

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 670

Introduced by Hunt, 8.

Read first time January 18, 2023

Committee:

1 A BILL FOR AN ACT relating to the Nebraska Fair Employment Practice Act;
2 to amend sections 48-1101, 48-1102, 48-1104, 48-1105, 48-1106,
3 48-1107, 48-1108.01, 48-1111, 48-1113, 48-1114, 48-1115, 48-1117,
4 48-1119, 48-1121, 48-1122, and 48-1124, Reissue Revised Statutes of
5 Nebraska; to define and redefine terms; to prohibit discrimination
6 on the basis of gender identity or sexual orientation; to prohibit
7 discrimination by employers regardless of size; to provide an
8 unlawful employment practice for a covered entity; to harmonize
9 provisions; and to repeal the original sections.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 48-1101, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 48-1101 It is the policy of this state to foster the employment of
4 all employable persons in the state on the basis of merit regardless of
5 their race, color, religion, sex, disability, ~~or~~ national origin, sexual
6 orientation, or gender identity and to safeguard their right to obtain
7 and hold employment without discrimination because of their race, color,
8 religion, sex, disability, ~~or~~ national origin, sexual orientation, or
9 gender identity. Denying equal opportunity for employment because of
10 race, color, religion, sex, disability, ~~or~~ national origin, sexual
11 orientation, or gender identity is contrary to the principles of freedom
12 and is a burden on the objectives of the public policy of this state. The
13 policy of this state does not require any person to employ an applicant
14 for employment because of his or her race, color, religion, sex,
15 disability, ~~or~~ national origin, sexual orientation, or gender identity,
16 and the policy of this state does not require any employer, employment
17 agency, labor organization, or joint labor-management committee to grant
18 preferential treatment to any individual or to any group because of race,
19 color, religion, sex, disability, ~~or~~ national origin, sexual orientation,
20 or gender identity.

21 It is the public policy of this state that all people in Nebraska,
22 both with and without disabilities, shall have the right and opportunity
23 to enjoy the benefits of living, working, and recreating within this
24 state. It is the intent of the Legislature that state and local
25 governments, Nebraska businesses, Nebraska labor organizations, and
26 Nebraskans with disabilities understand their rights and responsibilities
27 under the law regarding employment discrimination and the prevention of
28 discrimination on the basis of disability.

29 Sec. 2. Section 48-1102, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 48-1102 For purposes of the Nebraska Fair Employment Practice Act,

1 unless the context otherwise requires:

2 (1) Person shall include one or more individuals, labor unions,
3 partnerships, limited liability companies, associations, corporations,
4 legal representatives, mutual companies, joint-stock companies, trusts,
5 unincorporated organizations, trustees, trustees in bankruptcy, or
6 receivers;

7 (2) Employer shall include a Class I employer and a Class II
8 employer;

9 (3) Class I employer shall mean a person engaged in an industry who
10 has fifteen or more employees for each working day in each of twenty or
11 more calendar weeks in the current or preceding calendar year, any agent
12 of such a person, and any party whose business is financed in whole or in
13 part under the Nebraska Investment Finance Authority Act regardless of
14 the number of employees and shall include the State of Nebraska,
15 governmental agencies, and political subdivisions, but such term shall
16 not include (a) the United States, a corporation wholly owned by the
17 government of the United States, or an Indian tribe; or (b) a bona fide
18 private membership club, other than a labor organization, which is exempt
19 from taxation under section 501(c) of the Internal Revenue Code; or (c) a
20 Class II employer;

21 (4) Class II employer shall mean a person engaged in an industry who
22 has one or more employees for each working day in each of twenty or more
23 calendar weeks in the current or preceding calendar year and any agent of
24 such a person, but such term does not include (a) the United States, a
25 corporation wholly owned by the government of the United States, or an
26 Indian tribe; (b) a bona fide private membership club, other than a labor
27 organization, which is exempt from taxation under section 501(c) of the
28 Internal Revenue Code; or (c) a Class I employer;

29 (5) ~~(3)~~ Labor organization shall mean any organization which exists
30 wholly or in part for one or more of the following purposes: Collective
31 bargaining; dealing with employers concerning grievances, terms, or

1 conditions of employment; or mutual aid or protection in relation to
2 employment;

3 (6) ~~(4)~~ Employment agency shall mean any person regularly
4 undertaking with or without compensation to procure employees for an
5 employer or to procure for employees opportunities to work for an
6 employer and shall include an agent of such a person but shall not
7 include an agency of the United States, except that such term shall
8 include the United States Employment Service and the system of state and
9 local employment services receiving federal assistance;

10 (7) ~~(5)~~ Covered entity shall mean a Class I ~~an~~ employer, an
11 employment agency, a labor organization, or a joint labor-management
12 committee;

13 (8) ~~(6)~~ Privileges of employment shall mean terms and conditions of
14 any employer-employee relationship, opportunities for advancement of
15 employees, and plant conveniences;

16 (9) ~~(7)~~ Employee shall mean an individual employed by an employer;

17 (10) ~~(8)~~ Commission shall mean the Equal Opportunity Commission;

18 (11) ~~(9)~~ Disability shall mean (a) a physical or mental impairment
19 that substantially limits one or more of the major life activities of
20 such individual, (b) a record of such an impairment, or (c) being
21 regarded as having such an impairment. Disability shall not include
22 homosexuality, bisexuality, transvestism, transsexualism, pedophilia,
23 exhibitionism, voyeurism, gender-identity disorders not resulting in
24 physical impairments, other sexual behavior disorders, problem gambling,
25 kleptomania, pyromania, or psychoactive substance use disorders resulting
26 from current illegal use of drugs;

27 (12)(a) ~~(10)(a)~~ Qualified individual with a disability shall mean an
28 individual with a disability who, with or without reasonable
29 accommodation, can perform the essential functions of the employment
30 position that such individual holds or desires. Consideration shall be
31 given to the employer's judgment as to what functions of a job are

1 essential, and if an employer has prepared a written description before
2 advertising or interviewing applicants for the job, this description
3 shall be considered evidence of the essential functions of the job;

4 (b) Qualified individual with a disability shall not include any
5 employee or applicant who is currently engaged in the illegal use of
6 drugs when the covered entity acts on the basis of such use; and

7 (c) Nothing in this subdivision shall be construed to exclude as a
8 qualified individual with a disability an individual who:

9 (i) Has successfully completed a supervised drug rehabilitation
10 program or otherwise been rehabilitated successfully and is no longer
11 engaging in the illegal use of drugs;

12 (ii) Is participating in a supervised rehabilitation program and is
13 no longer engaging in such use; or

14 (iii) Is erroneously regarded as engaging in such use but is not
15 engaging in such use;

16 (13) ~~(11)~~ Reasonable accommodation, with respect to disability,
17 shall include making existing facilities used by employees readily
18 accessible to and usable by individuals with disabilities, job
19 restructuring, part-time or modified work schedules, reassignment to a
20 vacant position, acquisition or modification of equipment or devices,
21 appropriate adjustment or modification of examinations, training manuals,
22 or policies, the provision of qualified readers or interpreters, and
23 other similar accommodations for individuals with disabilities.
24 Reasonable accommodation, with respect to pregnancy, childbirth, or
25 related medical conditions, shall include acquisition of equipment for
26 sitting, more frequent or longer breaks, periodic rest, assistance with
27 manual labor, job restructuring, light-duty assignments, modified work
28 schedules, temporary transfers to less strenuous or hazardous work, time
29 off to recover from childbirth, or break time and appropriate facilities
30 for breast-feeding or expressing breast milk. Reasonable accommodation
31 shall not include accommodations which the covered entity can demonstrate

1 require significant difficulty or expense thereby posing an undue
2 hardship upon the covered entity. Factors to be considered in determining
3 whether an accommodation would pose an undue hardship shall include:

4 (a) The nature and the cost of the accommodation needed under the
5 Nebraska Fair Employment Practice Act;

6 (b) The overall financial resources of the facility or facilities
7 involved in the provision of the reasonable accommodation, the number of
8 persons employed at such facility, the effect on expenses and resources,
9 or the impact otherwise of such accommodation upon the operation of the
10 facility;

11 (c) The overall financial resources of the covered entity, the
12 overall size of the business of a covered entity with respect to the
13 number of its employees, and the number, type, and location of its
14 facilities; and

15 (d) The type of operation or operations of the covered entity,
16 including the composition, structure, and functions of the work force of
17 such entity, and the geographic separateness and administrative or fiscal
18 relationship of the facility or facilities in question to the covered
19 entity;

20 (14) ~~(12)~~ Marital status shall mean the status of a person whether
21 married or single;

22 (15) ~~(13)~~ Because of sex or on the basis of sex shall include, but
23 not be limited to, because of or on the basis of pregnancy, childbirth,
24 or related medical conditions;

25 (16) ~~(14)~~ Harass because of sex shall include making unwelcome
26 sexual advances, requesting sexual favors, and engaging in other verbal
27 or physical conduct of a sexual nature if (a) submission to such conduct
28 is made either explicitly or implicitly a term or condition of an
29 individual's employment, (b) submission to or rejection of such conduct
30 by an individual is used as the basis for employment decisions affecting
31 such individual, or (c) such conduct has the purpose or effect of

1 unreasonably interfering with an individual's work performance or
2 creating an intimidating, hostile, or offensive working environment;

3 (17) ~~(15)~~ Unlawful under federal law or the laws of this state shall
4 mean acting contrary to or in defiance of the law or disobeying or
5 disregarding the law;

6 (18) ~~(16)~~ Drug shall mean a controlled substance as defined in
7 section 28-401;

8 (19) ~~(17)~~ Illegal use of drugs shall mean the use of drugs, the
9 possession or distribution of which is unlawful under the Uniform
10 Controlled Substances Act, but shall not include the use of a drug taken
11 under supervision by a licensed health care professional or any other use
12 authorized by the Uniform Controlled Substances Act or other provisions
13 of state law;

14 (20) ~~(18)~~ Individual who is pregnant, who has given birth, or who
15 has a related medical condition shall mean an individual with a known
16 limitation who, with or without reasonable accommodation, can perform the
17 essential functions of the employment position that such individual
18 holds, desires, or may be temporarily assigned to. Consideration shall be
19 given to the employer's judgment as to what functions of a job are
20 essential, and if an employer has prepared a written description before
21 advertising or interviewing applicants for the job, this description
22 shall be considered evidence of the essential functions of the job;

23 (21) ~~(19)~~ Race is inclusive of characteristics such as skin color,
24 hair texture, and protective hairstyles; ~~and~~

25 (22) ~~(20)~~ Protective hairstyles includes braids, locks, and
26 twists; ~~and~~

27 (23) Gender identity shall mean an individual's internal sense of
28 the individual's own gender, regardless of the sex the individual was
29 assigned at birth; and

30 (24) Sexual orientation shall mean actual or perceived
31 homosexuality, heterosexuality, or bisexuality.

1 Sec. 3. Section 48-1104, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 48-1104 It shall be an unlawful employment practice for an employer:

4 (1) To fail or refuse to hire, to discharge, or to harass any
5 individual, or otherwise to discriminate against any individual with
6 respect to compensation, terms, conditions, or privileges of employment,
7 because of such individual's race, color, religion, sex, disability,
8 marital status, ~~or~~ national origin, sexual orientation, or gender
9 identity; or

10 (2) To limit, advertise, solicit, segregate, or classify employees
11 in any way which would deprive or tend to deprive any individual of
12 employment opportunities or otherwise adversely affect such individual's
13 status as an employee, because of such individual's race, color,
14 religion, sex, disability, marital status, ~~or~~ national origin, sexual
15 orientation, or gender identity.

16 Sec. 4. Section 48-1105, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 48-1105 It shall be an unlawful employment practice for an
19 employment agency to fail or refuse to refer for employment, or otherwise
20 to discriminate against, any individual because of race, color, religion,
21 sex, disability, marital status, ~~or~~ national origin, sexual orientation,
22 or gender identity, or to classify or refer for employment any individual
23 on the basis of race, color, religion, sex, disability, marital status,
24 ~~or~~ national origin, sexual orientation, or gender identity.

25 Sec. 5. Section 48-1106, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 48-1106 It shall be an unlawful employment practice for a labor
28 organization:

29 (1) To exclude or to expel from its membership, or otherwise to
30 discriminate against, any individual because of race, color, religion,
31 sex, disability, marital status, ~~or~~ national origin, sexual orientation,

1 or gender identity;

2 (2) To limit, segregate, or classify its membership, or to classify
3 or fail or refuse to refer for employment any individual, in any way
4 which would deprive or tend to deprive any individual of employment
5 opportunities, or would limit such employment opportunities or otherwise
6 adversely affect such individual's status as an employee or as an
7 applicant for employment, because of such individual's race, color,
8 religion, sex, disability, marital status, ~~or~~ national origin, sexual
9 orientation, or gender identity; or

10 (3) To cause or attempt to cause an employer to discriminate against
11 an individual in violation of this section.

12 Sec. 6. Section 48-1107, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 48-1107 It shall be an unlawful employment practice for any
15 employer, labor organization, or joint labor-management committee
16 controlling apprenticeship or other training or retraining, including on-
17 the-job training programs to discriminate against any individual because
18 of race, color, religion, sex, disability, marital status, ~~or~~ national
19 origin, sexual orientation, or gender identity in admission to, or
20 employment in, any program established to provide apprenticeship or other
21 training.

22 Sec. 7. Section 48-1108.01, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 48-1108.01 It shall not be an unlawful employment practice for a
25 covered entity or a Class II employer to:

26 (1) Prohibit the illegal use of drugs and the use of alcohol at the
27 workplace by all employees;

28 (2) Require that employees not be under the influence of alcohol or
29 be engaging in the illegal use of drugs at the workplace;

30 (3) Require employees to comply with any federal regulations
31 concerning the use of alcohol or the illegal use of drugs which are

1 applicable to the position of the employee or to the industry involved;
2 or

3 (4) Hold an employee who engages in the illegal use of drugs or who
4 is an alcoholic to the same qualification standards for employment or job
5 performance and behavior that such entity or employer holds other
6 employees even if any unsatisfactory performance or behavior is related
7 to the drug use or alcoholism of such employee.

8 Sec. 8. Section 48-1111, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 48-1111 (1) Except as otherwise provided in the Nebraska Fair
11 Employment Practice Act, it shall not be an unlawful employment practice
12 for an employer to apply different standards of compensation, or
13 different terms, conditions, or privileges of employment pursuant to a
14 bona fide seniority or merit system or a system which measures earnings
15 by quantity or quality of production or to employees who work in
16 different locations, if such differences are not the result of an
17 intention to discriminate because of race, color, religion, sex,
18 disability, marital status, ~~or~~ national origin, sexual orientation, or
19 gender identity, nor shall it be an unlawful employment practice for an
20 employer to give and to act upon the results of any professionally
21 developed ability test if such test, its administration, or action upon
22 the results is not designed, intended, or used to discriminate because of
23 race, color, religion, sex, disability, marital status, ~~or~~ national
24 origin, sexual orientation, or gender identity.

25 It shall not be an unlawful employment practice for a covered entity
26 to deny privileges of employment to an individual with a disability when
27 the qualification standards, tests, or selection criteria that screen out
28 or tend to screen out or otherwise deny a job or benefit to an individual
29 with a disability:

30 (a) Have been shown to be job-related and consistent with business
31 necessity and such performance cannot be accomplished by reasonable

1 accommodation, as required by the Nebraska Fair Employment Practice Act
2 and the federal Americans with Disabilities Act of 1990; or

3 (b) Include a requirement that an individual shall not pose a direct
4 threat, involving a significant risk to the health or safety of other
5 individuals in the workplace, that cannot be eliminated by reasonable
6 accommodation.

7 It shall not be an unlawful employment practice to refuse employment
8 based on a policy of not employing both husband and wife if such policy
9 is equally applied to both sexes.

10 (2) Except as otherwise provided in the Nebraska Fair Employment
11 Practice Act, women affected by pregnancy, childbirth, or related medical
12 conditions shall be treated the same for all employment-related purposes,
13 including receipt of employee benefits, as other persons not so affected
14 but similar in their ability or inability to work, and nothing in this
15 section shall be interpreted to provide otherwise.

16 This section shall not require an employer to provide employee
17 benefits for abortion except when medical complications have arisen from
18 an abortion.

19 Nothing in this section shall preclude an employer from providing
20 employee benefits for abortion under fringe benefit programs or otherwise
21 affect bargaining agreements in regard to abortion.

22 Sec. 9. Section 48-1113, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 48-1113 Nothing in the Nebraska Fair Employment Practice Act shall
25 be interpreted to require any employer, employment agency, labor
26 organization, or joint labor-management committee subject to the act to
27 grant preferential treatment to any individual or to any group because of
28 the race, color, religion, sex, disability, marital status, ~~or~~ national
29 origin, sexual orientation, or gender identity of such individual or
30 group on account of an imbalance which may exist with respect to the
31 total number or percentage of persons of any race, color, religion, sex,

1 disability, marital status, ~~or~~ national origin, sexual orientation, or
2 gender identity employed by any employer, referred or classified for
3 employment by any employment agency or labor organization, admitted to
4 membership or classified by any labor organization, or admitted to, or
5 employed in, any apprenticeship or other training program, in comparison
6 with the total number or percentage of persons of such race, color,
7 religion, sex, disability, marital status, ~~or~~ national origin, sexual
8 orientation, or gender identity in any community, section, or other area,
9 or in the available work force in any community, section, or other area.

10 Sec. 10. Section 48-1114, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 48-1114 (1) It shall be an unlawful employment practice for an
13 employer to discriminate against any of his or her employees or
14 applicants for employment, for an employment agency to discriminate
15 against any individual, or for a labor organization to discriminate
16 against any member thereof or applicant for membership, because he or she
17 has:

18 (a) Opposed ~~has opposed~~ any practice made an unlawful employment
19 practice by the Nebraska Fair Employment Practice Act; or ~~or~~

20 (b) Made ~~has made~~ a charge, testified, assisted, or participated in
21 any manner in an investigation, proceeding, or hearing under the act. ~~or~~

22 ~~(c)~~

23 (2) It shall be an unlawful employment practice for a Class I
24 employer to discriminate against any of his or her employees or
25 applicants for employment, for an employment agency to discriminate
26 against any individual, or for a labor organization to discriminate
27 against any member thereof or applicant for membership, because he or she
28 has opposed any practice or refused to carry out any action unlawful
29 under federal law or the laws of this state. ~~or (d)~~

30 (3)(a) It shall be an unlawful employment practice for a Class I
31 employer to discriminate against any of his or her employees or

1 applicants for employment, for an employment agency to discriminate
2 against any individual, or for a labor organization to discriminate
3 against any member thereof or applicant for membership, because he or she
4 has inquired about, discussed, or disclosed information regarding
5 employee wages, benefits, or other compensation.

6 (b) This subsection ~~subdivision (d)~~ shall not apply to instances in
7 which an employee who has authorized access to the information regarding
8 wages, benefits, or other compensation of other employees as a part of
9 such employee's job functions discloses such information to a person who
10 does not otherwise have authorized access to such information, unless
11 such disclosure is in response to a charge or complaint or in furtherance
12 of an investigation, proceeding, hearing, or other action, including an
13 investigation conducted by the employer.

14 (c) ~~(2)~~ Nothing in this subsection ~~or subdivision (1)(d)~~ of this
15 ~~section~~ shall be contrary to applicable state or federal law or:

16 (i) ~~(a)~~ Create an obligation for any employer or employee to
17 disclose information regarding employee wages, benefits, or other
18 compensation;

19 (ii) ~~(b)~~ Permit an employee, without the written consent of the
20 employer, to disclose proprietary information, trade secret information,
21 or information that is otherwise subject to a legal privilege or
22 protected by law. For purposes of this subdivision, proprietary
23 information does not include information regarding employee wages,
24 benefits, or other compensation;

25 (iii) ~~(c)~~ Permit an employee to disclose information regarding
26 wages, benefits, or other compensation of other employees to a competitor
27 of the employer;

28 (iv) ~~(d)~~ Apply to a Class II employer or an employer which is
29 ~~employers which are~~ exempt from the Nebraska Fair Employment Practice Act
30 under section 48-1102;

31 (v) ~~(e)~~ Permit an employee to discuss information regarding employee

1 wages, benefits, or other compensation during working hours, as defined
2 in existing workplace policies, or in violation of specific contractual
3 obligations; or

4 (vi) ~~(f)~~ Permit an employee to disseminate information regarding
5 employee wages, benefits, or other compensation to the general public.
6 For purposes of this subdivision, general public does not include public
7 officials, judicial officers, legislators, trade associations, or other
8 reasonable third parties for the employee's mutual aid or protection.

9 (4) ~~(3)~~ The changes made to this section by Laws 2019, LB217, shall
10 not be construed so as to impair or affect the obligation of any lawful
11 contract in existence prior to September 1, 2019.

12 Sec. 11. Section 48-1115, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 48-1115 It shall be an unlawful employment practice for an employer,
15 labor organization, or employment agency to print or publish or cause to
16 be printed or published any notice or advertisement relating to
17 employment by such an employer or membership in or any classification or
18 referral for employment by such a labor organization, or relating to any
19 classification or referral for employment by such an employment agency,
20 indicating any preference, limitation, specification, or discrimination
21 based on race, color, religion, sex, disability, marital status, ~~or~~
22 national origin, sexual orientation, or gender identity, except that such
23 a notice or advertisement may indicate a preference, limitation,
24 specification, or discrimination based on religion, sex, disability,
25 marital status, or national origin when religion, sex, disability,
26 marital status, or national origin is a bona fide occupational
27 qualification for employment.

28 Sec. 12. Section 48-1117, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 48-1117 The commission shall have the following powers and duties:

31 (1) To receive, investigate, and pass upon charges of unlawful

1 employment practices anywhere in the state;

2 (2) To hold hearings, subpoena witnesses, compel their attendance,
3 administer oaths, and take the testimony of any person under oath and, in
4 connection therewith, to require the production for examination of any
5 books and papers relevant to any allegation of unlawful employment
6 practice pending before the commission. The commission may make rules as
7 to the issuance of subpoenas, subject to the approval by a constitutional
8 majority of the elected members of the Legislature;

9 (3) To cooperate with the federal government and with local agencies
10 to effectuate the purposes of the Nebraska Fair Employment Practice Act,
11 including the sharing of information possessed by the commission on a
12 case that has also been filed with the federal government or local
13 agencies if both the employer and complainant have been notified of the
14 filing;

15 (4) To attempt to eliminate unfair employment practices by means of
16 conference, mediation, conciliation, arbitration, and persuasion;

17 (5) To require that every employer, employment agency, and labor
18 organization subject to the act shall (a) make and keep such records
19 relevant to the determinations of whether unlawful employment practices
20 have been or are being committed, (b) preserve such records for such
21 periods, and (c) make such reports therefrom, as the commission shall
22 prescribe by regulation or order, after public hearing, as reasonable,
23 necessary, or appropriate for the enforcement of the act or the
24 regulations or orders thereunder. The commission shall, by regulation,
25 require each employer, labor organization, and joint labor-management
26 committee subject to the act which controls an apprenticeship or other
27 training program to maintain such records as are reasonably necessary to
28 carry out the purposes of the act, including, but not limited to, a list
29 of applicants who wish to participate in such program, including the
30 chronological order in which such applications were received, and to
31 furnish to the commission, upon request, a detailed description of the

1 manner in which persons are selected to participate in the apprenticeship
2 or other training program. Any employer, employment agency, labor
3 organization, or joint labor-management committee which believes that the
4 application to it of any regulation or order issued under this section
5 would result in undue hardship may either apply to the commission for an
6 exemption from the application of such regulation or order or bring a
7 civil action in the district court for the district where such records
8 are kept. If the commission or the court, as the case may be, finds that
9 the application of the regulation or order to the employer, employment
10 agency, or labor organization in question would impose an undue hardship,
11 the commission or the court, as the case may be, may grant appropriate
12 relief;

13 (6) To report, not less than once every two years, to the Clerk of
14 the Legislature and the Governor, on the hearings it has conducted and
15 the decisions it has rendered, the other work performed by it to carry
16 out the purposes of the act, and to make recommendations for such further
17 legislation concerning abuses and discrimination because of race, color,
18 religion, sex, disability, marital status, ~~or~~ national origin, sexual
19 orientation, or gender identity, as may be desirable. The report shall
20 also include the number of complaints filed under the act alleging a
21 violation of subdivision (2) of section 48-1107.01 and the resolution of
22 such complaints. The report submitted to the Clerk of the Legislature
23 shall be submitted electronically. Each member of the Legislature shall
24 receive an electronic copy of the report required by this subdivision by
25 making a request for it to the chairperson of the commission; and

26 (7) To adopt and promulgate rules and regulations necessary to carry
27 out the duties prescribed in the act.

28 Sec. 13. Section 48-1119, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 48-1119 (1) In case of failure to eliminate any unlawful employment
31 practice by informal methods of conference, conciliation, persuasion,

1 mediation, or arbitration, the commission may order a public hearing. If
2 such hearing is ordered, the commission shall cause to be issued and
3 served a written notice, together with a copy of the complaint, requiring
4 the person, employer, labor organization, or employment agency named in
5 the complaint, hereinafter referred to as respondent, to answer such
6 charges at a hearing before the commission at a time and place which
7 shall be specified in such notice. Such hearing shall be within the
8 county where the alleged unlawful employment practice occurred. The
9 complainant shall be a party to the proceeding, and in the discretion of
10 the commission any other person whose testimony has a bearing on the
11 matter may be allowed to intervene therein. Both the complainant and the
12 respondent, in addition to the commission, may introduce witnesses at the
13 hearing. The respondent may file a verified answer to the allegations of
14 the complaint and may appear at such hearing in person and with or
15 without counsel. Testimony or other evidence may be introduced by either
16 party. All evidence shall be under oath and a record thereof shall be
17 made and preserved. Such proceedings shall, so far as practicable, be
18 conducted in accordance with the rules of evidence applicable in the
19 district courts of the State of Nebraska, and shall be of public record.

20 (2) No person shall be excused from testifying or from producing any
21 book, document, paper, or account in any investigation, or inquiry by, or
22 hearing before the commission when ordered to do so, upon the ground that
23 the testimony or evidence, book, document, paper, or account required of
24 such person may tend to incriminate such person in or subject such person
25 to penalty or forfeiture; but no person shall be prosecuted, punished, or
26 subjected to any forfeiture or penalty for or on account of any act,
27 transaction, matter, or thing concerning which such person shall have
28 been compelled under oath to testify or produce documentary evidence,
29 except that no person so testifying shall be exempt from prosecution or
30 punishment for any perjury committed by such person in his or her
31 testimony. Such immunity shall extend only to a natural person who, in

1 obedience to a subpoena, gives testimony under oath or produces evidence,
2 documentary or otherwise, under oath. Nothing in this subsection shall be
3 construed as precluding any person from claiming any right or privilege
4 available to such person under the fifth amendment to the Constitution of
5 the United States.

6 (3) After the conclusion of the hearing, the commission shall,
7 within ten days of the receipt of the transcript or the receipt of the
8 recommendations from the hearing officer, make and file its findings of
9 fact and conclusions of law and make and enter an appropriate order. The
10 hearing officer need not refer to the page and line numbers of the
11 transcript when making his or her recommendation to the commission. Such
12 findings of fact and conclusions of law shall be in sufficient detail to
13 enable a court on appeal to determine the controverted questions
14 presented by the proceedings and whether proper weight was given to the
15 evidence. If the commission determines that the respondent has
16 intentionally engaged in or is intentionally engaging in any unlawful
17 employment practice, it shall issue and cause to be served on such
18 respondent an order requiring such respondent to cease and desist from
19 such unlawful employment practice and order such other affirmative action
20 as may be appropriate which may include, but shall not be limited to,
21 reinstatement or hiring of employees, with or without backpay. Backpay
22 liability shall not accrue from a date more than two years prior to the
23 filing of the charge with the commission. Interim earnings or amounts
24 earnable with reasonable diligence by the person or persons discriminated
25 against shall operate to reduce the backpay otherwise allowable.

26 (4) A complainant who has suffered physical, emotional, or financial
27 harm as a result of a violation of section 48-1104 or 48-1114 may, at any
28 stage of the proceedings prior to dismissal, file an action directly in
29 the district court of the county where such alleged violation occurred.
30 If the complainant files a district court action on the charge, the
31 complainant shall provide written notice of such filing to the

1 commission, and such notification shall immediately terminate all
2 proceedings before the commission. The district court shall file and try
3 such case as any other civil action, and any successful complainant shall
4 be entitled to appropriate relief, including temporary or permanent
5 injunctive relief, general and special damages, reasonable attorney's
6 fees, and costs.

7 (5) No order of the commission shall require the admission or
8 reinstatement of an individual as a member of a labor organization or the
9 hiring, reinstatement, or promotion of an individual as an employee, or
10 the payment to him or her of any backpay, if such individual was refused
11 admission, suspended, or expelled, or was refused employment or
12 advancement or was suspended or discharged for any reason other than
13 discrimination on account of race, color, religion, sex, disability,
14 marital status, ~~or~~ national origin, sexual orientation, or gender
15 identity or in violation of section 48-1114. If the commission finds that
16 a respondent has not engaged in any unfair employment practice, it shall
17 within thirty days state its findings of fact and conclusions of law. A
18 copy of any order shall be served upon the person against whom it runs or
19 his or her attorney and notice thereof shall be given to the other
20 parties to the proceedings or their attorneys. Such order shall take
21 effect twenty days after service thereof unless otherwise provided and
22 shall continue in force either for a period which may be designated
23 therein or until changed or revoked by the commission.

24 (6) Except as provided in subsection (4) of this section, until a
25 transcript of the record of the proceedings is filed in the district
26 court as provided in section 48-1120, the commission may, at any time
27 upon reasonable notice and in such a manner it shall deem proper, modify
28 or set aside, in whole or in part, any finding or order made by it.

29 Sec. 14. Section 48-1121, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 48-1121 Every Class I employer, employment agency, and labor

1 organization subject to the Nebraska Fair Employment Practice Act shall
2 post in a conspicuous place or places on his, her, or its premises a
3 notice to be prepared or approved by the commission which shall set forth
4 excerpts of the act and such other relevant information which the
5 commission deems necessary to explain the act.

6 Sec. 15. Section 48-1122, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 48-1122 Every contract to which the state or any of its political
9 subdivisions is a party shall contain a provision requiring the
10 contractor and its ~~his~~ subcontractors not to discriminate against any
11 employee or applicant for employment, to be employed in the performance
12 of such contract, with respect to such person's ~~his~~ hire, tenure, terms,
13 conditions, or privileges of employment, because of such person's ~~his~~
14 race, color, religion, sex, disability, ~~or~~ national origin, sexual
15 orientation, or gender identity.

16 Sec. 16. Section 48-1124, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 48-1124 Nothing contained in the Nebraska Fair Employment Practice
19 Act shall be deemed to repeal any of the provisions of the civil rights
20 law, any other law of this state, or any municipal ordinance relating to
21 discrimination because of race, creed, color, religion, sex, disability,
22 ~~or~~ national origin, sexual orientation, or gender identity.

23 Sec. 17. Original sections 48-1101, 48-1102, 48-1104, 48-1105,
24 48-1106, 48-1107, 48-1108.01, 48-1111, 48-1113, 48-1114, 48-1115,
25 48-1117, 48-1119, 48-1121, 48-1122, and 48-1124, Reissue Revised Statutes
26 of Nebraska, are repealed.