

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 120

Introduced by Avery, 28; Brasch, 16; Karpisek, 32; Price, 3;
Sullivan, 41.

Read first time January 06, 2011

Committee: Appropriations

A BILL

1 FOR AN ACT relating to the Risk Management Program; to amend sections
2 48-1,103, 81-8,239.01, and 81-8,239.02, Reissue Revised
3 Statutes of Nebraska; to provide for the costs of
4 administering the program to be paid out of the Workers'
5 Compensation Claims Revolving Fund and the State
6 Insurance Fund; to eliminate the appropriation of General
7 Fund money for the program; to repeal the original
8 sections; and to declare an emergency.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 48-1,103, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 48-1,103 There is hereby established in the state
4 treasury a Workers' Compensation Claims Revolving Fund, to be
5 administered by the Risk Manager, from which all workers'
6 compensation costs, including prevention and administration, shall be
7 paid. The fund may also be used to pay the costs of administering the
8 Risk Management Program. The fund shall receive deposits from
9 assessments against state agencies charged by the Risk Manager to pay
10 for workers' compensation costs. When the amount of money in the
11 Workers' Compensation Claims Revolving Fund is not sufficient to pay
12 any awards or judgments under sections 48-192 to 48-1,109, the Risk
13 Manager shall immediately advise the Legislature and request an
14 emergency appropriation to satisfy such awards and judgments. Any
15 money in the Workers' Compensation Claims Revolving Fund available
16 for investment shall be invested by the state investment officer
17 pursuant to the Nebraska Capital Expansion Act and the Nebraska State
18 Funds Investment Act.

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

21 81-8,239.01 (1) For purposes of sections 81-8,239.01 to
22 81-8,239.08 and 81-8,239.11, unless the context otherwise requires,
23 the definition of state agencies found in section 81-8,210 shall
24 apply, except that such term shall not include the Board of Regents
25 of the University of Nebraska.

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

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

19 (a) Employ any personnel necessary to administer the Risk
20 Management Program;

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

23 (c) Develop and recommend risk reduction or elimination
24 programs for the state and its agencies and establish, implement, and
25 monitor a statewide safety program;

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

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

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

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

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

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

1 (j) Recommend to the Legislature such legislation as may
2 be necessary to carry out the purposes of the Risk Management Program
3 and make appropriation requests for the administration of the program
4 and the funding of the separate funds administered by the Risk
5 Manager. On and after the effective date of this act, no General Fund
6 money shall be appropriated to the Risk Management Program.

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

11 Sec. 3. Section 81-8,239.02, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 81-8,239.02 The following separate permanent revolving
14 funds are established in the state treasury for use under the Risk
15 Management Program according to the purposes for which each fund is
16 established:

17 (1) The State Insurance Fund is hereby created for the
18 purpose of purchasing insurance to cover property, fidelity, and
19 liability risks of the state and workers' compensation claims against
20 the state and other risks to which the state or its agencies,
21 officials, or employees are exposed and for paying related expenses,
22 including the costs of administering the Risk Management Program. The
23 fund may receive deposits from assessments against state agencies to
24 provide insurance coverage as directed by the Risk Manager. The Risk
25 Manager may retain in the fund sufficient money to pay for any

1 deductibles, self-insured retentions, or copayments as may be
2 required by such insurance policies and Risk Management Program
3 expenses;

4 (2) The State Self-Insured Property Fund is hereby
5 created for the purpose of replacing, repairing, or rebuilding state
6 property which has incurred damage or is suffering other loss not
7 fully covered by insurance and for paying related expenses. The fund
8 may receive deposits from assessments against state agencies to
9 provide property coverage as directed by the Risk Manager. The Risk
10 Manager may assess state agencies to provide self-insured property
11 coverage;

12 (3) The State Self-Insured Indemnification Fund is hereby
13 created for the purpose of paying indemnification claims under
14 section 81-8,239.05. Indemnification claims shall include payments
15 for awards, settlements, and associated costs, including appeal bonds
16 and reasonable costs associated with a required appearance before any
17 tribunal. The fund may receive deposits from assessments against
18 state agencies to pay for the costs associated with providing and
19 supporting indemnification claims. The creation of this fund shall
20 not be interpreted as expanding the liability exposure of the state
21 or its agencies, officials, or employees; and

22 (4) The State Self-Insured Liability Fund is hereby
23 created for the purpose of paying compensable liability and fidelity
24 claims against the state or its agencies, officials, or employees
25 which are not fully covered by insurance and for which there is

1 insufficient agency funding and for which a legislative appropriation
2 is made under the provisions of section 81-8,239.11. The creation of
3 this fund shall not be interpreted as expanding the liability
4 exposure of the state or its agencies, officials, or employees. The
5 Risk Manager shall report all claims and judgments paid from the
6 State Self-Insured Liability Fund to the Clerk of the Legislature
7 annually. The report shall include the name of the claimant, the
8 amount claimed and paid, and a brief description of the claim,
9 including any agency, program, and activity under which the claim
10 arose. Any member of the Legislature may receive a copy of the report
11 by making a request to the Risk Manager.

12 Sec. 4. Original sections 48-1,103, 81-8,239.01, and
13 81-8,239.02, Reissue Revised Statutes of Nebraska, are repealed.

14 Sec. 5. Since an emergency exists, this act takes effect
15 when passed and approved according to law.