative Procedure Act.

15 (2) In any action or proceeding under the ~~Nebraska Fair~~
16 ~~Employment Practice~~ Employment Nondiscrimination Act wherein an
17 appeal is ~~ledged in~~ made to the district court, the court, in its
18 discretion, may allow the prevailing party reasonable attorney's
19 fees as part of the costs.

20 (3) If a respondent does not appeal an order, the
21 commission may obtain a decree of the court for the enforcement
22 of such order upon showing that respondent is subject to the
23 commission's jurisdiction and resides or transacts business within
24 the county in which the petition for enforcement is brought.

25 Sec. 31. Section 48-1121, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 48-1121 Every employer, employment agency, and labor
3 organization subject to the ~~Nebraska Fair Employment Practice~~
4 Employment Nondiscrimination Act shall post in a conspicuous place
5 or places on his, her, or its premises a notice to be prepared or
6 approved by the commission which shall set forth excerpts of the
7 act and such other relevant information which the commission deems
8 necessary to explain the act.

9 Sec. 32. Section 48-1122, Reissue Revised Statutes of
10 Nebraska, is amended to read:

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

20 Sec. 33. Section 48-1123, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 48-1123 Any person, employer, labor organization, or
23 employment agency who or which willfully resists, prevents,
24 impedes, or interferes with the commission or any of its members or
25 representatives in the performance of duty under the ~~Nebraska Fair~~

1 ~~Employment Practice~~ Employment Nondiscrimination Act or willfully
2 violates an order of the commission shall be guilty of a Class III
3 misdemeanor. Procedure for the review of the order shall not be
4 deemed to be such willful conduct.

5 Sec. 34. 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~~ Employment Nondiscrimination Act shall be deemed to repeal
9 any of the provisions of the civil rights law, any other law of
10 this state, or any municipal ordinance relating to discrimination
11 because of race, creed, color, religion, sex, disability, ~~or~~
12 marital status, national origin, or sexual orientation.

13 Sec. 35. Section 48-1125, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 48-1125 Sections 48-1101 to ~~48-1125~~ 48-1126 shall be
16 known and may be cited as the ~~Nebraska Fair Employment Practice~~
17 Employment Nondiscrimination Act.

18 Sec. 36. Section 48-1126, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 48-1126 The state and governmental agencies created by
21 the state may be sued upon claims arising under the ~~Nebraska Fair~~
22 ~~Employment Practice~~ Employment Nondiscrimination Act in the same
23 manner as provided by such law for suits against other employers.

24 Sec. 37. Section 79-2,123, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 79-2,123 The Nebraska Equal Opportunity in Education Act
2 does not prohibit a person asserting a claim for discrimination
3 in employment or the conditions thereof from filing a complaint
4 pursuant to the ~~Nebraska Fair Employment Practice~~ Employment
5 Nondiscrimination Act. Filing a complaint pursuant to the
6 ~~Nebraska Fair Employment Practice~~ Employment Nondiscrimination Act
7 constitutes a waiver of any right to seek relief pursuant to the
8 Nebraska Equal Opportunity in Education Act, and filing a complaint
9 pursuant to the Nebraska Equal Opportunity in Education Act
10 constitutes a waiver of any right to seek relief pursuant to the
11 ~~Nebraska Fair Employment Practice~~ Employment Nondiscrimination Act.

12 Sec. 38. Section 81-1355, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 81-1355 It is declared to be in the best interest of
15 the State of Nebraska to insure that historic and any present
16 patterns of sex and racial discrimination are eliminated and that
17 each agency pursue a course of action in all areas of its operation
18 to insure that all citizens are provided with fair and equal
19 opportunities for employment and advancement regardless of race,
20 color, religion, national origin, sexual orientation, age, sex,
21 marital status, or physical or mental disability.

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

25 (1) Hiring, placement, upgrading, transfer, or demotion

1 of employees;

2 (2) Recruitment, advertising, or solicitation for
3 employment;

4 (3) Treatment during employment;

5 (4) Rates of pay or other forms of compensation;

6 (5) Selection for training;

7 (6) Layoff, termination, or reinstatement; and

8 (7) Any other terms or conditions of employment.

9 Sec. 39. Section 81-1356, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 81-1356 As used in sections 81-1355 to 81-1368, unless
12 the context otherwise requires:

13 (1) Equal employment opportunity ~~shall mean~~ means the
14 right of all persons to work and to advance on the basis of
15 merit and ability without regard to race, color, religion, national
16 origin, sexual orientation, age, sex, marital status, or physical
17 or mental disability;

18 (2) Affirmative action ~~shall mean~~ means a deliberate and
19 sustained effort to identify and eliminate barriers to employment
20 and advancement which may discriminate against various groups.
21 Particular emphasis shall be focused on racial minorities, women,
22 and the disabled but not to the exclusion of the criteria set
23 forth in subdivision (1) of this section. The ultimate goal is
24 to achieve, at all levels, a state government work force which is
25 representative of the state working population. The composition of

1 the state working population shall be determined annually through
2 reports of the Department of Labor. Such a goal is to be an
3 integral part of every aspect of personnel policy;

4 (3) Office ~~shall mean~~ means the Affirmative Action
5 Office;

6 (4) Program ~~shall mean~~ means the Affirmative Action
7 Program;

8 (5) Agency ~~shall mean~~ means each department, agency,
9 office, board, commission, and committee of the State of Nebraska
10 under the executive authority of the Governor;

11 (6) Plan ~~shall mean~~ means the Affirmative Action Plan
12 prepared by the individual agencies; and

13 (7) Administrator ~~shall mean~~ means the Affirmative Action
14 Administrator.

15 Sec. 40. Section 85-9,175, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 85-9,175 The Nebraska Equal Opportunity in Postsecondary
18 Education Act does not prohibit a person asserting a claim for
19 discrimination in employment or the conditions thereof from filing
20 a complaint pursuant to the ~~Nebraska Fair Employment Practice~~
21 Employment Nondiscrimination Act. Filing a complaint pursuant to
22 the ~~Nebraska Fair Employment Practice~~ Employment Nondiscrimination
23 Act constitutes a waiver of any right to seek relief pursuant
24 to the Nebraska Equal Opportunity in Postsecondary Education Act,
25 and filing a complaint pursuant to the Nebraska Equal Opportunity

1 in Postsecondary Education Act constitutes a waiver of any right
2 to seek relief pursuant to the ~~Nebraska Fair Employment Practice~~
3 Employment Nondiscrimination Act.

4 Sec. 41. Original sections 13-1102, 18-1724, 20-113,
5 20-131, 23-2541, 48-215, 48-1101, 48-1102, 48-1103, 48-1104,
6 48-1105, 48-1106, 48-1107, 48-1107.02, 48-1108, 48-1110, 48-1111,
7 48-1112, 48-1113, 48-1114, 48-1115, 48-1116, 48-1117, 48-1118,
8 48-1119, 48-1120, 48-1121, 48-1122, 48-1123, 48-1124, 48-1125,
9 48-1126, 79-2,123, 81-1355, 81-1356, and 85-9,175, Reissue Revised
10 Statutes of Nebraska, and sections 20-139, 23-2525, 23-2531, and
11 25-2602.01, Revised Statutes Cumulative Supplement, 2006, are
12 repealed.

13 Sec. 42. The following section is outright repealed:
14 Section 48-1109, Reissue Revised Statutes of Nebraska.