

LEGISLATIVE BILL 491

Approved by the Governor March 20, 1987

Introduced by Landis, 46

AN ACT relating to state employees; to amend sections 44-1620.01, 44-1621, 44-1622, 44-1623, 44-1626, 44-1629, 81-1307, 81-1311, 81-1316, 81-1318, 81-1355, 81-1356, 81-1359, 81-1360, 81-1361, 81-1367, and 81-1368, Reissue Revised Statutes of Nebraska, 1943, and sections 44-1620, 44-1627, and 81-1302, Revised Statutes Supplement, 1986; to change provisions relating to life, health, and other insurance coverages as prescribed; to authorize the Department of Personnel to assist the Risk Manager; to define and redefine terms; to provide a duty for the Director of Personnel; to provide for certain employee rights as prescribed; to change a provision relating to agency responsibilities; to change provisions relating to the State Personnel Board; to authorize certain persons to be exempt from the State Personnel System; to change provisions relating to the state's Affirmative Action Program; to provide duties for the Affirmative Action Administrator; to change provisions relating to agency affirmative action plans; to eliminate provisions relating to group health insurance; to harmonize provisions; and to repeal the original sections, and also sections 44-1633 to 44-1638, Reissue Revised Statutes of Nebraska, 1943.

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

Section 1. That section 44-1620, Revised Statutes Supplement, 1986, be amended to read as follows:

44-1620. (1) There is hereby established a program of group life and health insurance for all permanent employees of this state who work one half or more of the regularly scheduled hours during each pay period, excluding employees of the University of Nebraska, the state colleges, and the technical community colleges. Such program shall be known as the Nebraska State Insurance Program and shall replace any

current program of such insurance in effect in any agency and funded in whole or in part by state contributions.

(2) For purposes of sections 44-1620 to 44-1632, health insurance may be construed to include coverage for disability and dental health care services.

(3) Any retired state commissioned employee of the Nebraska State Patrol who on or after July 17, 1986, has reached fifty-one years of age or becomes medically disabled and who will not receive benefits from the federal social security program shall be afforded the opportunity to remain enrolled in the state employees' group health insurance program until age sixty-five. Employees electing this option shall be responsible for the entire premium cost, including the state's share and the employee's share.

Sec. 2. That section 44-1620.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1620.01. In order to continue to provide the current health insurance program to state employees who are subject to sections 44-1620 to 44-1632, with the current health insurance program, the state shall contribute the following sums from the various funds toward payment of a health insurance plan program which may include coverage for dependents, except as provided in section 44-1622.01: For single coverage, the monthly sum of forty-four dollars and forty-seven cents; for two or four-party coverage, the monthly sum of one hundred twelve dollars and eight cents; and for family coverage, the monthly sum of one hundred fifty-nine dollars and twenty-three cents.

Sec. 3. That section 44-1621, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1621. Sections 44-1620 to 44-1632 shall be administered by the Department of Personnel. The Director of Personnel may employ such administrative, clerical, secretarial, and technical assistants, and consultants as are required for the administration of sections 44-1620 to 44-1632.

Sec. 4. That section 44-1622, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1622. The Risk Manager shall select, with the assistance of the Department of Personnel, one or more carriers or combinations of carriers licensed to do insurance business in Nebraska to serve as administrator of the insurance contract or contracts. Such selection

shall be made after open competitive bidding in which any carrier authorized to provide the type or types of insurance coverage involved shall be eligible to participate. The Risk Manager may develop bid specifications which provide for various forms of plan design and funding methods, including plans of self-insurance or any combination of such methods. The Risk Manager may utilize such expert technical assistance provided by the Department of Personnel and other state agencies or outside consultants as may be required to establish and evaluate criteria for selection of carriers. The insurance contract or contracts may be subject to rebidding at any time after the inception of this program at the discretion of the Risk Manager.

Sec. 5. That section 44-1623, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1623. Out of appropriations made for that purpose, the Risk Manager shall (1) first enter into a contract providing, entirely at state expense, ten thousand dollars of basic life insurance protection; and (2) ~~apply the balance to the enter into a contract to purchase of~~ a contract of group health insurance to be financed by the state to the extent that appropriations made for that purpose are available and, if necessary, by contributions from each employee. Each such contract shall provide insurance coverage for each employee specified in section 44-1620. Participation in the program of group health and life insurance shall be optional with the employee.

Sec. 6. That section 44-1626, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1626. The special coverages permitted by sections 44-1624 and 44-1625 shall be made available uniformly to all employees, but each employee shall retain the option to choose the special coverage or coverages which he or she desires or to reject all such special coverages. ~~The life insurance coverages provided by section 44-1623 shall be mandatory-~~

Sec. 7. That section 44-1627, Revised Statutes Supplement, 1986, be amended to read as follows:

44-1627. The coverages provided for by sections 44-1620 to 44-1632 shall be afforded to each permanent state employee who works one half or more of the regularly scheduled hours during each pay period, commencing after thirty days of such employment.

Employees who are employed less than the regularly scheduled hours shall be entitled to state contributions on a proportionately reduced basis. ~~No coverages provided for by sections 44-1620 to 44-1632 shall be afforded to any employee after attainment of age seventy.~~ The life and health insurance coverages provided by sections 44-1620 to 44-1632 shall be totally independent of one another and the loss experience and the rates for the two coverages shall be maintained separate and apart from one another.

Sec. 8. That section 44-1629, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1629. All contributions by employees under sections 44-1620 to 44-1632 shall be made by payroll deductions. As each new employee becomes eligible for coverage under sections 44-1620 to 44-1632, ~~the Director of Personnel shall certify to the Director of Administrative Services shall certify to~~ the Director of Administrative Services ~~shall certify to~~ the amount to be deducted each pay period from ~~his~~ the employee's pay under sections 44-1620 to 44-1632. When there is any change in the amount of required contribution, such change shall be similarly certified. Such amount shall be deducted each pay period by the ~~Director of Administrative Services director.~~

Sec. 9. That section 81-1302, Revised Statutes Supplement, 1986, be amended to read as follows:

81-1302. As used in sections 81-1301 to 81-1316 and section 11 of this act, unless the context otherwise requires:

(1) Gender when referring to masculine also includes feminine;

(2) State personnel service shall refer to the personnel system established by sections 81-1301 to 81-1316 and section 11 of this act together with those aspects of personnel systems established under any other law as such systems may be affected by sections 81-1301 to 81-1316 and section 11 of this act;

(3) Position shall mean an office or employment in an agency of this state, whether part time or full time, temporary or permanent, and whether occupied or vacant, or existing for the performance of specific duties;

(4) Employee shall mean any person in the employ of an agency or department who receives a salary or wage;

(5) Position title shall mean the title assigned a position having discrete characteristics

relative to the duties, responsibilities, skills, training, experience, and other factors under the state position classification plan;

(6) Job description shall mean the description of duties, responsibilities, typical tasks to be performed, degree of supervision to which subject or for which responsible, and the conditions under which an incumbent in a given position shall perform, for each class and position in the state service;

(7) Pay grade shall mean a specified range of salary or wage, the starting and intermediate rates within such range, and the maximum rate of such range as may be approved by legislative enactment;

(8) Position classification plan shall mean the system of classifying each position in the state service in accordance with the kinds of skills, experience, working conditions, and other factors peculiar to each and the structuring of classes of positions in accordance with the different kinds of treatment necessary for each class and the positions within each class;

(9) Salary or pay plan shall mean a plan by which positions, as previously arranged under the classification plan, are evaluated by classes in relation to one another, by which pay grades are specified for each class of positions, and which is governed by a set of fundamental rules authorizing and controlling changes in the pay of classes of positions and their incumbents as may be provided for by law and rules and regulations promulgated pursuant to such law;

(10) Fiscal year shall mean the twelve months between July 1 of one year and June 30 of the next succeeding year;

(11) Biennium shall mean the twenty-four months between July 1 of each odd-numbered year and June 30 of the year following the next succeeding calendar year;

(12) Certification of employee or applicant shall mean the act of the Director of Personnel by which a candidate for employment by an agency of the state or an employee of an agency of the state shall have been found minimally qualified for the duties of the position sought or held and which shall then authorize such an applicant to be employed or retained, as the case may be;

(13) Certified employee shall mean an employee of the state who has been examined as deemed appropriate by the Director of Personnel and who has been found minimally qualified for the position he or she holds;

(14) Qualified shall mean, with reference either to a candidate for employment or an employee, that he or she has been examined by appropriate means and found to possess the minimum ability, the minimum requirements of training, experience, and other requirements for the position sought or held and may therefor be certified as eligible for employment in such position;

(15) Job specifications shall mean a formal statement of skills, experience, personal qualities, education, and other factors to be required of persons who hold or seek employment for each position in the state's service;

(16) Recruiting shall mean the act or actions through which potentially qualified persons are caused to apply for employment with any agency of the state;

(17) Examination shall mean the identification of minimum requirements for filling a position in the state's service through objectively rated written examination, performance tests, review of credentials, review of employment references, oral interview, or any combination of such activities as may be deemed appropriate by the Director of Personnel;

(18) Register shall mean an official list containing the names and other appropriate data on each person who shall have qualified for employment for each position in the state's service;

(19) Appointment shall mean the act by which a candidate for employment shall become an employee of the state;

(20) Classification shall mean the process by which the duties, responsibilities, working conditions, skills required, experience required, supervision received or exercised, or both, and other factors relative to a position are established in proper relationship to the same factors for all other positions in the state's service and from which there shall result a job description, job specifications, and assignment to a pay grade for the position so affected;

(21) Budget division shall mean the organizational subunit within the Department of Administrative Services having responsibility for preparation of recommendations for, prescribing procedures for compilation of, and administration of the Governor's budget;

(22) Staffing pattern shall mean the number of positions in each class and the specific classes of positions as may be authorized for each department or agency of state government by the budget division;

(23) Authorized position shall mean any position the creation of which has been approved by the budget division;

(24) Merit increase shall mean any increase in the rate of pay for any position in the state's service beyond the starting rate and which shall be provided for by the pay plan and which shall be granted in recognition of length of service, superior or outstanding performance, or as otherwise provided for by law;

(25) Certification of payrolls shall mean the review of all payrolls or payroll vouchers by the Director of Personnel to assure the propriety of rates of pay, position classification, merit increases, staffing pattern, and other factors as may be provided by law and the affixing of his or her statement that each of the employees covered by such payroll or voucher is properly provided for thereon and may be issued a warrant for the amount provided thereon;

(26) Grievance shall mean a management action resulting in an injury, injustice, or wrong involving a misinterpretation or misapplication of rules promulgated by the department, agency rules and regulations, or applicable labor contracts if so agreed to by the appropriate parties;

(27) ~~(26)~~ Director shall mean the Director of Personnel; and

(28) ~~(27)~~ Department shall mean the Department of Personnel.

Sec. 10. That section 81-1307, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1307. The Director of Personnel shall be responsible for the administration of the Department of Personnel. Subject to the review powers of the State Personnel Board, the director shall be responsible for development of recommendations on personnel policy and for development of specific administrative systems and shall have the authority to make and enforce rules and regulations pertaining thereto. Specific administrative systems for which the director is responsible shall include but not be limited to the following:

- (1) Employment Services:
 (a) General employment policies and procedures;
 (b) Position classification plans;
 (c) Job descriptions;
 (d) Job specifications;
 (e) Salary or pay plans;

- (f) Staffing patterns; and
- (g) Recruiting, examination, and certification of qualified applicants for employment and the maintenance of registers of qualified candidates for employment for all positions in state government;
- (2) Personnel Records:
 - (a) A system of records and statistical reports containing general data on all employees, including current salary levels and such other information as may be required by the operating needs of state departments and agencies and the budget division; ~~of the Department of Administrative Services;~~ and
 - (b) Standards for the development and maintenance of personnel records to be maintained within operating departments of the state government;
- (3) Personnel Management:
 - (a) Minimum standards for evaluation of employee efficiency and a system of regular evaluation of employee performance;
 - (b) Administrative guidelines governing such matters as hours of work, promotions, transfers, demotions, probation, terminations and reductions in force, salary actions, and other such matters as may not be otherwise provided for by law;
 - (c) Administrative policies and general procedural instructions for use by all state agencies relating to such matters as employee benefits, vacation, sick leave, holidays, insurance, sickness and accident benefits, and other employee benefits as the Legislature may from time to time prescribe; and
 - (d) A system of formally defined relationships between the department and departments and agencies to be covered by the state personnel system;
- (4) Salary and Wage Survey:
 - (a) A current survey of prevailing salary and wage levels for positions comparable to those predominant in the departments and agencies of the state. Such survey shall be used to review the adequacy of current salary ranges for positions in the state government and shall be the basis for establishment and any revision of the state pay plan; when approved by the Legislature the pay plan shall prescribe rates of pay for each class of nonexempt position, laws to the contrary notwithstanding; and
 - (b) A survey of salary and wage rates for positions exempted from coverage by either the Joint Merit System Council or the state personnel service, including but not limited to the faculty and administrators of the state colleges and the University

of Nebraska, exempted constitutional offices, and other positions compensation for which is fixed by law; and

(5) Payroll Certification and Staffing Patterns: The director shall work with the budget division of the Department of Administrative Services in the provision of certified information or in the performance of work as necessary to assure the following:

(a) That payrolls of all departments and agencies of the state government consist of employees who have been authorized for those departments and agencies by the budget division; ~~of the Department of Administrative Services;~~

(b) That staffing patterns for each department and agency of state government conform with those authorized by the budget division;

(c) That revisions to staffing patterns of all state departments and agencies have been approved by the budget division;

(d) That each monthly or other payroll of each department and agency of state government is reviewed to assure that salary increases for any employee are in accordance with the approved state pay plan and that all actions affecting payrolls have been authorized by the budget division;

(e) That merit increases provided for any employee of the state are the result of positive action by the appropriate supervisor;

(f) That the state's pay plan, as enacted by the Legislature, together with such amendments as may occur, is explained in appropriate handbooks for employees of the state;

(g) That pay plans covering any position or positions exempted from the state personnel service are reviewed by the Director of Personnel; and

(h) That comparative salary data is prepared biennially for all positions exempted from the state personnel service; and

(6) Temporary Employee Pool: The director shall administer a temporary employee applicant pool from which state agencies can draw when in need of a short-term labor supply.

Sec. 11. Nothing in sections 81-1301 to 81-1354 shall prohibit state employees from exercising their rights granted in Chapter 48, article 8, or any other applicable sections of law.

Sec. 12. That section 81-1311, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1311. Agency heads and other management personnel so designated by the agency head shall have the following authorities and responsibilities, consistent with rules and regulations adopted and promulgated by the Department of Personnel:

- (1) Decisions concerning the mission of the agency;
- (2) Decisions on how to maintain and improve the efficiency and effectiveness of government operations;
- (3) Decisions on services to be rendered, operations to be performed, technology to be utilized, or matters to be budgeted;
- (4) Decisions concerning the overall methods, processes, means, or personnel by which operations are to be conducted;
- (5) Decisions concerning the processes and acts of hiring, directing, or supervising employees;
- (6) Determining the performance evaluation rating of individual employees on at least an annual basis;
- (7) Employee salary administration decisions;
- (8) Assuring that position titles and job descriptions are accurate;
- (9) Decisions concerning employee job assignments, employee work schedules, promotions of employees, transfers of employees, and discipline of employees including terminations;
- (10) Decisions to reimburse the best qualified job applicants for travel, meals, and lodging expenses incurred in traveling to and from the prospective job site, except that no more than three applicants for any position may be reimbursed under this subdivision;
- (11) Decisions to relieve employees from duties because of lack of work or funds or under conditions when the employer determines continued work would be inefficient or nonproductive including the contracting out for goods and services;
- (12) Decisions concerning development and maintenance of any personnel records necessary for the operation of the agency;
- (13) Decisions to confer with any or all of its employees in the process of developing policies; and
- (14) Decisions to take any other action not otherwise specified in this section. The departments and agencies of the state shall have the following responsibilities:
 - (1) To appoint persons eligible and qualified for employment;

(2) To promote to a new or vacant position any eligible and qualified employee;

(3) To maintain a continuous supervision of all of the positions in the department or agency; to ascertain that current position titles and job descriptions are accurate; and to initiate action for a reclassification;

(4) To terminate the employment of or to demote any employee or to transfer any employee from one to another of such organization subcomponents as may exist; or to take appropriate disciplinary action;

(5) To see to the administration within the department or agency of such employee performance evaluation systems as may be prescribed by the director;

(6) To initiate all merit increases for employees of the department or agency;

(7) To see to the development of and maintenance of such records of the personnel of the department or agency as may be required by the operating needs of the department or agency or the director; and to provide such information concerning employees of the department or agency as may be required by the director; and

(8) To designate one or more representatives to work with the State Personnel Office in the development of the state personnel service.

Sec. 13. That section 81-1316, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

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

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

(b) All personnel of the office of the Lieutenant Governor;

(c) All personnel of the office of the Secretary of State;

(d) All personnel of the office of the State Treasurer;

(e) All personnel of the office of the Attorney General;

(f) All personnel of the office of the Auditor of Public Accounts;

(g) All personnel of the Legislature;

(h) All personnel of the court systems;

(i) All personnel of the Board of Educational Lands and Funds;

(j) All personnel of the Public Service Commission;

(k) All personnel of the Nebraska Brand Committee;

(l) All personnel of the Commission of Industrial Relations;

(m) All personnel of the State Department of Education;

(n) All personnel of the Nebraska State Colleges and the Board of Trustees of the Nebraska State Colleges;

(o) All personnel of the University of Nebraska; and

(p) All agency heads.

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

<u>Number of Agency Employees</u>	<u>Number of Noncovered Positions</u>
<u>less than 25</u>	<u>0</u>
<u>25 to 100</u>	<u>1</u>
<u>101 to 250</u>	<u>2</u>
<u>251 to 500</u>	<u>3</u>
<u>501 to 1000</u>	<u>4</u>
<u>over 1000</u>	<u>5</u>

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

In no case shall a current state employee's career protections or coverage by personnel rules and regulations be revoked without the prior written agreement of such employee. The following are exempted from the provisions of sections 81-1301 to 81-1319: (1) All personnel of the offices of the Governor, Lieutenant Governor, Secretary of State, Auditor of Public Accounts, State Treasurer, and Attorney General; (2) all personnel of all courts and of the Public Service Commission; (3) academic, administrative, professional, and managerial personnel and student employees of the University of Nebraska and the state colleges; (4) all personnel of the legislative branch of government; PROVIDED, that the Executive Board of the Legislative

Council may by rule adopt such provisions of sections 81-1301 to 81-1319 as it deems advisable and may employ the services of the State Personnel Office; and (5) all personnel of the Nebraska Brand Committee.

Sec. 14. That section 81-1318, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1318. There is hereby created a State Personnel Board composed of five persons appointed by the Governor subject to confirmation by the Legislature. Not more than three of the members shall be members of the same political party. Each board member serving on the effective date of this act shall retain his or her position until resignation or until a successor is appointed at the expiration of the member's appointive term. Any member of the board may be removed by the Governor, upon notice and hearing as determined by the Governor, for neglect of duty or malfeasance in office, but for no other cause. New members shall be appointed for terms of five years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the member succeeded. State employees covered by sections 81-1301 to 81-1319 shall not be appointed to the State Personnel Board. At least three appointees to the board shall have experience in personnel administration, business or public administration, labor relations, or law. The board, by majority vote, shall designate one member to serve as chairperson. The principal office and business address of the board shall be the Department of Personnel in Lincoln, Nebraska, but the board may meet and exercise any or all of its powers at any other location.

The board may delegate to a group of three or more members any or all of the powers which it may exercise. The board shall be authorized to designate and delegate its powers under section 15 of this act to hearing officers to conduct grievance appeal hearings and recommend a decision to the board for final action. A vacancy in the board shall not impair the right of the remaining members to exercise all the powers of the board, and three members of the board shall at all times constitute a quorum of the board. There is hereby created a State Personnel Board, which shall be composed of five members, not more than three of whom shall be members of the same political party, who shall be appointed by the Governor subject to confirmation by the Legislature. One of the original members shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of

four years, and one for a term of five years, as designated by the Governor in his or her original appointment, beginning from August 4, 1969. Their successors shall be appointed for terms of five years each, except that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he or she shall succeed.

Employees of the State of Nebraska, except faculty members of the University of Nebraska and the state colleges, shall not be appointed as members of the State Personnel Board. No less than three of the members of the State Personnel Board shall be people who have had considerable experience in personnel work or labor relations work.

The duties of the State Personnel Board shall consist of the following:

- (1) To hear appeals and grievances of all employees not elected or not appointed by the Governor;
- (2) To review and counsel the statewide personnel operation;
- (3) To approve administrative rules set by the Personnel Director; and
- (4) To act in the capacity of Joint Merit System Council as provided by sections 81-8;106 and 81-8;107.

Sec. 15. The State Personnel Board shall ensure the fair and equitable administration of the State Personnel System by:

- (1) Operating as prescribed by rules and regulations adopted and promulgated by the Department of Personnel;
- (2) Reviewing and approving, by majority vote, rules and regulations adopted and promulgated by the Department of Personnel;
- (3) Determining the grievability of issues or doing so through the designation of a board member. Issues determined to be not grievable shall be subject to summary dismissal;
- (4) Adjudicating grievance appeals and rendering final binding decisions;
- (5) Rendering decisions consistent with the rules and regulations adopted and promulgated by the Department of Personnel; and
- (6) Reviewing and providing counsel regarding any matter affecting the State Personnel System.

Sec. 16. Any employee appealing a ruling made pursuant to Chapter 81, article 13, shall file a grievance appeal with the State Personnel Board. The chairperson of the board may assign the appeal to a

hearing officer who shall be chosen from a list of hearing officers established and maintained by the board. The board shall establish the qualifications necessary to be a hearing officer. Such qualifications shall be consistent with experience in personnel administration, labor relations, or administrative law proceedings. Persons eligible to be hearing officers shall include (1) employees of the Department of Personnel, (2) employees included within the State Personnel System who the board determines are qualified, and (3) other qualified persons, except that no person who has negotiated or assisted in the negotiation of the contract at issue shall be eligible to be a hearing officer.

After the chairperson of the State Personnel Board assigns the grievance appeal to a hearing officer, the appellant may disapprove such assignment and request that another person be assigned as his or her hearing officer. The second assignment shall be final.

Sec. 17. That section 81-1355, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1355. It is declared to be in the best interest of the State of Nebraska to insure that historic and any present patterns of sex and racial discrimination are eliminated and that each agency pursue a course of action the public policy of Nebraska that each division of state government shall take positive action in all areas of its operation to insure that all citizens are given provided with fair and equal opportunities for employment and advancement regardless of race, color, religion, national origin, age, sex, marital status, or physical or mental disability.

Affirmative actions action shall be taken to insure the implementation of a this policy in state government employment. This policy and the obligation to provide which provides equal employment opportunity. Such policy shall apply to: include, but are not limited to:

- (1) Hiring, placement, upgrading, transfer, or demotion of employees;
- (2) Recruitment, advertising, or solicitation for employment;
- (3) Treatment during employment;
- (4) Rates of pay or other forms of compensation;
- (5) Selection for training;
- (6) Layoff, termination, or reinstatement; and
- (7) Any other terms or conditions condition of

employment.

Sec. 18. That section 81-1356, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

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

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

(2) Affirmative action shall mean a deliberate and sustained effort to identify and eliminate barriers to employment and advancement which may discriminate against various groups. Particular emphasis shall be focused on racial minorities, ~~and~~ women, ~~and~~ the disabled but not to the exclusion of the criteria set forth in ~~subsections~~ subdivision (1) of this section. The ultimate goal is to achieve, at all levels, a state government work force which is representative of the state working population. The composition of the state working population shall be determined annually through reports of the Department of Labor. Such a goal is to be an integral part of every aspect of personnel policy;

(3) Office shall mean the Affirmative Action Office;

(4) Program shall mean the Affirmative Action Program;

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

(6) Plan shall mean the Affirmative Action Plan prepared by the individual agencies; and

(7) ~~Officer Administrator~~ shall mean the Affirmative Action ~~Officer Administrator~~.

Sec. 19. That section 81-1359, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1359. The Affirmative Action ~~Officer Administrator~~ shall be selected by the Director of Personnel.

Sec. 20. That section 81-1360, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1360. The ~~officer administrator~~ shall be the head of the office. The ~~officer administrator~~ shall be given all necessary top management support to insure that there is compliance with Nebraska's program and shall be provided with sufficient staff and budget

support to carry out the duties of the office. The ~~officer~~ administrator shall:

(1) Have the authority and responsibility for coordinating, directing, and implementing the program;

(2) Promulgate rules and regulations for the development of the Affirmative Action Plan Adopt and promulgate rules and regulations for the implementation of the agencies' plans;

(3) Provide counseling and technical assistance to the agencies in the development of their plans;

(4) Review agency plans and direct modification to insure the effectiveness of the plans and their compliance with the program;

(5) Monitor the progress of agency plans by establishing reporting forms as required by the program;

(6) Review the quarterly reports of the agencies;

(7) Monitor the progress of the program and report quarterly to the Governor;

(8) Make formal recommendations for legislation, when necessary, in order to make changes in the affirmative action system program;

(9) Serve as liaison between the state and federal compliance agencies;

(10) Plan, coordinate, and conduct training in equal employment opportunity, racial awareness, and concerns of women, the disabled, and aging for all segments of the state government work force;

(11) Coordinate the activities of the agency affirmative action individual in each agency; ~~and~~

(12) Investigate any complaints involving unfair treatment, terms and conditions of employment, or perceived acts or policies involving discrimination;

(13) Conduct contract compliance reviews on all vendors, grantees, and contractors who have programs or projects which are funded in whole or in part by state funds;

(14) Coordinate the Disadvantage Business Enterprise and Women Business Enterprise programs which are funded in whole or in part by state or federal funds; and

(15) {12} Submit an annual report to the Governor and Legislature.

Sec. 21. That section 81-1361, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1361. ~~Commencing July 1, 1980, each~~ Each agency shall submit a plan for that agency to the office

and the Affirmative Action Committee for review and shall work with the ~~officer~~ administrator to insure effectiveness of the plan. Each agency shall annually update its plan based on guidelines developed by the administrator.

Sec. 22. That section 81-1367, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1367. Each agency shall cooperate with the Affirmative Action Officer administrator in the performance of his or her duties. The efforts, activities, and results of all directors, managers, and supervisors ~~will~~ shall be used in the evaluation of work performance ~~their~~ their work-performance evaluations. Directors, managers, and supervisors shall be obligated to prevent harassment of employees involved in the implementation of affirmative action plans and those hired through affirmative action efforts.

Sec. 23. That section 81-1368, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1368. Each agency plan shall be reviewed by the office and approved or disapproved after submission. In every case ~~where~~ when noncompliance is indicated, efforts shall be made to secure compliance through a corrective action plan. A specific commitment ~~will~~ shall be put forth in writing. The commitment ~~will~~ shall indicate the precise action to be taken and dates for completion. The time period allowed ~~should~~ shall be no longer than the minimum period necessary to effect such thirty calendar days to effect the desired change. If an agency's plan does not comply with the rules and regulations adopted and promulgated by the office, or if the agency's goals and timetables are not being met, the office shall meet with the director of the agency to discuss the deficiencies. If an agreement cannot be reached in the informal meeting, the agency's noncompliance shall be reviewed by the Affirmative Action Committee. Agency directors shall take responsibility for all noncompliance within their particular agency. In all cases when such corrective action plan does not resolve the noncompliance, the Affirmative Action Committee shall report such noncompliance to the Governor. Such report shall be in writing and shall be made available to the news media at the same time that it is submitted to the Governor. The Governor shall take appropriate action to resolve the noncompliance elements and issues which were cited by the office and the Affirmative Action Committee.

Sec. 24. That original sections 44-1620.01, 44-1621, 44-1622, 44-1623, 44-1626, 44-1629, 81-1307, 81-1311, 81-1316, 81-1318, 81-1355, 81-1356, 81-1359, 81-1360, 81-1361, 81-1367, and 81-1368, Reissue Revised Statutes of Nebraska, 1943, and sections 44-1620, 44-1627, and 81-1302, Revised Statutes Supplement, 1986, and also sections 44-1633 to 44-1638, Reissue Revised Statutes of Nebraska, 1943, are repealed.