

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 156**

Introduced by Lautenbaugh, 18.

Read first time January 12, 2009

Committee: Judiciary

A BILL

1 FOR AN ACT relating to law enforcement; to amend sections 13-926  
2 and 81-8,239.01, Reissue Revised Statutes of Nebraska; to  
3 eliminate the strict liability requirement for pursuits  
4 by law enforcement officers; to harmonize provisions;  
5 to repeal the original sections; and to outright repeal  
6 sections 13-911 and 81-8,215.01, Reissue Revised Statutes  
7 of Nebraska.

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

1           Section 1. Section 13-926, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           13-926 The total amount recoverable under the Political  
4 Subdivisions Tort Claims Act for claims arising out of an  
5 occurrence after November 16, 1985, shall be limited to:

6           (1) One million dollars for any person for any number of  
7 claims arising out of a single occurrence; and

8           (2) Five million dollars for all claims arising out of a  
9 single occurrence.

10           If the damages sustained by an innocent third party  
11 pursuant to section 13-911 are not fully recoverable from one  
12 or more political subdivisions due to the limitations in this  
13 section, additional sources for recovery shall be as follows:  
14 First, any offsetting payments specified in subsection (3) of  
15 section 13-911 shall be reduced to the extent necessary to fully  
16 compensate the innocent third party; and second, if such reduction  
17 is insufficient to fully compensate the innocent third party, the  
18 right of reimbursement granted to the political subdivision in  
19 subsection (2) of section 13-911 shall be reduced to the extent  
20 necessary to fully compensate the innocent third party.

21           Sec. 2. Section 81-8,239.01, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23           81-8,239.01 (1) For purposes of sections 81-8,239.01 to  
24 81-8,239.08 and 81-8,239.11, unless the context otherwise requires,  
25 the definition of state agencies found in section 81-8,210 shall

1 apply, except that such term shall not include the Board of Regents  
2 of the University of Nebraska.

3 (2) There is hereby established a division within the  
4 Department of Administrative Services to be known as the risk  
5 management and state claims division. The division shall be headed  
6 by the Risk Manager who shall be appointed by the Director of  
7 Administrative Services. The division shall be responsible for  
8 the Risk Management Program, which program is hereby created. The  
9 program shall consist of the systematic identification of exposures  
10 to risk of loss as provided in sections 11-201 to 11-203, ~~13-911,~~  
11 25-2165, 43-1320, 44-1615, 44-1616, 48-194, 48-197, 48-1,103,  
12 48-1,104, 48-1,107, 48-1,109, 81-8,212, 81-8,220, 81-8,225,  
13 81-8,226, 81-8,233, 81-8,239.01 to 81-8,239.08, 81-8,239.11, and  
14 81-8,300 and shall include the appropriate methods for dealing with  
15 such exposures in relation to the state budget pursuant to such  
16 sections. Such program shall be administered by the Risk Manager  
17 and shall include the operations of the State Claims Board and  
18 other operations provided in such sections.

19 (3) Under the Risk Management Program, the Risk Manager  
20 shall have the authority and responsibility to:

21 (a) Employ any personnel necessary to administer the Risk  
22 Management Program;

23 (b) Develop and maintain loss and exposure data on all  
24 state property and liability risks;

25 (c) Develop and recommend risk reduction or elimination

1 programs for the state and its agencies and establish, implement,  
2 and monitor a statewide safety program;

3 (d) Determine which risk exposures shall be insured and  
4 which risk exposures shall be self-insured or assumed by the state;

5 (e) Establish standards for the purchase of necessary  
6 insurance coverage or risk management services at the lowest  
7 costs, consistent with good underwriting practices and sound risk  
8 management techniques;

9 (f) Be the exclusive negotiating and contracting agency  
10 to purchase insurance or risk management services and, after  
11 consultation with the state agency for which the insurance or  
12 services are purchased, enter into such contracts on behalf of  
13 the state and its agencies, officials, and employees to the extent  
14 deemed necessary and in the best interest of the state, and  
15 authorize payment for such purchase out of the appropriate funds  
16 created by section 81-8,239.02;

17 (g) Determine whether the state suffered a loss for which  
18 self-insured property loss funds have been created and authorize  
19 and administer payments for such loss from the State Self-Insured  
20 Property Fund for the purpose of replacing or rebuilding state  
21 property;

22 (h) Perform all duties assigned to the Risk Manager  
23 under the Nebraska Workers' Compensation Act and sections 11-201  
24 to 11-203, 81-8,239.05, 81-8,239.07, 81-8,239.11, and 84-1601 to  
25 84-1615;

1           (i) Approve the use of risk management pools by any  
2 department, agency, board, bureau, commission, or council of the  
3 State of Nebraska; and

4           (j) Recommend to the Legislature such legislation as may  
5 be necessary to carry out the purposes of the Risk Management  
6 Program and make appropriation requests for the administration of  
7 the program and the funding of the separate funds administered by  
8 the Risk Manager.

9           (4) No official or employee of any entity created  
10 pursuant to the Interlocal Cooperation Act or the Joint Public  
11 Agency Act shall be considered a state official or employee for  
12 purposes of sections 81-8,239.01 to 81-8,239.06.

13           Sec. 3. Original sections 13-926 and 81-8,239.01, Reissue  
14 Revised Statutes of Nebraska, are repealed.

15           Sec. 4. The following sections are outright repealed:  
16 Sections 13-911 and 81-8,215.01, Reissue Revised Statutes of  
17 Nebraska.