

AMENDMENTS TO LB 397

(Amendments to Standing Committee amendments, AM1116)

Introduced by Fulton

1 1. Strike the original sections and all amendments
2 thereto and insert the following new sections:

3 Section 1. Section 48-801, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 48-801 As used in the Industrial Relations Act, unless
6 the context otherwise requires:

7 ~~(1) Person shall include an individual, partnership,~~
8 ~~limited liability company, association, corporation, business~~
9 ~~trust, or other organized group of persons;~~

10 ~~(2) Governmental service shall mean all services~~
11 ~~performed under employment by the State of Nebraska, any political~~
12 ~~or governmental subdivision thereof, any municipal corporation, or~~
13 ~~any public power district or public power and irrigation district;~~

14 ~~(3) Public utility shall include any individual,~~
15 ~~partnership, limited liability company, association, corporation,~~
16 ~~business trust, or other organized group of persons, any political~~
17 ~~or governmental subdivision of the State of Nebraska, any public~~
18 ~~corporation, or any public power district or public power and~~
19 ~~irrigation district, which carries on an intrastate business in~~
20 ~~this state and over which the government of the United States~~
21 ~~has not assumed exclusive regulation and control, that furnishes~~
22 ~~transportation for hire, telephone service, telegraph service,~~

1 electric light, heat and power service, gas for heating or
2 illuminating, whether natural or artificial, or water service, or
3 any one or more thereof;

4 (4) Employer shall mean the State of Nebraska or any
5 political or governmental subdivision of the State of Nebraska
6 except the Nebraska National Guard or state militia. Employer shall
7 also mean any municipal corporation, any public power district or
8 public power and irrigation district, or any public utility;

9 (5) Employee shall include any person employed by any
10 employer;

11 (6) Labor organization shall mean any organization of any
12 kind or any agency or employee representation committee or plan, in
13 which employees participate and which exists for the purpose, in
14 whole or in part, of dealing with employers concerning grievances,
15 labor disputes, wages, rates of pay, hours of employment, or
16 conditions of work;

17 (7) Industrial dispute shall include any controversy
18 concerning terms, tenure, or conditions of employment, or
19 concerning the association or representation of persons in
20 negotiating, fixing, maintaining, changing, or seeking to arrange
21 terms or conditions of employment, or refusal to discuss terms or
22 conditions of employment;

23 (8) Commission shall mean the Commission of Industrial
24 Relations;

25 (9) Commissioner shall mean a member of the commission;
26 and

27 (10) Supervisor shall mean any employee having authority;

1 in the interest of the employer, to hire, transfer, suspend, lay
2 off, recall, promote, discharge, assign, reward, or discipline
3 other employees, or responsibly to direct them or to adjust
4 their grievances, or effectively to recommend such action, if in
5 connection with the foregoing the exercise of such authority is
6 not a merely routine or clerical nature, but requires the use of
7 independent judgment.

8 (1) Commission means the Commission of Industrial
9 Relations;

10 (2) Commissioner means a member of the commission;

11 (3) Enrolled actuary means an individual who has
12 satisfied the qualifications set forth in the regulations of the
13 Joint Board for the Enrollment of Actuaries and who has been
14 approved by the Joint Board to perform actuarial services under the
15 federal Employee Retirement Income Security Act of 1974, 29 U.S.C.
16 1001 et seq.;

17 (4) Governmental service means all services performed
18 under employment by the State of Nebraska or any political or
19 governmental subdivision thereof, including public corporations,
20 municipalities, and public utilities;

21 (5) Industrial dispute includes any controversy between
22 public employers and public employees concerning terms, tenure,
23 or conditions of employment; the association or representation of
24 persons in negotiating, fixing, maintaining, changing, or seeking
25 to arrange terms or conditions of employment; or refusal to discuss
26 terms or conditions of employment;

27 (6) Labor organization means any organization of any

1 kind or any agency or employee representation committee or plan,
2 in which public employees participate and which exists for the
3 purpose, in whole or in part, of dealing with public employers
4 concerning grievances, labor disputes, wages, rates of pay, hours
5 of employment, or conditions of work;

6 (7) Metropolitan statistical area means a metropolitan
7 statistical area as defined by the United States Office of
8 Management and Budget;

9 (8) Municipality means any city or village in Nebraska;

10 (9) Private employer means an employer who is not a
11 public employer;

12 (10) Public employee includes any person employed by a
13 public employer;

14 (11) Public employer means the State of Nebraska or any
15 political or governmental subdivision of the State of Nebraska
16 except the Nebraska National Guard or state militia;

17 (12) Public utility includes any person or governmental
18 entity, including any public corporation, public power district,
19 or public power and irrigation district, which carries on an
20 intrastate business in this state and over which the government
21 of the United States has not assumed exclusive regulation and
22 control, that furnishes transportation for hire, telephone service,
23 telegraph service, electric light, heat, or power service, gas for
24 heating or illuminating, whether natural or artificial, or water
25 service, or any one or more thereof; and

26 (13) Supervisor means any public employee having
27 authority, in the interest of the public employer, to hire,

1 transfer, suspend, lay off, recall, promote, discharge, assign,
2 reward, or discipline other public employees, or responsibly to
3 direct them or to adjust their grievances, or effectively to
4 recommend such action, if in connection with such action, the
5 exercise of such authority is not a merely routine or clerical
6 nature, but requires the use of independent judgment.

7 Sec. 2. Section 48-801.01, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 48-801.01 Sections 48-801 to 48-838 and sections 11, 12,
10 13, 14, 15, 16, and 19 of this act shall be known and may be cited
11 as the Industrial Relations Act.

12 Sec. 3. Section 48-802, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 48-802 To make operative the provisions of section 9,
15 Article XV, of the Constitution of Nebraska, the public policy of
16 the State of Nebraska is hereby declared to be as follows:

17 (1) The continuous, uninterrupted and proper functioning
18 and operation of the governmental service including governmental
19 service in a proprietary capacity and of public utilities engaged
20 in the business of furnishing transportation for hire, telephone
21 service, telegraph service, electric light, heat, or power service,
22 gas for heating or illuminating, whether natural or artificial,
23 or water service, or any one or more of them, to the people of
24 Nebraska are hereby declared to be essential to their welfare,
25 health, and safety. It is contrary to the public policy of
26 the state to permit any substantial impairment or suspension
27 of the operation of governmental service, including governmental

1 service in a proprietary capacity or any such utility by reason
2 of industrial disputes therein. It is the duty of the State
3 of Nebraska to exercise all available means and every power at
4 its command to prevent the same so as to protect its citizens
5 from any dangers, perils, calamities, or catastrophes which would
6 result therefrom. It is therefor further declared that governmental
7 service, including governmental service in a proprietary capacity,
8 and the service of such public utilities ~~are~~ is clothed with a
9 vital public interest and to protect the same it is necessary that
10 the relations between the public employers and public employees in
11 such industries be regulated by the State of Nebraska to the extent
12 and in the manner ~~hereinafter~~ provided in the Industrial Relations
13 Act;

14 (2) No right shall exist in any natural or corporate
15 person or group of persons to hinder, delay, limit, or suspend
16 the continuity or efficiency of any governmental service or
17 governmental service in a proprietary capacity of this state,
18 either by strike, lockout, or other means; and

19 (3) No right shall exist in any natural or corporate
20 person or group of persons to hinder, delay, limit, or suspend the
21 continuity or efficiency of any public utility service, either by
22 strike, lockout, or other means.

23 Sec. 4. Section 48-809, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 48-809 The ~~Commission of Industrial Relations~~ is hereby
26 ~~granted full power to~~ commission may adopt all reasonable and
27 proper regulations to govern its proceedings, the filing of

1 pleadings, the issuance and service of process, and the issuance of
2 subpoenas for attendance of witnesses, ~~the power to~~ may administer
3 oaths, and ~~to~~ may regulate the mode and manner of all its
4 investigations, inspections, hearings, and trials. ~~In~~ Except as
5 otherwise provided in the Industrial Relations Act, in the taking
6 of evidence, the rules of evidence, prevailing in the trial of
7 civil cases in Nebraska, shall be observed by the ~~Commission of~~
8 ~~Industrial Relations,~~ commission.

9 Sec. 5. Section 48-810, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 48-810 ~~Except as provided in the State Employees~~
12 ~~Collective Bargaining Act,~~ Industrial disputes involving
13 governmental service, service of a public utility, or other
14 disputes as the Legislature may provide shall be settled by
15 invoking the jurisdiction of the Commission of Industrial
16 Relations.

17 Sec. 6. Section 48-811, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 48-811 ~~Except as provided in the State Employees~~
20 ~~Collective Bargaining Act,~~ any Any public employer, public
21 employee, or labor organization, or the Attorney General of
22 Nebraska on his or her own initiative or by order of the Governor,
23 when any industrial dispute exists between parties as set forth
24 in section 48-810, may file a petition with the ~~Commission of~~
25 ~~Industrial Relations~~ commission invoking its jurisdiction. No
26 adverse action by threat or harassment shall be taken against any
27 public employee because of any petition filing by such employee,

1 and the employment status of such employee shall not be altered in
2 any way pending disposition of the petition by the commission.

3 Sec. 7. Section 48-813, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 48-813 (1) Whenever the jurisdiction of the ~~Commission of~~
6 ~~Industrial Relations~~ commission is invoked, notice of the pendency
7 of the proceedings shall be given in such manner as the commission
8 shall provide for serving a copy of the petition and notice of
9 filing upon the adverse party. ~~An~~ A public employer or labor
10 organization may be served by sending a copy of the petition filed
11 to institute the proceedings and a notice of filing, which shall
12 show the filing date, in the manner provided for service of a
13 summons in a civil action. Such employer or labor organization
14 shall have twenty days after receipt of the petition and notice of
15 filing in which to serve and file its response.

16 (2) When a petition is filed to resolve an industrial
17 dispute, a hearing shall mandatorily be held within sixty days from
18 the date of filing thereof. ~~A recommended decision and order in~~
19 ~~cases arising under section 48-818, an order in cases not arising~~
20 ~~under section 48-818, and findings if required, shall mandatorily~~
21 ~~be made and entered thereon within thirty days after such hearing.~~
22 The time requirements specified in this section may be extended
23 for good cause shown on the record or by agreement of the parties.
24 Failure to meet such mandatory time requirements shall not deprive
25 the commission of jurisdiction. However, if the commission fails
26 to hold a hearing on the industrial dispute within sixty days of
27 filing or has failed to make a recommended decision and order,

1 and findings of fact if required, ~~in cases arising under section~~
2 ~~48-818, or an order, and findings of fact if required, in cases~~
3 ~~not arising under section 48-818, and findings,~~ within thirty days
4 after the hearing and good cause is not shown on the record or
5 the parties to the dispute have not jointly stipulated to the
6 enlargement of the time limit, then either party may file an action
7 for mandamus in the district court for Lancaster County to require
8 the commission to hold the hearing or to render its order and
9 findings if required. For purposes of this section, the hearing
10 on an industrial dispute shall not be deemed completed until the
11 record is prepared and counsel briefs have been submitted, if such
12 are required by the commission.

13 (3) Any party, including the State of Nebraska or any
14 of its employer-representatives as defined in section 81-1371 or
15 any political subdivision of the State of Nebraska, may waive such
16 notice and may enter a voluntary appearance in any matter in the
17 ~~Commission of Industrial Relations.~~ commission. The giving of such
18 notice in such manner shall subject the public employers, the labor
19 organizations, and the persons therein to the jurisdiction of the
20 ~~Commission of Industrial Relations.~~ commission.

21 Sec. 8. Section 48-816, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 48-816 (1) After a petition has been filed under section
24 48-811, the clerk shall immediately notify the commission which
25 shall promptly take such preliminary proceedings as may be
26 necessary to ensure prompt hearing and speedy adjudication of the
27 industrial dispute. The commission ~~shall have power and authority~~

1 ~~may,~~ upon its own initiative or upon request of a party to the
2 dispute, ~~to~~ make such temporary findings and orders as ~~may be~~
3 necessary to preserve and protect the status of the parties,
4 property, and public interest involved pending final determination
5 of the issues. In the event of an industrial dispute between ~~an a~~
6 public employer and ~~an a~~ public employee or a labor organization
7 when such public employer and public employee or labor organization
8 have failed or refused to bargain in good faith concerning the
9 matters in dispute, the commission may order such bargaining to
10 begin or resume, as the case may be, and may make any such
11 order or orders as ~~may be~~ appropriate to govern the situation
12 pending such bargaining. The commission shall require good faith
13 bargaining concerning the terms and conditions of employment of
14 its employees by any public employer. ~~Upon the request of either~~
15 ~~party,~~ the commission shall require the parties to an industrial
16 dispute to submit to mediation or factfinding. ~~Upon the request~~
17 ~~of both parties,~~ a special master may be appointed if the parties
18 are within the provisions of section 48-811.02. The commission
19 shall appoint mediators, factfinders, or special masters for such
20 purpose. Such orders for bargaining, mediation, factfinding, or a
21 special master proceeding may be issued at any time during the
22 pendency of an action to resolve an industrial dispute. To bargain
23 in good faith ~~shall mean~~ means the performance of the mutual
24 obligation of the public employer and the labor organization to
25 meet at reasonable times and confer in good faith with respect to
26 wages, hours, and other terms and conditions of employment or any
27 question arising thereunder and benefits and the execution of a

1 written contract incorporating any agreement reached if requested
2 by either party, but such obligation does not compel either party
3 to agree to a proposal or require the making of a concession. All
4 other items shall be permissive subjects of bargaining.

5 (2) ~~Except as provided in the State Employees Collective~~
6 ~~Bargaining Act,~~ public Public employers are hereby authorized
7 ~~to~~ may recognize employee organizations for the purpose of
8 negotiating collectively in the determination of and administration
9 of grievances arising under the terms and conditions of employment
10 of their public employees as provided in the Industrial Relations
11 Act and to negotiate and enter into written agreements with such
12 employee organizations in determining such terms and conditions of
13 employment.

14 ~~(3)(a) Except as provided in subdivisions (b) and (c) of~~
15 ~~this subsection,~~ a (3) A supervisor shall not be included in a
16 single any bargaining unit, with any other employee who is not a
17 supervisor.

18 ~~(b) All firefighters and police officers employed in the~~
19 ~~fire department or police department of any municipal corporation~~
20 ~~in a position or classification subordinate to the chief of the~~
21 ~~department and his or her immediate assistant or assistants holding~~
22 ~~authority subordinate only to the chief shall be presumed to have~~
23 ~~a community of interest and may be included in a single bargaining~~
24 ~~unit represented by an employee organization for the purposes of~~
25 ~~the Industrial Relations Act. Public employers shall be required to~~
26 ~~recognize an employees bargaining unit composed of firefighters and~~
27 ~~police officers holding positions or classifications subordinate to~~

1 the chief of the fire department or police department and his or
2 her immediate assistant or assistants holding authority subordinate
3 only to the chief when such bargaining unit is designated or
4 elected by employees in the unit.

5 (c) All administrators employed by a Class V school
6 district shall be presumed to have a community of interest
7 and may join a single bargaining unit composed otherwise of
8 teachers and other certificated employees for purposes of the
9 Industrial Relations Act, except that the following administrators
10 shall be exempt: The superintendent, associate superintendent,
11 assistant superintendent, secretary and assistant secretary of
12 the board of education, executive director, administrators in
13 charge of the offices of state and federal relations and research,
14 chief negotiator, and administrators in the immediate office of
15 the superintendent. A Class V school district shall recognize
16 an employees bargaining unit composed of teachers and other
17 certificated employees and administrators, except the exempt
18 administrators, when such bargaining unit is formed by the
19 employees as provided in section 48-838 and may recognize such a
20 bargaining unit as provided in subsection (2) of this section.
21 In addition, all administrators employed by a Class V school
22 district, except the exempt administrators, may form a separate
23 bargaining unit represented either by the same bargaining agent
24 for all collective-bargaining purposes as the teachers and other
25 certificated employees or by another collective-bargaining agent
26 of such administrators' choice. If a separate bargaining unit is
27 formed by election as provided in section 48-838, a Class V school

1 district shall recognize the bargaining unit and its agent for all
2 purposes of collective bargaining. Such separate bargaining unit
3 may also be recognized by a Class V school district as provided in
4 subsection (2) of this section.

5 (4) When an a public employee organization has been
6 certified as an exclusive collective-bargaining agent or recognized
7 pursuant to any other provisions of the Industrial Relations Act,
8 the appropriate public employer shall be and is hereby authorized
9 to negotiate collectively with such public employee organization in
10 the settlement of grievances arising under the terms and conditions
11 of employment of the public employees as provided in such act and
12 to negotiate and enter into written agreements with such public
13 employee organizations in determining such terms and conditions of
14 employment, including wages and hours.

15 (5) Upon receipt by an a public employer of a request
16 from a labor organization to bargain on behalf of public employees,
17 the duty to engage in good faith bargaining shall arise if
18 the labor organization has been certified by the commission or
19 recognized by the public employer as the exclusive bargaining
20 representative for the public employees in that bargaining unit.

21 (6) A party to an action filed with the commission
22 may request the commission to send survey forms or data request
23 forms. The requesting party shall prepare its own survey forms
24 or data request forms and shall provide the commission the names
25 and addresses of the entities to whom the documents shall be
26 sent, not to exceed twenty addresses in any case. All costs
27 resulting directly from the reproduction of such survey or data

1 ~~request forms and the cost of mailing such forms shall be taxed~~
2 ~~by the commission to the requesting party.~~ The commission shall
3 ~~have the authority~~ may (a) ~~to~~ make studies and analyses of and
4 act as a clearinghouse of information relating to conditions
5 of employment of public employees throughout the state, (b) ~~to~~
6 request from any government, and such governments are authorized
7 to provide, such assistance, services, and data as will enable it
8 properly to carry out its functions and powers, (c) ~~to~~ conduct
9 studies of problems involved in representation and negotiation,
10 including, but not limited to, those subjects which are for
11 determination solely by the appropriate legislative body, and
12 make recommendations from time to time for legislation based
13 upon the results of such studies, (d) ~~to~~ make available to
14 public employee organizations, governments, mediators, factfinding
15 boards and joint study committees established by governments, and
16 public employee organizations statistical data relating to wages,
17 benefits, and employment practices in public and private employment
18 applicable to various localities and occupations to assist them
19 to resolve complex issues in negotiations, and (e) ~~to~~ establish,
20 after consulting representatives of public employee organizations
21 and administrators of public services, panels of qualified persons
22 broadly representative of the public to be available to serve as
23 mediators, special masters, or members of factfinding boards.

24 ~~(7)(a) Except for those cases arising under section~~
25 ~~48-818, the~~ (7) The commission shall be required ~~to~~ make findings
26 of facts in all cases in which one of the parties to the dispute
27 requests findings. Such request shall be specific as to the issues

1 on which the party wishes the commission to make findings of
2 fact. ~~(b) In cases arising under section 48-818, findings of fact~~
3 ~~shall not be required of the commission unless both parties to~~
4 ~~the dispute stipulate to the request and to the specific issues~~
5 ~~on which findings of fact are to be made. (c) If findings of fact~~
6 ~~are requested, under subdivision (a) or (b) of this subsection, the~~
7 ~~commission may require the parties making the request to submit~~
8 ~~proposed findings of fact to the commission on the issues on which~~
9 ~~findings of facts are requested.~~

10 ~~(d) In cases arising under section 48-818, the commission~~
11 ~~shall issue a recommended decision and order, which decision and~~
12 ~~order shall become final within ten days of entry unless either~~
13 ~~party to the dispute files with the commission a request for a~~
14 ~~posttrial conference. If such a request is filed, the commission~~
15 ~~shall hold a posttrial conference within ten days of receipt of~~
16 ~~such request and shall issue an order within ten days after holding~~
17 ~~such posttrial conference, which order shall become the final order~~
18 ~~in the case. The purpose of such posttrial conference shall be to~~
19 ~~allow the commission to hear from the parties on those portions of~~
20 ~~the recommended decision and order which is not based upon or which~~
21 ~~mischaracterizes evidence in the record and to allow the commission~~
22 ~~to correct any such errors after having heard the matter in a~~
23 ~~conference setting in which all parties are represented.~~

24 Sec. 9. Section 48-817, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 48-817 After the hearing and any investigation, the
27 commission shall make all findings, findings of fact, recommended

1 decisions and orders, and decisions and orders in writing, which
2 findings, findings of fact, recommended decisions and orders, and
3 decisions and orders shall be entered of record. ~~Except as provided~~
4 ~~in the State Employees Collective Bargaining Act,~~ The final
5 decision and order or orders shall be in effect from and after
6 the date therein fixed by the commission, but no such order or
7 orders shall be retroactive. ~~In~~ Except as provided otherwise in the
8 Industrial Relations Act, in the making of any findings or orders
9 in connection with any such industrial dispute, the commission
10 shall give no consideration to any evidence or information which
11 it may obtain through an investigation or otherwise receive,
12 except matters of which the district court might take judicial
13 notice, unless such evidence or information is presented and made
14 a part of the record in a hearing and opportunity is given,
15 after reasonable notice to all parties to the controversy of
16 the initiation of any investigation and the specific contents of
17 the evidence or information obtained or received, to rebut such
18 evidence or information either by cross-examination or testimony.

19 Sec. 10. Section 48-818, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 48-818 ~~Except as provided in the State Employees~~
22 ~~Collective Bargaining Act,~~ the findings and order or orders
23 may establish or alter the scale of wages, hours of labor, or
24 conditions of employment, or any one or more of the same. In
25 making such findings and order or orders, the Commission of
26 Industrial Relations shall establish rates of pay and conditions of
27 employment which are comparable to the prevalent wage rates paid

1 and conditions of employment maintained for the same or similar
2 work of workers exhibiting like or similar skills under the same
3 or similar working conditions. In establishing wage rates the
4 commission shall take into consideration the overall compensation
5 presently received by the employees, having regard not only to
6 wages for time actually worked but also to wages for time not
7 worked, including vacations, holidays, and other excused time, and
8 all benefits received, including insurance and pensions, and the
9 continuity and stability of employment enjoyed by the employees.
10 Any order or orders entered may be modified on the commission's own
11 motion or on application by any of the parties affected, but only
12 upon a showing of a change in the conditions from those prevailing
13 at the time the original order was entered.

14 Within sixty days of the certification of a collective
15 bargaining agent, initial voluntary recognition by the public
16 employer, or no later than sixty days prior to the expiration of
17 an existing collective bargaining agreement, the public employer
18 shall make available to the public and present to the collective
19 bargaining agent the prevalent total hourly compensation for
20 each job classification within the bargaining unit. In order
21 to calculate the prevalent total hourly compensation, the public
22 employer may, at its sole discretion, utilize either of the
23 following methodologies:

24 (1) Aggregate survey data from the Bureau of Labor
25 Statistics or other reputable or reliable governmental or private
26 source; or

27 (2) An array of comparable employers created in

1 accordance with the Industrial Relations Act.

2 Sec. 11. (1) Comparable employers included in the array
3 shall have conditions of employment maintained for the same or
4 similar work of workers exhibiting like or similar skills under the
5 same or similar working conditions.

6 (2) Employers in Nebraska shall be presumed to provide
7 same or similar working conditions unless the public employer
8 determines that there are substantial differences which cause the
9 work or conditions of employment to be dissimilar.

10 (3) Employers shall be presumed to provide the same
11 or similar working conditions if their population, if the public
12 employer is a county or municipality, their number of employees,
13 if the public employer is the state, a state division, or a public
14 utility, or the size of their student enrollment, if the public
15 employer is a school district, an educational service unit, or a
16 community college is not more than double or less than one-half
17 of the public employer unless the public employer determines
18 that there are substantial differences which cause the work or
19 conditions of employment to be dissimilar.

20 (4) Employers located within a metropolitan statistical
21 area that meet the population requirements, if the public employer
22 is a county or municipality, or the size requirement of their
23 student enrollment, if the public employer is a school district
24 or an educational service unit, shall be presumed to provide the
25 same or similar working conditions if the metropolitan statistical
26 area in which they are located is not more than double or less
27 than one-half the metropolitan statistical area population of the

1 public employer unless the public employer determines that there
2 are substantial differences which cause the work or conditions of
3 employment to be dissimilar.

4 (5) The public employer shall adhere to the following
5 criteria when establishing an array of comparable employers:

6 (a) The preferred size of an array is seven members. In
7 no case shall an array be fewer than five or greater than nine
8 members;

9 (b) The public employer shall first attempt to establish
10 an array of Nebraska employers. Only if sufficient Nebraska
11 employers are not available shall the public employer include
12 out-of-state public sector employers;

13 (c) Private Sector employers may only be included in the
14 array if they voluntarily agree to be included;

15 (d) The public employer shall not be required to produce
16 a balanced number of larger or smaller employers, a balanced number
17 of public or private employers, or a balanced number of Nebraska or
18 out-of-state employers;

19 (e) If the array includes an employer in a metropolitan
20 statistical area outside of the metropolitan statistical area of
21 the public employer, only one employer from such metropolitan
22 statistical area may be included in the array. The public employer
23 may utilize more than one employer from the public employer's home
24 metropolitan statistical area;

25 (f) Public employers which are not located within a
26 metropolitan statistical area may determine that employers located
27 in a metropolitan statistical area are not comparable because of

1 their presence in a metropolitan statistical area;

2 (g) Arrays for public utilities that produce radioactive
3 material and energy pursuant to section 70-627.02 shall have at
4 least four members in its array that produce radioactive material
5 and energy. For public utilities that generate, transmit, and
6 distribute power, the array shall include members that also perform
7 these functions. For a public utility serving a city of the primary
8 class, the array shall only include public power districts in
9 Nebraska that generate, transmit, and distribute power and any
10 out-of-state utilities whose number of employees is not more than
11 double or less than one-half of the public utility serving a
12 city of the primary class unless evidence establishes that there
13 are substantial differences which cause the work or conditions of
14 employment to be dissimilar;

15 (h) For a statewide public utility that provides service
16 to a majority of the counties in Nebraska, any Nebraska public or
17 private job match may be used without regard to the population or
18 full-time equivalent employment requirements of this section, and
19 any out-of-state job match may be used if the full-time equivalent
20 employment of the out-of-state employer is no more than double and
21 no less than one-half of the full-time equivalent employment of the
22 bargaining unit of the statewide public utility in question;

23 (i) To determine comparability for employees of the Board
24 of Regents of the University of Nebraska or employees of the Board
25 of Trustees of the Nebraska State Colleges, the array shall utilize
26 peer institutions with similar enrollments and similar educational
27 missions which may exclude land grant institutions or institutions

1 that have a medical center or hospital. Additionally, the public
2 employer shall refer to peer institutions with similar program
3 offerings including the level of degrees offered; and

4 (j) Nothing in the Industrial Relations Act shall prevent
5 the public employer from identifying additional working conditions
6 on which to evaluate potential array members. However, in the
7 event the public employer utilizes working conditions in addition
8 to those set forth in the Industrial Relations Act to evaluate
9 comparability, the public employer shall specify which working
10 conditions it evaluated in determining comparable employers.

11 Sec. 12. Job matches shall be sufficient for comparison
12 if there is at least a seventy percent match based on a composite
13 of the duties and time spent performing those duties for that
14 classification.

15 Sec. 13. (1) Utilizing the proposed array, the public
16 employer shall, for each array member, determine (a) the hourly
17 wage and (b) the hourly cost of all benefits provided by each
18 comparable public employer regardless of whether such benefit is
19 prevalent.

20 (2) As part of determining the hourly cost of benefits,
21 the public employer determining the value of defined benefit and
22 defined contribution retirement plans and health insurance plans,
23 shall use an hourly rate value calculation as follows:

24 (a) Once the array has been chosen, public employers
25 with defined benefit plans shall attempt to gather a copy of the
26 most recent defined benefit pension actuarial valuation reports
27 from other employers in the array with defined benefit plans. The

1 public employer shall also gather the most recent copy of the array
2 members' health insurance plans, covering a twelve-month period,
3 with associated employer and employee costs. Each array member and
4 the public employer of the subject bargaining unit shall indicate
5 which plans are most used. The plans that are most used shall be
6 used for comparison;

7 (b) Once the actuarial valuation reports are received,
8 the public employer shall determine whether to have the pensions
9 actuarially valued at an hourly rate value other than equal. The
10 hourly rate value for defined benefit plans shall be presumed
11 to be equal to that of the array selected unless the public
12 employer establishes that the actuarially derived annual normal
13 cost of the pension benefit for each job classification in the
14 subject bargaining unit is above or below the midpoint of the
15 market average normal cost, and such midpoint figure shall be
16 established by applying uniform assumptions and methodology using
17 the census of bargaining unit employees subject to the petition to
18 all points compared using accepted actuarial methods attested to by
19 an enrolled actuary;

20 (c) The hourly rate value for defined contribution plans
21 shall be established upon comparison of employer contributions; and

22 (d) The hourly rate value for health insurance and other
23 benefits shall be established based upon the actual cost to the
24 public employer.

25 (3) The public employer may utilize economic variables
26 to make cost-of-living adjustments to the hourly wage and the
27 hourly cost of benefits for each array member prior to conducting

1 prevalence analysis under this section. The public employer shall
2 not be required to demonstrate that any such economic variable
3 evidence be shown to directly impact the wages or benefits paid to
4 employees.

5 (4) Prevalent hourly wage shall be the midpoint between
6 the arithmetic mean and the arithmetic median. However, in order
7 to calculate the prevalent hourly wage, at least three job matches
8 per classification must be available for comparison. If three job
9 matches are not available, the public employer shall base its
10 calculation on the historic relationship of wages paid to such
11 position over the last three fiscal years, for which data is
12 available, as compared to wages paid to a position for which a
13 minimum of three job matches are available.

14 (5) Prevalent hourly cost of benefits shall be the
15 midpoint between the arithmetic mean and the arithmetic median.

16 (6) The public employer shall calculate the prevalent
17 hourly total compensation for each job classification by adding
18 the midpoint of the prevalent hourly wage to the midpoint of the
19 prevalent hourly cost of benefits.

20 Sec. 14. Upon presentation of the array of comparable
21 employers establishing the prevalent total hourly compensation for
22 each job classification within the bargaining unit, the public
23 employer and the collective bargaining agent shall bargain in good
24 faith over the wages and benefits of employment. If the bargaining
25 agent considers the public employer's total compensation analysis
26 as deficient in a material way, the bargaining agent may present
27 corrections within thirty days from the receipt of the prevalent

1 total hourly compensation analysis from the public employer. The
2 bargaining agent must present corrections within thirty days in
3 order to present a claim of bad faith bargaining to the commission.
4 Any claim of bad faith with the commission by the bargaining
5 agent must be commenced within sixty days following the bargaining
6 agent's presentation of corrections to the public employer. The
7 obligation to negotiate in good faith over wages and benefits shall
8 not preclude the public employer from unilaterally implementing
9 compensation programs designed to reward or encourage performance
10 or to recruit or retain employees.

11 Sec. 15. In the event the parties reach impasse over
12 the terms and conditions of employment, the public employer may
13 implement its last, best, and final offer. The last, best, and
14 final offer shall remain in effect until a subsequent agreement is
15 negotiated.

16 Sec. 16. In the event a collective bargaining agent
17 alleges that a public employer has failed to engage in good faith
18 negotiations in the determination of the prevalent total hourly
19 compensation, the commission shall only have the authority to
20 determine whether the public employer bargained in good faith as
21 set forth in the Industrial Relations Act. During the pendency of
22 the action before the commission, or during a related appeal from a
23 decision of the commission, the public employer's last, best, and
24 final offer shall remain in effect. In the event the commission
25 or a court of competent jurisdiction determines that a public
26 employer has engaged in bad faith bargaining in the determination
27 of the prevalent total hourly compensation, the commission or

1 court, depending on which methodology was utilized by the public
2 employer, may only (1) order the public employer to prepare a
3 new total hourly compensation analysis using aggregate data from
4 another reputable or reliable governmental or private source of the
5 public employer's choosing or (2) strike array members which were
6 selected in bad faith and order the public employer to prepare a
7 new array utilizing employers of the public employer's choosing.

8 Sec. 17. Section 48-824, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 48-824 (1) It is a prohibited practice for any public
11 employer, public employee, public employee organization, or
12 collective-bargaining agent to refuse to negotiate in good faith
13 with respect to mandatory topics of bargaining.

14 (2) It is a prohibited practice for any public employer
15 or the public employer's negotiator to:

16 (a) Interfere with, restrain, or coerce employees in the
17 exercise of rights granted by the Industrial Relations Act;

18 (b) Dominate or interfere in the administration of any
19 public employee organization;

20 (c) Encourage or discourage membership in any public
21 employee organization, committee, or association by discrimination
22 in hiring, tenure, or other terms or conditions of employment;

23 (d) Discharge or discriminate against ~~an~~ a public
24 employee because the employee has filed an affidavit, petition,
25 or complaint or given any information or testimony under the
26 Industrial Relations Act or because the public employee has
27 formed, joined, or chosen to be represented by any public employee

1 organization;

2 (e) Refuse to negotiate collectively with representatives
3 of collective-bargaining agents as required by the Industrial
4 Relations Act;

5 (f) Deny the rights accompanying certification or
6 recognition granted by the Industrial Relations Act; and

7 (g) Refuse to participate in good faith in any impasse
8 procedures for public employees as set forth in the Industrial
9 Relations Act.

10 (3) It is a prohibited practice for any public employee,
11 public employee organization, or bargaining unit or for any
12 representative or collective-bargaining agent to:

13 (a) Interfere with, restrain, coerce, or harass any
14 public employee with respect to any of the public employee's rights
15 granted by the Industrial Relations Act;

16 (b) Interfere with, restrain, or coerce ~~an~~ a public
17 employer with respect to rights granted by the Industrial Relations
18 Act or with respect to selecting a representative for the purposes
19 of negotiating collectively on the adjustment of grievances;

20 (c) Refuse to bargain collectively with ~~an~~ a public
21 employer as required by the Industrial Relations Act; and

22 (d) Refuse to participate in good faith in any impasse
23 procedures for public employees as set forth in the Industrial
24 Relations Act.

25 (4) The expressing of any view, argument, or opinion, or
26 the dissemination thereof, whether in written, printed, graphic, or
27 visual form, is not evidence of any unfair labor practice under

1 any of the provisions of the Industrial Relations Act if such
2 expression contains no threat of reprisal or force or promise of
3 benefit.

4 Sec. 18. Section 48-838, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 48-838 (1) The commission shall determine questions
7 of representation for purposes of collective bargaining for
8 and on behalf of public employees and shall make rules and
9 regulations for the conduct of elections to determine the exclusive
10 collective-bargaining agent for public employees, except that
11 in no event shall a contract between ~~an~~ a public employer and
12 an exclusive collective-bargaining agent act as a bar for more
13 than three years to any other party seeking to represent public
14 employees, nor shall any contract bar for more than three years
15 a petition by public employees seeking an election to revoke the
16 authority of an agent to represent them. ~~Except as provided in the~~
17 ~~State Employees Collective Bargaining Act, the~~ The commission shall
18 certify the exclusive collective-bargaining agent for employees
19 affected by the Industrial Relations Act following an election by
20 secret ballot, which election shall be conducted according to rules
21 and regulations established by the commission.

22 (2) The election shall be conducted by one member of
23 the commission who shall be designated to act in such capacity
24 by the presiding officer of the commission, or the commission
25 may appoint the clerk of the district court of the county in
26 which the principal office of the public employer is located to
27 conduct the election in accordance with the rules and regulations

1 established by the commission. ~~Except as provided in the State~~
2 ~~Employees Collective Bargaining Act,~~ the The commission shall also
3 determine the appropriate unit for bargaining and for voting in the
4 election, and in making such determination, the commission shall
5 consider established bargaining units and established policies
6 of the public employer. It shall be presumed, in the case
7 of governmental subdivisions such as municipalities, counties,
8 power districts, or utility districts with no previous history of
9 collective bargaining, that units of public employees of less than
10 departmental size shall not be appropriate.

11 (3) ~~Except as provided in the State Employees Collective~~
12 ~~Bargaining Act,~~ the The commission shall not order an election
13 until it has determined that at least thirty percent of the
14 employees in an appropriate unit have requested in writing that
15 the commission hold such an election. Such request in writing by
16 an employee may be in any form in which an employee specifically
17 either requests an election or authorizes the employee organization
18 to represent him or her in bargaining, or otherwise evidences a
19 desire that an election be conducted. Such request of an employee
20 shall not become a matter of public record. No election shall be
21 ordered in one unit more than once a year.

22 (4) ~~Except as provided in the State Employees Collective~~
23 ~~Bargaining Act,~~ the The commission shall only certify an exclusive
24 collective-bargaining agent if a majority of the employees voting
25 in the election vote for the agent. A certified exclusive
26 collective-bargaining agent shall represent all employees in the
27 appropriate unit with respect to wages, hours, and conditions of

1 employment, except that such right of exclusive recognition shall
2 not preclude any employee, regardless of whether or not he or she
3 is a member of a labor organization, from bringing matters to the
4 attention of his or her superior or other appropriate officials.

5 Any employee may choose his or her own representative
6 in any grievance or legal action regardless of whether or not an
7 exclusive collective-bargaining agent has been certified. If an
8 employee who is not a member of the labor organization chooses
9 to have legal representation from the labor organization in any
10 grievance or legal action, such employee shall reimburse the labor
11 organization for his or her pro rata share of the actual legal fees
12 and court costs incurred by the labor organization in representing
13 the employee in such grievance or legal action.

14 The certification of an exclusive collective-bargaining
15 agent shall not preclude any public employer from consulting with
16 lawful religious, social, fraternal, or other similar associations
17 on general matters affecting public employees so long as such
18 contracts do not assume the character of formal negotiations
19 in regard to wages, hours, and conditions of employment. Such
20 consultations shall not alter any collective-bargaining agreement
21 which may be in effect.

22 Sec. 19. Changes made to the Industrial Relations Act
23 by this legislative bill shall apply to petitions filed with the
24 commission on or after October 1, 2011.

25 Sec. 20. Section 79-852, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 79-852 The collective-bargaining agreement of the school

1 district or districts forming the unified system or reorganized
2 school district with the largest number of teacher employees shall
3 continue in full force and effect and govern all teachers in the
4 unified system or reorganized school district until replaced by
5 a successor agreement, and the teachers employed by the unified
6 system or reorganized school district and previously employed by
7 the school districts involved in the formation of the unified
8 system or reorganized school district shall automatically be
9 included in that bargaining unit but no certificated public
10 school employee shall be compelled to join any organization
11 or association. If only one collective-bargaining agreement is
12 in effect in the school districts which are a part of the
13 unification or reorganization, that collective-bargaining agreement
14 shall continue in full force and effect until replaced by a
15 successor agreement and the teachers employed by the other school
16 districts involved in the unification or reorganization shall
17 automatically be included in that bargaining unit. For purposes of
18 the Industrial Relations Act, the unified system shall be deemed an
19 a public employer as defined in section 48-801.

20 Sec. 21. Section 79-2116, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 79-2116 Terms and conditions of employment of school
23 employees providing services for an elementary learning center
24 shall be established by the negotiated agreement of the learning
25 community employing such school employees to provide services.
26 For certificated employees as defined in subdivision (1) of
27 section 79-824, the learning community shall be deemed to be

1 ~~an~~ a public employer as defined in ~~subdivision (4)~~ of section
2 48-801. Compensation paid to school employees for services provided
3 to a learning community shall be subject to the School Employees
4 Retirement Act unless such employee is employed by a Class V school
5 district, in which case compensation paid such school employee
6 shall be subject to the Class V School Employees Retirement Act.

7 Sec. 22. Section 81-1369, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 81-1369 Sections 81-1369 to ~~81-1390~~ 81-1384 shall be
10 known and may be cited as the State Employees Collective Bargaining
11 Act.

12 Sec. 23. Section 81-1371, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 81-1371 For purposes of the State Employees Collective
15 Bargaining Act, unless the context otherwise requires:

16 (1) Chief Negotiator shall mean the Chief Negotiator
17 of the Division of Employee Relations of the Department of
18 Administrative Services;

19 (2) Commission shall mean the Commission of Industrial
20 Relations;

21 (3) Division shall mean the Division of Employee
22 Relations of the Department of Administrative Services;

23 (4) Employee or state employee shall mean any employee of
24 the State of Nebraska;

25 (5) Employer or state employer shall mean the State of
26 Nebraska and shall not include any political subdivision thereof;

27 (6) Employer-representative shall mean (a) for

1 negotiations involving employees of the University of Nebraska,
2 the Board of Regents, (b) for negotiations involving employees
3 of the Nebraska state colleges, the Board of Trustees of the
4 Nebraska State Colleges, (c) for negotiations involving employees
5 of other constitutional agencies, the governing officer or body for
6 each such agency, and (d) for negotiations involving other state
7 employees, the Governor;

8 (7) Grievance shall mean a management action resulting
9 in an injury, injustice, or wrong involving a misinterpretation or
10 misapplication of applicable labor contracts if so agreed to by the
11 appropriate parties; and

12 ~~(8) Issue shall mean broad subjects of negotiation which~~
13 ~~are presented to the Special Master pursuant to section 81-1382.~~
14 ~~All aspects of wages shall be a single issue, all aspects of~~
15 ~~insurance shall be a single issue, and all other subjects of~~
16 ~~negotiations classified in broad categories shall be single issues;~~

17 ~~(9) (8) Mandatory topic or topics of bargaining shall~~
18 ~~mean those subjects of negotiation on which employers must~~
19 ~~negotiate pursuant to the Industrial Relations Act, including~~
20 ~~terms and conditions of employment which may otherwise be provided~~
21 ~~by law for state employees, except when specifically prohibited by~~
22 ~~law from being a subject of bargaining.~~

23 ~~(10) Meet-and-confer rights shall mean the rights of~~
24 ~~employees to discuss wages, hours, and other terms and conditions~~
25 ~~of employment with the appropriate employer-representative but~~
26 ~~shall not require either party to enter into a written agreement.~~
27 ~~Employees afforded meet-and-confer rights shall not be entitled to~~

1 utilize the impasse resolution procedures provided in the State
2 Employees Collective Bargaining Act or to file a petition with the
3 commission invoking its jurisdiction as provided in the Industrial
4 Relations Act for the purpose of obtaining an order or orders
5 under section 48-818. Meet-and-confer rights shall not apply to any
6 bargaining unit other than a supervisory unit; and

7 (11) Special Master shall mean a factfinder chosen
8 pursuant to section 81-1380.

9 Sec. 24. Section 81-1372, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 81-1372 The State Employees Collective Bargaining Act
12 shall be deemed ~~cumulative~~ controlling for public employees and
13 public employers covered by such act and is supplementary to
14 the Industrial Relations Act except when otherwise specifically
15 provided or when inconsistent with the Industrial Relations Act,
16 in which case the State Employees Collective Bargaining Act shall
17 prevail.

18 The State of Nebraska, its employees, employee
19 organizations, and exclusive collective-bargaining agents
20 shall have all the rights and responsibilities afforded
21 employers, employees, employee organizations, and exclusive
22 collective-bargaining agents pursuant to the Industrial Relations
23 Act to the extent that such act is not inconsistent with the State
24 Employees Collective Bargaining Act.

25 Sec. 25. Section 81-1373, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 81-1373 (1) For the purpose of implementing the state

1 employees' right to organize for the purpose of collective
2 bargaining, there are hereby created ~~twelve~~ eleven bargaining
3 units for all state agencies except the University of Nebraska,
4 the Nebraska state colleges, and other constitutional offices. The
5 units shall consist of state employees whose job classifications
6 are occupationally and functionally related and who share a
7 community of interest. The bargaining units shall be:

8 (a) Maintenance, Trades, and Technical, which unit is
9 composed of generally recognized blue collar and technical classes,
10 including highway maintenance workers, carpenters, plumbers,
11 electricians, print shop workers, auto mechanics, engineering aides
12 and associates, and similar classes;

13 (b) Administrative Support, which unit is composed of
14 clerical and administrative nonprofessional classes, including
15 typists, secretaries, accounting clerks, computer operators, office
16 service personnel, and similar classes;

17 (c) Health and Human Care Nonprofessional, which unit is
18 composed of institutional care classes, including nursing aides,
19 psychiatric aides, therapy aides, and similar classes;

20 (d) Social Services and Counseling, which unit is
21 composed of generally professional-level workers providing services
22 and benefits to eligible persons. Classes shall include job
23 service personnel, income maintenance personnel, social workers,
24 counselors, and similar classes;

25 (e) Administrative Professional, which unit is composed
26 of professional employees with general business responsibilities,
27 including accountants, buyers, personnel specialists, data

1 processing personnel, and similar classes;

2 (f) Protective Service, which unit is composed of
3 institutional security personnel, including correctional officers,
4 building security guards, and similar classes;

5 (g) Law Enforcement, which unit is composed of employees
6 holding powers of arrest, including Nebraska State Patrol officers
7 and sergeants, conservation officers, fire marshal personnel, and
8 similar classes. Sergeants, investigators, and patrol officers
9 employed by the Nebraska State Patrol as authorized in section
10 81-2004 shall be presumed to have a community of interest with each
11 other and shall be included in this bargaining unit notwithstanding
12 any other provision of law which may allow for the contrary;

13 (h) Health and Human Care Professional, which unit
14 is composed of community health, nutrition, and health service
15 professional employees, including nurses, doctors, psychologists,
16 pharmacists, dietitians, licensed therapists, and similar classes;

17 (i) Examining, Inspection, and Licensing, which unit
18 is composed of employees empowered to review certain public and
19 business activities, including driver-licensing personnel, revenue
20 agents, bank and insurance examiners who remain in the State
21 Personnel System under sections 8-105 and 44-119, various public
22 health and protection inspectors, and similar classes;

23 (j) Engineering, Science, and Resources, which unit
24 is composed of specialized professional scientific occupations,
25 including civil and other engineers, architects, chemists,
26 geologists and surveyors, and similar classes; and

27 (k) Teachers, which unit is composed of employees

1 required to be licensed or certified as a teacher, ~~and~~

2 ~~(1) Supervisory, which unit is composed of employees who~~
3 ~~are supervisors as defined in section 48-801.~~

4 All employees who are excluded from bargaining units
5 pursuant to the Industrial Relations Act, all employees of the
6 personnel division of the Department of Administrative Services,
7 and all employees of the Division of Employee Relations of the
8 Department of Administrative Services shall be excluded from any
9 bargaining unit of state employees.

10 (2) Any employee organization, including one which
11 represents other state employees, may be certified or recognized
12 as provided in the Industrial Relations Act as the exclusive
13 collective-bargaining agent for a supervisory unit, except that
14 such unit shall not have full collective-bargaining rights but
15 shall be afforded only meet-and-confer rights.

16 (3) It is the intent of the Legislature that professional
17 and managerial employee classifications and office and service
18 employee classifications be grouped in broad occupational units
19 for the University of Nebraska and the Nebraska state colleges
20 established on a university-wide or college-system-wide basis,
21 including all campuses within the system. ~~Any unit entirely~~
22 ~~composed of supervisory employees of the University of Nebraska or~~
23 ~~the Nebraska state colleges shall be afforded only meet-and-confer~~
24 ~~rights. Except as provided in subsection (4) of this section, the~~
25 The bargaining units for academic, faculty, and teaching employees
26 of the University of Nebraska and the Nebraska state colleges shall
27 continue as they exist ~~existed~~ on April 9, 1987, plus the addition

1 of Kearney State College, and any adjustments thereto or new units
2 therefor shall continue to be determined pursuant to the Industrial
3 Relations Act.

4 ~~(4) Except as provided in subdivision (2)(c) of section~~
5 ~~85-1,119,~~ when the institution now known as Kearney State College
6 is transferred to the control and management of the Board of
7 Regents of the University of Nebraska, any academic, faculty, and
8 teaching employees of Kearney State College who are included in
9 a bargaining unit and represented by a certified or recognized
10 collective-bargaining agent as of June 30, 1991, shall, on
11 and after July 1, 1991, compose a separate bargaining unit of
12 University of Nebraska employees, and such agent shall be entitled
13 to certification by the commission for the new bargaining unit
14 without the necessity of a representation election. Any adjustments
15 to the unit or the representation thereof shall be determined
16 pursuant to the Industrial Relations Act.

17 ~~(5)~~ (4) Other constitutional offices shall continue
18 to subscribe to the procedures for unit determination in the
19 Industrial Relations Act, except that the commission is further
20 directed to determine the bargaining units in such manner as to (a)
21 reduce the effect of overfragmentation of bargaining units on the
22 efficiency of administration and operations of the constitutional
23 office and (b) be consistent with the administrative structure
24 of the constitutional office. Any unit entirely composed of
25 supervisory employees of a constitutional office shall be afforded
26 only meet-and-confer rights.

27 Sec. 26. Section 81-1379, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 81-1379 The Chief Negotiator and any other
3 ~~employer-representative and the exclusive collective-bargaining~~
4 ~~agent shall commence negotiations on or prior to the second~~
5 ~~Wednesday in September of the year preceding the beginning of the~~
6 ~~contract period, except that the first negotiations commenced by~~
7 ~~any bargaining unit may commence after such September date in~~
8 ~~order to accommodate any unresolved representation proceedings.~~
9 All negotiations shall be completed on or before March 15 of the
10 following year.

11 All negotiated agreements shall be in writing and signed
12 by the parties. The authority to enter into the agreed-upon
13 contract shall be vested in the following:

14 (1) For the University of Nebraska, the Board of Regents;

15 (2) For the Nebraska state colleges, the Board of
16 Trustees of the Nebraska State Colleges;

17 (3) For other constitutional offices, the head of such
18 office;

19 (4) For all other agencies, the Governor; and

20 (5) For the bargaining unit, a majority of those voting
21 on ratification after notice of the contract terms is given and a
22 secret ballot vote has been taken.

23 Nothing in the State Employees Collective Bargaining Act
24 shall be construed to prohibit supplementary bargaining on behalf
25 of employees in part of a bargaining unit concerning matters
26 uniquely affecting such employees or cooperation and coordination
27 of bargaining between two or more bargaining units. Supplementary

1 bargaining in regard to employees for whom the Governor is
2 the employer-representative shall be the responsibility of the
3 Chief Negotiator and may be assigned to his or her designated
4 representative.

5 Any agreements entered into pursuant to this section may
6 be adjusted after March 15 only to reflect any order issued by the
7 commission, the Court of Appeals, or the Supreme Court.

8 Sec. 27. Section 81-1384, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 81-1384 ~~(1)~~ On March 16, the Chief Negotiator, any
11 appointed negotiator for the Board of Regents, any appointed
12 negotiator for the Board of Trustees of the Nebraska State
13 Colleges, and any appointed negotiator for other constitutional
14 offices shall report to the Legislature and the Governor on the
15 status of negotiations. The Governor may amend his or her budget
16 recommendations accordingly.

17 ~~(2) If the Chief Negotiator advises the Legislature that~~
18 ~~the state has appealed a Special Master's ruling, the Legislature~~
19 ~~may by a resolution approved by a three-fifths vote of its~~
20 ~~members by the conclusion of its regular session direct the Chief~~
21 ~~Negotiator to withdraw the pending appeal and accept the terms of~~
22 ~~the Special Master's ruling. This subsection shall not apply to any~~
23 ~~negotiators appointed by the Board of Regents, Board of Trustees of~~
24 ~~the Nebraska State Colleges, or other constitutional offices.~~

25 Sec. 28. This act becomes operative on October 1, 2011.

26 Sec. 29. Original sections 48-801, 48-801.01, 48-802,
27 48-809, 48-810, 48-811, 48-813, 48-816, 48-817, 48-818, 48-824,

1 48-838, 79-852, 79-2116, 81-1369, 81-1371, 81-1372, 81-1373,
2 81-1379, and 81-1384, Reissue Revised Statutes of Nebraska, are
3 repealed.

4 Sec. 30. The following sections are outright repealed:
5 Sections 48-811.02, 81-1374, 81-1375, 81-1378, 81-1380, 81-1381,
6 81-1382, 81-1383, 81-1385, 81-1386, 81-1387, 81-1388, 81-1389, and
7 81-1390, Reissue Revised Statutes of Nebraska.