

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 1059**

Introduced by Avery, 28.

Read first time January 18, 2012

Committee: Executive Board

A BILL

1 FOR AN ACT relating to state offices; to amend sections 49-1493 and  
2 49-1499.03, Reissue Revised Statutes of Nebraska; to  
3 adopt the State Officers Compensation Act; to require  
4 statements of financial interests and conflict of  
5 interest; and to repeal the original sections.  
6 Be it enacted by the people of the State of Nebraska,

1           Section 1. Sections 1 to 11 of this act shall be known  
2 and may be cited as the State Officers Compensation Act.

3           Sec. 2. (1) It is the intent of the Legislature to foster  
4 competitive salaries and other compensation for state constitutional  
5 officers and members of the Legislature which reflect cost-of-living  
6 adjustments, comparative market trends, and data from other agencies  
7 or states.

8           (2) It is the intent of the Legislature to form an  
9 independent commission to study, review, and make recommendations to  
10 the Legislature for equitable adjustments in salary, travel expenses,  
11 per diems, and other compensation of state constitutional officers  
12 and members of the Legislature.

13           (3) It is the intent of the Legislature that state  
14 constitutional officers and members of the Legislature will be  
15 eligible to participate in benefit plans for state employees  
16 regarding health, retirement, disability, and death benefits, and  
17 therefor those benefits are not subject to adjustment under the State  
18 Officers Compensation Act.

19           Sec. 3. For purposes of the State Officers Compensation  
20 Act:

21           (1) Commission means the State Officers Compensation  
22 Commission;

23           (2) Director means the Director of Research of the office  
24 of Legislative Research of the Legislative Council or his or her  
25 designee;

1           (3) Executive board means the Executive Board of the  
2 Legislative Council; and

3           (4) State constitutional officer means the Governor,  
4 Lieutenant Governor, Attorney General, Auditor of Public Accounts,  
5 Secretary of State, and State Treasurer.

6           Sec. 4. The director shall acquire and maintain permanent  
7 or temporary staff, supplies, facilities, software, and other  
8 materials deemed necessary by the director to assist the commission  
9 in the development of procedures, policies, recommendations, and  
10 reports for the study and review of salaries, travel expenses, per  
11 diems, and other compensation of state constitutional officers and  
12 members of the Legislature. The director shall create and maintain a  
13 web site, in accordance with state technology requirements, which  
14 shall include, but not be limited to, information on the members of  
15 the commission, statutory authority, scheduled public meetings, and  
16 periods for public comment. The Legislature shall appropriate funds  
17 to the office of Legislative Research for the explicit purpose of  
18 carrying out the State Officers Compensation Act only, and the  
19 director shall make expenditures with prior approval of the executive  
20 board.

21           Sec. 5. Beginning January 31, 2013, a six-member State  
22 Officers Compensation Commission shall be established. Each of the  
23 three legislative caucuses shall certify to the Governor the  
24 appointment of two persons who do not have the same political party  
25 affiliation to serve on the commission, subject to the approval of

1 the Legislature under section 8 of this act. Each caucus shall  
2 specify one of its nominees to serve an initial term of two years,  
3 and the other initial members shall be appointed for a term of four  
4 years. The successors to the initial members shall be appointed for a  
5 term of four years. The commission's only official functions shall be  
6 those prescribed by the State Officers Compensation Act. The members  
7 of the commission shall not receive compensation for services on the  
8 commission but shall be reimbursed for travel and actual expenditures  
9 as provided in sections 81-1174 to 81-1177.

10           Sec. 6. To be eligible to serve on the commission, a  
11 person shall:

12                   (1) Be a Nebraska resident;

13                   (2) Be a registered voter who at the time of appointment  
14 has not changed political party affiliation within the previous  
15 twelve months;

16                   (3) Not be a registered lobbyist and, at the time of  
17 appointment, not have been a registered lobbyist within the previous  
18 twelve months;

19                   (4) Not be an elected public officeholder in Nebraska nor  
20 a political party officeholder in Nebraska or the United States;

21                   (5) Not be a relative of or employed by (a) a member of  
22 the United States Congress or the Legislature, (b) a state  
23 constitutional officer, or (c) a person employed by the University of  
24 Nebraska; and

25                   (6) Not be employed by the University of Nebraska.

1           Sec. 7. No member of the commission shall:

2           (1) Campaign for elective office while a member of the  
3 commission;

4           (2) Actively participate in or contribute to any  
5 political campaign of any candidate for state or federal elective  
6 office while a member of the commission; or

7           (3) Hold or campaign for a seat in the Legislature or for  
8 a state constitutional office for two years after the end of the term  
9 for which he or she was appointed to the commission.

10           Sec. 8. (1) Each legislative caucus shall make a motion  
11 for approval of each of its nominees by the Legislature, and each  
12 nominee shall be voted on separately. If an appointment is not  
13 approved, the legislative caucus shall select another nominee for  
14 approval by the Legislature.

15           (2) Prior to legislative approval, each member of the  
16 commission shall file a statement of financial interests and conflict  
17 of interest with the Nebraska Accountability and Disclosure  
18 Commission pursuant to sections 49-1493 to 49-14,104.

19           (3) Within fourteen days after the Legislature has  
20 approved the members of the commission, the members of the commission  
21 shall by a majority vote elect a chairperson and a vice-chairperson  
22 from among the members of the commission and report such officers to  
23 the Governor and the executive board. The chairperson shall not have  
24 voting rights with respect to decisions of the commission. Three  
25 voting members shall constitute a quorum with respect to decisions of

1 the commission.

2 (4) The commission shall meet at the call of the  
3 chairperson. Notice of meetings shall be mailed to each member at  
4 least fourteen days prior to the date of each scheduled meeting.  
5 Notice may be delivered by electronic mail at the email address  
6 designated by any member if agreed to by the member. All meetings  
7 shall be subject to the Open Meetings Act. The commission shall be  
8 subject to the Records Management Act.

9 (5) Any member of the commission who violates the State  
10 Officers Compensation Act, who becomes ineligible for the office  
11 pursuant to section 6 of this act, or who has a known or discovered  
12 conflict of interest may be removed by a majority vote of the  
13 Legislature.

14 (6) Any vacancy on the commission shall be filled by the  
15 legislative caucus which selected the person whose position is vacant  
16 within fourteen legislative days after the vacancy occurs or as soon  
17 as practicable during the next legislative session. If the  
18 Legislature is not in session, the Executive Board shall appoint a  
19 replacement to serve until the Legislature next convenes. Such  
20 replacement member shall hold the same political party affiliation as  
21 the person whose position is vacant.

22 Sec. 9. (1) The commission shall review the salaries,  
23 travel expenses, per diems, and other compensation of the state  
24 constitutional officers and members of the Legislature.

25 (2) The commission may request reports or studies from

1 any state agency or officer as to the rate and form of salaries,  
2 travel expenses, per diems, and other compensation for state  
3 constitutional officers and members of the Legislature. A state  
4 agency from which a report or a study is requested shall furnish it  
5 within a period of time prescribed by the commission.

6 (3) By October 1 of odd-numbered years, the commission  
7 shall prepare a report of preliminary findings and recommendations.  
8 The commission shall give reasonable public notice of its preliminary  
9 findings and recommendations, hold at least three statewide public  
10 hearings, and give due regard to any public comments before  
11 submitting a final report.

12 (4) The commission shall not make a recommendation which  
13 has the effect of reducing the salaries, travel expenses, per diems,  
14 and other compensation of state constitutional officers or members of  
15 the Legislature but may make a neutral recommendation or recommend no  
16 increase.

17 (5) The recommendations of the commission relating to  
18 salaries and compensation shall not include any recommendation  
19 relating to health, retirement, disability, or death benefits for  
20 state constitutional officers or members of the Legislature, but the  
21 commission may consider benefits received as provided in subsection  
22 (3) of section 2 of this act.

23 (6) The commission shall present final recommendations to  
24 the Legislature within the first ten legislative days of the  
25 legislative session in even-numbered years in the form of a final,

1 singular report of its findings and recommendations on equitable  
2 salaries, travel expenses, per diems, and other compensation for  
3 state constitutional officers and members of the Legislature.

4           Sec. 10. (1) If the commission recommends an increase in  
5 salaries, travel expenses, per diems, and other compensation for the  
6 members of the Legislature, the commission shall, with the assistance  
7 of the director, prepare a legislative bill which reflects the  
8 increase over the amounts which will be reflected in the  
9 appropriations bill otherwise prepared for payment of salaries,  
10 travel expenses, per diems, and other compensation of the members for  
11 introduction by the Executive Board during the first ten legislative  
12 days of the legislative session in even-numbered years. If the  
13 commission recommends an increase in salaries, travel expenses, per  
14 diems, and other compensation for the state constitutional officers,  
15 the commission shall, with the assistance of the director, prepare a  
16 legislative bill which reflects the increase over the amounts which  
17 will be reflected in the appropriations bill otherwise prepared for  
18 payment of salaries, travel expenses, per diems, and other  
19 compensation of the state constitutional officers for introduction by  
20 the Executive Board during the first ten legislative days of the  
21 legislative session in even-numbered years in which the state  
22 constitutional officers are scheduled to be on the statewide general  
23 election ballot. Each legislative bill shall directly reflect the  
24 findings of the commission as reflected in its final report. Each of  
25 such legislative bills shall be introduced by the Executive Board on



1 behalf of the commission.

2 (2) The commission may prepare technical amendments to  
3 each legislative bill and notify the Legislature that amendments of a  
4 technical nature are available for introduction, but no member or  
5 committee of the Legislature may propose an amendment to either  
6 legislative bill that has not been prepared by the commission, nor  
7 may any substantive provision of either legislative bill be altered  
8 or severed by any amendment. The Enrollment and Review Committee of  
9 the Legislature may offer technical amendments.

10 (3) Any member of the commission who objects to the final  
11 proposed recommendations may prepare, in writing, his or her  
12 objections to the findings, reports, and corresponding legislative  
13 bills prepared by the commission. Such objections shall be made  
14 available at the same time as the final report of the commission for  
15 legislative review.

16 (4) The executive board shall hold a public hearing on  
17 each legislative bill in accordance with the Rules of the  
18 Legislature. The legislative bills shall be so interpreted as to  
19 effectuate their general purpose to provide, in the public interest,  
20 adequate compensation for the state constitutional officers and  
21 members of the Legislature and to permit a change in such salaries as  
22 soon as the same may become operative under the Constitution of  
23 Nebraska.

24 Sec. 11. The State Officers Compensation Fund is created.  
25 The Legislature shall appropriate, from the General Fund, an amount

1 prescribed by the executive board to the State Officers Compensation  
2 Fund for permanent or temporary staff, supplies, facilities,  
3 software, and other materials for the commission, as deemed necessary  
4 by the director, pursuant to the State Officers Compensation Act. The  
5 director shall administer the fund for the acquisition and  
6 maintenance of reasonable resources necessary for the administration  
7 of the act. Any money in the fund available for investment shall be  
8 invested by the state investment officer pursuant to the Nebraska  
9 Capital Expansion Act and the Nebraska State Funds Investment Act.

10           Sec. 12. Section 49-1493, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           49-1493 The individuals listed in subdivisions (1)  
13 through ~~(13)~~(14) of this section shall file with the commission a  
14 statement of financial interests as provided in sections 49-1496 and  
15 49-1497 for the preceding calendar year on or before April 1 of each  
16 year in which such individual holds such a position. An individual  
17 who leaves office shall, within thirty days after leaving office,  
18 file a statement covering the period since the previous statement was  
19 filed. Disclosure of the interest named in sections 49-1496 to  
20 49-1498 shall be made by:

21           (1) An individual holding a state executive office as  
22 provided in Article IV of the Constitution of Nebraska, including the  
23 Governor, Lieutenant Governor, Secretary of State, Auditor of Public  
24 Accounts, State Treasurer, Attorney General, Tax Commissioner, and  
25 heads of such other executive departments as set forth in the

1 Constitution or as may be established by law;

2 (2) An individual holding the office of Commissioner of  
3 Education, member of the State Board of Education, member of the  
4 Board of Regents of the University of Nebraska with the exception of  
5 student members, or member of the Coordinating Commission for  
6 Postsecondary Education;

7 (3) A member of the Board of Parole;

8 (4) A member of the Public Service Commission;

9 (5) A member of the Legislature;

10 (6) A member of the board of directors or an officer of a  
11 district organized under the provisions of Chapter 70;

12 (7) A member of any board or commission of the state or  
13 any county which examines or licenses a business or which determines  
14 rates for or otherwise regulates a business;

15 (8) A member of a land-use planning commission, zoning  
16 commission, or authority of the state or any county with a population  
17 of more than one hundred thousand inhabitants;

18 (9) An elected official of a city of the primary or  
19 metropolitan class;

20 (10) An elected county official;

21 (11) A member of the Nebraska Environmental Trust Board;

22 (12) An individual employed at the University of  
23 Nebraska-Lincoln in the position of Head Football Coach, Men's  
24 Basketball Coach, or Women's Basketball Coach; ~~and~~

25 (13) An official or employee of the state designated by

1 rules and regulations of the commission who is responsible for taking  
2 or recommending official action of a nonministerial nature with  
3 regard to:

- 4 (a) Contracting or procurement;  
5 (b) Administering or monitoring grants or subsidies;  
6 (c) Land-use planning or zoning;  
7 (d) Inspecting, licensing, regulating, or auditing any  
8 person; or  
9 (e) Any similar action; and -

10 (14) A member of the State Officers Compensation  
11 Commission.

12 Sec. 13. Section 49-1499.03, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 49-1499.03 (1)(a) An official of a political subdivision  
15 designated in section 49-1493 who would be required to take any  
16 action or make any decision in the discharge of his or her official  
17 duties that may cause financial benefit or detriment to him or her, a  
18 member of his or her immediate family, or a business with which he or  
19 she is associated, which is distinguishable from the effects of such  
20 action on the public generally or a broad segment of the public,  
21 shall take the following actions as soon as he or she is aware of  
22 such potential conflict or should reasonably be aware of such  
23 potential conflict, whichever is sooner:

24 (i) Prepare a written statement describing the matter  
25 requiring action or decision and the nature of the potential

1 conflict; and

2 (ii) Deliver a copy of the statement to the commission  
3 and to the person in charge of keeping records for the political  
4 subdivision who shall enter the statement onto the public records of  
5 the subdivision.

6 (b) The official shall take such action as the commission  
7 shall advise or prescribe to remove himself or herself from influence  
8 over the action or decision on the matter.

9 (c) This subsection does not prevent such a person from  
10 making or participating in the making of a governmental decision to  
11 the extent that the individual's participation is legally required  
12 for the action or decision to be made. A person acting pursuant to  
13 this subdivision shall report the occurrence to the commission.

14 (2)(a) Any person holding an elective office of a city or  
15 village not designated in section 49-1493, ~~and~~ any person holding an  
16 elective office of a school district, and any member appointed to the  
17 State Officers Compensation Commission who would be required to take  
18 any action or make any decision in the discharge of his or her  
19 official duties that may cause financial benefit or detriment to him  
20 or her, a member of his or her immediate family, or a business with  
21 which he or she is associated, which is distinguishable from the  
22 effects of such action on the public generally or a broad segment of  
23 the public, shall take the following actions as soon as he or she is  
24 aware of such potential conflict or should reasonably be aware of  
25 such potential conflict, whichever is sooner:

1           (i) Prepare a written statement describing the matter  
2 requiring action or decision and the nature of the potential  
3 conflict;

4           (ii) Deliver a copy of the statement to the person in  
5 charge of keeping records for the city, village, ~~or~~ school district,  
6 or commission who shall enter the statement onto the public records  
7 of the city, village, ~~or~~ school district, or commission; and

8           (iii) Abstain from participating or voting on the matter  
9 in which the person holding elective office or appointive office has  
10 a conflict of interest.

11           (b) The person holding elective office or appointive  
12 office may apply to the commission for an opinion as to whether the  
13 person has a conflict of interest.

14           (3) Matters involving an interest in a contract are  
15 governed either by sections 49-14,102 and 49-14,103 or by sections  
16 49-14,103.01 to 49-14,103.06. Matters involving the hiring of an  
17 immediate family member are governed by section 49-1499.04. Matters  
18 involving nepotism or the supervision of a family member by an  
19 official or employee in the executive branch of state government are  
20 governed by section 49-1499.07.

21           Sec. 14. Original sections 49-1493 and 49-1499.03,  
22 Reissue Revised Statutes of Nebraska, are repealed.