

AMENDMENTS TO LB 390

Introduced by Judiciary

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

3 Section 1. Section 29-2252, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 29-2252 The administrator shall:

6 (1) Supervise and administer the office;

7 (2) Establish and maintain policies, standards, and
8 procedures for the system, with the concurrence of the Supreme
9 Court;

10 (3) Prescribe and furnish such forms for records and
11 reports for the system as shall be deemed necessary for uniformity,
12 efficiency, and statistical accuracy;

13 (4) Establish minimum qualifications for employment as
14 a probation officer in this state and establish and maintain
15 such additional qualifications as he or she deems appropriate for
16 appointment to the system. Qualifications for probation officers
17 shall be established in accordance with subsection (4) of section
18 29-2253. An ex-offender released from a penal complex or a county
19 jail may be appointed to a position of deputy probation or parole
20 officer. Such ex-offender shall maintain a record free of arrests,
21 except for minor traffic violations, for one year immediately
22 preceding his or her appointment;

23 (5) Establish and maintain advanced periodic inservice

1 training requirements for the system;

2 (6) Cooperate with all agencies, public or private, which
3 are concerned with treatment or welfare of persons on probation;

4 (7) Organize and conduct training programs for probation
5 officers;

6 (8) Collect, develop, and maintain statistical
7 information concerning probationers, probation practices, and the
8 operation of the system;

9 (9) Interpret the probation program to the public with a
10 view toward developing a broad base of public support;

11 (10) Conduct research for the purpose of evaluating and
12 improving the effectiveness of the system;

13 (11) Adopt and promulgate such rules and regulations as
14 may be necessary or proper for the operation of the office or
15 system;

16 (12) Transmit a report during each even-numbered year
17 to the Supreme Court on the operation of the office for the
18 preceding two calendar years which shall include a historical
19 analysis of probation officer workload, including participation
20 in non-probation-based programs and services. The report shall be
21 transmitted by the Supreme Court to the Governor and the Clerk of
22 the Legislature;

23 (13) Administer the payment by the state of all salaries,
24 travel, and actual and necessary expenses incident to the conduct
25 and maintenance of the office;

26 (14) ~~In consultation with the Community Corrections~~
27 ~~Council, use~~ Use the funds provided under section 29-2262.07

1 to augment operational or personnel costs associated with
2 the development, implementation, and evaluation of enhanced
3 probation-based programs and non-probation-based programs
4 and services in which probation personnel or probation
5 resources are utilized pursuant to an interlocal agreement
6 authorized by subdivision (16) of this section and to purchase
7 services to provide such programs aimed at enhancing adult
8 probationer or non-probation-based program participant supervision
9 in the community and treatment needs of probationers and
10 non-probation-based program participants. Enhanced probation-based
11 programs include, but are not limited to, specialized units of
12 supervision, related equipment purchases and training, and programs
13 developed by or through the council that address a probationer's
14 vocational, educational, mental health, behavioral, or substance
15 abuse treatment needs;

16 (15) Ensure that any risk or needs assessment instrument
17 utilized by the system be periodically validated;

18 (16) Have the authority to enter into interlocal
19 agreements in which probation resources or probation personnel may
20 be utilized in conjunction with or as part of non-probation-based
21 programs and services. Any such interlocal agreement shall comply
22 with section 29-2255; and

23 (17) Collaborate with the Community Corrections Division
24 and the Office of Parole Administration to develop rules governing
25 the participation of parolees in community corrections programs
26 operated by the Office of Probation Administration; and

27 ~~(17)~~ (18) Exercise all powers and perform all duties

1 necessary and proper to carry out his or her responsibilities.

2 Each member of the Legislature shall receive a copy of
3 the report required by subdivision (12) of this section by making a
4 request for it to the administrator.

5 Sec. 2. Section 29-2255, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 29-2255 Any interlocal agreement authorized by
8 subdivision (16) of section 29-2252 shall require the political
9 subdivision party to the agreement to provide sufficient resources
10 to cover all costs associated with the participation of probation
11 personnel or use of probation resources other than costs covered by
12 funds provided pursuant to section 29-2262.07 or substance abuse
13 treatment costs covered by funds appropriated to the Community
14 Corrections Council for such purpose.

15 Sec. 3. Section 29-2261, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 29-2261 (1) Unless it is impractical to do so, when an
18 offender has been convicted of a felony other than murder in the
19 first degree, the court shall not impose sentence without first
20 ordering a presentence investigation of the offender and according
21 due consideration to a written report of such investigation. When
22 an offender has been convicted of murder in the first degree and
23 (a) a jury renders a verdict finding the existence of one or more
24 aggravating circumstances as provided in section 29-2520 or (b) (i)
25 the information contains a notice of aggravation as provided in
26 section 29-1603 and (ii) the offender waives his or her right to
27 a jury determination of the alleged aggravating circumstances, the

1 court shall not commence the sentencing determination proceeding as
2 provided in section 29-2521 without first ordering a presentence
3 investigation of the offender and according due consideration to a
4 written report of such investigation.

5 (2) A court may order a presentence investigation in any
6 case, except in cases in which an offender has been convicted
7 of a Class IIIA misdemeanor, a Class IV misdemeanor, a Class V
8 misdemeanor, a traffic infraction, or any corresponding city or
9 village ordinance.

10 (3) The presentence investigation and report shall
11 include, when available, an analysis of the circumstances attending
12 the commission of the crime, the offender's history of delinquency
13 or criminality, physical and mental condition, family situation and
14 background, economic status, education, occupation, and personal
15 habits, and any other matters that the probation officer deems
16 relevant or the court directs to be included. All local and state
17 police agencies and Department of Correctional Services adult
18 correctional facilities shall furnish to the probation officer
19 copies of such criminal records, in any such case referred to
20 the probation officer by the court of proper jurisdiction, as the
21 probation officer shall require without cost to the court or the
22 probation officer.

23 Such investigation shall also include:

24 (a) Any written statements submitted to the county
25 attorney by a victim; and

26 (b) Any written statements submitted to the probation
27 officer by a victim.

1 (4) If there are no written statements submitted to the
2 probation officer, he or she shall certify to the court that:

3 (a) He or she has attempted to contact the victim; and

4 (b) If he or she has contacted the victim, such officer
5 offered to accept the written statements of the victim or to reduce
6 such victim's oral statements to writing.

7 For purposes of subsections (3) and (4) of this section,
8 the term victim shall be as defined in section 29-119.

9 (5) Before imposing sentence, the court may order the
10 offender to submit to psychiatric observation and examination for
11 a period of not exceeding sixty days or such longer period as the
12 court determines to be necessary for that purpose. The offender
13 may be remanded for this purpose to any available clinic or mental
14 hospital, or the court may appoint a qualified psychiatrist to make
15 the examination. The report of the examination shall be submitted
16 to the court.

17 (6) Any presentence report or psychiatric examination
18 shall be privileged and shall not be disclosed directly or
19 indirectly to anyone other than a judge, probation officers to whom
20 an offender's file is duly transferred, the probation administrator
21 or his or her designee, or others entitled by law to receive such
22 information, including personnel and mental health professionals
23 for the Nebraska State Patrol specifically assigned to sex offender
24 registration and community notification for the sole purpose of
25 using such report or examination for assessing risk and for
26 community notification of registered sex offenders. For purposes of
27 this subsection, mental health professional means (a) a practicing

1 physician licensed to practice medicine in this state under the
2 Medicine and Surgery Practice Act, (b) a practicing psychologist
3 licensed to engage in the practice of psychology in this state
4 as provided in section 38-3111, or (c) a practicing mental health
5 professional licensed or certified in this state as provided in
6 the Mental Health Practice Act. The court may permit inspection of
7 the report or examination of parts thereof by the offender or his
8 or her attorney, or other person having a proper interest therein,
9 whenever the court finds it is in the best interest of a particular
10 offender. The court may allow fair opportunity for an offender to
11 provide additional information for the court's consideration.

12 (7) If an offender is sentenced to imprisonment, a copy
13 of the report of any presentence investigation or psychiatric
14 examination shall be transmitted immediately to the Department of
15 Correctional Services. Upon request, the Board of Parole or the
16 Office of Parole Administration may receive a copy of the report
17 from the department.

18 ~~(8) Notwithstanding subsection (6) of this section, the~~
19 ~~Nebraska Commission on Law Enforcement and Criminal Justice under~~
20 ~~the direction and supervision of the Chief Justice of the Supreme~~
21 ~~Court shall have access to presentence investigations and reports~~
22 ~~for the sole purpose of carrying out the study required under~~
23 ~~subdivision (7) of section 81-1425. The commission shall treat such~~
24 ~~information as confidential, and nothing identifying any individual~~
25 ~~shall be released by the commission.~~

26 ~~(9) (8) Notwithstanding subsection (6) of this section,~~
27 the Supreme Court or an agent of the Supreme Court acting under the

1 direction and supervision of the Chief Justice shall have access to
2 psychiatric examinations and presentence investigations and reports
3 for research purposes. The Supreme Court and its agent shall
4 treat such information as confidential and nothing identifying any
5 individual shall be released.

6 Sec. 4. Section 29-2262.07, Revised Statutes Cumulative
7 Supplement, 2010, is amended to read:

8 29-2262.07 The Probation Program Cash Fund is created.
9 All funds collected pursuant to section 29-2262.06 shall be
10 remitted to the State Treasurer for credit to the fund. Except
11 as otherwise directed by the Supreme Court during the period
12 from November 21, 2009, until June 30, 2011, the fund shall be
13 utilized by the administrator, ~~in consultation with the Community~~
14 ~~Corrections Council,~~ for the purposes stated in ~~subdivision (14)~~
15 subdivisions (14) and (15) of section 29-2252, except that the
16 State Treasurer shall, on or before June 30, 2011, on such date
17 as directed by the budget administrator of the budget division
18 of the Department of Administrative Services, transfer the amount
19 set forth in Laws 2009, LB1, One Hundred First Legislature, First
20 Special Session. Any money in the fund available for investment
21 shall be invested by the state investment officer pursuant to
22 the Nebraska Capital Expansion Act and the Nebraska State Funds
23 Investment Act.

24 On July 15, 2010, the State Treasurer shall transfer
25 three hundred fifty thousand dollars from the Probation Program
26 Cash Fund to the Violence Prevention Cash Fund. The Office
27 of Violence Prevention shall distribute such funds as soon as

1 practicable after July 15, 2010, to organizations or governmental
2 entities that have submitted violence prevention plans and that
3 best meet the intent of reducing street and gang violence and
4 reducing homicides and injuries caused by firearms.

5 Sec. 5. Section 29-2521.02, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 29-2521.02 ~~(1)~~ The Supreme Court shall within a
8 reasonable time after July 22, 1978, review and analyze all cases
9 involving criminal homicide committed on or after April 20, 1973.
10 Such review and analysis shall examine ~~(a)~~ (1) the facts including
11 mitigating and aggravating circumstances, ~~(b)~~ (2) the charges
12 filed, ~~(c)~~ (3) the crime for which defendant was convicted, and
13 ~~(d)~~ (4) the sentence imposed. Such review shall be updated as new
14 criminal homicide cases occur.

15 ~~(2) Following the transmittal of a report of the Nebraska~~
16 ~~Commission on Law Enforcement and Criminal Justice pursuant to~~
17 ~~subdivision (7) of section 81-1425 and subsequent reports updating~~
18 ~~such report, the Supreme Court may take judicial notice of such~~
19 ~~reports in undertaking the determinations required by sections~~
20 ~~29-2521.01 to 29-2521.04.~~

21 Sec. 6. Section 47-621, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 47-621 For purposes of the Community Corrections Act:

24 (1) Community correctional facility or program means a
25 community-based or community-oriented facility or program which
26 (a) is operated either by the state or by a contractor which
27 may be a unit of local government or a nongovernmental agency,

1 (b) may be designed to provide residential accommodations for
2 adult offenders, (c) provides programs and services to aid adult
3 offenders in obtaining and holding regular employment, enrolling
4 in and maintaining participation in academic courses, participating
5 in vocational training programs, utilizing the resources of the
6 community to meet their personal and family needs, obtaining
7 mental health, alcohol, and drug treatment, and participating in
8 specialized programs that exist within the community, and (d)
9 offers community supervision options, including, but not limited
10 to, drug treatment, mental health programs, and day reporting
11 centers; and

12 ~~(2) Council means the Community Corrections Council;~~

13 ~~(3) (2) Director means the executive director of~~
14 ~~the Community Corrections Council;~~ Nebraska Commission on Law
15 Enforcement and Criminal Justice;

16 (3) Division means the Community Corrections Division;

17 (4) Nongovernmental agency means any person, private
18 nonprofit agency, corporation, association, labor organization, or
19 entity other than the state or a political subdivision of the
20 state; and

21 (5) Unit of local government means a county, city,
22 village, or entity established pursuant to the Interlocal
23 Cooperation Act or the Joint Public Agency Act.

24 Sec. 7. Section 47-622, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 47-622 The Legislature declares that the policy of the
27 State of Nebraska is that there shall be a coordinated effort to

1 (1) establish community correctional programs across the state in
2 order to divert adult felony offenders from the prison system
3 and (2) provide necessary supervision and services to adult
4 felony offenders with the goal of reducing the probability of
5 criminal behavior while maintaining public safety. To further such
6 policy, the Community Corrections ~~Council~~ Division is created. ~~For~~
7 ~~administrative support and budgetary purposes only,~~ the council
8 ~~shall be~~ within the Nebraska Commission on Law Enforcement and
9 Criminal Justice. The director shall appoint and remove employees
10 of the division and delegate appropriate powers and duties to such
11 employees.

12 Sec. 8. Section 47-624, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 47-624 The ~~council~~ division shall:

15 (1) Develop standards for eligible community correctional
16 facilities and programs in which offenders can participate, taking
17 into consideration the following factors:

- 18 (a) Qualifications of staff;
- 19 (b) Suitability of programs;
- 20 (c) Offender needs;
- 21 (d) Probation population;
- 22 (e) Parole population; and
- 23 (f) Other applicable criminal justice data;

24 (2) Develop and implement a plan to establish statewide
25 operation and use of a continuum of community correctional
26 facilities and programs;

27 (3) Develop, in consultation with the probation

1 administrator and the Parole Administrator, standards for the use
2 of community correctional facilities and programs by the Nebraska
3 Probation System and the parole system;

4 (4) Collaborate with the Office of Probation
5 Administration, the Office of Parole Administration, and the
6 Department of Correctional Services on the development of
7 additional reporting centers as set forth in section 47-624.01;

8 (5) Analyze and mandate the consistent use of offender
9 risk assessment tools;

10 (6) Educate the courts, the Board of Parole, criminal
11 justice system stakeholders, and the general public about the
12 availability and use of community correctional facilities and
13 programs;

14 (7) Enter into contracts, if necessary, for carrying out
15 the purposes of the Community Corrections Act;

16 (8) In order to ensure adequate funding for substance
17 abuse treatment programs for probationers, consult with the
18 probation administrator as provided in section 29-2262.07 and
19 develop or assist with the development of programs as provided in
20 subdivision (14) of section 29-2252;

21 (9) In order to ensure adequate funding for substance
22 abuse treatment programs for parolees, consult with the Office
23 of Parole Administration as provided in section 83-1,107.02 and
24 develop or assist with the development of programs as provided in
25 subdivision (8) of section 83-1,102;

26 ~~(10) If necessary to perform the duties of the~~
27 ~~council, hire, contract for, or otherwise obtain the services of~~

1 ~~consultants, researchers, aides, and other necessary support staff;~~

2 ~~(11)~~ (10) Study substance abuse and mental health
3 treatment services in and related to the criminal justice
4 system, recommend improvements, and evaluate the implementation of
5 improvements;

6 ~~(12)~~ (11) Research and evaluate existing community
7 corrections facilities and programs, within the limits of available
8 funding;

9 ~~(13)~~ (12) Develop standardized definitions of outcome
10 measures for community corrections facilities and programs,
11 including, but not limited to, recidivism, employment, and
12 substance abuse;

13 ~~(14)~~ (13) Report annually to the Legislature and
14 the Governor on the development and performance of community
15 corrections facilities and programs. The report shall include the
16 following:

17 (a) A description of community corrections facilities
18 and programs, endorsed by the ~~council,~~ division, currently serving
19 offenders in Nebraska, which includes the following information:

20 (i) The target population and geographic area served by
21 each facility or program, eligibility requirements, and the total
22 number of offenders utilizing the facility or program over the past
23 year;

24 (ii) Services provided to offenders at the facility or in
25 the program;

26 (iii) The costs of operating the facility or program and
27 the cost per offender; and

1 (iv) The funding sources for the facility or program;

2 (b) The progress made in expanding community corrections
3 facilities and programs statewide and an analysis of the need for
4 additional community corrections services;

5 (c) An analysis of the impact community corrections
6 facilities and programs have on the number of offenders
7 incarcerated within the Department of Correctional Services; and

8 (d) The recidivism rates and outcome data for
9 probationers, parolees, and problem-solving-court clients
10 participating in community corrections programs;

11 ~~(15)~~ (14) Grant funds to entities including local
12 governmental agencies, nonprofit organizations, and behavioral
13 health services which will support the intent of the act; and

14 (15) Administer contracts entered into by the division
15 with community correctional facilities or programs;

16 (16) Establish and administer grants, projects, and
17 programs for the operation of the division; and

18 ~~(16)~~ (17) Perform such other duties as may be necessary
19 to carry out the policy of the state established in the act.

20 Sec. 9. Section 47-624.01, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 47-624.01 (1)~~(a)~~ The ~~council~~ division shall collaborate
23 with the Office of Probation Administration, the Office of Parole
24 Administration, and the Department of Correctional Services in
25 developing a plan for the implementation and funding of reporting
26 centers in Nebraska.

27 ~~(b)~~ (2) The plan shall include recommended locations for

1 at least one reporting center in each district court judicial
2 district that currently lacks such a center and shall prioritize
3 the recommendations for additional reporting centers based upon
4 need.

5 ~~(e)~~ (3) The plan shall also identify and prioritize the
6 need for expansion of reporting centers in those district court
7 judicial districts which currently have a reporting center but
8 have an unmet need for additional reporting center services due to
9 capacity, distance, or demographic factors.

10 ~~(2)~~ The council shall submit the reporting center
11 expansion plan to the chairperson of the Sentencing and Recidivism
12 Task Force, as created in Legislative Resolution 171, One Hundred
13 First Legislature, First Session, 2009, by December 1, 2010. The
14 plan shall be implemented as state funding allows until each
15 district court judicial district has at least one reporting center.

16 Sec. 10. Section 47-627, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 47-627 The executive director of the Nebraska Commission
19 on Law Enforcement and Criminal Justice director shall develop
20 and maintain a uniform crime data analysis system in Nebraska
21 which shall include, but need not be limited to, the number
22 of offenses, arrests, charges, probation admissions, probation
23 violations, probation discharges, admissions to and discharges
24 from the Department of Correctional Services, parole reviews,
25 parole hearings, releases on parole, parole violations, and parole
26 discharges. The data shall be categorized by statutory crime. The
27 data shall be collected from the Board of Parole, the State Court

1 Administrator, the Department of Correctional Services, the Office
2 of Parole Administration, the Office of Probation Administration,
3 the Nebraska State Patrol, counties, local law enforcement, and
4 any other entity associated with criminal justice. The ~~council~~, the
5 ~~director~~, division and the Supreme Court shall have access to such
6 data to implement the Community Corrections Act, and to develop
7 guidelines pursuant to section 47-630.

8 Sec. 11. Section 47-628, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 47-628 (1) A sentencing judge may sentence an offender
11 to probation conditioned upon community correctional programming.
12 ~~pursuant to section 47-630 and the guidelines developed by the~~
13 ~~Supreme Court.~~

14 (2) A sentence to a community correctional program or
15 facility shall be imposed as a condition of probation pursuant to
16 the Nebraska Probation Administration Act. The court may modify
17 the sentence of an offender serving a sentence in a community
18 correctional program in the same manner as if the offender had been
19 placed on probation.

20 (3) The Office of Probation Administration shall utilize
21 community correctional facilities and programs as appropriate.

22 Sec. 12. Section 47-629, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 47-629 (1) The Board of Parole may parole an offender to
25 a community correctional facility or program pursuant to guidelines
26 developed by the ~~council~~. division.

27 (2) The Department of Correctional Services and

1 the Office of Parole Administration shall utilize community
2 correctional facilities and programs as appropriate.

3 Sec. 13. Section 47-632, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 47-632 (1) The Community Corrections Uniform Data
6 Analysis Cash Fund is created. Except as provided in subsection (2)
7 of this section, the fund shall be ~~established for administrative~~
8 ~~purposes only~~ within the Nebraska Commission on Law Enforcement
9 and Criminal Justice, shall be administered by the ~~executive~~
10 ~~director of the Community Corrections Council,~~ division, and shall
11 only be used to support operations costs and analysis relating
12 to the implementation and coordination of the uniform analysis of
13 crime data pursuant to the Community Corrections Act, including
14 associated information technology projects. ~~as specifically~~
15 ~~approved by the executive director of the Community Corrections~~
16 ~~Council.~~ The fund shall consist of money collected pursuant to
17 section 47-633.

18 (2) Transfers may be made from the fund to the General
19 Fund at the direction of the Legislature.

20 (3) Any money in the Community Corrections Uniform Data
21 Analysis Cash Fund available for investment shall be invested
22 by the state investment officer pursuant to the Nebraska Capital
23 Expansion Act and the Nebraska State Funds Investment Act.

24 Sec. 14. Section 47-634, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 47-634 For a local entity to receive funds under the
27 Community Corrections Act, the ~~council~~ division shall ensure

1 there is a local advisory committee made up of a broad base
2 of community members concerned with the justice system. Submission
3 of a detailed plan including a budget, program standards, and
4 policies as developed by the local advisory committee ~~will~~ shall be
5 required as set forth by the ~~council~~ division. Such funds shall be
6 used for the implementation of the recommendations of the ~~council~~,
7 division, the expansion of sentencing options, the education of the
8 public, the provision of supplemental community-based corrections
9 programs, and the promotion of coordination between state and
10 county community-based corrections programs.

11 Sec. 15. Section 81-8,239.01, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 81-8,239.01 (1) For purposes of sections 81-8,239.01 to
14 81-8,239.08 and 81-8,239.11, unless the context otherwise requires,
15 the definition of state agencies found in section 81-8,210 shall
16 apply, except that such term shall not include the Board of Regents
17 of the University of Nebraska.

18 (2) There is hereby established a division within the
19 Department of Administrative Services to be known as the risk
20 management and state claims division. The division shall be headed
21 by the Risk Manager who shall be appointed by the Director of
22 Administrative Services. The division shall be responsible for
23 the Risk Management Program, which program is hereby created. The
24 program shall consist of the systematic identification of exposures
25 to risk of loss as provided in sections 11-201 to 11-203, 13-911,
26 25-2165, 43-1320, 44-1615, 44-1616, 48-194, 48-197, 48-1,103,
27 48-1,104, 48-1,107, 48-1,109, 81-8,212, 81-8,220, 81-8,225,

1 81-8,226, 81-8,233, 81-8,239.01 to 81-8,239.08, 81-8,239.11, ~~and~~
2 81-8,300, and 81-1801.02 and shall include the appropriate methods
3 for dealing with such exposures in relation to the state budget
4 pursuant to such sections. Such program shall be administered by
5 the Risk Manager and shall include the operations of the State
6 Claims Board and other operations provided in such sections.

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

9 (a) Employ any personnel necessary to administer the Risk
10 Management Program;

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

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

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

18 (e) Establish standards for the purchase of necessary
19 insurance coverage or risk management services at the lowest
20 costs, consistent with good underwriting practices and sound risk
21 management techniques;

22 (f) Be the exclusive negotiating and contracting agency
23 to purchase insurance or risk management services and, after
24 consultation with the state agency for which the insurance or
25 services are purchased, enter into such contracts on behalf of
26 the state and its agencies, officials, and employees to the extent
27 deemed necessary and in the best interest of the state, and

1 authorize payment for such purchase out of the appropriate funds
2 created by section 81-8,239.02;

3 (g) Determine whether the state suffered a loss for which
4 self-insured property loss funds have been created and authorize
5 and administer payments for such loss from the State Self-Insured
6 Property Fund for the purpose of replacing or rebuilding state
7 property;

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

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

15 (j) Recommend to the Legislature such legislation as may
16 be necessary to carry out the purposes of the Risk Management
17 Program and make appropriation requests for the administration of
18 the program and the funding of the separate funds administered by
19 the Risk Manager.

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

24 Sec. 16. Section 81-1403, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 81-1403 Subject to review and approval by the commission,
27 the council shall:

1 (1) Adopt and promulgate rules and regulations for law
2 enforcement pre-certification, certification, continuing education,
3 and training requirements. Such rules and regulations may include
4 the authority to impose a fine on any individual, political
5 subdivision, or agency who or which violates such rules and
6 regulations. The fine for each separate violation of any rule or
7 regulation shall not exceed either (a) a one-time maximum fine
8 of five hundred dollars or (b) a maximum fine of one hundred
9 dollars per day until the individual, political subdivision, or
10 agency complies with such rules or regulations. All fines collected
11 pursuant to this subdivision shall be remitted to the State
12 Treasurer for ~~credit to the permanent school fund,~~ distribution
13 in accordance with Article VII, section 5, of the Constitution of
14 Nebraska;

15 (2) Adopt and promulgate rules and regulations for the
16 operation of the training center;

17 (3) Recommend to the executive director of the commission
18 the names of persons to be appointed to the position of director
19 of the training center; ~~delegate appropriate powers and duties to~~
20 ~~and provide direct supervision of the director, and when warranted~~
21 ~~recommend to the commission that the director be removed for cause;~~

22 (4) Establish requirements for satisfactory completion
23 of pre-certification programs, certification programs, and advanced
24 training programs;

25 (5) Issue certificates or diplomas attesting satisfactory
26 completion of pre-certification programs, certification programs,
27 and advanced training programs;

1 (6) Revoke or suspend such certificates or diplomas
2 according to rules and regulations established by the council
3 for reasons which shall include, but not be limited to, (a)
4 incompetence, (b) neglect of duty, (c) physical, mental, or
5 emotional incapacity, and (d) final conviction of or pleading
6 guilty or nolo contendere to a felony. The rules and regulations
7 shall provide for revocation of a certificate holder's certificate
8 without a hearing upon his or her final conviction of or pleading
9 guilty or nolo contendere to a felony. For purposes of this
10 subdivision, felony means a crime punishable by imprisonment for a
11 term of more than one year or a crime committed outside of Nebraska
12 which would be punishable by imprisonment for a term of more than
13 one year if committed in Nebraska. The rules and regulations shall
14 include a procedure for hearing appeals of any person who feels
15 that the revocation or suspension of his or her certificate or
16 diploma was in error;

17 (7) Set the tuition and fees for the training center
18 and all officers of other training academies not employed by
19 that training academy's agency. The tuition and fees set for the
20 training center pursuant to this subdivision shall be adjusted
21 annually pursuant to the training center budget approved by the
22 Legislature. All other tuition and fees shall be set in order to
23 cover the costs of administering sections 81-1401 to 81-1414. All
24 tuition and fees shall be remitted to the State Treasurer for
25 credit to the Nebraska Law Enforcement Training Center Cash Fund;

26 (8) Annually certify any training academies providing
27 a basic course of law enforcement training which complies with

1 the qualifications and standards promulgated by the council and
2 offering training that meets or exceeds training that is offered
3 by the training center. The council shall set the maximum
4 and minimum applicant enrollment figures for training academies
5 training non-agency officers;

6 (9) Extend the programs of the training center throughout
7 the state on a regional basis;

8 (10) Establish the qualifications and standards and
9 provide the training required by section 81-1439; and

10 (11) Do all things necessary to carry out the purpose of
11 the training center, except that functional authority for budget
12 and personnel matters shall remain with the commission.

13 Any administrative fine imposed under this section shall
14 constitute a debt to the State of Nebraska which may be collected
15 by lien foreclosure or sued for and recovered in any proper form
16 of action by the office of the Attorney General in the name
17 of the State of Nebraska in the district court of the county
18 where the final agency action was taken. All fines imposed by the
19 council shall be remitted to the State Treasurer for ~~credit to the~~
20 ~~permanent school fund.~~ distribution in accordance with Article VII,
21 section 5, of the Constitution of Nebraska.

22 Sec. 17. Section 81-1404, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 81-1404 The director of the Nebraska Law Enforcement
25 Training Center shall devote full time to the duties of the office
26 and shall not engage in any other business or profession or hold
27 any other state public office. The director shall be responsible to

1 the executive director of the commission ~~through the council~~ for
2 the operation of the training center and the conducting of training
3 programs. The director of the training center shall:

4 (1) Appoint and remove for cause such employees as may
5 be necessary for the operation of the training center and delegate
6 appropriate powers and duties to them;

7 (2) Conduct research for the purpose of evaluating and
8 improving the effectiveness of law enforcement training programs;

9 (3) Consult with the council on all matters pertaining to
10 training schools and training academies;

11 (4) Supervise the administration of the pre-certification
12 competency test;

13 (5) Ensure that all council rules and regulations
14 with respect to law enforcement pre-certification, certification,
15 continuing education, and training requirements are implemented and
16 followed, and in that capacity, act as the director of standards
17 for the council;

18 (6) Advise the council concerning the operation of the
19 training center, the requirements, as set by the council, for all
20 training schools and training academies, and the formulation of
21 training policies and regulations; and

22 (7) Issue diplomas to students who successfully complete
23 the prescribed basic course of study.

24 Sec. 18. Section 81-1423, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 81-1423 The commission shall have authority to:

27 (1) Adopt and promulgate rules and regulations for its

1 organization and internal management and rules and regulations
2 governing the exercise of its powers and the fulfillment of its
3 purposes under sections 81-1415 to 81-1426;

4 (2) Delegate to one or more of its members such powers
5 and duties as it may deem proper;

6 (3) Coordinate and jointly pursue its activities with the
7 Governor's Policy Research Office;

8 (4) Appoint and abolish such advisory committees as may
9 be necessary for the performance of its functions and delegate
10 appropriate powers and duties to them;

11 (5) Plan improvements in the administration of criminal
12 justice and promote their implementation;

13 (6) Make or encourage studies of any aspect of the
14 administration of criminal justice;

15 (7) Conduct research and stimulate research by public
16 and private agencies which shall be designed to improve the
17 administration of criminal justice;

18 (8) Coordinate activities relating to the administration
19 of criminal justice among agencies of state and local government;

20 (9) Cooperate with the federal and other state
21 authorities concerning the administration of criminal justice;

22 (10) Accept and administer loans, grants, and donations
23 from the United States, its agencies, the State of Nebraska, its
24 agencies, and other sources, public and private, for carrying out
25 any of its functions, except that no communications equipment shall
26 be acquired and no approval for acquisition of communications
27 equipment shall be granted without receiving the written approval

1 of the Director of Communications of the office of Chief
2 Information Officer;

3 (11) Enter into contracts, leases, and agreements
4 necessary, convenient, or desirable for carrying out its purposes
5 and the powers granted under sections 81-1415 to 81-1426 with
6 agencies of state or local government, corporations, or persons;

7 (12) Acquire, hold, and dispose of personal property in
8 the exercise of its powers;

9 (13) Conduct random annual audits of criminal justice
10 agencies to verify the accuracy and completeness of criminal
11 history record information maintained by such agencies and to
12 determine compliance with laws and regulations dealing with
13 the dissemination, security, and privacy of criminal history
14 information;

15 (14) Do all things necessary to carry out its purposes
16 and for the exercise of the powers granted in sections 81-1415 to
17 81-1426, except that no activities or transfers or expenditures
18 of funds available to the commission shall be inconsistent
19 with legislative policy as reflected in substantive legislation,
20 legislative intent legislation, or appropriations legislation;

21 (15) Exercise budgetary and administrative control over
22 the Crime Victim's Reparations Committee and the Jail Standards
23 Board; and

24 ~~(16) Appoint and remove for cause the director of the~~
25 ~~Nebraska Law Enforcement Training Center;~~

26 ~~(17) Provide budgetary and administrative support to the~~
27 ~~Community Corrections Council; and~~

1 ~~(18)~~ (16) Do all things necessary to carry out sections
2 81-1843 to 81-1851.

3 Sec. 19. Section 81-1425, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 81-1425 The executive director of the commission shall:

6 (1) Supervise and be responsible for the administration
7 of the policies established by the commission;

8 (2) Establish a Jail Standards subdivision and a
9 Community Corrections Division within the commission and establish,
10 consolidate, or abolish any ~~other~~ administrative subdivision within
11 the commission and appoint and remove for cause the heads thereof,
12 and delegate appropriate powers and duties to them;

13 (3) Establish and administer projects and programs for
14 the operation of the commission;

15 (4) Appoint and remove employees of the commission and
16 delegate appropriate powers and duties to them;

17 (5) Make rules and regulations for the management and the
18 administration of policies of the commission and the conduct of
19 employees under his or her jurisdiction;

20 (6) Collect, develop, maintain, and analyze statistical
21 information, records, and reports as the commission may determine
22 relevant to its functions, including, but not limited to, the
23 statistical information set forth in section 47-627;

24 ~~(7) Prior to August 1, 2001, review and analyze all cases~~
25 ~~involving criminal homicide committed on or after April 20, 1973.~~
26 ~~The review and analysis shall examine (a) the facts, including~~
27 ~~mitigating and aggravating circumstances, (b) to the extent such~~

1 can be ascertained, the race, gender, religious preference, and
2 economic status of the defendant and of the victim, (c) the charges
3 filed, (d) the result of the judicial proceeding in each case,
4 and (e) the sentence imposed. Upon the completion of such review,
5 the report of such shall be transmitted to the Governor, the Clerk
6 of the Legislature, and the Chief Justice of the Supreme Court.
7 The review and analysis shall be updated as new cases of criminal
8 homicide occur. The commission shall update such report annually to
9 the parties named in this subdivision;

10 ~~(8)~~ (7) Transmit monthly to the commission a report of
11 the operations of the commission for the preceding calendar month;

12 ~~(9)~~ (8) Execute and carry out the provisions of all
13 contracts, leases, and agreements authorized by the commission with
14 agencies of federal, state, or local government, corporations, or
15 persons;

16 ~~(10)~~ (9) Perform such additional duties as may be
17 assigned to him or her by the commission, by the chairperson
18 of the commission, or by law; and

19 (10) Appoint and remove for cause the director of the
20 Nebraska Law Enforcement Training Center;

21 (11) Appoint and remove for cause the director of the
22 Office of Violence Prevention; and

23 ~~(11)~~ (12) Exercise all powers and perform all duties
24 necessary and proper in carrying out his or her responsibilities.

25 Sec. 20. Section 81-1447, Revised Statutes Cumulative
26 Supplement, 2010, is amended to read:

27 81-1447 (1) There is established within the Nebraska

1 Commission on Law Enforcement and Criminal Justice the Office
2 of Violence Prevention. The office shall consist of a director,
3 appointed by the Governor, executive director of the Nebraska
4 Commission on Law Enforcement and Criminal Justice, and other
5 necessary support staff. There also is established an advisory
6 council to the Office of Violence Prevention. The members of the
7 advisory council shall be appointed by the Governor and serve
8 at his or her discretion. The advisory council shall consist of
9 six members and, of those members, each congressional district,
10 as such districts existed on May 28, 2009, shall have at least
11 one member on the council. The Governor shall consider appointing
12 members representing the following areas, if practicable: Two
13 members representing local government; two members representing
14 law enforcement; one member representing community advocacy; and
15 one member representing education with some expertise in law
16 enforcement and juvenile crime.

17 (2) Members of the advisory council shall serve for terms
18 of four years. A member may be reappointed at the expiration of his
19 or her term. Any vacancy occurring other than by expiration of a
20 term shall be filled for the remainder of the unexpired term in the
21 same manner as the original appointment.

22 Sec. 21. Section 81-1801, Revised Statutes Cumulative
23 Supplement, 2010, is amended to read:

24 81-1801 For purposes of the Nebraska Crime Victim's
25 Reparations Act, unless the context otherwise requires:

26 (1) Commission shall mean the Nebraska Commission on Law
27 Enforcement and Criminal Justice;

1 (2) Committee shall mean the Crime Victim's Reparations
2 Committee;

3 (3) Dependent shall mean a relative of a deceased victim
4 who was dependent upon the victim's income at the time of death,
5 including a child of a victim born after a victim's death;

6 (4) Executive director shall mean the executive director
7 of the commission;

8 (5) Personal injury shall mean actual bodily harm;

9 (6) Relative shall mean spouse, parent, grandparent,
10 stepparent, natural born child, stepchild, adopted child,
11 grandchild, brother, sister, half brother, half sister, or spouse's
12 parent; and

13 (7) Victim shall mean a person who is injured or killed
14 as a result of conduct specified in section 81-1818. ~~or as a result~~
15 ~~of a natural disaster.~~

16 Sec. 22. Section 81-1801.02, Revised Statutes Cumulative
17 Supplement, 2010, is amended to read:

18 81-1801.02 (1) A nonprofit organization, to be known
19 as the Community Trust, may be created. After a tragedy, the
20 Community Trust shall accept contributions from the public, manage
21 such funds, and make distributions to help individuals, families,
22 and communities in Nebraska ~~who~~ that have suffered from a tragedy
23 of violence or natural disaster. The committee shall oversee
24 the Community Trust. The committee shall require at least annual
25 reports from the Community Trust.

26 (2) The Community Trust shall be a qualified organization
27 under section 501(c)(3) of the Internal Revenue Code thereby

1 enabling contributions to the Community Trust to be tax deductible
2 for the donor if the donor itemizes deductions for income tax
3 purposes and distributions to be tax-free to the extent allowed
4 under applicable sections of the Internal Revenue Code.

5 (3) The Community Trust shall be governed by a board of
6 directors. A director may be represented by the Attorney General
7 in the same manner as a state officer or employee under sections
8 81-8,239.05 and 81-8,239.06 in any civil action that arises as
9 a result of any alleged act or omission occurring in the course
10 and scope of the director's duties. A director shall also be
11 indemnified for liability in the same manner as a state officer or
12 employee under section 81-8,239.05.

13 (4) The Community Trust shall create a separate fund for
14 each tragedy and shall begin accepting contributions immediately
15 after a tragedy. A report of distributions shall be made within
16 two weeks after the distribution, and contributions shall be
17 acknowledged within two weeks. The Community Trust shall report
18 the distributions made for each tragedy to the committee, and the
19 Community Trust shall acknowledge all contributions as soon as
20 reasonably possible after receipt.

21 (5) The Community Trust may use up to ten percent of the
22 contributions received for administrative costs of the Community
23 Trust.

24 ~~(3)~~ (6) The procedures for applications, hearings, and
25 compensation orders for victims shall follow the procedures in the
26 Nebraska Crime Victim's Reparations Act, as applicable, unless the
27 board of directors of the Community Trust creates an alternative

1 ~~procedure. In any alternative procedure, the Community Trust~~
2 shall establish procedures for receiving contributions and making
3 distributions from the Community Trust. The board of directors
4 shall establish a distribution committee for the tragedy within
5 one week after the tragedy, establish eligible recipient criteria
6 and eligible uses of the fund, ~~begin initial distribution of~~
7 ~~the fund within three weeks after the tragedy, make subsequent~~
8 ~~distributions within three months after the tragedy, and complete~~
9 all distributions ~~within six months~~ as soon as reasonably possible
10 after the tragedy.

11 (7) In the event that the Community Trust receives
12 contributions for a tragedy and the volume and size of claims,
13 along with the amount of contributions, make it impractical for
14 the Community Trust to follow its normal procedures for the
15 distribution of the funds, the board of directors, at its sole
16 discretion, may elect to forward such funds, in their entirety,
17 to another nonprofit organization that is also serving individuals
18 who are affected by the tragedy. In such case, the Community
19 Trust shall designate such contributions to be for the specific
20 individuals who are affected by the tragedy.

21 Sec. 23. Section 81-1818, Revised Statutes Cumulative
22 Supplement, 2010, is amended to read:

23 81-1818 The committee or hearing officer may order:~~(1)~~
24 ~~The~~ the payment of compensation from the Victim's Compensation Fund
25 ~~or a distribution from the Community Trust~~ for personal injury or
26 death which resulted from:

27 ~~(a)~~ (1) An attempt on the part of the applicant to

1 prevent the commission of crime, to apprehend a suspected criminal,
2 to aid or attempt to aid a police officer in the performance of his
3 or her duties, or to aid a victim of a crime; or

4 ~~(b)~~ (2) The commission or attempt on the part of one
5 other than the applicant of an unlawful criminal act committed or
6 attempted in the State of Nebraska, ~~or~~

7 ~~(2) A distribution from the Community Trust for loss~~
8 ~~resulting from a natural disaster.~~

9 Sec. 24. Section 81-1822, Revised Statutes Cumulative
10 Supplement, 2010, is amended to read:

11 81-1822 No compensation shall be awarded from the
12 Victim's Compensation Fund:

13 (1) If the victim aided or abetted the offender in the
14 commission of the unlawful act;

15 (2) If the offender will receive economic benefit or
16 unjust enrichment from the compensation;

17 (3) If the victim violated a criminal law of the state,
18 which violation caused or contributed to his or her injuries or
19 death;

20 (4) If the victim is injured as a result of the operation
21 of a motor vehicle, boat, or airplane (a) unless the vehicle was
22 used in a deliberate attempt to injure or kill the victim, (b)
23 unless the operator is charged with a violation of section 60-6,196
24 or 60-6,197 or a city or village ordinance enacted in conformance
25 with either of such sections, or (c) unless any chemical test of
26 the operator's breath or blood indicates an alcohol concentration
27 equal to or in excess of the limits prescribed in section 60-6,196;

1 or

2 (5) If the victim incurs an economic loss which does
3 not exceed ten percent of his or her net financial resources. For
4 purposes of this subdivision, a victim's net financial resources
5 shall not include the present value of future earnings and shall
6 be determined by the committee by deducting from the victim's total
7 financial resources:

8 (a) One year's earnings;

9 (b) The victim's equity in his or her home, not exceeding
10 thirty thousand dollars;

11 (c) One motor vehicle; and

12 (d) Any other property which would be exempt from
13 execution under section 25-1552 or 40-101.

14 Nothing in this section shall limit payments to a victim
15 by an offender which are made as full or partial restitution of
16 the victim's actual pecuniary loss. ~~Subdivision (5) of this section~~
17 ~~shall not apply to distributions from the Community Trust.~~

18 Sec. 25. Section 83-1,102, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 83-1,102 The Parole Administrator shall:

21 (1) Supervise and administer the Office of Parole
22 Administration;

23 (2) Establish and maintain policies, standards, and
24 procedures for the field parole service and the community
25 supervision of sex offenders pursuant to section 83-174.03;

26 (3) Divide the state into parole districts and appoint
27 district parole officers, deputy parole officers, if required, and

1 such other employees as may be required to carry out adequate
2 parole supervision of all parolees, adequate probation supervision
3 of probationers as ordered by district judges, prescribe their
4 powers and duties, and obtain office quarters for staff in each
5 district as may be necessary;

6 (4) Cooperate with the Board of Parole, the courts, the
7 ~~Community Corrections Council,~~ Division of the Nebraska Commission
8 on Law Enforcement and Criminal Justice, and all other agencies,
9 public and private, which are concerned with the treatment or
10 welfare of persons on parole;

11 (5) Provide the Board of Parole and district judges with
12 any record of a parolee or probationer which it may require;

13 (6) Make recommendations to the Board of Parole or
14 district judge in cases of violation of the conditions of parole
15 or probation, issue warrants for the arrest of parole or probation
16 violators when so instructed by the board or district judge, notify
17 the Director of Correctional Services of determinations made by the
18 board, and upon instruction of the board, issue certificates of
19 parole and of parole revocation to the facilities and certificates
20 of discharge from parole to parolees;

21 (7) Organize and conduct training programs for the
22 district parole officers and other employees;

23 (8) ~~In consultation with the Community Corrections~~
24 ~~Council,~~ use Use the funds provided under section 83-1,107.02
25 to augment operational or personnel costs associated with
26 the development, implementation, and evaluation of enhanced
27 parole-based programs and purchase services to provide such

1 programs aimed at enhancing adult parolee supervision in
2 the community and treatment needs of parolees. Such enhanced
3 parole-based programs include, but are not limited to, specialized
4 units of supervision, related equipment purchases and training,
5 and programs developed by or through the council that address a
6 parolee's vocational, educational, mental health, behavioral, or
7 substance abuse treatment needs;

8 (9) Ensure that any risk or needs assessment instrument
9 utilized by the system be periodically validated; and

10 (10) Exercise all powers and perform all duties necessary
11 and proper in carrying out his or her responsibilities.

12 Sec. 26. Section 83-1,107.02, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 83-1,107.02 The Parole Program Cash Fund is created. All
15 funds collected pursuant to section 83-1,107.01 shall be remitted
16 to the State Treasurer for credit to the fund. The fund shall be
17 utilized by the Office of Parole Administration, ~~in consultation~~
18 ~~with the Community Corrections Council,~~ for the purposes stated
19 in subdivision (8) of section 83-1,102. Any money in the fund
20 available for investment shall be invested by the state investment
21 officer pursuant to the Nebraska Capital Expansion Act and the
22 Nebraska State Funds Investment Act.

23 Sec. 27. Section 83-4,126, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 83-4,126 ~~The~~ (1) Except as provided in subsection (2) of
26 this section, the Jail Standards Board shall have the authority and
27 responsibility:

1 ~~(1)~~ (a) To develop minimum standards for the
2 construction, maintenance, and operation of criminal detention
3 facilities;

4 ~~(2)~~ (b) To perform such other duties as may be necessary
5 to carry out the policy of the state regarding such criminal
6 detention facilities and juvenile detention facilities as stated in
7 sections 83-4,124 to 83-4,134; and

8 ~~(3)~~ (c) Consistent with the purposes and objectives
9 of the Juvenile Services Act, to develop standards for juvenile
10 detention facilities, including, but not limited to, standards for
11 physical facilities, care, programs, and disciplinary procedures,
12 and to develop guidelines pertaining to the operation of such
13 facilities.

14 (2) The Jail Standards Board shall not have authority
15 over or responsibility for correctional facilities that are
16 accredited by a nationally recognized correctional association. A
17 correctional facility that is accredited by a nationally recognized
18 correctional association shall show proof of accreditation annually
19 to the Jail Standards Board. For purposes of this subsection,
20 nationally recognized correctional association includes, but is not
21 limited to, the American Correctional Association or its successor.

22 Sec. 28. Section 84-1410, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 84-1410 (1) Any public body may hold a closed session
25 by the affirmative vote of a majority of its voting members
26 if a closed session is clearly necessary for the protection of
27 the public interest or for the prevention of needless injury to

1 the reputation of an individual and if such individual has not
2 requested a public meeting. The subject matter and the reason
3 necessitating the closed session shall be identified in the motion
4 to close. Closed sessions may be held for, but shall not be limited
5 to, such reasons as:

6 (a) Strategy sessions with respect to collective
7 bargaining, real estate purchases, pending litigation, or
8 litigation which is imminent as evidenced by communication of a
9 claim or threat of litigation to or by the public body;

10 (b) Discussion regarding deployment of security personnel
11 or devices;

12 (c) Investigative proceedings regarding allegations of
13 criminal misconduct; ~~or~~

14 (d) Evaluation of the job performance of a person when
15 necessary to prevent needless injury to the reputation of a person
16 and if such person has not requested a public meeting; or-

17 (e) For the Community Trust created under section
18 81-1801.02, discussion regarding the amounts to be paid to
19 individuals who have suffered from a tragedy of violence or natural
20 disaster.

21 Nothing in this section shall permit a closed meeting for
22 discussion of the appointment or election of a new member to any
23 public body.

24 (2) The vote to hold a closed session shall be taken
25 in open session. The entire motion, the vote of each member
26 on the question of holding a closed session, and the time when
27 the closed session commenced and concluded shall be recorded in

1 the minutes. If the motion to close passes, then the presiding
2 officer immediately prior to the closed session shall restate on
3 the record the limitation of the subject matter of the closed
4 session. The public body holding such a closed session shall
5 restrict its consideration of matters during the closed portions
6 to only those purposes set forth in the motion to close as the
7 reason for the closed session. The meeting shall be reconvened in
8 open session before any formal action may be taken. For purposes
9 of this section, formal action shall mean a collective decision
10 or a collective commitment or promise to make a decision on any
11 question, motion, proposal, resolution, order, or ordinance or
12 formation of a position or policy but shall not include negotiating
13 guidance given by members of the public body to legal counsel or
14 other negotiators in closed sessions authorized under subdivision
15 (1)(a) of this section.

16 (3) Any member of any public body shall have the right
17 to challenge the continuation of a closed session if the member
18 determines that the session has exceeded the reason stated in the
19 original motion to hold a closed session or if the member contends
20 that the closed session is neither clearly necessary for (a) the
21 protection of the public interest or (b) the prevention of needless
22 injury to the reputation of an individual. Such challenge shall
23 be overruled only by a majority vote of the members of the public
24 body. Such challenge and its disposition shall be recorded in the
25 minutes.

26 (4) Nothing in this section shall be construed to require
27 that any meeting be closed to the public. No person or public body

1 shall fail to invite a portion of its members to a meeting, and
2 no public body shall designate itself a subcommittee of the whole
3 body for the purpose of circumventing the Open Meetings Act. No
4 closed session, informal meeting, chance meeting, social gathering,
5 email, fax, or other electronic communication shall be used for the
6 purpose of circumventing the requirements of the act.

7 (5) The act does not apply to chance meetings or to
8 attendance at or travel to conventions or workshops of members
9 of a public body at which there is no meeting of the body then
10 intentionally convened, if there is no vote or other action taken
11 regarding any matter over which the public body has supervision,
12 control, jurisdiction, or advisory power.

13 Sec. 29. Sections 15, 21, 22, 23, 24, 28, and 30 of this
14 act become operative on their effect date. The other sections of
15 this act becomes operative on July 1, 2011.

16 Sec. 30. Original sections 81-8,239.01 and 84-1410,
17 Reissue Revised Statutes of Nebraska, and sections 81-1801,
18 81-1801.02, 81-1818, and 81-1822, Revised Statutes Cumulative
19 Supplement, 2010, are repealed.

20 Sec. 31. Original sections 29-2252, 29-2255, 29-2261,
21 29-2521.02, 47-621, 47-622, 47-624, 47-624.01, 47-627, 47-628,
22 47-629, 47-632, 47-634, 81-1403, 81-1404, 81-1423, 81-1425,
23 83-1,102, and 83-1,107.02, Reissue Revised Statutes of Nebraska,
24 and sections 29-2262.07 and 81-1447, Revised Statutes Cumulative
25 Supplement, 2010, are repealed.

26 Sec. 32. The following sections are outright repealed:
27 Sections 47-623, 47-625, 47-630, 47-631, 47-635, 47-636, 47-637,

1 47-638, and 47-639, Reissue Revised Statutes of Nebraska.

2 Sec. 33. Since an emergency exists, this act takes effect

3 when passed and approved according to law.