

AMENDMENTS TO LB 296

Introduced by Johnson, 37

1           1. Strike section 16, the repealer, and the outright  
2 repealer and insert the following sections:

3           Section 1. Section 2-15,100, Revised Statutes Cumulative  
4 Supplement, 2006, is amended to read:

5           2-15,100 The state water planning and review process  
6 shall be conducted under the guidance and general supervision of  
7 the director. The director shall be assisted in the state water  
8 planning and review process by the Game and Parks Commission,  
9 the Department of Agriculture, the Governor's Policy Research  
10 Office, ~~the Department of Health and Human Services Regulation~~  
11 ~~and Licensure,~~ the Department of Environmental Quality, the Health  
12 and Human Services System, the Water Center of the University  
13 of Nebraska, and the Conservation and Survey Division of the  
14 University of Nebraska. In addition, the director may obtain  
15 assistance from any private individual, organization, political  
16 subdivision, or agency of the state or federal government.

17           Sec. 2. Section 2-2626, Revised Statutes Cumulative  
18 Supplement, 2006, is amended to read:

19           2-2626 The department shall have the following powers,  
20 functions, and duties:

21           (1) To administer, implement, and enforce the Pesticide  
22 Act and serve as the lead state agency for the regulation of  
23 pesticides. The department shall involve the natural resources

1 districts and other state agencies, including the Department of  
2 Environmental Quality, the Department of Natural Resources, or the  
3 ~~Department of Health and Human Services Regulation and Licensure,~~  
4 Health and Human Services System, in matters relating to water  
5 quality. Nothing in the act shall be interpreted in any way to  
6 affect the powers of any other state agency or of any natural  
7 resources district to regulate for ground water quality or surface  
8 water quality as otherwise provided by law;

9 (2) To be responsible for the development and  
10 implementation of a state management plan and pesticide management  
11 plans. The Department of Environmental Quality shall be responsible  
12 for the adoption of standards for pesticides in surface water and  
13 ground water, and the ~~Department of Health and Human Services~~  
14 ~~Regulation and Licensure~~ Health and Human Services System shall  
15 be responsible for the adoption of standards for pesticides in  
16 drinking water. These standards shall be established as action  
17 levels in the state management plan and pesticide management plans  
18 at which prevention and mitigation measures are implemented. Such  
19 action levels may be set at or below the maximum contaminant level  
20 set for any product as set by the federal agency under the federal  
21 Safe Drinking Water Act, 42 U.S.C. 300f et seq., as the act existed  
22 on January 1, 2006. The ~~department~~ Department of Agriculture shall  
23 cooperate with and use existing expertise in other state agencies  
24 when developing the state management plan and pesticide management  
25 plans and shall not hire a hydrologist within the department for  
26 such purpose;

27 (3) After notice and public hearing, to adopt

1 and promulgate rules and regulations providing lists of  
2 state-limited-use pesticides for the entire state or for a  
3 designated area within the state, subject to the following:

4 (a) A pesticide shall be included on a list of  
5 state-limited-use pesticides if:

6 (i) The ~~department~~ Department of Agriculture determines  
7 that the pesticide, when used in accordance with its directions  
8 for use, warnings, and cautions and for uses for which it  
9 is registered, may without additional regulatory restrictions  
10 cause unreasonable adverse effects on humans or the environment,  
11 including injury to the applicator or other persons because of  
12 acute dermal or inhalation toxicity of the pesticides;

13 (ii) The water quality standards set by the Department  
14 of Environmental Quality or the ~~Department of Health and Human~~  
15 ~~Services Regulation and Licensure~~ Health and Human Services System  
16 pursuant to this section are exceeded; or

17 (iii) The ~~department~~ Department of Agriculture determines  
18 that the pesticide requires additional restrictions to meet the  
19 requirements of the Pesticide Act, the federal act, or any plan  
20 adopted under the Pesticide Act or the federal act;

21 (b) The ~~department~~ Department of Agriculture may regulate  
22 the time and conditions of use of a state-limited-use pesticide and  
23 may require that it be purchased or possessed only:

24 (i) With permission of the department;

25 (ii) Under direct supervision of the department or its  
26 designee in certain areas and under certain conditions;

27 (iii) In specified quantities and concentrations or at

1 specified times; or

2 (iv) According to such other restrictions as the  
3 department may set by regulation;

4 (c) The ~~department~~ Department of Agriculture may require  
5 a person authorized to distribute or use a state-limited-use  
6 pesticide to maintain records of the person's distribution or use  
7 and may require that the records be kept separate from other  
8 business records;

9 (d) The state management plan and pesticide management  
10 plans shall be coordinated with the ~~department~~ Department of  
11 Agriculture and other state agency plans and with other state  
12 agencies and with natural resources districts;

13 (e) The state management plan and pesticide management  
14 plans may impose progressively more rigorous pesticide management  
15 practices as pesticides are detected in ground water or surface  
16 water at increasing fractions of the standards adopted by the  
17 Department of Environmental Quality or the ~~Department of Health and~~  
18 ~~Human Services Regulation and Licensure;~~ Health and Human Services  
19 System; and

20 (f) A pesticide management plan may impose progressively  
21 more rigorous pesticide management practices to address any  
22 unreasonable adverse effect of pesticides on humans or the  
23 environment. When appropriate, a pesticide management plan may  
24 establish action levels for imposition of such progressively more  
25 rigorous management practices based upon measurable indicators of  
26 the adverse effect on humans or the environment;

27 (4) To adopt and promulgate such rules and regulations

1 as are necessary for the enforcement and administration of the  
2 Pesticide Act. The regulations shall include, but not be limited  
3 to, regulations providing for:

4 (a) The collection of samples, examination of records,  
5 and reporting of information by persons subject to the act;

6 (b) The safe handling, transportation, storage, display,  
7 distribution, use, and disposal of pesticides and their containers;

8 (c) Labeling requirements of all pesticides required  
9 to be registered under provisions of the act, except that  
10 such regulations shall not impose any requirements for federally  
11 registered labels contrary to those required pursuant to the  
12 federal act;

13 (d) Classes of devices which shall be subject to the  
14 Pesticide Act;

15 (e) Reporting and record-keeping requirements for persons  
16 distributing or using pesticide products made available under  
17 section 136p of the federal act and for persons required to keep  
18 records under the Pesticide Act;

19 (f) Methods to be used in the application of pesticides  
20 when the ~~department~~ Department of Agriculture finds that such  
21 regulations are necessary to carry out the purpose and intent  
22 of the Pesticide Act. Such regulations may include methods to  
23 be used in the application of a restricted-use pesticide, may  
24 relate to the time, place, manner, methods, materials, amounts,  
25 and concentrations in connection with the use of the pesticide,  
26 may restrict or prohibit use of the pesticides in designated areas  
27 during specified periods of time, and may provide specific examples

1 and technical interpretations of subdivision (4) of section 2-2646.  
2 The regulations shall encompass all reasonable factors which the  
3 department deems necessary to prevent damage or injury by drift or  
4 misapplication to (i) plants, including forage plants, or adjacent  
5 or nearby property, (ii) wildlife in the adjoining or nearby  
6 areas, (iii) fish and other aquatic life in waters in reasonable  
7 proximity to the area to be treated, (iv) surface water or ground  
8 water, and (v) humans, animals, or beneficial insects. In adopting  
9 and promulgating such regulations, the department shall give  
10 consideration to pertinent research findings and recommendations  
11 of other agencies of the state, the federal government, or other  
12 reliable sources. The department may, by regulation, require that  
13 notice of a proposed use of a pesticide be given to landowners  
14 whose property is adjacent to the property to be treated or in the  
15 immediate vicinity thereof if the department finds that such notice  
16 is necessary to carry out the purpose of the act;

17 (g) State-limited-use pesticides for the state or for  
18 designated areas in the state;

19 (h) Establishment of the amount of any fee or fine as  
20 directed by the act;

21 (i) Establishment of the components of any state  
22 management plan or pesticide management plan;

23 (j) Establishment of categories for licensed pesticide  
24 applicators in addition to those established in 40 C.F.R. 171, as  
25 the regulation existed on January 1, 2006; and

26 (k) Establishment of a process for the issuance of  
27 permits for emergency-use pesticides made available under section

1 136p of the federal act;

2 (5) To enter any public or private premises at any  
3 reasonable time to:

4 (a) Inspect and sample any equipment authorized or  
5 required to be inspected under the Pesticide Act or to inspect  
6 the premises on which the equipment is kept or stored;

7 (b) Inspect or sample any area exposed or reported to be  
8 exposed to a pesticide or where a pesticide use has occurred;

9 (c) Inspect and sample any area where a pesticide is  
10 disposed of or stored;

11 (d) Observe the use and application of and sample any  
12 pesticide;

13 (e) Inspect and copy any records relating to the  
14 distribution or use of any pesticide or the issuance of any  
15 license, permit, or registration under the act; or

16 (f) Inspect, examine, or take samples from any building  
17 or place owned, controlled, or operated by a registrant, licensed  
18 certified applicator, or dealer if, from probable cause, it appears  
19 that the building or place contains a pesticide;

20 (6) To sample, inspect, make analysis of, and test any  
21 pesticide found within this state;

22 (7) To issue and enforce a written or printed order to  
23 stop the sale, removal, or use of a pesticide if the ~~department~~  
24 Department of Agriculture has reason to believe that the pesticide  
25 is in violation of any provision of the act. The department shall  
26 present the order to the owner or custodian of the pesticide. The  
27 person who receives the order shall not distribute, remove, or use

1 the pesticide until the department determines that the pesticide  
2 is in compliance with the act. This subdivision shall not limit  
3 the right of the department to proceed as authorized by any other  
4 provision of the act;

5 (8) (a) To sue in the name of the director to enjoin  
6 any violation of the act. Venue for such action shall be in the  
7 county in which the alleged violation occurred, is occurring, or is  
8 threatening to occur; and

9 (b) To request the county attorney or the Attorney  
10 General to bring suit to enjoin a violation or threatened violation  
11 of the act;

12 (9) To impose or levy an administrative fine of not  
13 more than five thousand dollars on any person who has violated  
14 the provisions, requirements, conditions, limitations, or duties  
15 imposed by the act or rules and regulations adopted and promulgated  
16 pursuant to the act. A violation means any separate activity or day  
17 in which an activity takes place;

18 (10) To cause a violation warning letter to be served  
19 upon the alleged violator or violators pursuant to the act;

20 (11) To take measures necessary to ensure that all fees,  
21 fines, and penalties prescribed by the act and the rules or  
22 regulations adopted under the act are assessed and collected;

23 (12) To access, inspect, and copy all books, papers,  
24 records, bills of lading, invoices, and other information  
25 relating to the use, manufacture, repackaging, and distribution of  
26 pesticides necessary for the enforcement of the act;

27 (13) To seize, for use as evidence, without formal



1 warrant if probable cause exists, any pesticide which is in  
2 violation of the act or is not approved by the ~~department~~  
3 Department of Agriculture or which is found to be used or  
4 distributed in the violation of the act or the rules and  
5 regulations adopted and promulgated under it;

6 (14) To declare as a pest any form of plant or animal  
7 life, other than humans and other than bacteria, viruses, and other  
8 microorganisms on or in living humans or other living animals,  
9 which is injurious to health or the environment;

10 (15) To adopt classifications of restricted-use  
11 pesticides as determined by the federal agency under the federal  
12 act. In addition to the restricted-use pesticides classified by  
13 the administrator, the ~~department~~ Department of Agriculture may  
14 also determine state-limited-use pesticides for the state or for  
15 designated areas within the state as provided in subdivision (3)  
16 of this section;

17 (16) To receive grants-in-aid from any federal entity,  
18 and to enter into cooperative agreements with any federal entity,  
19 any agency of this state, any subdivision of this state, any  
20 agency of another state, any Indian tribe, or any private person  
21 for the purpose of obtaining consistency with or assistance  
22 in the implementation of the Pesticide Act. The ~~department~~  
23 Department of Agriculture may reimburse any such entity from  
24 the Pesticide Administrative Cash Fund for the work performed  
25 under the cooperative agreement. The department may delegate its  
26 administrative responsibilities under the act to cities of the  
27 metropolitan and primary classes if it reasonably believes that

1 such cities can perform the responsibilities in a manner consistent  
2 with the act and the rules and regulations adopted and promulgated  
3 under it;

4 (17) To prepare and adopt such plans as are necessary to  
5 implement any requirements of the federal agency under the federal  
6 act;

7 (18) To request the assistance of the Attorney General  
8 or the county attorney in the county in which a violation of the  
9 Pesticide Act has occurred with the prosecution or enforcement of  
10 any violation of the act;

11 (19) To enter into a settlement agreement with any person  
12 regarding the disposition of any license, permit, registration, or  
13 administrative fine;

14 (20) To issue a cease and desist order pursuant to  
15 section 2-2649;

16 (21) To deny an application or cancel, suspend, or modify  
17 the registration of a pesticide pursuant to section 2-2632;

18 (22) To issue, cancel, suspend, modify, or place on  
19 probation any license or permit issued pursuant to the act; and

20 (23) To make such reports to the federal agency as are  
21 required under the federal act.

22 Sec. 3. Section 2-3254, Revised Statutes Cumulative  
23 Supplement, 2006, is amended to read:

24 2-3254 (1) The board shall hold a hearing upon the  
25 question of the desirability and necessity, in the interest of  
26 the public health, safety, and welfare, of the establishment of  
27 or altering the boundaries of an existing improvement project area

1 and the undertaking of such a project, upon the question of the  
2 appropriate boundaries describing affected land, upon the propriety  
3 of the petition, and upon all relevant questions regarding such  
4 inquiries. When a hearing has been initiated by petition, such  
5 hearing shall be held within one hundred twenty days of the  
6 filing of such petition. Notice of such hearing shall be published  
7 prior thereto once each week for three consecutive weeks in  
8 a legal newspaper published or of general circulation in the  
9 district. Landowners within the limits of the territory described  
10 in the petition and all other interested parties, including any  
11 appropriate agencies of state or federal government, shall have  
12 the right to be heard. If the board finds, after consultation with  
13 such appropriate agencies of state and federal government and after  
14 the hearing, that the project conforms with all applicable law and  
15 with the district's goals, criteria, and policies, it shall enter  
16 its findings in the board's official records and shall, with the  
17 aid of such engineers, surveyors, and other assistants as it may  
18 have chosen, establish an improvement project area or alter the  
19 boundaries of an existing improvement project area, proceed to make  
20 detailed plans and cost estimates, determine the total benefits,  
21 and carry out the project as provided in subsections (2) and (3)  
22 of this section. If the board finds that the project does not so  
23 conform, the findings shall be entered in the board's records and  
24 copies of such findings shall be furnished to the petitioners and  
25 the commission.

26 (2) When any such special project would result in the  
27 provision of revenue-producing continuing services, the board

1 shall, prior to commencement of construction of such project,  
2 determine, by circulation of petitions or by some other appropriate  
3 method, if such project can be reasonably expected to generate  
4 sufficient revenue to recover the reimbursable costs thereof. If  
5 it is determined that the project cannot be reasonably expected  
6 to generate sufficient revenue, the project and all work in  
7 connection therewith shall be suspended. If it is determined that  
8 the project can be reasonably expected to generate sufficient  
9 revenue, the board shall divide the total benefits of the project  
10 as provided in sections 2-3252 to 2-3254. If the proposed project  
11 involves the supply of water for any beneficial use, all plans and  
12 specifications for the project shall be filed with the secretary  
13 of the district and the Director of Natural Resources, except  
14 that if such project involves a public water system as defined in  
15 section 71-5301, the filing of the information shall be with the  
16 ~~Department of Health and Human Services Regulation and Licensure~~  
17 Health and Human Services System rather than the Director of  
18 Natural Resources. No construction of any such special project  
19 shall begin until the plans and specifications for such improvement  
20 have been approved by the Director of Natural Resources and the  
21 ~~Department of Health and Human Services Regulation and Licensure,~~  
22 Health and Human Services System, if applicable, except that if  
23 such special project involves a public water system as defined in  
24 section 71-5301, only the ~~Department of Health and Human Services~~  
25 ~~Regulation and Licensure~~ Health and Human Services System shall  
26 be required to review such plans and specifications and approve  
27 the same if in compliance with the Nebraska Safe Drinking Water

1 Act and ~~departmental~~ rules and regulations adopted and promulgated  
2 under the act. All prescribed conditions having been complied with,  
3 each landowner within the improvement project area shall, within  
4 any limits otherwise prescribed by law, subscribe to a number of  
5 benefit units in proportion to the extent he or she desires to  
6 participate in the benefits of the special project. As long as  
7 the capacity of the district's facilities permit, participating  
8 landowners may subscribe to additional units, within any limits  
9 otherwise prescribed by law, upon payment of a unit fee for  
10 each such unit. The unit fees made and charged pursuant to this  
11 section shall be levied and fixed by rules and regulations of the  
12 district. The service provided may be withheld during the time  
13 such charges levied upon such parcel of land are delinquent and  
14 unpaid. Such charges shall be cumulative, and the service provided  
15 by the project may be withheld until all delinquent charges for  
16 the operation and maintenance of such works of improvement are paid  
17 for past years as well as for the current year. All such charges,  
18 due and delinquent according to the rules and regulations of such  
19 district and unpaid on June 1 after becoming due and delinquent,  
20 may be certified by the governing authority of such district to  
21 the county clerk of such county in which are situated the lands  
22 against which such charges have been levied, and when so certified  
23 such charges shall be entered upon the tax list and spread upon  
24 the tax roll the same as other special assessment taxes are levied  
25 and assessed upon real estate, shall become a lien upon such real  
26 estate along with other real estate taxes, and shall be collectible  
27 at the same time, in the same manner, and in the same proceeding as

1 other real estate taxes are levied.

2 (3) When the special project would not result in the  
3 provision of revenue-producing continuing services, the board shall  
4 apportion the benefits thereof accruing to the several tracts of  
5 land within the district which will be benefited thereby, on a  
6 system of units. The land least benefited shall be apportioned  
7 one unit of assessment, and each tract receiving a greater benefit  
8 shall be apportioned a greater number of units or fraction thereof,  
9 according to the benefits received. Nothing contained in this  
10 section shall prevent the district from establishing separate  
11 areas within the improvement project area so as to permit future  
12 allocation of costs for particular portions of the work to specific  
13 subareas. This subarea method of allocation shall not be used in  
14 any improvement project area which has heretofore made a final  
15 apportionment of units of benefits and shall not thereafter be  
16 changed except by compliance with the procedure prescribed in this  
17 section.

18 (4) A notice shall be inserted for at least one week in  
19 a newspaper published or of general circulation in the improvement  
20 project area stating the time when and the place where the  
21 directors shall meet for the purpose of hearing all parties  
22 interested in the apportionment of benefits by reason of the  
23 improvement, at which time and place such parties may appear in  
24 person or by counsel or may file written objections thereto. The  
25 directors shall then proceed to hear and consider the same and  
26 shall make the apportionments fair and just according to benefits  
27 received from the improvement. The directors, having completed the

1 apportionment of benefits, shall make a detailed report of the  
2 same and file such report with the county clerk. The board of  
3 directors shall include in such report a statement of the actual  
4 expenses incurred by the district to that time which relate to  
5 the proposed project and the actual cost per benefit unit thereof.  
6 Thereupon the board of directors shall cause to be published, once  
7 each week for three consecutive weeks in a newspaper published or  
8 of general circulation in the improvement project area, a notice  
9 that the report required in this subsection has been filed and  
10 notice shall also be sent to each party appearing to have a  
11 direct legal interest in such apportionment, which notice shall  
12 include the description of the lands in which each party notified  
13 appears to have such interest, the units of benefit assigned to  
14 such lands, the amount of actual costs assessable to date to such  
15 lands, and the estimated total costs of the project assessable  
16 to such lands upon completion thereof, as provided by sections  
17 25-520.01 to 25-520.03. If the owners of record title representing  
18 more than fifty percent of the estimated total assessments file  
19 with the board within thirty days of the final publication of such  
20 notice written objections to the project proposed, such project  
21 and work in connection therewith shall be suspended, such project  
22 shall not be done in such project area, and all expenses relating  
23 to such project incurred by and accrued to the district may, at  
24 the direction of the board of directors, be assessed upon the  
25 lands which were to have been benefited by the completion of  
26 such improvement project in accordance with the apportionment of  
27 benefits determined and procedures established in this section.

1 Upon completing the establishment of an improvement project area or  
2 altering the boundaries of an existing improvement project area as  
3 provided in this subsection and upon determining the reimbursable  
4 cost of the project and the period of time over which such  
5 cost shall be assessed, the board of directors shall determine  
6 the amount of money necessary to raise each year by special  
7 assessment within such improvement project area and apportion the  
8 same in dollars and cents to each tract benefited according to  
9 the apportionment of benefits as determined by this section. The  
10 board of directors shall also, from time to time as it deems  
11 necessary, order an additional assessment upon the lands and  
12 property benefited by the project, using the original apportionment  
13 of benefits as a basis to ascertain the assessment to each tract of  
14 land benefited, to carry out a reasonable program of operation and  
15 maintenance upon the construction or capital improvements involved  
16 in such project. The chairperson and secretary shall thereupon  
17 return lists of such tracts with the amounts chargeable to each  
18 of the county clerks of each county in which assessed lands are  
19 located, who shall place the same on duplicate tax lists against  
20 the lands and lots so assessed. Such assessments shall be collected  
21 and accounted for by the county treasurer at the same time as  
22 general real estate taxes, and such assessments shall be and  
23 remain a perpetual lien against such real estate until paid. All  
24 provisions of law for the sale, redemption, and foreclosure in  
25 ordinary tax matters shall apply to such special assessments.

26           Sec. 4. Section 2-3925, Reissue Revised Statutes of  
27 Nebraska, is amended to read:



1                   2-3925 The dairy farm water supply shall be safe, clean,  
2 and ample for the cleaning of dairy utensils and equipment. The  
3 water supply shall meet the bacteriological standards established  
4 by the ~~Department of Health and Human Services Regulation and~~  
5 ~~Licensure~~ Health and Human Services System at all times. Water  
6 samples shall be taken, analyzed, and found to be in compliance  
7 with the requirements of the Nebraska Manufacturing Milk Act prior  
8 to the issuance of a permit to the producer and whenever any major  
9 change to the well or water source occurs. Wells or water sources  
10 which do not meet the construction standards of the ~~Department of~~  
11 ~~Health and Human Services Regulation and Licensure~~ system shall  
12 be tested annually, and wells which do meet the construction  
13 standards of the ~~Department of Health and Human Services Regulation~~  
14 ~~and Licensure~~ system shall be tested every three years. Whenever  
15 major alterations or repairs occur or a water source repeatedly  
16 recontaminates, the water supply shall be unacceptable until such  
17 time as the construction standards are met and an acceptable supply  
18 is demonstrated. On and after October 1, 1989, all new producers  
19 issued permits under the Nebraska Manufacturing Milk Act shall  
20 be required to meet the construction standards established by the  
21 ~~Department of Health and Human Services Regulation and Licensure~~  
22 system for private water supplies.

23                   Sec. 5. Section 2-3928, Revised Statutes Cumulative  
24 Supplement, 2006, is amended to read:

25                   2-3928 (1) At the dairy plant and the receiving station,  
26 there shall be an ample supply of both hot and cold water  
27 of safe and sanitary quality with adequate facilities for its

1 proper distribution throughout the plant and protected against  
2 contamination. Water from other facilities, when officially  
3 approved, may be used for boiler feed water and condenser water so  
4 long as such water lines are completely separated from the water  
5 lines carrying the sanitary water supply and the equipment is so  
6 constructed and controlled as to preclude contamination of product  
7 contact surfaces. There shall be no cross-connection between  
8 potable water lines and nonpotable water lines or between public  
9 and private water supplies. Bacteriological examinations shall be  
10 made of the plant's sanitary water supply which shall include water  
11 extracted from milk and cooling water taken at the plant at least  
12 twice each year. The results of all water tests shall be kept on  
13 file at the plant for which the test was performed.

14 (2) The location, construction, and operation of any well  
15 shall comply with rules and regulations of the ~~Department of Health~~  
16 ~~and Human Services Regulation and Licensure.~~ Health and Human  
17 Services System.

18 (3) Drinking water facilities of a sanitary type shall be  
19 provided in the plant and should be conveniently located.

20 (4) Convenient handwashing facilities shall be provided,  
21 including hot and cold running water, soap or other detergents, and  
22 sanitary single-service towels or air driers. Such accommodations  
23 shall be located in or adjacent to toilet and dressing rooms and  
24 also at such other places in the plant as may be essential to the  
25 cleanliness of all personnel handling products. Vats for washing  
26 equipment or utensils shall not be used as handwashing facilities.  
27 Containers shall be provided for used towels and other wastes. The

1 containers may be metal or plastic, may be disposable or reusable,  
2 and shall have self-closing covers.

3 (5) Steam shall be supplied in sufficient volume and  
4 pressure for satisfactory operation of each applicable piece of  
5 equipment. Culinary steam used in direct contact with milk or  
6 dairy products shall be free from harmful substances or extraneous  
7 material and only those boiler water additives approved by the  
8 department shall be used, or a secondary steam generator shall be  
9 used, in which soft water is converted to steam and no boiler  
10 compounds are used. Steam traps, strainers, and condensate traps  
11 shall be used wherever applicable to insure a satisfactory and safe  
12 steam supply. Culinary steam shall comply with the 3-A Accepted  
13 Practices for a Method of Producing Steam of Culinary Quality.

14 (6) The method for supplying air under pressure which  
15 comes in contact with milk or dairy products or any product contact  
16 surfaces shall comply with the 3-A Accepted Practices for Supplying  
17 Air Under Pressure.

18 (7) Dairy wastes shall be properly disposed of from  
19 the plant and premises. The sewer system shall have sufficient  
20 slope and capacity to readily remove all waste from the various  
21 processing operations. Where a public sewer is not available, all  
22 wastes shall be properly disposed of so as not to contaminate  
23 milk equipment or to create a nuisance or public health hazard.  
24 Containers used for the collection and holding of wastes shall be  
25 constructed of metal, plastic, or other equally impervious material  
26 and kept covered with tight-fitting lids. Waste shall be stored in  
27 an area or room in a manner to protect it from flies and vermin.

1 Solid wastes shall be disposed of regularly and the containers  
2 cleaned before reuse. Accumulation of dry wastepaper and cardboard  
3 shall be kept to a minimum and disposed of in a manner that is  
4 environmentally acceptable.

5 Sec. 6. Section 2-3932, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 2-3932 No person with any disease in a communicable form,  
8 or who is a carrier of such disease, shall work at any dairy  
9 farm or milk plant in any capacity which brings him or her into  
10 contact with the production, handling, storage, or transportation  
11 of milk, milk products, containers, or equipment, and no dairy farm  
12 or milk plant shall employ in any such capacity any such person,  
13 or any person suspected of having any disease in a communicable  
14 form, or of being a carrier of such disease. Any producer or  
15 distributor of milk or milk products upon whose dairy farm, or in  
16 whose milk plant, any communicable disease occurs, or who suspects  
17 that any employee has contracted any disease in a communicable  
18 form or has become a carrier of such disease, shall notify the  
19 director immediately who shall immediately notify the local board  
20 of health or the ~~Department of Health and Human Services Regulation~~  
21 ~~and Licensure.~~ Health and Human Services System.

22 When reasonable cause exists to suspect the possibility  
23 of transmission of infection from any person concerned with the  
24 handling of milk or milk products, the director may require any  
25 or all of the following measures: (1) The immediate exclusion of  
26 that person from milk handling; (2) the immediate exclusion of the  
27 milk supply concerned from distribution and use; or (3) adequate

1 medical and bacteriological examination of the person, or his or  
2 her associates, and of his or her and their body discharges.

3           Sec. 7. Section 2-4901, Revised Statutes Cumulative  
4 Supplement, 2006, is amended to read:

5           2-4901 (1) The Climate Assessment Response Committee is  
6 hereby created. The office of the Governor shall be the lead agency  
7 and shall oversee the committee and its activities. The committee  
8 shall be composed of representatives appointed by the Governor  
9 with the approval of a majority of the Legislature from livestock  
10 producers, crop producers, and the Nebraska Emergency Management  
11 Agency, Conservation and Survey Division and Cooperative Extension  
12 Service of the University of Nebraska, Department of Agriculture,  
13 ~~Department of Health and Human Services Regulation and Licensure,~~  
14 Department of Natural Resources, and Governor's Policy Research  
15 Office, and the Health and Human Services System. Representatives  
16 from the federal Farm Service Agency and Federal Crop Insurance  
17 Corporation may also serve on the committee at the invitation  
18 of the Governor. The Governor may appoint the chairperson of the  
19 Committee on Agriculture of the Legislature and the chairperson of  
20 the Committee on Natural Resources of the Legislature and any other  
21 state agency representatives or invite any other federal agencies  
22 to name representatives as he or she deems necessary. The Governor  
23 shall appoint one of the Climate Assessment Response Committee  
24 members to serve as the chairperson of the committee. Committee  
25 members shall be reimbursed for actual and necessary expenses as  
26 provided in sections 81-1174 to 81-1177.

27           (2) The committee shall meet at least twice each year and

1 shall meet more frequently (a) at the call of the chairperson, (b)  
2 upon request of a majority of the committee members, and (c) during  
3 periods of drought or other severe climate situations.

4 (3) The chairperson may establish subcommittees and may  
5 invite representatives of agencies other than those with members on  
6 the committee to serve on such subcommittees.

7 (4) Any funds for the activities of the committee and for  
8 other climate-related expenditures may be appropriated directly to  
9 the office of the Governor for contracting with other agencies or  
10 persons for tasks approved by the committee.

11 Sec. 8. Section 9-810, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 9-810 (1) A person under nineteen years of age shall not  
14 purchase a lottery ticket. No lottery ticket shall be sold to any  
15 person under nineteen years of age. No person shall purchase a  
16 lottery ticket for a person under nineteen years of age, and no  
17 person shall purchase a lottery ticket for the benefit of a person  
18 under nineteen years of age.

19 (2) No lottery ticket shall be sold and no prize shall  
20 be awarded to the Tax Commissioner, the director, or any employee  
21 of the division or any spouse, child, brother, sister, or parent  
22 residing as a member of the same household in the principal place  
23 of abode of the Tax Commissioner, the director, or any employee of  
24 the division.

25 (3) With respect to a lottery game retailer under  
26 contract to sell lottery tickets whose rental payment for premises  
27 is contractually computed in whole or in part on the basis of a

1 percentage of retail sales and when the computation of retail sales  
2 is not explicitly defined to include the sale of lottery tickets,  
3 the amount of retail sales for lottery tickets by the retailer  
4 for purposes of such a computation may not exceed the amount of  
5 compensation received by the retailer from the division.

6 (4) Once any prize is awarded in conformance with the  
7 State Lottery Act and any rules and regulations adopted under the  
8 act, the state shall have no further liability with respect to that  
9 prize.

10 (5) Prior to the payment of any lottery prize in excess  
11 of five hundred dollars for a winning lottery ticket presented  
12 for redemption to the division, the division shall check the name  
13 and social security number of the winner with a list provided  
14 by the Department of Revenue of people identified as having an  
15 outstanding state tax liability and a list of people certified  
16 by the ~~Department of Health and Human Services~~ Health and Human  
17 Services System as owing a debt as defined in section 77-27,161.  
18 The division shall credit any such lottery prize against any  
19 outstanding state tax liability owed by such winner and the balance  
20 of such prize amount, if any, shall be paid to the winner by  
21 the division. The division shall credit any such lottery prize  
22 against any certified debt in the manner set forth in sections  
23 77-27,160 to 77-27,173. If the winner has both an outstanding state  
24 tax liability and a certified debt, the division shall add the  
25 liability and the debt together and pay the appropriate agency or  
26 person a share of the prize in the proportion that the liability  
27 or debt owed to the agency or person is to the total liability and

1 debt.

2           Sec. 9. Section 12-102, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           12-102 The trustees shall subdivide, set apart and  
5 dedicate that portion of said cemetery located at Lincoln which has  
6 heretofore been used for the burial of the dead from the various  
7 state institutions and which is legally described as follows, to  
8 wit: Beginning at a point 749 feet North and 392 feet East of the  
9 S.W. corner of the E 1/2 of the SE 1/4 of Section 19, T. 10, N.R.  
10 7, E. 6th P.M. which is 46 1/2 feet North of the S.W. corner of  
11 lot 2911 in burial Section No. 9 in Wyuka Cemetery, thence North  
12 75 feet to the N.W. corner of the Home for the Friendless Plot,  
13 according to the original plat of said cemetery, thence on a curve  
14 through an arc of 58 degrees 25' having a radius of 128 feet, the  
15 center of which is 183 feet North and 60 feet East of the place  
16 of beginning, to a point 77 feet North and 126 feet East of the  
17 place of beginning, and thence on a curve through an arc of 81  
18 degrees 06' having a radius of 100 feet the center of which is 17  
19 feet South and 163 feet East of the place of beginning, to a point  
20 at the East end of the Home for the Friendless Plot aforesaid,  
21 which is 37 1/2 feet North and 250 feet East of the place of  
22 beginning; thence on a curve through an arc of 81 degrees 06'  
23 having a radius of 100 feet the center of which is 88 feet North  
24 and 165 feet East of the place of beginning to a point 3 feet South  
25 and 125 feet East, of the place of beginning; thence on a curve  
26 through an arc of 58 degrees 25' having a radius of 128 feet the  
27 center of which is 107 feet South and 57 feet East of the place



1 of beginning, to the place of beginning, containing 15,835 square  
2 feet, or 0.36 acres, situated in Lancaster County, Nebraska. The  
3 part so set aside and dedicated shall be under the joint control  
4 of the trustees of Wyuka Cemetery and the ~~Department of Health and~~  
5 ~~Human Services.~~ Health and Human Services System.

6           Sec. 10. Section 12-1106, Revised Statutes Cumulative  
7 Supplement, 2006, is amended to read:

8           12-1106 At the written request of the pre-need purchaser,  
9 the first four thousand dollars, increased annually as provided  
10 in this section, paid by the pre-need purchaser which is placed  
11 in trust by the pre-need seller may be designated as irrevocable  
12 in accordance with the rules and regulations of the ~~Department~~  
13 ~~of Health and Human Services.~~ The Department of Health and Human  
14 Services Health and Human Services System pursuant to section  
15 68-129. The system shall increase such amount annually on September  
16 1 beginning with the year 2006 by the percentage change in  
17 the Consumer Price Index for All Urban Consumers published by  
18 the Federal Bureau of Labor Statistics at the close of the  
19 twelve-month period ending on August 31 of such year. Upon default  
20 or cancellation any trust funds designated as irrevocable shall be  
21 governed by section 12-1113.

22           Sec. 11. Section 13-1207, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           13-1207 Prior to the promulgation of rules and  
25 regulations pursuant to section 13-1212, and prior to the awarding  
26 of federal or state funds under any program administered by  
27 the department or any other state agency which affects the

1 transportation of the elderly, such rules and regulations and the  
2 awarding of such funds shall be reviewed by the ~~Director of Health~~  
3 ~~and Human Services.~~ Health and Human Services System.

4 Sec. 12. Section 23-1204.06, Revised Statutes Cumulative  
5 Supplement, 2006, is amended to read:

6 23-1204.06 A grant program is established to reimburse  
7 counties for the personal service costs of deputy county attorneys  
8 associated with termination of parental rights actions resulting  
9 from Laws 1998, LB 1041. Counties in which a city of the  
10 metropolitan class or a city of the primary class is located are  
11 eligible for grants under this program. The ~~Department of Health~~  
12 ~~and Human Services Finance and Support~~ Health and Human Services  
13 System shall administer the program. Counties receiving grants  
14 shall submit quarterly expenditure reports to the ~~department.~~  
15 system.

16 Sec. 13. Section 23-3595, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 23-3595 All hospitals operated directly by an authority  
19 and not operated or leased as lessee by a nonprofit person, firm,  
20 partnership, limited liability company, association, or corporation  
21 shall be operated by the board of trustees of such authority  
22 according to the best interests of the public health, and the board  
23 of trustees shall make and enforce all rules, regulations, and  
24 bylaws necessary for the administration, government, protection,  
25 and maintenance of such hospitals and all property belonging  
26 thereto and may prescribe the terms upon which patients may  
27 be admitted thereto. Such hospitals shall not be required to

1 contract with counties or with agencies thereof to provide care for  
2 indigent county patients at below the cost for care. In fixing the  
3 basic room rates for such hospitals, the board of trustees shall  
4 establish such basic room rates as will, together with other income  
5 and revenue available for such purpose and however derived, permit  
6 each such hospital to be operated upon a self-supporting basis.  
7 In establishing basic room rates for such hospital, the board of  
8 trustees shall give due consideration to at least the following  
9 factors: Costs of administration, operation, and maintenance of  
10 such hospitals; the cost of making necessary repairs and renewals  
11 thereto; debt service requirements; the creation of reserves for  
12 contingencies; and projected needs for expansion and for the making  
13 of major improvements. Minimum standards of operation for such  
14 hospitals, at least equal to those set by the ~~Department of Health~~  
15 ~~and Human Services Regulation and Licensure,~~ Health and Human  
16 Services System, shall be established and enforced by the board of  
17 trustees.

18 In the case of hospitals financed with the proceeds  
19 of bonds issued by an authority, but not operated directly  
20 by an authority, the board of trustees shall require that the  
21 financing documents contain covenants of the operators of such  
22 hospitals to establish rates at least sufficient to pay costs of  
23 administration, operation, and maintenance of such hospitals, the  
24 cost of making necessary repairs and renewals thereto, and to  
25 provide for debt service requirements, the creation of reserves for  
26 contingencies, and projected needs for expansion and the making of  
27 major improvements.

1           Sec. 14. Section 28-322.04, Revised Statutes Cumulative  
2 Supplement, 2006, is amended to read:

3           28-322.04 (1) For purposes of this section:

4           (a) Person means an individual employed by the ~~Department~~  
5 ~~of Health and Human Services,~~ the Department of Health and Human  
6 ~~Services Regulation and Licensure,~~ or the Department of Health  
7 ~~and Human Services Finance and Support~~ Health and Human Services  
8 System and includes, but is not limited to, any individual working  
9 in central administration or regional service areas or facilities  
10 of the ~~departments~~ system and any individual to whom ~~one of the~~  
11 ~~departments~~ the system has authorized or delegated control over  
12 a protected individual or a protected individual's activities,  
13 whether by contract or otherwise; and

14           (b) Protected individual means an individual in the care  
15 or custody of the ~~Department of Health and Human Services-~~ system.

16           (2) A person commits the offense of sexual abuse of a  
17 protected individual if the person subjects a protected individual  
18 to sexual penetration or sexual contact as those terms are defined  
19 in section 28-318. It is not a defense to a charge under this  
20 section that the protected individual consented to such sexual  
21 penetration or sexual contact.

22           (3) Any person who subjects a protected individual to  
23 sexual penetration is guilty of sexual abuse of a protected  
24 individual in the first degree. Sexual abuse of a protected  
25 individual in the first degree is a Class III felony.

26           (4) Any person who subjects a protected individual to  
27 sexual contact is guilty of sexual abuse of a protected individual

1 in the second degree. Sexual abuse of a protected individual in the  
2 second degree is a Class IV felony.

3 Sec. 15. Section 28-326, Revised Statutes Cumulative  
4 Supplement, 2006, is amended to read:

5 28-326 For purposes of sections 28-325 to 28-345, unless  
6 the context otherwise requires:

7 (1) Abortion means the use or prescription of any  
8 instrument, medicine, drug, or other substance or device  
9 intentionally to terminate the pregnancy of a woman known to be  
10 pregnant with an intention other than to increase the probability  
11 of a live birth, to preserve the life or health of the child after  
12 live birth, or to remove a dead unborn child, and which causes the  
13 premature termination of the pregnancy;

14 (2) Hospital means those institutions licensed by the  
15 ~~Department of Health and Human Services Regulation and Licensure~~  
16 Health and Human Services System pursuant to the Health Care  
17 Facility Licensure Act;

18 (3) Physician means any person licensed to practice  
19 medicine in this state as provided in sections 71-102 to 71-110;

20 (4) Pregnant means that condition of a woman who has  
21 unborn human life within her as the result of conception;

22 (5) Conception means the fecundation of the ovum by the  
23 spermatozoa;

24 (6) Viability means that stage of human development when  
25 the unborn child is potentially able to live more than merely  
26 momentarily outside the womb of the mother by natural or artificial  
27 means;

1           (7) Emergency situation means that condition which, on  
2 the basis of the physician's good faith clinical judgment, so  
3 complicates the medical condition of a pregnant woman as to  
4 necessitate the immediate abortion of her pregnancy to avert her  
5 death or for which a delay will create serious risk of substantial  
6 impairment of a major bodily function;

7           (8) Probable gestational age of the unborn child means  
8 what will with reasonable probability, in the judgment of the  
9 physician, be the gestational age of the unborn child at the time  
10 the abortion is planned to be performed; and

11           (9) Partial-birth abortion means an abortion procedure  
12 in which the person performing the abortion partially delivers  
13 vaginally a living unborn child before killing the unborn child and  
14 completing the delivery. For purposes of this subdivision, the term  
15 partially delivers vaginally a living unborn child before killing  
16 the unborn child means deliberately and intentionally delivering  
17 into the vagina a living unborn child, or a substantial portion  
18 thereof, for the purpose of performing a procedure that the person  
19 performing such procedure knows will kill the unborn child and does  
20 kill the unborn child.

21           Sec. 16. Section 28-327, Revised Statutes Cumulative  
22 Supplement, 2006, is amended to read:

23           28-327 No abortion shall be performed except with the  
24 voluntary and informed consent of the woman upon whom the abortion  
25 is to be performed. Except in the case of an emergency situation,  
26 consent to an abortion is voluntary and informed only if:

27           (1) The woman is told the following by the physician who

1 is to perform the abortion, by the referring physician, or by a  
2 licensed physician assistant or registered nurse who is an agent of  
3 either, at least twenty-four hours before the abortion:

4 (a) The particular medical risks associated with the  
5 particular abortion procedure to be employed including, when  
6 medically accurate, the risks of infection, hemorrhage, and danger  
7 to subsequent pregnancies and infertility;

8 (b) The probable gestational age of the unborn child at  
9 the time the abortion is to be performed; and

10 (c) The medical risks associated with carrying her child  
11 to term.

12 The person providing the information specified in this  
13 subdivision to the person upon whom the abortion is to be  
14 performed shall be deemed qualified to so advise and provide  
15 such information only if, at a minimum, he or she has had  
16 training in each of the following subjects: Sexual and reproductive  
17 health; abortion technology; contraceptive technology; short-term  
18 counseling skills; community resources and referral; and informed  
19 consent. The physician or the physician's agent may provide this  
20 information by telephone without conducting a physical examination  
21 or tests of the patient, in which case the information required  
22 to be supplied may be based on facts supplied by the patient and  
23 whatever other relevant information is reasonably available to the  
24 physician or the physician's agent;

25 (2) The woman is informed by telephone or in person, by  
26 the physician who is to perform the abortion, by the referring  
27 physician, or by an agent of either, at least twenty-four hours

1 before the abortion:

2 (a) The name of the physician who will perform the  
3 abortion;

4 (b) That medical assistance benefits may be available for  
5 prenatal care, childbirth, and neonatal care;

6 (c) That the father is liable to assist in the support of  
7 her child, even in instances in which the father has offered to pay  
8 for the abortion; and

9 (d) That she has the right to review the printed  
10 materials described in section 28-327.01. The physician or his  
11 or her agent shall orally inform the woman that the materials have  
12 been provided by the ~~Department of Health and Human Services~~ Health  
13 and Human Services System and that they describe the unborn child  
14 and list agencies which offer alternatives to abortion. If the  
15 woman chooses to review the materials, they shall either be given  
16 to her at least twenty-four hours before the abortion or mailed  
17 to her at least seventy-two hours before the abortion by certified  
18 mail, restricted delivery to addressee, which means the postal  
19 employee can only deliver the mail to the addressee. The physician  
20 and his or her agent may disassociate themselves from the materials  
21 and may comment or refrain from commenting on them as they choose;

22 (3) The woman certifies in writing, prior to the  
23 abortion, that the information described in subdivisions (1) and  
24 (2)(a), (b), and (c) of this section has been furnished her and  
25 that she has been informed of her right to review the information  
26 referred to in subdivision (2)(d) of this section; and

27 (4) Prior to the performance of the abortion, the



1 physician who is to perform the abortion or his or her agent  
2 receives a copy of the written certification prescribed by  
3 subdivision (3) of this section.

4 Sec. 17. Section 28-327.01, Revised Statutes Cumulative  
5 Supplement, 2006, is amended to read:

6 28-327.01 (1) ~~The Department of Health and Human Services~~  
7 Health and Human Services System shall cause to be published,  
8 ~~within sixty days after September 9, 1993,~~ the following easily  
9 comprehensible printed materials:

10 (a) Geographically indexed materials designed to inform  
11 the woman of public and private agencies and services available to  
12 assist a woman through pregnancy, upon childbirth, and while the  
13 child is dependent, including adoption agencies and agencies and  
14 services for prevention of unintended pregnancies, which materials  
15 shall include a comprehensive list of the agencies available,  
16 a description of the services they offer, and a description of  
17 the manner, including telephone numbers and addresses in which  
18 such agencies may be contacted or printed materials including a  
19 toll-free, twenty-four-hour-a-day telephone number which may be  
20 called to orally obtain such a list and description of agencies in  
21 the locality of the caller and of the services they offer; and

22 (b) Materials designed to inform the woman of the  
23 probable anatomical and physiological characteristics of the unborn  
24 child at two-week gestational increments from the time when a woman  
25 can be known to be pregnant to full term, including pictures or  
26 drawings representing the development of unborn children at the  
27 two-week gestational increments, and any relevant information on

1 the possibility of the unborn child's survival. Any such pictures  
2 or drawings shall contain the dimensions of the unborn child and  
3 shall be realistic and appropriate for the stage of pregnancy  
4 depicted. The materials shall be objective, nonjudgmental, and  
5 designed to convey only accurate scientific information about  
6 the unborn child at the various gestational ages. The materials  
7 shall also contain objective information describing the methods of  
8 abortion procedures commonly employed, the medical risks commonly  
9 associated with each such procedure, the possible detrimental  
10 psychological effects of abortion, the medical risks commonly  
11 associated with abortion, and the medical risks commonly associated  
12 with carrying a child to term.

13 (2) The materials shall be printed in a typeface large  
14 enough to be clearly legible.

15 (3) The materials required under this section shall be  
16 available from the ~~department~~ system upon the request by any  
17 person, facility, or hospital for an amount equal to the cost  
18 incurred by the ~~department~~ system to publish the materials.

19 Sec. 18. Section 28-327.03, Revised Statutes Cumulative  
20 Supplement, 2006, is amended to read:

21 28-327.03 No civil liability for failure to comply with  
22 subdivision (2) (d) of section 28-327 or that portion of subdivision  
23 (3) of such section requiring a written certification that the  
24 woman has been informed of her right to review the information  
25 referred to in subdivision (2) (d) of such section may be imposed  
26 unless the ~~Department of Health and Human Services~~ Health and  
27 Human Services System has published and made available the printed

1 materials at the time the physician or his or her agent is required  
2 to inform the woman of her right to review them.

3           Sec. 19. Section 28-328, Revised Statutes Cumulative  
4 Supplement, 2006, is amended to read:

5           28-328 (1) No partial-birth abortion shall be performed  
6 in this state, unless such procedure is necessary to save the life  
7 of the mother whose life is endangered by a physical disorder,  
8 physical illness, or physical injury, including a life-endangering  
9 physical condition caused by or arising from the pregnancy itself.

10           (2) The intentional and knowing performance of an  
11 unlawful partial-birth abortion in violation of subsection (1) of  
12 this section is a Class III felony.

13           (3) No woman upon whom an unlawful partial-birth abortion  
14 is performed shall be prosecuted under this section or for  
15 conspiracy to violate this section.

16           (4) The intentional and knowing performance of an  
17 unlawful partial-birth abortion shall result in the automatic  
18 suspension and revocation of an attending physician's license to  
19 practice medicine in Nebraska by the ~~Director of Regulation and~~  
20 ~~Licensure~~ Department of Public Health pursuant to sections 71-147  
21 to 71-161.20.

22           (5) Upon the filing of criminal charges under this  
23 section by the Attorney General or a county attorney, the Attorney  
24 General shall also file a petition to suspend and revoke the  
25 attending physician's license to practice medicine pursuant to  
26 section 71-150. A hearing on such administrative petition shall  
27 be set in accordance with section 71-153. At such hearing, the

1 attending physician shall have the opportunity to present evidence  
2 that the physician's conduct was necessary to save the life  
3 of a mother whose life was endangered by a physical disorder,  
4 physical illness, or physical injury, including a life-endangering  
5 physical condition caused by or arising from the pregnancy itself.  
6 A defendant against whom criminal charges are brought under this  
7 section may bring a motion to delay the beginning of the trial  
8 until after the entry of an order by the ~~Director of Regulation and~~  
9 ~~Licensure~~ Director of Public Health pursuant to section 71-155. The  
10 findings of the ~~Director of Regulation and Licensure~~ director as to  
11 whether the attending physician's conduct was necessary to save the  
12 life of a mother whose life was endangered by a physical disorder,  
13 physical illness, or physical injury, including a life-endangering  
14 physical condition caused by or arising from the pregnancy itself,  
15 shall be admissible in the criminal proceedings brought pursuant to  
16 this section.

17           Sec. 20. Section 28-343, Revised Statutes Cumulative  
18 Supplement, 2006, is amended to read:

19           28-343 The ~~Department of Health and Human Services~~  
20 ~~Finance and Support~~ Health and Human Services System shall  
21 prescribe an abortion reporting form which shall be used for  
22 the reporting of every abortion performed in this state. Such form  
23 shall include the following items:

- 24           (1) The age of the pregnant woman;  
25           (2) The location of the facility where the abortion was  
26 performed;  
27           (3) The type of procedure performed;

1 (4) Complications, if any;

2 (5) The name of the attending physician;

3 (6) The pregnant woman's obstetrical history regarding  
4 previous pregnancies, abortions, and live births;

5 (7) The stated reason or reasons for which the abortion  
6 was requested;

7 (8) The state of the pregnant woman's legal residence;

8 (9) The length and weight of the aborted child, when  
9 measurable;

10 (10) Whether an emergency situation caused the physician  
11 to waive any of the requirements of section 28-327; and

12 (11) Such other information as may be prescribed in  
13 accordance with section 71-602.

14 The completed form shall be signed by the attending  
15 physician and sent to the ~~department~~ system within fifteen  
16 days after each reporting month. The completed form shall be  
17 an original, typed or written legibly in durable ink, and shall not  
18 be deemed complete unless the omission of any item of information  
19 required shall have been disclosed or satisfactorily accounted for.  
20 Carbon copies shall not be acceptable. The abortion reporting form  
21 shall not include the name of the person upon whom the abortion was  
22 performed. The abortion reporting form shall be confidential and  
23 shall not be revealed except upon the order of a court of competent  
24 jurisdiction in a civil or criminal proceeding.

25 Sec. 21. Section 28-345, Revised Statutes Cumulative  
26 Supplement, 2006, is amended to read:

27 28-345 The ~~Department of Health and Human Services~~

1 ~~Finance and Support~~ Health and Human Services System shall  
2 prepare and keep on permanent file compilations of the information  
3 submitted on the abortion reporting forms pursuant to such rules  
4 and regulations as established by the ~~Department of Health and~~  
5 ~~Human Services Finance and Support,~~ system, which compilations  
6 shall be a matter of public record. Under no circumstances  
7 shall the compilations of information include the name of any  
8 attending physician or identify in any respect facilities where  
9 abortions are performed. The ~~Department of Health and Human~~  
10 ~~Services Finance and Support,~~ system, in order to maintain and  
11 keep such compilations current, shall file with such reports any  
12 new or amended information.

13           Sec. 22. Section 28-352, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15           28-352 Adult protective services shall mean those  
16 services provided by the ~~department~~ system for the prevention,  
17 correction, or discontinuance of abuse. Such services shall be  
18 those necessary and appropriate under the circumstances to protect  
19 an abused vulnerable adult, ensure that the least restrictive  
20 alternative is provided, prevent further abuse, and promote  
21 self-care and independent living. Such services shall include,  
22 but not be limited to: (1) Receiving and investigating reports of  
23 alleged abuse; (2) developing social service plans; (3) arranging  
24 for the provision of services such as medical care, mental health  
25 care, legal services, fiscal management, housing, or home health  
26 care; (4) arranging for the provision of items such as food,  
27 clothing, or shelter; and (5) arranging or coordinating services

1 for caregivers.

2           Sec. 23. Section 28-356, Revised Statutes Cumulative  
3 Supplement, 2006, is amended to read:

4           28-356 System means the Health and Human Services System.  
5 ~~Department shall mean the Department of Health and Human Services~~  
6 ~~Finance and Support.~~

7           Sec. 24. Section 28-372, Revised Statutes Cumulative  
8 Supplement, 2006, is amended to read:

9           28-372 (1) When any physician, psychologist, physician  
10 assistant, nurse, nursing assistant, other medical, developmental  
11 disability, or mental health professional, law enforcement  
12 personnel, caregiver or employee of a caregiver, operator or  
13 employee of a sheltered workshop, owner, operator, or employee  
14 of any facility licensed by the ~~Department of Health and Human~~  
15 ~~Services Regulation and Licensure,~~ system, or human services  
16 professional or paraprofessional not including a member of the  
17 clergy has reasonable cause to believe that a vulnerable adult has  
18 been subjected to abuse or observes such adult being subjected to  
19 conditions or circumstances which reasonably would result in abuse,  
20 he or she shall report the incident or cause a report to be made  
21 to the appropriate law enforcement agency or to the ~~Department of~~  
22 ~~Health and Human Services Finance and Support.~~ system. Any other  
23 person may report abuse if such person has reasonable cause to  
24 believe that a vulnerable adult has been subjected to abuse or  
25 observes such adult being subjected to conditions or circumstances  
26 which reasonably would result in abuse.

27           (2) Such report may be made by telephone, with the

1 caller giving his or her name and address, and, if requested by  
2 the ~~department~~, system, shall be followed by a written report  
3 within forty-eight hours. To the extent available the report shall  
4 contain: (a) The name, address, and age of the vulnerable adult;  
5 (b) the address of the caregiver or caregivers of the vulnerable  
6 adult; (c) the nature and extent of the alleged abuse or the  
7 conditions and circumstances which would reasonably be expected to  
8 result in such abuse; (d) any evidence of previous abuse including  
9 the nature and extent of the abuse; and (e) any other information  
10 which in the opinion of the person making the report may be helpful  
11 in establishing the cause of the alleged abuse and the identity of  
12 the perpetrator or perpetrators.

13 (3) Any law enforcement agency receiving a report of  
14 abuse shall notify the ~~department~~ system no later than the next  
15 working day by telephone or mail.

16 (4) A report of abuse made to the ~~department~~ system which  
17 was not previously made to or by a law enforcement agency shall  
18 be communicated to the appropriate law enforcement agency by the  
19 ~~department~~ system no later than the next working day by telephone  
20 or mail.

21 (5) The ~~department~~ system shall establish a statewide  
22 toll-free number to be used by any person any hour of the day or  
23 night and any day of the week to make reports of abuse.

24 Sec. 25. Section 28-373, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26 28-373 (1) Upon the receipt of a report concerning  
27 abuse pursuant to section 28-372, it shall be the duty of the



1 law enforcement agency (a) to make an investigation if deemed  
2 warranted because of alleged violations of section 28-386, (b)  
3 to take immediate steps, if necessary, to protect the vulnerable  
4 adult, and (c) to institute legal proceedings if appropriate. The  
5 law enforcement agency shall notify the ~~department~~ system if an  
6 investigation is undertaken. Such notification shall be made no  
7 later than the next working day following receipt of the report.

8 (2) The law enforcement agency shall make a written  
9 report or a case summary to the ~~department~~ system of all  
10 investigated cases of abuse and action taken with respect to  
11 all such cases.

12 Sec. 26. Section 28-374, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 28-374 (1) The ~~department~~ system shall investigate each  
15 case of alleged abuse and shall provide such adult protective  
16 services as are necessary and appropriate under the circumstances.

17 (2) In each case of alleged abuse, the ~~department~~ system  
18 may make a request for further assistance from the appropriate law  
19 enforcement agency or initiate such action as may be appropriate  
20 under the circumstances.

21 (3) The ~~department~~ system shall make a written report or  
22 case summary to the appropriate law enforcement agency and to the  
23 registry of all reported cases of abuse and action taken.

24 (4) The ~~department~~ system shall deliver a written report  
25 or case summary to the appropriate county attorney if the  
26 investigation indicates a reasonable cause to believe that a  
27 violation of section 28-386 has occurred.

1           Sec. 27. Section 28-376, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           28-376 (1) The ~~department~~ system shall establish and  
4 maintain an Adult Protective Services Central Registry for  
5 recording each report of alleged abuse.

6           (2) Upon request, a vulnerable adult who is the subject  
7 of a report or, if the vulnerable adult is legally incapacitated,  
8 the guardian or guardian ad litem of the vulnerable adult shall  
9 be entitled to receive a copy of all information contained in  
10 the registry pertaining to his or her case. The ~~department~~ system  
11 shall not release data that would be harmful or detrimental to  
12 the vulnerable adult or that would identify or locate a person  
13 who, in good faith, made a report or cooperated in a subsequent  
14 investigation unless ordered to do so by a court of competent  
15 jurisdiction.

16           (3) The ~~department~~ system shall establish classifications  
17 for all cases in the registry. All cases determined to be unfounded  
18 shall be expunged from the registry.

19           Sec. 28. Section 28-377, Revised Statutes Cumulative  
20 Supplement, 2006, is amended to read:

21           28-377 Except as otherwise provided in sections 28-376  
22 to 28-380, no person, official, or agency shall have access to  
23 the records relating to abuse unless in furtherance of purposes  
24 directly connected with the administration of the Adult Protective  
25 Services Act and section 28-726. Persons, officials, and agencies  
26 having access to such records shall include, but not be limited to:

27           (1) A law enforcement agency investigating a report of

1 known or suspected abuse;

2 (2) A county attorney in preparation of an abuse  
3 petition;

4 (3) A physician who has before him or her a person whom  
5 he or she reasonably suspects may be abused;

6 (4) An agency having the legal responsibility or  
7 authorization to care for, treat, or supervise an abused vulnerable  
8 adult;

9 (5) Defense counsel in preparation of the defense of a  
10 person charged with abuse;

11 (6) Any person engaged in bona fide research or auditing,  
12 except that no information identifying the subjects of the  
13 report shall be made available to the researcher or auditor.  
14 The researcher shall be charged for any costs of such research  
15 incurred by the ~~department~~ system at a rate established by rules  
16 and regulations adopted and promulgated by the ~~department,~~ system;

17 (7) The designated protection and advocacy system  
18 authorized pursuant to the Developmental Disabilities Assistance  
19 and Bill of Rights Act, 42 U.S.C. 6000, as the act existed on  
20 September 1, 2001, and the Protection and Advocacy for Mentally Ill  
21 Individuals Act, 42 U.S.C. 10801, as the act existed on September  
22 1, 2001, acting upon a complaint received from or on behalf of a  
23 person with developmental disabilities or mental illness; and

24 (8) For purposes of licensing providers of child care  
25 programs, the ~~Department of Health and Human Services Regulation~~  
26 ~~and Licensure.~~ system.

27 Sec. 29. Section 28-378, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           28-378 The ~~department~~ system or appropriate law  
3 enforcement agency shall provide requested information to any  
4 person legally authorized by sections 28-376 to 28-380 to have  
5 access to records relating to abuse when ordered by a court of  
6 competent jurisdiction or upon compliance by such person with  
7 identification requirements established by rules and regulations of  
8 the ~~department~~ system or law enforcement agency. Such information  
9 shall not include the name and address of the person making the  
10 report, except that the county attorney's office may request and  
11 receive the name and address of the person making the report with  
12 such person's written consent. The name and other identifying data  
13 of any person requesting or receiving information from the registry  
14 and the dates and the circumstances under which requests are made  
15 or information is released shall be entered in the registry.

16           Sec. 30. Section 28-379, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           28-379 Upon request, a physician or the person in charge  
19 of an institution, facility, or agency making a legally mandated  
20 report shall receive a summary of the findings of and actions taken  
21 by the ~~department~~ system in response to such report. The amount  
22 of detail such summary contains and the purposes for which it may  
23 be used shall depend on the source of the report and shall be  
24 established by rules and regulations adopted and promulgated by the  
25 ~~department.~~ system.

26           Sec. 31. Section 28-380, Revised Statutes Cumulative  
27 Supplement, 2006, is amended to read:

1           28-380 At any time subsequent to the completion of the  
2 ~~department's~~ system's investigation, if a vulnerable adult, the  
3 guardian of a vulnerable adult, or a person who allegedly abused  
4 a vulnerable adult and who is mentioned in a report believes  
5 the information in the report is inaccurate or being maintained  
6 in a manner inconsistent with the Adult Protective Services Act,  
7 such person may request the ~~department~~ system to amend or expunge  
8 identifying information from the report or remove the record of  
9 such report from the registry. If the ~~department~~ system refuses  
10 to do so or does not act within thirty days, the vulnerable adult  
11 or person who allegedly abused a vulnerable adult shall have the  
12 right to a hearing to determine whether the record of the report  
13 should be amended, expunged, or removed on the grounds that it is  
14 inaccurate or that it is being maintained in a manner inconsistent  
15 with such act. Such hearing shall be held within a reasonable time  
16 after a request is made and at a reasonable place and hour. At the  
17 hearing the burden of proving the accuracy and consistency of the  
18 record shall be on the ~~department.~~ system. The hearing shall be  
19 conducted by the chief executive officer of the system ~~Director of~~  
20 ~~Finance and Support~~ or his or her designated representative, who is  
21 hereby authorized and empowered to order the amendment, expunction,  
22 or removal of the record to make such record accurate or consistent  
23 with the requirements of the Adult Protective Services Act. The  
24 decision shall be made in writing within thirty days of the close  
25 of the hearing and shall state the reasons upon which it is based.  
26 Decisions of the ~~department~~ system may be appealed, and the appeal  
27 shall be in accordance with the Administrative Procedure Act.

1           Sec. 32. Section 28-381, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           28-381 At any time, the ~~department~~ system may amend,  
4 expunge, or remove from the registry any record upon good cause.  
5 Upon request, written notice of any amendment, expunction, or  
6 removal of any record made pursuant to the Adult Protective  
7 Services Act shall be served upon the vulnerable adult who is  
8 the subject of the report or the person who allegedly abused  
9 the vulnerable adult. The ~~department~~ system shall advise any  
10 other individuals or agencies who received a copy of the record  
11 pursuant to the Adult Protective Services Act to amend, expunge,  
12 or destroy such record. All information identifying the subjects of  
13 unsubstantiated reports shall be expunged from the registry.

14           Sec. 33. Section 28-387, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           28-387 (1) A county court may issue an ex parte  
17 order authorizing the provision of short-term involuntary adult  
18 protective services or temporary placement for a vulnerable adult  
19 for up to forty-eight hours, excluding nonjudicial days, pending  
20 the hearing for a need for continuing services, after finding on  
21 the record that:

22                   (a) The person is a vulnerable adult;

23                   (b) An emergency exists; and

24                   (c) There are compelling reasons for ordering protective  
25 services or temporary placement.

26           (2) An ex parte order shall be issued only if other  
27 protective custody services are unavailable or other services

1 provide insufficient protection.

2           (3) The ~~department~~ system shall contact the appropriate  
3 county attorney to file an application for short-term involuntary  
4 adult protective services or temporary placement if an  
5 investigation indicates probable cause to believe that an emergency  
6 exists for a vulnerable adult. The ~~department~~ system shall not be  
7 given legal custody nor be made guardian of such vulnerable adult.  
8 A vulnerable adult shall be responsible for the costs of services  
9 provided either through his or her own income or other programs for  
10 which he or she may be eligible.

11           (4) A law enforcement officer accompanied by a  
12 representative of the ~~department~~ system may enter the premises  
13 where the vulnerable adult is located after obtaining the court  
14 order and announcing his or her authority and purpose. Forcible  
15 entry may be made only after the court order has been obtained  
16 unless there is probable cause to believe that the delay of such  
17 entry would cause the vulnerable adult to be in imminent danger  
18 of life-threatening physical injury or the denial of essential  
19 services.

20           (5) When, from the personal observations of a  
21 representative of the ~~department~~ system and a law enforcement  
22 officer, it appears probable that the vulnerable adult is likely  
23 to be in imminent danger of life-threatening physical injury or  
24 the denial of essential services if he or she is not immediately  
25 removed from the premises, the law enforcement agency shall, when  
26 authorized by the court order, take into custody and transport the  
27 vulnerable adult to an appropriate medical or protective placement

1 facility.

2 (6) When action is taken under this section, a hearing  
3 shall be held within forty-eight hours of the signing of the court  
4 order, excluding nonjudicial days, to establish probable cause for  
5 short-term involuntary adult protective services or for protective  
6 placement. Unless the vulnerable adult has counsel of his or her  
7 own choice or has indicated a desire for an attorney of his or her  
8 own choice, the court shall appoint an attorney to represent him  
9 or her in the proceeding, who shall have the powers and duties of  
10 a guardian ad litem.

11 (7) Notice of the hearing shall be served personally on  
12 the vulnerable adult. Waiver of notice by the vulnerable adult  
13 shall not be effective unless he or she attends the hearing or such  
14 notice is waived by the guardian ad litem. Notice of the hearing  
15 shall be given to the following parties whose whereabouts can be  
16 readily ascertained: (a) The spouse of the vulnerable adult; (b)  
17 children of the vulnerable adult; and (c) any other party specified  
18 by the court.

19 (8) A judgment authorizing continuance of short-term  
20 involuntary adult protective services shall prescribe those  
21 specific adult protective services which are to be provided, the  
22 duration of the services which shall not exceed sixty days, and the  
23 person or persons who are authorized or ordered to provide them.

24 Sec. 34. Section 28-401, Revised Statutes Cumulative  
25 Supplement, 2006, is amended to read:

26 28-401 As used in the Uniform Controlled Substances Act,  
27 unless the context otherwise requires:



1           (1) Administer shall mean to directly apply a controlled  
2 substance by injection, inhalation, ingestion, or any other means  
3 to the body of a patient or research subject;

4           (2) Agent shall mean an authorized person who acts on  
5 behalf of or at the direction of another person but shall not  
6 include a common or contract carrier, public warehouse keeper, or  
7 employee of a carrier or warehouse keeper;

8           (3) Administration shall mean the Drug Enforcement  
9 Administration, United States Department of Justice;

10           (4) Controlled substance shall mean a drug, biological,  
11 substance, or immediate precursor in Schedules I to V of section  
12 28-405. Controlled substance shall not include distilled spirits,  
13 wine, malt beverages, tobacco, or any nonnarcotic substance if such  
14 substance may, under the Federal Food, Drug, and Cosmetic Act, 21  
15 U.S.C. 301 et seq., as such act existed on January 1, 2003, and  
16 the law of this state, be lawfully sold over the counter without a  
17 prescription;

18           (5) Counterfeit substance shall mean a controlled  
19 substance which, or the container or labeling of which, without  
20 authorization, bears the trademark, trade name, or other  
21 identifying mark, imprint, number, or device, or any likeness  
22 thereof, of a manufacturer, distributor, or dispenser other than  
23 the person or persons who in fact manufactured, distributed, or  
24 dispensed such substance and which thereby falsely purports or is  
25 represented to be the product of, or to have been distributed by,  
26 such other manufacturer, distributor, or dispenser;

27           (6) System shall mean the Health and Human Services

1 System; ~~(6) Department shall mean the Department of Health and~~  
2 ~~Human Services Regulation and Licensure;~~

3 (7) Division of Drug Control shall mean the personnel of  
4 the Nebraska State Patrol who are assigned to enforce the Uniform  
5 Controlled Substances Act;

6 (8) Dispense shall mean to deliver a controlled substance  
7 to an ultimate user or a research subject pursuant to a medical  
8 order issued by a practitioner authorized to prescribe, including  
9 the packaging, labeling, or compounding necessary to prepare the  
10 controlled substance for such delivery;

11 (9) Distribute shall mean to deliver other than by  
12 administering or dispensing a controlled substance;

13 (10) Prescribe shall mean to issue a medical order;

14 (11) Drug shall mean (a) articles recognized in  
15 the official United States Pharmacopoeia, official Homeopathic  
16 Pharmacopoeia of the United States, official National Formulary,  
17 or any supplement to any of them, (b) substances intended for use  
18 in the diagnosis, cure, mitigation, treatment, or prevention of  
19 disease in human beings or animals, and (c) substances intended for  
20 use as a component of any article specified in subdivision (a) or  
21 (b) of this subdivision, but shall not include devices or their  
22 components, parts, or accessories;

23 (12) Deliver or delivery shall mean the actual,  
24 constructive, or attempted transfer from one person to another  
25 of a controlled substance, whether or not there is an agency  
26 relationship;

27 (13) Marijuana shall mean all parts of the plant of

1 the genus cannabis, whether growing or not, the seeds thereof,  
2 and every compound, manufacture, salt, derivative, mixture, or  
3 preparation of such plant or its seeds, but shall not include  
4 the mature stalks of such plant, hashish, tetrahydrocannabinols  
5 extracted or isolated from the plant, fiber produced from such  
6 stalks, oil or cake made from the seeds of such plant, any other  
7 compound, manufacture, salt, derivative, mixture, or preparation of  
8 such mature stalks, or the sterilized seed of such plant which is  
9 incapable of germination. When the weight of marijuana is referred  
10 to in the Uniform Controlled Substances Act, it shall mean its  
11 weight at or about the time it is seized or otherwise comes into  
12 the possession of law enforcement authorities, whether cured or  
13 uncured at that time;

14 (14) Manufacture shall mean the production, preparation,  
15 propagation, compounding, conversion, or processing of a controlled  
16 substance, either directly or indirectly, by extraction from  
17 substances of natural origin, independently by means of chemical  
18 synthesis, or by a combination of extraction and chemical  
19 synthesis, and shall include any packaging or repackaging of the  
20 substance or labeling or relabeling of its container. Manufacture  
21 shall not include the preparation or compounding of a controlled  
22 substance by an individual for his or her own use, except for the  
23 preparation or compounding of components or ingredients used for or  
24 intended to be used for the manufacture of methamphetamine, or the  
25 preparation, compounding, conversion, packaging, or labeling of a  
26 controlled substance: (a) By a practitioner as an incident to his  
27 or her prescribing, administering, or dispensing of a controlled

1 substance in the course of his or her professional practice; or  
2 (b) by a practitioner, or by his or her authorized agent under  
3 his or her supervision, for the purpose of, or as an incident to,  
4 research, teaching, or chemical analysis and not for sale;

5 (15) Narcotic drug shall mean any of the following,  
6 whether produced directly or indirectly by extraction from  
7 substances of vegetable origin, independently by means of chemical  
8 synthesis, or by a combination of extraction and chemical  
9 synthesis: (a) Opium, opium poppy and poppy straw, coca leaves,  
10 and opiates; (b) a compound, manufacture, salt, derivative, or  
11 preparation of opium, coca leaves, or opiates; or (c) a substance  
12 and any compound, manufacture, salt, derivative, or preparation  
13 thereof which is chemically equivalent to or identical with any  
14 of the substances referred to in subdivisions (a) and (b) of this  
15 subdivision, except that the words narcotic drug as used in the  
16 Uniform Controlled Substances Act shall not include decocainized  
17 coca leaves or extracts of coca leaves, which extracts do not  
18 contain cocaine or ecgonine, or isoquinoline alkaloids of opium;

19 (16) Opiate shall mean any substance having an  
20 addiction-forming or addiction-sustaining liability similar to  
21 morphine or being capable of conversion into a drug having  
22 such addiction-forming or addiction-sustaining liability. Opiate  
23 shall not include the dextrorotatory isomer of 3-methoxy-n  
24 methylmorphinan and its salts. Opiate shall include its racemic and  
25 levorotatory forms;

26 (17) Opium poppy shall mean the plant of the species  
27 *Papaver somniferum* L., except the seeds thereof;

1           (18) Poppy straw shall mean all parts, except the seeds,  
2 of the opium poppy after mowing;

3           (19) Person shall mean any corporation, association,  
4 partnership, limited liability company, or one or more individuals;

5           (20) Practitioner shall mean a physician, a physician  
6 assistant, a dentist, a veterinarian, a pharmacist, a podiatrist,  
7 an optometrist, a certified nurse midwife, a certified registered  
8 nurse anesthetist, a nurse practitioner, a scientific investigator,  
9 a pharmacy, a hospital, or any other person licensed, registered,  
10 or otherwise permitted to distribute, dispense, prescribe, conduct  
11 research with respect to, or administer a controlled substance in  
12 the course of practice or research in this state, including an  
13 emergency medical service as defined in section 71-5175;

14           (21) Production shall include the manufacture, planting,  
15 cultivation, or harvesting of a controlled substance;

16           (22) Immediate precursor shall mean a substance which is  
17 the principal compound commonly used or produced primarily for use  
18 and which is an immediate chemical intermediary used or likely  
19 to be used in the manufacture of a controlled substance, the  
20 control of which is necessary to prevent, curtail, or limit such  
21 manufacture;

22           (23) State shall mean the State of Nebraska;

23           (24) Ultimate user shall mean a person who lawfully  
24 possesses a controlled substance for his or her own use, for the  
25 use of a member of his or her household, or for administration  
26 to an animal owned by him or her or by a member of his or her  
27 household;

1                   (25) Hospital shall have the same meaning as in section  
2 71-419;

3                   (26) Cooperating individual shall mean any person, other  
4 than a commissioned law enforcement officer, who acts on behalf of,  
5 at the request of, or as agent for a law enforcement agency for the  
6 purpose of gathering or obtaining evidence of offenses punishable  
7 under the Uniform Controlled Substances Act;

8                   (27) Hashish or concentrated cannabis shall mean: (a) The  
9 separated resin, whether crude or purified, obtained from a plant  
10 of the genus cannabis; or (b) any material, preparation, mixture,  
11 compound, or other substance which contains ten percent or more by  
12 weight of tetrahydrocannabinols;

13                   (28) Exceptionally hazardous drug shall mean (a)  
14 a narcotic drug, (b) thiophene analog of phencyclidine,  
15 (c) phencyclidine, (d) amobarbital, (e) secobarbital, (f)  
16 pentobarbital, (g) amphetamine, or (h) methamphetamine;

17                   (29) Imitation controlled substance shall mean a  
18 substance which is not a controlled substance but which, by way  
19 of express or implied representations and consideration of other  
20 relevant factors including those specified in section 28-445,  
21 would lead a reasonable person to believe the substance is a  
22 controlled substance. A placebo or registered investigational drug  
23 manufactured, distributed, possessed, or delivered in the ordinary  
24 course of practice or research by a health care professional shall  
25 not be deemed to be an imitation controlled substance;

26                   (30) (a) Controlled substance analogue shall mean a  
27 substance (i) the chemical structure of which is substantially

1 similar to the chemical structure of a Schedule I or Schedule  
2 II controlled substance as provided in section 28-405 or (ii)  
3 which has a stimulant, depressant, analgesic, or hallucinogenic  
4 effect on the central nervous system that is substantially similar  
5 to or greater than the stimulant, depressant, analgesic, or  
6 hallucinogenic effect on the central nervous system of a Schedule I  
7 or Schedule II controlled substance as provided in section 28-405.  
8 A controlled substance analogue shall, to the extent intended for  
9 human consumption, be treated as a controlled substance under  
10 Schedule I of section 28-405 for purposes of the Uniform Controlled  
11 Substances Act; and

12 (b) Controlled substance analogue shall not include (i)  
13 a controlled substance, (ii) any substance generally recognized as  
14 safe and effective within the meaning of the Federal Food, Drug,  
15 and Cosmetic Act, 21 U.S.C. 301 et seq., as such act existed on  
16 January 1, 2003, (iii) any substance for which there is an approved  
17 new drug application, or (iv) with respect to a particular person,  
18 any substance if an exemption is in effect for investigational use  
19 for that person, under section 505 of the Federal Food, Drug, and  
20 Cosmetic Act, 21 U.S.C. 355, as such section existed on January  
21 1, 2003, to the extent conduct with respect to such substance is  
22 pursuant to such exemption;

23 (31) Anabolic steroid shall mean any drug or hormonal  
24 substance, chemically and pharmacologically related to testosterone  
25 (other than estrogens, progestins, and corticosteroids), that  
26 promotes muscle growth and includes any controlled substance in  
27 Schedule III(d) of section 28-405. Anabolic steroid shall not

1 include any anabolic steroid which is expressly intended for  
2 administration through implants to cattle or other nonhuman species  
3 and has been approved by the Secretary of Health and Human Services  
4 for such administration, but if any person prescribes, dispenses,  
5 or distributes such a steroid for human use, such person shall  
6 be considered to have prescribed, dispensed, or distributed an  
7 anabolic steroid within the meaning of this subdivision;

8 (32) Chart order shall mean an order for a controlled  
9 substance issued by a practitioner for a patient who is in the  
10 hospital where the chart is stored or for a patient receiving  
11 detoxification treatment or maintenance treatment pursuant to  
12 section 28-412. Chart order shall not include a prescription;

13 (33) Medical order shall mean a prescription, a  
14 chart order, or an order for pharmaceutical care issued by a  
15 practitioner;

16 (34) Prescription shall mean an order for a controlled  
17 substance issued by a practitioner. Prescription shall not include  
18 a chart order;

19 (35) Registrant shall mean any person who has a  
20 controlled substances registration issued by the state or the  
21 administration;

22 (36) Reverse distributor shall mean a person whose  
23 primary function is to act as an agent for a pharmacy, wholesaler,  
24 manufacturer, or other entity by receiving, inventorying, and  
25 managing the disposition of outdated, expired, or otherwise  
26 nonsaleable controlled substances;

27 (37) Signature shall mean the name, word, or mark of



1 a person written in his or her own hand with the intent to  
2 authenticate a writing or other form of communication or a digital  
3 signature which complies with section 86-611 or an electronic  
4 signature;

5 (38) Facsimile shall mean a copy generated by a  
6 system that encodes a document or photograph into electrical  
7 signals, transmits those signals over telecommunications lines,  
8 and reconstructs the signals to create an exact duplicate of the  
9 original document at the receiving end;

10 (39) Electronic signature shall have the definition found  
11 in section 86-621; and

12 (40) Electronic transmission shall mean transmission  
13 of information in electronic form. Electronic transmission may  
14 include computer-to-computer transmission or computer-to-facsimile  
15 transmission.

16 Sec. 35. Section 28-406, Revised Statutes Cumulative  
17 Supplement, 2006, is amended to read:

18 28-406 (1) The ~~department~~ system shall issue  
19 registrations and reregistrations to manufacture, distribute,  
20 prescribe, or dispense controlled substances within this state on  
21 a biennial basis.

22 (2) The various fees to be paid by applicants for  
23 registrations and reregistrations, as required under the Uniform  
24 Controlled Substances Act, shall be as follows:

25 (a) Registration or reregistration to manufacture  
26 controlled substances, not less than one hundred dollars and not  
27 more than three hundred dollars;

1           (b) Registration or reregistration to distribute  
2 controlled substances, not less than one hundred dollars and not  
3 more than three hundred dollars;

4           (c) Registration or reregistration to prescribe,  
5 administer, or dispense controlled substances, not less than twenty  
6 dollars and not more than one hundred fifty dollars;

7           (d) Registration or reregistration to engage in research  
8 on the use and effects of controlled substances, not less than  
9 fifty dollars and not more than two hundred dollars;

10           (e) Registration or reregistration to engage in  
11 laboratory and analytical analysis of controlled substances, not  
12 less than fifty dollars and not more than two hundred dollars; and

13           (f) Registration or reregistration to provide  
14 detoxification treatment or maintenance treatment, not less  
15 than twenty dollars and not more than one hundred fifty dollars.

16           (3) The ~~department~~ system shall remit the fees to the  
17 State Treasurer for credit to the Professional and Occupational  
18 Credentialing Cash Fund.

19           (4) All registrations and reregistrations shall expire  
20 on August 31 of each odd-numbered year. Registration shall be  
21 automatically denied without a hearing for nonpayment of fees. Any  
22 registration or reregistration not renewed by payment of renewal  
23 fees by October 1 of odd-numbered years shall be automatically  
24 denied and canceled on October 2 of odd-numbered years without a  
25 hearing.

26           (5) The ~~department~~ system is authorized to adopt and  
27 promulgate rules and regulations necessary to implement this

1 section.

2           Sec. 36. Section 28-407, Revised Statutes Cumulative  
3 Supplement, 2006, is amended to read:

4           28-407 (1) Except as otherwise provided in this  
5 section, every person who manufactures, prescribes, distributes,  
6 administers, or dispenses any controlled substance within this  
7 state or who proposes to engage in the manufacture, prescribing,  
8 administering, distribution, or dispensing of any controlled  
9 substance within this state shall obtain a registration issued  
10 by the ~~department~~, system, except that on and after January  
11 1, 2000, health care providers credentialed by the ~~department~~  
12 system and facilities licensed by the ~~department~~ system shall not  
13 be required to obtain a separate Nebraska controlled substances  
14 registration upon providing proof of a Federal Controlled  
15 Substances Registration to the ~~department~~. system. Federal  
16 Controlled Substances Registration numbers obtained under this  
17 section shall not be public information but may be shared by  
18 the ~~department~~ system for investigative and regulatory purposes  
19 if necessary and only under appropriate circumstances to ensure  
20 against any unauthorized access to such information.

21           (2) The following persons shall not be required to  
22 register and may lawfully possess controlled substances under the  
23 provisions of the Uniform Controlled Substances Act:

24           (a) An agent, or an employee thereof, of any  
25 practitioner, registered manufacturer, distributor, or dispenser  
26 of any controlled substance if such agent is acting in the usual  
27 course of his or her business or employment;

1 (b) A common or contract carrier or warehouse keeper, or  
2 an employee thereof, whose possession of any controlled substance  
3 is in the usual course of his or her business or employment; and

4 (c) An ultimate user or a person in possession of any  
5 controlled substance pursuant to a medical order issued by a  
6 practitioner authorized to prescribe.

7 (3) A separate registration shall be required at each  
8 principal place of business of professional practice where the  
9 applicant manufactures, distributes, or dispenses controlled  
10 substances, except that no registration shall be required in  
11 connection with the placement of an emergency box within an  
12 institution pursuant to the provisions of the Emergency Box Drug  
13 Act.

14 (4) The ~~department~~ system is authorized to inspect the  
15 establishment of a registrant or applicant for registration in  
16 accordance with the rules and regulations promulgated.

17 Sec. 37. Section 28-408, Revised Statutes Cumulative  
18 Supplement, 2006, is amended to read:

19 28-408 (1) The ~~department~~ system shall register an  
20 applicant to manufacture or distribute controlled substances  
21 included in Schedules I to V of section 28-405 unless the  
22 ~~department~~ system determines that the issuance of such registration  
23 is inconsistent with the public interest. In determining the  
24 public interest the ~~department~~ system shall consider the following  
25 factors:

26 (a) Maintenance of effective controls against diversion  
27 of particular controlled substances and any Schedule I or II

1 substance compounded therefrom into other than legitimate medical,  
2 scientific, or industrial channels;

3 (b) Compliance with applicable state and local law;

4 (c) Whether the applicant has been convicted of a felony  
5 under any law of the United States or of any state or has been  
6 convicted of a violation relating to any substance defined in the  
7 Uniform Controlled Substances Act as a controlled substance under  
8 any law of the United States or any state, except that such fact in  
9 itself shall not be an automatic bar to registration;

10 (d) Past experience in the manufacture or distribution  
11 of controlled substances, and the existence in the applicant's  
12 establishment of effective controls against diversion; and

13 (e) Such other factors as may be relevant to and  
14 consistent with the public health and safety.

15 (2) Registration granted under subsection (1) of this  
16 section shall not entitle a registrant to manufacture or distribute  
17 controlled substances in Schedule I or II of section 28-405 other  
18 than those specified in the registration.

19 (3) Except as otherwise provided in this section and  
20 section 28-409, practitioners shall be registered to prescribe,  
21 administer, or dispense substances in Schedules II to V of section  
22 28-405 if they are authorized to prescribe, administer, or dispense  
23 under the laws of this state. A registration application by  
24 a practitioner who wishes to conduct research with Schedule I  
25 substances shall be referred to the ~~department~~ system for approval  
26 or disapproval. Registration to prescribe, administer, or dispense  
27 substances in Schedules II to V of section 28-405 or registration

1 for the purpose of bona fide research with Schedule I substances  
2 by a practitioner may be denied only on a ground specified in  
3 subsection (1) of section 28-409 or if there are reasonable grounds  
4 to believe that the applicant will abuse or unlawfully transfer  
5 such substances or fail to safeguard adequately his or her supply  
6 of such substances against diversion from legitimate medical or  
7 scientific use.

8 (4) Compliance by manufacturers and distributors with the  
9 Controlled Substances Act, 21 U.S.C. 801 et seq., as such act  
10 existed on May 1, 2001, respecting registration, excluding fees,  
11 shall be deemed compliance with this section.

12 Sec. 38. Section 28-409, Revised Statutes Cumulative  
13 Supplement, 2006, is amended to read:

14 28-409 (1) A registration pursuant to section 28-408  
15 to prescribe, administer, manufacture, distribute, or dispense a  
16 controlled substance may be denied, suspended, revoked, or renewal  
17 refused by the ~~department~~ system upon a finding that the applicant  
18 or registrant:

19 (a) Has falsified any application filed pursuant to the  
20 Uniform Controlled Substances Act or required by the act;

21 (b) Has been convicted of a felony subsequent to being  
22 granted a registration pursuant to section 28-408 under any law  
23 of the United States or of any state or has been convicted of  
24 a violation relating to any substance defined in the act as a  
25 controlled substance subsequent to being granted a registration  
26 pursuant to section 28-408 under any law of the United States or of  
27 any state;

1           (c) Has had his or her federal registration suspended or  
2           revoked by competent federal authority and is no longer authorized  
3           by federal law to engage in the prescribing, manufacturing,  
4           distribution, or dispensing of controlled substances;

5           (d) Is guilty of any of the acts or offenses listed in  
6           section 71-147 for which disciplinary measures may be taken against  
7           his or her license, certificate, or registration to practice  
8           and which have a rational connection with his or her fitness  
9           to prescribe, administer, or dispense a controlled substance.  
10          The ~~department~~ system may automatically revoke or suspend the  
11          registration of a practitioner who has had his or her license,  
12          certificate, or registration to practice revoked or suspended and  
13          is no longer authorized to prescribe, administer, or dispense  
14          under the laws of this state or who has had his or her license,  
15          certificate, or registration to practice limited or restricted  
16          and is no longer authorized to prescribe, administer, or dispense  
17          controlled substances under the laws of this state;

18          (e) Is habitually intoxicated or is dependent upon or  
19          actively addicted to alcohol or any controlled substance or  
20          narcotic drug; or

21          (f) Has violated the Uniform Controlled Substances Act or  
22          any rules or regulations adopted and promulgated pursuant to the  
23          act.

24          (2) The ~~department~~ system may limit revocation or  
25          suspension of a registration to the particular controlled substance  
26          with respect to which grounds for revocation or suspension exist.

27          (3) A person whose registration or renewal has been

1 denied, revoked, or suspended shall be afforded an opportunity  
2 for a hearing in accordance with the Administrative Procedure  
3 Act. Such proceedings shall be independent of, and not in  
4 lieu of, criminal prosecutions or other proceedings under the  
5 Uniform Controlled Substances Act or any law of the state, except  
6 that such proceedings may be consolidated with proceedings under  
7 section 71-155 or sections 71-161.12 to 71-161.18. Proceedings  
8 to refuse renewal of registration shall not abate the existing  
9 registration which shall remain in effect pending the outcome of  
10 the administrative hearing, except in cases when the ~~department~~  
11 system finds that there is an imminent danger to the public health  
12 or safety.

13 (4) The ~~department~~ system may suspend any registration  
14 simultaneously with the institution of proceedings under this  
15 section or when renewal of registration is refused in cases when  
16 the ~~department~~ system finds that there is an imminent danger to  
17 the public health or safety. Such suspension shall continue in  
18 effect until the conclusion of such proceedings, including judicial  
19 review thereof, unless sooner withdrawn by the ~~department~~ system or  
20 dissolved by a court of competent jurisdiction.

21 (5) In the event the ~~department~~ system suspends or  
22 revokes a registration granted under section 28-408, all controlled  
23 substances owned or possessed by the registrant pursuant to such  
24 registration at the time of suspension or the effective date of the  
25 revocation order, as the case may be, may in the discretion of the  
26 ~~department~~ system be placed under seal. No disposition may be made  
27 of substances under seal until the time for taking an appeal has



1 elapsed or until all appeals have been concluded unless a court,  
2 upon application therefor, orders the sale of perishable substances  
3 and the deposit of the proceeds of the sale with the court. Upon a  
4 revocation order becoming final, all such controlled substances may  
5 be forfeited to the state.

6 (6) The administration shall be promptly notified of all  
7 orders limiting, suspending, or revoking registration.

8 Sec. 39. Section 28-410, Revised Statutes Cumulative  
9 Supplement, 2006, is amended to read:

10 28-410 (1) Each registrant manufacturing, distributing,  
11 or dispensing controlled substances in Schedule I, II, III, IV, or  
12 V of section 28-405 shall keep and maintain a complete and accurate  
13 record of all stocks of such controlled substances on hand. Such  
14 records shall be maintained for five years.

15 (2) During odd-numbered years, each registrant  
16 manufacturing, distributing, storing, or dispensing such controlled  
17 substances shall prepare an inventory of each controlled substance  
18 in his or her possession. Such inventory shall (a) be taken within  
19 two years after the previous biennial inventory date, (b) contain  
20 such information as shall be required by the Board of Pharmacy,  
21 (c) be copied and such copy forwarded to the ~~department~~ system  
22 within thirty days after completion, (d) be maintained at the  
23 location listed on the registration for a period of five years,  
24 (e) contain the name, address, and Drug Enforcement Administration  
25 number of the registrant, the date and time of day the inventory  
26 was completed, and the signature of the person responsible for  
27 taking the inventory, (f) list the exact count or measure of all

1 controlled substances listed in Schedule I or II of section 28-405,  
2 (g) list an estimated count or measure of all controlled substances  
3 listed in Schedule III, IV, or V of section 28-405 unless the  
4 container holds more than one thousand tablets, capsules, or  
5 milliliters, in which case the inventory shall list an exact count,  
6 and (h) be maintained in permanent, read-only format separating the  
7 inventory for controlled substances listed in Schedule I or II of  
8 section 28-405 from the inventory for controlled substances listed  
9 in Schedule III, IV, or V of section 28-405. A registrant whose  
10 inventory fails to comply with this subsection shall be guilty of a  
11 Class IV misdemeanor.

12 (3) This section shall not apply to practitioners who  
13 prescribe or administer, as a part of their practice, controlled  
14 substances listed in Schedule II, III, IV, or V of section 28-405  
15 unless such practitioner regularly engages in dispensing any such  
16 drug or drugs to his or her patients.

17 (4) Controlled substances shall be stored in accordance  
18 with the following:

19 (a) All controlled substances listed in Schedule I of  
20 section 28-405 must be stored in a locked cabinet; and

21 (b) All controlled substances listed in Schedule II, III,  
22 IV, or V of section 28-405 must be stored in a locked cabinet or  
23 distributed throughout the inventory of noncontrolled substances in  
24 a manner which will obstruct theft or diversion of the controlled  
25 substances.

26 Sec. 40. Section 28-414, Revised Statutes Cumulative  
27 Supplement, 2006, is amended to read:

1           28-414 (1)(a) Except as otherwise provided in this  
2 subsection or section 28-412 or when administered directly by  
3 a practitioner to an ultimate user, a controlled substance listed  
4 in Schedule II of section 28-405 shall not be dispensed without  
5 the written prescription bearing the signature of a practitioner  
6 authorized to prescribe. No medical order for a controlled  
7 substance listed in Schedule II of section 28-405 shall be filled  
8 more than six months from the date of issuance. A prescription  
9 for a controlled substance listed in Schedule II of section 28-405  
10 shall not be refilled.

11           (b) In emergency situations as defined by rule and  
12 regulation of the ~~department~~, system, a controlled substance listed  
13 in Schedule II of section 28-405 may be dispensed pursuant to  
14 a facsimile of a written, signed prescription bearing the word  
15 "emergency" or pursuant to an oral prescription reduced to writing  
16 in accordance with subdivision (3)(b) of this section, except for  
17 the prescribing practitioner's signature, and bearing the word  
18 "emergency".

19           (c) In nonemergency situations:

20           (i) A controlled substance listed in Schedule II of  
21 section 28-405 may be dispensed pursuant to a facsimile of  
22 a written, signed prescription if the original written, signed  
23 prescription is presented to the pharmacist for review before  
24 the controlled substance is dispensed, except as provided in  
25 subdivision (1)(c)(ii) or (1)(c)(iii) of this section;

26           (ii) A narcotic drug listed in Schedule II of section  
27 28-405 may be dispensed pursuant to a facsimile of a written,

1 signed prescription (A) to be compounded for direct parenteral  
2 administration to a patient for the purpose of home infusion  
3 therapy or (B) for administration to a patient in a hospice  
4 licensed under the Health Care Facility Licensure Act or certified  
5 under Title XVIII of the federal Social Security Act, as such title  
6 existed on May 1, 2001, and bearing the words "hospice patient";

7 (iii) A controlled substance listed in Schedule II of  
8 section 28-405 may be dispensed pursuant to a facsimile of a  
9 written, signed prescription for administration to a resident of a  
10 long-term care facility; and

11 (iv) For purposes of subdivisions (1)(c)(ii) and  
12 (1)(c)(iii) of this section, a facsimile of a written, signed  
13 prescription shall serve as the original written prescription and  
14 shall be maintained in accordance with subdivision (3)(a) of this  
15 section.

16 (d)(i) A prescription for a controlled substance listed  
17 in Schedule II of section 28-405 may be partially filled if the  
18 pharmacist does not supply the full quantity prescribed and he  
19 or she makes a notation of the quantity supplied on the face of  
20 the prescription. The remaining portion of the prescription may  
21 be filled within seventy-two hours of the first partial filling.  
22 The pharmacist shall notify the prescribing practitioner if the  
23 remaining portion of the prescription is not or cannot be filled  
24 within such period. No further quantity may be supplied after such  
25 period without a new written, signed prescription.

26 (ii) A prescription for a controlled substance listed in  
27 Schedule II of section 28-405 written for a patient in a long-term

1 care facility or for a patient with a medical diagnosis documenting  
2 a terminal illness may be partially filled. Such prescription  
3 shall bear the words "terminally ill" or "long-term care facility  
4 patient" on its face. If there is any question whether a patient  
5 may be classified as having a terminal illness, the pharmacist  
6 shall contact the prescribing practitioner prior to partially  
7 filling the prescription. Both the pharmacist and the prescribing  
8 practitioner have a corresponding responsibility to assure that the  
9 controlled substance is for a terminally ill patient. For each  
10 partial filling, the dispensing pharmacist shall record on the back  
11 of the prescription or on another appropriate record, uniformly  
12 maintained and readily retrievable, the date of the partial  
13 filling, quantity dispensed, remaining quantity authorized to be  
14 dispensed, and the identification of the dispensing pharmacist. The  
15 total quantity of controlled substances listed in Schedule II which  
16 is dispensed in all partial fillings shall not exceed the total  
17 quantity prescribed. A prescription for a Schedule II controlled  
18 substance for a patient in a long-term care facility or a patient  
19 with a medical diagnosis documenting a terminal illness is valid  
20 for sixty days from the date of issuance or until discontinuance of  
21 the prescription, whichever occurs first.

22 (2) (a) Except as otherwise provided in this subsection  
23 or when administered directly by a practitioner to an ultimate  
24 user, a controlled substance listed in Schedule III, IV, or V of  
25 section 28-405 shall not be dispensed without a written or oral  
26 medical order. Such medical order is valid for six months after  
27 the date of issuance. Authorization from a practitioner authorized

1 to prescribe is required to refill a prescription for a controlled  
2 substance listed in Schedule III, IV, or V of section 28-405.  
3 Such prescriptions shall not be refilled more than five times  
4 within six months after the date of issuance. Original prescription  
5 information for any controlled substance listed in Schedule III,  
6 IV, or V of section 28-405 may be transferred between pharmacies  
7 for purposes of refill dispensing pursuant to section 71-1,146.02.

8 (b) A controlled substance listed in Schedule III, IV, or  
9 V of section 28-405 may be dispensed pursuant to a facsimile of  
10 a written, signed prescription. The facsimile of a written, signed  
11 prescription shall serve as the original written prescription for  
12 purposes of this subsection and shall be maintained in accordance  
13 with the provisions of subdivision (3)(c) of this section.

14 (c) A prescription for a controlled substance listed in  
15 Schedule III, IV, or V of section 28-405 may be partially filled  
16 if (i) each partial filling is recorded in the same manner as  
17 a refilling, (ii) the total quantity dispensed in all partial  
18 fillings does not exceed the total quantity prescribed, and (iii)  
19 each partial filling is dispensed within six months after the  
20 prescription was issued.

21 (3)(a) Prescriptions for all controlled substances listed  
22 in Schedule II of section 28-405 shall be kept in a separate  
23 file by the dispensing practitioner and shall be maintained for a  
24 minimum of five years. The practitioner shall make all such files  
25 readily available to the ~~department~~ system and law enforcement for  
26 inspection without a search warrant.

27 (b) All prescriptions for controlled substances listed

1 in Schedule II of section 28-405 shall contain the name and  
2 address of the patient, the name and address of the prescribing  
3 practitioner, the Drug Enforcement Administration number of  
4 the prescribing practitioner, the date of issuance, and the  
5 prescribing practitioner's signature. The practitioner filling such  
6 prescription shall write the date of filling and his or her own  
7 signature on the face of the prescription. If the prescription is  
8 for an animal, it shall also state the name and address of the  
9 owner of the animal and the species of the animal.

10 (c) Prescriptions for all controlled substances listed in  
11 Schedule III, IV, or V of section 28-405 shall be filed separately  
12 from other prescriptions in a single file by the dispensing  
13 practitioner and shall be maintained for a minimum of five years.  
14 The practitioner shall make all such files readily available to  
15 the ~~department~~ system and law enforcement for inspection without a  
16 search warrant.

17 (d) All prescriptions for controlled substances listed in  
18 Schedule III, IV, or V of section 28-405 shall contain the name  
19 and address of the patient, the name and address of the prescribing  
20 practitioner, the Drug Enforcement Administration number of the  
21 prescribing practitioner, the date of issuance, and for written  
22 prescriptions, the prescribing practitioner's signature. If the  
23 prescription is for an animal, it shall also state the owner's name  
24 and address and species of the animal.

25 (e) A registrant who is the owner of a controlled  
26 substance may transfer:

27 (i) Any controlled substance listed in Schedule I or II

1 of section 28-405 to another registrant as provided by law or by  
2 rule and regulation of the ~~department~~; system; and

3 (ii) Any controlled substance listed in Schedule III, IV,  
4 or V of section 28-405 to another registrant if such owner complies  
5 with subsection (4) of section 28-411.

6 (f) (i) The owner of any stock of controlled substances  
7 may cause such controlled substances to be destroyed pursuant  
8 to this subdivision when the need for such substances ceases.  
9 Complete records of controlled substances destruction pursuant to  
10 this subdivision shall be maintained by the registrant for five  
11 years from the date of destruction.

12 (ii) When the owner is a registrant:

13 (A) Controlled substances listed in Schedule II, III,  
14 IV, or V of section 28-405 may be destroyed by a pharmacy  
15 inspector, by a reverse distributor, or by the federal Drug  
16 Enforcement Administration. Upon destruction, any forms required by  
17 the administration to document such destruction shall be completed;

18 (B) Liquid controlled substances in opened containers  
19 which originally contained fifty milliliters or less or compounded  
20 liquid controlled substances within the facility where they were  
21 compounded may be destroyed if witnessed by two members of the  
22 healing arts and recorded in accordance with subsection (4) of  
23 section 28-411; or

24 (C) Solid controlled substances in opened unit-dose  
25 containers or which have been adulterated within a hospital where  
26 they were to be administered to patients at such hospital may  
27 be destroyed if witnessed by two members of the healing arts and



1 recorded in accordance with subsection (4) of section 28-411.

2 (iii) When the owner is a patient, such owner may  
3 transfer the controlled substances to a pharmacy for immediate  
4 destruction by two responsible parties acting on behalf of the  
5 pharmacy, one of whom must be a member of the healing arts.

6 (iv) When the owner is a resident of a long-term care  
7 facility or hospital, the long-term care facility or hospital shall  
8 assure that controlled substances are destroyed as follows:

9 (A) If the controlled substance is listed in Schedule II  
10 or III of section 28-405, the destruction shall be witnessed by an  
11 employee pharmacist or a consultant pharmacist and a member of the  
12 healing arts; or

13 (B) If the controlled substance is listed in Schedule  
14 IV or V of section 28-405, the destruction shall be witnessed  
15 by an employee pharmacist or a consultant pharmacist and another  
16 responsible adult.

17 (g) Before dispensing any controlled substance listed  
18 in Schedule II, III, IV, or V of section 28-405, the dispensing  
19 practitioner shall affix a label to the container in which the  
20 controlled substance is dispensed. Such label shall bear the name  
21 and address of the pharmacy or dispensing practitioner, the name  
22 of the patient, the date of filling, the consecutive number of  
23 the prescription under which it is recorded in the practitioner's  
24 prescription files, the name of the prescribing practitioner, and  
25 the directions for use of the controlled substance. Unless the  
26 prescribing practitioner writes "do not label" or words of similar  
27 import on the original written prescription or so designates in

1 an oral prescription, such label shall also bear the name of the  
2 controlled substance.

3 (4) For purposes of this section, long-term care facility  
4 has the same meaning as long-term care hospital in section  
5 71-422 and includes an intermediate care facility for the mentally  
6 retarded as defined in section 71-421.

7 Sec. 41. Section 28-428, Revised Statutes Cumulative  
8 Supplement, 2006, is amended to read:

9 28-428 (1) Administrative inspections of controlled  
10 premises are authorized in accordance with the following  
11 provisions:

12 (a) For purposes of the Uniform Controlled Substances  
13 Act only, controlled premises shall mean: (i) Places where  
14 persons registered or exempted from registration requirements  
15 under the act are required to keep records; and (ii) places  
16 including factories, warehouses, establishments, and conveyances  
17 where persons registered or exempted from registration requirements  
18 under the act are permitted to hold, manufacture, compound,  
19 process, sell, deliver, or otherwise dispose of any controlled  
20 substance;

21 (b) When so authorized by an administrative inspection  
22 or an officer of the Division of Drug Control or an authorized  
23 agent of the ~~department,~~ system, upon presenting the warrant and  
24 appropriate credentials to the owner, operator, or agent in charge,  
25 shall have the right to enter controlled premises for the purpose  
26 of conducting an administrative inspection;

27 (c) When so authorized by an administrative inspection

1 warrant, an officer of the Division of Drug Control or an  
2 authorized agent of the ~~department~~ system shall have the right:

3 (i) To inspect and copy records required by the act to be kept;  
4 (ii) to inspect, within reasonable limits and in a reasonable  
5 manner, controlled premises and all pertinent equipment, finished  
6 and unfinished material, containers, and labeling found therein,  
7 and, except as otherwise provided in subdivision (1)(e)(ii)  
8 of this section, all other things therein, including records,  
9 files, papers, processes, controls, and facilities, bearing on  
10 any violation of the act; and (iii) to inventory any stock of  
11 any controlled substance therein and obtain samples of any such  
12 substance;

13 (d) This section shall not be construed to prevent  
14 entries and administrative inspections including seizures of  
15 property without a warrant: (i) With the consent of the owner,  
16 operator, or agent in charge of the controlled premises; (ii)  
17 in situations presenting imminent danger to health or safety;  
18 (iii) in situations involving inspection of any conveyance when  
19 there is reasonable cause to believe that such conveyance contains  
20 substances possessed or carried in violation of the act; (iv)  
21 in any other exceptional or emergency circumstance when time or  
22 opportunity to apply for a warrant is lacking; and (v) in all other  
23 situations when a warrant is not constitutionally required; and

24 (e) Except when the owner, operator, or agent in charge  
25 of the controlled premises so consents in writing, no inspection  
26 authorized by this section shall extend to (i) financial data; (ii)  
27 sales data other than shipment data; or (iii) pricing data.

1           (2) For the purpose of the execution of administrative  
2 inspection warrants, an authorized agent of the ~~department~~ system  
3 shall be deemed to be a peace officer.

4           (3) Issuance and execution of administrative inspection  
5 warrants for controlled premises shall be in accordance with the  
6 provisions of sections 29-830 to 29-835, except that inspection  
7 warrants for the purpose of the act shall be issued not only upon  
8 a showing that consent to entry for inspection purposes has been  
9 refused, but also in all cases when the judge of a court of record  
10 has been given reason to believe that consent would be refused if  
11 requested.

12           Sec. 42. Section 28-429, Revised Statutes Cumulative  
13 Supplement, 2006, is amended to read:

14           28-429 (1) There is hereby established in the Nebraska  
15 State Patrol a Division of Drug Control. The division shall consist  
16 of such personnel as may be designated by the Superintendent  
17 of Law Enforcement and Public Safety. It shall be the duty of  
18 the division to enforce all of the provisions of the Uniform  
19 Controlled Substances Act and any other provisions of the law  
20 dealing with controlled substances and to conduct drug education  
21 activities as directed by the superintendent. The Nebraska State  
22 Patrol shall cooperate with federal agencies, the ~~department,~~  
23 system, other state agencies, elementary and secondary schools,  
24 and County Drug Law Enforcement and Education Fund Boards in  
25 discharging their responsibilities concerning traffic in controlled  
26 substances, in suppressing the abuse of controlled substances, and  
27 in conducting drug education activities. To this end the division

1 is authorized to: (a) Arrange for the exchange of information  
2 between governmental officials concerning the use and abuse of  
3 controlled substances; (b) coordinate and cooperate in training  
4 programs on controlled substance law enforcement and education  
5 at the local and state levels; (c) establish a centralized unit  
6 which will accept, catalog, file, and collect statistics, including  
7 records of drug dependent persons and other controlled substance  
8 law offenders within the state, and make such information available  
9 for federal, state, and local law enforcement purposes on request;  
10 (d) cooperate in locating, eradicating, and destroying wild or  
11 illicit growth of plant species from which controlled substances  
12 may be extracted, and for these purposes a peace officer is hereby  
13 authorized to enter onto property upon which there are no buildings  
14 or upon which there are only uninhabited buildings without first  
15 obtaining a search warrant or consent; (e) develop a priority  
16 program so as to focus the bulk of its efforts on the reduction and  
17 elimination of the most damaging drugs including narcotic drugs,  
18 depressant and stimulant drugs, and hallucinogenic drugs; and (f)  
19 develop and conduct drug education activities in cooperation with  
20 elementary and secondary schools in Nebraska and with County Drug  
21 Law Enforcement and Education Fund Boards.

22 (2) There is hereby created the Nebraska State Patrol  
23 Drug Control and Education Cash Fund which shall be used for the  
24 purposes of (a) obtaining evidence for enforcement of any state  
25 law relating to the control of drug abuse and (b) drug education  
26 activities conducted pursuant to subsection (1) of this section.  
27 Any money in the fund available for investment shall be invested

1 by the state investment officer pursuant to the Nebraska Capital  
2 Expansion Act and the Nebraska State Funds Investment Act.

3 (3) For the purpose of establishing and maintaining  
4 legislative oversight and accountability, the Appropriations  
5 Committee of the Legislature shall formulate record-keeping  
6 procedures to be adhered to by the Nebraska State Patrol for  
7 all expenditures, disbursements, and transfers of cash from the  
8 Nebraska State Patrol Drug Control and Education Cash Fund. Based  
9 on these record-keeping procedures, the Nebraska State Patrol  
10 shall prepare and deliver to the Clerk of the Legislature at  
11 the commencement of each succeeding session a detailed report  
12 which shall contain, but not be limited to: (a) Current total  
13 in the cash fund; (b) total amount of expenditures; (c) purpose  
14 of the expenditures to include: (i) Salaries and any expenses of  
15 all agents and informants; (ii) front money for drug purchases;  
16 (iii) names of drugs and quantity of purchases; (iv) amount of  
17 front money recovered; and (v) drug education activities; (d)  
18 total number of informers on payroll; (e) amounts delivered to  
19 patrol supervisors for distribution to agents and informants and  
20 the method of accounting for such transactions and the results  
21 procured through such transactions; and (f) a description of the  
22 drug education activities conducted since the date of the previous  
23 report. Each member of the Legislature shall receive a copy of such  
24 report by making a request for it to the superintendent.

25 (4) The superintendent shall adopt and promulgate rules  
26 and regulations to carry out this section.

27 Sec. 43. Section 28-430, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2           28-430 The ~~department~~ system shall enforce the Uniform  
3 Controlled Substances Act and shall cooperate with federal  
4 agencies, the Division of Drug Control, and other state agencies in  
5 discharging their responsibilities concerning traffic in controlled  
6 substances and in suppressing the abuse of controlled substances.  
7 To this end, it is authorized to: (1) Arrange for the exchange  
8 of information between governmental officials concerning the use  
9 and abuse of controlled substances; (2) cooperate with the Drug  
10 Enforcement Administration and the Federal Bureau of Investigation;  
11 (3) do drug accountability audits of all registered practitioners  
12 in accordance with the act; (4) provide laboratory analysis; (5)  
13 provide drug abuse education to schools, courts, and persons  
14 requesting it; and (6) rely on results, information, and evidence  
15 received from the Drug Enforcement Administration and the Federal  
16 Bureau of Investigation relating to the regulatory functions of the  
17 act, including results of inspections conducted by that agency,  
18 which may be acted upon by the ~~department~~ system and the Division  
19 of Drug Control in the performance of their regulatory functions  
20 under the act.

21           Sec. 44. Section 28-431, Revised Statutes Cumulative  
22 Supplement, 2006, is amended to read:

23           28-431 (1) The following shall be seized without warrant  
24 by an officer of the Division of Drug Control or by any peace  
25 officer and the same shall be subject to forfeiture: (a) All  
26 controlled substances which have been manufactured, distributed,  
27 dispensed, acquired, or possessed in violation of the Uniform

1 Controlled Substances Act; (b) all raw materials, products, and  
2 equipment of any kind which are used, or intended for use, in  
3 manufacturing, compounding, processing, administering, delivering,  
4 importing, or exporting any controlled substance in violation of  
5 the act; (c) all property which is used, or is intended for  
6 use, as a container for property described in subdivisions (a)  
7 and (b) of this subsection; (d) all drug paraphernalia defined in  
8 section 28-439; (e) all books, records, and research, including,  
9 but not limited to, formulas, microfilm, tapes, and data, which  
10 are used, or intended for use, in violation of the act; (f) all  
11 conveyances including, but not limited to, aircraft, vehicles,  
12 or vessels which are used, or intended for use, in transporting  
13 any controlled substance with intent to manufacture, distribute,  
14 deliver, dispense, export, or import such controlled substance in  
15 violation of the act; and (g) all money used, or intended to be  
16 used, to facilitate a violation of the act.

17 (2) Any property described in subdivision (1)(f) of this  
18 section which is used, or intended for use, to transport any  
19 property described in subdivision (1)(a) or (b) of this section  
20 is hereby declared to be a common nuisance, and any peace officer  
21 having probable cause to believe that such property is so used, or  
22 intended for such use, shall make a search thereof with or without  
23 a warrant.

24 (3) All money that a law enforcement agency proves was  
25 furnished by such agency shall be returned to the agency. All  
26 property seized without a search warrant shall not be subject to  
27 a replevin action and: (a) All property described in subdivisions



1 (1) (a) ~~to~~ through (1) (e) of this section shall be kept by the  
2 property division of the law enforcement agency which employs the  
3 officer who seized such property for so long as it is needed as  
4 evidence in any trial; and (b) when no longer required as evidence,  
5 all property described in subdivision (1) (e) of this section shall  
6 be disposed of on order of a court of record of this state in  
7 such manner as the court in its sound discretion shall direct, and  
8 all property described in subdivisions (1) (a), (b), (c), and (d)  
9 of this section, that has been used or is intended to be used in  
10 violation of the act, when no longer needed as evidence shall be  
11 destroyed by the law enforcement agency holding the same or turned  
12 over to the ~~department~~ system for custody or destruction, except  
13 that a law enforcement agency may keep a small quantity of the  
14 property described in subdivisions (1) (a), (b), (c), and (d) of  
15 this section for training purposes or use in investigations. Any  
16 large quantity of property described in subdivisions (1) (a), (b),  
17 (c), and (d) of this section, whether seized under a search warrant  
18 or validly seized without a warrant, may be disposed of on order  
19 of a court of record of this state in such manner as the court in  
20 its sound discretion shall direct. Such an order may be given only  
21 after a proper laboratory examination and report of such property  
22 has been completed and after a hearing has been held by the court  
23 after notice to the defendant of the proposed disposition of the  
24 property. The findings in such court order as to the nature, kind,  
25 and quantity of the property so disposed of may be accepted as  
26 evidence at subsequent court proceedings in lieu of the property  
27 ordered destroyed by the court order.

1           (4) When any property described in subdivision (1)(f) or  
2 (g) of this section is seized, the person seizing the same shall  
3 cause to be filed, within ten days thereafter, in the district  
4 court of the county in which seizure was made, petition for  
5 disposition of such property. The proceedings shall be brought in  
6 the name of the state by the county attorney of the county in which  
7 such property was seized. The petition shall describe the property,  
8 state the name of the owner if known, allege the essential elements  
9 of the violation which is claimed to exist, and conclude with a  
10 prayer for disposition. The county attorney shall have a copy of  
11 the petition served upon the owner or any person having an  
12 interest in the property, if known, in person or by registered  
13 or certified mail at his or her last-known address. If the owner  
14 is unknown or there is a reasonable probability that there are  
15 unknown persons with interests in the property, the county attorney  
16 shall provide notice of the seizure and petition for disposition by  
17 publication once a week for four consecutive weeks in a newspaper  
18 of general circulation in the county of the seizure. At least five  
19 days shall elapse between each publication of notice.

20           At any time after seizure and prior to court disposition,  
21 the owner of record of such property may petition the district  
22 court of the county in which seizure was made to release such  
23 property, and the court shall order the release of the property  
24 upon a showing by the owner that he or she had no knowledge that  
25 such property was being used in violation of the Uniform Controlled  
26 Substances Act.

27           Any person having an interest in the property proceeded

1 against or any person against whom civil or criminal liability  
2 would exist if such property is in violation of the act may, within  
3 thirty days after seizure, appear and file an answer or demurrer  
4 to the petition. The answer or demurrer shall allege the claimant's  
5 interest in or liability involving such property. At least thirty  
6 but not more than ninety days after seizure, there shall be a  
7 hearing before the court. If the claimant proves by a preponderance  
8 of the evidence that he or she (a) has not used or intended to use  
9 the property to facilitate an offense in violation of the act, (b)  
10 has an interest in such property as owner or lienor or otherwise,  
11 acquired by him or her in good faith, and (c) at no time had  
12 any knowledge that such property was being or would be used in,  
13 or to facilitate, the violation of the act, the court shall order  
14 that such property or the value of the claimant's interest in such  
15 property be returned to the claimant. If there are no claims, if  
16 all claims are denied, or if the value of the property exceeds all  
17 claims granted and it is shown beyond a reasonable doubt that such  
18 property was used in violation of the act, the court shall order  
19 disposition of such property at such time as the property is no  
20 longer required as evidence in any criminal proceeding. The court  
21 may order that property described in subdivision (1)(f) of this  
22 section be sold or put to official use by the confiscating agency  
23 for a period of not more than one year and that when such property  
24 is no longer necessary for official use or at the end of two years,  
25 whichever comes first, such property shall be sold. Proceeds from  
26 the sale of the property and any money described in subdivision  
27 (1)(g) of this section shall be distributed pursuant to section

1 28-1439.02. Official use shall mean use directly in connection with  
2 enforcement of the act.

3 Any court costs and fees and storage and other proper  
4 expenses shall be charged against any person intervening as  
5 claimant or owner of the property unless such person shall  
6 establish his or her claim. If a sale is ordered, the officer  
7 holding the sale shall make a return to the court showing to whom  
8 the property was sold and for what price. This return together with  
9 the court order shall authorize the county clerk to issue a title  
10 to the purchaser of the property if such title is required under  
11 the laws of this state.

12 Sec. 45. Section 28-433, Revised Statutes Cumulative  
13 Supplement, 2006, is amended to read:

14 28-433 All final determinations, findings, and  
15 conclusions of the ~~department~~ system under the Uniform Controlled  
16 Substances Act shall be final and conclusive decisions of the  
17 matters involved, except that any person aggrieved by such decision  
18 may appeal the decision, and the appeal shall be in accordance with  
19 the Administrative Procedure Act.

20 Sec. 46. Section 28-434, Revised Statutes Cumulative  
21 Supplement, 2006, is amended to read:

22 28-434 (1) The ~~department~~ system and the Division of Drug  
23 Control shall carry out educational programs designed to prevent  
24 and deter misuse and abuse of controlled substances. In connection  
25 with such programs they may: (a) Promote better recognition  
26 of the problems of misuse and abuse of controlled substances  
27 within the regulated industry and among interested groups and

1 organizations; (b) assist the regulated industry and interested  
2 groups and organizations in contributing to the reduction of misuse  
3 and abuse of controlled substances; (c) consult with interested  
4 groups and organizations to aid them in solving administrative  
5 and organizational problems; (d) evaluate procedures, projects,  
6 techniques, and controls conducted or proposed as part of  
7 educational programs on misuse and abuse of controlled substances;  
8 (e) disseminate the results of research on misuse and abuse of  
9 controlled substances to promote a better public understanding  
10 of what problems exist and what can be done to combat them; and  
11 (f) assist in the education and training of state and local law  
12 enforcement officials in their efforts to control misuse and abuse  
13 of controlled substances.

14 (2) The ~~department~~ system may encourage research on  
15 misuse and abuse of controlled substances. In connection with such  
16 research and in furtherance of the enforcement of the Uniform  
17 Controlled Substances Act, it may: (a) Establish methods to assess  
18 accurately the effects of controlled substances and to identify and  
19 characterize controlled substances with potential for abuse; (b)  
20 make studies and undertake programs of research to (i) develop new  
21 or improved approaches, techniques, systems, equipment, and devices  
22 to strengthen the enforcement of the act, (ii) determine patterns  
23 of misuse and abuse of controlled substances and the social effects  
24 thereof, and (iii) improve methods for preventing, predicting,  
25 understanding, and dealing with the misuse and abuse of controlled  
26 substances; and (c) enter into contracts with public agencies,  
27 institutions of higher education, and private organizations or

1 individuals for the purpose of conducting research, demonstrations,  
2 or special projects which bear directly on misuse and abuse of  
3 controlled substances.

4 (3) The ~~department~~ system may enter into contracts for  
5 educational and research activities without performance bonds.

6 (4) The ~~department~~ system shall cooperate with  
7 the Division of Drug Control providing technical advice and  
8 information, including all evidence of violations of the act  
9 disclosed by drug accountability inspections. The criminalistics  
10 laboratory of the Nebraska State Patrol shall provide laboratory  
11 analysis for the Division of Drug Control and other peace officers  
12 of this state when requested for the effective administration and  
13 enforcement of the act.

14 (5) The ~~department~~ system may authorize persons engaged  
15 in research on the use and effects of controlled substances  
16 to withhold the names and other identifying characteristics of  
17 persons who are subjects of such research. Persons who obtain such  
18 authorization may not be compelled in any state, civil, criminal,  
19 administrative, legislative, or other proceeding to identify the  
20 subjects of research for which such authorization was obtained.

21 (6) The ~~department~~ system may authorize the possession  
22 and distribution of controlled substances by persons engaged  
23 in research. Persons who obtain this authorization shall be  
24 exempt from state prosecution for possession and distribution of  
25 controlled substances to the extent authorized by the ~~department~~.  
26 system.

27 Sec. 47. Section 28-454, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2           28-454 (1) Any manufacturer or wholesale distributor, as  
3 indicated on the product label in conformance with the Federal  
4 Food, Drug, and Cosmetic Act, as the act existed on September 1,  
5 2001, who sells food products or dietary supplements containing  
6 ephedrine as described in subdivision (g)(3) of Schedule IV of  
7 section 28-405 for resale in this state shall register with the  
8 ~~department~~ system for each product line containing ephedrine sold  
9 for resale in this state. The ~~department~~ system shall register the  
10 manufacturer or wholesale distributor upon application and payment  
11 of a one-thousand-dollar application fee. The registration shall  
12 expire twelve months after issuance and shall be renewed for a  
13 twelve-month period upon payment of a one-thousand-dollar renewal  
14 fee. The registration shall be subject to revocation for violations  
15 of the Uniform Controlled Substances Act. The requirements to  
16 register and to pay a fee shall terminate upon the federal Food  
17 and Drug Administration's publication in the Federal Register of  
18 a final rule establishing good manufacturing practices for dietary  
19 supplements or five years after September 1, 2001, whichever date  
20 occurs first.

21           (2) Any manufacturer or wholesale distributor, as  
22 indicated on the product label in conformance with the Federal  
23 Food, Drug, and Cosmetic Act, as the act existed on September 1,  
24 2001, who sells food products or dietary supplements described in  
25 subsection (1) of this section for resale in this state without  
26 being registered shall be subject to a civil penalty of five  
27 thousand dollars and any such food products and dietary supplements

1 shall be seized and destroyed upon the finding of a violation  
2 of this section. The ~~department,~~ system, in conjunction with  
3 the Attorney General, the Nebraska State Patrol, and local law  
4 enforcement agencies, shall have authority to make inspections and  
5 investigations to enforce the registration requirements of this  
6 section. In addition, the ~~department~~ system may seek injunctive  
7 relief for suspected violations of this section.

8 (3) The ~~department~~ system shall remit fees collected  
9 under this section to the State Treasurer for credit to the Ephedra  
10 Registration Fund. The fund is created. The ~~department~~ system shall  
11 use the fund to administer the provisions of this section. Any  
12 money in the fund available for investment shall be invested by the  
13 state investment officer pursuant to the Nebraska Capital Expansion  
14 Act and the Nebraska State Funds Investment Act.

15 Sec. 48. Section 28-456, Revised Statutes Cumulative  
16 Supplement, 2006, is amended to read:

17 28-456 (1) Any drug products containing  
18 phenylpropanolamine, pseudoephedrine, or their salts, optical  
19 isomers, or salts of such optical isomers may be sold without a  
20 prescription only if they are:

21 (a) Labeled and marketed in a manner consistent with the  
22 pertinent OTC Tentative Final or Final Monograph;

23 (b) Manufactured and distributed for legitimate medicinal  
24 use in a manner that reduces or eliminates the likelihood of abuse;

25 (c) Packaged as follows:

26 (i) Except for liquids, sold in package sizes of  
27 not more than one thousand four hundred forty milligrams of



1 pseudoephedrine base or one thousand four hundred forty milligrams  
2 of phenylpropanolamine base, in blister packs, each blister  
3 containing not more than two dosage units, or if the use of blister  
4 packs is technically infeasible, in unit dose packets or pouches;  
5 and

6 (ii) For liquids, sold in package sizes of not  
7 more than one thousand four hundred forty milligrams of  
8 pseudoephedrine base or one thousand four hundred forty milligrams  
9 of phenylpropanolamine base;

10 (d) Sold by a person, eighteen years of age or older, in  
11 the course of his or her employment to a customer, eighteen years  
12 of age or older, with the following restrictions:

13 (i) No customer shall be allowed to purchase, receive,  
14 or otherwise acquire more than one thousand four hundred  
15 forty milligrams of pseudoephedrine base or one thousand four  
16 hundred forty milligrams of phenylpropanolamine base during a  
17 twenty-four-hour period; and

18 (ii) The customer shall display a valid driver's or  
19 operator's license, a Nebraska state identification card, a  
20 military identification card, an alien registration card, or a  
21 passport as proof of identification; and

22 (e) Stored behind a counter, in an area not accessible to  
23 customers, or in a locked case so that a customer needs assistance  
24 from an employee to access the drug product, except that this  
25 requirement does not apply to liquid pediatric formulations. For  
26 the purposes of this subdivision, liquid pediatric formulation  
27 means a liquid formulation with pseudoephedrine doses of fifteen

1 milligrams or less that is manufactured and marketed for children  
2 twelve years of age or younger. If it is documented by a  
3 law enforcement agency to the Nebraska State Patrol that a  
4 liquid pediatric formulation has been found at a methamphetamine  
5 manufacturing site, the patrol shall present the documentation to  
6 the chief medical officer, as described in section ~~81-3201~~, 6 of  
7 this act, who shall issue an order removing the exemption.

8 (2) Any person who sells drug products in violation  
9 of this section may be subject to a civil penalty of fifty  
10 dollars per day, and for a second or any subsequent violation,  
11 the penalty may be one hundred dollars per day. Any such drug  
12 products shall be seized and destroyed upon the finding of a  
13 violation of this section. The ~~department~~, system, in conjunction  
14 with the Attorney General, the Nebraska State Patrol, and local law  
15 enforcement agencies, shall have authority to make inspections and  
16 investigations to enforce this section. In addition, the ~~department~~  
17 system may seek injunctive relief for suspected violations of this  
18 section.

19 Sec. 49. Section 28-710, Revised Statutes Cumulative  
20 Supplement, 2006, is amended to read:

21 28-710 (1) Sections 28-710 to 28-727 shall be known and  
22 may be cited as the Child Protection Act.

23 (2) For purposes of the Child Protection Act:

24 (a) Child abuse or neglect means knowingly,  
25 intentionally, or negligently causing or permitting a minor  
26 child to be:

27 (i) Placed in a situation that endangers his or her life

1 or physical or mental health;

2 (ii) Cruelly confined or cruelly punished;

3 (iii) Deprived of necessary food, clothing, shelter, or  
4 care;

5 (iv) Left unattended in a motor vehicle if such minor  
6 child is six years of age or younger;

7 (v) Sexually abused; or

8 (vi) Sexually exploited by allowing, encouraging, or  
9 forcing such person to solicit for or engage in prostitution,  
10 debauchery, public indecency, or obscene or pornographic  
11 photography, films, or depictions;

12 ~~(b) Department means the Department of Health and Human  
13 Services;~~

14 ~~(e) (b) Law enforcement agency means the police  
15 department or town marshal in incorporated municipalities, the  
16 office of the sheriff in unincorporated areas, and the Nebraska  
17 State Patrol;~~

18 ~~(d) (c) Out-of-home child abuse or neglect means child  
19 abuse or neglect occurring in day care homes, foster homes, day  
20 care centers, group homes, and other child care facilities or  
21 institutions; and~~

22 ~~(e) (d) Subject of the report of child abuse or neglect  
23 means the person or persons identified in the report as responsible  
24 for the child abuse or neglect; and -~~

25 (e) System means the Health and Human Services System.

26 Sec. 50. Section 28-711, Revised Statutes Cumulative  
27 Supplement, 2006, is amended to read:

1                   28-711 (1) When any physician, medical institution,  
2 nurse, school employee, social worker, or other person has  
3 reasonable cause to believe that a child has been subjected to  
4 child abuse or neglect or observes such child being subjected to  
5 conditions or circumstances which reasonably would result in child  
6 abuse or neglect, he or she shall report such incident or cause  
7 a report of child abuse or neglect to be made to the proper law  
8 enforcement agency or to the ~~department~~ system on the toll-free  
9 number established by subsection (2) of this section. Such report  
10 may be made orally by telephone with the caller giving his or her  
11 name and address, shall be followed by a written report, and to the  
12 extent available shall contain the address and age of the abused  
13 or neglected child, the address of the person or persons having  
14 custody of the abused or neglected child, the nature and extent  
15 of the child abuse or neglect or the conditions and circumstances  
16 which would reasonably result in such child abuse or neglect, any  
17 evidence of previous child abuse or neglect including the nature  
18 and extent, and any other information which in the opinion of the  
19 person may be helpful in establishing the cause of such child abuse  
20 or neglect and the identity of the perpetrator or perpetrators.  
21 Law enforcement agencies receiving any reports of child abuse or  
22 neglect under this subsection shall notify the ~~department~~ system  
23 pursuant to section 28-718 on the next working day by telephone or  
24 mail.

25                   (2) The ~~department~~ system shall establish a statewide  
26 toll-free number to be used by any person any hour of the day  
27 or night, any day of the week, to make reports of child abuse or

1 neglect. Reports of child abuse or neglect not previously made to  
2 or by a law enforcement agency shall be made immediately to such  
3 agency by the ~~department.~~ system.

4 Sec. 51. Section 28-713, Revised Statutes Cumulative  
5 Supplement, 2006, is amended to read:

6 28-713 Upon the receipt of a call reporting child abuse  
7 and neglect as required by section 28-711:

8 (1) It is the duty of the law enforcement agency to  
9 investigate the report, to take immediate steps to protect the  
10 child, and to institute legal proceedings if appropriate. In  
11 situations of alleged out-of-home child abuse or neglect if the  
12 person or persons to be notified have not already been notified and  
13 the person to be notified is not the subject of the report of child  
14 abuse or neglect, the law enforcement agency shall immediately  
15 notify the person or persons having custody of each child who has  
16 allegedly been abused or neglected that such report of alleged  
17 child abuse or neglect has been made and shall provide such person  
18 or persons with information of the nature of the alleged child  
19 abuse or neglect. The law enforcement agency may request assistance  
20 from the ~~Department of Health and Human Services~~ system during the  
21 investigation and shall, by the next working day, notify either  
22 the hotline or the ~~department~~ system of receipt of the report,  
23 including whether or not an investigation is being undertaken by  
24 the law enforcement agency. A copy of all reports, whether or not  
25 an investigation is being undertaken, shall be provided to the  
26 ~~department;~~ system;

27 (2) In situations of alleged out-of-home child abuse or

1 neglect if the person or persons to be notified have not already  
2 been notified and the person to be notified is not the subject  
3 of the report of child abuse or neglect, the ~~department~~ system  
4 shall immediately notify the person or persons having custody of  
5 each child who has allegedly been abused or neglected that such  
6 report of alleged child abuse or neglect has been made and shall  
7 provide such person or persons with information of the nature of  
8 the alleged child abuse or neglect and any other information that  
9 the ~~department~~ system deems necessary. The ~~department~~ system shall  
10 investigate for the purpose of assessing each report of child abuse  
11 or neglect to determine the risk of harm to the child involved. The  
12 ~~department~~ system shall also provide such social services as are  
13 necessary and appropriate under the circumstances to protect and  
14 assist the child and to preserve the family;

15 (3) The ~~department~~ system may make a request for further  
16 assistance from the appropriate law enforcement agency or take such  
17 legal action as may be appropriate under the circumstances;

18 (4) The ~~department~~ system shall, by the next working  
19 day after receiving a report of child abuse or neglect under  
20 subdivision (1) of this section, make a written report or a summary  
21 on forms provided by the ~~department~~ system to the proper law  
22 enforcement agency in the county and enter in the tracking system  
23 of child protection cases maintained pursuant to section 28-715 all  
24 reports of child abuse or neglect opened for investigation and any  
25 action taken; and

26 (5) The ~~department~~ system shall, upon request, make  
27 available to the appropriate investigating law enforcement agency

1 and the county attorney a copy of all reports relative to a case of  
2 suspected child abuse or neglect.

3 Sec. 52. Section 28-713.01, Revised Statutes Cumulative  
4 Supplement, 2006, is amended to read:

5 28-713.01 Upon completion of the investigation pursuant  
6 to section 28-713:

7 (1) In situations of alleged out-of-home child abuse or  
8 neglect, the person or persons having custody of the allegedly  
9 abused or neglected child or children shall be given written notice  
10 of the results of the investigation and any other information the  
11 law enforcement agency or ~~department~~ system deems necessary. Such  
12 notice and information shall be sent by first-class mail; and

13 (2) The subject of the report of child abuse or neglect  
14 shall be given written notice of the determination of the case  
15 and whether the subject of the report of child abuse or neglect  
16 will be entered into the central register of child protection cases  
17 maintained pursuant to section 28-718 under the criteria provided  
18 in section 28-720.

19 Such notice to the subject shall be sent by certified  
20 mail to the last-known address of the subject of the report of  
21 child abuse or neglect and shall include:

22 (a) The nature of the report;

23 (b) The classification of the report under section  
24 28-720; and

25 (c) Notification of the right of the subject of the  
26 report of child abuse or neglect to a hearing and appeal in  
27 accordance with section 28-723.

1           Sec. 53. Section 28-715, Revised Statutes Cumulative  
2 Supplement, 2006, is amended to read:

3           28-715 The ~~department~~ system shall retain all information  
4 from all reports of suspected child abuse or neglect required  
5 by section 28-711 and all records generated as a result of such  
6 reports in a tracking system of child protection cases. The  
7 tracking system shall be used for statistical purposes as well as a  
8 reference for future investigations if subsequent reports of child  
9 abuse or neglect are made involving the same victim or subject of a  
10 report of child abuse or neglect.

11          Sec. 54. Section 28-719, Revised Statutes Cumulative  
12 Supplement, 2006, is amended to read:

13          28-719 Upon complying with identification requirements  
14 established by regulation of the ~~department,~~ system, or when  
15 ordered by a court of competent jurisdiction, any person legally  
16 authorized by section 28-722, 28-726, or 28-727 to have access  
17 to records relating to child abuse and neglect may request  
18 and shall be immediately provided the information requested in  
19 accordance with the requirement of the Child Protection Act. Such  
20 information shall not include the name and address of the person  
21 making the report of child abuse or neglect. The names and other  
22 identifying data and the dates and the circumstances of any persons  
23 requesting or receiving information from the central register of  
24 child protection cases maintained pursuant to section 28-718 shall  
25 be entered in such register record.

26          Sec. 55. Section 28-720, Revised Statutes Cumulative  
27 Supplement, 2006, is amended to read:



1           28-720 All cases entered into the central register of  
2 child protection cases maintained pursuant to section 28-718 shall  
3 be classified as one of the following:

4           (1) Court substantiated, if a court of competent  
5 jurisdiction has entered a judgment of guilty against the subject  
6 of the report of child abuse or neglect upon a criminal complaint,  
7 indictment, or information or there has been an adjudication of  
8 jurisdiction of a juvenile court over the child under subdivision  
9 (3)(a) of section 43-247 which relates or pertains to the report  
10 of child abuse or neglect;

11           (2) Court pending, if a criminal complaint, indictment,  
12 or information or a juvenile petition under subdivision (3)(a) of  
13 section 43-247, which relates or pertains to the subject of the  
14 report of abuse or neglect, has been filed and is pending in a  
15 court of competent jurisdiction; or

16           (3) Inconclusive, if the ~~department's~~ system's  
17 determination of child abuse or neglect against the subject of  
18 the report of child abuse or neglect was made, by a preponderance  
19 of the evidence, based upon an investigation pursuant to section  
20 28-713.

21           Sec. 56. Section 28-721, Revised Statutes Cumulative  
22 Supplement, 2006, is amended to read:

23           28-721 At any time, the ~~department~~ system may amend,  
24 expunge, or remove from the central register of child protection  
25 cases maintained pursuant to section 28-718 any record upon good  
26 cause shown and upon notice to the subject of the report of child  
27 abuse or neglect, ~~and to the division.~~

1           Sec. 57. Section 28-722, Revised Statutes Cumulative  
2 Supplement, 2006, is amended to read:

3           28-722 Upon request, a subject of the report of child  
4 abuse or neglect or, if such subject is a minor or otherwise  
5 legally incompetent, the guardian or guardian ad litem of the  
6 subject, shall be entitled to receive a copy of all information  
7 contained in the central register of child protection cases  
8 maintained pursuant to section 28-718 pertaining to his or her  
9 case. The ~~department~~ system shall not release data that would be  
10 harmful or detrimental or that would identify or locate a person  
11 who, in good faith, made a report of child abuse or neglect or  
12 cooperated in a subsequent investigation unless ordered to do so by  
13 a court of competent jurisdiction.

14           Sec. 58. Section 28-723, Revised Statutes Cumulative  
15 Supplement, 2006, is amended to read:

16           28-723 At any time subsequent to the completion of the  
17 ~~department's~~ system's investigation, the subject of the report  
18 of child abuse or neglect may request the ~~department~~ system to  
19 amend, expunge identifying information from, or remove the record  
20 of the report from the central register of child protection cases  
21 maintained pursuant to section 28-718. If the ~~department~~ system  
22 refuses to do so or does not act within thirty days, the subject  
23 of the report of child abuse or neglect shall have the right to a  
24 fair hearing within the ~~department~~ system to determine whether the  
25 record of the report of child abuse or neglect should be amended,  
26 expunged, or removed on the grounds that it is inaccurate or that  
27 it is being maintained in a manner inconsistent with the Child

1 Protection Act. Such fair hearing shall be held within a reasonable  
2 time after the subject's request and at a reasonable place and  
3 hour. In such hearings, the burden of proving the accuracy and  
4 consistency of the record shall be on the ~~department~~ system. A  
5 juvenile court finding of child abuse or child neglect shall be  
6 presumptive evidence that the report was not unfounded. The hearing  
7 shall be conducted by the ~~head of the department~~ chief executive  
8 officer or his or her designated agent, who is hereby authorized  
9 and empowered to order the amendment, expunction, or removal of the  
10 record to make it accurate or consistent with the requirements of  
11 the act. The decision shall be made in writing, at the close of the  
12 hearing, or within thirty days thereof, and shall state the reasons  
13 upon which it is based. Decisions of the ~~department~~ system may be  
14 appealed under the provisions of the Administrative Procedure Act.

15           Sec. 59. Section 28-724, Revised Statutes Cumulative  
16 Supplement, 2006, is amended to read:

17           28-724 Written notice of any amendment, expunction, or  
18 removal of any record in the central register of child protection  
19 cases maintained pursuant to section 28-718 shall be served  
20 upon the subject of the report of child abuse or neglect. The  
21 ~~department~~ system shall inform any other individuals or agencies  
22 which received such record of any amendment, expunction, or removal  
23 of such record.

24           Sec. 60. Section 28-725, Revised Statutes Cumulative  
25 Supplement, 2006, is amended to read:

26           28-725 All information of the ~~department~~ system  
27 concerning reports of child abuse or neglect of noninstitutional

1 children, including information in the tracking system of child  
2 protection cases maintained pursuant to section 28-715 or records  
3 in the central register of child protection cases maintained  
4 pursuant to section 28-718, and all information of the ~~department~~  
5 system generated as a result of such reports or records, shall  
6 be confidential and shall not be disclosed except as specifically  
7 authorized by the Child Protection Act and sections 28-734 to  
8 28-739 or other applicable law. The subject of the report of child  
9 abuse or neglect may authorize any individual or organization to  
10 receive the following information from the central register of  
11 child protection cases maintained pursuant to section 28-718 which  
12 relates or pertains to him or her: (1) The date of the alleged  
13 child abuse or neglect; and (2) the classification of the case  
14 pursuant to section 28-720. Permitting, assisting, or encouraging  
15 the unauthorized release of any information contained in such  
16 reports or records shall be a Class V misdemeanor.

17           Sec. 61. Section 28-726, Revised Statutes Cumulative  
18 Supplement, 2006, is amended to read:

19           28-726 Except as provided in this section and sections  
20 28-722 and 28-734 to 28-739, no person, official, or agency  
21 shall have access to information in the tracking system of  
22 child protection cases maintained pursuant to section 28-715 or  
23 in records in the central register of child protection cases  
24 maintained pursuant to section 28-718 unless in furtherance of  
25 purposes directly connected with the administration of the Child  
26 Protection Act. Such persons, officials, and agencies having access  
27 to such information shall include, but not be limited to:

1           (1) A law enforcement agency investigating a report of  
2 known or suspected child abuse or neglect;

3           (2) A county attorney in preparation of a child abuse or  
4 neglect petition or termination of parental rights petition;

5           (3) A physician who has before him or her a child whom he  
6 or she reasonably suspects may be abused or neglected;

7           (4) An agency having the legal responsibility or  
8 authorization to care for, treat, or supervise an abused or  
9 neglected child or a parent, a guardian, or other person  
10 responsible for the abused or neglected child's welfare who is the  
11 subject of the report of child abuse or neglect;

12           (5) Any person engaged in bona fide research or auditing.  
13 No information identifying the subjects of the report of child  
14 abuse or neglect shall be made available to the researcher or  
15 auditor;

16           (6) The State Foster Care Review Board when the  
17 information relates to a child in a foster care placement as  
18 defined in section 43-1301. The information provided to the state  
19 board shall not include the name or identity of any person making a  
20 report of suspected child abuse or neglect;

21           (7) The designated protection and advocacy system  
22 authorized pursuant to the Developmental Disabilities Assistance  
23 and Bill of Rights Act of 2000, 42 U.S.C. 15001, as the act  
24 existed on January 1, 2005, and the Protection and Advocacy for  
25 Mentally Ill Individuals Act, 42 U.S.C. 10801, as the act existed  
26 on September 1, 2001, acting upon a complaint received from or  
27 on behalf of a person with developmental disabilities or mental

1 illness;

2 (8) The person or persons having custody of the abused or  
3 neglected child in situations of alleged out-of-home child abuse or  
4 neglect; and

5 (9) For purposes of licensing providers of child care  
6 programs, the ~~Department of Health and Human Services Regulation~~  
7 ~~and Licensure.~~ Health and Human Services System.

8 Sec. 62. Section 28-727, Revised Statutes Cumulative  
9 Supplement, 2006, is amended to read:

10 28-727 Upon request, a physician or the person in charge  
11 of an institution, school, facility, or agency making a legally  
12 mandated report of child abuse or neglect pursuant to section  
13 28-711 shall receive a summary of the findings of and actions taken  
14 by the ~~department~~ system in response to his or her report. The  
15 amount of detail such summary contains shall depend on the source  
16 of the report of child abuse or neglect and shall be established by  
17 regulations of the ~~department.~~ system.

18 Sec. 63. Section 28-728, Revised Statutes Cumulative  
19 Supplement, 2006, is amended to read:

20 28-728 (1) The Legislature finds that child abuse  
21 and neglect are community problems requiring a cooperative  
22 complementary response by law enforcement, child advocacy centers,  
23 prosecutors, the ~~Department of Health and Human Services~~ Health  
24 and Human Services System child protective services division, and  
25 other agencies or entities designed to protect children. It is  
26 the intent of the Legislature to create a child abuse and neglect  
27 investigation team in each county or contiguous group of counties

1 and to create a child abuse and neglect treatment team in each  
2 county or contiguous group of counties.

3 (2) Each county or contiguous group of counties will be  
4 assigned by the ~~Department of Health and Human Services~~ Health  
5 and Human Services System to a child advocacy center. The purpose  
6 of a child advocacy center is to provide a child-focused response  
7 to support the physical, emotional, and psychological needs of  
8 children who are victims of abuse or neglect. Each child advocacy  
9 center shall meet accreditation criteria set forth by the National  
10 Children's Alliance. Nothing in this section shall prevent a child  
11 from receiving treatment or other services at a child advocacy  
12 center which has received or is in the process of receiving  
13 accreditation.

14 (3) Each county attorney or the county attorney  
15 representing a contiguous group of counties is responsible  
16 for convening the child abuse and neglect investigation team  
17 and ensuring that protocols are established and implemented.  
18 A representative of the child advocacy center assigned to the  
19 team shall assist the county attorney in facilitating case  
20 review, developing and updating protocols, and arranging training  
21 opportunities for the team. Each team must have protocols which, at  
22 a minimum, shall include procedures for:

23 (a) Conducting joint investigations of child abuse and  
24 other child abuse and neglect matters which the team deems  
25 necessary;

26 (b) Ensuring that a law enforcement agency will  
27 participate in the investigation;

1           (c) Conducting joint investigations of other child abuse  
2 and neglect matters which the team deems necessary;

3           (d) Arranging for a videotaped forensic interview at  
4 a child advocacy center for children sixteen years of age or  
5 younger who are alleging sexual abuse or serious physical abuse or  
6 neglect or who have witnessed a violent crime, been removed from a  
7 clandestine drug lab, or been recovered from a kidnapping;

8           (e) Reducing the risk of harm to child abuse and neglect  
9 victims;

10          (f) Ensuring that the child is in safe surroundings,  
11 including removing the perpetrator when necessary;

12          (g) Sharing of case information;

13          (h) How and when the team will meet; and

14          (i) Responding to drug-endangered children.

15          (4) Each county attorney or the county attorney  
16 representing a contiguous group of counties is responsible for  
17 convening the child abuse and neglect treatment team and ensuring  
18 that protocols are established and implemented. A representative  
19 of the child advocacy center appointed to the team shall assist  
20 the county attorney in facilitating case review, developing and  
21 updating protocols, and arranging training opportunities for the  
22 team. Each team must have protocols which, at a minimum, shall  
23 include procedures for:

24           (a) Case coordination and assistance, including the  
25 location of services available within the area;

26           (b) Case staffings and the coordination, development,  
27 implementation, and monitoring of treatment plans;



1 (c) Reducing the risk of harm to child abuse and neglect  
2 victims;

3 (d) Assisting those child abuse and neglect victims who  
4 are abused and neglected by perpetrators who do not reside in their  
5 homes;

6 (e) How and when the team will meet; and

7 (f) Working with multiproblem delinquent youth.

8 Sec. 64. Section 28-729, Revised Statutes Cumulative  
9 Supplement, 2006, is amended to read:

10 28-729 (1) A child abuse and neglect investigation team  
11 shall include a representative from the county attorney's office,  
12 a child protective services representative from the ~~Department of~~  
13 ~~Health and Human Services,~~ Health and Human Services System,  
14 a representative from each law enforcement agency which has  
15 jurisdiction within the county or contiguous group of counties, a  
16 representative from the child advocacy center, and representatives  
17 from such other agencies as determined by the team.

18 (2) A child abuse and neglect treatment team shall  
19 include a child protective services representative from the  
20 ~~Department of Health and Human Services,~~ Health and Human Services  
21 System, a juvenile probation officer, a representative from the  
22 mental health profession or medical profession actively practicing  
23 within the county or contiguous group of counties, a representative  
24 from each school district which provides services within the county  
25 or contiguous group of counties, a representative from the child  
26 advocacy center, and representatives from such other agencies as  
27 determined by the team. For purposes of this subsection, more than

1 one school district may be represented by the same individual.

2 (3) The teams established pursuant to this section and  
3 section 28-728 shall be encouraged to expand their membership to  
4 include the various relevant disciplines which exist within the  
5 county or contiguous group of counties. The additional members  
6 shall have the requisite experience necessary as determined by the  
7 core members of the teams. Consistent with requirements set out by  
8 the teams, all members of both teams shall attend child abuse and  
9 neglect training on an annual basis. Such training shall be no less  
10 than eight hours annually and consist of the following components:

11 (a) Child abuse and neglect investigation procedures as  
12 provided by law enforcement standards;

13 (b) Legal requirements and procedures for successful  
14 prosecution of child abuse and neglect cases;

15 (c) Roles and responsibilities of child protective  
16 services, law enforcement agencies, county attorneys, the Attorney  
17 General, and judges;

18 (d) Characteristics of child development and family  
19 dynamics;

20 (e) Recognition of various types of abuse and neglect;

21 (f) Duty of public and private individuals and agencies,  
22 including schools, governmental agencies, physicians, and child  
23 advocates, to report suspected or known child abuse;

24 (g) Multidisciplinary approaches to providing services to  
25 children; and

26 (h) Weaknesses in the current child protection system.

27 (4) The representative of the county attorney shall

1 report the name and address of each team member to the Nebraska  
2 Commission on Law Enforcement and Criminal Justice. If more  
3 than one county is part of a team, the representative of the  
4 participating county attorneys shall jointly and cooperatively  
5 report their results to the commission.

6 (5) Each team shall meet at a location agreed to by the  
7 team. The number of meetings of the team shall be secondary to the  
8 caseload of the team, but each team shall meet at least quarterly.  
9 The representative from the child advocacy center assigned to the  
10 team shall annually report to the commission the number of times  
11 the team met within a calendar year and any changes in team  
12 membership. Each team shall select a chairperson annually in the  
13 first quarter of each calendar year. Each team may substitute a  
14 telephone conference call among team members in lieu of meeting in  
15 person. If a team fails to convene, the commission shall notify  
16 the Child Protection Division of the office of the Attorney General  
17 and the division shall appoint the team members or convene the  
18 team pursuant to sections 28-728 to 28-730. Nothing in this section  
19 shall relieve the county attorney from ensuring that the teams meet  
20 as required by this section.

21 Sec. 65. Section 28-730, Revised Statutes Cumulative  
22 Supplement, 2006, is amended to read:

23 28-730 (1) Notwithstanding any other provision of law  
24 regarding the confidentiality of records and when not prohibited by  
25 the federal Privacy Act of 1974, as amended, juvenile court records  
26 and any other pertinent information that may be in the possession  
27 of school districts, law enforcement agencies, county attorneys,

1 the Attorney General, the ~~Department of Health and Human Services,~~  
2 Health and Human Services System, child advocacy centers, and other  
3 team members concerning a child whose case is being investigated  
4 or discussed by a child abuse and neglect investigation team or a  
5 child abuse and neglect treatment team shall be shared with the  
6 respective team members as part of the discussion and coordination  
7 of efforts for investigative or treatment purposes. Upon request  
8 by a team, any individual or agency with information or records  
9 concerning a particular child shall share all relevant information  
10 or records with the team as determined by the team pursuant to  
11 the appropriate team protocol. Only a team which has accepted the  
12 child's case for investigation or treatment shall be entitled to  
13 access to such information.

14 (2) All information acquired by a team member or  
15 other individuals pursuant to protocols developed by the team  
16 shall be confidential and shall not be disclosed except to the  
17 extent necessary to perform case consultations, to carry out a  
18 treatment plan or recommendations, or for use in a legal proceeding  
19 instituted by a county attorney or the Child Protection Division  
20 of the office of the Attorney General. Information, documents, or  
21 records otherwise available from the original sources shall not be  
22 immune from discovery or use in any civil or criminal action merely  
23 because the information, documents, or records were presented  
24 during a case consultation if the testimony sought is otherwise  
25 permissible and discoverable. Any person who presented information  
26 before the team or who is a team member shall not be prevented from  
27 testifying as to matters within the person's knowledge.

1           (3) Each team may review any case arising under the  
2 Nebraska Criminal Code when a child is a victim or any case  
3 arising under the Nebraska Juvenile Code. A member of a team who  
4 participates in good faith in team discussion or any person who  
5 in good faith cooperates with a team by providing information  
6 or records about a child whose case has been accepted for  
7 investigation or treatment by a team shall be immune from any  
8 civil or criminal liability. The provisions of this subsection or  
9 any other section granting or allowing the grant of immunity from  
10 liability shall not be extended to any person alleged to have  
11 committed an act of child abuse or neglect.

12           (4) A member of a team who publicly discloses information  
13 regarding a case consultation in a manner not consistent with  
14 sections 28-728 to 28-730 shall be guilty of a Class III  
15 misdemeanor.

16           Sec. 66. Section 28-734, Revised Statutes Cumulative  
17 Supplement, 2006, is amended to read:

18           28-734 For purposes of sections 28-734 to 28-739:

19           (1) Child fatality means the death of a child from  
20 suspected abuse, neglect, or maltreatment as determined by the  
21 county coroner or county attorney;

22           (2) Findings and information means a written summary as  
23 described in section 28-736; ~~and~~

24           (3) Near fatality means a case in which an examining  
25 physician determines that a child is in serious or critical  
26 condition as the result of sickness or injury caused by suspected  
27 abuse, neglect, or maltreatment; and -

1                   (4) System means the Health and Human Services System.

2                   Sec. 67. Section 28-735, Revised Statutes Cumulative  
3 Supplement, 2006, is amended to read:

4                   28-735 Notwithstanding any other provision of law and  
5 subject to sections 28-734 to 28-739, the ~~Department of Health and~~  
6 ~~Human Services~~ system shall disclose to the public, upon request, a  
7 summary of the findings and information related to a child fatality  
8 or near fatality if:

9                   (1) A person is criminally charged with having caused the  
10 child fatality or near fatality and is convicted or acquitted of  
11 the charged offense or a lesser offense; or

12                   (2) A county attorney certifies that a person would have  
13 been charged with having caused the child fatality or near fatality  
14 but for that person's prior death.

15                   Sec. 68. Section 28-736, Revised Statutes Cumulative  
16 Supplement, 2006, is amended to read:

17                   28-736 Findings and information disclosed pursuant to  
18 section 28-735 shall consist of a written summary that includes any  
19 of the following information the ~~Department of Health and Human~~  
20 ~~Services~~ system is able to provide:

21                   (1) The dates, outcomes, and results of any actions taken  
22 or services rendered by the ~~department;~~ system; and

23                   (2) Confirmation of the receipt of all reports, accepted  
24 or not accepted, by the local office of the ~~Department of~~  
25 ~~Health and Human Services~~ system for assessment of suspected  
26 child abuse, neglect, or maltreatment, including confirmation that  
27 investigations were conducted, the results of the investigations,

1 a description of the conduct of the most recent investigation  
2 and the services rendered, and a statement of the basis for the  
3 ~~department's~~ system's determination.

4 This section does not authorize access to confidential  
5 records in the custody of the ~~department~~ system or disclosure  
6 to the public of the records or the content of any psychiatric,  
7 psychological, or therapeutic evaluations or of information that  
8 would reveal the identities of persons who provided information  
9 related to suspected child abuse, neglect, or maltreatment.

10 Sec. 69. Section 28-737, Revised Statutes Cumulative  
11 Supplement, 2006, is amended to read:

12 28-737 Within five working days after receipt of a  
13 request for a summary of the findings and information related to a  
14 child fatality or near fatality, the ~~Department of Health and Human~~  
15 ~~Services~~ system shall consult with the appropriate county attorney  
16 and provide the findings and information unless the ~~department~~  
17 system, or county attorney has reasonable cause to believe that the  
18 release of the information:

- 19 (1) Is not authorized by section 28-735;
- 20 (2) Is likely to cause mental, emotional, or physical  
21 harm or danger to a minor child residing in the household of the  
22 deceased or injured child or who is the sibling of the deceased or  
23 injured child;
- 24 (3) Is the subject of an ongoing or future criminal  
25 investigation or prosecution;
- 26 (4) Is not authorized by federal law and regulations; or
- 27 (5) Could result in physical or emotional harm to an

1 individual.

2           Sec. 70. Section 28-738, Revised Statutes Cumulative  
3 Supplement, 2006, is amended to read:

4           28-738 A person whose request under section 28-737 is  
5 denied may apply to the district court of Lancaster County for  
6 an order compelling disclosure of a summary of the findings and  
7 information by the ~~Department of Health and Human Services~~, system.  
8 The application shall set forth with reasonable particularity  
9 factors supporting the application. Actions under this section  
10 shall be set for immediate hearing, and subsequent proceedings in  
11 such actions shall be accorded priority by the appellate courts.  
12 After the district court has reviewed the specific findings and  
13 information in camera, the court shall issue an order compelling  
14 disclosure unless the court finds that one or more of the  
15 circumstances set out in section 28-737 exist.

16           Sec. 71. Section 28-832, Revised Statutes Cumulative  
17 Supplement, 2006, is amended to read:

18           28-832 (1) The Attorney General, in consultation with the  
19 ~~Department of Health and Human Services~~, Health and Human Services  
20 System, shall, no later than one year after July 14, 2006, issue  
21 a report outlining how existing victim and witness laws and rules  
22 and regulations respond to the needs of trafficking victims and  
23 suggesting areas of improvement and modification.

24           (2) The ~~Department of Health and Human Services~~, system,  
25 in consultation with the Attorney General, shall, no later than one  
26 year after July 14, 2006, issue a report outlining how existing  
27 social service programs respond or fail to respond to the needs



1 of trafficking victims and the interplay of such existing programs  
2 with federally funded victim service programs and suggesting areas  
3 of improvement and modification.

4 Sec. 72. Section 28-912.01, Revised Statutes Cumulative  
5 Supplement, 2006, is amended to read:

6 28-912.01 Any person who entices or attempts to entice  
7 a juvenile away from a facility or program when the juvenile has  
8 been legally placed with or committed to the Office of Juvenile  
9 Services of the Health and Human Services System or who knowingly  
10 harbors, transports, conceals, or aids in harboring, transporting,  
11 or concealing any juvenile who has escaped from the custody of the  
12 Office of Juvenile Services is guilty of a Class IV felony.

13 Sec. 73. Section 29-1823, Revised Statutes Cumulative  
14 Supplement, 2006, is amended to read:

15 29-1823 (1) If at any time prior to trial it appears  
16 that the accused has become mentally incompetent to stand trial,  
17 such disability may be called to the attention of the district  
18 court by the county attorney, by the accused, or by any person  
19 for the accused. The judge of the district court of the county  
20 where the accused is to be tried shall have the authority to  
21 determine whether or not the accused is competent to stand trial.  
22 The district judge may also cause such medical, psychiatric, or  
23 psychological examination of the accused to be made as he or  
24 she deems warranted and hold such hearing as he or she deems  
25 necessary. The cost of the examination, when ordered by the  
26 court, shall be the expense of the county in which the crime is  
27 charged. The district judge may allow any physician, psychiatrist,

1 or psychologist a reasonable fee for his or her services, which  
2 amount, when determined by the district judge, shall be certified  
3 to the county board which shall cause payment to be made. Should  
4 the district judge determine after a hearing that the accused is  
5 mentally incompetent to stand trial and that there is a substantial  
6 probability that the accused will become competent within the  
7 foreseeable future, the district judge shall order the accused to  
8 be committed to a state hospital for the mentally ill or some other  
9 appropriate state-owned or state-operated facility for appropriate  
10 treatment until such time as the disability may be removed.

11 (2) Within six months after the commencement of the  
12 treatment ordered by the district court, and every six months  
13 thereafter until either the disability is removed or other  
14 disposition of the accused has been made, the court shall hold a  
15 hearing to determine (a) whether the accused is competent to stand  
16 trial or (b) whether or not there is a substantial probability that  
17 the accused will become competent within the foreseeable future.

18 (3) If it is determined that there is not a substantial  
19 probability that the accused will become competent within the  
20 foreseeable future, then the state shall either (a) commence the  
21 applicable civil commitment proceeding that would be required to  
22 commit any other person for an indefinite period of time or (b)  
23 release the accused. If during the period of time between the  
24 six-month review hearings set forth in subsection (2) of this  
25 section it is the opinion of the ~~Department of Health and Human~~  
26 ~~Services~~ Health and Human Services System that the accused is  
27 competent to stand trial, the ~~department~~ system shall file a report

1 outlining its opinion with the court, and within twenty-one days  
2 after such report being filed, the court shall hold a hearing to  
3 determine whether or not the accused is competent to stand trial.  
4 The state shall pay the cost of maintenance and care of the accused  
5 during the period of time ordered by the court for treatment to  
6 remove the disability.

7           Sec. 74. Section 29-2204, Revised Statutes Cumulative  
8 Supplement, 2006, is amended to read:

9           29-2204 (1) Except when a term of life imprisonment  
10 without parole is required by law, in imposing an indeterminate  
11 sentence upon an offender the court shall:

12           (a)(i) Until July 1, 1998, fix the minimum and maximum  
13 limits of the sentence to be served within the limits provided by  
14 law, except that when a maximum limit of life is imposed by the  
15 court for a Class IB felony, the minimum limit may be any term of  
16 years not less than the statutory mandatory minimum; and

17           (ii) Beginning July 1, 1998:

18           (A) Fix the minimum and maximum limits of the sentence  
19 to be served within the limits provided by law for any class of  
20 felony other than a Class IV felony, except that when a maximum  
21 limit of life is imposed by the court for a Class IB felony, the  
22 minimum limit may be any term of years not less than the statutory  
23 mandatory minimum. If the criminal offense is a Class IV felony,  
24 the court shall fix the minimum and maximum limits of the sentence,  
25 but the minimum limit fixed by the court shall not be less than  
26 the minimum provided by law nor more than one-third of the maximum  
27 term and the maximum limit shall not be greater than the maximum

1 provided by law; or

2 (B) Impose a definite term of years, in which event the  
3 maximum term of the sentence shall be the term imposed by the court  
4 and the minimum term shall be the minimum sentence provided by law;

5 (b) Advise the offender on the record the time the  
6 offender will serve on his or her minimum term before attaining  
7 parole eligibility assuming that no good time for which the  
8 offender will be eligible is lost; and

9 (c) Advise the offender on the record the time the  
10 offender will serve on his or her maximum term before attaining  
11 mandatory release assuming that no good time for which the offender  
12 will be eligible is lost.

13 If any discrepancy exists between the statement of  
14 the minimum limit of the sentence and the statement of parole  
15 eligibility or between the statement of the maximum limit of the  
16 sentence and the statement of mandatory release, the statements  
17 of the minimum limit and the maximum limit shall control the  
18 calculation of the offender's term. If the court imposes more  
19 than one sentence upon an offender or imposes a sentence upon  
20 an offender who is at that time serving another sentence, the  
21 court shall state whether the sentences are to be concurrent or  
22 consecutive.

23 (2) (a) When the court is of the opinion that imprisonment  
24 may be appropriate but desires more detailed information as a  
25 basis for determining the sentence to be imposed than has been  
26 provided by the presentence report required by section 29-2261, the  
27 court shall commit an offender to the Department of Correctional

1 Services for a period not exceeding ninety days. The department  
2 shall conduct a complete study of the offender during that time,  
3 inquiring into such matters as his or her previous delinquency or  
4 criminal experience, social background, capabilities, and mental,  
5 emotional, and physical health and the rehabilitative resources  
6 or programs which may be available to suit his or her needs. By  
7 the expiration of the period of commitment or by the expiration  
8 of such additional time as the court shall grant, not exceeding  
9 a further period of ninety days, the offender shall be returned  
10 to the court for sentencing and the court shall be provided  
11 with a written report of the results of the study, including  
12 whatever recommendations the department believes will be helpful to  
13 a proper resolution of the case. After receiving the report and the  
14 recommendations, the court shall proceed to sentence the offender  
15 in accordance with subsection (1) of this section. The term of the  
16 sentence shall run from the date of original commitment under this  
17 subsection.

18 (b) In order to encourage the use of this procedure  
19 in appropriate cases, all costs incurred during the period the  
20 defendant is held in a state institution under this subsection  
21 shall be a responsibility of the state and the county shall  
22 be liable only for the cost of delivering the defendant to the  
23 institution and the cost of returning him or her to the appropriate  
24 court for sentencing or such other disposition as the court may  
25 then deem appropriate.

26 (3) Except when a term of life is required by law,  
27 whenever the defendant was under eighteen years of age at the time

1 he or she committed the crime for which he or she was convicted,  
2 the court may, in its discretion, instead of imposing the penalty  
3 provided for the crime, make such disposition of the defendant  
4 as the court deems proper under the Nebraska Juvenile Code. Prior  
5 to making a disposition which commits the juvenile to the Office  
6 of Juvenile Services of the Health and Human Services System, the  
7 court shall order the juvenile to be evaluated by the office if the  
8 juvenile has not had an evaluation within the past twelve months.

9           Sec. 75. Section 29-2290, Revised Statutes Cumulative  
10 Supplement, 2006, is amended to read:

11           29-2290 (1) Notwithstanding any other provision of law,  
12 when a person has been convicted of sexual assault pursuant to  
13 sections 28-317 to 28-320, sexual assault of a child in the second  
14 or third degree pursuant to section 28-320.01, sexual assault of  
15 a child in the first degree pursuant to section 28-319.01, or any  
16 other offense under Nebraska law when sexual contact or sexual  
17 penetration is an element of the offense, the presiding judge  
18 shall, at the request of the victim as part of the sentence of  
19 the convicted person when the circumstances of the case demonstrate  
20 a possibility of transmission of the human immunodeficiency virus,  
21 order the convicted person to submit to a human immunodeficiency  
22 virus antibody or antigen test. Such test shall be conducted under  
23 the jurisdiction of the Department of Correctional Services. The  
24 Department of Correctional Services shall make the results of the  
25 test available only to the victim, to the parents or guardian of  
26 the victim if the victim is a minor or is mentally incompetent, to  
27 the convicted person, to the parents or guardian of the convicted

1 person if the convicted person is a minor or mentally incompetent,  
2 to the court issuing the order for testing, and to the ~~Department~~  
3 ~~of Health and Human Services.~~ Health and Human Services System.

4 (2) If the human immunodeficiency virus test indicates  
5 the presence of human immunodeficiency virus infection, the  
6 Department of Correctional Services shall provide counseling to the  
7 convicted person regarding human immunodeficiency virus disease and  
8 referral to appropriate health care and support services.

9 (3) The Department of Correctional Services shall provide  
10 to the ~~Department of Health and Human Services~~ Health and Human  
11 Services System the result of any human immunodeficiency virus test  
12 conducted pursuant to this section and information regarding the  
13 request of the victim. The ~~Department of Health and Human Services~~  
14 system shall notify the victim or the parents or guardian of the  
15 victim if the victim is a minor or mentally incompetent and shall  
16 make available to the victim counseling and testing regarding human  
17 immunodeficiency virus disease and referral to appropriate health  
18 care and support services.

19 (4) The cost of testing under this section shall be paid  
20 by the convicted person tested unless the court has determined the  
21 convicted person to be indigent.

22 (5) Filing of a notice of appeal shall not automatically  
23 stay an order that the convicted person submit to a human  
24 immunodeficiency virus test.

25 (6) For purposes of this section:

26 (a) Convicted shall include adjudicated under juvenile  
27 proceedings;

1 (b) Convicted person shall include a child adjudicated of  
2 an offense described in subsection (1) of this section; and

3 (c) Sentence shall include a disposition under juvenile  
4 proceedings.

5 (7) The Department of Correctional Services, in  
6 consultation with the ~~Department of Health and Human Services,~~  
7 Health and Human Services System, shall adopt and promulgate rules  
8 and regulations to carry out this section.

9 Sec. 76. Section 29-2923, Revised Statutes Cumulative  
10 Supplement, 2006, is amended to read:

11 29-2923 For purposes of the Convicted Sex Offender Act:

12 (1) Aftercare treatment program shall mean any public or  
13 private facility or service which offers treatment on an outpatient  
14 basis or in a minimally restricted setting, which treatment is  
15 appropriate for a convicted sex offender after he or she has  
16 successfully completed an inpatient treatment program operated by  
17 the ~~Department of Health and Human Services,~~ Health and Human  
18 Services System; and

19 (2) Convicted sex offender shall mean a person who is  
20 convicted of sexual assault in the first degree as provided in  
21 section 28-319, sexual assault in the second degree as provided in  
22 section 28-320, sexual assault of a child in the second or third  
23 degree as provided in section 28-320.01, sexual assault of a child  
24 in the first degree as provided in section 28-319.01, incest as  
25 provided in section 28-703, or attempt to commit sexual assault  
26 in the first degree pursuant to section 28-201 and sentenced to a  
27 term of imprisonment in a Department of Correctional Services adult



1 correctional facility.

2           Sec. 77. Section 29-2925, Revised Statutes Cumulative  
3 Supplement, 2006, is amended to read:

4           29-2925 Within sixty days of the date of commitment  
5 to the Department of Correctional Services of a convicted sex  
6 offender to serve his or her sentence, the ~~Department of Health and~~  
7 ~~Human Services~~ Health and Human Services System shall conduct an  
8 evaluation of the offender for purposes of determining whether  
9 treatment in a treatment program operated by the ~~Department~~  
10 ~~of Health and Human Services~~ system is appropriate for the  
11 offender. The evaluation process shall be based upon criteria  
12 and procedures established by the ~~Department of Health and Human~~  
13 ~~Services-~~ system. The Department of Correctional Services shall  
14 provide the ~~Department of Health and Human Services~~ system access  
15 to all correctional and presentence records determined by the  
16 ~~Department of Health and Human Services~~ system to be relevant to  
17 the evaluation process.

18           Sec. 78. Section 29-2926, Revised Statutes Cumulative  
19 Supplement, 2006, is amended to read:

20           29-2926 (1) If the ~~Department of Health and Human~~  
21 ~~Services~~ Health and Human Services System determines that treatment  
22 in an inpatient treatment program operated by the ~~department~~ system  
23 is not appropriate for a convicted sex offender, the offender  
24 may request the sentencing judge to review the determination in  
25 accordance with subsection (2) of this section.

26           (2) Within thirty days of the determination of the  
27 ~~Department of Health and Human Services~~ system that the treatment

1 in an inpatient treatment program operated by the ~~department~~ system  
2 is not appropriate for a convicted sex offender, the offender  
3 may apply to the sentencing judge for a review of the denial of  
4 treatment. The review shall be conducted under the following rules  
5 of procedure:

6 (a) The court may allow each party to call witnesses on  
7 its behalf at such party's expense. Witnesses may be subpoenaed at  
8 the expense of the party calling the witness;

9 (b) Each party shall be allowed to be represented by  
10 counsel at such party's expense;

11 (c) Each party may be allowed to cross-examine adverse  
12 witnesses;

13 (d) The Nebraska Evidence Rules shall not apply unless  
14 expressly provided for by law, and the court may consider all  
15 evidence which in its discretion is relevant to whether the  
16 determination of the ~~department~~ system is appropriate;

17 (e) The court may affirm the determination of the  
18 ~~department~~, system, remand the matter for further proceedings,  
19 or reverse or modify the determination if such determination is  
20 unsupported by competent, material, and substantial evidence in  
21 view of the entire record as made on review or if the determination  
22 is arbitrary and capricious; and

23 (f) The review pursuant to this section shall not be  
24 subject to appeal.

25 Sec. 79. Section 29-2928, Revised Statutes Cumulative  
26 Supplement, 2006, is amended to read:

27 29-2928 (1) If the ~~Department of Health and Human~~

1 ~~Services~~ Health and Human Services System determines that treatment  
2 in an inpatient treatment program operated by the ~~Department of~~  
3 ~~Health and Human Services~~ system is appropriate for a convicted  
4 sex offender, that the offender will enter the treatment program  
5 voluntarily, and that space is available in the program, the  
6 Director of Correctional Services shall transfer the offender to  
7 the treatment program designated by the ~~Director of Health and~~  
8 ~~Human Services~~ system for treatment. The Department of Correctional  
9 Services shall be responsible for physical transfer of the offender  
10 to the treatment facility.

11 (2) If the ~~Department of Health and Human Services~~ Health  
12 and Human Services System determines that treatment in an inpatient  
13 treatment program operated by the ~~Department of Health and Human~~  
14 ~~Services~~ system is not appropriate for a convicted sex offender,  
15 the offender shall serve the sentence in a facility operated  
16 by the Department of Correctional Services and may participate  
17 in treatment offered by the ~~Department of Correctional Services~~  
18 department if the ~~Department of Correctional Services~~ department  
19 determines that such treatment is appropriate for the offender.  
20 The ~~Department of Correctional Services~~ department may make a  
21 recommendation concerning treatment as provided in subsection (4)  
22 of this section.

23 (3) If the ~~Department of Health and Human Services~~ Health  
24 and Human Services System determines that treatment in an inpatient  
25 treatment program operated by the ~~Department of Health and Human~~  
26 ~~Services~~ system is not initially appropriate for a convicted sex  
27 offender but may be appropriate at a later time, a treatment

1 decision may be deferred until a designated time, no later than  
2 two and one-half years prior to the offender's earliest parole  
3 eligibility date, when the offender will be reevaluated.

4 (4) If the Department of Correctional Services determines  
5 that an offender participating in treatment offered by the  
6 ~~Department of Correctional Services~~ department will benefit from  
7 a treatment program operated by the ~~Department of Health and~~  
8 ~~Human Services,~~ Health and Human Services System, the ~~Department~~  
9 ~~of Correctional Services~~ department shall notify the ~~Department~~  
10 ~~of Health and Human Services~~ system and recommend admission of  
11 the offender to the treatment program. The evaluation process to  
12 determine whether such offender is to be admitted into a treatment  
13 program operated by the ~~Department of Health and Human Services~~  
14 system pursuant to this subsection shall be based upon criteria  
15 and procedures established by the ~~Department of Health and Human~~  
16 ~~Services~~ system and shall not be subject to appeal or review.

17 Sec. 80. Section 29-2929, Revised Statutes Cumulative  
18 Supplement, 2006, is amended to read:

19 29-2929 (1) The inpatient treatment program operated by  
20 the ~~Department of Health and Human Services~~ Health and Human  
21 Services System shall conduct annual reviews of each convicted sex  
22 offender in the program and submit annual progress reports to the  
23 Department of Correctional Services.

24 (2) If the offender is uncooperative while in the  
25 inpatient treatment program or is found not to be amenable to  
26 treatment, the ~~Director of Health and Human Services~~ Health  
27 and Human Services System shall cause the offender to be

1 returned to the Department of Correctional Services in accordance  
2 with procedures established by the ~~Department of Health and~~  
3 ~~Human Services- system.~~ The Department of Correctional Services  
4 department shall be responsible for physical transfer of the  
5 offender from the inpatient treatment facility to the ~~Department~~  
6 ~~of Correctional Services- department.~~ The Department of Health  
7 and Human Services system shall, at the time of the transfer,  
8 provide the Department of Correctional Services department a  
9 report summarizing the offender's response to and progress while  
10 in treatment and the reasons for the transfer and shall provide  
11 access to the treatment records as requested by the ~~Department of~~  
12 ~~Correctional Services- department.~~

13 (3) All days of confinement in a treatment program  
14 operated by the ~~Department of Health and Human Services~~ Health and  
15 Human Services System shall be credited to the offender's term of  
16 imprisonment.

17 Sec. 81. Section 29-2930, Revised Statutes Cumulative  
18 Supplement, 2006, is amended to read:

19 29-2930 If the ~~Department of Health and Human Services~~  
20 Health and Human Services System determines that the convicted  
21 sex offender has received the maximum benefit of the inpatient  
22 treatment program operated by the ~~Department of Health and Human~~  
23 ~~Services system~~ and is ready for treatment in an aftercare  
24 treatment program, the person in charge of the inpatient treatment  
25 program shall develop an individual discharge plan documenting  
26 the findings and recommendations of the program and a designated  
27 aftercare treatment program. The individual discharge plan shall be

1 provided to the Department of Correctional Services, the Board of  
2 Parole, and the designated aftercare treatment program.

3 Sec. 82. Section 29-2934, Revised Statutes Cumulative  
4 Supplement, 2006, is amended to read:

5 29-2934 (1) Each person committed as a mentally  
6 disordered sex offender pursuant to sections 29-2911 to 29-2921 as  
7 such sections existed prior to July 15, 1992, who is being treated  
8 in a regional center or other secure public institution operated  
9 by the ~~Department of Health and Human Services~~ Health and Human  
10 Services System and has at least one year remaining on his or her  
11 sentence as of such date shall, within one hundred eighty days  
12 after such date, be returned to the district court which committed  
13 him or her for review and disposition consistent with the terms  
14 of this section.

15 (2) Each person committed to a regional center or other  
16 secure public institution operated by the ~~Department of Health~~  
17 ~~and Human Services~~ Health and Human Services System as a mentally  
18 disordered sex offender by a court pursuant to sections 29-2911  
19 to 29-2921 as such sections existed prior to July 15, 1992,  
20 who is in a facility operated by the Department of Correctional  
21 Services awaiting treatment as of such date shall be placed in a  
22 treatment facility operated by the ~~Department of Health and Human~~  
23 ~~Services~~ system for evaluation and treatment as soon as practical  
24 after space and staff become available. Within thirty days of  
25 such placement, the ~~Department of Health and Human Services~~ system  
26 shall determine, based on criteria and procedures established by  
27 the ~~Department of Health and Human Services,~~ system, whether the

1 offender will remain in the treatment program or be returned to  
2 the Department of Correctional Services to await court review or  
3 the end of his or her sentence. Within thirty days after the  
4 evaluation-and-treatment period, if the offender has at least one  
5 hundred eighty days remaining on his or her sentence, he or she  
6 shall be returned to the committing district court for review and  
7 disposition consistent with the terms of this section.

8 (3) ~~The Department of Health and Human Services~~ Health  
9 and Human Services System shall prepare and present a report and  
10 recommendations for each offender to be reviewed by the district  
11 court under subsection (1) or (2) of this section.

12 (4) Each person identified in subsections (1) and (2)  
13 of this section who was committed as a mentally disordered sex  
14 offender by a court after having entered a plea of guilty or nolo  
15 contendere shall, upon return to the district court, elect whether  
16 to be resentenced under the Convicted Sex Offender Act or continue  
17 his or her commitment pursuant to sections 29-2911 to 29-2921 as  
18 such sections existed prior to July 15, 1992.

19 (5) For each person identified in subsections (1) and  
20 (2) of this section who was committed as a mentally disordered sex  
21 offender by a court after having entered a plea of not guilty and  
22 for each person identified in subsection (4) of this section who  
23 elected to be resentenced under the act, subsections (6) and (7) of  
24 this section shall apply.

25 (6) If the court finds that the offender is treatable in  
26 an inpatient treatment program operated by the ~~Department of Health~~  
27 ~~and Human Services,~~ Health and Human Services System, the offender

1 shall be returned to or placed in such a treatment program and  
2 sections 29-2929 and 29-2930 shall apply.

3 (7) If the court finds that the offender is not amenable  
4 to treatment, is uncooperative in treatment, or has reached the  
5 maximum benefit of treatment in an inpatient treatment program  
6 operated by the ~~Department of Health and Human Services~~ Health  
7 and Human Services System but cannot be placed in an aftercare  
8 treatment program under conditions set by the court consistent with  
9 public safety, the offender shall be placed in a facility operated  
10 by the Department of Correctional Services to serve the remainder  
11 of his or her original sentence.

12 Sec. 83. Section 29-2935, Revised Statutes Cumulative  
13 Supplement, 2006, is amended to read:

14 29-2935 For purposes of evaluating the treatment process,  
15 the Office of Parole Administration, the Department of Correctional  
16 Services, the Board of Parole, and the designated aftercare  
17 treatment programs shall allow appropriate access to data and  
18 information as requested by the ~~Department of Health and Human~~  
19 ~~Services.~~ Health and Human Services System.

20 Sec. 84. Section 29-2936, Revised Statutes Cumulative  
21 Supplement, 2006, is amended to read:

22 29-2936 The ~~Department of Health and Human Services~~  
23 Health and Human Services System shall adopt and promulgate rules  
24 and regulations as necessary to carry out the Convicted Sex  
25 Offender Act.

26 Sec. 85. Section 29-4019, Revised Statutes Cumulative  
27 Supplement, 2006, is amended to read:



1                   29-4019 (1) When sentencing a person convicted of an  
2 offense which requires lifetime community supervision upon release  
3 pursuant to section 83-174.03, the sentencing court shall:

4                   (a) Provide written notice to the defendant that he or  
5 she shall be subject to lifetime community supervision by the  
6 Office of Parole Administration upon release from incarceration or  
7 civil commitment. The written notice shall inform the defendant (i)  
8 that he or she shall be subject to lifetime community supervision  
9 by the office upon release and that the office shall conduct  
10 a risk assessment and evaluation to determine the conditions of  
11 community supervision which will minimize, in the least restrictive  
12 manner that is compatible with public safety, the risk of the  
13 defendant committing additional offenses, (ii) that a violation  
14 of any of the conditions of community supervision imposed by the  
15 office may result in the revision of existing conditions, the  
16 addition of new conditions, a recommendation that civil commitment  
17 proceedings should be instituted, or criminal prosecution, and  
18 (iii) of his or her right to challenge the determination of the  
19 conditions of community supervision by the office and the right  
20 to a periodic review of the conditions of community supervision  
21 pursuant to section 83-174.03 to determine if the conditions are  
22 still necessary to protect the public;

23                   (b) Require the defendant to read and sign a form stating  
24 that the duty of the defendant to comply with the conditions  
25 of community supervision and his or her rights to challenge the  
26 conditions of community supervision imposed by the office has been  
27 explained; and

1           (c) Retain a copy of the written notification signed by  
2 the defendant.

3           (2) Prior to the release of a person serving a sentence  
4 for an offense requiring lifetime community supervision by the  
5 Office of Parole Administration pursuant to section 83-174.03, the  
6 Department of Correctional Services, the ~~Department of Health and~~  
7 ~~Human Services,~~ Health and Human Services System, or a city or  
8 county correctional or jail facility shall:

9           (a) Provide written notice to the person that he or  
10 she shall be subject to lifetime community supervision by the  
11 office upon release from incarceration. The written notice shall  
12 inform the person (i) that he or she shall be subject to lifetime  
13 community supervision by the office upon release and that the  
14 office shall conduct a risk assessment and evaluation of the  
15 defendant to determine the conditions of community supervision  
16 which will minimize, in the least restrictive manner that is  
17 compatible with public safety, the risk of the person committing  
18 additional offenses, (ii) that a violation of any of the conditions  
19 of community supervision imposed by the office may result in the  
20 revision of existing conditions, the addition of new conditions,  
21 a recommendation that civil commitment proceedings should be  
22 instituted, or criminal prosecution, and (iii) of his or her  
23 right to challenge the determination of the conditions of community  
24 supervision by the office and the right to a periodic review of the  
25 conditions of community supervision pursuant to section 83-174.03  
26 to determine if the conditions are still necessary to protect the  
27 public;

1           (b) Require the defendant to read and sign a form stating  
2 that the duty of the defendant to comply with the conditions  
3 of community supervision and his or her right to challenge the  
4 conditions of community supervision imposed by the office has been  
5 explained; and

6           (c) Retain a copy of the written notification signed by  
7 the person.

8           Sec. 86. Section 29-4125, Revised Statutes Cumulative  
9 Supplement, 2006, is amended to read:

10           29-4125 (1) Notwithstanding any other provision of law  
11 and subject to subsection (2) or (4) of this section, state  
12 agencies and political subdivisions shall preserve any biological  
13 material secured in connection with a criminal case for such period  
14 of time as any person remains incarcerated in connection with that  
15 case.

16           (2) State agencies or political subdivisions that have  
17 secured biological material for use in criminal cases may dispose  
18 of biological material before expiration of the period of time  
19 specified in subsection (1) of this section if:

20           (a) The state agency or political subdivision which  
21 secured the biological material for use in a criminal case notifies  
22 any person who remains incarcerated in connection with the case,  
23 such person's counsel of record, or if there is no counsel of  
24 record, the public defender, if applicable, in the county in which  
25 the judgment of conviction of such person was entered. The notice  
26 shall include:

27           (i) The intention of the state agency or political

1 subdivision to dispose of the material after ninety days after  
2 receipt of the notice; and

3 (ii) The provisions of the DNA Testing Act;

4 (b) The person, such person's counsel of record, or the  
5 public defender does not file a motion under section 29-4120 within  
6 ninety days after receipt of notice under this section; and

7 (c) No other provision of law or court order requires  
8 that such biological material be preserved.

9 (3) The person, such person's counsel of record, or the  
10 public defender who receives notice under subdivision (2)(a) of  
11 this section, may, in lieu of a motion under section 29-4120,  
12 request in writing to take possession of the biological material  
13 for the purpose of having the material available for any future  
14 discovery of scientific or forensic techniques. Copies of any  
15 such written request shall be provided to both the court and to  
16 the county attorney. The costs of acquisition, preservation, and  
17 storage of any such material shall be at the expense of the person.

18 (4) ~~The Department of Health and Human Services~~  
19 ~~Regulation and Licensure~~ Health and Human Services System  
20 shall preserve biological material obtained for the purpose of  
21 determining the concentration of alcohol in a person's blood for  
22 two years unless a request is made for the retention of such  
23 material beyond such period in connection with a pending legal  
24 action.

25 Sec. 87. Section 30-2487, Revised Statutes Cumulative  
26 Supplement, 2006, is amended to read:

27 30-2487 (a) If the applicable assets of the estate are

1 insufficient to pay all claims in full, the personal representative  
2 shall make payment in the following order:

- 3 (1) Costs and expenses of administration;  
4 (2) Reasonable funeral expenses;  
5 (3) Debts and taxes with preference under federal law;  
6 (4) Reasonable and necessary medical and hospital  
7 expenses of the last illness of the decedent, including  
8 compensation of persons attending the decedent and claims filed by  
9 the ~~Department of Health and Human Services Finance and Support~~  
10 Health and Human Services System pursuant to section 68-919;

11 (5) Debts and taxes with preference under other laws of  
12 this state;

13 (6) All other claims.

14 (b) No preference shall be given in the payment of any  
15 claim over any other claim of the same class, and a claim due and  
16 payable shall not be entitled to a preference over claims not due.

17 Sec. 88. Section 31-740, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 31-740 (1) The board of trustees or the administrator  
20 of any district organized under sections 31-727 to 31-762  
21 shall have power to provide for establishing, maintaining, and  
22 constructing gas and electric service lines and conduits, an  
23 emergency management warning system, water mains, sewers, and  
24 disposal plants and disposing of drainage, waste, and sewage  
25 of such district in a satisfactory manner; for establishing,  
26 maintaining, and constructing sidewalks, public roads, streets,  
27 and highways, including grading, changing grade, paving, repaving,

1 graveling, regravelling, widening, or narrowing roads, resurfacing  
2 or relaying existing pavement, or otherwise improving any road,  
3 street, or highway within the district, including protecting  
4 existing sidewalks, streets, highways, and roads from floods or  
5 erosion which has moved within fifteen feet from the edge of  
6 such sidewalks, streets, highways, or roads, regardless of whether  
7 such flooding or erosion is of natural or artificial origin;  
8 for establishing, maintaining, and constructing public waterways,  
9 docks, or wharfs, and related appurtenances; and for constructing  
10 and contracting for the construction of dikes and levees for flood  
11 protection for the district.

12           (2) The board of trustees or the administrator of any  
13 district may contract for electricity for street lighting for  
14 the public streets and highways within the district and shall  
15 have power to provide for building, acquisition, improvement,  
16 maintenance, and operation of public parks, playgrounds, and  
17 recreational facilities, and, when permitted by section 31-727,  
18 for contracting with other sanitary and improvement districts for  
19 the building, acquisition, improvement, maintenance, and operation  
20 of public parks, playgrounds, and recreational facilities for the  
21 joint use of the residents of the contracting districts, and for  
22 contracting for any public purpose specifically authorized in this  
23 section. Power to construct clubhouses and similar facilities for  
24 the giving of private parties within the zoning jurisdiction of  
25 any city or village is not included in the powers granted in this  
26 section. Any sewer system established shall be approved by the  
27 ~~Department of Health and Human Services Regulation and Licensure.~~

1 Health and Human Services System.

2           (3) Prior to the installation of any of the improvements  
3 or services provided for in this section, the plans or contracts  
4 for such improvements or services, other than for public parks,  
5 playgrounds, and recreational facilities, whether a district acts  
6 separately or jointly with other districts as permitted by section  
7 31-727, shall be approved by the public works department of  
8 any municipality when such improvements or any part thereof or  
9 services are within the area of the zoning jurisdiction of such  
10 municipality. If such improvements or services are without the  
11 area of the zoning jurisdiction of any municipality, plans for  
12 such improvements shall be approved by the county board of the  
13 county in which such improvements are located. Plans and exact  
14 costs for public parks, playgrounds, and recreational facilities  
15 shall be approved by resolution of the governing body of such  
16 municipality or county after a public hearing. Purchases of public  
17 parks, playgrounds, and recreational facilities so approved may be  
18 completed and shall be valid notwithstanding any interest of any  
19 trustee of the district in the transaction. Such approval shall  
20 relate to conformity with the master plan and the construction  
21 specifications and standards established by such municipality  
22 or county. When no master plan and construction specifications  
23 and standards have been established, such approval shall not be  
24 required. When such improvements are within the area of the zoning  
25 jurisdiction of more than one municipality, such approval shall be  
26 required only from the most populous municipality, except that when  
27 such improvements are furnished to the district by contract with a

1 particular municipality, the necessary approval shall in all cases  
2 be given by such municipality. The municipality or county shall be  
3 required to approve plans for such improvements and shall enforce  
4 compliance with such plans by action in equity.

5 (4) The district may construct its sewage disposal plant  
6 and other sewerage or water improvements, or both, in whole or  
7 in part, inside or outside the boundaries of the district and may  
8 contract with corporations or municipalities for disposal of sewage  
9 and use of existing sewerage improvements and for a supply of water  
10 for fire protection and for resale to residents of the district.  
11 It may also contract with any corporation, public power district,  
12 electric membership or cooperative association, or municipality for  
13 the installation, maintenance, and cost of operating a system of  
14 street lighting upon the public streets and highways within the  
15 district, for installation, maintenance, and operation of a water  
16 system, or for the installation, maintenance, and operation of  
17 electric service lines and conduits, and to provide water service  
18 for fire protection and use by the residents of the district.  
19 It may also contract with any corporation, municipality, or other  
20 sanitary and improvement district, as permitted by section 31-727,  
21 for building, acquiring, improving, and operating public parks,  
22 playgrounds, and recreational facilities for the joint use of the  
23 residents of the contracting parties. It may also contract with  
24 a county within which all or a portion of such sanitary and  
25 improvement district is located or a city within whose zoning  
26 jurisdiction the sanitary and improvement district is located for  
27 intersection and traffic control improvements, which improvements



1 serve or benefit the district and which may be within or without  
2 the corporate boundaries of the district, and for any public  
3 purpose specifically authorized in this section.

4 (5) Each sanitary and improvement district shall have the  
5 books of account kept by the board of trustees of the district  
6 examined and audited by a certified public accountant or a public  
7 accountant for the year ending June 30 and shall file a copy of the  
8 audit with the office of the Auditor of Public Accounts by December  
9 31 of the same year. Such audits may be waived by the Auditor of  
10 Public Accounts upon proper showing by the district that the audit  
11 is unnecessary. Such examination and audit shall show (a) the gross  
12 income of the district from all sources for the previous year,  
13 (b) the amount spent for sewage disposal, (c) the amount expended  
14 on water mains, (d) the gross amount of sewage processed in the  
15 district, (e) the cost per thousand gallons of processing sewage,  
16 (f) the amount expended each year for (i) maintenance and repairs,  
17 (ii) new equipment, (iii) new construction work, and (iv) property  
18 purchased, (g) a detailed statement of all items of expense, (h)  
19 the number of employees, (i) the salaries and fees paid employees,  
20 (j) the total amount of taxes levied upon the property within the  
21 district, and (k) all other facts necessary to give an accurate  
22 and comprehensive view of the cost of carrying on the activities  
23 and work of such sanitary and improvement district. The reports  
24 of all audits provided for in this section shall be and remain a  
25 part of the public records in the office of the Auditor of Public  
26 Accounts. The expense of such audits shall be paid out of the  
27 funds of the district. The Auditor of Public Accounts shall be

1 given access to all books and papers, contracts, minutes, bonds,  
2 and other documents and memoranda of every kind and character of  
3 such district and be furnished all additional information possessed  
4 by any present or past officer or employee of any such district,  
5 or by any other person, that is essential to the making of a  
6 comprehensive and correct audit.

7 (6) If any sanitary and improvement district fails or  
8 refuses to cause such annual audit to be made of all of  
9 its functions, activities, and transactions for the fiscal year  
10 within a period of six months following the close of such fiscal  
11 year, unless such audit has been waived, the Auditor of Public  
12 Accounts shall, after due notice and a hearing to show cause by  
13 such district, appoint a certified public accountant or public  
14 accountant to conduct the annual audit of the district and the fee  
15 for such audit shall become a lien against the district.

16 (7) Whenever the sanitary sewer system or any part  
17 thereof of a sanitary and improvement district is directly or  
18 indirectly connected to the sewerage system of any city, such  
19 city, without enacting an ordinance or adopting any resolution for  
20 such purpose, may collect such city's applicable rental or use  
21 charge from the users in the sanitary and improvement district and  
22 from the owners of the property served within the sanitary and  
23 improvement district. The charges of such city shall be charged to  
24 each property served by the city sewerage system, shall be a lien  
25 upon the property served, and may be collected from the owner or  
26 the person, firm, or corporation using the service. If the city's  
27 applicable rental or service charge is not paid when due, such sum

1 may be recovered by the municipality in a civil action or it may be  
2 assessed against the premises served in the same manner as special  
3 taxes or assessments are assessed by such city and collected  
4 and returned in the same manner as other municipal special taxes  
5 or assessments are enforced and collected. When any such tax or  
6 assessment is levied, it shall be the duty of the city clerk to  
7 deliver a certified copy of the ordinance to the county treasurer  
8 of the county in which the premises assessed are located and such  
9 county treasurer shall collect the same as provided by law and  
10 return the same to the city treasurer. Funds of such city raised  
11 from such charges shall be used by it in accordance with laws  
12 applicable to its sewer service rental or charges. The governing  
13 body of any city may make all necessary rules and regulations  
14 governing the direct or indirect use of its sewerage system by  
15 any user and premises within any sanitary and improvement district  
16 and may establish just and equitable rates or charges to be paid  
17 to such city for use of any of its disposal plants and sewerage  
18 system. The board of trustees shall have power, in connection with  
19 the issuance of any warrants or bonds of the district, to agree to  
20 make a specified minimum levy on taxable property in the district  
21 to pay, or to provide a sinking fund to pay, principal and interest  
22 on warrants and bonds of the district for such number of years  
23 as the board may establish at the time of making such agreement  
24 and shall also have power to agree to enforce, by foreclosure  
25 or otherwise as permitted by applicable laws, the collection of  
26 special assessments levied by the district. Such agreements may  
27 contain provisions granting to creditors and others the right to

1 enforce and carry out the agreements on behalf of the district and  
2 its creditors.

3 (8) The board of trustees or administrator shall have  
4 power to sell and convey real and personal property of the district  
5 on such terms as it or he or she shall determine, except that real  
6 estate shall be sold to the highest bidder at public auction after  
7 notice of the time and place of the sale has been published for  
8 three consecutive weeks prior to the sale in a newspaper of general  
9 circulation in the county. The board of trustees or administrator  
10 may reject such bids and negotiate a sale at a price higher than  
11 the highest bid at the public auction at such terms as may be  
12 agreed.

13 Sec. 89. Section 32-310, Revised Statutes Cumulative  
14 Supplement, 2006, is amended to read:

15 32-310 (1) The State Department of Education and the  
16 Health and Human Services System, ~~the Department of Health~~  
17 ~~and Human Services,~~ ~~the Department of Health and Human Services~~  
18 ~~Regulation and Licensure,~~ ~~and the Department of Health and Human~~  
19 ~~Services Finance and Support~~ shall provide the opportunity to  
20 register to vote at the time of application, review, or change of  
21 address for the following programs, as applicable: (a) The food  
22 stamp program; (b) the medicaid program; (c) the WIC program as  
23 defined in section 71-2225; (d) the aid to dependent children  
24 program; (e) the vocational rehabilitation program; and (f) any  
25 other public assistance program or program primarily for the  
26 purpose of providing services to persons with disabilities. If  
27 the application, review, or change of address ~~is~~ process is

1 delegated to and accomplished through an agent or contractor,  
2 ~~of the department,~~ the agent or contractor shall provide the  
3 opportunity to register to vote. Any information on whether an  
4 applicant registers or declines to register and the agency at which  
5 he or she registers shall be confidential and shall only be used  
6 for voter registration purposes.

7 (2) The ~~department,~~ ~~agent,~~ ~~or contractor~~ shall make the  
8 mail-in registration application described in section 32-320 shall  
9 be made available at the time of application, review, or change  
10 of address and shall provide assistance, if necessary, to the  
11 applicant in completing the application to register to vote. The  
12 department or system shall retain records indicating whether an  
13 applicant accepted or declined the opportunity to register to vote.

14 (3) Department or system personnel, agents, and  
15 contractors involved in the voter registration process pursuant to  
16 this section shall not be considered deputy registrars or agents or  
17 employees of the election commissioner or county clerk.

18 (4) The applicant may return the completed voter  
19 registration application to the department, system, agent, or  
20 contractor or may personally mail or deliver the application to  
21 the election commissioner or county clerk as provided in section  
22 32-321. If the applicant returns the completed application to the  
23 department, system, agent, or contractor, ~~the department,~~ ~~agent,~~  
24 ~~or contractor shall deliver~~ the application shall be delivered to  
25 the election commissioner or county clerk of the county in which  
26 the office of the ~~department,~~ ~~agent,~~ ~~or contractor~~ recipient of  
27 the application is located not later than ten days after receipt,

1 by the ~~department, agent, or contractor,~~ except that if the  
2 application is returned to ~~the department, agent, or contractor~~  
3 within five days prior to the third Friday preceding any election,  
4 it shall be delivered not later than five days after the date it  
5 is returned. The election commissioner or county clerk shall, if  
6 necessary, forward the application to the election commissioner or  
7 county clerk of the county in which the applicant resides within  
8 such prescribed time limits. The application shall be completed and  
9 returned to the department, system, agency, or contractor by the  
10 close of business on the third Friday preceding any election to  
11 be registered to vote at such election. A registration application  
12 received after the deadline shall not be processed by the election  
13 commissioner or county clerk until after the election.

14 (5) The ~~departments~~ department and system shall adopt and  
15 promulgate rules and regulations to ensure compliance with this  
16 section.

17 Sec. 90. Section 32-327, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 32-327 The election commissioner or county clerk may  
20 at any time remove from the voter registration register a voter  
21 registration of a deceased person when the election commissioner  
22 or county clerk has any supporting information of the death of  
23 such voter. The ~~Department of Health and Human Services Finance and~~  
24 ~~Support~~ Health and Human Services System shall provide, at cost, a  
25 record of the deaths of residents which occur in each county every  
26 three months to the appropriate election commissioner or county  
27 clerk.

1           Sec. 91. Section 37-1254.05, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           37-1254.05 Except as provided in section 37-1254.03, any  
4 test made pursuant to section 37-1254.02, if made in conformance  
5 with the requirements of this section, shall be competent evidence  
6 in any prosecution under a state law or city or village ordinance  
7 regarding the actual physical control of any motorboat under  
8 propulsion upon the waters of this state while under the influence  
9 of alcohol or regarding the actual physical control of any  
10 motorboat under propulsion upon the waters of this state when  
11 the concentration of alcohol in the blood or breath is in excess  
12 of allowable levels in violation of section 37-1254.01 or a city  
13 or village ordinance. To be considered valid, tests shall have  
14 been performed according to methods approved by the ~~Department of~~  
15 ~~Health and Human Services Regulation and Licensure~~ Health and Human  
16 Services System and by an individual possessing a valid permit  
17 issued by the ~~department~~ system for such purpose. The ~~department~~  
18 system may approve satisfactory techniques or methods and ascertain  
19 the qualifications and competence of individuals to perform such  
20 tests and may issue permits which shall be subject to termination  
21 or revocation at the discretion of the ~~department.~~ system.

22           The permit fee may be established by rules and  
23 regulations adopted and promulgated by the ~~department,~~ system,  
24 which fee shall not exceed the actual cost of processing the  
25 initial permit. Such fee shall be charged annually to each  
26 permitholder. The fees shall be used to defray the cost of  
27 processing and issuing the permits and other expenses incurred by

1 the ~~department system~~ system in carrying out this section. The fee shall  
2 be deposited in the state treasury and credited to the ~~Department~~  
3 ~~of Health and Human Services Regulation and Licensure~~ Health and  
4 Human Services System Cash Fund as a laboratory service fee.

5           Sec. 92. Section 37-1254.06, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           37-1254.06 (1) Any physician, registered nurse, other  
8 trained person employed by a licensed health care facility or  
9 health care service defined in the Health Care Facility Licensure  
10 Act, a clinical laboratory certified pursuant to the federal  
11 Clinical Laboratories Improvement Act of 1967, as amended, or Title  
12 XVIII or XIX of the federal Social Security Act, as amended, to  
13 withdraw human blood for scientific or medical purposes, or a  
14 hospital shall be an agent of the State of Nebraska when performing  
15 the act of withdrawing blood at the request of a peace officer  
16 pursuant to section 37-1254.02. The state shall be liable in  
17 damages for any illegal or negligent acts or omissions of such  
18 agents in performing the act of withdrawing blood. The agent shall  
19 not be individually liable in damages or otherwise for any act  
20 done or omitted in performing the act of withdrawing blood at the  
21 request of a peace officer pursuant to such section except for acts  
22 of willful, wanton, or gross negligence of the agent or of persons  
23 employed by such agent.

24           (2) Any person listed in subsection (1) of this section  
25 withdrawing a blood specimen for purposes of section 37-1254.02  
26 shall, upon request, furnish to any law enforcement agency or the  
27 person being tested a certificate stating that such specimen was



1 taken in a medically acceptable manner. The certificate shall be  
2 signed under oath before a notary public and shall be admissible  
3 in any proceeding as evidence of the statements contained in the  
4 certificate. The form of the certificate shall be prescribed by the  
5 ~~Department of Health and Human Services Regulation and Licensure~~  
6 Health and Human Services System and such forms shall be made  
7 available to the persons listed in subsection (1) of this section.

8 Sec. 93. Section 42-106, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 42-106 When an application is made for a license to the  
11 county clerk, he or she shall, upon the granting of such license,  
12 state in the license the information contained in the application  
13 as provided in section 42-104. The license shall, prior to the  
14 issuing thereof, be entered of record in the office of the county  
15 clerk in a suitable book to be provided for that purpose.

16 The forms for the application, license, and certificate  
17 of marriage shall be provided by the ~~Department of Health and Human~~  
18 ~~Services Finance and Support~~ Health and Human Services System at  
19 actual cost as determined by the ~~department.~~ system.

20 Sec. 94. Section 42-347, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 42-347 For purposes of sections 42-347 to 42-381, unless  
23 the context otherwise requires:

24 (1) Authorized attorney shall mean an attorney (a)  
25 employed by the county subject to the approval of the county  
26 board, (b) employed by the ~~Department of Health and Human Services,~~  
27 Health and Human Services System, or (c) appointed by the court,

1 who is authorized to investigate and prosecute child and spousal  
2 support cases. An authorized attorney shall represent the state as  
3 provided in section 43-512.03;

4 (2) Dissolution of marriage shall mean the termination  
5 of a marriage by decree of a court of competent jurisdiction  
6 upon a finding that the marriage is irretrievably broken. The  
7 term dissolution of marriage shall be considered synonymous with  
8 divorce, and whenever the term divorce appears in the statutes it  
9 shall mean dissolution of marriage pursuant to sections 42-347 to  
10 42-381;

11 (3) Legal separation shall mean a decree of a court  
12 of competent jurisdiction providing that two persons who have  
13 been legally married shall thereafter live separate and apart and  
14 providing for any necessary adjustment of property, support, and  
15 custody rights between the parties but not dissolving the marriage;

16 (4) Spousal support, when used in the context of income  
17 withholding or any provisions of law which might lead to income  
18 withholding, shall mean alimony or maintenance support for a spouse  
19 or former spouse when ordered as a part of an order, decree, or  
20 judgment which provides for child support and the child and spouse  
21 or former spouse are living in the same household;

22 (5) State Disbursement Unit has the same meaning as in  
23 section 43-3341; and

24 (6) Support order has the same meaning as in section  
25 43-1717.

26 Sec. 95. Section 42-358, Revised Statutes Cumulative  
27 Supplement, 2006, is amended to read:

1                   42-358 (1) The court may appoint an attorney to protect  
2 the interests of any minor children of the parties. Such attorney  
3 shall be empowered to make independent investigations and to cause  
4 witnesses to appear and testify on matters pertinent to the welfare  
5 of the children. The court shall by order fix the fee, including  
6 disbursements, for such attorney, which amount shall be taxed as  
7 costs and paid by the parties as ordered. If the court finds that  
8 the party responsible is indigent, the court may order the county  
9 to pay the costs.

10                   (2) Following entry of any decree, the court having  
11 jurisdiction over the minor children of the parties may at any time  
12 appoint an attorney, as friend of the court, to initiate contempt  
13 proceedings for failure of any party to comply with an order  
14 of the court directing such party to pay temporary or permanent  
15 child support. The county attorney or authorized attorney may be  
16 appointed by the court for the purposes provided in this section,  
17 in which case the county attorney or authorized attorney shall  
18 represent the state.

19                   (3) The clerk of each district court shall maintain  
20 records of support orders. The Title IV-D Division of the Health  
21 and Human Services System shall maintain support order payment  
22 records pursuant to section 43-3342.01 and the clerk of each  
23 district court shall maintain records of payments received pursuant  
24 to sections 42-369 and 43-3342.01. For support orders in all cases  
25 issued before September 6, 1991, and for support orders issued or  
26 modified on or after September 6, 1991, in cases in which no party  
27 has applied for services under Title IV-D of the federal Social

1 Security Act, as amended, each month the Title IV-D Division shall  
2 certify all cases in which the support order payment is delinquent  
3 in an amount equal to the support due and payable for a one-month  
4 period of time. The Title IV-D Division shall provide the case  
5 information in electronic format, and upon request in print format,  
6 to the judge presiding over domestic relations cases and to the  
7 county attorney or authorized attorney. A rebuttable presumption  
8 of contempt shall be established if a prima facie showing is made  
9 that the court-ordered child or spousal support is delinquent. In  
10 cases in which one of the parties receives services under Title  
11 IV-D of the federal Social Security Act, as amended, the Title IV-D  
12 Division shall certify all such delinquent support order payments  
13 to the county attorney or the authorized attorney.

14           In each case certified, if income withholding has not  
15 been implemented it shall be implemented pursuant to the Income  
16 Withholding for Child Support Act. If income withholding is not  
17 feasible and no other action is pending for the collection of  
18 support payments, the court shall appoint an attorney to commence  
19 contempt of court proceedings. If the county attorney or authorized  
20 attorney consents, he or she may be appointed for such purpose. The  
21 contempt proceeding shall be instituted within ten days following  
22 appointment, and the case shall be diligently prosecuted to  
23 completion. The court shall by order fix the fee, including  
24 disbursements, for such attorney, which amount shall be taxed as  
25 costs and paid by the parties as ordered. Any fees allowed for  
26 the services of any county attorney or authorized attorney shall  
27 be paid to the ~~Department of Health and Human Services~~ Health and

1 Human Services System when there is an assignment of support to  
2 the ~~department~~ system pursuant to section 43-512.07 or when an  
3 application for child support services is on file with a county  
4 attorney or authorized attorney. If the court finds the party  
5 responsible is indigent, the court may order the county to pay the  
6 costs.

7 (4) If, at the hearing, the person owing child or spousal  
8 support is called for examination as an adverse party and such  
9 person refuses to answer upon the ground that his or her testimony  
10 may be incriminating, the court may, upon the motion of the county  
11 attorney or authorized attorney, require the person to answer and  
12 produce the evidence. In such a case the evidence produced shall  
13 not be admissible in any criminal case against such person nor  
14 shall any evidence obtained because of the knowledge gained by such  
15 evidence be so admissible.

16 (5) The court may order access to all revenue information  
17 maintained by the Department of Revenue or other agencies  
18 concerning the income of persons liable or who pursuant to this  
19 section and sections 42-358.08 and 42-821 may be found liable to  
20 pay child or spousal support payments.

21 (6) Any person aggrieved by a determination of the court  
22 may appeal such decision to the Court of Appeals.

23 Sec. 96. Section 42-358.01, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 42-358.01 Records of delinquencies in support order  
26 payments shall be kept by the Title IV-D Division of the Health  
27 and Human Services System or by the clerks of the district courts

1 pursuant to their responsibilities under law.

2           Sec. 97. Section 42-358.02, Revised Statutes Cumulative  
3 Supplement, 2006, is amended to read:

4           42-358.02 (1) All delinquent child support payments shall  
5 draw interest at the rate specified in section 45-103 in effect on  
6 the date of the most recent order or decree. Such interest shall be  
7 computed as simple interest.

8           (2) All child support payments shall become delinquent  
9 the day after they are due and owing, except that no obligor whose  
10 child support payments are automatically withheld from his or her  
11 paycheck shall be regarded or reported as being delinquent or in  
12 arrears if (a) any delinquency or arrearage is solely caused by a  
13 disparity between the schedule of the obligor's regular pay dates  
14 and the scheduled date the child support is due, (b) the total  
15 amount of child support to be withheld from the paychecks of the  
16 obligor and the amount ordered by the support order are the same  
17 on an annual basis, and (c) the automatic deductions for child  
18 support are continuous and occurring. Interest shall not accrue  
19 until thirty days after such payments are delinquent.

20           (3) The court shall order the determination of the  
21 amount of interest due, and such interest shall be payable in  
22 the same manner as the support payments upon which the interest  
23 accrues subject to subsection (2) of this section or unless it  
24 is waived by agreement of the parties. The Title IV-D Division of  
25 the Health and Human Services System shall compute interest and  
26 identify delinquencies pursuant to this section on the payments  
27 received by the State Disbursement Unit pursuant to section 42-369.

1 The Title IV-D Division shall provide the case information in  
2 electronic format, and upon request in print format, to the judge  
3 presiding over domestic relations cases and to the county attorney  
4 or authorized attorney.

5 (4) Support order payments shall be credited in the  
6 following manner:

7 (a) First, to the payments due for the current month in  
8 the following order: Child support payments, then spousal support  
9 payments, and lastly medical support payments;

10 (b) Second, toward any payment arrearage owing, in the  
11 following order: Child support payment arrearage, then spousal  
12 support payment arrearage, and lastly medical support payment  
13 arrearage; and

14 (c) Third, toward the interest on any payment arrearage,  
15 in the following order: Child support payment arrearage interest,  
16 then spousal support payment arrearage interest, and lastly medical  
17 support payment arrearage interest.

18 (5) Interest which may have accrued prior to September  
19 6, 1991, shall not be affected or altered by changes to this  
20 section which take effect on such date. All delinquent child  
21 support payments and all decrees entered prior to such date shall  
22 draw interest at the effective rate as prescribed by this section  
23 commencing as of such date.

24 Sec. 98. Section 42-358.08, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26 42-358.08 Notwithstanding any other provision of law  
27 regarding the confidentiality of records and when not prohibited

1 by the federal Privacy Act of 1974, Public Law 93-579, as amended,  
2 each department and agency of state, county, and city government  
3 and each employer or other payor as defined in section 43-1709  
4 shall, upon request, furnish to any court-appointed individuals,  
5 the county attorney, any authorized attorney, or the ~~Department~~  
6 ~~of Health and Human Services~~ Health and Human Services System an  
7 absent parent's address, social security number, amount of income,  
8 health insurance information, and employer's name and address for  
9 the exclusive purpose of establishing and collecting child or  
10 spousal support. Information so obtained shall be used for no other  
11 purpose. This section may be enforced by filing a court action.

12           Sec. 99. Section 42-364.13, Revised Statutes Cumulative  
13 Supplement, 2006, is amended to read:

14           42-364.13 (1) Any order for support entered by the  
15 court shall specifically provide that any person ordered to pay a  
16 judgment shall be required to furnish to the clerk of the district  
17 court his or her address, telephone number, and social security  
18 number, the name of his or her employer, whether or not such  
19 person has access to employer-related health insurance coverage  
20 and, if so, the health insurance policy information, and any other  
21 information the court deems relevant until such judgment is paid  
22 in full. The person shall also be required to advise the clerk of  
23 any changes in such information between the time of entry of the  
24 decree and the payment of the judgment in full. If both parents  
25 are parties to the action, such order shall provide that each be  
26 required to furnish to the clerk of the district court all of the  
27 information required by this subsection. Failure to comply with



1 this section shall be punishable by contempt.

2 (2) All support orders entered by the court shall include  
3 the birthdate of any child for whom the order requires the  
4 provision of support.

5 (3) Until the Title IV-D Division of the Health and  
6 Human Services System has operative the statewide automated  
7 data processing and retrieval system necessary for centralized  
8 collection and disbursement of support order payments:

9 (a) If any case contains an order or judgment for child,  
10 medical, or spousal support, the order shall include the following  
11 statements:

12 In the event that the (plaintiff or defendant) fails to  
13 pay any child, medical, or spousal support payment, as such failure  
14 is certified each month by the district court clerk in cases in  
15 which court-ordered support is delinquent in an amount equal to  
16 the support due and payable for a one-month period of time, he  
17 or she shall be subject to income withholding and may be required  
18 to appear in court on a date to be determined by the court and  
19 show cause why such payment was not made. In the event that the  
20 (plaintiff or defendant) fails to pay and appear as ordered, a  
21 warrant shall be issued for his or her arrest.

22 (b) If the court orders income withholding regardless  
23 of whether or not payments are in arrears pursuant to section  
24 43-1718.01 or 43-1718.02, the statement in this subsection may be  
25 altered to read as follows:

26 In the event that the (plaintiff or defendant) fails to  
27 pay any child, medical, or spousal support payment, as such failure

1 is certified each month by the district court clerk in cases in  
2 which court-ordered support is delinquent in an amount equal to the  
3 support due and payable for a one-month period of time, he or she  
4 may be required to appear in court on a date to be determined by  
5 the court and show cause why such payment was not made. In the  
6 event that the (plaintiff or defendant) fails to pay and appear as  
7 ordered, a warrant shall be issued for his or her arrest.

8 (4) When the Title IV-D Division of the Health and  
9 Human Services System has operative the statewide automated  
10 data processing and retrieval system necessary for centralized  
11 collection and disbursement of support order payments:

12 (a) If any case contains an order or judgment for child,  
13 medical, or spousal support, the order shall include the following  
14 statements:

15 In the event that the (plaintiff or defendant) fails to  
16 pay any child, medical, or spousal support payment, as such failure  
17 is certified each month by the State Disbursement Unit in cases  
18 in which court-ordered support is delinquent in an amount equal  
19 to the support due and payable for a one-month period of time, he  
20 or she shall be subject to income withholding and may be required  
21 to appear in court on a date to be determined by the court and  
22 show cause why such payment was not made. In the event that the  
23 (plaintiff or defendant) fails to pay and appear as ordered, a  
24 warrant shall be issued for his or her arrest.

25 (b) If the court orders income withholding regardless  
26 of whether or not payments are in arrears pursuant to section  
27 43-1718.01 or 43-1718.02, the statement in this subsection may be

1 altered to read as follows:

2           In the event that the (plaintiff or defendant) fails to  
3 pay any child, medical, or spousal support payment, as such failure  
4 is certified each month by the State Disbursement Unit in cases  
5 in which court-ordered support is delinquent in an amount equal to  
6 the support due and payable for a one-month period of time, he or  
7 she may be required to appear in court on a date to be determined  
8 by the court and show cause why such payment was not made. In the  
9 event that the (plaintiff or defendant) fails to pay and appear as  
10 ordered, a warrant shall be issued for his or her arrest.

11           Sec. 100. Section 42-705, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           42-705 (a) In a proceeding to establish or enforce a  
14 support order or to determine parentage, a tribunal of this state  
15 may exercise personal jurisdiction over a nonresident individual or  
16 the individual's guardian or conservator if:

17           (1) The individual is personally served with notice  
18 within this state;

19           (2) The individual submits to the jurisdiction of this  
20 state by consent, by entering a general appearance, or by filing  
21 a responsive document having the effect of waiving any contest to  
22 personal jurisdiction;

23           (3) The individual resided with the child in this state;

24           (4) The individual resided in this state and provided  
25 prenatal expenses or support for the child;

26           (5) The child resides in this state as a result of the  
27 acts or directives of the individual;

1           (6) The individual engaged in sexual intercourse in this  
2 state and the child may have been conceived by that act of  
3 intercourse;

4           (7) The individual asserted parentage in this state  
5 pursuant to section 43-104.02, 71-628, 71-640.01, or 71-640.02 with  
6 the ~~Department of Health and Human Services Finance and Support;~~  
7 Health and Human Services System; or

8           (8) There is any other basis consistent with the  
9 constitutions of this state and the United States for the exercise  
10 of personal jurisdiction.

11           (b) The basis of personal jurisdiction set forth in  
12 subsection (a) of this section or in any other law of this state  
13 shall not be used to acquire personal jurisdiction for a tribunal  
14 of this state to modify a child support order of another state  
15 unless the requirements of section 42-746 or 42-747.03 are met.

16           Sec. 101. Section 42-723, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           42-723 (a) The ~~Department of Health and Human Services~~  
19 Health and Human Services System is the state information agency  
20 under the Uniform Interstate Family Support Act.

21           (b) The state information agency shall:

22           (1) compile and maintain a current list, including  
23 addresses, of the tribunals in this state which have jurisdiction  
24 under the act and any support enforcement agencies in this state  
25 and transmit a copy to the state information agency of every other  
26 state;

27           (2) maintain a register of names and addresses of

1 tribunals and support enforcement agencies received from other  
2 states;

3 (3) forward to the appropriate tribunal in the county in  
4 this state in which the individual obligee or the obligor resides,  
5 or in which the obligor's property is believed to be located,  
6 all documents concerning a proceeding under the act received from  
7 an initiating tribunal or the state information agency of the  
8 initiating state; and

9 (4) obtain information concerning the location of the  
10 obligor and the obligor's property within this state not exempt  
11 from execution, by such means as postal verification and federal  
12 or state locator services, examination of telephone directories,  
13 requests for the obligor's address from employers, and examination  
14 of governmental records, including, to the extent not prohibited  
15 by other law, those relating to real property, vital statistics,  
16 law enforcement, taxation, motor vehicles, driver's licenses, and  
17 social security.

18 Sec. 102. Section 42-903, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 42-903 For purposes of the Protection from Domestic Abuse  
21 Act, unless the context otherwise requires:

22 (1) Abuse means the occurrence of one or more of the  
23 following acts between household members:

24 (a) Attempting to cause or intentionally and knowingly  
25 causing bodily injury with or without a dangerous instrument;

26 (b) Placing, by physical menace, another person in fear  
27 of imminent bodily injury; or

1 (c) Engaging in sexual contact or sexual penetration  
2 without consent as defined in section 28-318;

3 ~~(2) Department means the Department of Health and Human~~  
4 ~~Services;~~

5 ~~(3)~~ (2) Family or household members includes spouses  
6 or former spouses, children, persons who are presently residing  
7 together or who have resided together in the past, persons who  
8 have a child in common whether or not they have been married  
9 or have lived together at any time, other persons related  
10 by consanguinity or affinity, and persons who are presently  
11 involved in a dating relationship with each other or who have  
12 been involved in a dating relationship with each other. For  
13 purposes of this subdivision, dating relationship means frequent,  
14 intimate associations primarily characterized by the expectation  
15 of affectional or sexual involvement, but does not include a  
16 casual relationship or an ordinary association between persons in a  
17 business or social context; and

18 ~~(4)~~ (3) Law enforcement agency means the police  
19 department or town marshal in incorporated municipalities, the  
20 office of the sheriff in unincorporated areas, and the Nebraska  
21 State Patrol; and -

22 (4) System means the Health and Human Services System.

23 Sec. 103. Section 42-904, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 42-904 The ~~department~~ system shall establish and maintain  
26 comprehensive support services to aid victims of domestic abuse  
27 and to provide prevention and treatment programs to aid victims of

1 domestic abuse, their families, and abusers.

2           Sec. 104. Section 42-906, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           42-906 The ~~department~~ system shall provide the support  
5 services as provided in section 42-905 to any person who seeks such  
6 services.

7           Sec. 105. Section 42-907, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           42-907 The ~~department~~ system shall provide emergency  
10 services which shall consist of up to seventy-two hours of crisis  
11 intervention services including:

- 12           (1) Constant access and intake to services;
- 13           (2) Immediate transportation from a victim's home or  
14 other location to a hospital or a place of safety;
- 15           (3) Immediate medical services or first aid;
- 16           (4) Emergency legal counseling and referral;
- 17           (5) Crisis counseling to provide support and assurance of  
18 safety;
- 19           (6) Emergency financial aid; and
- 20           (7) Safe living environments that will provide a  
21 supportive, nonthreatening shelter to victims, their families, and  
22 household members.

23           Sec. 106. Section 42-908, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           42-908 The ~~department~~ system shall, as soon as possible  
26 after initial contact with the victim, determine through diagnostic  
27 assessment which programs are needed and desired by the victim and

1 family members. The department shall make appropriate referral and  
2 conduct appropriate followup. The department shall, to the extent  
3 possible, use private sources to provide the support services.

4 Sec. 107. Section 42-909, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 42-909 The ~~department~~ system shall, in addition to  
7 the emergency services, provide support services as needed to  
8 a victim of domestic abuse for up to thirty days. The support  
9 services shall be problem oriented and formulate a plan of action  
10 for the victim. Such services may include relocation, financial  
11 security, employment, advocacy, assertiveness training, substance  
12 abuse counseling, and alternatives to returning to the abuser.  
13 Also, the ~~department~~ system shall provide services for children  
14 including day care, education, and counseling.

15 Sec. 108. Section 42-910, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 42-910 The ~~department~~ system shall provide services for  
18 children which may include:

19 (1) Emergency services which provide housing, food,  
20 clothing, and transportation to school;

21 (2) Counseling for trauma which occurs when children  
22 witness or experience family violence;

23 (3) Programs which provide for the appropriate  
24 educational needs of the individual child; and

25 (4) Services for child care in the necessary absence of  
26 the victim parent.

27 Sec. 109. Section 42-911, Reissue Revised Statutes of



1 Nebraska, is amended to read:

2           42-911 The ~~department~~ system shall provide complete  
3 resource information for victims and their families on legal,  
4 medical, financial, vocational, welfare, child care, housing, and  
5 other support services.

6           Sec. 110. Section 42-912, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           42-912 The ~~department~~ system shall develop a means of  
9 client feedback and collect statistical data to assist it in  
10 evaluating program effectiveness.

11           Sec. 111. Section 42-913, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           42-913 The ~~department~~ system shall provide such programs  
14 and services as it deems appropriate for the person who commits  
15 domestic abuse.

16           Sec. 112. Section 42-914, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           42-914 The ~~department~~ system shall develop, in  
19 cooperation with the State Department of Education, a kindergarten  
20 through postsecondary educational curriculum relating to domestic  
21 violence.

22           Sec. 113. Section 42-915, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           42-915 The ~~department~~ system shall assist in developing  
25 community support systems for families to aid in the deterrence of  
26 all family crisis situations.

27           Sec. 114. Section 42-916, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           42-916 The ~~department~~ system shall provide a family  
3 program, especially for children, to prevent the generational  
4 continuation of abuse within the family.

5           Sec. 115. Section 42-917, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           42-917 The delivery of all services provided for under  
8 the Protection from Domestic Abuse Act shall be done in cooperation  
9 with existing public, private, state, and local programs whenever  
10 possible to avoid duplication of services. Special effort shall  
11 be taken to coordinate programs with the Department of Labor, the  
12 Nebraska Commission on the Status of Women, the State Department  
13 of Education, the ~~Division of Behavioral Health Services of the~~  
14 ~~Department of Health and Human Services,~~ the Department of Health  
15 and Human Services Regulation and Licensure, the Department of  
16 Health and Human Services Finance and Support, Health and Human  
17 Services System, other appropriate agencies, community service  
18 agencies, and private sources.

19           Sec. 116. Section 42-918, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21           42-918 Under the Protection from Domestic Abuse Act,  
22 strict confidence shall be observed in all contact with victims  
23 of spouse abuse and their families. Any record, report, or files  
24 maintained by the ~~department~~ system pursuant to the act shall  
25 be confidential, except that the ~~department~~ system may release  
26 statistical information, while not revealing names. Violation of  
27 this section shall be a Class V misdemeanor.

1           Sec. 117. Section 42-920, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           42-920 The ~~department~~ system may construct, lease,  
4 purchase, purchase on contract, utilize vendor payment, and  
5 contract for services connected with the operation of the  
6 Protection from Domestic Abuse Act as needs and interest demand.

7           Sec. 118. Section 42-921, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           42-921 The ~~department~~ system may accept gifts, grants,  
10 devises, and bequests of real and personal property from public  
11 or private sources to carry out the purposes of the Protection  
12 from Domestic Abuse Act. The ~~department~~ system may sell, lease,  
13 exchange, invest, or expend such gifts, grants, devises, and  
14 bequests or the proceeds, rents, profits, and income therefrom  
15 according to the terms and conditions thereof.

16           Sec. 119. Section 42-922, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           42-922 The ~~department~~ system shall adopt and promulgate  
19 such rules and regulations and perform all other acts as may be  
20 necessary or appropriate to carry out the Protection from Domestic  
21 Abuse Act. Such rules and regulations shall include, but not  
22 be limited to, rules and regulations relating to fees charged,  
23 training of personnel, and administration of the program.

24           Sec. 120. Section 42-923, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26           42-923 The ~~department~~ system shall determine the ability  
27 of the spouses or individuals to pay for services but shall not

1 charge more than the actual cost. The ~~department~~ system shall  
2 prepare and adopt a uniform fee schedule to be used. The scheduled  
3 fees may be reduced or waived by authorization of the ~~department~~  
4 system according to the rules of the ~~department~~ system and as may  
5 be considered necessary to further the objective of the Protection  
6 from Domestic Abuse Act. The use of facilities and services  
7 established by the act shall not be denied residents of Nebraska  
8 because of inability to pay scheduled fees. Any fees received under  
9 this section shall be deposited in the General Fund.

10           Sec. 121. Section 43-102, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           43-102 Except as otherwise provided in the Nebraska  
13 Indian Child Welfare Act, any person or persons desiring to adopt  
14 a minor child or an adult child shall file a petition for adoption  
15 signed and sworn to by the person or persons desiring to adopt.  
16 The consent or consents required by sections 43-104 and 43-105 or  
17 section 43-104.07, the documents required by section 43-104.07 or  
18 the documents required by sections 43-104.08 to 43-104.24, and a  
19 completed preplacement adoptive home study if required by section  
20 43-107 shall be filed prior to the hearing required in section  
21 43-103.

22           The county court of the county in which the person or  
23 persons desiring to adopt the child reside has jurisdiction of  
24 adoption proceedings, except that if a separate juvenile court  
25 already has jurisdiction over the child to be adopted under the  
26 Nebraska Juvenile Code, such separate juvenile court has concurrent  
27 jurisdiction with the county court in such adoption proceeding. The

1 petition and all other court filings for an adoption proceeding  
2 shall be filed with the clerk of the county court. The party  
3 shall state in the petition whether such party requests that the  
4 proceeding be heard by the county court or, in cases in which a  
5 separate juvenile court already has jurisdiction over the child to  
6 be adopted under the Nebraska Juvenile Code, such separate juvenile  
7 court. Such proceeding is considered a county court proceeding even  
8 if heard by a separate juvenile court judge and an order of the  
9 separate juvenile court in such adoption proceeding has the force  
10 and effect of a county court order. The testimony in an adoption  
11 proceeding heard before a separate juvenile court judge shall be  
12 preserved as in any other separate juvenile court proceeding. The  
13 clerks of the district courts shall transfer all adoption petitions  
14 and other adoption filings which were filed with such clerks prior  
15 to August 28, 1999, to the clerk of the county court where the  
16 separate juvenile court which heard the proceeding is situated. The  
17 clerk of such county court shall file and docket such petitions and  
18 other filings.

19           Except as set out in subdivisions (1)(b)(ii), (iii),  
20 (iv), and (v) of section 43-107, an adoption decree shall not be  
21 issued until at least six months after an adoptive home study has  
22 been completed by the ~~department~~ Health and Human Services System  
23 or a licensed child placement agency.

24           Sec. 122. Section 43-104.01, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26           43-104.01 (1) The ~~Department of Health and Human Services~~  
27 ~~Finance and Support~~ Health and Human Services System shall

1 establish a biological father registry which shall record the  
2 names and addresses of (a) any person adjudicated by a court of  
3 this state to be the father of a child born out of wedlock if  
4 a certified copy of the court order is filed with the registry  
5 by such person or any other person, (b) any person who has filed  
6 with the registry, prior to notification under sections 43-104.12  
7 to 43-104.16, a paternity claim for notification purposes for such  
8 child, (c) any person who has filed with the registry a notice of  
9 intent to claim paternity and obtain custody of such child, and (d)  
10 any person adjudicated by a court of another state or territory of  
11 the United States to be the father of such child, if a certified  
12 copy of the court order has been filed with the registry by that  
13 person or any other person.

14 (2) A paternity claim for notification purposes or a  
15 notice of intent to claim paternity and obtain custody filed with  
16 the registry shall include the claimant's name and address, the  
17 name and last-known address of the mother, and the month and year  
18 of the birth or the expected birth of the child. The person filing  
19 the notice shall notify the registry of any change of address  
20 pursuant to procedures prescribed by regulations of the ~~department~~.  
21 Health and Human Services System.

22 (3) Any person filing a paternity claim for notification  
23 purposes or a notice of intent to claim paternity and obtain  
24 custody with the biological father registry may revoke such notice,  
25 and upon receipt of such revocation by the registry, the effect  
26 shall be as if no filing had ever been made.

27 (4) The ~~department~~ Health and Human Services System shall

1 not divulge the names and addresses of persons listed with the  
2 registry to any other person except as authorized by law or upon  
3 order of a court for good cause shown.

4 (5) The ~~department~~ Health and Human Services System may  
5 develop information about the registry and may distribute such  
6 information, through their existing publications, to the news media  
7 and the public. The ~~department~~ system may provide information  
8 about the registry to the Department of Correctional Services,  
9 the ~~Department of Health and Human Services~~, and the Department  
10 of ~~Health and Human Services Regulation and Licensure~~, who  
11 which may distribute such information through ~~their~~ its existing  
12 publications.

13 Sec. 123. Section 43-104.02, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 43-104.02 As provided in section 43-104.01, a person  
16 claiming to be the father of the child and who intends to claim  
17 paternity and obtain custody of the child shall file with the  
18 biological father registry maintained by the ~~Department of Health~~  
19 ~~and Human Services Finance and Support~~ Health and Human Services  
20 System on forms provided by the ~~department~~, system, within five  
21 business days after the birth of the child, or within five business  
22 days after receipt of the notice contemplated in section 43-104.12,  
23 or within five business days after the last date of any published  
24 notice provided pursuant to section 43-104.14, whichever is later,  
25 a notice of intent to claim paternity and obtain custody. Such  
26 notice shall include the social security number of the person  
27 claiming to be the father. A notice of intent to claim paternity

1 and obtain custody of the child shall be considered to have been  
2 filed if it is received by the ~~Department of Health and Human~~  
3 ~~Services Finance and Support~~ system or postmarked prior to the end  
4 of the fifth business day contemplated in this section.

5           Sec. 124. Section 43-104.03, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           43-104.03 Within three days after the filing of a  
8 paternity claim for notification purposes or a notice of intent  
9 to claim paternity and obtain custody with the biological father  
10 registry pursuant to sections 43-104.01 and 43-104.02, the ~~Director~~  
11 ~~of Finance and Support~~ Health and Human Services System shall cause  
12 a certified copy of such notice to be mailed by certified mail  
13 to (1) the mother or prospective mother of such child at the  
14 last-known address shown on the notice or (2) an agent specifically  
15 designated in writing by the mother or prospective mother to  
16 receive such notice. The notice shall be admissible in any action  
17 for paternity, shall estop the claimant from denying paternity  
18 of such child thereafter, and shall contain language that the  
19 claimant acknowledges liability for contribution to the support and  
20 education of the child after birth and for contribution to the  
21 pregnancy-related medical expenses of the mother.

22           Sec. 125. Section 43-104.04, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           43-104.04 If a notice of intent to claim paternity and  
25 obtain custody is not timely filed with the biological father  
26 registry pursuant to section 43-104.02, the mother of a child born  
27 out of wedlock or an agent specifically designated in writing by



1 the mother may request, and the ~~Department of Health and Human~~  
2 ~~Services Finance and Support~~ Health and Human Services System  
3 shall supply, a certificate that no notice of intent to claim  
4 paternity and obtain custody has been filed with the biological  
5 father registry and the filing of such certificate pursuant to  
6 section 43-102 shall eliminate the need or necessity of a consent  
7 or relinquishment for adoption by the natural father of such child.

8           Sec. 126. Section 43-104.07, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           43-104.07 The petition for adoption of a child born in  
11 a foreign country shall be accompanied by: (1) A document or  
12 documents from a court, official department, or government agency  
13 of the country of origin stating that the parent has consented to  
14 the adoption, stating that the parental rights of the parents of  
15 the child have been terminated, or stating that the child to be  
16 adopted has been abandoned or relinquished by the natural parents  
17 and that the child is to immigrate to the United States for the  
18 purpose of adoption; and (2) written consent to the adoption of  
19 the child from a child placement agency licensed by the ~~Department~~  
20 ~~of Health and Human Services~~ Health and Human Services System or  
21 the agency's duly authorized representative which placed the child  
22 with the adopting person or persons. The consent shall be signed  
23 and acknowledged before an officer authorized to acknowledge deeds  
24 in the state where the consent is signed and shall not require a  
25 witness.

26           Any document in a foreign language shall be translated  
27 into English by the Department of State or by a translator who

1 shall certify the accuracy of the translation.

2 A guardian shall not be required to be appointed to give  
3 consent to the adoption of any child born in a foreign country when  
4 the consent requirements of this section have been met.

5 Sec. 127. Section 43-105, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 43-105 If consent is not required of both parents of  
8 a child born in lawful wedlock if living, the surviving parent  
9 of a child born in lawful wedlock, or the mother or mother and  
10 father of a child born out of wedlock, because of the provisions  
11 of subdivision (3) of section 43-104, substitute consents shall be  
12 filed as follows: (1) Consent to the adoption of a minor child  
13 who has been committed to the ~~Department of Health and Human~~  
14 ~~Services~~ Health and Human Services System may be given by the  
15 ~~department~~ system or its duly authorized agent in accordance with  
16 section 43-906; (2) when a parent has relinquished a minor child  
17 for adoption to any child placement agency licensed or approved by  
18 the ~~department~~ system or its duly authorized agent, consent to the  
19 adoption of such child may be given by such agency; and (3) in all  
20 other cases when consent cannot be given as provided in subdivision  
21 (3) of section 43-104, consent shall be given by the guardian or  
22 guardian ad litem of such minor child appointed by a court, which  
23 consent shall be authorized by the court having jurisdiction of  
24 such guardian or guardian ad litem. Substitute consent provisions  
25 of this section do not apply to a biological father whose consent  
26 is not required under section 43-104.22.

27 Sec. 128. Section 43-106.01, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           43-106.01 When a child shall have been relinquished by  
3 written instrument, as provided by sections 43-104 and 43-106,  
4 to the ~~Department of Health and Human Services~~ Health and Human  
5 Services System or to a licensed child placement agency and the  
6 agency has, in writing, accepted full responsibility for the child,  
7 the person so relinquishing shall be relieved of all parental  
8 duties toward and all responsibilities for such child and have no  
9 rights over such child. Nothing contained in this section shall  
10 impair the right of such child to inherit.

11           Sec. 129. Section 43-106.02, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           43-106.02 Prior to the relinquishment of a child for  
14 adoption, a representative of the ~~Department of Health and Human~~  
15 ~~Services~~ Health and Human Services System or of any child placement  
16 agency licensed by the ~~department~~ system or an attorney and a  
17 witness shall present a copy or copies of the nonconsent form  
18 as provided in section 43-146.06 to the relinquishing parent or  
19 parents and explain the effects of signing such form.

20           Sec. 130. Section 43-107, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           43-107 (1)(a) For adoption placements occurring or in  
23 effect prior to January 1, 1994, upon the filing of a petition  
24 for adoption, the county judge shall, except in the adoption of  
25 children by stepparents when the requirement of an investigation is  
26 discretionary, request the ~~Department of Health and Human Services~~  
27 Health and Human Services System or any child placement agency

1 licensed by the ~~department~~ system to examine ~~into~~ the allegations  
2 set forth in the petition and to ascertain any other facts relating  
3 to such minor child and the person or persons petitioning to adopt  
4 such child as may be relevant to the propriety of such adoption,  
5 except that the county judge shall not be required to request such  
6 an examination if the judge determines that information compiled  
7 in a previous examination or study is sufficiently current and  
8 comprehensive. Upon the request being made, the ~~department~~ system  
9 or other licensed agency shall conduct an investigation and report  
10 its findings to the county judge in writing at least one week prior  
11 to the date set for hearing.

12 (b) (i) For adoption placements occurring on or after  
13 January 1, 1994, a preplacement adoptive home study shall be filed  
14 with the court prior to the hearing required in section 43-103,  
15 which study is completed by the ~~Department of Health and Human~~  
16 ~~Services~~ system or a licensed child placement agency within one  
17 year before the date on which the adoptee is placed with the  
18 petitioner or petitioners and indicates that the placement of a  
19 child for the purpose of adoption would be safe and appropriate.

20 (ii) An adoptive home study shall not be required when  
21 the petitioner is a stepparent of the adoptee unless required by  
22 the court, except that for petitions filed on or after January 1,  
23 1994, the judge shall order the petitioner or his or her attorney  
24 to request the Nebraska State Patrol to file a national criminal  
25 history record information check and to request the ~~department~~  
26 system to conduct and file a check of the central register created  
27 in section 28-718 for any history of the petitioner of behavior

1 injurious to or which may endanger the health or morals of a child.  
2 An adoption decree shall not be issued until such records are on  
3 file with the court. The petitioner shall pay the cost of the  
4 national criminal history record information check and the check of  
5 the central register.

6 (iii) The placement of a child for foster care made by or  
7 facilitated by the ~~department~~ system or a licensed child placement  
8 agency in the home of a person who later petitions the court  
9 to adopt the child shall be exempt from the requirements of a  
10 preplacement adoptive home study. The petitioner or petitioners who  
11 meet such criteria shall have a postplacement adoptive home study  
12 completed by the ~~department~~ system or a licensed child placement  
13 agency and filed with the court at least one week prior to the  
14 hearing for adoption.

15 (iv) A voluntary placement for purposes other than  
16 adoption made by a parent or guardian of a child without assistance  
17 from an attorney, physician, or other individual or agency which  
18 later results in a petition for the adoption of the child shall be  
19 exempt from the requirements of a preplacement adoptive home study.  
20 The petitioner or petitioners who meet such criteria shall have  
21 a postplacement adoptive home study completed by the ~~department~~  
22 system or a licensed child placement agency and filed with the  
23 court at least one week prior to the hearing for adoption.

24 (v) The adoption of an adult child as provided  
25 in subsection (2) of section 43-101 shall be exempt from  
26 the requirements of an adoptive home study unless the court  
27 specifically orders otherwise. The court may order an adoptive home

1 study, a background investigation, or both if the court determines  
2 that such would be in the best interests of the adoptive party or  
3 the person to be adopted.

4 (vi) Any adoptive home study required by this section  
5 shall be conducted by the ~~department~~ system or a licensed child  
6 placement agency at the expense of the petitioner or petitioners  
7 unless such expenses are waived by the ~~department~~ system or  
8 licensed child placement agency. The ~~department~~ system or licensed  
9 agency shall determine the fee or rate for the adoptive home study.

10 (vii) The preplacement or postplacement adoptive home  
11 study shall be performed as prescribed in rules and regulations of  
12 the ~~department~~ system and shall include at a minimum an examination  
13 into the facts relating to the petitioner or petitioners as may  
14 be relevant to the propriety of such adoption. Such rules and  
15 regulations shall require an adoptive home study to include a  
16 national criminal history record information check and a check of  
17 the central register created in section 28-718 for any history of  
18 the petitioner or petitioners of behavior injurious to or which may  
19 endanger the health or morals of a child.

20 (2) Upon the filing of a petition for adoption, the judge  
21 shall require that a complete medical history be provided on the  
22 child, except that in the adoption of a child by a stepparent  
23 the provision of a medical history shall be discretionary. A  
24 medical history shall be provided, if available, on the biological  
25 mother and father and their biological families, including, but  
26 not limited to, siblings, parents, grandparents, aunts, and uncles,  
27 unless the child is foreign born or was abandoned. The medical

1 history or histories shall be reported on a form provided by the  
2 ~~Department of Health and Human Services Finance and Support system~~  
3 and filed along with the report of adoption as provided by section  
4 71-626. If the medical history or histories do not accompany the  
5 report of adoption, the ~~Department of Health and Human Services~~  
6 ~~Finance and Support system~~ shall inform the court and the State  
7 Court Administrator. The medical history or histories shall be made  
8 part of the court record. After the entry of a decree of adoption,  
9 the court shall retain a copy and forward the original medical  
10 history or histories to the ~~Department of Health and Human Services~~  
11 ~~Finance and Support system~~. This subsection shall only apply when  
12 the relinquishment or consent for an adoption is given on or after  
13 September 1, 1988.

14 Sec. 131. Section 43-117, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 43-117 (1) The ~~Department of Health and Human Services~~  
17 Health and Human Services System may make payments as needed in  
18 behalf of a ward of the ~~department system~~ with special needs  
19 after the legal completion of his or her adoption. Such payments  
20 to adoptive parents may include maintenance costs, medical and  
21 surgical expenses, and other costs incidental to the care of the  
22 child. Payments for maintenance and medical care shall terminate on  
23 or before the child's twentieth birthday.

24 (2) The ~~Department of Health and Human Services~~ Health  
25 and Human Services System shall pay the treatment costs for  
26 the care of an adopted minor child which are the result of an  
27 illness or condition if within three years after the decree of

1 adoption is entered the child is diagnosed as having a physical  
2 or mental illness or condition which predates the adoption and the  
3 child was adopted through the ~~department,~~ system, ~~the department~~  
4 system did not inform the adopting parents of such condition  
5 prior to the adoption, and the condition is of such nature as  
6 to require medical, psychological, or psychiatric treatment and is  
7 more extensive than ordinary childhood illness.

8 (3) The ~~Department of Health and Human Services~~ Health  
9 and Human Services System shall conduct a medical assessment of the  
10 mental and physical needs of any child to be adopted through the  
11 ~~department.~~ system.

12 Sec. 132. Section 43-117.01, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 43-117.01 The ~~Department of Health and Human Services~~  
15 Health and Human Services System may make payments as needed on  
16 behalf of a ward of a child placement agency with special needs  
17 after the legal completion of the child's adoption as authorized  
18 by the federal adoption assistance program, 42 U.S.C. 673. Such  
19 payments to adoptive parents may include maintenance costs, medical  
20 and surgical expenses, and other costs incidental to the care  
21 of the child. Payments for maintenance and medical care shall  
22 terminate on or before the child's nineteenth birthday.

23 Sec. 133. Section 43-117.02, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 43-117.02 The ~~Department of Health and Human Services~~  
26 Health and Human Services System may make a payment of up to two  
27 thousand dollars on behalf of a child with special needs after



1 the legal completion of the child's adoption. The payment to the  
2 adoptive parents shall be a reimbursement for nonrecurring adoption  
3 expenses, including reasonable and necessary adoption fees, court  
4 costs, attorney's fees, and other expenses which are directly  
5 related to the legal adoption of the child, which are not incurred  
6 in violation of law, and which have not been reimbursed from any  
7 other source or funds.

8 Sec. 134. Section 43-118, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 43-118 All actions of the Department of Health and  
11 ~~Human Services~~ Health and Human Services System under the programs  
12 authorized by sections 43-117 to 43-117.02 shall be subject to the  
13 following criteria:

14 (1) The child so adopted shall have been a child for whom  
15 adoption would not have been possible without the financial aid  
16 provided for by sections 43-117 to 43-117.02; and

17 (2) The ~~Director of Health and Human Services~~ system  
18 shall adopt and promulgate rules and regulations for the  
19 administration of sections 43-117 to 43-118.

20 Sec. 135. Section 43-118.01, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 43-118.01 (1) For adoptions decreed on or after January  
23 1, 2000, and on or before October 1, 2002, every individual or  
24 couple that adopts a ward of the State of Nebraska shall be  
25 entitled to a payment of one thousand dollars for the year of  
26 adoption and for up to four succeeding years. Payments shall be  
27 made after approval of an application submitted by the adoptive

1 parent or parents to the ~~Department of Health and Human Services-~~  
2 Health and Human Services System. The application shall be on a  
3 form prescribed by the ~~department-~~ system. An application shall  
4 be submitted during January of the year following the year for  
5 which the payment is sought. An applicant shall be eligible for  
6 payment for the year of adoption and for the earliest of four  
7 subsequent years or until the adopted child reaches the age of  
8 majority, is emancipated, or is no longer living in the home of the  
9 adoptive parent or parents. To be eligible for payment in the years  
10 subsequent to the adoption, the requirements of this section must  
11 be met for the entire year.

12 (2) The ~~department~~ Health and Human Services System shall  
13 review all applications for eligibility for payment. The ~~department~~  
14 system shall approve or deny payment within thirty days after  
15 receipt of the application. If approved, the department shall  
16 certify the necessary information to the Director of Administrative  
17 Services for the issuance of a warrant. Warrants shall be issued  
18 within thirty days after certification. Any person aggrieved by a  
19 decision of the ~~department~~ system may appeal. The appeal shall be  
20 in accordance with the Administrative Procedure Act.

21 (3) The ~~department~~ Health and Human Services System shall  
22 adopt and promulgate rules and regulations to carry out this  
23 section.

24 Sec. 136. Section 43-121, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26 43-121 Agency shall mean a child placement agency  
27 licensed by the ~~Department of Health and Human Services-~~ Health and

1 Human Services System.

2           Sec. 137. Section 43-123.01, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           43-123.01 Medical history shall mean medical history as  
5 defined by the ~~Department of Health and Human Services Finance~~  
6 ~~and Support~~ Health and Human Services System in its rules and  
7 regulations.

8           Sec. 138. Section 43-124, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           43-124 The ~~Department of Health and Human Services~~  
11 ~~Finance and Support~~ Health and Human Services System shall provide  
12 a form which may be signed by a relative indicating the fact  
13 that such relative consents to his or her name being released  
14 to such relative's adopted person as provided by sections 43-113,  
15 43-119 to ~~43-146,~~ 43-146.16, 71-626, 71-626.01, and 71-627.02. Such  
16 consent shall be effective as of the time of filing the form with  
17 the ~~Department of Health and Human Services Finance and Support-~~  
18 system.

19           Sec. 139. Section 43-125, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21           43-125 The form provided by section 43-124 shall contain  
22 the following information:

23           (1) The name of the person completing the form and, if  
24 different, the name of such person at the time of birth of the  
25 adopted person;

26           (2) The relationship of the person to the adopted person;

27           (3) The date of birth of the adopted person;

- 1           (4) The sex of the adopted person;
- 2           (5) The place of birth of the adopted person;
- 3           (6) Authorization that the name, last-known address, and
- 4 last-known telephone number of the relative and the original birth
- 5 certificate of the adopted person may be released to the adopted
- 6 person as provided by sections 43-113, 43-119 to ~~43-146~~, 43-146.16,
- 7 71-626, 71-626.01, and 71-627.02; and
- 8           (7) A notice in the following form:

9           IMPORTANT NOTICE

10           You do not have to sign this form. If you do sign

11 it, you are entitled to a copy of it. Your signature on this

12 form allows the ~~Department of Health and Human Services Finance~~

13 ~~and Support~~ Health and Human Services System to give your name

14 and other information to the adopted person designated, upon his

15 or her written request after reaching twenty-five years of age.

16 You may file additional copies of this consent if your name or

17 address changes. You may revoke this consent at any time by filing

18 a revocation of consent with the ~~Department of Health and Human~~

19 ~~Services Finance and Support.~~ Health and Human Services System.

20           Sec. 140. Section 43-126, Reissue Revised Statutes of

21 Nebraska, is amended to read:

22           43-126 At any time after signing the consent form, a

23 relative may revoke such consent form. A form for revocation of

24 consent shall be provided by the ~~Department of Health and Human~~

25 ~~Services Finance and Support.~~ Health and Human Services System.

26 The revocation shall be effective as of the time of filing the

27 form with the ~~Department of Health and Human Services Finance and~~

1 ~~Support-~~ system. The revocation form shall contain the following  
2 notice:

3                   IMPORTANT NOTICE

4                   You do not have to sign this form. If you do sign it,  
5 you are entitled to a copy of it. Your signature on this form  
6 means that the ~~Department of Health and Human Services Finance and~~  
7 ~~Support~~ Health and Human Services System will not disclose your  
8 name or address to any person without a court order. If you sign  
9 this form and later decide you do want your name and address given  
10 to a relative properly requesting the information, you may file  
11 another consent for that purpose.

12                   Sec. 141. Section 43-127, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14                   43-127 The forms provided by sections 43-124 and 43-126  
15 shall be notarized and filed with the ~~Department of Health and~~  
16 ~~Human Services Finance and Support~~ Health and Human Services System  
17 which shall keep such forms with all other records of an individual  
18 adopted person.

19                   Sec. 142. Section 43-130, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21                   43-130 Except as otherwise provided in the Nebraska  
22 Indian Child Welfare Act, an adopted person twenty-five years of  
23 age or older born in this state who desires access to the names  
24 of relatives or access to his or her original certificate of  
25 birth shall file a written request for such information with the  
26 ~~Department of Health and Human Services Finance and Support-~~ Health  
27 and Human Services System. The ~~department~~ system shall provide a

1 form for making such a request.

2           Sec. 143. Section 43-131, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           43-131 (1) Upon receipt of a request for information,  
5 the ~~Department of Health and Human Services Finance and Support~~  
6 Health and Human Services System shall check the records of the  
7 adopted person making the request to determine whether the consent  
8 form provided by section 43-124 has been signed and filed by any  
9 relative of the adopted person and whether an unrevoked nonconsent  
10 form is on file from a biological parent or parents pursuant to  
11 section 43-132 or from an adoptive parent or parents pursuant to  
12 section 43-143.

13           (2) If the consent form has been signed and filed and  
14 has not been revoked and if no nonconsent form has been filed  
15 by an adoptive parent or parents pursuant to section 43-143, the  
16 ~~Department of Health and Human Services Finance and Support~~ Health  
17 and Human Services System shall release the information on such  
18 form to the adopted person.

19           (3) If no consent forms have been filed, or if the  
20 consent form has been revoked, and if no nonconsent form has been  
21 filed pursuant to section 43-143, the following information shall  
22 be released to the adopted person:

23           (a) The name and address of the court which issued the  
24 adoption decree;

25           (b) The name and address of the child placement agency,  
26 if any, involved in the adoption; and

27           (c) The fact that an agency may assist the adopted

1 person in searching for relatives as provided in sections 43-132 to  
2 43-141.

3 (4) The provisions of this section shall not apply to  
4 persons subject to the Nebraska Indian Child Welfare Act.

5 Sec. 144. Section 43-132, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 43-132 A biological parent or parents may at any time,  
8 if they desire, file a notice of nonconsent with the ~~Department~~  
9 ~~of Health and Human Services Finance and Support~~ Health and Human  
10 Services System stating that at no time after his or her death and  
11 prior to the death of his or her spouse, if such spouse is not  
12 a biological parent, may any information on the adopted person's  
13 original birth certificate be released to such adopted person. The  
14 provisions of this section shall not apply to persons subject to  
15 the Nebraska Indian Child Welfare Act.

16 Sec. 145. Section 43-133, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 43-133 The nonconsent form provided for in section 43-132  
19 shall contain the following information:

20 (1) The name of the person completing the form and, if  
21 different, the name of such person at the time of birth of the  
22 adopted person;

23 (2) The relationship of the person to the adopted person;

24 (3) The date of birth of the adopted person;

25 (4) The sex of the adopted person;

26 (5) The place of birth of the adopted person;

27 (6) A statement that no information concerning the

1 information contained in the original birth certificate of the  
2 adopted person shall be released following the death of the parent  
3 or parents signing the form and such information shall not be  
4 released to the adopted person prior to the death of the spouse of  
5 such parent or parents, if such spouse is not a biological parent;  
6 and

7 (7) A notice in the following form:

8 IMPORTANT NOTICE

9 You do not have to sign this form. If you do sign it,  
10 you are entitled to a copy of it. Your signature on this form  
11 means that the ~~Department of Health and Human Services Finance~~  
12 ~~and Support~~ Health and Human Services System will not disclose  
13 any information contained on the birth certificate of the adopted  
14 person to any person following your death and prior to the death  
15 of your spouse, if such spouse is not a biological parent, without  
16 a court order. If you later decide that you do not object to  
17 the release of such information you may file a form stating that  
18 purpose.

19 Sec. 146. Section 43-134, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 43-134 At any time after signing the notice of nonconsent  
22 provided for in section 43-132, the parent or parents may revoke  
23 such notice. A form of revocation shall be provided by the  
24 ~~Department of Health and Human Services Finance and Support,~~ Health  
25 and Human Services System, and shall take effect at the time of  
26 filing of the form with the ~~department,~~ system. The revocation form  
27 shall contain the following notice:



1                   IMPORTANT NOTICE

2                   You do not have to sign this form. If you do sign it,  
3 you are entitled to a copy of it. Your signature on this form  
4 means that the ~~Department of Health and Human Services Finance~~  
5 ~~and Support~~ Health and Human Services System may disclose any  
6 information contained on the birth certificate of the adopted  
7 person following your death. If you sign this form and later decide  
8 you do not want this information released following your death  
9 and prior to the death of your spouse, if such spouse is not a  
10 biological parent, you may file another form for that purpose.

11                  Sec. 147. Section 43-135, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13                  43-135 If the ~~Department of Health and Human Services~~  
14 ~~Finance and Support~~ Health and Human Services System has  
15 information indicating that both biological parents of the adopted  
16 person are deceased, or if only one biological parent is known  
17 and information indicates that such parent is deceased, and no  
18 nonconsent form, as provided in section 43-132 or 43-143, has  
19 been filed, all information on the adopted person's original birth  
20 certificate regarding such deceased parent or parents shall be  
21 released to the adopted person notwithstanding the fact that no  
22 consent form was signed and filed by such deceased parent or  
23 parents prior to death.

24                  Sec. 148. Section 43-137, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26                  43-137 If an adopted person twenty-five years of age or  
27 older, after following the procedures set forth in sections 43-130

1 and 43-131 is not able to obtain information about such person's  
2 relatives, such person may then contact the child placement agency  
3 which handled the adoption if the name of the agency has been  
4 given to the adopted person by the ~~Department of Health and Human~~  
5 ~~Services Finance and Support.~~ Health and Human Services System.

6 If it is not feasible for the adopted person to contact the  
7 agency, such person may contact the ~~Department of Health and Human~~  
8 ~~Services.~~ system.

9           Sec. 149. Section 43-138, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           43-138 After being contacted by an adopted person, if no  
12 valid nonconsent form, as provided in section 43-132 or 43-143, is  
13 on file, the ~~Department of Health and Human Services~~ Health and  
14 Human Services System or agency as the case may be shall apply to  
15 the clerk of the court which issued the adoption decree or the  
16 ~~Department of Health and Human Services Finance and Support~~ system  
17 for any information in the records of the court or the ~~Department~~  
18 ~~of Health and Human Services Finance and Support~~ system regarding  
19 the adopted person or his or her relatives, including names,  
20 locations, and any birth, marriage, divorce, or death certificates.  
21 Any information which is available shall be given only to the  
22 ~~Department of Health and Human Services~~ system or agency. The  
23 ~~Department of Health and Human Services~~ system or agency shall  
24 keep such information confidential and shall not disclose it either  
25 directly or indirectly to the adopted person. The provisions of  
26 this section shall not apply to persons subject to the Nebraska  
27 Indian Child Welfare Act.

1           Sec. 150. Section 43-139, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           43-139 When any information is provided to the ~~Department~~  
4 ~~of Health and Human Services~~ Health and Human Services System  
5 or agency pursuant to section 43-138, the person providing the  
6 information shall record in the records of the adopted person the  
7 nature of the information disclosed, to whom the information was  
8 disclosed, and the date of the disclosure.

9           Sec. 151. Section 43-140, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           43-140 (1) Upon determining the identity and location  
12 of the relative being sought, the ~~Department of Health and Human~~  
13 ~~Services~~ Health and Human Services System or agency shall attempt  
14 to contact the relative to determine such relative's willingness to  
15 be contacted by the adopted person.

16           (2) In contacting the relative, the ~~Department of Health~~  
17 ~~and Human Services~~ system or agency shall not discuss or reveal in  
18 any other manner to any person other than that particular relative  
19 who is being sought the nature of the contact, the name, nature,  
20 or business of the adoption agency, or any other information which  
21 might indicate or imply that such relative is the biological parent  
22 of an adopted person.

23           (3) In contacting the relative, the ~~Department of Health~~  
24 ~~and Human Services~~ system or agency shall not reveal the identity  
25 or any other information about the adopted person.

26           (4) No reunion of a relative and an adopted person  
27 shall be arranged, nor shall any information about the relative

1 be released to the adopted person until such relative has signed  
2 the consent form provided by section 43-124 and the form has been  
3 filed with the ~~Department of Health and Human Services Finance and~~  
4 ~~Support system.~~

5           Sec. 152. Section 43-141, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           43-141 The ~~Department of Health and Human Services~~ Health  
8 and Human Services System or agency may charge a reasonable fee in  
9 an amount established by the ~~department~~ system or agency in rules  
10 and regulations to recover expenses in carrying out sections 43-137  
11 to 43-140. The ~~department~~ system or agency shall use the fees to  
12 defray costs incurred to carry out such sections. The ~~department~~  
13 system or agency may waive the fee if the requesting party shows  
14 that the fee would work an undue financial hardship on the party.

15           The ~~department~~ system may adopt and promulgate rules and  
16 regulations to carry out such sections.

17           Sec. 153. Section 43-142, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           43-142 The ~~Department of Health and Human Services~~ Health  
20 and Human Services System or an agency which receives information  
21 as provided in section 43-138 shall file a written report with  
22 the clerk of the court within nine months of receipt of the  
23 information. The report shall indicate whether the relative has  
24 been located and whether a contact between the relative and the  
25 adopted person has been arranged or has occurred. If the relative  
26 has not been located, the report shall set forth the efforts made  
27 to identify and locate the relative.

1           Sec. 154. Section 43-143, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           43-143 For adoptions in which the relinquishment or  
4 consent for adoption was given prior to July 20, 2002: An adoptive  
5 parent or parents may at any time, if they desire, file a notice of  
6 nonconsent with the ~~Department of Health and Human Services Finance~~  
7 ~~and Support~~ Health and Human Services System stating that at no  
8 time prior to his or her death or the death of both parents if  
9 each signed the form may any information on the adopted person's  
10 original birth certificate be released to such adopted person. The  
11 provisions of this section shall not apply to persons subject to  
12 the Nebraska Indian Child Welfare Act.

13           Sec. 155. Section 43-144, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15           43-144 The nonconsent form provided for in section 43-143  
16 shall contain the following information:

17           (1) The name of the person completing the form and, if  
18 different, the name of such person at the time of birth of the  
19 adopted person;

20           (2) The relationship of the person to the adopted person;

21           (3) The date of birth of the adopted person;

22           (4) The sex of the adopted person;

23           (5) The place of birth of the adopted person;

24           (6) A statement that no information concerning the  
25 information contained in the original birth certificate of the  
26 adopted person shall be released prior to the death of the adoptive  
27 parent or parents signing the form; and

1 (7) A notice in the following form:

2 IMPORTANT NOTICE

3 You do not have to sign this form. If you do sign it,  
4 you are entitled to a copy of it. Your signature on this form  
5 means that the ~~Department of Health and Human Services Finance~~  
6 ~~and Support~~ Health and Human Services System will not disclose  
7 any information contained on the birth certificate of the adopted  
8 person to any person prior to your death and the death of your  
9 spouse, if he or she signed the form, without a court order. If  
10 you later decide that you do not object to the release of such  
11 information you may file a form stating that purpose.

12 Sec. 156. Section 43-145, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 43-145 At any time after signing the notice of nonconsent  
15 provided for in section 43-143, the adoptive parent or parents may  
16 revoke such notice. A form of revocation shall be provided by the  
17 ~~Department of Health and Human Services Finance and Support,~~ Health  
18 and Human Services System, and shall take effect at the time of  
19 filing of the form with the ~~Department of Health and Human Services~~  
20 ~~Finance and Support.~~ system. The revocation form shall contain the  
21 following notice:

22 IMPORTANT NOTICE

23 You do not have to sign this form. If you do sign it,  
24 you are entitled to a copy of it. Your signature on this form  
25 means that the ~~Department of Health and Human Services Finance~~  
26 ~~and Support~~ Health and Human Services System may disclose any  
27 information contained on the birth certificate of the adopted

1 person pursuant to sections 43-113, 43-119 to ~~43-146~~, 43-146.16,  
2 71-626, 71-626.01, and 71-627.02. If you sign this form and later  
3 decide you do not want this information released prior to your  
4 death you may file another form for that purpose.

5 Sec. 157. Section 43-146, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 43-146 The forms provided by sections 43-132, 43-134,  
8 43-143, and 43-145 shall be notarized and filed with the ~~Department~~  
9 ~~of Health and Human Services Finance and Support~~ Health and Human  
10 Services System which shall keep such forms with all other records  
11 of an individual adopted person.

12 Sec. 158. Section 43-146.02, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 43-146.02 A child placement agency, the ~~Department of~~  
15 ~~Health and Human Services~~, Health and Human Services System, or a  
16 private agency handling the adoption, as the case may be, shall  
17 maintain and shall provide to the adopting parents upon placement  
18 of the person with such parents and to the adopted person, upon  
19 his or her request, the available medical history of the person  
20 placed for adoption and of the biological parents. The medical  
21 history shall not include the names of the biological parents of  
22 the adopted person or any other identifying information.

23 Sec. 159. Section 43-146.04, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 43-146.04 An adopted person twenty-one years of age  
26 or older born in this state who desires access to the names  
27 of relatives or access to his or her original certificate of

1 birth shall file a written request for such information with the  
2 ~~Department of Health and Human Services Finance and Support.~~ Health  
3 and Human Services System. The ~~department~~ system shall provide a  
4 form for making such request.

5 Sec. 160. Section 43-146.05, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 43-146.05 (1) Upon receipt of a request for information  
8 made under section 43-146.04, the ~~Department of Health and Human~~  
9 ~~Services Finance and Support~~ Health and Human Services System shall  
10 check the records of the adopted person to determine whether an  
11 unrevoked nonconsent form is on file from a biological parent  
12 pursuant to section 43-146.06.

13 (2) If no nonconsent form has been filed pursuant to  
14 section 43-146.06, the following information shall be released to  
15 the adopted person:

16 (a) The name and address of the court which issued the  
17 adoption decree;

18 (b) The name and address of the child placement agency,  
19 if any, involved in the adoption;

20 (c) The fact that an agency or the ~~Department of Health~~  
21 ~~and Human Services~~ Health and Human Services System may assist the  
22 adopted person in searching for relatives as provided in sections  
23 43-146.10 to 43-146.14;

24 (d) A copy of the person's original birth certificate;  
25 and

26 (e) A copy of the person's medical history and any  
27 medical records on file.



1           (3) If an unrevoked nonconsent form has been filed  
2 pursuant to section 43-146.06, no information may be released to  
3 the adopted person except a copy of the person's medical history as  
4 provided in section 43-107 if requested. The medical history shall  
5 not include the names of the biological parents or relatives of the  
6 adopted person or any other identifying information.

7           Sec. 161. Section 43-146.06, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           43-146.06 A biological parent may at any time file a  
10 notice of nonconsent with the ~~Department of Health and Human~~  
11 ~~Services Finance and Support~~ Health and Human Services System  
12 stating that at no time prior to his or her death may any  
13 information on the adopted person's original birth certificate  
14 or any other identifying information, except medical histories as  
15 provided in section 43-107, be released to such adopted person.  
16 Failure by a biological parent to sign the notice of nonconsent  
17 shall be deemed a notice of consent by such parent to release the  
18 adopted person's original birth certificate to such adopted person.

19           Sec. 162. Section 43-146.07, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21           43-146.07 The nonconsent form provided for in section  
22 43-146.06 shall be designed by the ~~Department of Health and Human~~  
23 ~~Services Finance and Support~~ Health and Human Services System and  
24 shall contain the following information:

25           (1) The name of the person completing the form and, if  
26 different, the name of such person at the time of birth of the  
27 adopted person;

- 1           (2) The relationship of the person to the adopted person;  
2           (3) The date of birth of the adopted person;  
3           (4) The sex of the adopted person;  
4           (5) The place of birth of the adopted person;  
5           (6) A statement that no information contained in the  
6 original birth certificate or any other identifying information,  
7 except medical histories as provided in section 43-107, shall be  
8 released prior to the death of the parent signing the form;

9           (7) A statement that the person signing understands the  
10 effect and consequences of filing or not filing a nonconsent form;  
11 and

12           (8) A notice in the following form:

13           IMPORTANT NOTICE

14           You do not have to sign this form. If you do sign it,  
15 you are entitled to a copy of it. Your signature on this form  
16 means that the ~~Department of Health and Human Services Finance~~  
17 ~~and Support~~ Health and Human Services System will not disclose  
18 any information contained in the original birth certificate of the  
19 adopted person or any other identifying information to any person  
20 prior to your death without a court order. If you later decide that  
21 you do not object to the release of such information, you may file  
22 a form stating that purpose.

23           Sec. 163. Section 43-146.08, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           43-146.08 At any time after signing the notice of  
26 nonconsent provided for in section 43-146.06, the biological parent  
27 may revoke such notice. A form of revocation shall be provided by

1 the ~~Department of Health and Human Services Finance and Support~~  
2 Health and Human Services System and shall take effect at the time  
3 of filing of the form with the ~~department.~~ system. The revocation  
4 form shall contain the following notice:

5 IMPORTANT NOTICE

6 You do not have to sign this form. If you do sign it,  
7 you are entitled to a copy of it. Your signature on this form  
8 means that the ~~Department of Health and Human Services Finance and~~  
9 ~~Support~~ Health and Human Services System may at any time disclose  
10 to the adopted person any information contained on the original  
11 birth certificate of the adopted person.

12 Sec. 164. Section 43-146.09, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 43-146.09 If the ~~Department of Health and Human Services~~  
15 ~~Finance and Support~~ Health and Human Services System has verified  
16 information indicating that both biological parents of the adopted  
17 person are deceased or if only one biological parent is known  
18 and verified information indicates that such parent is deceased,  
19 all information on the adopted person's original birth certificate  
20 regarding such deceased parent or parents shall be released to  
21 the adopted person upon request. The ~~department~~ system shall  
22 establish a policy for verifying information about the death of the  
23 biological parent or parents.

24 Sec. 165. Section 43-146.10, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26 43-146.10 If an adopted person twenty-one years of age  
27 or older, after following the procedures set forth in sections

1 43-146.04 and 43-146.05, is unable to obtain information about the  
2 adopted person's relatives and there is no unrevoked nonconsent  
3 form as provided in section 43-146.06 on file with the ~~Department~~  
4 ~~of Health and Human Services Finance and Support,~~ Health and Human  
5 Services System, such person may then contact the child placement  
6 agency which handled the adoption or the ~~Department of Health and~~  
7 ~~Human Services-~~ system.

8           Sec. 166. Section 43-146.11, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           43-146.11 After being contacted by an adopted person  
11 as provided in section 43-146.10, the ~~Department of Health and~~  
12 ~~Human Services~~ Health and Human Services System or agency, as  
13 the case may be, shall verify with the ~~Department of Health and~~  
14 ~~Human Services Finance and Support~~ that no unrevoked nonconsent  
15 form is on file with the system. If an unrevoked nonconsent  
16 form is not on file, the ~~Department of Health and Human Services~~  
17 system or agency, as the case may be, shall apply to the clerk  
18 of the court which issued the adoption decree or the ~~Department~~  
19 ~~of Health and Human Services Finance and Support~~ system for any  
20 information in the court or ~~Department of Health and Human Services~~  
21 ~~Finance and Support~~ system records regarding the adopted person or  
22 his or her relatives, including names, locations, and any birth,  
23 marriage, divorce, or death certificates. Any information which is  
24 available shall be given by the court or ~~Department of Health and~~  
25 ~~Human Services Finance and Support~~ system only to the ~~Department~~  
26 ~~of Health and Human Services~~ system or agency. The ~~Department~~  
27 ~~of Health and Human Services~~ system or agency shall keep such

1 information confidential.

2           Sec. 167. Section 43-146.12, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           43-146.12 When any information is provided to the  
5 ~~Department of Health and Human Services~~ Health and Human Services  
6 System or agency pursuant to section 43-146.11, the person  
7 providing the information shall record in the records of the  
8 adopted person the nature of the information disclosed, to whom the  
9 information was disclosed, and the date of the disclosure.

10           Sec. 168. Section 43-146.13, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           43-146.13 (1) Upon determining the identity and location  
13 of the relative being sought, the ~~Department of Health and Human~~  
14 ~~Services~~ Health and Human Services System or agency shall attempt  
15 to contact the relative to determine such relative's willingness to  
16 be contacted by the adopted person.

17           (2) Information about the relative shall not be released  
18 to the adopted person by the ~~department~~ system or agency unless  
19 such relative agrees to be contacted by the adopted person.

20           Sec. 169. Section 43-146.14, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           43-146.14 The ~~Department of Health and Human Services~~  
23 Health and Human Services System or agency may charge a reasonable  
24 fee in an amount established by the ~~department~~ system or agency in  
25 rules and regulations to recover expenses in carrying out sections  
26 43-146.10 to 43-146.13. The ~~department~~ system or agency shall use  
27 the fees to defray costs incurred to carry out such sections. The

1 ~~department~~ system or agency may waive the fee if the requesting  
2 party shows that the fee would work an undue financial hardship on  
3 the party.

4 The ~~department~~ system may adopt and promulgate rules  
5 and regulations to carry out sections 43-123.01 and 43-146.01 to  
6 43-146.16.

7 Sec. 170. Section 43-146.15, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 43-146.15 The ~~Department of Health and Human Services~~  
10 Health and Human Services System or an agency which receives  
11 information as provided in section 43-146.11 shall file a written  
12 report with the clerk of the court or ~~Department of Health and~~  
13 ~~Human Services Finance and Support~~ system within nine months of  
14 receipt of the information. The report shall indicate whether  
15 the relative has been located and whether a contact between the  
16 relative and the adopted person has been arranged or has occurred.  
17 If the relative has not been located, the report shall set forth  
18 the efforts made to identify and locate the relative.

19 Sec. 171. Section 43-146.16, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 43-146.16 The forms provided by sections 43-146.06 and  
22 43-146.08 shall be notarized and filed with the ~~Department of~~  
23 ~~Health and Human Services Finance and Support~~ Health and Human  
24 Services System which shall keep such forms with all other records  
25 of the adopted person.

26 Sec. 172. Section 43-146.17, Revised Statutes Cumulative  
27 Supplement, 2006, is amended to read:

1                   43-146.17   (1)   Notwithstanding sections 43-119 to  
2 43-146.16 and except as otherwise provided in this section, an  
3 heir twenty-one years of age or older of an adopted person shall  
4 have access to all information on file at the ~~Department of Health~~  
5 ~~and Human Services,~~ the Department of Health and Human Services  
6 Regulation and Licensure, ~~and the Department of Health and Human~~  
7 ~~Services Finance and Support~~ Health and Human Services System  
8 related to such adopted person, including information contained in  
9 the original birth certificate of the adopted person, if: (a) (i)  
10 The adopted person is deceased, (ii) both biological parents of  
11 the adopted person are deceased or, if only one biological parent  
12 is known, such parent is deceased, and (iii) each spouse of the  
13 biological parent or parents of the adopted person, if any, is  
14 deceased, if such spouse is not a biological parent; or (b) at  
15 least one hundred years has passed since the birth of the adopted  
16 person.

17                   (2) The following information relating to an adopted  
18 person shall not be released to the heir of such person under  
19 this section: (a) Tests conducted for the human immunodeficiency  
20 virus or acquired immunodeficiency syndrome; (b) the revocation  
21 of a license to practice medicine in the State of Nebraska; (c)  
22 child protective services reports or records; (d) adult protective  
23 services reports or records; (e) information from the central  
24 register of child protection cases and the Adult Protective  
25 Services Central Registry; or (f) law enforcement investigative  
26 reports.

27                   (3) The ~~Department of Health and Human Services,~~ the

1 ~~Department of Health and Human Services Regulation and Licensure,~~  
2 ~~and the Department of Health and Human Services Finance and Support~~  
3 Health and Human Services System shall provide a form that an  
4 heir of an adopted person may use to request information under  
5 this section. The ~~Department of Health and Human Services,~~ the  
6 ~~Department of Health and Human Services Regulation and Licensure,~~  
7 ~~and the Department of Health and Human Services Finance and Support~~  
8 system may charge a reasonable fee in an amount established by  
9 rules and regulations of each ~~department~~ the system to recover  
10 expenses incurred by the ~~department~~ system in carrying out this  
11 section. Such fee may be waived if the requesting party shows that  
12 the fee would work an undue financial hardship on the party. When  
13 any information is provided to an heir of an adopted person under  
14 this section, the disclosure of such information shall be recorded  
15 in the records of the adopted person, including the nature of the  
16 information disclosed, to whom the information was disclosed, and  
17 the date of the disclosure.

18 (4) For purposes of this section, an heir of an adopted  
19 person means a direct biological descendent of such adopted person.

20 (5) The ~~Department of Health and Human Services,~~ the  
21 ~~Department of Health and Human Services Regulation and Licensure,~~  
22 ~~and the Department of Health and Human Services Finance and Support~~  
23 Health and Human Services System may adopt and promulgate rules and  
24 regulations to carry out this section.

25 Sec. 173. Section 43-148, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27 43-148 The purposes of sections 43-147 to 43-154 are to:



1           (1) Authorize the ~~department~~ Health and Human Services  
2 System to enter into interstate agreements with agencies of other  
3 states for the protection of children on whose behalf adoption  
4 assistance is being provided by the ~~department;~~ system; and

5           (2) Provide procedures for interstate children's adoption  
6 assistance payments, including medical payments.

7           Sec. 174. Section 43-149, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           43-149 As used in sections 43-147 to 43-154, unless the  
10 context otherwise requires:

11           (1) Adoption assistance state ~~shall mean~~ means the  
12 state that is signatory to an adoption assistance agreement in  
13 a particular case;

14           ~~(2) Department shall mean the Department of Health and~~  
15 ~~Human Services; and~~

16           ~~(3) (2) State shall mean~~ means a state of the United  
17 States, the District of Columbia, the Commonwealth of Puerto Rico,  
18 the Virgin Islands, Guam, the Commonwealth of the Northern Mariana  
19 Islands, or a territory or possession of or administered by the  
20 United States; and -

21           (3) System means the Health and Human Services System.

22           Sec. 175. Section 43-150, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           43-150 The ~~department~~ system may develop, participate  
25 in the development of, negotiate, and enter into one or more  
26 interstate compacts on behalf of this state with other states to  
27 implement one or more of the purposes set forth in sections 43-147

1 to 43-154. When entered into and for so long as it shall remain in  
2 force, such a compact shall have the force and effect of law.

3 Sec. 176. Section 43-153, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 43-153 (1) A child with special needs residing in this  
6 state who is the subject of an adoption assistance agreement with  
7 another state shall be entitled to receive a medical assistance  
8 identification from this state upon the filing with the ~~department~~  
9 system of a certified copy of the adoption assistance agreement  
10 obtained from the adoption assistance state. In accordance with  
11 rules and regulations of the ~~department,~~ system, the adoptive  
12 parents shall be required at least annually to show that the  
13 agreement is still in force or has been renewed.

14 (2) The ~~department~~ system shall consider the holder of a  
15 medical assistance identification pursuant to this section the same  
16 as any other holder of a medical assistance identification under  
17 the laws of this state and shall process and make payment on claims  
18 on account of such holder in the same manner and pursuant to the  
19 same conditions and procedures as for other recipients of medical  
20 assistance.

21 (3) Any person who by means of a willfully false  
22 statement or representation or by impersonation or other device  
23 obtains or attempts to obtain or who aids or abets any other person  
24 in obtaining assistance under sections 43-147 to 43-154 shall, upon  
25 conviction thereof, be punished pursuant to section 68-1017.

26 (4) This section shall apply only to medical assistance  
27 for children under adoption assistance agreements from states that

1 have entered into a compact with this state under which the  
2 other state provides medical assistance to children with special  
3 needs under adoption assistance agreements made by this state. All  
4 other children entitled to medical assistance pursuant to adoption  
5 assistance agreements entered into by this state shall be eligible  
6 to receive it in accordance with the laws and procedures applicable  
7 thereto.

8           Sec. 177. Section 43-154, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           43-154 Consistent with federal law, the department, in  
11 connection with the administration of sections 43-147 to 43-154 and  
12 any compact entered into pursuant to such sections, shall include  
13 in any state plan made pursuant to the Adoption Assistance and  
14 Child Welfare Act of 1980, Public Law 96-272, Titles IV(e) and  
15 XIX of the Social Security Act, and any other applicable federal  
16 laws, the provision of adoption assistance and medical assistance  
17 for which the federal government pays some or all of the cost.  
18 The ~~department~~ system shall apply for and administer all relevant  
19 federal aid in accordance with law.

20           Sec. 178. Section 43-155, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           43-155 The Legislature finds that there are children  
23 in temporary foster care situations who would benefit from the  
24 stability of adoption. It is the intent of the Legislature that  
25 such situations be accommodated through the use of adoptions  
26 involving exchange-of-information contracts between the ~~department~~  
27 system and the adoptive or biological parent or parents.

1           Sec. 179. Section 43-156, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           43-156 For purposes of sections 43-155 to 43-160, unless  
4 the context otherwise requires:

5           (1) Adoption involving exchange of information shall mean  
6 an adoption of a child in which one or both of the child's  
7 biological parents contract with the ~~department~~ Health and Human  
8 Services System for information about the child obtained through  
9 his or her adoptive family;

10          (2) Exchange-of-information contract shall mean a  
11 two-year, renewable obligation, voluntarily agreed to and signed by  
12 both the adoptive and biological parent or parents as well as the  
13 ~~department;~~ Health and Human Services System; and

14          (3) System means the Health and Human Services System.  
15 ~~Department shall mean the Department of Health and Human Services.~~

16          Sec. 180. Section 43-157, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18          43-157 The ~~department~~ system may, when planning the  
19 placement of a child for adoption, determine whether the best  
20 interests of such child might be served by placing the child in an  
21 adoption involving exchange of information.

22          Sec. 181. Section 43-158, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24          43-158 When the ~~department~~ system determines that  
25 an adoption involving exchange of information would serve a  
26 child's best interests, it may enter into agreements with the  
27 child's proposed adoptive parent or parents for the exchange of

1 information. The nature of the information promised to be provided  
2 shall be specified in an exchange-of-information contract and may  
3 include, but shall not be limited to, letters by the adoptive  
4 parent or parents at specified intervals providing information  
5 regarding the child's development or photographs of the child  
6 at specified intervals. Any agreement shall provide that the  
7 biological parent or parents keep the ~~department~~ system informed of  
8 any change in address or telephone number and may include provision  
9 for communication by the biological parent or parents indirectly  
10 through the ~~department~~ system or directly to the adoptive parent or  
11 parents. Nothing in sections 43-155 to 43-160 shall be interpreted  
12 to preclude or allow visitation between the biological parent or  
13 parents and the child.

14           Sec. 182. Section 43-159, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           43-159 When, after placement of a child for adoption,  
17 it is determined by the ~~department~~, system, in consultation with  
18 the adoptive parent or parents, that certain or all exchanges of  
19 information are no longer in the best interests of the child, the  
20 ~~department~~ system may enter into an agreement with the biological  
21 parent or parents to alter the original contract made between the  
22 ~~department~~ system and the biological parent or parents.

23           Sec. 183. Section 43-161, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           43-161 All client records from the Nebraska Industrial  
26 Home at Milford shall be maintained by the ~~Department of Health~~  
27 ~~and Human Services~~ Health and Human Services System as confidential

1 records but shall be accessible as provided by statute or by the  
2 rules and regulations of the system. ~~department.~~ ~~The Department~~  
3 ~~of Health and Human Services Regulation and Licensure and the~~  
4 ~~Department of Health and Human Services Finance and Support shall~~  
5 ~~have complete access to these records without restriction.~~

6           Sec. 184. Section 43-162, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           43-162 The prospective adoptive parent or parents and the  
9 birth parent or parents of a prospective adoptee may enter into  
10 an agreement regarding communication or contact after the adoption  
11 between or among the prospective adoptee and his or her birth  
12 parent or parents if the prospective adoptee is in the custody  
13 of the ~~Department of Health and Human Services.~~ Health and Human  
14 Services System. Any such agreement shall not be enforceable unless  
15 approved by the court pursuant to section 43-163.

16           Sec. 185. Section 43-163, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           43-163 (1) Before approving an agreement under section  
19 43-162, the court shall appoint a guardian ad litem if the  
20 prospective adoptee is not already represented by a guardian  
21 ad litem, and the guardian ad litem of the prospective adoptee  
22 shall represent the best interests of the child concerning such  
23 agreement. The court may enter an order approving the agreement  
24 upon motion of one of the prospective adoptee's birth parents  
25 or one of the prospective adoptive parents if the terms of the  
26 agreement are approved in writing by the prospective adoptive  
27 parent or parents and the birth parent or parents and if the court

1 finds, after consideration of the recommendations of the guardian  
2 ad litem and the ~~Department of Health and Human Services~~ Health and  
3 Human Services System and other factors, that such communication  
4 with the birth parent or parents and the maintenance of birth  
5 family history would be in the best interests of the prospective  
6 adoptee.

7 (2) In determining if the agreement is in the best  
8 interests of the prospective adoptee, the court shall consider  
9 the following factors as favoring communication with the birth  
10 parent or parents: Whether the prospective adoptee and birth  
11 parent or parents lived together for a substantial period of  
12 time; the prospective adoptee exhibits attachment or bonding to  
13 such birth parent or parents; and the adoption is a foster-parent  
14 adoption with the birth parent or parents having relinquished the  
15 prospective adoptee due to an inability to provide him or her with  
16 adequate parenting.

17 Sec. 186. Section 43-164, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 43-164 Failure to comply with the terms of an order  
20 entered pursuant to section 43-163 shall not be grounds for setting  
21 aside an adoption decree, for revocation of a written consent to  
22 adoption after the consent has been approved by the court, or  
23 for revocation of a relinquishment of parental rights after the  
24 relinquishment has been accepted in writing by the ~~Department of~~  
25 ~~Health and Human Services~~ Health and Human Services System as  
26 provided in section 43-106.01.

27 Sec. 187. Section 43-246, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           43-246 Acknowledging the responsibility of the juvenile  
3 court to act to preserve the public peace and security, the  
4 Nebraska Juvenile Code shall be construed to effectuate the  
5 following:

6           (1) To assure the rights of all juveniles to care  
7 and protection and a safe and stable living environment and to  
8 development of their capacities for a healthy personality, physical  
9 well-being, and useful citizenship and to protect the public  
10 interest;

11           (2) To provide for the intervention of the juvenile court  
12 in the interest of any juvenile who is within the provisions of  
13 the Nebraska Juvenile Code, with due regard to parental rights and  
14 capacities and the availability of nonjudicial resources;

15           (3) To remove juveniles who are within the Nebraska  
16 Juvenile Code from the criminal justice system whenever possible  
17 and to reduce the possibility of their committing future law  
18 violations through the provision of social and rehabilitative  
19 services to such juveniles and their families;

20           (4) To offer selected juveniles the opportunity to take  
21 direct personal responsibility for their individual actions by  
22 reconciling with the victims through juvenile offender and victim  
23 mediation and fulfilling the terms of the resulting agreement which  
24 may require restitution and community service;

25           (5) To achieve the purposes of subdivisions (1) through  
26 (3) of this section in the juvenile's own home whenever possible,  
27 separating the juvenile from his or her parent when necessary for



1 his or her welfare, the juvenile's health and safety being of  
2 paramount concern, or in the interest of public safety and, when  
3 temporary separation is necessary, to consider the developmental  
4 needs of the individual juvenile in all placements, to consider  
5 relatives as a preferred potential placement resource, and to make  
6 reasonable efforts to preserve and reunify the family if required  
7 under section 43-283.01;

8 (6) To promote adoption, guardianship, or other permanent  
9 arrangements for children in the custody of the ~~Department of~~  
10 ~~Health and Human Services~~ Health and Human Services System who are  
11 unable to return home;

12 (7) To provide a judicial procedure through which these  
13 purposes and goals are accomplished and enforced in which the  
14 parties are assured a fair hearing and their constitutional and  
15 other legal rights are recognized and enforced; and

16 (8) To assure compliance, in cases involving Indian  
17 children, with the Nebraska Indian Child Welfare Act.

18 Sec. 188. Section 43-247, Revised Statutes Cumulative  
19 Supplement, 2006, is amended to read:

20 43-247 The juvenile court shall have exclusive original  
21 jurisdiction as to any juvenile defined in subdivision (1) of this  
22 section who is under the age of sixteen, as to any juvenile defined  
23 in subdivision (3) of this section, and as to the parties and  
24 proceedings provided in subdivisions (5), (6), and (8) of this  
25 section. As used in this section, all references to the juvenile's  
26 age shall be the age at the time the act which occasioned the  
27 juvenile court action occurred. The juvenile court shall have

1 concurrent original jurisdiction with the district court as to any  
2 juvenile defined in subdivision (2) of this section. The juvenile  
3 court shall have concurrent original jurisdiction with the district  
4 court and county court as to any juvenile defined in subdivision  
5 (1) of this section who is age sixteen or seventeen, any juvenile  
6 defined in subdivision (4) of this section, and any proceeding  
7 under subdivision (7) or (11) of this section. The juvenile court  
8 shall have concurrent original jurisdiction with the county court  
9 as to any proceeding under subdivision (9) or (10) of this section.  
10 Notwithstanding any disposition entered by the juvenile court  
11 under the Nebraska Juvenile Code, the juvenile court's jurisdiction  
12 over any individual adjudged to be within the provisions of this  
13 section shall continue until the individual reaches the age of  
14 majority or the court otherwise discharges the individual from its  
15 jurisdiction.

16           The juvenile court in each county as herein provided  
17 shall have jurisdiction of:

18           (1) Any juvenile who has committed an act other than  
19 a traffic offense which would constitute a misdemeanor or an  
20 infraction under the laws of this state, or violation of a city or  
21 village ordinance;

22           (2) Any juvenile who has committed an act which would  
23 constitute a felony under the laws of this state;

24           (3) Any juvenile (a) who is homeless or destitute, or  
25 without proper support through no fault of his or her parent,  
26 guardian, or custodian; who is abandoned by his or her parent,  
27 guardian, or custodian; who lacks proper parental care by reason of

1 the fault or habits of his or her parent, guardian, or custodian;  
2 whose parent, guardian, or custodian neglects or refuses to provide  
3 proper or necessary subsistence, education, or other care necessary  
4 for the health, morals, or well-being of such juvenile; whose  
5 parent, guardian, or custodian is unable to provide or neglects  
6 or refuses to provide special care made necessary by the mental  
7 condition of the juvenile; or who is in a situation or engages  
8 in an occupation dangerous to life or limb or injurious to the  
9 health or morals of such juvenile, (b) who, by reason of being  
10 wayward or habitually disobedient, is uncontrolled by his or her  
11 parent, guardian, or custodian; who deports himself or herself  
12 so as to injure or endanger seriously the morals or health of  
13 himself, herself, or others; or who is habitually truant from home  
14 or school, or (c) who is mentally ill and dangerous as defined in  
15 section 71-908;

16 (4) Any juvenile who has committed an act which would  
17 constitute a traffic offense as defined in section 43-245;

18 (5) The parent, guardian, or custodian who has custody of  
19 any juvenile described in this section;

20 (6) The proceedings for termination of parental rights as  
21 provided in the Nebraska Juvenile Code;

22 (7) The proceedings for termination of parental rights as  
23 provided in section 42-364;

24 (8) Any juvenile who has been voluntarily relinquished,  
25 pursuant to section 43-106.01, to the ~~Department of Health and~~  
26 ~~Human Services~~ Health and Human Services System or any child  
27 placement agency licensed by the ~~Department of Health and Human~~

1 ~~Services;~~ system;

2 (9) Any juvenile who was a ward of the juvenile court at  
3 the inception of his or her guardianship and whose guardianship has  
4 been disrupted or terminated;

5 (10) The adoption or guardianship proceedings for a  
6 child over which the juvenile court already has jurisdiction under  
7 another provision of the Nebraska Juvenile Code; and

8 (11) The paternity determination for a child over which  
9 the juvenile court already has jurisdiction.

10 Notwithstanding the provisions of the Nebraska Juvenile  
11 Code, the determination of jurisdiction over any Indian child as  
12 defined in section 43-1503 shall be subject to the Nebraska Indian  
13 Child Welfare Act; and the district court shall have exclusive  
14 jurisdiction in proceedings brought pursuant to section 71-510.

15 Sec. 189. Section 43-250, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 43-250 A peace officer who takes a juvenile into  
18 temporary custody under section 43-248 shall immediately take  
19 reasonable measures to notify the juvenile's parent, guardian,  
20 custodian, or relative and shall proceed as follows:

21 (1) The peace officer shall release such juvenile;

22 (2) The peace officer shall prepare in triplicate a  
23 written notice requiring the juvenile to appear before the juvenile  
24 court of the county in which such juvenile was taken into custody  
25 at a time and place specified in the notice or at the call of the  
26 court. The notice shall also contain a concise statement of the  
27 reasons such juvenile was taken into custody. The peace officer

1 shall deliver one copy of the notice to such juvenile and require  
2 such juvenile or his or her parent, guardian, other custodian,  
3 or relative, or both, to sign a written promise that such signer  
4 will appear at the time and place designated in the notice. Upon  
5 the execution of the promise to appear, the peace officer shall  
6 immediately release such juvenile. The peace officer shall, as  
7 soon as practicable, file one copy of the notice with the county  
8 attorney and, when required by the juvenile court, also file a copy  
9 of the notice with the juvenile court or the officer appointed by  
10 the court for such purpose;

11 (3) While retaining temporary custody, the peace officer  
12 shall communicate all relevant available information regarding such  
13 juvenile to the probation officer and shall deliver the juvenile,  
14 if necessary, to the probation officer. The probation officer shall  
15 determine the need for detention of the juvenile as provided in  
16 section 43-260.01. Upon determining that the juvenile should be  
17 placed in a secure or nonsecure placement and securing placement  
18 in such secure or nonsecure setting by the probation officer, the  
19 peace officer shall implement the probation officer's decision to  
20 release or to detain and place the juvenile. When secure detention  
21 of a juvenile is necessary, such detention shall occur within a  
22 juvenile detention facility except:

23 (a) When a juvenile described in subdivision (1) or  
24 (2) of section 43-247, except for a status offender, is taken  
25 into temporary custody within a metropolitan statistical area and  
26 where no juvenile detention facility is reasonably available, the  
27 juvenile may be delivered, for temporary custody not to exceed

1 six hours, to a secure area of a jail or other facility intended  
2 or used for the detention of adults solely for the purposes of  
3 identifying the juvenile and ascertaining his or her health and  
4 well-being and for safekeeping while awaiting transport to an  
5 appropriate juvenile placement or release to a responsible party;

6 (b) When a juvenile described in subdivision (1) or (2)  
7 of section 43-247, except for a status offender, is taken into  
8 temporary custody outside of a metropolitan statistical area and  
9 where no juvenile detention facility is reasonably available, the  
10 juvenile may be delivered, for temporary custody not to exceed  
11 twenty-four hours excluding nonjudicial days and while awaiting an  
12 initial court appearance, to a secure area of a jail or other  
13 facility intended or used for the detention of adults solely for  
14 the purposes of identifying the juvenile and ascertaining his  
15 or her health and well-being and for safekeeping while awaiting  
16 transport to an appropriate juvenile placement or release to a  
17 responsible party;

18 (c) Whenever a juvenile is held in a secure area of  
19 any jail or other facility intended or used for the detention  
20 of adults, there shall be no verbal, visual, or physical contact  
21 between the juvenile and any incarcerated adult and there shall be  
22 adequate staff to supervise and monitor the juvenile's activities  
23 at all times. This subdivision shall not apply to a juvenile  
24 charged with a felony as an adult in county or district court if he  
25 or she is sixteen years of age or older;

26 (d) If a juvenile is under sixteen years of age or is a  
27 juvenile as described in subdivision (3) of section 43-247, he or

1 she shall not be placed within a secure area of a jail or other  
2 facility intended or used for the detention of adults;

3 (e) If, within the time limits specified in subdivision  
4 (3) (a) or (3) (b) of this section, a felony charge is filed against  
5 the juvenile as an adult in county or district court, he or she may  
6 be securely held in a jail or other facility intended or used for  
7 the detention of adults beyond the specified time limits;

8 (f) A status offender or nonoffender taken into temporary  
9 custody shall not be held in a secure area of a jail or other  
10 facility intended or used for the detention of adults. A status  
11 offender accused of violating a valid court order may be securely  
12 detained in a juvenile detention facility longer than twenty-four  
13 hours if he or she is afforded a detention hearing before a  
14 court within twenty-four hours, excluding nonjudicial days, and if,  
15 prior to a dispositional commitment to secure placement, a public  
16 agency, other than a court or law enforcement agency, is afforded  
17 an opportunity to review the juvenile's behavior and possible  
18 alternatives to secure placement and has submitted a written report  
19 to the court; and

20 (g) A juvenile described in subdivision (1) or (2) of  
21 section 43-247, except for a status offender, may be held in a  
22 secure area of a jail or other facility intended or used for the  
23 detention of adults for up to six hours before and six hours after  
24 any court appearance;

25 (4) When a juvenile is taken into temporary custody  
26 pursuant to subdivision (3) of section 43-248, the peace officer  
27 shall deliver the custody of such juvenile to the ~~Department of~~

1 ~~Health and Human Services~~ Health and Human Services System which  
2 shall make a temporary placement of the juvenile in the least  
3 restrictive environment consistent with the best interests of the  
4 juvenile as determined by the ~~department~~ system. The ~~department~~  
5 system shall supervise such placement and, if necessary, consent  
6 to any necessary emergency medical, psychological, or psychiatric  
7 treatment for such juvenile. The ~~department~~ system shall have no  
8 other authority with regard to such temporary custody until or  
9 unless there is an order by the court placing the juvenile in the  
10 custody of the ~~department~~ system. If the peace officer delivers  
11 temporary custody of the juvenile pursuant to this subdivision,  
12 the peace officer shall make a full written report to the county  
13 attorney within twenty-four hours of taking such juvenile into  
14 temporary custody. If a court order of temporary custody is  
15 not issued within forty-eight hours of taking the juvenile into  
16 custody, the temporary custody by the ~~department~~ system shall  
17 terminate and the juvenile shall be returned to the custody of his  
18 or her parent, guardian, custodian, or relative; or

19 (5) If the peace officer takes the juvenile into  
20 temporary custody pursuant to subdivision (4) of section 43-248,  
21 the peace officer may place the juvenile at a mental health  
22 facility for evaluation and emergency treatment or may deliver the  
23 juvenile to the ~~Department of Health and Human Services~~ system  
24 as provided in subdivision (4) of this section. At the time of  
25 the admission or turning the juvenile over to the ~~department~~,  
26 system, the peace officer responsible for taking the juvenile into  
27 custody shall execute a written certificate as prescribed by the



1 ~~Department of Health and Human Services~~ system which will indicate  
2 that the peace officer believes the juvenile to be mentally ill  
3 and dangerous, a summary of the subject's behavior supporting such  
4 allegations, and that the harm described in section 71-908 is  
5 likely to occur before proceedings before a juvenile court may  
6 be invoked to obtain custody of the juvenile. A copy of the  
7 certificate shall be forwarded to the county attorney. The peace  
8 officer shall notify the juvenile's parents, guardian, custodian,  
9 or relative of the juvenile's placement.

10           In determining the appropriate temporary placement of a  
11 juvenile under this section, the peace officer shall select the  
12 placement which is least restrictive of the juvenile's freedom so  
13 long as such placement is compatible with the best interests of the  
14 juvenile and the safety of the community.

15           Sec. 190. Section 43-251.01, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17           43-251.01 All placements and commitments of juveniles for  
18 evaluations or as temporary or final dispositions are subject to  
19 the following:

20           (1) No juvenile shall be confined in an adult  
21 correctional facility as a disposition of the court;

22           (2) A juvenile who is found to be a juvenile as described  
23 in subdivision (3) of section 43-247 shall not be placed in an  
24 adult correctional facility, the secure youth confinement facility  
25 operated by the Department of Correctional Services, or a youth  
26 rehabilitation and treatment center or committed to the Office of  
27 Juvenile Services of the Health and Human Services System;

1           (3) A juvenile who is found to be a juvenile as described  
2 in subdivision (1), (2), or (4) of section 43-247 shall not be  
3 assigned or transferred to an adult correctional facility or the  
4 secure youth confinement facility operated by the Department of  
5 Correctional Services; and

6           (4) A juvenile under the age of twelve years shall not  
7 be placed with or committed to a youth rehabilitation and treatment  
8 center except as provided in section 43-286.

9           Sec. 191. Section 43-254, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           43-254 Pending the adjudication of any case, if it  
12 appears that the need for placement or further detention exists,  
13 the juvenile may be (1) placed or detained a reasonable period of  
14 time on order of the court in the temporary custody of either the  
15 person having charge of the juvenile or some other suitable person,  
16 (2) kept in some suitable place provided by the city or county  
17 authorities, (3) placed in any proper and accredited charitable  
18 institution, (4) placed in a state institution, except any adult  
19 correctional facility, when proper facilities are available and the  
20 only local facility is a city or county jail, at the expense of  
21 the committing county on a per diem basis as determined from time  
22 to time by the head of the particular institution, or (5) placed  
23 in the temporary care and custody of the ~~Department of Health and~~  
24 ~~Human Services Health and Human Services System~~ when it does not  
25 appear that there is any need for secure detention. The court may  
26 assess the cost of such placement or detention in whole or in part  
27 to the parent of the juvenile as provided in section 43-290.

1           If a juvenile has been removed from his or her parent,  
2 guardian, or custodian pursuant to subdivision (3) of section  
3 43-248, the court may enter an order continuing detention or  
4 placement upon a written determination that continuation of the  
5 juvenile in his or her home would be contrary to the health,  
6 safety, or welfare of such juvenile and that reasonable efforts  
7 were made to preserve and reunify the family if required under  
8 subsections (1) through (4) of section 43-283.01.

9           Sec. 192. Section 43-258, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           43-258 (1) Pending the adjudication of any case under the  
12 Nebraska Juvenile Code, the court may order the juvenile examined  
13 by a physician, surgeon, psychiatrist, duly authorized community  
14 mental health service program, or psychologist to aid the court  
15 in determining (a) a material allegation in the petition relating  
16 to the juvenile's physical or mental condition, (b) the juvenile's  
17 competence to participate in the proceedings, (c) the juvenile's  
18 responsibility for his or her acts, or (d) whether or not to  
19 provide emergency medical treatment.

20           (2) Pending the adjudication of any case under the  
21 Nebraska Juvenile Code and after a showing of probable cause that  
22 the juvenile is within the court's jurisdiction, for the purposes  
23 of subsection (1) of this section, the court may order such  
24 juvenile to be placed in one of the facilities or institutions of  
25 the State of Nebraska. Such juvenile shall not be placed in an  
26 adult correctional facility, the secure youth confinement facility  
27 operated by the Department of Correctional Services, or a youth

1 rehabilitation and treatment center. Any placement for evaluation  
2 may be made on a residential or nonresidential basis for a period  
3 not to exceed thirty days except as provided by section 43-415.  
4 The head of any facility or institution shall make a complete  
5 evaluation of the juvenile, including any authorized area of  
6 inquiry requested by the court.

7 (3) Upon completion of the evaluation, the juvenile  
8 shall be returned to the court together with a written report  
9 of the results of the evaluation. Such report shall include an  
10 assessment of the basic needs of the juvenile and recommendations  
11 for continuous and long-term care and shall be made to effectuate  
12 the purposes in subdivision (1) of section 43-246.

13 (4) In order to encourage the use of the procedure  
14 provided in this section, all costs incurred during the period the  
15 juvenile is being evaluated at a state facility or program funded  
16 by the Office of Juvenile Services or the Health and Human Services  
17 System shall be the responsibility of the state unless otherwise  
18 ordered by the court pursuant to section 43-290. The county in  
19 which the case is pending shall be liable only for the cost of  
20 delivering the juvenile to the facility or institution and the cost  
21 of returning him or her to the court for disposition.

22 Sec. 193. Section 43-281, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 43-281 Following an adjudication of jurisdiction and  
25 prior to final disposition, the court may place the juvenile with  
26 the Office of Juvenile Services or the ~~Department of Health and~~  
27 ~~Human Services~~ Health and Human Services System for evaluation.

1 The office or ~~department~~ system shall make arrangements for an  
2 appropriate evaluation.

3 Sec. 194. Section 43-284, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 43-284 When any juvenile is adjudged to be under  
6 subdivision (3), (4), or (9) of section 43-247, the court may  
7 permit such juvenile to remain in his or her own home subject to  
8 supervision or may make an order committing the juvenile to (1)  
9 the care of some suitable institution, (2) inpatient or outpatient  
10 treatment at a mental health facility or mental health program, (3)  
11 the care of some reputable citizen of good moral character, (4) the  
12 care of some association willing to receive the juvenile embracing  
13 in its objects the purpose of caring for or obtaining homes for  
14 such juveniles, which association shall have been accredited as  
15 provided in section 43-296, (5) the care of a suitable family, or  
16 (6) the care and custody of the ~~Department of Health and Human~~  
17 ~~Services.~~ Health and Human Services System.

18 Under subdivision (1), (2), (3), (4), or (5) of this  
19 section, upon a determination by the court that there are no  
20 parental, private, or other public funds available for the care,  
21 custody, education, and maintenance of a juvenile, the court may  
22 order a reasonable sum for the care, custody, education, and  
23 maintenance of the juvenile to be paid out of a fund which shall  
24 be appropriated annually by the county where the petition is filed  
25 until suitable provisions may be made for the juvenile without such  
26 payment.

27 The amount to be paid by a county for education pursuant

1 to this section shall not exceed the average cost for education  
2 of a public school student in the county in which the juvenile is  
3 placed and shall be paid only for education in kindergarten through  
4 grade twelve.

5 The court may enter a dispositional order removing a  
6 juvenile from his or her home upon a written determination that  
7 continuation in the home would be contrary to the health, safety,  
8 or welfare of such juvenile and that reasonable efforts to preserve  
9 and reunify the family have been made if required under section  
10 43-283.01.

11 Sec. 195. Section 43-284.01, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 43-284.01 Any juvenile adjudged to be under subdivision  
14 (8) of section 43-247 shall remain in the custody of the ~~Department~~  
15 ~~of Health and Human Services~~ Health and Human Services System  
16 or the licensed child placement agency to whom the juvenile has  
17 been relinquished unless the court finds by clear and convincing  
18 evidence that the best interests of the juvenile require that an  
19 alternative disposition be made. If the court makes such finding,  
20 then alternative disposition may be made as provided under section  
21 43-284. Such alternative disposition shall relieve the ~~department~~  
22 system or licensed child placement agency of all responsibility  
23 with regard to such juvenile.

24 Sec. 196. Section 43-284.02, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26 43-284.02 The ~~Department of Health and Human Services~~  
27 Health and Human Services System may make payments as needed on

1 behalf of a child who has been a ward of the ~~department~~ system  
2 after the appointment of a guardian for the child. Such payments  
3 to the guardian may include maintenance costs, medical and surgical  
4 expenses, and other costs incidental to the care of the child. All  
5 such payments shall terminate on or before the child's nineteenth  
6 birthday. The child under guardianship shall be a child for whom  
7 the guardianship would not be possible without the financial aid  
8 provided under this section.

9           The ~~Director of Health and Human Services~~ system shall  
10 adopt and promulgate rules and regulations for the administration  
11 of this section.

12           Sec. 197. Section 43-285, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           43-285 (1) When the court awards a juvenile to the  
15 care of the ~~Department of Health and Human Services,~~ Health  
16 and Human Services System, an association, or an individual in  
17 accordance with the Nebraska Juvenile Code, the juvenile shall,  
18 unless otherwise ordered, become a ward and be subject to the  
19 guardianship of the department, association, or individual to  
20 whose care he or she is committed. Any such association and the  
21 ~~department~~ system shall have authority, by and with the assent  
22 of the court, to determine the care, placement, medical services,  
23 psychiatric services, training, and expenditures on behalf of each  
24 juvenile committed to it. Such guardianship shall not include the  
25 guardianship of any estate of the juvenile.

26           (2) Following an adjudication hearing at which a juvenile  
27 is adjudged to be under subdivision (3) of section 43-247, the

1 court may order the ~~department~~ system to prepare and file with  
2 the court a proposed plan for the care, placement, services, and  
3 permanency which are to be provided to such juvenile and his  
4 or her family. The health and safety of the juvenile shall be  
5 the paramount concern in the proposed plan. The ~~department~~ system  
6 shall include in the plan for a juvenile who is sixteen years of  
7 age or older and subject to the guardianship of the ~~department~~  
8 system a written proposal describing programs and services designed  
9 to assist the juvenile in acquiring independent living skills.  
10 If any other party, including, but not limited to, the guardian  
11 ad litem, parents, county attorney, or custodian, proves by a  
12 preponderance of the evidence that the ~~department's~~ system's plan  
13 is not in the juvenile's best interests, the court shall disapprove  
14 the ~~department's~~ system's plan. The court may modify the plan,  
15 order that an alternative plan be developed, or implement another  
16 plan that is in the juvenile's best interests. In its order the  
17 court shall include a finding regarding the appropriateness of  
18 the programs and services described in the proposal designed to  
19 assist the juvenile in acquiring independent living skills. Rules  
20 of evidence shall not apply at the dispositional hearing when the  
21 court considers the plan that has been presented. The ~~department~~  
22 system or any other party may request a review of the court's  
23 order concerning the plan by a juvenile review panel as provided in  
24 section 43-287.04.

25 (3) Within thirty days after an order awarding a juvenile  
26 to the care of the ~~department~~, system, an association, or an  
27 individual and until the juvenile reaches the age of majority, the



1 ~~department~~, system, association, or individual shall file with the  
2 court a report stating the location of the juvenile's placement  
3 and the needs of the juvenile in order to effectuate the purposes  
4 of subdivision (1) of section 43-246. The ~~department~~, system,  
5 association, or individual shall file a report with the court  
6 once every six months or at shorter intervals if ordered by the  
7 court or deemed appropriate by the ~~department~~, system, association,  
8 or individual. The ~~department~~, system, association, or individual  
9 shall file a report and notice of placement change with the court  
10 and shall send copies of the notice to all interested parties at  
11 least seven days before the placement of the juvenile is changed  
12 from what the court originally considered to be a suitable family  
13 home or institution to some other custodial situation in order to  
14 effectuate the purposes of subdivision (1) of section 43-246. The  
15 court, on its own motion or upon the filing of an objection to  
16 the change by an interested party, may order a hearing to review  
17 such a change in placement and may order that the change be stayed  
18 until the completion of the hearing. Nothing in this section shall  
19 prevent the court on an ex parte basis from approving an immediate  
20 change in placement upon good cause shown. The ~~department~~ system  
21 may make an immediate change in placement without court approval  
22 only if the juvenile is in a harmful or dangerous situation or when  
23 the foster parents request that the juvenile be removed from their  
24 home. Approval of the court shall be sought within twenty-four  
25 hours after making the change in placement or as soon thereafter  
26 as possible. The ~~department~~ system or any other party may request  
27 a review of the change in placement by a juvenile review panel

1 in the manner set out in section 43-287.04. The ~~department~~ system  
2 shall provide the juvenile's guardian ad litem with a copy of any  
3 report filed with the court by the ~~department~~ system pursuant to  
4 this subsection.

5 (4) The court shall also hold a permanency hearing if  
6 required under section 43-1312.

7 (5) When the court awards a juvenile to the care of  
8 the ~~department,~~ system, an association, or an individual, then the  
9 ~~department,~~ system, association, or individual shall have standing  
10 as a party to file any pleading or motion, to be heard by the  
11 court with regard to such filings, and to be granted any review  
12 or relief requested in such filings consistent with the Nebraska  
13 Juvenile Code.

14 (6) Whenever a juvenile is in a foster care placement as  
15 defined in section 43-1301, the State Foster Care Review Board may  
16 participate in proceedings concerning the juvenile as provided in  
17 section 43-1313 and notice shall be given as provided in section  
18 43-1314.

19 (7) Any written findings or recommendations of the State  
20 Foster Care Review Board or any designated local foster care  
21 review board with regard to a juvenile in a foster care placement  
22 submitted to a court having jurisdiction over such juvenile shall  
23 be admissible in any proceeding concerning such juvenile if such  
24 findings or recommendations have been provided to all other parties  
25 of record.

26 (8) Any member of the State Foster Care Review Board,  
27 any of its agents or employees, or any member of any local foster

1 care review board participating in an investigation or making any  
2 report pursuant to the Foster Care Review Act or participating in a  
3 judicial proceeding pursuant to this section shall be immune from  
4 any civil liability that would otherwise be incurred except for  
5 false statements negligently made.

6 Sec. 198. Section 43-286, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 43-286 (1) When any juvenile is adjudicated to be a  
9 juvenile described in subdivision (1), (2), or (4) of section  
10 43-247:

11 (a) The court may continue the dispositional portion of  
12 the hearing, from time to time upon such terms and conditions as  
13 the court may prescribe, including an order of restitution of any  
14 property stolen or damaged or an order requiring the juvenile to  
15 participate in community service programs, if such order is in  
16 the interest of the juvenile's reformation or rehabilitation, and,  
17 subject to the further order of the court, may:

18 (i) Place the juvenile on probation subject to the  
19 supervision of a probation officer;

20 (ii) Permit the juvenile to remain in his or her own home  
21 or be placed in a suitable family home, subject to the supervision  
22 of the probation officer; or

23 (iii) Cause the juvenile to be placed in a suitable  
24 family home or institution, subject to the supervision of the  
25 probation officer. If the court has committed the juvenile to the  
26 care and custody of the ~~Department of Health and Human Services,~~  
27 Health and Human Services System, the ~~department~~ system shall pay

1 the costs of the suitable family home or institution which are not  
2 otherwise paid by the juvenile's parents.

3 Under subdivision (1)(a) of this section, upon a  
4 determination by the court that there are no parental, private, or  
5 other public funds available for the care, custody, and maintenance  
6 of a juvenile, the court may order a reasonable sum for the care,  
7 custody, and maintenance of the juvenile to be paid out of a  
8 fund which shall be appropriated annually by the county where the  
9 petition is filed until a suitable provision may be made for the  
10 juvenile without such payment; or

11 (b) The court may commit such juvenile to the Office of  
12 Juvenile Services of the Health and Human Services System, but a  
13 juvenile under the age of twelve years shall not be placed at  
14 the Youth Rehabilitation and Treatment Center-Geneva or the Youth  
15 Rehabilitation and Treatment Center-Kearney unless he or she has  
16 violated the terms of probation or has committed an additional  
17 offense and the court finds that the interests of the juvenile and  
18 the welfare of the community demand his or her commitment. This  
19 minimum age provision shall not apply if the act in question is  
20 murder or manslaughter.

21 (2) When any juvenile is found by the court to be a  
22 juvenile described in subdivision (3)(b) of section 43-247, the  
23 court may enter such order as it is empowered to enter under  
24 subdivision (1)(a) of this section or enter an order committing or  
25 placing the juvenile to the care and custody of the ~~Department of~~  
26 ~~Health and Human Services.~~ Health and Human Services System.

27 (3) Beginning July 15, 1998, when any juvenile is

1 adjudicated to be a juvenile described in subdivision (1), (2),  
2 (3) (b), or (4) of section 43-247 because of a nonviolent act or  
3 acts and the juvenile has not previously been adjudicated to be  
4 such a juvenile because of a violent act or acts, the court may,  
5 with the agreement of the victim, order the juvenile to attend  
6 juvenile offender and victim mediation with a mediator or at an  
7 approved center selected from the roster made available pursuant to  
8 section 25-2908.

9 (4) (a) When a juvenile is placed on probation or under  
10 the supervision of the court and it is alleged that the juvenile is  
11 again a juvenile described in subdivision (1), (2), (3) (b), or (4)  
12 of section 43-247, a petition may be filed and the same procedure  
13 followed and rights given at a hearing on the original petition. If  
14 an adjudication is made that the allegations of the petition are  
15 true, the court may make any disposition authorized by this section  
16 for such adjudications.

17 (b) When a juvenile is placed on probation or under  
18 the supervision of the court for conduct under subdivision (1),  
19 (2), (3) (b), or (4) of section 43-247 and it is alleged that the  
20 juvenile has violated a term of probation or supervision or that  
21 the juvenile has violated an order of the court, a motion to revoke  
22 probation or supervision or to change the disposition may be filed  
23 and proceedings held as follows:

24 (i) The motion shall set forth specific factual  
25 allegations of the alleged violations and a copy of such motion  
26 shall be served on all persons required to be served by sections  
27 43-262 to 43-267;

1           (ii) The juvenile shall be entitled to a hearing before  
2 the court to determine the validity of the allegations. At such  
3 hearing the juvenile shall be entitled to those rights relating  
4 to counsel provided by section 43-272 and those rights relating  
5 to detention provided by sections 43-254 to 43-256. The juvenile  
6 shall also be entitled to speak and present documents, witnesses,  
7 or other evidence on his or her own behalf. He or she may confront  
8 persons who have given adverse information concerning the alleged  
9 violations, may cross-examine such persons, and may show that he  
10 or she did not violate the conditions of his or her probation or,  
11 if he or she did, that mitigating circumstances suggest that the  
12 violation does not warrant revocation. The revocation hearing shall  
13 be held within a reasonable time after the juvenile is taken into  
14 custody;

15           (iii) The hearing shall be conducted in an informal  
16 manner and shall be flexible enough to consider evidence, including  
17 letters, affidavits, and other material, that would not be  
18 admissible in an adversarial criminal trial;

19           (iv) The juvenile shall be given a preliminary hearing  
20 in all cases when the juvenile is confined, detained, or otherwise  
21 significantly deprived of his or her liberty as a result of his or  
22 her alleged violation of probation. Such preliminary hearing shall  
23 be held before an impartial person other than his or her probation  
24 officer or any person directly involved with the case. If, as a  
25 result of such preliminary hearing, probable cause is found to  
26 exist, the juvenile shall be entitled to a hearing before the court  
27 in accordance with this subsection;

1           (v) If the juvenile is found by the court to have  
2 violated the terms of his or her probation, the court may modify  
3 the terms and conditions of the probation order, extend the period  
4 of probation, or enter any order of disposition that could have  
5 been made at the time the original order of probation was entered;  
6 and

7           (vi) In cases when the court revokes probation, it shall  
8 enter a written statement as to the evidence relied on and the  
9 reasons for revocation.

10           Sec. 199. Section 43-287.01, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           43-287.01 The purpose of sections 43-287.01 to 43-287.06  
13 is to provide for an expedited review of juvenile dispositions by  
14 the courts. It is the intent to allow such review only when a  
15 court orders the implementation of a plan different than the plan  
16 prepared by the ~~Department of Health and Human Services~~ Health  
17 and Human Services System for the care, placement, and services  
18 to be provided to such juvenile and the ~~department~~ system or any  
19 other party believes such court-ordered plan not to be in the best  
20 interests of the juvenile.

21           It is the intent of sections 43-287.01 to 43-287.06 to  
22 remove contested dispositional plans from the appellate process  
23 for the purpose of expediting review by a juvenile review panel.  
24 Nothing in such sections shall otherwise limit the right of any  
25 party to appeal other final orders of a juvenile court pursuant to  
26 sections 43-2,106 and 43-2,106.01.

27           Sec. 200. Section 43-287.03, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           43-287.03 A juvenile review panel shall review a  
3 disposition of a court when the court makes an order directing the  
4 implementation of a plan different from the plan prepared by the  
5 ~~Department of Health and Human Services~~ Health and Human Services  
6 System concerning the care, placement, or services to be provided  
7 to the juvenile and the ~~department~~ system or any other party  
8 believes that the court's order is not in the best interests of  
9 the juvenile.

10           Sec. 201. Section 43-287.04, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           43-287.04 If the ~~Department of Health and Human Services~~  
13 Health and Human Services System or any other party desires  
14 to have a disposition described in section 43-287.03 reviewed,  
15 the ~~department~~ system or other party shall have ten days after  
16 disposition by the court to file a request for review by a juvenile  
17 review panel. Such request for review shall be filed with the clerk  
18 of the county court or separate juvenile court where the action was  
19 originally heard. Upon receipt of the request for review, the clerk  
20 of the county court or separate juvenile court shall forward a copy  
21 of the request to the Clerk of the Supreme Court.

22           Sec. 202. Section 43-287.05, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           43-287.05 A juvenile review panel shall review the  
25 disposition of a court de novo on the record. The record shall  
26 consist of a transcript and bill of exceptions which shall be  
27 requested and prepared as in appeals from the county court to



1 the district court. A juvenile review panel shall affirm the  
2 disposition unless it is shown by a preponderance of the evidence  
3 that the disposition was not in the best interests of the juvenile,  
4 in which case the panel may modify the court-ordered plan or the  
5 plan of the ~~Department of Health and Human Services~~ Health and  
6 Human Services System or may substitute the ~~department's~~ system's  
7 plan for the court-ordered plan and remand the case back to the  
8 court with directions to implement such plan. Such review shall  
9 stay the enforcement of any order entered by the court.

10 The review by the juvenile review panel shall be as  
11 expeditious as possible, and a decision shall be made within  
12 thirty days after receiving the bill of exceptions from the court  
13 stenographer. The panel's decision shall be final and binding on  
14 the parties, except that the decision may be appealed as provided  
15 in section 43-287.06.

16 Sec. 203. Section 43-287.06, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 43-287.06 The ~~Department of Health and Human Services~~  
19 Health and Human Services System or any other party may appeal  
20 from any final order or judgment entered by the juvenile review  
21 panel. Such order or judgment shall be reviewed by the Court of  
22 Appeals or the Supreme Court within the same time and in the same  
23 manner prescribed by law for review of an order or judgment of the  
24 district court. The appellate court shall review the disposition of  
25 the juvenile review panel de novo on the record submitted to the  
26 panel. Any appeal made pursuant to this section shall not stay any  
27 order of a juvenile review panel.

1           Sec. 204. Section 43-289, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           43-289 In no case shall a juvenile committed under the  
4 terms of the Nebraska Juvenile Code be confined after he or she  
5 reaches the age of majority. The court may, when the health or  
6 condition of any juvenile adjudged to be within the terms of  
7 such code shall require it, cause the juvenile to be placed in  
8 a public hospital or institution for treatment or special care  
9 or in an accredited and suitable private hospital or institution  
10 which will receive the juvenile for like purposes. Whenever any  
11 juvenile has been committed to the ~~Department of Health and Human~~  
12 ~~Services,~~ the department Health and Human Services System, the  
13 system shall follow the court's orders, if any, concerning the  
14 juvenile's specific needs for treatment or special care for his or  
15 her physical well-being and healthy personality. If the court finds  
16 any such juvenile to be a person with mental retardation, it may,  
17 upon attaching a physician's certificate and a report as to the  
18 mental capacity of such person, commit such juvenile directly to an  
19 authorized and appropriate state or local facility or home.

20           The marriage of any juvenile committed to a state  
21 institution under the age of nineteen years shall not make such  
22 juvenile of the age of majority.

23           A juvenile committed to any such institution shall be  
24 subject to the control of the superintendent thereof, and the  
25 superintendent, with the advice and consent of the ~~Department of~~  
26 ~~Health and Human Services,~~ system, shall adopt and promulgate rules  
27 and regulations for the promotion, paroling, and final discharge

1 of residents such as shall be considered mutually beneficial for  
2 the institution and the residents. Upon final discharge of any  
3 resident, ~~such department~~ the system shall file a certified copy of  
4 the discharge with the court which committed the resident.

5 Sec. 205. Section 43-290, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 43-290 It is the purpose of this section to promote  
8 parental responsibility and to provide for the most equitable use  
9 and availability of public money.

10 Pursuant to the petition filed by the county attorney in  
11 accordance with section 43-274, whenever the care or custody of a  
12 juvenile is given by the court to someone other than his or her  
13 parent, which shall include placement with a state agency, or when  
14 a juvenile is given medical, psychological, or psychiatric study  
15 or treatment under order of the court, the court shall make a  
16 determination of support to be paid by a parent for the juvenile  
17 at the same proceeding at which placement, study, or treatment is  
18 determined or at a separate proceeding. Such proceeding, which may  
19 occur prior to, at the same time as, or subsequent to adjudication,  
20 shall be in the nature of a disposition hearing.

21 At such proceeding, after summons to the parent of the  
22 time and place of hearing served as provided in sections 43-262  
23 to 43-267, the court may order and decree that the parent shall  
24 pay, in such manner as the court may direct, a reasonable sum that  
25 will cover in whole or part the support, study, and treatment of  
26 the juvenile, which amount ordered paid shall be the extent of the  
27 liability of the parent. The court in making such order shall give

1 due regard to the cost of the support, study, and treatment of the  
2 juvenile, the ability of the parent to pay, and the availability  
3 of money for the support of the juvenile from previous judicial  
4 decrees, social security benefits, veterans benefits, or other  
5 sources. Support thus received by the court shall be transmitted to  
6 the person, agency, or institution having financial responsibility  
7 for such support, study, or treatment and, if a state agency or  
8 institution, remitted by such state agency or institution quarterly  
9 to the Director of Administrative Services for credit to the proper  
10 fund.

11           Whenever medical, psychological, or psychiatric study or  
12 treatment is ordered by the court, whether or not the juvenile  
13 is placed with someone other than his or her parent, or if such  
14 study or treatment is otherwise provided as determined necessary  
15 by the custodian of the juvenile, the court shall inquire as to  
16 the availability of insured or uninsured health care coverage or  
17 service plans which include the juvenile. The court may order the  
18 parent to pay over any plan benefit sums received on coverage for  
19 the juvenile. The payment of any deductible under the health care  
20 benefit plan covering the juvenile shall be the responsibility of  
21 the parent. If the parent willfully fails or refuses to pay the sum  
22 ordered or to pay over any health care plan benefit sums received,  
23 the court may proceed against him or her as for contempt, either  
24 on the court's own motion or on the motion of the county attorney  
25 or authorized attorney as provided in section 43-512, or execution  
26 shall issue at the request of any person, agency, or institution  
27 treating or maintaining such juvenile. The court may afterwards,

1 because of a change in the circumstances of the parties, revise or  
2 alter the order of payment for support, study, or treatment.

3 If the juvenile has been committed to the care and  
4 custody of the ~~Department of Health and Human Services~~, the  
5 ~~department~~ Health and Human Services System, the system shall pay  
6 the costs for the support, study, or treatment of the juvenile  
7 which are not otherwise paid by the juvenile's parent.

8 If no provision is otherwise made by law for the support  
9 or payment for the study or treatment of the juvenile, compensation  
10 for the support, study, or treatment shall be paid, when approved  
11 by an order of the court, out of a fund which shall be appropriated  
12 by the county in which the petition is filed.

13 The juvenile court shall retain jurisdiction over a  
14 parent ordered to pay support for the purpose of enforcing such  
15 support order for so long as such support remains unpaid but not to  
16 exceed ten years from the nineteenth birthday of the youngest child  
17 for whom support was ordered.

18 Sec. 206. Section 43-292.02, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 43-292.02 (1) A petition shall be filed on behalf of the  
21 state to terminate the parental rights of the juvenile's parents  
22 or, if such a petition has been filed by another party, the  
23 state shall join as a party to the petition, and the state shall  
24 concurrently identify, recruit, process, and approve a qualified  
25 family for an adoption of the juvenile, if:

26 (a) A juvenile has been in foster care under the  
27 responsibility of the state for fifteen or more months of the

1 most recent twenty-two months; or

2 (b) A court of competent jurisdiction has determined the  
3 juvenile to be an abandoned infant or has made a determination that  
4 the parent has committed murder of another child of the parent,  
5 committed voluntary manslaughter of another child of the parent,  
6 aided or abetted, attempted, conspired, or solicited to commit  
7 murder, or aided or abetted voluntary manslaughter of the juvenile  
8 or another child of the parent, or committed a felony assault that  
9 has resulted in serious bodily injury to the juvenile or another  
10 minor child of the parent. For purposes of this subdivision, infant  
11 means a child eighteen months of age or younger.

12 (2) A petition shall not be filed on behalf of the state  
13 to terminate the parental rights of the juvenile's parents or, if  
14 such a petition has been filed by another party, the state shall  
15 not join as a party to the petition if the sole factual basis for  
16 the petition is that (a) the parent or parents of the juvenile  
17 are financially unable to provide health care for the juvenile or  
18 (b) the parent or parents of the juvenile are incarcerated. The  
19 fact that a qualified family for an adoption of the juvenile has  
20 been identified, recruited, processed, and approved shall have no  
21 bearing on whether parental rights shall be terminated.

22 (3) The petition is not required to be filed on behalf  
23 of the state or if a petition is filed the state shall not be  
24 required to join in a petition to terminate parental rights or to  
25 concurrently find a qualified family to adopt the juvenile under  
26 this section if:

27 (a) The child is being cared for by a relative;

1           (b) ~~The Department of Health and Human Services~~ Health  
2 and Human Services System has documented in the case plan or  
3 permanency plan, which shall be available for court review, a  
4 compelling reason for determining that filing such a petition would  
5 not be in the best interests of the juvenile; or

6           (c) The family of the juvenile has not had a reasonable  
7 opportunity to avail themselves of the services deemed necessary  
8 in the case plan or permanency plan approved by the court if  
9 reasonable efforts to preserve and reunify the family are required  
10 under section 43-283.01.

11           Sec. 207. Section 43-292.03, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           43-292.03 (1) Within thirty days after the fifteen-month  
14 period under subsection (1) of section 43-292.02, the court shall  
15 hold a hearing on the record and shall make a determination on  
16 the record as to whether there is an exception under subsection  
17 (3) of section 43-292.02 in this particular case. If there is no  
18 exception, the state shall proceed as provided in subsection (1) of  
19 section 43-292.02.

20           (2) ~~The Department of Health and Human Services~~ Health  
21 and Human Services System shall submit on a timely basis, to the  
22 court in which the petition to place the juvenile in an out-of-home  
23 placement was filed and to the county attorney who filed the  
24 petition, a list of the name of each juvenile who has been in an  
25 out-of-home placement for fifteen or more months of the most recent  
26 twenty-two months.

27           Sec. 208. Section 43-293, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           43-293 When the parental rights have been terminated  
3 under section 43-292 and the care of the juvenile is awarded to  
4 the ~~Department of Health and Human Services~~, ~~the department~~ Health  
5 and Human Services System, the system shall have authority to  
6 consent to the legal adoption of such juvenile and no other consent  
7 shall be required to authorize any court having jurisdiction to  
8 enter a legal decree of adoption of such juvenile. When the  
9 care of such juvenile is awarded to an individual or association  
10 and the parental rights have been terminated by the juvenile  
11 court, such individual or association may consent, only when  
12 authorized by order of such juvenile court, to the legal adoption  
13 of such juvenile and no other consent shall be required to  
14 authorize any court having jurisdiction to enter a legal decree of  
15 adoption of such juvenile. An order terminating the parent-juvenile  
16 relationship shall divest the parent and juvenile of all legal  
17 rights, privileges, duties, and obligations with respect to each  
18 other and the parents shall have no rights of inheritance with  
19 respect to such juvenile. The order terminating parental rights  
20 shall be final and may be appealed in the same manner as other  
21 final judgments of a juvenile court.

22           Sec. 209. Section 43-294, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           43-294 The custodian appointed by a juvenile court shall  
25 have charge of the person of the juvenile and the right to make  
26 decisions affecting the person of the juvenile, including medical,  
27 dental, surgical, or psychiatric treatment, except that consent



1 to a juvenile marrying or joining the armed forces of the United  
2 States may be given by a custodian, other than the ~~Department~~  
3 ~~of Health and Human Services,~~ Health and Human Services System,  
4 with approval of the juvenile court, or by the ~~department,~~ system,  
5 as to juveniles in its custody, without further court authority.  
6 The authority of a custodian appointed by a juvenile court shall  
7 terminate when the individual under legal custody reaches nineteen  
8 years of age, is legally adopted, or the authority is terminated by  
9 order of the juvenile court. When an adoption has been granted by a  
10 court of competent jurisdiction as to any such juvenile, such fact  
11 shall be reported immediately by such custodian to the juvenile  
12 court. If the adoption is denied the jurisdiction over the juvenile  
13 shall immediately revert to the court which authorized placement of  
14 the juvenile for adoption. Any association or individual receiving  
15 the care or custody of any such juvenile shall be subject to  
16 visitation or inspection by the ~~Department of Health and Human~~  
17 ~~Services,~~ system, or any probation officer of such court or any  
18 person appointed by the court for such purpose, and the court  
19 may at any time require from such association or person a report  
20 or reports containing such information or statements as the judge  
21 shall deem proper or necessary to be fully advised as to the care,  
22 maintenance, and moral and physical training of the juvenile, as  
23 well as the standing and ability of such association or individual  
24 to care for such juvenile. The custodian so appointed by the court  
25 shall have standing as a party in that case to file any pleading  
26 or motion, to be heard by the court with regard to such filings,  
27 and to be granted any review or relief requested in such filings

1 consistent with Chapter 43, article 2.

2           Sec. 210. Section 43-296, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           43-296 All associations receiving juveniles under the  
5 Nebraska Juvenile Code shall be subject to the same visitation,  
6 inspection, and supervision by the ~~Department of Health and Human~~  
7 ~~Services~~ Health and Human Services System as are public charitable  
8 institutions of this state, and it shall be the duty of the  
9 ~~department~~ system to pass annually upon the fitness of every such  
10 association as may receive or desire to receive juveniles under  
11 the provisions of such code. Every such association shall annually,  
12 at such time as the ~~department~~ system shall direct, make a report  
13 to the ~~department~~ system showing its condition, management, and  
14 competency to adequately care for such juveniles as are or may  
15 be committed to it and such other facts as the ~~department~~ system  
16 may require. Upon the ~~department~~ system being satisfied that such  
17 association is competent and has adequate facilities to care for  
18 such juveniles, it shall issue to such association a certificate to  
19 that effect, which certificate shall continue in force for one year  
20 unless sooner revoked by the ~~department.~~ system. No juvenile shall  
21 be committed to any such association which has not received such  
22 a certificate within the fifteen months immediately preceding the  
23 commitment. The court may at any time require from any association  
24 receiving or desiring to receive juveniles under the provisions  
25 of the Nebraska Juvenile Code such reports, information, and  
26 statements as the judge shall deem proper and necessary for his or  
27 her action, and the court shall in no case be required to commit

1 a juvenile to any association whose standing, conduct, or care of  
2 juveniles or ability to care for the same is not satisfactory to  
3 the court.

4 Sec. 211. Section 43-2,100, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 43-2,100 The ~~Department of Health and Human Services~~  
7 Health and Human Services System may receive any juvenile for  
8 observation and treatment from any public institution other than  
9 a state institution or from any private or charitable institution  
10 or person having legal custody thereof upon such terms as such  
11 ~~department system~~ system may deem proper.

12 Sec. 212. Section 43-2,101, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 43-2,101 Unless otherwise ordered by the court pursuant  
15 to section 43-290, each county shall bear all the expenses incident  
16 to the transportation of each juvenile from such county to the  
17 ~~Department of Health and Human Services,~~ Health and Human Services  
18 System, together with such fees and costs as are allowed by law in  
19 similar cases. The fees, costs, and expenses shall be paid from the  
20 county treasury upon itemized vouchers certified by the judge of  
21 the juvenile court.

22 Sec. 213. Section 43-2,106.01, Reissue Revised Statutes  
23 of Nebraska, is amended to read:

24 43-2,106.01 (1) Any final order or judgment entered by a  
25 juvenile court may be appealed to the Court of Appeals in the same  
26 manner as an appeal from district court to the Court of Appeals.  
27 The appellate court shall conduct its review within the same time

1 and in the same manner prescribed by law for review of an order  
2 or judgment of the district court, except as provided in sections  
3 43-287.01 to 43-287.06 and except that when appeal is taken from  
4 a finding by the juvenile court terminating parental rights, the  
5 cause shall be advanced for argument before the appellate court  
6 and the appellate court shall, in order to expedite the preferred  
7 disposition of the case and the juvenile, render the judgment and  
8 write its opinion, if any, as speedily as possible.

9 (2) An appeal may be taken by:

10 (a) The juvenile;

11 (b) The guardian ad litem;

12 (c) The juvenile's parent, custodian, or guardian. For  
13 purposes of this subdivision, custodian or guardian shall include,  
14 but not be limited to, the ~~Department of Health and Human Services,~~  
15 Health and Human Services System, an association, or an individual  
16 to whose care the juvenile has been awarded pursuant to the  
17 Nebraska Juvenile Code; or

18 (d) The county attorney or petitioner, except that in  
19 any case determining delinquency issues in which the juvenile has  
20 been placed legally in jeopardy, an appeal of such issues may only  
21 be taken by exception proceedings pursuant to sections 29-2317 to  
22 29-2319.

23 (3) In all appeals from the county court sitting as  
24 a juvenile court, the judgment of the appellate court shall  
25 be certified without cost to the juvenile court for further  
26 proceedings consistent with the determination of the appellate  
27 court.

1           Sec. 214. Section 43-2,109, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           43-2,109 In each county the judge presiding over the  
4 juvenile court may appoint a board of four reputable residents,  
5 who shall serve without compensation, to constitute a board of  
6 visitation whose duty it shall be to visit at least once a year  
7 all institutions, societies, and associations within the county  
8 receiving juveniles under the Nebraska Juvenile Code. Visits shall  
9 be made by not less than two of the members of the board, who shall  
10 go together or make a joint report. The board of visitors shall  
11 report to the court, from time to time, the condition of juveniles  
12 received by or in the charge of such associations and institutions  
13 and shall make an annual report to the ~~Department of Health and~~  
14 ~~Human Services~~ Health and Human Services System in such form as  
15 the ~~department~~ system may prescribe. The county board may, in its  
16 discretion, make appropriations for the payment of the actual and  
17 necessary expenses incurred by the visitors in the discharge of  
18 their official duties.

19           Sec. 215. Section 43-401, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21           43-401 Sections 43-401 to 43-423 shall be known and  
22 may be cited as the Health and Human Services System, Office of  
23 Juvenile Services Act.

24           Sec. 216. Section 43-403, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26           43-403 For purposes of the Health and Human Services  
27 System, Office of Juvenile Services Act:

1           (1) Aftercare means the control, supervision, and care  
2 exercised over juveniles who have been paroled;

3           (2) Committed means an order by a court committing a  
4 juvenile to the care and custody of the Office of Juvenile Services  
5 for treatment;

6           (3) Community supervision means the control, supervision,  
7 and care exercised over juveniles committed to the Office of  
8 Juvenile Services when a commitment to the level of treatment of a  
9 youth rehabilitation and treatment center has not been ordered by  
10 the court;

11           (4) Evaluation means assessment of the juvenile's social,  
12 physical, psychological, and educational development and needs,  
13 including a recommendation as to an appropriate treatment plan;

14           (5) Parole means a conditional release of a juvenile  
15 from a youth rehabilitation and treatment center to aftercare or  
16 transferred to Nebraska for parole supervision by way of interstate  
17 compact;

18           (6) Placed for evaluation means a placement with the  
19 Office of Juvenile Services or the ~~Department of Health and Human~~  
20 ~~Services~~ Health and Human Services System for purposes of an  
21 evaluation of the juvenile; ~~and~~

22           (7) System means the Health and Human Services System;  
23 and

24           ~~(7)~~ (8) Treatment means type of supervision, care,  
25 confinement, and rehabilitative services for the juvenile.

26           Sec. 217. Section 43-405, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

1           43-405 The administrative duties of the Office of  
2 Juvenile Services are to:

3           (1) Manage, establish policies for, and administer the  
4 office, including all facilities and programs operated by the  
5 office or provided through the office by contract with a provider;

6           (2) Supervise employees of the office, including  
7 employees of the facilities and programs operated by the office;

8           (3) Have separate budgeting procedures and develop and  
9 report budget information separately from the ~~Department of Health~~  
10 and Human Services System;

11           (4) Adopt and promulgate rules and regulations for  
12 the levels of treatment and for management, control, screening,  
13 evaluation, treatment, rehabilitation, parole, transfer, and  
14 discharge of juveniles placed with or committed to the Office of  
15 Juvenile Services;

16           (5) Ensure that statistical information concerning  
17 juveniles placed with or committed to facilities or programs of  
18 the office is collected, developed, and maintained for purposes of  
19 research and the development of treatment programs;

20           (6) Monitor commitments, placements, and evaluations at  
21 facilities and programs operated by the office or through contracts  
22 with providers and report its findings annually to the Legislature.  
23 The report shall include an assessment of the administrative costs  
24 of operating the facilities, the cost of programming, and the  
25 savings realized through reductions in commitments, placements, and  
26 evaluations;

27           (7) Coordinate the programs and services of the juvenile

1 justice system with other governmental agencies and political  
2 subdivisions;

3 (8) Coordinate educational, vocational, and social  
4 counseling;

5 (9) Coordinate community-based services for juveniles and  
6 their families;

7 (10) Supervise and coordinate juvenile parole and  
8 aftercare services; and

9 (11) Exercise all powers and perform all duties necessary  
10 to carry out its responsibilities under the Health and Human  
11 Services System, Office of Juvenile Services Act.

12 Sec. 218. Section 43-408, Revised Statutes Cumulative  
13 Supplement, 2006, is amended to read:

14 43-408 (1) Whenever any juvenile is committed under any  
15 provision of law to the Office of Juvenile Services, to any  
16 facility operated by the Office of Juvenile Services, or to the  
17 custody of the Administrator of the Office of Juvenile Services, a  
18 superintendent of a facility, or an administrator of a program, the  
19 juvenile is deemed committed to the Office of Juvenile Services.  
20 Juveniles committed to the Office of Juvenile Services shall also  
21 be considered committed to the care and custody of the ~~Department~~  
22 ~~of Health and Human Services~~ Health and Human Services System for  
23 the purpose of obtaining health care and treatment services.

24 (2) The committing court shall order the initial level  
25 of treatment for a juvenile committed to the Office of Juvenile  
26 Services. Prior to determining the initial level of treatment for  
27 a juvenile, the court may solicit a recommendation regarding the



1 initial level of treatment from the Office of Juvenile Services.  
2 Under this section, the committing court shall not order a specific  
3 placement for a juvenile. The court shall continue to maintain  
4 jurisdiction over any juvenile committed to the Office of Juvenile  
5 Services until such time that the juvenile is discharged from  
6 the Office of Juvenile Services. The court shall conduct review  
7 hearings every six months, or at the request of the juvenile, for  
8 any juvenile committed to the Office of Juvenile Services who is  
9 placed outside his or her home, except for a juvenile residing  
10 at a youth rehabilitation and treatment center. The court shall  
11 determine whether an out-of-home placement made by the Office of  
12 Juvenile Services is in the best interests of the juvenile, with  
13 due consideration being given by the court to public safety. If  
14 the court determines that the out-of-home placement is not in the  
15 best interests of the juvenile, the court may order other treatment  
16 services for the juvenile.

17 (3) After the initial level of treatment is ordered by  
18 the committing court, the Office of Juvenile Services shall provide  
19 treatment services which conform to the court's level of treatment  
20 determination. Within thirty days after making an actual placement,  
21 the Office of Juvenile Services shall provide the committing court  
22 with written notification of where the juvenile has been placed.  
23 At least once every six months thereafter, until the juvenile is  
24 discharged from the care and custody of the Office of Juvenile  
25 Services, the office shall provide the committing court with  
26 written notification of the juvenile's actual placement and the  
27 level of treatment that the juvenile is receiving.

1           (4) For transfer hearings, the burden of proof to justify  
2 the transfer is on the Office of Juvenile Services, the standard  
3 of proof is clear and convincing evidence, and the strict rules of  
4 evidence do not apply. Transfers of juveniles from one place of  
5 treatment to another are subject to section 43-251.01 and to the  
6 following:

7           (a) Except as provided in subdivision (b) of this  
8 subsection, if the Office of Juvenile Services proposes to transfer  
9 the juvenile from a less restrictive to a more restrictive place of  
10 treatment, a plan outlining the proposed change and the reasons for  
11 the proposed change shall be presented to the court which committed  
12 the juvenile. Such change shall occur only after a hearing and a  
13 finding by the committing court that the change is in the best  
14 interests of the juvenile, with due consideration being given by  
15 the court to public safety. At the hearing, the juvenile has the  
16 right to be represented by counsel;

17           (b) The Office of Juvenile Services may make an immediate  
18 temporary change without prior approval by the committing court  
19 only if the juvenile is in a harmful or dangerous situation,  
20 is suffering a medical emergency, is exhibiting behavior which  
21 warrants temporary removal, or has been placed in a non-state-owned  
22 facility and such facility has requested that the juvenile be  
23 removed. Approval of the committing court shall be sought within  
24 fifteen days of making an immediate temporary change, at which time  
25 a hearing shall occur before the court. The court shall determine  
26 whether it is in the best interests of the juvenile to remain in  
27 the new place of treatment, with due consideration being given by

1 the court to public safety. At the hearing, the juvenile has the  
2 right to be represented by counsel; and

3 (c) If the proposed change seeks to transfer the juvenile  
4 from a more restrictive to a less restrictive place of treatment  
5 or to transfer the juvenile from the juvenile's current place of  
6 treatment to another which has the same level of restriction as  
7 the current place of treatment, the Office of Juvenile Services  
8 shall notify the juvenile, the juvenile's parents, custodian, or  
9 legal guardian, the committing court, the county attorney, the  
10 counsel for the juvenile, and the guardian ad litem of the proposed  
11 change. The juvenile has fifteen days after the date of the notice  
12 to request an administrative hearing with the Office of Juvenile  
13 Services, at which time the Office of Juvenile Services shall  
14 determine whether it is in the best interests of the juvenile for  
15 the proposed change to occur, with due consideration being given  
16 by the office to public safety. The juvenile may be represented  
17 by counsel at the juvenile's own expense. If the juvenile is  
18 aggrieved by the administrative decision of the Office of Juvenile  
19 Services, the juvenile may appeal that decision to the committing  
20 court within fifteen days after the Office of Juvenile Services'  
21 decision. At the hearing before the committing court, the juvenile  
22 has the right to be represented by counsel.

23 (5) If a juvenile is placed in detention after the  
24 initial level of treatment is determined by the committing court,  
25 the committing court shall hold a hearing every fourteen days to  
26 review the status of the juvenile. Placement of a juvenile in  
27 detention shall not be considered as a treatment service.

1           (6) The committing court's review of a change of place  
2 of treatment pursuant to this section does not apply to parole  
3 revocation hearings.

4           Sec. 219. Section 43-411, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6           43-411 The ~~Director of Health and Human Services~~ chief  
7 executive officer of the Health and Human Services System shall  
8 have the authority, and may delegate the authority only to  
9 the Administrator of the Office of Juvenile Services and the  
10 superintendents of the youth rehabilitation and treatment centers,  
11 to issue detainers for the apprehension and detention of juveniles  
12 who have absconded from a placement with or commitment to the  
13 office. Any peace officer who detains a juvenile on such a detainer  
14 shall hold the juvenile in an appropriate facility or program for  
15 juveniles until the office can take custody of the juvenile.

16          Sec. 220. Section 43-413, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18          43-413 (1) A court may, pursuant to section 43-281, place  
19 a juvenile with the Office of Juvenile Services or the ~~Department~~  
20 ~~of Health and Human Services~~ Health and Human Services System for  
21 an evaluation to aid the court in the disposition.

22          (2) A juvenile convicted as an adult shall be placed with  
23 the Office of Juvenile Services for evaluation prior to sentencing  
24 as provided by subsection (3) of section 29-2204.

25          (3) All juveniles shall be evaluated prior to commitment  
26 to the Office of Juvenile Services. The court shall not commit  
27 such juvenile to the temporary custody of the Office of Juvenile

1 Services prior to disposition. The office may place a juvenile in  
2 residential or nonresidential community-based evaluation services  
3 for purposes of evaluation to assist the court in determining the  
4 initial level of treatment for the juvenile.

5 (4) During any period of detention or evaluation prior to  
6 disposition:

7 (a) Except as provided in subdivision (4)(b) of this  
8 section, the county in which the case is pending is responsible  
9 for all detention costs incurred before and after an evaluation  
10 period prior to disposition, the cost of delivering the juvenile  
11 to the facility or institution for an evaluation, and the cost of  
12 returning the juvenile to the court for disposition; and

13 (b) The state is responsible for (i) the costs incurred  
14 during an evaluation unless otherwise ordered by the court pursuant  
15 to section 43-290 and (ii) the preevaluation detention costs for  
16 any days over the first ten days from the date the evaluation is  
17 ordered by the court.

18 (5) ~~The Office of Juvenile Services and the Department of~~  
19 ~~Health and Human Services office and the system~~ are not responsible  
20 for predisposition costs except as provided in subdivision (4)(b)  
21 of this section.

22 Sec. 221. Section 43-420, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 43-420 Any hearing required or permitted for juveniles  
25 in the custody of the Office of Juvenile Services, except a  
26 preliminary parole revocation hearing, shall be conducted by a  
27 hearing officer who is an attorney licensed to practice law in

1 the State of Nebraska and may be an employee of the ~~Department of~~  
2 ~~Health and Human Services~~ Health and Human Services System or an  
3 attorney who is an independent contractor. If the hearing officer  
4 is an employee of the ~~department,~~ system, he or she shall not be  
5 assigned to any duties requiring him or her to give ongoing legal  
6 advice to any person employed by or who is a contractor with the  
7 office.

8           Sec. 222. Section 43-421, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           43-421 When a juvenile is charged with being in violation  
11 of a condition of his or her parole, the juvenile is entitled to:

12           (1) Notice of the alleged violations of parole at least  
13 twenty-four hours prior to a hearing on the allegations. Such  
14 notice shall contain a concise statement of the purpose of the  
15 hearing and the factual allegations upon which evidence will be  
16 offered;

17           (2) A prompt hearing, within fourteen days after the  
18 preliminary hearing, if the juvenile is being held pending the  
19 hearing;

20           (3) Reasonable continuances granted by the hearing  
21 officer for the juvenile to prepare for the hearing;

22           (4) Have his or her parents notified of the hearing and  
23 allegations and have his or her parents attend the hearing;

24           (5) Be represented by legal counsel at the expense of the  
25 ~~Department of Health and Human Services~~ Health and Human Services  
26 System unless retained legal counsel is available to the juvenile.

27 The ~~department~~ system may contract with attorneys to provide such

1 representation to juveniles charged with parole violations;

2 (6) Compel witnesses to attend, testify on his or her own  
3 behalf, present evidence, and cross-examine witnesses against him  
4 or her; and

5 (7) Present a statement on his or her own behalf.

6 Sec. 223. Section 43-423, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 43-423 At the parole violation hearing, the hearing  
9 officer shall again advise the juvenile of his or her rights and  
10 ensure that the juvenile has received the notice of allegations  
11 and the possible consequences. Strict rules of evidence shall  
12 not be applied. The hearing officer shall determine whether the  
13 detention of the juvenile or other restrictions are necessary for  
14 the safety of the juvenile or for the public safety and shall  
15 indicate to what extent the juvenile will continue to be detained  
16 or restricted pending a final decision and administrative appeal.  
17 The hearing officer shall issue a written recommended disposition  
18 to the Administrator of the Office of Juvenile Services or his  
19 or her designee who shall promptly affirm, modify, or reverse the  
20 recommended disposition. The final decision of the administrator or  
21 his or her designee may be appealed pursuant to the Administrative  
22 Procedure Act. ~~The Department of Health and Human Services~~ Health  
23 and Human Services System shall be deemed to have acted within its  
24 jurisdiction if its action is in the best interests of the juvenile  
25 with due consideration being given to public safety. The appeal  
26 shall in all other respects be governed by the Administrative  
27 Procedure Act.

1           Sec. 224. Section 43-503, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           43-503 The ~~Department of Health and Human Services~~ Health  
4 and Human Services System shall cooperate and coordinate its child  
5 and maternal welfare activities with those of state institutions,  
6 the vocational rehabilitation division of the State Department  
7 of Education, courts, county boards, charities and all other  
8 organizations, societies and agencies, state and national, to  
9 promote child welfare and health.

10          Sec. 225. Section 43-504.01, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12          43-504.01 As a condition of eligibility for aid for  
13 children included in section 43-504, a partially or totally  
14 unemployed parent or needy caretaker shall participate in the  
15 employment preparation or training program for aid to dependent  
16 children, unless considered exempt under rules and regulations  
17 adopted and promulgated by the ~~Director of Health and Human~~  
18 ~~Services,~~ Health and Human Services System, and any totally or  
19 partially unemployed parent or needy caretaker who fails or refuses  
20 without good cause to participate in the employment preparation  
21 or training program or who refuses without good cause to accept  
22 employment in which he or she is able to engage which will increase  
23 his or her ability to maintain himself or herself and his or her  
24 family shall be deemed by such refusal to have rendered his or her  
25 children ineligible for further aid until he or she has complied  
26 with this section.

27          The requirements of this section shall also apply to any



1 dependent child unless he or she is under age sixteen or attending,  
2 full time, an elementary, secondary, or vocational school.

3 Sec. 226. Section 43-507, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 43-507 The ~~Director of Health and Human Services~~, in  
6 Health and Human Services System, on behalf of mentally and  
7 physically handicapped children, shall (1) obtain admission to  
8 state and other suitable schools, hospitals, or other institutions  
9 or care in their own homes or in family, free, or boarding  
10 homes for such children in accordance with the provisions of the  
11 existing law, (2) maintain medical supervision over such mentally  
12 or physically handicapped children, and (3) provide necessary  
13 medical or surgical care in a suitable hospital, sanitarium,  
14 preventorium, or other institution or in the child's own home or a  
15 home for any medically handicapped child needing such care and pay  
16 for such care from public funds, if necessary.

17 Sec. 227. Section 43-508, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 43-508 The ~~Director of Health and Human Services~~  
20 Health and Human Services System shall cooperate with the state  
21 institutions for delinquent and mentally and physically handicapped  
22 children to ascertain the conditions of the home and the character  
23 and habits of the parents of a child, before his or her discharge  
24 from a state institution, and make recommendations as to the  
25 advisability of returning the child to his or her home. In case the  
26 director deems it unwise to have any such child returned to his or  
27 her former home, such state institution may, with the consent of

1 the director, place such child into the care of the director.

2           Sec. 228. Section 43-511, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           43-511 ~~The Director of Health and Human Services~~ Health  
5 and Human Services System shall extend the assistance and services  
6 herein provided for to all children in rural districts throughout  
7 this state, in order that the same benefits and facilities shall be  
8 available to children in such districts as in urban areas.

9           Sec. 229. Section 43-512, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           43-512 (1) Any dependent child as defined in section  
12 43-504 or any relative or eligible caretaker of such a dependent  
13 child may file with the ~~Department of Health and Human Services~~  
14 Health and Human Services System, a written application for  
15 financial assistance for such child on forms furnished by the  
16 department.

17           (2) The ~~department~~, Health and Human Services System,  
18 through its agents and employees, shall make such investigation  
19 pursuant to the application as it deems necessary or as may  
20 be required by the county attorney or authorized attorney. If  
21 the investigation or the application for financial assistance  
22 discloses that such child has a parent or stepparent who is able  
23 to contribute to the support of such child and has failed to do  
24 so, a copy of the finding of such investigation and a copy of the  
25 application shall immediately be filed with the county attorney or  
26 authorized attorney.

27           (3) The ~~department~~ Health and Human Services System shall

1 make a finding as to whether the application referred to in  
2 subsection (1) of this section should be allowed or denied. If  
3 the ~~department~~ system finds that the application should be allowed,  
4 the ~~department~~ system shall further find the amount of monthly  
5 assistance which should be paid with reference to such dependent  
6 child. Except as may be otherwise provided, payments shall be made  
7 by state warrant, and the amount of payments shall not exceed three  
8 hundred dollars per month when there is but one dependent child and  
9 one eligible caretaker in any home, plus an additional seventy-five  
10 dollars per month on behalf of each additional eligible person. No  
11 payments shall be made for amounts totaling less than ten dollars  
12 per month except in the recovery of overpayments.

13 (4) The amount which shall be paid as assistance with  
14 respect to a dependent child shall be based in each case upon the  
15 conditions disclosed by the investigation made by the ~~department~~.  
16 Health and Human Services System. An appeal shall lie from the  
17 finding made in each case to the chief executive officer of the  
18 system or his or her designated representative. ~~to the Director of~~  
19 ~~Health and Human Services~~. Such appeal may be taken by any taxpayer  
20 or by any relative of such child. Proceedings for and upon appeal  
21 shall be conducted in the same manner as provided for in section  
22 68-1016.

23 (5) (a) For the purpose of preventing dependency, the  
24 ~~director~~ Health and Human Services System shall adopt and  
25 promulgate rules and regulations providing for services to former  
26 and potential recipients of aid to dependent children and medical  
27 assistance benefits. The ~~director~~ system shall adopt and promulgate

1 rules and regulations establishing programs and cooperating  
2 with programs of work incentive, work experience, job training,  
3 and education. The provisions of this section with regard to  
4 determination of need, amount of payment, maximum payment, and  
5 method of payment shall not be applicable to families or children  
6 included in such programs.

7 (b) If a recipient of aid to dependent children becomes  
8 ineligible for aid to dependent children as a result of increased  
9 hours of employment or increased income from employment after  
10 having participated in any of the programs established pursuant to  
11 subdivision (a) of this subsection, the recipient may be eligible  
12 for the following benefits, as provided in rules and regulations  
13 of the ~~department~~ system in accordance with sections 402, 417, and  
14 1925 of the federal Social Security Act, as amended, Public Law  
15 100-485, in order to help the family during the transition from  
16 public assistance to independence:

17 (i) An additional aid to dependent children payment in  
18 the amount of one-half of the previous month's aid to dependent  
19 children grant;

20 (ii) Child care as provided in subdivision (1)(c) of  
21 section 68-1724; and

22 (iii) Except as may be provided in accordance with  
23 subsection (2) of section 68-1713 and subdivision (1)(c) of section  
24 68-1724, medical assistance for up to twelve months after the month  
25 the recipient becomes employed and is no longer eligible for aid to  
26 dependent children.

27 (6) For purposes of sections 43-512 to 43-512.10 and

1 43-512.12 to 43-512.18:

2 (a) Authorized attorney shall mean an attorney, employed  
3 by the county subject to the approval of the county board, employed  
4 by the ~~department,~~ Health and Human Services System, or appointed  
5 by the court, who is authorized to investigate and prosecute child,  
6 spousal, and medical support cases. An authorized attorney shall  
7 represent the state as provided in section 43-512.03;

8 (b) Child support shall be defined as provided in section  
9 43-1705;

10 (c) Medical support shall include all expenses associated  
11 with the birth of a child and, if required pursuant to section  
12 42-369 or 43-290, medical and hospital insurance coverage or  
13 membership in a health maintenance organization or preferred  
14 provider organization;

15 (d) Spousal support shall be defined as provided in  
16 section 43-1715;

17 (e) State Disbursement Unit shall be defined as provided  
18 in section 43-3341; and

19 (f) Support shall be defined as provided in section  
20 43-3313.

21 Sec. 230. Section 43-512.02, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 43-512.02 (1) Any child or any relative, lawful  
24 custodian, guardian, or next friend of a child may file with the  
25 county attorney, authorized attorney, or other office designated  
26 by the ~~Department of Health and Human Services~~ Health and Human  
27 Services System an application for the same child, spousal, and

1 medical support collection or paternity determination services  
2 as are provided to dependent children and their relatives under  
3 sections 43-512 to 43-512.10 by the ~~department,~~ system, the county  
4 attorney, the authorized attorney, and the clerk of the district  
5 court.

6 (2) If an office other than the office of the county  
7 attorney or authorized attorney is authorized by the ~~department~~  
8 Health and Human Services System to accept such applications  
9 and if the application discloses that such child has a parent  
10 or stepparent who is able to contribute to the support of  
11 such child and has failed to do so, a copy of the application  
12 shall immediately be filed with the county attorney or authorized  
13 attorney.

14 (3) (a) The ~~department~~ Health and Human Services System  
15 shall determine an application fee to be charged to each individual  
16 who applies for services available in this section which shall  
17 not exceed the fee amount allowed by Title IV-D of the federal  
18 Social Security Act, as amended. The fee shall be collected from  
19 the individual or paid by the ~~department~~ system on the individual's  
20 behalf. The county attorney or authorized attorney may recover  
21 the fee from the parent or stepparent who owes child, spousal,  
22 or medical support and reimburse the applicant. The governmental  
23 entity which is actually collecting the delinquent support payments  
24 shall collect the fee and send it to the ~~department.~~ system.

25 (b) The ~~department~~ system may establish a schedule of  
26 amounts to be charged to recover any costs incurred in excess  
27 of any fees collected to cover administrative costs of providing

1 the full scope of services required by state law. The ~~department~~  
2 system shall by regulation establish a schedule of amounts to be  
3 paid for such services based upon the actual costs incurred in  
4 providing such services. The schedule shall be made available to  
5 all applicants for such services. Any amount charged to recover  
6 costs may be collected from the parent or stepparent who owes  
7 child, spousal, or medical support or from the individual who  
8 has applied for enforcement services, either directly from such  
9 individual or from the child or spousal support collected, but  
10 only if the individual has been notified that the county attorney  
11 or authorized attorney will recover costs from an individual who  
12 receives enforcement services. The ~~department~~ system shall not  
13 impose an application fee for services in any case in which  
14 the ~~department~~ system is authorized to continue to collect and  
15 distribute support payments after a family ceases to receive aid to  
16 dependent children payments.

17 Sec. 231. Section 43-512.03, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 43-512.03 (1) The county attorney or authorized attorney  
20 shall:

21 (a) On request by the ~~Department of Health and Human~~  
22 Services Health and Human Services System as described in  
23 subsection (2) of this section or when the investigation or  
24 application filed under section 43-512 or 43-512.02 justifies, file  
25 a complaint against a nonsupporting parent or stepparent in the  
26 district, county, or separate juvenile court praying for an order  
27 for child or medical support in cases when there is no existing

1 child or medical support order. After notice and hearing, the  
2 court shall adjudicate child and medical support liability of the  
3 nonsupporting parent or stepparent and enter an order accordingly;

4 (b) Enforce child, spousal, and medical support orders by  
5 an action for income withholding pursuant to the Income Withholding  
6 for Child Support Act;

7 (c) In addition to income withholding, enforce child,  
8 spousal, and medical support orders by other civil actions or  
9 administrative actions, citing the defendant for contempt, or  
10 filing a criminal complaint;

11 (d) Establish paternity and collect child and medical  
12 support on behalf of children born out of wedlock; and

13 (e) Carry out sections 43-512.12 to 43-512.18.

14 (2) The ~~department~~ Health and Human Services System may  
15 periodically review cases of individuals receiving enforcement  
16 services and make referrals to the county attorney or authorized  
17 attorney.

18 (3) In any action brought by or intervened in by a  
19 county attorney or authorized attorney under the Income Withholding  
20 for Child Support Act, the License Suspension Act, the Uniform  
21 Interstate Family Support Act, or sections 42-347 to 42-381,  
22 43-290, 43-512 to 43-512.10, 43-512.12 to 43-512.18, 43-1401 to  
23 43-1418, and 43-3328 to 43-3339, such attorneys shall represent the  
24 State of Nebraska.

25 (4) The State of Nebraska shall be a real party in  
26 interest in any action brought by or intervened in by a county  
27 attorney or authorized attorney for the purpose of establishing



1 paternity or securing, modifying, suspending, or terminating child  
2 or medical support or in any action brought by or intervened in by  
3 a county attorney or authorized attorney to enforce an order for  
4 child, spousal, or medical support.

5 (5) Nothing in this section shall be construed to  
6 interpret representation by a county attorney or an authorized  
7 attorney as creating an attorney-client relationship between the  
8 county attorney or authorized attorney and any party or witness to  
9 the action, other than the State of Nebraska, regardless of the  
10 name in which the action is brought.

11 Sec. 232. Section 43-512.05, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 43-512.05 (1) It shall be the duty of the clerks of  
14 the district courts to furnish the ~~Department of Health and Human~~  
15 ~~Services~~ Health and Human Services System monthly statistical  
16 information and any other information required by the ~~department~~  
17 system to properly account for child, spousal, and medical support  
18 payments. The clerk of each district court shall negotiate and  
19 enter into a written agreement with the ~~department~~ system in order  
20 to receive reimbursement for the costs incurred in carrying out  
21 sections 43-512 to 43-512.10 and 43-512.12 to 43-512.18.

22 (2) The ~~department~~ Health and Human Services System  
23 and the governing board of the county, county attorney, or  
24 authorized attorney may enter into a written agreement regarding  
25 the determination of paternity and child, spousal, and medical  
26 support enforcement for the purpose of implementing such sections.  
27 Paternity shall be established when it can be determined that the

1 collection of child support is feasible.

2 (3) The ~~department~~ Health and Human Services System shall  
3 adopt and promulgate rules and regulations regarding the rate  
4 and manner of reimbursement for costs incurred in carrying out  
5 such sections, taking into account relevant federal law, available  
6 federal funds, and any appropriations made by the Legislature.  
7 Any reimbursement funds shall be added to the budgets of those  
8 county officials who have performed the services as called for in  
9 the cooperative agreements and carried over from year to year as  
10 required by law.

11 Sec. 233. Section 43-512.06, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 43-512.06 (1) Notwithstanding any other provisions of  
14 law regarding confidentiality of records, every department and  
15 agency of state, county, and city government and every employer  
16 or other payor as defined in section 43-1709 shall assist and  
17 cooperate with the ~~Department of Health and Human Services~~ Health  
18 and Human Services System in locating absent parents, determining  
19 an absent parent's income and health insurance information, and  
20 identifying an absent parent's employer only for the purposes of  
21 establishing and collecting child, spousal, and medical support and  
22 of conducting reviews under sections 43-512.12 to 43-512.18. Such  
23 information shall be used for no other purpose. An action may be  
24 filed in district court to enforce this subsection.

25 (2) Notwithstanding any other provision of law regarding  
26 confidentiality of records, every public, private, or municipal  
27 utility shall, upon request, furnish to any county attorney,

1 authorized attorney, or the ~~Department of Health and Human Services~~  
2 Health and Human Services System a subscriber's name, social  
3 security number, and mailing and residence addresses only for the  
4 purposes of establishing and collecting child, spousal, and medical  
5 support and of conducting reviews under sections 43-512.12 to  
6 43-512.18. Such information shall be used for no other purpose. An  
7 action may be filed in district court to enforce this subsection.  
8 For purposes of this subsection, utility shall mean any entity  
9 providing electrical, gas, water, telephone, garbage disposal, or  
10 waste disposal service, including, but not limited to, any district  
11 or corporation organized under Chapter 70.

12           Sec. 234. Section 43-512.07, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           43-512.07 (1) Any action, payment, aid, or assistance  
15 listed in subdivisions (a) through (c) of this subsection shall  
16 constitute an assignment by operation of law to the ~~Department~~  
17 ~~of Health and Human Services~~ Health and Human Services System of  
18 any right to spousal or medical support when ordered by the court  
19 and to child support whether or not ordered by the court which a  
20 recipient may have in his or her own behalf or on behalf of any  
21 other person for whom an applicant receives such payments, aid, or  
22 assistance, including any accrued arrearages as of the time of the  
23 assignment:

24           (a) Application for and acceptance of one or more aid to  
25 dependent children payments by a parent, another relative, or a  
26 custodian;

27           (b) Receipt of aid by or on behalf of any dependent child

1 as defined in section 43-504; or

2 (c) Receipt of aid from child welfare funds.

3 The ~~department~~ system shall be entitled to retain such  
4 child, spousal, or other support up to the amount of payments,  
5 aid, or assistance provided to a recipient. For purposes of this  
6 section, the right to receive current and past-due child support  
7 shall belong to the child and the assignment shall be effective as  
8 to any such support even if the recipient of the payments, aid, or  
9 assistance is not the same as the payee of court-ordered support.

10 (2) After notification of the State Disbursement Unit  
11 receiving the child, spousal, or other support payments made  
12 pursuant to a court order that the person for whom such support  
13 is ordered is a recipient of payments, aid, or assistance listed  
14 in subsection (1) of this section, the ~~department~~ Health and Human  
15 Services System shall also give notice to the payee named in the  
16 court order at his or her last-known address.

17 (3) Upon written or other notification from the  
18 ~~department~~ Health and Human Services System or from another  
19 state of such assignment of child, spousal, or other support  
20 payments, the State Disbursement Unit shall transmit the support  
21 payments received to the ~~department~~ system or the other state  
22 without the requirement of a subsequent order by the court. The  
23 State Disbursement Unit shall continue to transmit the support  
24 payments for as long as the payments, aid, or assistance listed in  
25 subsection (1) of this section continues.

26 (4) Any court-ordered child, spousal, or other support  
27 remaining unpaid during the period of the assignment shall

1 constitute a debt and a continuing assignment at the termination  
2 of payments, aid, or assistance listed in subsection (1) of this  
3 section, collectible by the ~~department~~ Health and Human Services  
4 System or other state as reimbursement for such payments, aid, or  
5 assistance. However, any assignment pursuant to subdivisions (1)(b)  
6 and (1)(c) of this section shall be limited to the amount of child  
7 support due for any months during which such payments, aid, or  
8 assistance was made. The continuing assignment shall only apply to  
9 support payments made during a calendar period which exceed the  
10 specific amount of support ordered for that period. When payments,  
11 aid, or assistance listed in subsection (1) of this section have  
12 ceased and upon notice by the ~~department~~ system or the other state,  
13 the State Disbursement Unit shall continue to transmit to the  
14 ~~department~~ system or the other state any support payments received  
15 on arrearages in excess of the amount of support ordered for that  
16 specific calendar period until notified by the ~~department~~ system or  
17 the other state that the debt has been paid in full, except that  
18 any amount of support arrearages that has accrued or accrues after  
19 termination of payments, aid, or assistance listed in subsection  
20 (1) of this section shall be paid first by the unit to the person  
21 to whom support is due before any reimbursement is made to the  
22 ~~department~~ system or the other state.

23           Sec. 235. Section 43-512.11, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           43-512.11 The ~~Director of Health and Human Services~~  
26 Health and Human Services System shall report annually, not later  
27 than February 1 of each year, to the Legislature regarding the

1 effectiveness of programs established pursuant to subdivision  
2 (5) (a) of section 43-512. The report shall include, but not be  
3 limited to:

4 (1) The number of program participants;

5 (2) The number of program participants who become  
6 employed, whether such employment is full time or part time or  
7 subsidized or unsubsidized, and whether the employment was retained  
8 for at least thirty days;

9 (3) Supportive services provided to participants in the  
10 program;

11 (4) Grant reductions realized; and

12 (5) A cost and benefit statement for the program.

13 Sec. 236. Section 43-512.12, Revised Statutes Cumulative  
14 Supplement, 2006, is amended to read:

15 43-512.12 Child support orders in cases in which a party  
16 has applied for services under Title IV-D of the federal Social  
17 Security Act, as amended, shall be reviewed by the ~~Department~~  
18 ~~of Health and Human Services~~ Health and Human Services System to  
19 determine whether to refer such orders to the county attorney or  
20 authorized attorney for filing of an application for modification.  
21 An order shall be reviewed by the ~~department~~ system upon its own  
22 initiative or at the request of either parent when such review  
23 is required by Title IV-D of the federal Social Security Act, as  
24 amended. After review the ~~department~~ system shall refer an order  
25 to a county attorney or authorized attorney when the verifiable  
26 financial information available to the ~~department~~ system indicates:

27 (1) The present child support obligation varies from

1 the Supreme Court child support guidelines pursuant to section  
2 42-364.16 by more than the percentage, amount, or other criteria  
3 established by Supreme Court rule, and the variation is due to  
4 financial circumstances which have lasted at least three months and  
5 can reasonably be expected to last for an additional six months; or

6 (2) Health insurance is available to the obligor as  
7 provided in subsection (2) of section 42-369 and the children are  
8 not covered by health insurance other than the medical assistance  
9 program under the Medical Assistance Act.

10 An order shall not be reviewed by the ~~department~~  
11 system if it has not been three years since the present child  
12 support obligation was ordered. An order shall not be reviewed  
13 by the ~~department~~ system more than once every three years  
14 unless the requesting party demonstrates a substantial change  
15 in circumstances, and an order may be reviewed after one year if  
16 the ~~department's~~ system's determination after the previous review  
17 was not to refer to the county attorney or authorized attorney  
18 for filing of an application for modification because financial  
19 circumstances had not lasted or were not expected to last for the  
20 time periods established by subdivision (1) of this section.

21 Sec. 237. Section 43-512.13, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 43-512.13 (1) When review of a child support order  
24 pursuant to section 43-512.12 has been requested by one of  
25 the parents or initiated by the ~~Department of Health and Human~~  
26 ~~Services, the department~~ Health and Human Services System, the  
27 system shall send notice of the pending review to each parent

1 affected by the order at the parent's last-known mailing address  
2 thirty days before the review is conducted. Such review shall  
3 require the parties to submit financial information as provided in  
4 sections 43-512.14 and 43-512.17.

5 (2) After the ~~department~~ system completes the review of  
6 the child support order in accordance with section 43-512.12, it  
7 shall send notice to each parent of the determination to refer  
8 or not refer the order to the county attorney or authorized  
9 attorney for filing of an application for modification of the  
10 order in the district court. Each parent shall be allowed thirty  
11 days to submit to the ~~department~~ system a written request for  
12 a review of such determination. The parent requesting review  
13 shall submit the request in writing to the ~~department,~~ system,  
14 stating the reasons for the request and providing written evidence  
15 to support the request. The ~~department~~ system shall review  
16 the available verifiable financial information and make a final  
17 determination whether or not to refer the order to the county  
18 attorney or authorized attorney for filing of an application for  
19 modification of the child support order. Written notice of such  
20 final determination shall be sent to each parent affected by  
21 the order at the parent's last-known mailing address. A final  
22 determination under this subsection shall not be considered a  
23 contested case for purposes of the Administrative Procedure Act.

24 Sec. 238. Section 43-512.14, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26 43-512.14 Each parent requesting review shall provide  
27 the financial information as provided in section 43-512.17 to



1 the ~~Department of Health and Human Services~~ Health and Human  
2 Services System upon request of the ~~department.~~ system. The parent  
3 requesting review shall also provide an affidavit regarding the  
4 financial circumstances of the nonrequesting parent upon the  
5 request of the ~~department.~~ system. Failure by a nonrequesting  
6 parent to provide adequate financial information shall create a  
7 rebuttable presumption that such parent's income has changed for  
8 purposes of section 43-512.12.

9           Referral of an order to a county attorney or authorized  
10 attorney under this section shall create a rebuttable presumption  
11 that there has been a material change in financial circumstances  
12 of one of the parents such that the child support obligation shall  
13 be increased at least ten percent if there is inadequate financial  
14 information regarding the noncustodial parent or that the child  
15 support obligation shall be decreased at least ten percent if there  
16 is inadequate financial information regarding the custodial parent.  
17 Such referral shall also be sufficient to rebut the presumption  
18 specified in section 42-364.16, and the court, after notice and an  
19 opportunity to be heard, may order a decrease or an increase of at  
20 least ten percent in the child support obligation as provided in  
21 this section.

22           Sec. 239. Section 43-512.15, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           43-512.15 (1) The county attorney or authorized attorney,  
25 upon referral from the ~~Department of Health and Human Services,~~  
26 Health and Human Services System, shall file a complaint to  
27 modify a child support order unless the attorney determines in the

1 exercise of independent professional judgment that:

2 (a) The variation from the Supreme Court child support  
3 guidelines pursuant to section 42-364.16 is based on material  
4 misrepresentation of fact concerning any financial information  
5 submitted to the attorney;

6 (b) The variation from the guidelines is due to a  
7 voluntary reduction in net monthly income; or

8 (c) When the amount of the order is considered with all  
9 the other undisputed facts in the case, no variation from the  
10 criteria set forth in subdivisions (1) and (2) of section 43-512.12  
11 exists.

12 (2) The proceedings to modify a child support order shall  
13 comply with section 42-364, and the county attorney or authorized  
14 attorney shall represent the state in the proceedings.

15 (3) After a complaint to modify a child support order is  
16 filed, any party may choose to be represented personally by private  
17 counsel. Any party who retains private counsel shall so notify the  
18 county attorney or authorized attorney in writing.

19 Sec. 240. Section 43-512.17, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 43-512.17 Any financial information provided to the  
22 ~~Department of Health and Human Services,~~ Health and Human Services  
23 System, the county attorney, or the authorized attorney by either  
24 parent for the purpose of facilitating a modification proceeding  
25 under sections 43-512.12 to 43-512.18 may be disclosed to the other  
26 parties to the case or to the court. Financial information shall  
27 include the following:

1           (1) An affidavit of financial status provided by the  
2 party requesting review;

3           (2) An affidavit of financial status of the nonrequesting  
4 party provided by the nonrequesting party or by the requesting  
5 party at the request of the county attorney or authorized attorney;

6           (3) Supporting documentation such as state and federal  
7 income tax returns, paycheck stubs, W-2 forms, 1099 forms, bank  
8 statements, and other written evidence of financial status; and

9           (4) Information relating to health insurance as provided  
10 in subsection (2) of section 42-369.

11           Sec. 241. Section 43-515, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           43-515 In each case the ~~Director of Health and Human~~  
14 ~~Services~~ Health and Human Services System shall make such  
15 investigation and reinvestigations as may be necessary to determine  
16 family circumstances and eligibility for assistance payments. Each  
17 applicant and recipient shall be notified in writing as to the  
18 approval or disapproval of any application, as to the amount of  
19 payments awarded, as to any change in the amount of payments  
20 awarded, and as to the discontinuance of payments.

21           Sec. 242. Section 43-522, Revised Statutes Cumulative  
22 Supplement, 2006, is amended to read:

23           43-522 The ~~Director of Finance and Support~~ Health and  
24 Human Services System shall expend state assistance funds allocated  
25 for medically handicapped children to supplement other state,  
26 county, and municipal, benevolent, fraternal, and charitable  
27 expenditures, to extend and improve, especially in rural areas

1 and in areas suffering from severe economic distress, services  
2 for locating physically and medically handicapped children and for  
3 providing medical, surgical, correction, and other services and  
4 care, and facilities for diagnosis, hospitalization, and aftercare,  
5 for children who are physically or medically handicapped or who  
6 are suffering from conditions which lead to medical handicaps.  
7 Expenditures and services shall be uniformly distributed so far as  
8 possible or practicable under conditions and circumstances which  
9 may be found to exist.

10           Sec. 243. Section 43-523, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           43-523 ~~The Director of Health and Human Services~~ Health  
13 and Human Services System shall make such reports to the Department  
14 of Health and Human Services of the United States in such form  
15 and containing such information as such department may from time  
16 to time require, and the system shall comply with such provisions  
17 as he or she may from time to time find necessary, to assure the  
18 correctness of such reports.

19           Sec. 244. Section 43-524, Revised Statutes Cumulative  
20 Supplement, 2006, is amended to read:

21           43-524 ~~The Director of Finance and Support~~ Health  
22 and Human Services System shall cooperate with medical, health,  
23 nursing, and welfare groups and organizations and with any agency  
24 in the state charged with providing for local rehabilitation of  
25 physically handicapped children.

26           Sec. 245. Section 43-525, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

1                   43-525 The Department of Health and Human Services  
2 ~~through its director~~ Health and Human Services System shall expend  
3 state assistance funds allocated for child welfare services in  
4 establishing, extending, and strengthening, especially in rural  
5 areas, child welfare services mentioned in sections 43-501 to  
6 43-526, for which other funds are not specifically or sufficiently  
7 made available by such sections or other laws of this state.

8                   Sec. 246. Section 43-529, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10                   43-529 (1) Payments with respect to any dependent child,  
11 including payments to meet the needs of the relative with whom such  
12 child is living, such relative's spouse, and the needs of any other  
13 individual living in the same home as such child and relative if  
14 such needs are taken into account in making the determination for  
15 eligibility of such child to receive aid to families with dependent  
16 children, may be made on behalf of such child, relative, and other  
17 person to either (a) another individual who, in accordance with  
18 standards set by the ~~Director of Health and Human Services,~~ Health  
19 and Human Services System, is interested in or concerned with the  
20 welfare of such child or relative, or (b) directly to a person  
21 or entity furnishing food, living accommodations, or other goods,  
22 services, or items to or for such child, relative, or other person,  
23 or (c) both such individual and such person or entity.

24                   (2) No such payments shall be made unless all of the  
25 following conditions are met: (a) The ~~director~~ Health and Human  
26 Services System has determined that the relative of such child  
27 with respect to whom such payments are made has such inability to

1 manage funds that making payments to him or her would be contrary  
2 to the welfare of the child and that it is therefor necessary  
3 to provide such aid with respect to such child and relative  
4 through payments described above to another interested individual,  
5 (b) the ~~director~~ system has made arrangements for undertaking and  
6 continuing special efforts to develop greater ability on the part  
7 of the relative to manage funds in such a manner as to protect the  
8 welfare of the family, and (c) the ~~director~~ system has approved  
9 a plan that provides for a periodic review to ascertain whether  
10 conditions justifying such payments still exist, with provision for  
11 termination of such payments if such conditions no longer exist and  
12 for judicial appointment of a guardian or conservator if it appears  
13 that the need for such special payments is continuing or is likely  
14 to continue beyond a period specified by the ~~director~~ system.

15           Sec. 247. Section 43-536, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17           43-536 In determining the rate of reimbursement for  
18 child care, the ~~Department of Health and Human Services Finance~~  
19 ~~and Support~~ Health and Human Services System shall conduct a  
20 market rate survey of the child care providers in the state.  
21 The ~~Department of Health and Human Services~~ system shall adjust  
22 the reimbursement rate for child care every odd-numbered year at  
23 a rate not less than the sixtieth percentile and not to exceed  
24 the seventy-fifth percentile of the current market rate survey,  
25 except that (1) nationally accredited child care providers may  
26 be reimbursed at higher rates and (2) for the two fiscal years  
27 beginning July 1, 2003, such rate may be less than the sixtieth

1 percentile but shall not be less than the rate for the immediately  
2 preceding fiscal year.

3           Sec. 248. Section 43-701, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           43-701 Except as otherwise provided in the Nebraska  
6 Indian Child Welfare Act, no person, other than a parent, shall (1)  
7 place, (2) assist in placing, (3) advertise a child for placement,  
8 or (4) give the care and custody of any child to any person or  
9 association for adoption or otherwise, except for temporary or  
10 casual care, unless such person shall be duly licensed by the  
11 ~~Department of Health and Human Services~~ Health and Human Services  
12 System under such rules and regulations as the ~~department~~ system  
13 shall prescribe. The ~~department~~ system may grant or revoke such  
14 a license and make all needful rules regarding the issuance or  
15 revocation thereof.

16           Sec. 249. Section 43-702, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           43-702 Persons or courts charged with the care of  
19 dependent and delinquent children who place out or give the care  
20 and custody of any child to any person or association shall keep  
21 and preserve such records as may be prescribed by the ~~Department~~  
22 ~~of Health and Human Services.~~ Health and Human Services System. The  
23 records shall be reported to the ~~department~~ system on the first day  
24 of each month and shall include the (1) full name and actual or  
25 apparent age of such child, (2) names and residence of the child's  
26 parents, so far as known, and (3) name and residence of the person  
27 or association with whom such child is placed. If such person or

1 court subsequently removes the child from the custody of the person  
2 or association with whom the child was placed, the fact of the  
3 removal and disposition of the child shall be entered upon such  
4 record.

5 Sec. 250. Section 43-705, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 43-705 The ~~Department of Health and Human Services,~~  
8 Health and Human Services System, or such person as it may  
9 authorize, may visit any child so placed, who has not been legally  
10 adopted, with a view of ascertaining whether such child is being  
11 properly cared for and living under moral surroundings.

12 Sec. 251. Section 43-706, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 43-706 Whenever the ~~Department of Health and Human~~  
15 ~~Services~~ Health and Human Services System has reason to believe  
16 that any person having the care or custody of a child placed out,  
17 and not legally adopted, is an improper person for such care or  
18 custody, or subjects such child to cruel treatment, or neglect, or  
19 immoral surroundings, it shall cause a complaint to be filed in the  
20 proper juvenile court.

21 Sec. 252. Section 43-707, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 43-707 The ~~Department of Health and Human Services~~ Health  
24 and Human Services System shall have the power and it shall be its  
25 duty:

26 (1) To promote the enforcement of laws for the protection  
27 and welfare of children born out of wedlock, mentally and



1 physically handicapped children, and dependent, neglected, and  
2 delinquent children, except laws the administration of which is  
3 expressly vested in some other state department or division, and  
4 to take the initiative in all matters involving such children when  
5 adequate provision therefor has not already been made;

6 (2) To visit and inspect public and private institutions,  
7 agencies, societies, or persons caring for, receiving, placing out,  
8 or handling children;

9 (3) To prescribe the form of reports required by law to  
10 be made to the ~~department~~ system by public officers, agencies, and  
11 institutions;

12 (4) To exercise general supervision over the  
13 administration and enforcement of all laws governing the  
14 placing out and adoption of children;

15 (5) To advise with judges and probation officers  
16 of courts of domestic relations and juvenile courts of the  
17 several counties, with a view to encouraging, standardizing, and  
18 coordinating the work of such courts and officers throughout the  
19 state; and

20 (6) To regulate the issuance of certificates or licenses  
21 to such institutions, agencies, societies, or persons and to revoke  
22 such licenses or certificates for good cause shown. If a license is  
23 refused or revoked, the refusal or revocation may be appealed, and  
24 the appeal shall be in accordance with the Administrative Procedure  
25 Act.

26 Sec. 253. Section 43-708, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

1           43-708 No official, agent, or representative of the  
2 ~~Department of Health and Human Services~~ Health and Human Services  
3 System shall, by virtue of sections 43-701 to 43-709, have any  
4 right to enter any home over the objection of the occupants thereof  
5 or to take charge of any child over the objection of the parents,  
6 or either of them, or of the person standing in loco parentis  
7 or having the custody of such child. Nothing in sections 43-701  
8 to 43-709 shall be construed as limiting the power of a parent  
9 or guardian to determine what treatment or correction shall be  
10 provided for a child or the agency or agencies to be employed for  
11 such purposes.

12           Sec. 254. Section 43-903, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           43-903 Any court acting pursuant to the Nebraska Juvenile  
15 Code shall commit to the care of the ~~Department of Health and~~  
16 ~~Human Services~~ Health and Human Services System or any regularly  
17 organized and incorporated society or institution, for the purpose  
18 of caring for and placing in good family homes, all children,  
19 except those already committed to the care of responsible persons  
20 or institutions, who have been decreed to be children as described  
21 in subdivision (3)(a) of section 43-247 and who for that reason  
22 must be removed from the care of their parents or legal guardians.

23           Sec. 255. Section 43-905, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           43-905 (1) The ~~Department of Health and Human Services~~  
26 Health and Human Services System shall be the legal guardian of  
27 all children committed to it. The ~~department~~ system shall afford

1 temporary care and shall use special diligence to provide suitable  
2 homes for such children. The ~~department~~ system is authorized to  
3 place such children in suitable families for adoption or, in the  
4 discretion of the ~~department,~~ system, on a written contract.

5 (2) The contract shall provide (a) for the children's  
6 education in the public schools or otherwise, (b) for teaching them  
7 some useful occupation, and (c) for kind and proper treatment as  
8 members of the family in which they are placed.

9 (3) Whenever any child who has been committed to  
10 the ~~Department of Health and Human Services~~ system becomes  
11 self-supporting, the ~~Director of Health and Human Services~~ system  
12 shall declare that fact and the guardianship of the ~~department~~  
13 system shall cease. Thereafter the child shall be entitled to his  
14 or her own earnings. Guardianship of and services by the ~~department~~  
15 system shall never extend beyond the age of majority, except that  
16 services by the ~~department~~ system to a child shall continue until  
17 the child reaches the age of twenty-one if the child is a student  
18 regularly attending a school, college, or university or regularly  
19 attending a course of vocational or technical training designed to  
20 prepare such child for gainful employment.

21 (4) Whenever the parents of any ward, whose parental  
22 rights have not been terminated, have become able to support and  
23 educate their child, the ~~department~~ system shall restore the child  
24 to his or her parents if the home of such parents would be a  
25 suitable home. The guardianship of the ~~department~~ system shall then  
26 cease.

27 (5) Whenever permanent free homes for the children cannot

1 be obtained, the ~~department~~ system shall have the authority to  
2 provide and pay for the maintenance of the children in private  
3 families, boarding homes, or institutions for care of children.

4 Sec. 256. Section 43-906, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 43-906 Except as otherwise provided in the Nebraska  
7 Indian Child Welfare Act, the ~~Department of Health and Human~~  
8 ~~Services,~~ Health and Human Services System, or its duly authorized  
9 agent, may consent to the adoption of children committed to it  
10 upon the order of a juvenile court if the parental rights of  
11 the parents or of the mother of a child born out of wedlock  
12 have been terminated and if no father of a child born out of  
13 wedlock has timely asserted his paternity rights under section  
14 43-104.02, or upon the relinquishment to such ~~department~~ system  
15 by their parents or the mother and, if required under sections  
16 43-104.08 to 43-104.24, the father of a child born out of wedlock.  
17 The parental rights of parents of a child born out of wedlock  
18 shall be determined pursuant to sections 43-104.05 and 43-104.08 to  
19 43-104.24.

20 Sec. 257. Section 43-907, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 43-907 Unless a guardian shall have been appointed by a  
23 court of competent jurisdiction, the ~~Director of Health and Human~~  
24 ~~Services~~ Health and Human Services System shall take custody of and  
25 exercise general control over assets owned by children under ~~his~~  
26 ~~or her~~ the charge of the system. Children owning assets shall at  
27 all times pay for personal items. Assets over and above a maximum

1 of one thousand dollars and current income shall be available for  
2 reimbursement to the state for the cost of care. Assets may be  
3 deposited in a checking account, invested in United States bonds,  
4 or deposited in a savings account insured by the United States  
5 Government. All income received from the investment or deposit  
6 of assets shall be credited to the individual child whose assets  
7 were invested or deposited. The ~~director~~ system shall make and  
8 maintain detailed records showing all receipts, investments, and  
9 expenditures of assets owned by children under ~~his or her~~ the  
10 charge of the system.

11           Sec. 258. Section 43-908, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           43-908 An attempt shall be made by the ~~Director of~~  
14 ~~Health and Human Services~~ Health and Human Services System to  
15 locate children who arrive at the age of majority for the purpose  
16 of delivering and transferring to any such child such funds or  
17 property as he or she may own. In the event that such child cannot  
18 be located within five years after the child arrives at the age  
19 of majority, any funds or assets owned by him or her shall be  
20 transferred to the state treasury of the State of Nebraska.

21           Sec. 259. Section 43-1005, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23           43-1005 The expense of returning juveniles to this state  
24 pursuant to the Interstate Compact on Juveniles shall be paid as  
25 follows:

26           (1) In the case of a runaway under Article IV, the  
27 court making the requisition shall inquire summarily regarding the

1 financial ability of the petitioner to bear the expense and if  
2 it finds he or she is able to do so shall order that he or  
3 she pay all such expenses; otherwise the court shall arrange for  
4 the transportation at the expense of the county and order that  
5 the county reimburse the person, if any, who returns the juvenile  
6 for his or her actual and necessary expenses; and the court may  
7 order that the petitioner reimburse the county for so much of  
8 said expense as the court finds he or she is able to pay. If the  
9 petitioner fails, without good cause, or refuses to pay such sum,  
10 he or she may be proceeded against for contempt.

11 (2) In the case of an escapee or absconder under Article  
12 V or Article VI, if the juvenile is in the legal custody of the  
13 ~~Department of Health and Human Services~~ Health and Human Services  
14 System it shall bear the expense of his or her return; otherwise  
15 the appropriate court shall, on petition of the person entitled  
16 to his or her custody or charged with his or her supervision,  
17 arrange for the transportation at the expense of the county and  
18 order that the county reimburse the person, if any, who returns  
19 the juvenile, for his or her actual and necessary expenses. In  
20 this subdivision appropriate court means the juvenile court which  
21 adjudged the juvenile to be delinquent or, if the juvenile is under  
22 supervision for another state under Article VII of the compact,  
23 then the juvenile court of the county of the juvenile's residence  
24 during such supervision.

25 (3) In the case of a voluntary return of a runaway  
26 without requisition under Article VI, the person entitled to his or  
27 her legal custody shall pay the expense of transportation and the

1 actual and necessary expenses of the person, if any, who returns  
2 such juvenile; but if he or she is financially unable to pay all  
3 the expenses he or she may petition the juvenile court of the  
4 county of the petitioner's residence for an order arranging for the  
5 transportation as provided in subdivision (1) of this section. The  
6 court shall inquire summarily into the financial ability of the  
7 petitioner, and, if it finds he or she is unable to bear any or all  
8 of the expense, the court shall arrange for such transportation at  
9 the expense of the county and shall order the county to reimburse  
10 the person, if any, who returns the juvenile, for his or her actual  
11 and necessary expenses. The court may order that the petitioner  
12 reimburse the county for so much of said expense as the court finds  
13 he or she is able to pay. If the petitioner fails, without good  
14 cause, or refuses to pay such sum, he or she may be proceeded  
15 against for contempt.

16           Sec. 260. Section 43-1102, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           43-1102 The Department of Health and Human Services  
19 Health and Human Services System is the successor to the Department  
20 of Health and Human Services and the Department of Social Services  
21 for purposes of Article X of the Interstate Compact on the  
22 Placement of Children found in section 43-1101.

23           Sec. 261. Section 43-1301, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           43-1301 For purposes of the Foster Care Review Act,  
26 unless the context otherwise requires:

27           (1) Local board ~~shall mean~~ means a local foster care

1 review board created pursuant to section 43-1304;

2 (2) State board ~~shall mean~~ means the State Foster Care  
3 Review Board created pursuant to section 43-1302;

4 (3) Foster care facility ~~shall mean~~ means any foster  
5 home, group home, child care facility, public agency, private  
6 agency, or any other person or entity receiving and caring for  
7 foster children;

8 (4) Foster care placements ~~shall mean~~ means all  
9 placements of juveniles as described in subdivision (3)(b) of  
10 section 43-247, placements of neglected, dependent, or delinquent  
11 children, including those made directly by parents or by third  
12 parties, and placements of children who have been voluntarily  
13 relinquished pursuant to section 43-106.01 to the ~~Department of~~  
14 ~~Health and Human Services~~ Health and Human Services System or any  
15 child placement agency licensed by the ~~Department of Health and~~  
16 ~~Human Services,~~ system;

17 (5) Person or court in charge of the child ~~shall mean~~  
18 means (a) the ~~Department of Health and Human Services,~~ Health and  
19 Human Services System, an association, or an individual who has  
20 been made the guardian of a neglected, dependent, or delinquent  
21 child by the court and has the responsibility of the care of the  
22 child and has the authority by and with the assent of the court to  
23 place such a child in a suitable family home or institution or has  
24 been entrusted with the care of the child by a voluntary placement  
25 made by a parent or legal guardian, (b) the court which has  
26 jurisdiction over the child, or (c) the entity having jurisdiction  
27 over the child pursuant to the Nebraska Indian Child Welfare Act;



1           (6) Voluntary placement ~~shall mean~~ means the placement by  
2 a parent or legal guardian who relinquishes the possession and care  
3 of a child to a third party, individual, or agency;

4           (7) Family unit ~~shall mean~~ means the social unit  
5 consisting of the foster child and the parent or parents or any  
6 person in the relationship of a parent, including a grandparent,  
7 and any siblings with whom the foster child legally resided prior  
8 to placement in foster care;

9           (8) Child-caring agency ~~shall have~~ has the definition  
10 found in section 71-1902; and

11           (9) Child-placing agency ~~shall have~~ has the definition  
12 found in section 71-1902.

13           Sec. 262. Section 43-1303, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15           43-1303 (1) The state board shall meet at least twice per  
16 year. The state board shall establish a statewide register of all  
17 foster care placements occurring within the state, and there shall  
18 be a monthly report made to the state board registry of all foster  
19 care placements by the ~~Department of Health and Human Services,~~  
20 Health and Human Services System, any child-placing agency, or any  
21 court in a form as developed by the state board in consultation  
22 with representatives of entities required to make such reports. For  
23 each child entering and leaving foster care, such monthly report  
24 shall consist of identifying information, placement information,  
25 and the plan or permanency plan developed by the person or court  
26 in charge of the child pursuant to section 43-1312. The ~~department~~  
27 system and every court and child-placing agency shall report any

1 foster care placement within three working days. The report shall  
2 contain the following information:

3 (a) Child identification information, including name,  
4 social security number, date of birth, gender, race, and religion;

5 (b) Identification information for parents and  
6 stepparents, including name, social security number, address, and  
7 status of parental rights;

8 (c) Placement information, including initial placement  
9 date, current placement date, and the name and address of the  
10 foster care provider;

11 (d) Court status information, including which court has  
12 jurisdiction, initial custody date, court hearing date, and results  
13 of the court hearing;

14 (e) Agency or other entity having custody of the child;

15 (f) Case worker; and

16 (g) Permanency Plan Objective.

17 (2) The state board shall review the activities of local  
18 boards and may adopt and promulgate its own rules and regulations.  
19 Such rules and regulations shall provide for the following:

20 (a) Establishment of training programs for local board  
21 members which shall include an initial training program and  
22 periodic inservice training programs;

23 (b) Development of procedures for local boards;

24 (c) Establishment of a central record-keeping facility  
25 for all local board files, including individual case reviews;

26 (d) Accumulation of data and the making of annual reports  
27 on children in foster care. Such reports shall include (i) personal

1 data on length of time in foster care, (ii) number of placements,  
2 (iii) frequency and results of court review, and (iv) number  
3 of children supervised by the foster care programs in the state  
4 annually;

5 (e) To the extent not prohibited by section 43-1310,  
6 evaluation of the judicial and administrative data collected on  
7 foster care and the dissemination of such data to the judiciary,  
8 public and private agencies, the ~~department,~~ system, and members of  
9 the public; and

10 (f) Manner in which the state board shall determine the  
11 appropriateness of requesting a review hearing as provided for in  
12 section 43-1313.

13 (3) The state board, upon completion of a review of  
14 local board activities, shall report and make recommendations to  
15 the ~~department~~ system and county welfare offices. Such reports and  
16 recommendations shall include, but not be limited to, the annual  
17 judicial and administrative data collected on foster care pursuant  
18 to subsection (2) of this section and the annual evaluation of  
19 such data. In addition the state board shall provide copies of  
20 such reports and recommendations to each court having the authority  
21 to make foster care placements. The state board may visit and  
22 observe foster care facilities in order to ascertain whether the  
23 individual physical, psychological, and sociological needs of each  
24 foster child are being met.

25 Sec. 263. Section 43-1304, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27 43-1304 The state board shall establish local foster care

1 review boards for the review of cases of children in foster care  
2 placement. The state board shall select members to serve on local  
3 boards from a list of applications submitted to the state board.  
4 Each local board shall consist of not less than four and not  
5 more than ten members. The members of the board shall reasonably  
6 represent the various social, economic, racial, and ethnic groups  
7 of the county or counties from which its members may be appointed.  
8 A person employed by the state board, the ~~Department of Health and~~  
9 ~~Human Services,~~ Health and Human Services System, a child-caring  
10 agency, a child-placing agency, or a court shall not be appointed  
11 to a local board. A list of the members of each local board shall  
12 be sent to the ~~department,~~ system.

13           Sec. 264. Section 43-1309, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15           43-1309 Upon the request of the state board or the  
16 designated local board, any records pertaining to a case assigned  
17 to such board, or upon the request of the ~~Department of Health~~  
18 ~~and Human Services,~~ Health and Human Services System, any records  
19 pertaining to a case assigned to the ~~department,~~ system, shall  
20 be furnished to the requesting board or ~~department~~ system by  
21 the agency charged with the child or any public official or  
22 employee of a political subdivision having relevant contact with  
23 the child. Upon the request of the state board or designated local  
24 board, and if such information is not obtainable elsewhere, the  
25 court having jurisdiction of the foster child shall release such  
26 information to the state board or designated local board as the  
27 court deems necessary to determine the physical, psychological, and

1 sociological circumstances of such foster child.

2           Sec. 265. Section 43-1310, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           43-1310 All records and information regarding foster  
5 children and their parents or relatives in the possession of  
6 the state board or local board shall be deemed confidential.  
7 Unauthorized disclosure of such confidential records and  
8 information or any violation of the rules and regulations of the  
9 ~~Department of Health and Human Services~~ Health and Human Services  
10 System or the state board shall be a Class III misdemeanor.

11           Sec. 266. Section 43-1312, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           43-1312 (1) Following the investigation conducted  
14 pursuant to section 43-1311 and immediately following the initial  
15 placement of the child, the person or court in charge of the child  
16 shall cause to be established a safe and appropriate plan for the  
17 child. The plan shall contain at least the following:

18           (a) The purpose for which the child has been placed in  
19 foster care;

20           (b) The estimated length of time necessary to achieve the  
21 purposes of the foster care placement;

22           (c) A description of the services which are to be  
23 provided in order to accomplish the purposes of the foster care  
24 placement;

25           (d) The person or persons who are directly responsible  
26 for the implementation of such plan; and

27           (e) A complete record of the previous placements of the

1 foster child.

2 (2) If the return of the child to his or her parents  
3 is not likely based upon facts developed as a result of the  
4 investigation, the ~~Department of Health and Human Services~~ Health  
5 and Human Services System shall recommend termination of parental  
6 rights and referral for adoption, guardianship, placement with a  
7 relative, or, as a last resort, another planned permanent living  
8 arrangement.

9 (3) Each child in foster care under the supervision of  
10 the ~~state~~ system shall have a permanency hearing by a court, no  
11 later than twelve months after the date the child enters foster  
12 care and annually thereafter during the continuation of foster  
13 care. The court's order shall include a finding regarding the  
14 appropriateness of the permanency plan determined for the child and  
15 shall include whether, and if applicable when, the child will be:

16 (a) Returned to the parent;

17 (b) Referred to the ~~state~~ system for filing of a petition  
18 for termination of parental rights;

19 (c) Placed for adoption;

20 (d) Referred for guardianship; or

21 (e) In cases where the ~~state agency~~ system has documented  
22 to the court a compelling reason for determining that it would not  
23 be in the best interests of the child to return home, (i) referred  
24 for termination of parental rights, (ii) placed for adoption with a  
25 fit and willing relative, or (iii) placed with a guardian.

26 Sec. 267. Section 43-1314.01, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

1                   43-1314.01 (1) The State Foster Care Review Board shall  
2 be responsible for the conduct of periodic reviews which shall  
3 be identified as reviews which meet the federal requirements for  
4 six-month case reviews pursuant to the federal Adoption Assistance  
5 and Child Welfare Act of 1980, Public Law 96-272. The state  
6 board shall be fiscally responsible for any noncompliance sanctions  
7 imposed by the federal government related to the requirements  
8 for review outlined in the federal Adoption Assistance and Child  
9 Welfare Act of 1980, Public Law 96-272. It is the intent of  
10 the Legislature that beginning October 1, 1996, the state board  
11 shall be the only state agency with the responsibility to conduct  
12 six-month case reviews pursuant to the federal Adoption Assistance  
13 and Child Welfare Act of 1980, Public Law 96-272.

14                   (2) It is the intent of the Legislature that any  
15 six-month court review of a juvenile pursuant to sections 43-278  
16 and 43-1313 shall be identified as a review which meets the federal  
17 requirements for six-month case reviews pursuant to the federal  
18 Adoption Assistance and Child Welfare Act of 1980, Public Law  
19 96-272.

20                   (3) The state board may assist the ~~Department of~~  
21 ~~Health and Human Services~~ Health and Human Services System as  
22 to eligibility under Title IV-E for state wards and eligibility  
23 for Supplemental Security Income, Supplemental Security Disability  
24 Income, Veterans Administration, or aid to families with dependent  
25 children benefits, for child support orders of the court, and for  
26 medical insurance other than medicaid.

27                   Sec. 268. Section 43-1319, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           43-1319 Funds of the ~~Department of Health and Human~~  
3 ~~Services~~ Health and Human Services System shall be used to defray  
4 the reasonable expenses incurred in the recruitment, training, and  
5 recognition of foster care providers and volunteers, including  
6 expenses incurred for community forums, public information  
7 sessions, and similar administrative functions.

8           Sec. 269. Section 43-1320, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           43-1320 (1) The Legislature finds and declares that  
11 foster parents are a valuable resource providing an important  
12 service to the citizens of Nebraska. The Legislature recognizes  
13 that the current insurance crisis has adversely affected some  
14 foster parents in several ways. Foster parents have been unable  
15 to obtain liability insurance coverage over and above homeowner's  
16 or tenant's coverage for actions filed against them by the foster  
17 child, the child's parents, or the child's legal guardian. In  
18 addition, the monthly payment made to foster parents is not  
19 sufficient to cover the cost of obtaining extended coverage and  
20 there is no mechanism in place by which foster parents can  
21 recapture the cost. Foster parents' personal resources are at risk,  
22 and therefor the Legislature desires to provide relief to address  
23 these problems.

24           (2) The ~~Department of Health and Human Services Finance~~  
25 ~~and Support~~ Health and Human Services System shall provide  
26 for self-insuring the foster parent program pursuant to section  
27 81-8,239.01 or shall provide and pay for liability and property



1 damage insurance for participants in a family foster parent program  
2 who have been licensed or approved to provide care or who have been  
3 licensed or approved by a legally established Indian tribal council  
4 operating within the state to provide care.

5 (3) There is hereby created the Foster Parent Liability  
6 and Property Damage Fund. The fund shall be administered by  
7 the ~~Department of Health and Human Services Finance and Support~~  
8 Health and Human Services System and shall be used to provide  
9 funding for self-insuring the foster parent program pursuant to  
10 section 81-8,239.01 or to purchase any liability and property  
11 damage insurance policy provided pursuant to subsection (2) of this  
12 section and reimburse foster parents for unreimbursed liability and  
13 property damage incurred or caused by a foster child as the result  
14 of acts covered by the insurance policy. Claims for unreimbursed  
15 liability and property damage incurred or caused by a foster child  
16 may be submitted in the manner provided in the State Miscellaneous  
17 Claims Act. Each claim shall be limited to the amount of any  
18 deductible applicable to the insurance policy provided pursuant to  
19 subsection (2) of this section, and there may be a fifty-dollar  
20 deductible payable by the foster parent per claim. The ~~Department~~  
21 ~~of Health and Human Services Finance and Support~~ system shall adopt  
22 and promulgate rules and regulations to carry out this section. Any  
23 money in the fund available for investment shall be invested by the  
24 state investment officer pursuant to the Nebraska Capital Expansion  
25 Act and the Nebraska State Funds Investment Act.

26 Sec. 270. Section 43-1408.01, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

1           43-1408.01 (1) During the period immediately before or  
2 after the in-hospital birth of a child whose mother was not married  
3 at the time of either conception or birth of the child or at  
4 any time between conception and birth of the child, the person in  
5 charge of such hospital or his or her designated representative  
6 shall provide to the child's mother and alleged father, if the  
7 alleged father is readily identifiable and available, the documents  
8 and written instructions for such mother and father to complete  
9 a notarized acknowledgment of paternity. Such acknowledgment, if  
10 signed by both parties and notarized, shall be filed with the  
11 ~~Department of Health and Human Services Finance and Support~~ Health  
12 and Human Services System at the same time at which the certificate  
13 of live birth is filed.

14           Nothing in this section shall be deemed to require the  
15 person in charge of such hospital or his or her designee to seek  
16 out or otherwise locate an alleged father who is not readily  
17 identifiable or available.

18           (2) The acknowledgment shall be executed on a form  
19 prepared by the ~~Department of Health and Human Services Finance~~  
20 ~~and Support.~~ Health and Human Services System. Such form shall  
21 be in essentially the same form provided by the ~~department~~ system  
22 and used for obtaining signatures required by section 71-640.02.  
23 The acknowledgment shall include, but not be limited to, (a)  
24 a statement by the mother consenting to the acknowledgment of  
25 paternity and a statement that the alleged father is the biological  
26 father of the child, (b) a statement by the alleged father that  
27 he is the biological father of the child, (c) written information

1 regarding parental rights and responsibilities, and (d) the social  
2 security numbers of the parents. ~~In addition to distribution~~  
3 ~~required by this section,~~ the form shall also be made available to  
4 ~~the Department of Health and Human Services for distribution.~~

5 (3) The form provided for in subsection (2) of this  
6 section shall also contain instructions for completion and filing  
7 with the ~~Department of Health and Human Services Finance and~~  
8 ~~Support Health and Human Services System~~ if it is not completed and  
9 filed with a birth certificate as provided in subsection (1) of  
10 this section.

11 (4) The ~~Department of Health and Human Services Finance~~  
12 ~~and Support Health and Human Services System~~ shall accept completed  
13 acknowledgment forms and make available to ~~the Department of Health~~  
14 ~~and Human Services,~~ county attorneys, or authorized attorneys  
15 a record of acknowledgments it has received, as provided in  
16 subsection (1) of section 71-612. The ~~Department of Health and~~  
17 ~~Human Services Finance and Support system~~ may prepare photographic,  
18 electronic, or other reproductions of acknowledgments. Such  
19 reproductions, when certified and approved by the ~~Department of~~  
20 ~~Health and Human Services Finance and Support,~~ system, shall be  
21 accepted as the original records, and the documents from which  
22 permanent reproductions have been made may be disposed of as  
23 provided by rules and regulations of the ~~Department of Health and~~  
24 ~~Human Services Finance and Support.~~ system.

25 (5) The ~~Department of Health and Human Services Health~~  
26 ~~and Human Services System~~ may by regulation establish a nominal  
27 payment and procedure for payment by ~~the department~~ for each

1 acknowledgment filed with the Department of Health and Human  
2 ~~Services Finance and Support~~ system. The amount of such payments  
3 and the entities receiving such payments shall be within the limits  
4 allowed by Title IV-D of the federal Social Security Act, as  
5 amended.

6 Sec. 271. Section 43-1414, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 43-1414 (1) In any proceeding to establish paternity,  
9 the court may, on its own motion, or shall, on a timely request  
10 of a party, after notice and hearing, require the child, the  
11 mother, and the alleged father to submit to genetic testing to  
12 be performed on blood or any other appropriate genetic testing  
13 material. Failure to comply with such requirement for genetic  
14 testing shall constitute contempt and may be dealt with in the  
15 same manner as other contempts. If genetic testing is required,  
16 the court shall direct that inherited characteristics be determined  
17 by appropriate testing procedures and shall appoint an expert in  
18 genetic testing and qualified as an examiner of genetic markers to  
19 analyze and interpret the results and to report to the court. The  
20 court shall determine the number of experts required.

21 (2) In any proceeding to establish paternity, the  
22 ~~Director of Health and Human Services,~~ Health and Human Services  
23 System, county attorneys, and authorized attorneys have the  
24 authority to require the child, the mother, and the alleged father  
25 to submit to genetic testing to be performed on blood or any other  
26 appropriate genetic testing material. All genetic testing shall be  
27 performed by a laboratory accredited by the College of American

1 Pathologists or any other national accrediting body or public  
2 agency which has requirements that are substantially equivalent to  
3 or more comprehensive than those of the college.

4 (3) Except as authorized under sections 43-1414 to  
5 43-1418, a person shall not disclose information obtained from  
6 genetic paternity testing that is done pursuant to such sections.

7 (4) If an alleged father who is tested as part of an  
8 action under such sections is found to be the child's father,  
9 the testing laboratory shall retain the genetic testing material  
10 of the alleged father, mother, and child for no longer than the  
11 period of years prescribed by the national standards under which  
12 the laboratory is accredited. If a man is found not to be the  
13 child's father, the testing laboratory shall destroy the man's  
14 genetic testing material in the presence of a witness after such  
15 material is used in the paternity action. The witness may be an  
16 individual who is a party to the destruction of the genetic testing  
17 material. After the man's genetic testing material is destroyed,  
18 the testing laboratory shall make and keep a written record of the  
19 destruction and have the individual who witnessed the destruction  
20 sign the record. The testing laboratory shall also expunge its  
21 records regarding the genetic paternity testing performed on the  
22 genetic testing material in accordance with the national standards  
23 under which the laboratory is accredited. The testing laboratory  
24 shall retain the genetic testing material of the mother and child  
25 for no longer than the period of years prescribed by the national  
26 standards under which the laboratory is accredited. After a testing  
27 laboratory destroys an individual's genetic testing material as

1 provided in this subsection, it shall notify the adult individual,  
2 or the parent or legal guardian of a minor individual, by certified  
3 mail that the genetic testing material was destroyed.

4 (5) A testing laboratory is required to protect the  
5 confidentiality of genetic testing material, except as required for  
6 a paternity determination. The court and its officers shall not use  
7 or disclose genetic testing material for a purpose other than the  
8 paternity determination.

9 (6) A person shall not buy, sell, transfer, or offer  
10 genetic testing material obtained under sections 43-1414 to  
11 43-1418.

12 (7) A testing laboratory shall annually have an  
13 independent audit verifying the contracting laboratory's compliance  
14 with this section. The audit shall not disclose the names of, or  
15 otherwise identify, the test subjects required to submit to testing  
16 during the previous year. The testing laboratory shall forward the  
17 audit to the ~~department.~~ Health and Human Services System.

18 (8) Any person convicted of violating this section shall  
19 be guilty of a Class IV misdemeanor for the first offense and a  
20 Class III misdemeanor for the second or subsequent offense.

21 (9) For purposes of sections 43-1414 to 43-1418, an  
22 expert in genetic testing means a person who has formal doctoral  
23 training or postdoctoral training in human genetics.

24 Sec. 272. Section 43-1704, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26 43-1704 Authorized attorney shall mean an attorney (1)  
27 employed by the county subject to the approval of the county board,

1 (2) employed by the ~~Department of Health and Human Services,~~ Health  
2 and Human Services System, or (3) appointed by the court, who is  
3 authorized to investigate and prosecute child, spousal, and medical  
4 support cases. An authorized attorney shall represent the state as  
5 provided in section 43-512.03.

6 Sec. 273. Section 43-1706, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 43-1706 ~~Department~~ System shall mean the ~~Department of~~  
9 ~~Health and Human Services,~~ Health and Human Services System.

10 Sec. 274. Section 43-1718, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 43-1718 A support order shall constitute and shall  
13 operate as an assignment, to the State Disbursement Unit, of  
14 that portion of an obligor's income as will be sufficient to pay  
15 the amount ordered for child, spousal, or medical support and shall  
16 be binding on any existing or future employer or other payor of the  
17 obligor. The assignment shall take effect as provided in section  
18 43-1718.01 or 43-1718.02 or on the date on which the payments are  
19 delinquent in an amount equal to the support due and payable for  
20 a one-month period of time, whichever is earlier. No obligor whose  
21 child support payments are automatically withheld from his or her  
22 paycheck shall be regarded or reported as being delinquent or in  
23 arrears if (1) any delinquency or arrearage is solely caused by a  
24 disparity between the schedule of the obligor's regular pay dates  
25 and the scheduled date the support is due, (2) the total amount  
26 of support to be withheld from the paychecks of the obligor and  
27 the amount ordered by the support order are the same on an annual

1 basis, and (3) the automatic deductions for support are continuous  
2 and occurring.

3 An assignment shall have priority as against any  
4 attachment, execution, or other assignment unless otherwise  
5 specifically ordered by a court of competent jurisdiction.

6 The Title IV-D Division of the ~~Department of Health and~~  
7 ~~Human Services~~ Health and Human Services System or its designee  
8 shall be responsible for administering income withholding. In  
9 administering income withholding, the Title IV-D Division or its  
10 designee shall keep accurate records to document, track, and  
11 monitor support payments.

12 Sec. 275. Section 43-1718.01, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 43-1718.01 (1) In any case in which services are provided  
15 under Title IV-D of the federal Social Security Act, as amended,  
16 and a support order has been issued or modified on or after  
17 September 6, 1991, the obligor's income shall be subject to income  
18 withholding regardless of whether or not payments pursuant to such  
19 order are in arrears, and the court shall require such income  
20 withholding in its order unless:

21 (a) One of the parties demonstrates and the court  
22 finds that there is good cause not to require immediate income  
23 withholding; or

24 (b) A written agreement between the parties, including  
25 the state if there is an assignment of support pursuant to section  
26 43-512.07, providing an alternative arrangement is incorporated  
27 into the support order.



1                   (2) In any case in which services are provided under  
2 Title IV-D of the federal Social Security Act, as amended, the  
3 income of an obligor not subject to withholding pursuant to  
4 subsection (1) of this section shall become subject to income  
5 withholding:

6                   (a) On the date on which the payments are delinquent in  
7 an amount equal to the support due and payable for a one-month  
8 period of time; or

9                   (b) Regardless of whether payments are in arrears, on the  
10 earliest of (i) the date as of which the obligor requests that  
11 income withholding begin, (ii) the date as of which the obligee  
12 requests that income withholding begin if the department determines  
13 that such request should be approved, or (iii) any earlier date  
14 after September 6, 1991, which the department selects.

15                   The obligor shall receive notice of income withholding  
16 and his or her right to a hearing pursuant to section 43-1720 when  
17 his or her income is withheld pursuant to subdivision (b)(ii) or  
18 (b)(iii) of this subsection.

19                   (3) No obligor whose child support payments are  
20 automatically withheld from his or her paycheck shall be regarded  
21 or reported as being delinquent or in arrears if (a) any  
22 delinquency or arrearage is solely caused by a disparity between  
23 the schedule of the obligor's regular pay dates and the scheduled  
24 date the child support is due, (b) the total amount of child  
25 support to be withheld from the paychecks of the obligor and the  
26 amount ordered by the support order are the same on an annual  
27 basis, and (c) the automatic deductions for child support are

1 continuous and occurring.

2 (4) The ~~department~~ system shall adopt and promulgate  
3 rules and regulations necessary to carry out this section.

4 Sec. 276. Section 43-1718.02, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 43-1718.02 (1) In any case in which services are not  
7 provided under Title IV-D of the federal Social Security Act, as  
8 amended, and a support order has been issued or modified on or  
9 after July 1, 1994, the obligor's income shall be subject to income  
10 withholding regardless of whether or not payments pursuant to such  
11 order are in arrears, and the court shall require such income  
12 withholding in its order unless:

13 (a) One of the parties demonstrates and the court  
14 finds that there is good cause not to require immediate income  
15 withholding; or

16 (b) A written agreement between the parties providing an  
17 alternative arrangement is incorporated into the support order.

18 (2) If the court pursuant to subsection (1) of this  
19 section orders income withholding regardless of whether or not  
20 payments are in arrears, the obligor shall prepare a notice  
21 to withhold income. The notice to withhold income shall be  
22 substantially similar to a prototype prepared by the ~~Department~~  
23 ~~of Health and Human Services~~ system and made available by the  
24 ~~department~~ system to the State Court Administrator and the clerks  
25 of the district courts. The notice to withhold shall direct:

26 (a) That the employer or other payor shall withhold from  
27 the obligor's disposable income the amount stated in the notice

1 to withhold for the purpose of satisfying the obligor's ongoing  
2 obligation for support payments as they become due and if there are  
3 arrearages, reducing such arrearages in child, spousal, or medical  
4 support payments arising from the obligor's failure to fully comply  
5 with a support order;

6 (b) That the employer or other payor shall pay to the  
7 obligor, on his or her regularly scheduled payday, such income then  
8 due which is not required to be withheld as stated on the notice or  
9 pursuant to any court order;

10 (c) That the employer or other payor shall not withhold  
11 more than the maximum amount permitted to be withheld under section  
12 303(b) of the federal Consumer Credit Protection Act, 15 U.S.C.  
13 1673(b)(2)(A) and (B), and the amount withheld to satisfy an  
14 arrearage of child, spousal, or medical support when added to the  
15 amount withheld to pay current support and the fee provided for in  
16 subdivision (2)(d) of this section shall not exceed such maximum  
17 amount;

18 (d) That the employer or other payor may assess an  
19 additional administrative fee from the obligor's disposable income  
20 not to exceed two dollars and fifty cents in any calendar month  
21 as compensation for the employer's or other payor's reasonable cost  
22 incurred in complying with the notice;

23 (e) That the employer or other payor shall remit, within  
24 seven days after the date the obligor is paid and in the manner  
25 specified in the notice, the income withheld, less the deduction  
26 allowed as an administrative fee by subdivision (2)(d) of this  
27 section, to the State Disbursement Unit and shall notify the unit

1 of the date such income was withheld;

2 (f) That the notice to withhold income shall terminate  
3 with respect to the employer or other payor without any court  
4 action or action by the obligor thirty days after the obligor  
5 ceases employment with or is no longer entitled to income from such  
6 employer or other payor;

7 (g) That the employer or other payor may combine amounts  
8 required to be withheld from the income of two or more obligors in  
9 a single payment to the unit if the portion of the single payment  
10 which is attributable to each individual obligor is separately  
11 identified;

12 (h) That an employer or other payor who fails to withhold  
13 and remit income of an obligor after receiving proper notice or who  
14 discriminates, demotes, disciplines, or terminates an employee or  
15 payee after receiving a notice to withhold income shall be subject  
16 to the penalties prescribed in subsections (4) and (5) of this  
17 section; and

18 (i) That if the employer or other payor receives more  
19 than one notice to withhold income of a single obligor and the  
20 amount of income available to be withheld pursuant to the limits  
21 specified in subdivision (c) of this subsection is insufficient  
22 to satisfy the total support amount certified in the notices, the  
23 income available shall first be applied to current support. If the  
24 total amount of income available to be withheld is insufficient  
25 to satisfy the total amount of current support certified by the  
26 notices, the employer or other payor shall withhold for each notice  
27 the proportion that the amount of the current support certified in

1 such notice bears to the total amount of current support certified  
2 in all notices received for the obligor. Any remaining income  
3 available to be withheld after current support is satisfied for all  
4 notices shall be applied to arrearages. If arrearages are certified  
5 in more than one notice, the employer or other payor shall withhold  
6 for each notice the proportion that the amount of the arrearage  
7 certified in such notice bears to the total amount of arrearage  
8 certified in all notices received for the obligor.

9 Compliance with the order by the employer or other payor  
10 shall operate as a discharge of the employer's or other payor's  
11 liability to the obligor as to the portion of the obligor's income  
12 withheld.

13 (3) The obligor shall deliver the notice to withhold  
14 income to his or her current employer or other payor and provide a  
15 copy of such notice to the clerk of the district court.

16 (4) Any employer or other payor who fails to withhold and  
17 remit any income of an obligor receiving income from the employer  
18 or other payor, after proper notice as provided in subsection (2)  
19 of this section, shall be required to pay to the unit the amount  
20 specified in the notice.

21 (5) An employer or other payor shall not use an order or  
22 notice to withhold income or order or the possibility of income  
23 withholding as a basis for (a) discrimination in hiring, (b)  
24 demotion of an employee or payee, (c) disciplinary action against  
25 an employee or payee, or (d) termination of an employee or payee.

26 Upon application by the obligor and after a hearing on  
27 the matter, the court may impose a civil fine of up to five hundred

1 dollars for each violation of this subsection.

2 An employer or other payor who violates this subsection  
3 shall be required to make full restitution to the aggrieved  
4 employee or payee, including reinstatement and backpay.

5 (6) When an obligor ceases employment with or is no  
6 longer entitled to income from an employer or other payor, the  
7 notice to withhold income shall not cease to operate against the  
8 obligor and income withholding shall continue to apply to any  
9 subsequent employment or income of the obligor. The notice to  
10 withhold income shall terminate with respect to the employer or  
11 other payor without any court action or action by the obligor  
12 thirty days after the obligor ceases employment with or is no  
13 longer entitled to income from such employer or other payor. A  
14 notice to withhold income shall also terminate when the child,  
15 spousal, or medical support obligation terminates and all past-due  
16 support has been paid, in which case the obligor shall notify the  
17 employer or other payor to cease withholding income.

18 (7) A notice to withhold income may be modified or  
19 revoked by a court of competent jurisdiction as a result of  
20 modification of the support order. A notice to withhold income may  
21 also be modified or revoked by a court of competent jurisdiction,  
22 for other good cause shown, after notice and a hearing on the  
23 issue.

24 (8) The obligee or obligor may file an action in district  
25 court to enforce this section.

26 (9) If after an order is issued in any case under this  
27 section the case becomes one in which services are provided under

1 Title IV-D of the federal Social Security Act, as amended, the  
2 county attorney or authorized attorney or the ~~Director of Health~~  
3 ~~and Human Services~~ system shall implement income withholding as  
4 otherwise provided in the Income Withholding for Child Support Act.

5 Sec. 277. Section 43-1719, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 43-1719 Any employer or other payor shall respond within  
8 ten days to a written request by a county attorney, an authorized  
9 attorney, or the ~~department~~ system for information concerning:

10 (1) The full name of an obligor; (2) the current address of  
11 the obligor; (3) the obligor's social security number; (4) the  
12 obligor's work location; (5) the number of the obligor's claimed  
13 dependents; (6) the obligor's gross income; (7) the obligor's net  
14 income; (8) an itemized statement of deductions from the obligor's  
15 income; (9) the obligor's pay schedule; and (10) the obligor's  
16 health insurance coverage. The employer or other payor shall not  
17 be required to provide any other information. The county attorney  
18 or authorized attorney may file an action in the district court to  
19 enforce this section.

20 Sec. 278. Section 43-1720, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 43-1720 If the ~~Director of Health and Human Services~~  
23 system has previously sent a notice of assignment and opportunity  
24 for hearing on the same support order under section 48-647, the  
25 county attorney, authorized attorney, or the ~~department~~ system  
26 shall certify the amount to be withheld from an obligor's  
27 disposable income pursuant to section 43-1722 and shall notify the

1 obligor's employer or other payor pursuant to section 43-1723. If  
2 the ~~director~~ system has not previously sent such notice, and except  
3 in cases in which the court has ordered income withholding pursuant  
4 to subsection (1) of section 43-1718.01 or section 43-1718.02, upon  
5 receiving certification pursuant to section 42-358 or notice of  
6 delinquent payments of medical support, the county attorney, the  
7 authorized attorney, or the ~~department~~ system shall send a notice  
8 by certified mail to the last-known address of the obligor stating:

9           (1) That an assignment of his or her income by means of  
10 income withholding will go into effect within fifteen days after  
11 the date the notice is sent;

12           (2) That the income withholding will continue to apply to  
13 any subsequent employer or other payor of the obligor;

14           (3) The amount of support the obligor owes;

15           (4) The amount of income that will be withheld; and

16           (5) That within the fifteen-day period, the obligor may  
17 request a hearing in the manner specified in the notice to contest  
18 a mistake of fact. For purposes of this subdivision, mistake of  
19 fact shall mean (a) an error in the amount of current or overdue  
20 support, (b) an error in the identity of the obligor, or (c) an  
21 error in the amount to be withheld as provided in section 43-1722.

22           Sec. 279. Section 43-1721, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           43-1721 If the obligor requests a hearing, the department  
25 shall hold a hearing, if required by section 43-1720, within  
26 fifteen days of the date of receipt of the request, and the  
27 hearing shall be in accordance with the Administrative Procedure



1 Act. The assignment shall be held in abeyance pending the outcome  
2 of the hearing. The ~~department~~ system shall notify the obligor and  
3 the county attorney or authorized attorney of its decision within  
4 fifteen days of the date the hearing is held.

5 Sec. 280. Section 43-1722, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 43-1722 (1) If no hearing is requested by the obligor,  
8 (2) if after a hearing the ~~department~~ system determines that  
9 the assignment should go into effect, (3) in cases in which the  
10 court has ordered income withholding pursuant to subsection (1)  
11 of section 43-1718.01, or (4) in cases in which the court has  
12 ordered income withholding pursuant to section 43-1718.02, which  
13 case subsequently becomes one in which services are being provided  
14 under Title IV-D of the federal Social Security Act, as amended,  
15 the county attorney, the authorized attorney, or the ~~department~~  
16 system shall certify the amount to be withheld from the obligor's  
17 disposable income. Such amount shall not in any case exceed the  
18 maximum amount permitted to be withheld under section 303(b) of  
19 the federal Consumer Credit Protection Act, 15 U.S.C. 1673(b) (2) (A)  
20 and (B), and the amount withheld to satisfy an arrearage of child,  
21 spousal, or medical support when added to the amount withheld to  
22 pay current support and the fee provided for in section 43-1723  
23 shall not exceed such maximum amount.

24 Sec. 281. Section 43-1723, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26 43-1723 Except as otherwise provided in this section, the  
27 county attorney, the authorized attorney, or the ~~department~~ system

1 shall notify the obligor's employer or other payor, by first-class  
2 mail or by electronic means, within the time determined by the  
3 ~~department~~ system which shall comply with the requirements of Title  
4 IV-D of the federal Social Security Act, as amended. The notice  
5 shall specify the basis for the assignment of income and shall  
6 direct:

7 (1) That the employer or other payor shall withhold from  
8 the obligor's disposable income the amount certified by the county  
9 attorney, the authorized attorney, or the ~~department~~ system for  
10 the purpose of reducing and satisfying the obligor's (a) previous  
11 arrearage in child, spousal, or medical support payments arising  
12 from the obligor's failure to fully comply with a support order  
13 previously entered and (b) ongoing obligation for support payments  
14 as they become due;

15 (2) That the employer or other payor shall implement  
16 income withholding no later than the first pay period that begins  
17 following the date on the notice;

18 (3) That the employer or other payor shall pay to the  
19 obligor, on his or her regularly scheduled payday, such income  
20 then due which is not certified to be withheld pursuant to section  
21 43-1722 or any court order;

22 (4) That the employer or other payor may assess an  
23 additional administrative fee from the obligor's disposable income  
24 not to exceed two dollars and fifty cents in any calendar month  
25 as compensation for the employer's or other payor's reasonable cost  
26 incurred in complying with the notice;

27 (5) That the employer or other payor shall remit, within

1 seven days after the date the obligor is paid and in the manner  
2 specified in the notice, the income withheld, less the deduction  
3 allowed as an administrative expense by subdivision (4) of this  
4 section, to the State Disbursement Unit as designated in the notice  
5 and shall notify the unit of the date such income was withheld;

6 (6) That the employer or other payor shall notify the  
7 county attorney, the authorized attorney, or the ~~department~~ system  
8 in writing of the termination of the employment or income of the  
9 obligor, the last-known address of the obligor, and the name and  
10 address of the obligor's new employer or other payor, if known, and  
11 shall provide such written notification within thirty days after  
12 the termination of employment or income;

13 (7) That income withholding is binding on the employer  
14 or other payor until further notice by the county attorney, the  
15 authorized attorney, or the ~~department;~~ system;

16 (8) That the employer or other payor may combine amounts  
17 required to be withheld from the income of two or more obligors in  
18 a single payment to the unit as designated in an income withholding  
19 notice if the portion of the single payment which is attributable  
20 to each individual obligor is separately identified;

21 (9) That an employer or other payor who fails to withhold  
22 and remit income of an obligor after receiving proper notice or who  
23 discriminates, demotes, disciplines, or terminates an employee or  
24 payee after receiving an income withholding notice shall be subject  
25 to the penalties prescribed in sections 43-1724 and 43-1725; and

26 (10) That if the employer or other payor receives more  
27 than one notice to withhold income of a single obligor and the

1 amount of income available to be withheld pursuant to the limits  
2 specified in section 43-1722 is insufficient to satisfy the total  
3 support amount certified in the notices, the income available shall  
4 first be applied to current support. If the total amount of income  
5 available to be withheld is insufficient to satisfy the total  
6 amount of current support certified by the notices, the employer  
7 or other payor shall withhold for each notice the proportion that  
8 the amount of the current support certified in such notice bears  
9 to the total amount of current support certified in all notices  
10 received for the obligor. Any remaining income available to be  
11 withheld after current support is satisfied for all notices shall  
12 be applied to arrearages. If arrearages are certified in more than  
13 one notice, the employer or other payor shall withhold for each  
14 notice the proportion that the amount of the arrearage certified in  
15 such notice bears to the total amount of arrearage certified in all  
16 notices received for the obligor.

17 Compliance with the order by the employer or other payor  
18 shall operate as a discharge of the employer's or other payor's  
19 liability to the obligor as to the portion of the obligor's income  
20 withheld. The county attorney, the authorized attorney, or the  
21 ~~department~~ system need not notify the Commissioner of Labor as a  
22 payor if the commissioner is withholding for child support from the  
23 obligor under section 48-647 for the same support order.

24 Sec. 282. Section 43-1726, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26 43-1726 When an obligor ceases employment with or is  
27 no longer entitled to income from an employer or other payor,

1 the notice to withhold income shall not cease to operate against  
2 the obligor and income withholding shall continue to apply to  
3 any subsequent employment or income of the obligor. The notice  
4 to withhold income shall terminate with respect to the employer  
5 or other payor without any court action or action by the county  
6 attorney, the authorized attorney, or the ~~department~~ system thirty  
7 days after the obligor ceases employment with or is no longer  
8 entitled to income from such employer or other payor, except  
9 that a notice to withhold income shall not terminate with  
10 respect to unemployment compensation benefits being withheld by  
11 the Commissioner of Labor pursuant to section 48-647. The employer  
12 or other payor shall return a copy of the notice to withhold income  
13 to the county attorney, the authorized attorney, or the ~~department~~,  
14 system, indicate that the employment or obligation to pay income  
15 has ceased, and cooperate in providing any known forwarding  
16 information. The county attorney, the authorized attorney, or  
17 the ~~department~~ system shall notify the clerk of the appropriate  
18 district court that such employment or obligation to pay income has  
19 ceased. A notice to withhold income shall also terminate when the  
20 child, spousal, or medical support obligation terminates and all  
21 past-due support has been paid, in which case the county attorney,  
22 the authorized attorney, or the ~~department~~ system shall notify the  
23 employer or other payor to cease withholding income.

24           Sec. 283. Section 43-1727, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26           43-1727 (1) An income withholding notice may be modified  
27 or revoked by a court of competent jurisdiction or by the county

1 attorney, the authorized attorney, or the ~~department~~ system as  
2 a result of a review conducted pursuant to sections 43-512.12  
3 to 43-512.18. An income withholding notice may also be modified  
4 or revoked by a court of competent jurisdiction, for other good  
5 cause shown, after notice and a hearing on the issue. An income  
6 withholding notice may also be modified or revoked by the county  
7 attorney, the authorized attorney, or the ~~department~~ system as  
8 provided in subsection (2) of this section or for other good cause.  
9 Payment by the obligor of overdue support, other than through  
10 income withholding, after receipt of notice of income withholding  
11 shall not by itself constitute good cause for modifying or revoking  
12 an income withholding notice.

13 (2) When income withholding has been implemented and, as  
14 a result, a support delinquency has been eliminated, the Title  
15 IV-D Division or its designee shall notify the county attorney,  
16 the authorized attorney, or the ~~department~~ system. Upon receipt of  
17 such notification, the county attorney, the authorized attorney, or  
18 the ~~department~~ system shall modify the income withholding notice  
19 to require income withholding for current support only and shall  
20 notify the employer or other payor of the change in the same manner  
21 as provided in section 43-1723.

22 Sec. 284. Section 43-1728, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 43-1728 (1) In any case in which the ~~department~~ system is  
25 providing services either directly or pursuant to a contract with  
26 a county attorney or authorized attorney or (2) on application of  
27 a resident of this state, an obligee or obligor of a support order

1 issued in this state, or an agency to whom an obligee has assigned  
2 child, spousal, or medical support rights, the ~~department~~ system  
3 shall promptly request the agency of another jurisdiction in which  
4 the obligor derives income to receive and file such request for  
5 the purpose of obtaining a withholding order against such income.  
6 The ~~department~~ system shall promptly compile and transmit to the  
7 agency of the cooperating jurisdiction all documentation required  
8 to effectuate an income withholding order. The ~~department~~ system  
9 also shall transmit immediately to the agency of the cooperating  
10 jurisdiction a certified copy of any subsequent modification of any  
11 support order. The ~~department~~ system may contract with an agent to  
12 carry out its powers and duties pursuant to sections 43-1728 to  
13 43-1742.

14           Sec. 285. Section 43-1729, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           43-1729 Upon receiving a foreign support order and the  
17 documentation specified in section 43-1730 from an agency of  
18 another jurisdiction, an obligee, an obligor, or an attorney  
19 for either, the ~~department~~ system shall transmit such order and  
20 documents to be filed with the clerk of the district court in the  
21 jurisdiction within this state in which income withholding is being  
22 sought. The clerk of the district court shall accept the documents  
23 filed, and such acceptance shall constitute entry of the foreign  
24 support order for purposes of income withholding.

25           The filing process required by this section shall not  
26 be construed as requiring an application, petition, answer, and  
27 hearing as might be required for the filing or registration of

1 foreign judgments by the Nebraska Uniform Enforcement of Foreign  
2 Judgments Act or the Uniform Interstate Family Support Act.

3 Sec. 286. Section 43-1731, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 43-1731 If the documentation received by the ~~department~~  
6 system does not conform to the requirements of section 43-1730, the  
7 ~~department~~ system shall remedy any defect which it can without the  
8 assistance of the requesting agency or person. If the ~~department~~  
9 system is unable to make such corrections, the requesting agency  
10 or person shall immediately be notified of the necessary additions  
11 or corrections. In neither case shall the original documentation  
12 be returned. The ~~department~~ system and the receiving court shall  
13 accept the documentation required by section 43-1730 even if it is  
14 not in the usual form required by state or local law or rules so  
15 long as the substantive requirements of such section are met.

16 Sec. 287. Section 43-1732, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 43-1732 A foreign support order entered pursuant to  
19 section 43-1729 shall be enforceable by withholding from income  
20 derived in this state in the manner and with the same effect as  
21 income withholding based on a support order of this state, except  
22 that any hearing requested by the obligor to contest any proposed  
23 income withholding shall be held by a court as provided in section  
24 43-1733 instead of by the ~~department~~. system. Entry of the order  
25 shall not confer jurisdiction on the courts of this state for any  
26 purpose other than income withholding.

27 Sec. 288. Section 43-1739, Reissue Revised Statutes of



1 Nebraska, is amended to read:

2           43-1739 Upon receiving a certified copy of any amendment  
3 or modification to a foreign support order entered pursuant to  
4 section 43-1729, the ~~department~~ system shall initiate necessary  
5 procedures to amend or modify the income withholding order of this  
6 state which was based upon the foreign support order in the same  
7 manner as if it were a support order of this state.

8           Sec. 289. Section 43-1902, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           43-1902 As used in sections 43-1901 to 43-1906, unless  
11 the context otherwise requires:

12           (1) Board ~~shall mean~~ means the Nebraska Child Abuse  
13 Prevention Fund Board;

14           ~~(2) Department shall mean the Department of Health and~~  
15 ~~Human Services;~~

16           ~~(3) Director shall mean the Director of Health and Human~~  
17 ~~Services; and~~

18           ~~(4) (2) Fund shall mean~~ means the Nebraska Child Abuse  
19 Prevention Fund; and ~~-~~

20           (3) System means the Health and Human Services System.

21           Sec. 290. Section 43-1903, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23           43-1903 (1) There is hereby created within the ~~department~~  
24 system the Nebraska Child Abuse Prevention Fund Board which shall  
25 be composed of nine members as follows: ~~The Director of Health~~  
26 ~~and Human Services, the Director of Regulation and Licensure,~~  
27 Two representatives of the Health and Human Services System and

1 seven members to be appointed by the Governor with the approval  
2 of the Legislature. The Governor shall appoint two members from  
3 each of the three congressional districts and one member from  
4 the state at large. As a group, the appointed board members  
5 (a) shall demonstrate knowledge in the area of child abuse and  
6 neglect prevention, (b) shall be representative of the demographic  
7 composition of this state, and (c) to the extent practicable,  
8 shall be representative of all of the following categories (i) the  
9 business community, (ii) the religious community, (iii) the legal  
10 community, (iv) professional providers of child abuse and neglect  
11 prevention services, and (v) volunteers in child abuse and neglect  
12 prevention services.

13 (2) The term of each appointed board member shall be  
14 three years, except that of the board members first appointed, two,  
15 including the at-large member, shall serve for three years, three  
16 shall serve for two years, and two shall serve for one year. The  
17 Governor shall designate the term which each of the members first  
18 appointed shall serve when he or she makes the appointments. An  
19 appointed board member shall not serve more than two consecutive  
20 terms whether partial or full. A vacancy shall be filled for the  
21 balance of the unexpired term in the same manner as the original  
22 appointment.

23 (3) The board shall elect a chairperson from among the  
24 appointed board members who shall serve for a term of two years.  
25 The board may elect the other officers and establish committees as  
26 it deems appropriate.

27 (4) The members of the board shall not receive any

1 compensation for their services but shall be reimbursed for their  
2 actual and necessary expenses incurred in the performance of  
3 their duties as provided in sections 81-1174 to 81-1177. The  
4 reimbursement shall be paid from the fund. In any one fiscal  
5 year, no more than five percent of the annually available funds  
6 as provided in section 43-1906 shall be used for the purpose of  
7 reimbursement of board members.

8 (5) Any board member may be removed by the Governor for  
9 misconduct, incompetency, or neglect of duty after first being  
10 given the opportunity to be heard in his or her own behalf.

11 Sec. 291. Section 43-1906, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 43-1906 (1) There is hereby established the Nebraska  
14 Child Abuse Prevention Fund. The additional docket fee as provided  
15 in section 33-106.03, the additional charge for supplying a  
16 certified copy of the record of any birth as provided in sections  
17 71-612, 71-617.15, 71-627, and 71-628, and all amounts which may  
18 be received from grants, gifts, bequests, the federal government,  
19 or other sources granted or given for the purposes specified  
20 in sections 43-1901 to 43-1906 shall be remitted to the State  
21 Treasurer for credit to the Nebraska Child Abuse Prevention Fund.  
22 The fund shall be administered and disbursed by the ~~department.~~  
23 system.

24 (2) Any money in the fund available for investment  
25 shall be invested by the state investment officer pursuant to  
26 the Nebraska Capital Expansion Act and the Nebraska State Funds  
27 Investment Act.

1           (3) In any one fiscal year, no more than twenty percent  
2 of the annually appropriated funds shall be disbursed to any one  
3 agency, organization, or individual.

4           (4) Funds allocated from the fund shall only be used for  
5 purposes authorized under sections 43-1901 to 43-1906 and shall not  
6 be used to supplant any existing governmental program or service.  
7 No grants may be made to any state department or agency.

8           Sec. 292. Section 43-2002, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           43-2002 Each year Nebraska children are reported missing.  
11 The Legislature is seeking a procedure whereby it can help locate  
12 such missing children through school records and birth certificates  
13 filed with the schools and the Department of Health and Human  
14 ~~Services Finance and Support.~~ Health and Human Services System.

15           Sec. 293. Section 43-2003, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17           43-2003 As used in the Missing Children Identification  
18 Act, unless the context otherwise requires:

19           (1) County agency means any agency in a county that  
20 records and maintains birth certificates;

21           ~~(2) Department means the Department of Health and Human~~  
22 ~~Services Finance and Support;~~

23           ~~(3) (2) Missing person means a person sixteen years of~~  
24 ~~age or younger reported to any law enforcement agency as abducted~~  
25 ~~or lost; and~~

26           ~~(4) (3) Patrol means the Nebraska State Patrol; and -~~

27           (4) System means the Health and Human Services System.

1           Sec. 294. Section 43-2004, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           43-2004 Upon notification to a local law enforcement  
4 agency of the disappearance of a missing person, such agency shall  
5 immediately notify the patrol which shall notify the school in  
6 which such missing person is enrolled and the ~~department-~~ system.  
7 The ~~department~~ system shall notify the county agency if such  
8 missing person was born in such county. Any information known to  
9 the patrol shall be supplied to the ~~department-~~ system.

10          Sec. 295. Section 43-2005, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12          43-2005 If a missing person was born in Nebraska, the  
13 ~~department~~ system shall flag such person's birth certificate, and  
14 if such person was born in a county where a county agency records  
15 and maintains birth certificates, such agency shall also flag the  
16 birth certificate in its custody.

17          Sec. 296. Section 43-2006, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19          43-2006 (1) If an inquiry is made regarding the flagged  
20 birth certificate, the ~~department~~ system or county agency shall  
21 not furnish any information to such requesting person and shall  
22 request the name of the inquirer, address, and any other pertinent  
23 information. The ~~department~~ system and such county agency shall  
24 immediately notify the patrol of such inquiry.

25          (2) If a request is made in person from the ~~department~~  
26 system or such county agency for a flagged birth certificate, the  
27 ~~department~~ system or such county agency shall:

1           (a) Immediately notify the patrol or local law  
2 enforcement agency;

3           (b) Have the person requesting the flagged birth  
4 certificate fill in a form requesting such person's name, address,  
5 telephone number, social security number, and relationship to the  
6 person whose birth certificate is being requested and the name,  
7 address, and birthdate of the person whose birth certificate is  
8 being requested;

9           (c) Try to obtain a photocopy of the driver's license of  
10 the person making the request;

11           (d) Inform the person making the request that the birth  
12 certificate will be mailed to him or her;

13           (e) Report the description of such person making the  
14 request and any other relevant information to the patrol or other  
15 law enforcement agency; and

16           (f) Provide the patrol with copies of such documents but  
17 retain the original in the office of the ~~department~~ system or  
18 county agency.

19           (3) If a request is made for such birth certificate in  
20 writing, the ~~department~~ system or county agency shall notify the  
21 patrol and provide the patrol with a copy of the request but retain  
22 the original request in the office of the ~~department~~ system or  
23 county agency.

24           Sec. 297. Section 43-2009, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26           43-2009 Upon notification of recovery of such missing  
27 person, the ~~department,~~ system, the county agency, and any school

1 pursuant to section 43-2007 shall remove the flag from such  
2 person's record.

3 Sec. 298. Section 43-2012, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 43-2012 The ~~department~~ system and the patrol shall adopt  
6 and promulgate rules and regulations necessary to carry out their  
7 responsibilities under the Missing Children Identification Act.

8 Sec. 299. Section 43-2402, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 43-2402 For purposes of the Juvenile Services Act:

11 (1) Coalition means the Nebraska Coalition for Juvenile  
12 Justice established pursuant to section 43-2411;

13 (2) Commission means the Nebraska Commission on Law  
14 Enforcement and Criminal Justice;

15 (3) Commission Grant Program means grants provided to  
16 eligible applicants under section 43-2406;

17 (4) County Juvenile Services Aid Program means aid to  
18 counties provided under section 43-2404.02;

19 (5) Eligible applicant means a community-based agency or  
20 organization, political subdivision, school district, federally  
21 recognized or state-recognized Indian tribe, or state agency  
22 necessary to comply with the federal act;

23 (6) Federal act means the Juvenile Justice and  
24 Delinquency Prevention Act of 1974, 42 U.S.C. 5601 et seq., as the  
25 act existed on July 1, 2001;

26 (7) Juvenile means a person who is under eighteen years  
27 of age; and

1           (8) Office of Juvenile Services means the Office of  
2 Juvenile Services of the Health and Human Services System created  
3 in section 43-404.

4           Sec. 300. Section 43-2411, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6           43-2411 (1) The Nebraska Coalition for Juvenile Justice  
7 is created. As provided in the federal act, there shall be no less  
8 than fifteen nor more than thirty-three members of the coalition.  
9 The coalition members shall be appointed by the Governor and shall  
10 include:

11           (a) The Administrator of the Office of Juvenile Services;

12           (b) The ~~Director of Health and Human Services~~ chief  
13 executive officer of the Health and Human Services System or his or  
14 her designee;

15           (c) The Commissioner of Education or his or her designee;

16           (d) The executive director of the Nebraska Commission on  
17 Law Enforcement and Criminal Justice or his or her designee;

18           (e) The Executive Director of the Nebraska Association of  
19 County Officials or his or her designee;

20           (f) The probation administrator of the Office of  
21 Probation Administration or his or her designee;

22           (g) One county commissioner or supervisor;

23           (h) One police chief;

24           (i) One sheriff;

25           (j) One separate juvenile court judge;

26           (k) One county court judge;

27           (l) One representative of mental health professionals who



1 works directly with juveniles;

2 (m) Three representatives, one from each congressional  
3 district, from community-based, private nonprofit organizations who  
4 work with juvenile offenders and their families;

5 (n) One volunteer who works with juvenile offenders or  
6 potential juvenile offenders;

7 (o) One person who works with an alternative to  
8 incarceration program for juveniles;

9 (p) The director or his or her designee from a youth  
10 rehabilitation and treatment center;

11 (q) The director or his or her designee from a secure  
12 youth confinement facility;

13 (r) The director or his or her designee from a staff  
14 secure youth confinement facility;

15 (s) At least five members who are under twenty-four years  
16 of age when appointed;

17 (t) One person who works directly with juveniles who have  
18 learning or emotional difficulties or are abused or neglected;

19 (u) One member of the Nebraska Commission on Law  
20 Enforcement and Criminal Justice;

21 (v) One county attorney; and

22 (w) One public defender.

23 (2) The terms of members appointed pursuant to  
24 subdivisions (1)(g) through (1)(w) of this section shall be three  
25 years, except that the terms of the initial members of the  
26 coalition shall be staggered so that one-third of the members  
27 are appointed for terms of one year, one-third for terms of two

1 years, and one-third for terms of three years, as determined by  
2 the Governor. A majority of the coalition members, including the  
3 chairperson, shall not be full-time employees of federal, state,  
4 or local government. At least one-fifth of the coalition members  
5 shall be under the age of twenty-four at the time of appointment.  
6 Any vacancy on the coalition shall be filled by appointment  
7 by the Governor. The coalition shall select a chairperson, a  
8 vice-chairperson, and such other officers as it deems necessary.

9 (3) Members of the coalition shall be reimbursed for  
10 their actual and necessary expenses pursuant to sections 81-1174 to  
11 81-1177.

12 (4) The coalition may appoint task forces or  
13 subcommittees to carry out its work. Task force and subcommittee  
14 members shall have knowledge of, responsibility for, or interest in  
15 an area related to the duties of the coalition.

16 Sec. 301. Section 43-2503, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 43-2503 The purposes of the Early Intervention Act shall  
19 be to:

20 (1) Develop and implement a statewide system of  
21 comprehensive, coordinated, family-centered, community-based, and  
22 culturally competent early intervention services for infants  
23 or toddlers with disabilities and their families through the  
24 collaboration of the ~~Department of Health and Human Services, the~~  
25 ~~Department of Health and Human Services Finance and Support, Health~~  
26 and Human Services System, the State Department of Education,  
27 and all other relevant agencies or organizations at the state,

1 regional, and local levels;

2 (2) Establish and implement a billing system for  
3 accessing federal medicaid funds;

4 (3) Establish and implement services coordination through  
5 a community team approach;

6 (4) Facilitate the coordination of payment for early  
7 intervention services from federal, state, local, and private  
8 sources including public and private insurance coverage; and

9 (5) Enhance Nebraska's capacity to provide quality  
10 early intervention services and expand and improve existing  
11 early intervention services being provided to eligible infants or  
12 toddlers with disabilities and their families.

13 Sec. 302. Section 43-2505, Revised Statutes Cumulative  
14 Supplement, 2006, is amended to read:

15 43-2505 For purposes of the Early Intervention Act:

16 (1) Collaborating agencies means the ~~Department of Health~~  
17 ~~and Human Services, the Department of Health and Human Services~~  
18 ~~Finance and Support, Health and Human Services System~~ and the State  
19 Department of Education;

20 (2) Developmental delay has the definition found in  
21 section 79-1118.01;

22 (3) Early intervention services may include services  
23 which:

24 (a) Are designed to meet the developmental needs of each  
25 eligible infant or toddler with disabilities and the needs of the  
26 family related to enhancing the development of their infant or  
27 toddler;

1 (b) Are selected in collaboration with the parent or  
2 guardian;

3 (c) Are provided in accordance with an individualized  
4 family service plan;

5 (d) Meet all applicable federal and state standards; and

6 (e) Are provided, to the maximum extent appropriate, in  
7 natural environments including the home and community settings in  
8 which infants and toddlers without disabilities participate;

9 (4) Eligible infant or toddler with disabilities means a  
10 child who needs early intervention services and is two years of age  
11 or younger, except that toddlers who reach age three during the  
12 school year shall remain eligible throughout that school year. The  
13 need for early intervention services is established when the infant  
14 or toddler experiences developmental delays or any of the other  
15 disabilities described in the Special Education Act;

16 (5) Federal early intervention program means the  
17 federal early intervention program for infants and toddlers with  
18 disabilities, 20 U.S.C. 1471 to 1485;

19 (6) Individualized family service plan means the process,  
20 periodically documented in writing, of determining appropriate  
21 early intervention services for an eligible infant or toddler with  
22 disabilities and his or her family;

23 (7) Interagency planning team means an organized group of  
24 interdisciplinary, interagency representatives, community leaders,  
25 and family members in each local community or region;

26 (8) Lead agency or agencies means the Department of  
27 Health and Human Services, the Department of Health and Human

1 ~~Services Finance and Support, Health and Human Services System, the~~  
2 State Department of Education, and any other agencies designated  
3 by the Governor for general administration, supervision, and  
4 monitoring of programs and activities receiving federal funds under  
5 the federal early intervention program and state funds appropriated  
6 for early intervention services under the Early Intervention Act;  
7 and

8 (9) Services coordination means a flexible process of  
9 interaction facilitated by a services coordinator to assist the  
10 family of an eligible infant or toddler with disabilities within  
11 a community to identify and meet their needs pursuant to the  
12 act. Services coordination under the act shall not duplicate  
13 any case management services which an eligible infant or toddler  
14 with disabilities and his or her family are already receiving or  
15 eligible to receive from other sources.

16 Sec. 303. Section 43-2507, Revised Statutes Cumulative  
17 Supplement, 2006, is amended to read:

18 43-2507 (1) Planning for early intervention services  
19 shall be the responsibility of each collaborating agency. The  
20 planning shall address a statewide system of comprehensive,  
21 coordinated, family-centered, community-based, and culturally  
22 competent early intervention services to all eligible infants or  
23 toddlers with disabilities and their families in Nebraska. The  
24 statewide system shall include the following minimum components:

25 (a) A public awareness program, including a central  
26 directory;

27 (b) A comprehensive early identification system,

1 including a system for identifying children and making referrals  
2 for infants or toddlers who may be eligible for early intervention  
3 services;

4 (c) Common intake, referral, and assessment processes,  
5 procedures, and forms to determine eligibility of infants and  
6 toddlers and their families referred for early intervention  
7 services;

8 (d) An individualized family service plan, including  
9 services coordination, for each eligible infant or toddler with  
10 disabilities and his or her family;

11 (e) A comprehensive system of personnel development;

12 (f) A uniform computer data base and reporting system  
13 which crosses agency lines; and

14 (g) Services coordination to access the following early  
15 intervention services: Audiology; family training, counseling, and  
16 home visits; health services; medical services only for diagnostic  
17 or evaluation purposes; nursing services; nutrition services;  
18 occupational therapy; physical therapy; psychological services;  
19 social work services; special instruction; speech-language  
20 pathology; transportation and related costs that are necessary to  
21 enable an eligible infant or toddler with disabilities and his  
22 or her family to receive early intervention services; assistive  
23 technology devices and assistive technology services; vision  
24 services; and hearing services.

25 (2) Collaborating agencies shall review standards to  
26 ensure that personnel are appropriately and adequately prepared and  
27 trained to carry out the Early Intervention Act.

1           (3) Collaborating agencies shall be responsible for  
2 designing, supporting, and implementing a statewide training  
3 and technical assistance plan which shall address preservice,  
4 inservice, and leadership development for service providers and  
5 parents of eligible infants and toddlers with disabilities.

6           (4) Policies and procedures shall be jointly examined and  
7 analyzed by the collaborating agencies to satisfy data collection  
8 requirements under the federal early intervention program and to  
9 assure the confidentiality of the data contained in the statewide  
10 system. Notwithstanding any other provision of state law, the  
11 collaborating agencies shall be permitted to share information and  
12 data necessary to carry out the provisions of the federal early  
13 intervention program, including the personal identification or  
14 other specific information concerning individual infants, toddlers,  
15 or their families, except that the vital and medical records  
16 and health information concerning individuals provided to the  
17 Department of Health and Human Services or the Department of  
18 Health and Human Services Finance and Support Health and Human  
19 Services System may be released only under the laws authorizing the  
20 provision of such records and information. Nothing in this section  
21 shall prohibit the use of such data to provide for the preparation  
22 of reports, fiscal information, or other documents required by  
23 the Early Intervention Act, but no information in such reports,  
24 fiscal information, or other documents shall be used in a manner  
25 which would allow for the personal identification of an individual  
26 infant, toddler, or family.

27           Sec. 304. Section 43-2508, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2           43-2508 (1) ~~The Department of Health and Human Services~~  
3 ~~Finance and Support~~ Health and Human Services System shall be  
4 responsible for providing or contracting for services.

5           (2) Whenever possible, the medical assistance program  
6 prescribed in the Medical Assistance Act shall be used for payment  
7 of services coordination.

8           (3) It is the intent of this section that the ~~department~~  
9 Health and Human Services System shall apply for and implement a  
10 Title XIX medicaid waiver as a way to assist in the provision  
11 of services coordination to eligible infants or toddlers with  
12 disabilities and their families.

13           Sec. 305. Section 43-2509, Revised Statutes Cumulative  
14 Supplement, 2006, is amended to read:

15           43-2509 ~~The Department of Health and Human Services~~  
16 ~~and the Department of Health and Human Services Finance and~~  
17 ~~Support shall be~~ Health and Human Services System is responsible  
18 for incorporating components required under the federal early  
19 intervention program into the state plans developed for the Special  
20 Supplemental Nutrition Program for Women, Infants, and Children,  
21 the Commodity Supplemental Food Program, the maternal and child  
22 health program, and the developmental disabilities program. The  
23 ~~departments~~ system shall provide technical assistance, planning,  
24 and coordination related to the incorporation of such components.

25           Sec. 306. Section 43-2510, Revised Statutes Cumulative  
26 Supplement, 2006, is amended to read:

27           43-2510 ~~The Department of Health and Human Services~~



1 and the Department of Health and Human Services Finance and  
2 ~~Support shall be~~ Health and Human Services System is responsible  
3 for incorporating components required under the federal early  
4 intervention program into the mental health and developmental  
5 disabilities planning responsibilities of the departments. The  
6 ~~departments~~ system shall provide technical assistance, planning,  
7 and coordination related to the incorporation of such components.

8           Sec. 307. Section 43-2511, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           43-2511 There is hereby established a statewide billing  
11 system for accessing federal medicaid funds for special education  
12 and related services provided by school districts. The system shall  
13 apply to all students verified with disabilities from date of  
14 diagnosis to twenty-one years of age as allowed under the federal  
15 Medicare Catastrophic Coverage Act of 1988. The system shall be  
16 developed jointly by the ~~Department of Health and Human Services,~~  
17 ~~the Department of Health and Human Services Finance and Support,~~  
18 Health and Human Services System and the State Department of  
19 Education. School districts, educational service units, or approved  
20 cooperatives providing special education and related services shall  
21 be required to participate in the statewide billing system. It  
22 is the intent of this section that costs to school districts  
23 associated with the implementation of such a system shall be  
24 eligible for payment through the medicaid reimbursement rates to be  
25 established for each therapy.

26           Sec. 308. Section 43-2512, Revised Statutes Cumulative  
27 Supplement, 2006, is amended to read:

1           43-2512 Each region established pursuant to section  
2 79-1135 shall establish an interagency planning team, which  
3 planning team shall include representatives from school districts,  
4 social services, health and medical services, parents, and mental  
5 health, developmental disabilities, Head Start, and other relevant  
6 agencies or persons serving children from birth to age five  
7 and their families and parents or guardians. Each interagency  
8 planning team shall be responsible for assisting in the planning  
9 and implementation of the Early Intervention Act in each local  
10 community or region. ~~The Department of Health and Human Services~~  
11 ~~Finance and Support,~~ Health and Human Services System, in  
12 collaboration with each regional interagency planning team, shall  
13 provide or contract for services coordination.

14           Sec. 309. Section 43-2515, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           43-2515 On or before October 1, 1993, and for each year  
17 thereafter, ~~the Department of Health and Human Services Finance and~~  
18 ~~Support~~ Health and Human Services System and the State Department  
19 of Education shall jointly certify to the budget administrator of  
20 the budget division of the Department of Administrative Services  
21 the amount of federal medicaid funds paid to school districts  
22 pursuant to the Early Intervention Act for special education  
23 services for children five years of age and older. The General  
24 Fund appropriation to the State Department of Education for state  
25 special education aid shall be decreased by an amount equal to the  
26 amount that would have been reimbursed with state general funds to  
27 the school districts through the special education reimbursement

1 process for special education services for children five years  
2 of age and older that was paid to school districts or approved  
3 cooperatives with federal medicaid funds.

4 It is the intent of the Legislature that an amount  
5 equal to the amount that would have been reimbursed with state  
6 general funds to the school districts, certified to the budget  
7 administrator, be appropriated from the General Fund to aid in  
8 carrying out the provisions of the Early Intervention Act and other  
9 related early intervention services.

10 Sec. 310. Section 43-2606, Revised Statutes Cumulative  
11 Supplement, 2006, is amended to read:

12 43-2606 (1) ~~The Department of Health and Human Services~~  
13 ~~Regulation and Licensure~~ Health and Human Services System shall  
14 adopt and promulgate rules and regulations for mandatory training  
15 requirements for providers of child care and school-age-care  
16 programs. Such requirements shall include preservice orientation  
17 and at least four hours of annual inservice training. All child  
18 care programs required to be licensed under section 71-1911 shall  
19 show completion of a preservice orientation approved or delivered  
20 by the ~~department~~ system prior to receiving a provisional license.

21 (2) The ~~department~~ Health and Human Services System shall  
22 initiate a system of documenting the training levels of staff in  
23 specific child care settings to assist parents in selecting optimal  
24 care settings.

25 (3) The training requirements shall be designed to meet  
26 the health, safety, and developmental needs of children and shall  
27 be tailored to the needs of licensed providers of child care

1 programs. The training requirements for providers of child care  
2 programs shall include, but not be limited to, information on  
3 sudden infant death syndrome, shaken baby syndrome, and child  
4 abuse.

5 (4) The ~~department~~ Health and Human Services System shall  
6 provide or arrange for training opportunities throughout the state  
7 and shall provide information regarding training opportunities to  
8 all providers of child care programs at the time of registration  
9 or licensure, when renewing a registration, or on a yearly basis  
10 following licensure.

11 (5) Each provider of child care and school-age-care  
12 programs receiving orientation or training shall provide his or her  
13 social security number to the ~~department,~~ Health and Human Services  
14 System.

15 (6) The ~~department~~ Health and Human Services System shall  
16 review and provide recommendations to the Governor for updating  
17 rules and regulations adopted and promulgated under this section at  
18 least every five years.

19 Sec. 311. Section 43-2608, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 43-2608 The ~~Department of Health and Human Services~~  
22 Health and Human Services System shall establish a statewide  
23 toll-free hotline to provide immediate responses to the needs  
24 of providers of programs. Such hotline may be operated by the  
25 ~~department,~~ system, or the ~~department~~ system may contract with a  
26 state agency or with any other public or private entity capable of  
27 providing such service to operate the hotline.

1           Sec. 312. Section 43-2609, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           43-2609 (1) The Legislature finds that a system of  
4 voluntary registration would provide a mechanism for participation  
5 in the food programs offered by the United States Department  
6 of Agriculture, for eligibility to receive funds under the  
7 federal Child Care Subsidy program, for support and assistance  
8 to unlicensed family child care home providers, and for voluntary  
9 participation in training.

10           (2) The Department of Health and Human Services  
11 Health and Human Services System shall institute a system of  
12 voluntary registration for family child care homes not required  
13 to be licensed under section 71-1911. The ~~department~~ system  
14 shall promulgate standards for such voluntary registration. The  
15 application for registration shall include the applicant's social  
16 security number. The ~~department~~ system shall not make payments for  
17 child care, from any state or federal funds, to any family child  
18 care home provider not voluntarily registered under this section.

19           (3) The ~~department~~ Health and Human Services System shall  
20 issue a certificate of registration to any family child care home  
21 provider registered pursuant to this section.

22           (4) For purposes of implementing voluntary registration,  
23 the ~~department~~ Health and Human Services System may contract with  
24 family child care home associations or full-service community-based  
25 agencies to carry out such voluntary registration procedures for  
26 the ~~department.~~ system.

27           Sec. 313. Section 43-2616, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           43-2616 Notwithstanding any other provision of law,  
3 including section 71-1914, family child care homes licensed by the  
4 ~~Department of Health and Human Services Regulation and Licensure~~  
5 Health and Human Services System pursuant to section 71-1911 or by  
6 a city, village, or county pursuant to subsection (2) of section  
7 71-1914 may be established and operated in any residential zone  
8 within the exercised zoning jurisdiction of any city or village.

9           Sec. 314. Section 43-2617, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           43-2617 A provider of a program shall notify the parents  
12 of enrolled children of the outbreak of any communicable disease in  
13 any child in the program on the same day the provider is informed  
14 of or observes the outbreak. ~~The Department of Health and Human~~  
15 ~~Services in consultation with the Department of Health and Human~~  
16 ~~Services Regulation and Licensure~~ Health and Human Services System  
17 shall develop appropriate procedures to carry out this section.

18           Sec. 315. Section 43-2620, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20           43-2620 ~~The Department of Health and Human Services, the~~  
21 ~~Department of Health and Human Services Regulation and Licensure,~~  
22 Health and Human Services System and the State Department of  
23 Education shall collaborate in their activities and may:

24           (1) Encourage the development of comprehensive systems  
25 of child care programs and early childhood education programs  
26 which promote the wholesome growth and educational development of  
27 children, regardless of the child's level of ability;

1                   (2) Encourage and promote the provision of parenting  
2 education, developmentally appropriate activities, and primary  
3 prevention services by program providers;

4                   (3) Facilitate cooperation between the private and public  
5 sectors in order to promote the expansion of child care;

6                   (4) Promote continuing study of the need for child care  
7 and early childhood education and the most effective methods by  
8 which these needs can be served through governmental and private  
9 programs;

10                  (5) Coordinate activities with other state agencies  
11 serving children and families;

12                  (6) Strive to make the state a model employer by  
13 encouraging the state to offer a variety of child care benefit  
14 options to its employees;

15                  (7) Provide training for ~~child care~~ early childhood  
16 education providers as authorized in sections 79-1101 to 79-1103;

17                  (8) Develop and support resource and referral services  
18 for parents and providers that will be in place statewide by  
19 January 1, 1994;

20                  (9) Promote the involvement of businesses and communities  
21 in the development of child care throughout the state by providing  
22 technical assistance to providers and potential providers of child  
23 care;

24                  (10) Establish a voluntary accreditation process for  
25 public and private child care and early childhood education  
26 providers, which process promotes program quality;

27                  (11) At least biennially, develop an inventory of

1 programs and early childhood education programs provided to  
2 children in Nebraska and identify the number of children receiving  
3 and not receiving such services, the types of programs under which  
4 the services are received, and the reasons children not receiving  
5 the services are not being served; and

6 (12) Support the identification and recruitment of  
7 persons to provide child care for children with special needs.

8 Sec. 316. Section 43-2622, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 43-2622 The Child Care Grant Fund is hereby established  
11 to be administered by the ~~Department of Health and Human Services.~~  
12 Health and Human Services System. The fund shall be used to make  
13 grants pursuant to section 43-2624. Any money in the fund available  
14 for investment shall be invested by the state investment officer  
15 pursuant to the Nebraska Capital Expansion Act and the Nebraska  
16 State Funds Investment Act.

17 Sec. 317. Section 43-2624, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 43-2624 The ~~Department of Health and Human Services~~  
20 Health and Human Services System shall award grants to persons,  
21 community-based organizations, or schools needing assistance to  
22 start or improve a child care program or needing assistance to  
23 provide staff training for a child care program. No grant shall  
24 exceed ten thousand dollars. A recipient of a grant shall not  
25 be eligible for a grant more than once in a three-year period.  
26 Child care grants shall be awarded on the basis of need for the  
27 proposed services in the community. Grants shall be given only to



1 grantees who do not discriminate against children with disabilities  
2 or children whose care is funded by any state or federal funds.  
3 When considering grant applications of equal merit, the ~~department~~  
4 system shall award the grant to the applicant which has not  
5 previously received a grant from the Child Care Grant Fund.

6           Sec. 318. Section 43-2625, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           43-2625 The ~~Department of Health and Human Services~~  
9 Health and Human Services System shall adopt and promulgate rules  
10 and regulations setting forth criteria, application procedures, and  
11 methods to assure compliance with the criteria for grants to be  
12 awarded pursuant to section 43-2624.

13           Sec. 319. Section 43-3001, Revised Statutes Cumulative  
14 Supplement, 2006, is amended to read:

15           43-3001 (1) Notwithstanding any other provision of law  
16 regarding the confidentiality of records and when not prohibited by  
17 the federal Privacy Act of 1974, as amended, juvenile court records  
18 and any other pertinent information that may be in the possession  
19 of school districts, county attorneys, the Attorney General, law  
20 enforcement agencies, child advocacy centers, state probation  
21 personnel, state parole personnel, youth detention facilities,  
22 medical personnel, treatment or placement programs, the ~~Department~~  
23 ~~of Health and Human Services,~~ Health and Human Services System, the  
24 Department of Correctional Services, the State Foster Care Review  
25 Board, child abuse and neglect investigation teams, child abuse  
26 and neglect treatment teams, or other multidisciplinary teams for  
27 abuse, neglect, or delinquency concerning a child who is in the

1 custody of the state may be shared with individuals and agencies  
2 who have been identified in a court order authorized by this  
3 section.

4 (2) In any judicial proceeding concerning a child who is  
5 currently, or who may become at the conclusion of the proceeding,  
6 a ward of the court or state or under the supervision of the  
7 court, an order may be issued which identifies individuals and  
8 agencies who shall be allowed to receive otherwise confidential  
9 information concerning the child for legitimate and official  
10 purposes. The individuals and agencies who may be identified in  
11 the court order are the child's attorney or guardian ad litem, the  
12 parents' attorney, foster parents, appropriate school personnel,  
13 county attorneys, the Attorney General, authorized court personnel,  
14 law enforcement agencies, state probation personnel, state parole  
15 personnel, youth detention facilities, medical personnel, treatment  
16 or placement programs, the ~~Department of Health and Human Services,~~  
17 Health and Human Services System, the Office of Juvenile Services,  
18 the Department of Correctional Services, the State Foster Care  
19 Review Board, child abuse and neglect investigation teams, child  
20 abuse and neglect treatment teams, and other multidisciplinary  
21 teams for abuse, neglect, or delinquency. Unless the order  
22 otherwise states, the order shall be effective until the child  
23 leaves the custody of the state or until a new order is issued.

24 (3) All information acquired by an individual or agency  
25 pursuant to this section shall be confidential and shall not  
26 be disclosed except to other persons who have a legitimate and  
27 official interest in the information and are identified in the

1 court order issued pursuant to this section with respect to the  
2 child in question. A person who receives such information or  
3 who cooperates in good faith with other individuals and agencies  
4 identified in the appropriate court order by providing information  
5 or records about a child shall be immune from any civil or criminal  
6 liability. The provisions of this section granting immunity from  
7 liability shall not be extended to any person alleged to have  
8 committed an act of child abuse or neglect.

9 (4) Any person who publicly discloses information  
10 received pursuant to this section shall be guilty of a Class III  
11 misdemeanor.

12 Sec. 320. Section 43-3302, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 43-3302 It is the intent of the Legislature to encourage  
15 the use of all proven techniques for the enforcement of support  
16 orders. The Legislature finds that the potential suspension of  
17 a professional, occupational, or recreational license or a motor  
18 vehicle operator's license for failure to pay child, spousal, and  
19 medical support is an effective technique for the enforcement of  
20 support orders, particularly for non-wage-earning and self-employed  
21 license holders who are not in compliance with support orders.  
22 It is the intent of the Legislature to encourage license holders  
23 to comply with their legal obligations and to add to the tools  
24 available for the enforcement of support orders. Therefore, the  
25 ~~Department of Health and Human Services,~~ Health and Human Services  
26 System, county attorneys, authorized attorneys, or courts of  
27 competent jurisdiction are authorized to initiate actions under

1 the License Suspension Act against individuals who are not in  
2 compliance with support orders.

3 Sec. 321. Section 43-3305.01, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 43-3305.01 System means the Health and Human Services  
6 System. ~~Director means the Director of Health and Human Services or~~  
7 ~~his or her designee.~~

8 Sec. 322. Section 43-3310, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 43-3310 Relevant licensing authority means a board,  
11 bureau, commission, committee, department, political subdivision,  
12 agency, or other public or private entity that is authorized under  
13 the laws of the State of Nebraska to grant, issue, or renew a  
14 professional, occupational, or recreational license.

15 Sec. 323. Section 43-3314, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 43-3314 (1) When the ~~director~~ system or a county attorney  
18 or authorized attorney has made reasonable efforts to verify and  
19 has reason to believe that a license holder in a case receiving  
20 services under Title IV-D of the Social Security Act, as amended,  
21 (a) is delinquent on a support order in an amount equal to the  
22 support due and payable for more than a three-month period of  
23 time, (b) is not in compliance with a payment plan for amounts  
24 due as determined by a county attorney, an authorized attorney,  
25 or the ~~Department of Health and Human Services~~ system for such  
26 past-due support, or (c) is not in compliance with a payment  
27 plan for amounts due under a support order pursuant to a court

1 order for such past-due support, and therefor determines to certify  
2 the license holder to the appropriate licensing authority, the  
3 ~~director~~, system, county attorney, or authorized attorney shall  
4 send written notice to the license holder by certified mail to  
5 the last-known address of the license holder or to the last-known  
6 address of the license holder available to the court pursuant to  
7 section 42-364.13. For purposes of this section, reasonable efforts  
8 to verify means reviewing the case file and having written or oral  
9 communication with the clerk of the court of competent jurisdiction  
10 and with the license holder. Reasonable efforts to verify may also  
11 include written or oral communication with custodial parents.

12 (2) The notice shall specify:

13 (a) That the ~~director~~, system, county attorney, or  
14 authorized attorney intends to certify the license holder to the  
15 Department of Motor Vehicles and to relevant licensing authorities  
16 pursuant to subsection (3) of section 43-3318 as a license holder  
17 described in subsection (1) of this section;

18 (b) The court or agency of competent jurisdiction which  
19 issued the support order or in which the support order is  
20 registered;

21 (c) That an enforcement action for a support order will  
22 incorporate any amount delinquent under the support order which may  
23 accrue in the future;

24 (d) That a license holder who is in violation of a  
25 support order can come into compliance by:

26 (i) Paying current support if a current support  
27 obligation exists; and

1           (ii) Paying all past-due support or, if unable to pay all  
2 past-due support and if a payment plan for such past-due support  
3 has not been determined, by making payments in accordance with  
4 a payment plan determined by the county attorney, the authorized  
5 attorney, or the ~~Department of Health and Human Services~~ system for  
6 such past-due support; and

7           (e) That within thirty days after issuance of the notice,  
8 the license holder may either:

9           (i) Request administrative review in the manner specified  
10 in the notice to contest a mistake of fact. Mistake of fact means  
11 an error in the identity of the license holder or an error in the  
12 determination of whether the license holder is a license holder  
13 described in subsection (1) of this section; or

14           (ii) Seek judicial review by filing a petition in the  
15 court of competent jurisdiction of the county where the support  
16 order was issued or registered or, in the case of a foreign  
17 support order not registered in Nebraska, the court of competent  
18 jurisdiction of the county where the child resides if the child  
19 resides in Nebraska or the court of competent jurisdiction of the  
20 county where the license holder resides if the child does not  
21 reside in Nebraska.

22           Sec. 324. Section 43-3315, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           43-3315 If the license holder makes a timely request for  
25 judicial review after receiving a notice under section 43-3314,  
26 the court of competent jurisdiction as specified in subdivision  
27 (2) (e) (ii) of section 43-3314 shall have jurisdiction to hear the

1 license holder's petition. Upon the timely notification by the  
2 license holder to the ~~Department of Health and Human Services~~  
3 system that the license holder is seeking judicial review as  
4 provided under this section, the ~~Department of Health and Human~~  
5 ~~Services~~ system shall stay the action to certify the license  
6 holder to the Department of Motor Vehicles and relevant licensing  
7 authorities as a license holder described in subsection (1) of  
8 section 43-3314 pending the outcome of judicial review.

9           Sec. 325. Section 43-3316, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           43-3316 If the license holder makes a timely request  
12 for administrative review after receiving a notice under section  
13 43-3314, the ~~Department of Health and Human Services~~ system shall  
14 provide an opportunity for a hearing in accordance with the  
15 Administrative Procedure Act. The issues that may be determined at  
16 the hearing are limited to whether there has been an error in the  
17 identity of the license holder or in the determination of whether  
18 the license holder is a license holder described in subsection (1)  
19 of section 43-3314. The license holder may raise additional issues,  
20 including the reasonableness of a payment plan for a support order,  
21 to be preserved for appeal to the district court as provided under  
22 the Administrative Procedure Act. The ~~Department of Health and~~  
23 ~~Human Services~~ system shall stay the action to certify the license  
24 holder to the Department of Motor Vehicles and relevant licensing  
25 authorities as a license holder described in subsection (1) of  
26 section 43-3314 pending the outcome of the hearing. The ~~Department~~  
27 ~~of Health and Human Services~~ system shall notify the license holder

1 of its decision.

2           Sec. 326. Section 43-3317, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           43-3317 Any person aggrieved by a decision of the  
5 ~~Department of Health and Human Services~~ system pursuant to section  
6 43-3316 may, upon exhaustion of the procedures for administrative  
7 review provided under the Administrative Procedure Act, seek  
8 judicial review within ten days after the issuance of notice  
9 of the ~~Department of Health and Human Services'~~ system's decision  
10 pursuant to section 43-3316. Notwithstanding subdivision (2)(a)  
11 of section 84-917, proceedings for review shall be instituted by  
12 filing a petition in the court of competent jurisdiction of the  
13 county where the support order was issued or registered or, in  
14 the case of a foreign support order not registered in Nebraska,  
15 the court of competent jurisdiction as specified in subdivision  
16 (2)(e)(ii) of section 43-3314.

17           Sec. 327. Section 43-3318, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           43-3318 (1) The ~~director,~~ system, county attorney,  
20 authorized attorney, or court of competent jurisdiction may certify  
21 in writing to the Department of Motor Vehicles, relevant licensing  
22 authorities, and, if the license holder is a member of the Nebraska  
23 State Bar Association, the Counsel for Discipline of the Nebraska  
24 Supreme Court, that a license holder is a license holder described  
25 in subsection (1) of section 43-3314 if:

26           (a) The license holder does not timely request either  
27 administrative review or judicial review upon issuance of a notice



1 under subsection (2) of section 43-3314, is still a license holder  
2 described in subsection (1) of section 43-3314 thirty-one days  
3 after issuance of the notice, and does not obtain a written  
4 confirmation of compliance from the ~~Department of Health and Human~~  
5 ~~Services~~, system, county attorney, or authorized attorney pursuant  
6 to section 43-3320 within thirty-one days after issuance of the  
7 notice;

8 (b) The ~~Department of Health and Human Services~~ system  
9 issues a decision after a hearing that finds the license holder is  
10 a license holder described in subsection (1) of section 43-3314,  
11 the license holder is still a license holder described in such  
12 subsection thirty-one days after issuance of that decision, and the  
13 license holder does not seek judicial review of the decision within  
14 the ten-day appeal period provided in section 43-3317; or

15 (c) The court of competent jurisdiction enters a judgment  
16 on a petition for judicial review, initiated under either section  
17 43-3315 or 43-3317, that finds the license holder is a license  
18 holder described in subsection (1) of section 43-3314.

19 (2) The court of competent jurisdiction, after providing  
20 appropriate notice, may certify a license holder to the Department  
21 of Motor Vehicles and relevant licensing authorities if a license  
22 holder has failed to comply with subpoenas or warrants relating to  
23 paternity or child support proceedings.

24 (3) If the ~~director~~, system, county attorney, authorized  
25 attorney, or court of competent jurisdiction determines to certify  
26 a license holder to the appropriate licensing authority, then the  
27 ~~director~~, system, county attorney, authorized attorney, or court

1 of competent jurisdiction shall certify a license holder in the  
2 following order and in compliance with the following restrictions:

3 (a) To the Department of Motor Vehicles to suspend  
4 the license holder's operator's license, except the ~~Department~~  
5 ~~of Motor Vehicles~~ department shall not suspend the license  
6 holder's commercial driver's license or restricted commercial  
7 driver's license. If a license holder possesses a commercial  
8 driver's license or restricted commercial driver's license, the  
9 ~~director,~~ system, county attorney, authorized attorney, or court of  
10 competent jurisdiction shall certify such license holder pursuant  
11 to subdivision (b) of this subsection. If the license holder  
12 fails to come into compliance with the support order as provided  
13 in section 43-3314 or with subpoenas and warrants relating to  
14 paternity or child support proceedings within ten working days  
15 after the date on which the license holder's operator's license  
16 suspension becomes effective, then the ~~director,~~ system, county  
17 attorney, authorized attorney, or court of competent jurisdiction  
18 may certify the license holder pursuant to subdivision (b) of this  
19 subsection without further notice;

20 (b) To the relevant licensing authority to suspend  
21 the license holder's recreational license once the Game and  
22 Parks Commission has operative the electronic or other automated  
23 retrieval system necessary to suspend recreational licenses. If  
24 the license holder does not have a recreational license and until  
25 the Game and Parks Commission has operative the electronic or  
26 other automated retrieval system necessary to suspend recreational  
27 licenses, the ~~director,~~ system, county attorney, authorized

1 attorney, or court of competent jurisdiction may certify the  
2 license holder pursuant to subdivision (c) of this subsection.  
3 If the license holder fails to come into compliance with the  
4 support order as provided in section 43-3314 or with subpoenas and  
5 warrants relating to paternity or child support proceedings within  
6 ten working days after the date on which the license holder's  
7 recreational license suspension becomes effective, the ~~director,~~  
8 system, county attorney, authorized attorney, or court of competent  
9 jurisdiction may certify the license holder pursuant to subdivision  
10 (c) of this subsection without further notice; and

11 (c) To the relevant licensing authority to suspend  
12 the license holder's professional license, occupational license,  
13 commercial driver's license, or restricted commercial driver's  
14 license.

15 (4) If the ~~director,~~ system, county attorney, authorized  
16 attorney, or court of competent jurisdiction certifies the license  
17 holder to the Department of Motor Vehicles, the ~~Department of Motor~~  
18 ~~Vehicles~~ department shall suspend the operator's license of the  
19 license holder ten working days after the date of certification.  
20 The ~~Department of Motor Vehicles~~ department shall without undue  
21 delay notify the license holder by certified mail that the  
22 license holder's operator's license will be suspended and the  
23 date the suspension becomes effective. No person shall be issued  
24 an operator's license by the State of Nebraska if at the time  
25 of application for a license the person's operator's license  
26 is suspended under this section. Any person whose operator's  
27 license has been suspended shall return his or her license to

1 the ~~Department of Motor Vehicles~~ department within five working  
2 days after receiving the notice of the suspension. If any person  
3 fails to return the license, the ~~Department of Motor Vehicles~~  
4 department shall direct any peace officer to secure possession  
5 of the operator's license and to return it to the ~~Department of~~  
6 ~~Motor Vehicles-~~ department. The peace officer who is directed to  
7 secure possession of the license shall make every reasonable effort  
8 to secure the license and return it to the ~~Department of Motor~~  
9 ~~Vehicles~~ department or shall show good cause why the license cannot  
10 be returned. An appeal of the suspension of an operator's license  
11 under this section shall be pursuant to section 60-4,105. A license  
12 holder whose operator's license has been suspended under this  
13 section may apply for an employment driving permit as provided by  
14 sections 60-4,129 and 60-4,130, except that the license holder is  
15 not required to fulfill the driver improvement or driver education  
16 and training course requirements of subsection (2) of section  
17 60-4,130.

18 (5) Except as provided in subsection (6) of this section  
19 as it pertains to a license holder who is a member of the Nebraska  
20 State Bar Association, if the ~~director,~~ system, county attorney,  
21 authorized attorney, or court of competent jurisdiction certifies  
22 the license holder to a relevant licensing authority, the relevant  
23 licensing authority, notwithstanding any other provision of law,  
24 shall suspend the license holder's professional, occupational,  
25 or recreational license and the license holder's right to  
26 renew the professional, occupational, or recreational license  
27 ten working days after the date of certification. The relevant

1 licensing authority shall without undue delay notify the license  
2 holder by certified mail that the license holder's professional,  
3 occupational, or recreational license will be suspended and the  
4 date the suspension becomes effective.

5 (6) If the ~~director~~, system, county attorney, authorized  
6 attorney, or court of competent jurisdiction certifies a license  
7 holder who is a member of the Nebraska State Bar Association to the  
8 Counsel for Discipline of the Nebraska Supreme Court, the Nebraska  
9 Supreme Court may suspend the license holder's license to practice  
10 law. It is the intent of the Legislature to encourage all license  
11 holders to comply with their child support obligations. Therefor,  
12 the Legislature hereby requests that the Nebraska Supreme Court  
13 adopt amendments to the rules regulating attorneys, if necessary,  
14 which provide for the discipline of an attorney who is delinquent  
15 in the payment of or fails to pay his or her child support  
16 obligation.

17 (7) The ~~Department of Health and Human Services~~, system,  
18 or court of competent jurisdiction when appropriate, shall send  
19 by certified mail to the license holder at the license holder's  
20 last-known address a copy of any certification filed with the  
21 Department of Motor Vehicles or a relevant licensing authority and  
22 a notice which states that the license holder's operator's license  
23 will be suspended ten working days after the date of certification  
24 and that the suspension of a professional, occupational, or  
25 recreational license pursuant to subsection (5) of this section  
26 becomes effective ten working days after the date of certification.

27 Sec. 328. Section 43-3319, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           43-3319 If the license holder files a motion or  
3 application to modify a support order, the ~~Department of Health and~~  
4 ~~Human Services,~~ system, county attorney, or authorized attorney,  
5 upon notification by the license holder, shall stay the action to  
6 certify the license holder under section 43-3318 until disposition  
7 of the motion or application by the court or agency of competent  
8 jurisdiction. If the license holder requests review of the support  
9 order under section 43-512.12, the ~~Department of Health and Human~~  
10 ~~Services~~ system shall stay the action to certify the license holder  
11 pending final disposition of the review and modification process.

12           Sec. 329. Section 43-3320, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           43-3320 (1) When a license holder comes into compliance  
15 with the support order as provided in section 43-3314, the  
16 ~~Department of Health and Human Services,~~ system, county attorney,  
17 or authorized attorney shall provide the license holder with  
18 written confirmation that the license holder is in compliance.

19           (2) When a license holder comes into compliance with  
20 subpoenas and warrants relating to paternity or child support  
21 proceedings, the court of competent jurisdiction shall provide the  
22 license holder with written confirmation that the license holder is  
23 in compliance.

24           Sec. 330. Section 43-3323, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26           43-3323 The ~~Department of Health and Human Services~~  
27 system shall adopt and promulgate rules and regulations to carry

1 out the License Suspension Act.

2           Sec. 331. Section 43-3324, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           43-3324 The Department of Motor Vehicles and relevant  
5 licensing authorities shall provide to the ~~Department of Health and~~  
6 ~~Human Services~~ system specified information about license holders  
7 in a manner agreed to by the ~~Department of Health and Human~~  
8 ~~Services and the Department of Motor Vehicles~~ system and the  
9 department or the relevant licensing authority annually on a date  
10 determined by the ~~Department of Health and Human Services~~ system.

11 The information shall include:

- 12           (1) The name of the license holder;
- 13           (2) The license holder's address of record;
- 14           (3) The license holder's federal employer identification  
15 number or social security number, if available and permissible  
16 under law, and the license holder's date of birth;
- 17           (4) The type of license held;
- 18           (5) The effective date of the license or renewal;
- 19           (6) The expiration date of the license; and
- 20           (7) The status of the license as active or inactive.

21           The ~~Department of Health and Human Services~~ system may  
22 enter into agreements with the Director of Motor Vehicles and  
23 relevant licensing authorities to carry out this section. Such  
24 agreements with the Game and Parks Commission with regard to  
25 recreational license holders shall only be made when electronic  
26 or other automated retrieval systems are available for such  
27 information.

1           Sec. 332. Section 43-3325, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           43-3325 Nothing in the License Suspension Act shall  
4 prevent the ~~Department of Health and Human Services~~, system, the  
5 county attorney, the authorized attorney, or the court of competent  
6 jurisdiction from taking other enforcement actions.

7           Sec. 333. Section 43-3326, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           43-3326 The ~~director~~ system shall issue a report to  
10 the Legislature on or before January 31 of each year which  
11 discloses the number of professional, occupational, or recreational  
12 licenses which were suspended and the number which were erroneously  
13 suspended and restored as a result of the License Suspension Act  
14 for the prior year. The ~~Director~~ Department of Motor Vehicles shall  
15 issue a report to the Legislature on or before January 31 of  
16 each year which discloses the number of operators' licenses which  
17 were suspended and the number which were erroneously suspended and  
18 restored as a result of the License Suspension Act for the prior  
19 year.

20           Sec. 334. Section 43-3327, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           43-3327 (1) For purposes of this section:

23           (a) Authorized attorney has the same meaning as in  
24 section 43-1704;

25           (b) System means the Health and Human Services System.

26 ~~Director means the Director of Health and Human Services or his or~~  
27 ~~her designee;~~



1 (c) Genetic testing means genetic testing ordered  
2 pursuant to section 43-1414; and

3 (d) Support order has the same meaning as in section  
4 43-1717.

5 (2) Notwithstanding any other provision of law regarding  
6 the confidentiality of records, the ~~director~~, system, a county  
7 attorney, or an authorized attorney may, without obtaining a court  
8 or administrative order:

9 (a) Compel by subpoena (i) information relevant to  
10 establishing, modifying, or enforcing a support order and (ii)  
11 genetic testing of an individual relevant to establishing,  
12 modifying, or enforcing a support order. Such information includes,  
13 but is not limited to, relevant financial records and other  
14 relevant records including the name, address, and listing of  
15 financial assets or liabilities from public or private entities.  
16 If a person fails or refuses to obey the subpoena, the ~~director~~,  
17 system, a county attorney, or ~~an~~ authorized attorney may apply to a  
18 judge of the court of competent jurisdiction for an order directing  
19 such person to comply with the subpoena. Failure to obey such court  
20 order may be punished by the court as contempt of court; and

21 (b) Obtain access to information contained in the  
22 records, including automated data bases, of any state or local  
23 agency which is relevant to establishing, modifying, or enforcing a  
24 support order or to ordering genetic testing. Such records include,  
25 but are not limited to, vital records, state and local tax and  
26 revenue records, titles to real and personal property, employment  
27 security records, records of correctional institutions, and records

1 concerning the ownership and control of business entities.

2 (3) The ~~director~~ system shall subpoena or access  
3 information as provided in subsection (2) of this section at the  
4 request of a state agency of another state which administers Title  
5 IV-D of the federal Social Security Act for such information. The  
6 ~~Department of Health and Human Services~~ system may charge a fee  
7 for this service which does not exceed the cost of providing the  
8 service.

9 (4) All information acquired pursuant to this section is  
10 confidential and cannot be disclosed or released except to other  
11 agencies which have a legitimate and official interest in the  
12 information for carrying out the purposes of this section. A person  
13 who receives such information, subject to the provisions of this  
14 subsection on confidentiality and restrictions on disclosure or  
15 release, is immune from any civil or criminal liability. A person  
16 who cooperates in good faith by providing information or records  
17 under this section is immune from any civil or criminal liability.  
18 Any person acquiring information pursuant to this section who  
19 discloses or releases such information in violation of this  
20 subsection is guilty of a Class III misdemeanor. The disclosure or  
21 release of such information regarding an individual is a separate  
22 offense from information disclosed or released regarding any other  
23 individual.

24 Sec. 335. Section 43-3328, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26 43-3328 It is the intent of the Legislature to encourage  
27 the use of all proven techniques for the enforcement of support

1 orders. It is also the intent of the Legislature to effectuate  
2 reasonable welfare reform and to comply with the federal Personal  
3 Responsibility and Work Opportunity Reconciliation Act of 1996. The  
4 Legislature finds and declares that a bank match system and the  
5 potential for an administrative attachment of personal assets of  
6 an obligor held by a payor or held by a financial institution  
7 is an effective tool for the collection of unpaid support from  
8 obligors who are not in compliance with support orders. It is the  
9 intent of the Legislature to encourage obligors to comply with  
10 their legal obligations and to add to the tools available for  
11 the enforcement of support orders by authorizing the ~~Department~~  
12 ~~of Health and Human Services~~ Health and Human Services System and  
13 county attorneys or authorized attorneys to initiate bank match  
14 actions and administrative attachments as described in sections  
15 43-3328 to 43-3339.

16           Sec. 336. Section 43-3329, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           43-3329 For purposes of sections 43-3328 to 43-3339, the  
19 following definitions apply:

20           (1) Account means a demand deposit account, checking or  
21 negotiable withdrawal order account, savings account, time deposit  
22 account, or money-market mutual fund account;

23           (2) Authorized attorney has the same meaning as found in  
24 section 43-1704;

25           (3) Child support has the same meaning as found in  
26 section 43-1705;

27           ~~(4) Department means the Department of Health and Human~~

1 ~~Services;~~

2           ~~(5) Director means the Director of Health and Human~~  
3 ~~Services or his or her designee and, if the director designates,~~  
4 ~~includes a county attorney or authorized attorney;~~

5           ~~(6)~~ (4) Financial institution means every federal or  
6 state commercial or savings bank, including savings and loan  
7 associations and cooperative banks, federal or state chartered  
8 credit unions, benefit associations, insurance companies, safe  
9 deposit companies, any money-market mutual fund as defined in  
10 section 851(a) of the Internal Revenue Code that seeks to maintain  
11 a constant net asset value of one dollar in accordance with 17  
12 C.F.R. 270.2a-7, any broker, brokerage firm, trust company, or unit  
13 investment trust, or any other similar entity doing business or  
14 authorized to do business in the State of Nebraska;

15           ~~(7)~~ (5) Match means a comparison by automated or other  
16 means by name and social security number of a list of obligors  
17 provided to a financial institution by the ~~Department of Health and~~  
18 ~~Human Services~~ system and a list of depositors of any financial  
19 institution;

20           ~~(8)~~ (6) Medical support has the same meaning as found in  
21 section 43-512;

22           ~~(9)~~ (7) Obligor means a person who owes a duty of support  
23 pursuant to a support order;

24           ~~(10)~~ (8) Payor includes a person, partnership, limited  
25 partnership, limited liability partnership, limited liability  
26 company, corporation, or other entity doing business or authorized  
27 to do business in the State of Nebraska, including a financial

1 institution, or a department or an agency of state, county, or city  
2 government;

3 ~~(11)~~ (9) Spousal support has the same meaning as found in  
4 section 43-1715;

5 ~~(12)~~ (10) Support in the definitions of child support,  
6 medical support, and spousal support means providing necessary  
7 shelter, food, clothing, care, medical support, medical attention,  
8 education expenses, or funeral expenses or any other reasonable and  
9 necessary expense; and

10 ~~(13)~~ (11) Support order has the same meaning as found in  
11 section 43-1717; and -

12 (12) System means the Health and Human Services System  
13 and, if the system designates, includes a county attorney or  
14 authorized attorney.

15 Sec. 337. Section 43-3330, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 43-3330 A financial institution shall receive from the  
18 ~~department~~ system a listing of obligors to be used in matches  
19 within the financial institution's ~~system.~~ records. The listing  
20 from the ~~department~~ system shall include the name and social  
21 security number or taxpayer identification number of each obligor  
22 to be used in matches within the financial institution's ~~system.~~  
23 records. The financial institution shall receive the listing within  
24 thirty days after the end of each calendar quarter subsequent to  
25 January 1, 1998, and shall match the listing to its records of  
26 accounts held in one or more individuals' names which are open  
27 accounts and such accounts closed within the preceding calendar

1 quarter within thirty days after receiving the listing and provide  
2 the ~~department~~ system with a match listing of all matches made  
3 within five working days of the match. The match listing from  
4 the financial institution shall include the name, address, and  
5 social security number or taxpayer identification number of each  
6 obligor matched. The financial institution shall also provide the  
7 names and addresses of all other owners of accounts in the match  
8 listing as reflected on a signature card or other similar document  
9 on file with the financial institution. The financial institution  
10 shall submit all match listings by disk, magnetic tape, or other  
11 medium approved by the ~~department~~ system. Nothing in this section  
12 shall (1) require a financial institution to disclose the account  
13 number assigned to the account of any individual or (2) serve  
14 to encumber the ownership interest of any person in or impact  
15 any right of setoff against an account. The financial institution  
16 shall maintain the confidentiality of all records supplied and  
17 shall use the records only for the purposes of this section. To  
18 maintain the confidentiality of the listing and match listing, the  
19 ~~department~~ system shall implement appropriate security provisions  
20 for the listing and match listing which are as stringent as those  
21 established under the Federal Tax Information Security Guidelines  
22 for federal, state, and local agencies.

23           Sec. 338. Section 43-3331, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           43-3331 A financial institution is not liable under  
26 any state or local law to any individual or to the ~~department~~  
27 system for disclosure or release of information to the ~~department~~

1 system for the purpose of establishing, modifying, or enforcing  
2 a support order or for any other action taken in good faith  
3 to comply with the requirements of section 43-3330. Sections  
4 43-3328 to 43-3339 shall not be construed to make a financial  
5 institution responsible or liable to any extent for assuring that  
6 the ~~department~~ system maintains the confidentiality of information  
7 disclosed under section 43-3330.

8           Sec. 339. Section 43-3332, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           43-3332 A financial institution may charge a reasonable  
11 fee, not to exceed actual cost, to be paid by the ~~department~~ system  
12 for the service of reporting matches as required by section 43-3330  
13 and may charge a fee, not to exceed actual cost, to be paid by  
14 the ~~department~~ system for the necessary upgrades to an existing  
15 system records that are directly related to compliance with section  
16 43-3330 and that have been approved by the ~~department.~~ system.

17           Sec. 340. Section 43-3333, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           43-3333 (1) In a case which is receiving services under  
20 Title IV-D of the federal Social Security Act, as amended, when  
21 the ~~directer~~ system has made reasonable efforts to verify and  
22 has reason to believe payment on a support order is in arrears  
23 in an amount equal to the support due and payable for more  
24 than a three-month period of time or upon the request of the  
25 state agency of another state which administers Title IV-D of the  
26 federal Social Security Act, and therefor determines to seize an  
27 obligor's property, the ~~directer~~ system shall send written notice

1 to the obligor by first-class mail to the last-known address of  
2 the obligor or to the last-known address of the obligor available  
3 to the court pursuant to section 42-364.13. For purposes of this  
4 section, reasonable efforts to verify means reviewing the case file  
5 and having written or oral communication with the clerk of the  
6 district court.

7 (2) The notice of arrearage shall:

8 (a) Specify the court or agency which issued the support  
9 order;

10 (b) Specify the arrearage under the support order which  
11 the obligor owes as of the date of the notice or other date  
12 certain;

13 (c) Specify that any enforcement action will incorporate  
14 any arrearage which may accrue in the future;

15 (d) State clearly, "Your property may be seized without  
16 further notice if you do not respond or clear up the arrearage";  
17 and

18 (e) Specify that within twenty days after the notice is  
19 mailed, the obligor may request, in writing, a hearing to contest  
20 a mistake of fact. For purposes of this section, mistake of fact  
21 means an error in the amount of the arrearage or an error in the  
22 identity of the obligor.

23 (3) If the obligor files a written request for a hearing  
24 based upon a mistake of fact within twenty days after the notice  
25 is mailed, the ~~department~~ system shall provide an opportunity for a  
26 hearing and shall stay enforcement action under sections 43-3333 to  
27 43-3337 until the administrative appeal process is completed.



1           Sec. 341. Section 43-3334, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           43-3334 (1) The ~~director~~ system may send a payor an  
4 order to withhold and deliver specifically identified property  
5 of any kind due, owing, or belonging to an obligor if (a) the  
6 ~~director~~ system has reason to and does believe that there is  
7 in the possession of the payor property which is due, owing, or  
8 belonging to an obligor, (b) payment on a support order is in  
9 arrears, (c) the ~~director~~ system sent a notice of arrearage to the  
10 obligor pursuant to section 43-3333 at least thirty days prior to  
11 sending the notice to withhold and deliver, and (d) no hearing was  
12 requested or after a hearing the ~~department~~ system determined that  
13 an arrearage did exist or that there was no mistake of fact.

14           (2) The order to withhold and deliver shall state that  
15 notice has been mailed to the obligor in accordance with the  
16 requirements of subdivision (1)(c) of this section and that the  
17 obligor has not requested a hearing or, after a hearing, the  
18 ~~department~~ system has determined that an arrearage exists or that  
19 there was no mistake of fact, the amount in arrears, the social  
20 security number of the obligor, the court or agency to which  
21 the property is to be delivered, instructions for transmitting  
22 the property, and information regarding the requirements found in  
23 subsection (3) of this section. The order shall include written  
24 questions regarding the property of every description, including  
25 whether or not any other person has an ownership interest in  
26 the property, and the credits of the obligor which are in the  
27 possession or under the control of the payor at the time the order

1 is received.

2 (3) Upon receipt of an order to withhold and deliver, a  
3 payor shall:

4 (a) Hold property that is subject to the order and that  
5 is in the possession or under the control of the payor at the time  
6 the order to withhold and deliver was received, to the extent of  
7 the amount of the arrearage stated in the order until the payor  
8 receives further notice from the ~~director~~ system;

9 (b) Answer all of the questions asked of the payor in  
10 the order, supply the name and address of any person that has an  
11 ownership interest in the property sought to be reached, and return  
12 such information to the ~~director~~ system within five business days  
13 after receiving the order; and

14 (c) Upon further notice from the ~~director~~, system,  
15 deliver any property which may be subject to the order to the  
16 court or agency designated in the order or release such property or  
17 portion thereof.

18 (4) An order to withhold and deliver shall have the same  
19 priority as a garnishment for the support of a person pursuant to  
20 subsection (4) of section 25-1056.

21 (5) If the payor is a financial institution, such  
22 financial institution may deduct and retain a processing fee  
23 from any amounts turned over to the ~~department~~ system under this  
24 section. The processing fee shall not exceed ten dollars for each  
25 account turned over to the ~~department~~. system.

26 Sec. 342. Section 43-3335, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

1           43-3335 (1) Within five days after the issuance of the  
2 order to withhold and deliver, the ~~director~~ system shall send  
3 written notice to the obligor by first-class mail. The notice shall  
4 be dated and shall specify the payor to which an order to withhold  
5 and deliver was sent, the amount due, the steps to be followed to  
6 release the property, the time period in which to respond to such  
7 notice, and the court or agency of competent jurisdiction which  
8 issued the support order.

9           (2) The obligor may request a hearing to contest a  
10 mistake of fact by sending a written request to the ~~director~~ system  
11 within seven days after the date of the notice. The ~~department~~  
12 system shall provide an opportunity for a hearing within ten days  
13 after receipt of the written request and shall stay enforcement  
14 actions under sections 43-3333 to 43-3337 until the administrative  
15 appeal process is completed.

16           Sec. 343. Section 43-3336, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           43-3336 (1) If, after receiving the information from the  
19 payor in subdivision (3)(b) of section 43-3334, the ~~director~~ system  
20 has knowledge that another person has an ownership interest or may  
21 claim an ownership interest in any property sought to be reached  
22 which is in the possession or under the control of the payor  
23 as the property of the obligor, the ~~director~~ system shall send  
24 written notice to such person or persons by certified mail, return  
25 receipt requested. The notice shall be dated and shall specify why  
26 the order to withhold and deliver was issued, the payor to which  
27 the order to withhold and deliver was sent, and that the person

1 has a right to request a hearing by the ~~department~~ system within  
2 fifteen days after the date of the notice to establish that the  
3 property or any part thereof is not the property of the obligor.  
4 The ~~department~~ system shall provide an opportunity for hearing to a  
5 person making such request and shall stay enforcement actions under  
6 sections 43-3333 to 43-3337 until the administrative appeal process  
7 is completed.

8 (2) Any person other than the obligor claiming an  
9 ownership interest in any property sought to be reached which  
10 is in the possession or under the control of the payor as the  
11 property of the obligor has a right to timely request a hearing by  
12 the ~~department~~ system to establish that the property or any part  
13 thereof is not the property of the obligor. The ~~department~~ system  
14 shall provide an opportunity for hearing to a person making such  
15 request and shall stay enforcement actions under sections 43-3333  
16 to 43-3337 until the administrative appeal process is completed. If  
17 the property or any part of the property which is in the possession  
18 or under the control of the payor is not the property of the  
19 obligor, the payor is discharged as to that property which is not  
20 the obligor's.

21 Sec. 344. Section 43-3337, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 43-3337 (1) If a payor fails or refuses to withhold  
24 or deliver property subject to an order to withhold and deliver,  
25 judgment may be entered by the court which issued or registered the  
26 support order for the amount of the arrearages stated in the order  
27 or the amount of the property or credits of the obligor in the

1 possession or under the control of the payor at the time the order  
2 to withhold and deliver was received, whichever is less, unless the  
3 payor can show cause as to why the property was not withheld or  
4 delivered.

5 (2) Compliance with the order by the payor operates as a  
6 discharge of the payor's liability to the obligor or beneficiary as  
7 to the portion of the obligor's property withheld or delivered.

8 (3) A payor is not liable to any individual or to the  
9 ~~department~~ system for responding to an order to withhold and  
10 deliver or for holding, refusing to release to the obligor, or  
11 delivering any property of an obligor in compliance with an order  
12 to withhold and deliver or for any other action taken in good faith  
13 to comply with the requirements of sections 43-3328 to 43-3339  
14 regardless of whether such action was specifically authorized or  
15 described by such sections.

16 Sec. 345. Section 43-3338, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 43-3338 Any person aggrieved by a determination of  
19 the ~~department~~ system under sections 43-3328 to 43-3339, upon  
20 exhaustion of the procedures for administrative review provided in  
21 such sections, ~~or the director~~ may seek judicial review in the  
22 court in which the support order was issued or registered.

23 Sec. 346. Section 43-3339, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 43-3339 The ~~department~~ system shall adopt and promulgate  
26 rules and regulations to carry out sections 43-3328 to 43-3339.

27 Sec. 347. Section 43-3340, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           43-3340 (1) To aid child support enforcement pursuant to  
3 federal law, 42 U.S.C. 666(a), the social security numbers of the  
4 following individuals shall be recorded on the application, in the  
5 court records, or on the death certificate, as appropriate:

6           (a) Any applicant for a professional license, commercial  
7 driver's license, occupational license, or marriage license;

8           (b) Any individual who is subject to a divorce decree,  
9 support order, or paternity determination or acknowledgment; and

10           (c) Any individual who has died.

11           (2) ~~The Department of Health and Human Services~~ Health  
12 and Human Services System shall adopt and promulgate rules and  
13 regulations which provide a procedure for the collection of the  
14 social security numbers recorded pursuant to this section and  
15 for the use of such numbers in the child support enforcement as  
16 provided in 42 U.S.C. 666(a).

17           Sec. 348. Section 43-3341, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           43-3341 For purposes of sections 43-3341 to 43-3347:

20           (1) Business day means a day on which state offices are  
21 open for regular business;

22           (2) Child support has the same meaning as found in  
23 section 43-1705;

24           ~~(3) Department means the Department of Health and Human~~  
25 ~~Services;~~

26           ~~(4)~~ (3) Medical support has the same meaning as found in  
27 section 43-512;

1           ~~(5)~~ (4) Obligee means a person to whom a duty of support  
2 is owed pursuant to a support order;

3           ~~(6)~~ (5) Obligor means a person who owes a duty of support  
4 pursuant to a support order;

5           ~~(7)~~ (6) Normal business hours means 7 a.m. to 6 p.m.  
6 Central Time;

7           ~~(8)~~ (7) Spousal support has the same meaning as found in  
8 section 43-1715;

9           ~~(9)~~ (8) State Disbursement Unit means the unit  
10 established in section 43-3342;

11           ~~(10)~~ (9) Support has the same meaning as found in section  
12 43-3313;

13           ~~(11)~~ (10) Support order has the same meaning as found in  
14 section 43-1717; and

15           (11) System means the Health and Human Services System;  
16 and

17           (12) Title IV-D Division means the Title IV-D Division  
18 of the ~~department~~ system which is the single organizational unit  
19 of the state that has the responsibility for administering or  
20 supervising the administration of the state plan under Title IV-D  
21 of the federal Social Security Act.

22           Sec. 349. Section 43-3342.01, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           43-3342.01 (1) The responsibilities of the State  
25 Disbursement Unit shall include the following:

26           (a) Receipt of payments, except payments made pursuant to  
27 subdivisions (1) (a) and (1) (b) of section 42-369, and disbursements

1 of such payments to obligees, the ~~department,~~ system, and the  
2 agencies of other states;

3 (b) Accurate identification of payments;

4 (c) Prompt disbursement of the obligee's share of any  
5 payments;

6 (d) Furnishing to any obligor or obligee, upon request,  
7 timely information on the current status of support order payments;  
8 and

9 (e) One location for employers to send income withholding  
10 payments.

11 (2) The Title IV-D Division shall maintain records of  
12 payments for all cases in which support order payments are made  
13 to the central office of the State Disbursement Unit using the  
14 statewide automated data processing and retrieval system. The Title  
15 IV-D Division shall not be required to convert and maintain records  
16 of support order payments kept by the clerk of the district court  
17 before the date that the State Disbursement Unit becomes operative  
18 or records of payments received by the clerk pursuant to section  
19 42-369.

20 (3) A true copy of the record of payments, balances, and  
21 arrearages maintained by the Title IV-D Division is prima facie  
22 evidence, without further proof or foundation, of the balance of  
23 any amount of support order payments that are in arrears on the  
24 date the State Disbursement Unit becomes operative and of all  
25 payments made and disbursed to the person or agency to whom the  
26 support order payment is to be made after the date the unit becomes  
27 operative. Such evidence shall be considered to be satisfactorily



1 authenticated, shall be admitted as prima facie evidence of the  
2 transactions shown in such evidence, and is rebuttable only by a  
3 specific evidentiary showing to the contrary.

4 (4) A copy of support payment records maintained by the  
5 Title IV-D Division shall be considered to be a true copy of  
6 the record when certified by a person designated by the division  
7 pursuant to the rules and regulations adopted and promulgated  
8 pursuant to this section.

9 Sec. 350. Section 43-3342.04, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 43-3342.04 (1) The Title IV-D Division shall establish a  
12 Customer Service Unit. In hiring the initial staff for the unit, a  
13 hiring preference shall be given to employees of the clerks of the  
14 district court. The duties of the Customer Service Unit include,  
15 but are not limited to:

16 (a) Providing account information as well as addressing  
17 inquiries made by customers of the State Disbursement Unit; and

18 (b) Administering two statewide toll-free telephone  
19 systems, one for use by employers and one for use by all other  
20 customers, to provide responses to inquiries regarding income  
21 withholding, the collection and disbursement of support order  
22 payments made to the State Disbursement Unit, and other child  
23 support enforcement issues, including establishing a call center  
24 with sufficient telephone lines, a voice response unit, and  
25 adequate personnel available during normal business hours to ensure  
26 that responses to inquiries are made by the division's personnel  
27 or the division's designee.

1           (2) The physical location of the Customer Service Unit  
2 shall be in Nebraska and shall result in the hiring of a number of  
3 new employees or contractor's staff equal to at least one-fourth  
4 of one percent of the labor force in the county or counties in  
5 which the Customer Service Unit is located. Customer service staff  
6 responsible for providing account information related to the State  
7 Disbursement Unit may be located at the same location as the State  
8 Disbursement Unit.

9           (3) The ~~Director of Health and Human Services~~ system  
10 shall issue a report to the Governor and to the Legislature on or  
11 before January 31 of each year which discloses information relating  
12 to the operation of the State Disbursement Unit for the preceding  
13 calendar year including, but not limited to:

14           (a) The number of transactions processed by the State  
15 Disbursement Unit;

16           (b) The dollar amount collected by the State Disbursement  
17 Unit;

18           (c) The dollar amount disbursed by the State Disbursement  
19 Unit;

20           (d) The percentage of identifiable collections disbursed  
21 within two business days;

22           (e) The percentage of identifiable collections that are  
23 matched to the correct case;

24           (f) The number and dollar amount of insufficient funds  
25 checks received by the State Disbursement Unit;

26           (g) The number and dollar amount of insufficient  
27 funds checks received by the State Disbursement Unit for which

1 restitution is subsequently made to the State Disbursement Unit;

2 (h) The number of incoming telephone calls processed  
3 through the Customer Service Unit;

4 (i) The average length of incoming calls from employers;

5 (j) The average length of incoming calls from all other  
6 customers;

7 (k) The percentage of incoming calls resulting in  
8 abandonment by the customer;

9 (l) The percentage of incoming calls resulting in a  
10 customer receiving a busy signal;

11 (m) The average holding time for all incoming calls; and

12 (n) The percentage of calls handled by employees of the  
13 Customer Service Unit that are resolved within twenty-four hours.

14 Sec. 351. Section 43-3401, Revised Statutes Cumulative  
15 Supplement, 2006, is amended to read:

16 43-3401 The Early Childhood Interagency Coordinating  
17 Council is created. The council shall advise and assist the  
18 collaborating agencies in carrying out the provisions of the Early  
19 Intervention Act, the Quality Child Care Act, sections 79-1101 to  
20 79-1104, and other early childhood care and education initiatives  
21 under state supervision. Membership and activities of the council  
22 shall comply with all applicable provisions of federal law. Members  
23 of the council shall be appointed by the Governor and shall  
24 include, but not be limited to:

25 (1) Parents of children who require early intervention  
26 services, early childhood special education, and other early  
27 childhood care and education services; and

1           (2) Representatives of school districts, social  
2 services, health and medical services, family child care and  
3 center-based early childhood care and education programs, agencies  
4 providing training to staff of child care programs, resource  
5 and referral agencies, mental health services, developmental  
6 disabilities services, educational service units, Head Start,  
7 higher education, physicians, the Legislature, business persons,  
8 and the collaborating agencies.

9           Terms of the members shall be for three years, and  
10 a member shall not serve more than two consecutive three-year  
11 terms. Members shall be reimbursed for their actual and necessary  
12 expenses, including child care expenses, with funds provided for  
13 such purposes through the Early Intervention Act, the Quality Child  
14 Care Act, and sections 79-1101 to 79-1104.

15           Members of the Nebraska Interagency Coordinating Council  
16 serving on July 13, 2000, shall constitute the Early Childhood  
17 Interagency Coordinating Council and shall serve for the remainder  
18 of their terms. The Governor shall make additional appointments  
19 as required by this section and to fill vacancies as needed.  
20 The Governor shall set the initial terms of additional appointees  
21 to result in staggered terms for members of the council. The  
22 ~~Department of Health and Human Services Finance and Support, the~~  
23 ~~Department of Health and Human Services Regulation and Licensure,~~  
24 Health and Human Services System and the State Department of  
25 Education shall provide and coordinate staff assistance to the  
26 council.

27           Sec. 352. Section 43-3402, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2           43-3402 With respect to the Early Intervention Act, the  
3 Quality Child Care Act, and sections 79-1101 to 79-1104, the  
4 Early Childhood Interagency Coordinating Council shall serve in an  
5 advisory capacity to state agencies responsible for early childhood  
6 care and education, including care for school-age children, in  
7 order to:

8           (1) Promote the policies set forth in the Early  
9 Intervention Act, the Quality Child Care Act, and sections 79-1101  
10 to 79-1104;

11           (2) Facilitate collaboration with the federally  
12 administered Head Start program;

13           (3) Make recommendations to the Department of Health  
14 and Human Services, ~~the Department of Health and Human Services~~  
15 ~~Finance and Support,~~ ~~the Department of Health and Human Services~~  
16 ~~Regulation and Licensure,~~ Health and Human Services System, the  
17 State Department of Education, and other state agencies responsible  
18 for the regulation or provision of early childhood care and  
19 education programs on the needs, priorities, and policies relating  
20 to such programs throughout the state;

21           (4) Make recommendations to the lead agency or agencies  
22 which prepare and submit applications for federal funding;

23           (5) Review new or proposed revisions to rules and  
24 regulations governing the registration or licensing of early  
25 childhood care and education programs;

26           (6) Study and recommend additional resources for early  
27 childhood care and education programs; and

1           (7) Report biennially to the Governor and Legislature  
2 on the status of early intervention and early childhood care and  
3 education in the state. Such report shall include (a) the number  
4 of license applications received under section 71-1911, (b) the  
5 number of such licenses issued, (c) the number of such license  
6 applications denied, (d) the number of complaints investigated  
7 regarding such licensees, (e) the number of such licenses revoked,  
8 (f) the number and dollar amount of civil penalties levied pursuant  
9 to section 71-1920, and (g) information which may assist the  
10 Legislature in determining the extent of cooperation provided  
11 to the ~~Department of Health and Human Services Regulation and~~  
12 ~~Licensure Health and Human Services System~~ by other state and local  
13 agencies pursuant to section 71-1914.

14           Sec. 353. Section 43-3802, Revised Statutes Cumulative  
15 Supplement, 2006, is amended to read:

16           43-3802 For purposes of sections 43-3801 to 43-3812:

17           (1) Agency means the agency in a foreign country charged  
18 with ensuring the welfare of minors who are nationals of that  
19 country or who hold dual citizenship in that country and the United  
20 States;

21           (2) Custodian means the nonparental caretaker of a  
22 foreign national minor or minor holding dual citizenship who  
23 has been entrusted by the parent of the minor with the day-to-day  
24 care of the minor;

25           ~~(3) Department means the Department of Health and Human~~  
26 ~~Services;~~

27           ~~(4)~~ (3) Foreign national minor means an unmarried person

1 who is under the age of eighteen years and was born in a country  
2 other than the United States; ~~and~~

3 ~~(5)~~ (4) Minor holding dual citizenship means an unmarried  
4 person who is under the age of eighteen years and who holds  
5 citizenship simultaneously in the United States and one other  
6 country; and -

7 (5) System means the Health and Human Services System.

8 Sec. 354. Section 43-3803, Revised Statutes Cumulative  
9 Supplement, 2006, is amended to read:

10 43-3803 The ~~department,~~ system, in conjunction with  
11 the appropriate consulate, shall provide a method of early  
12 identification of foreign national minors and minors holding dual  
13 citizenship and their families in order to provide services which  
14 assure all the protections afforded by all applicable treaties and  
15 laws.

16 Sec. 355. Section 43-3804, Revised Statutes Cumulative  
17 Supplement, 2006, is amended to read:

18 43-3804 (1) When a court makes a minor a ward of the  
19 ~~department,~~ system, the ~~department~~ system shall determine whether  
20 the minor is a foreign national minor or a minor holding dual  
21 citizenship. If such minor is a foreign national minor or a minor  
22 holding dual citizenship, the ~~department~~ system shall provide such  
23 minor and his or her parent or custodian with the following  
24 information:

25 (a) Written information in English and the minor's native  
26 language, explaining the juvenile court process and the rights of  
27 the minor and his or her parents or custodian; and

1           (b) The address and telephone number of the nearest  
2 consulate serving the minor.

3           (2) The ~~department~~ system shall notify the appropriate  
4 consulate in writing within ten working days after (a) the initial  
5 date the ~~department~~ system takes custody of a foreign national  
6 minor or a minor holding dual citizenship or the date the  
7 ~~department~~ system learns that a minor in its custody is a foreign  
8 national minor or a minor holding dual citizenship, whichever  
9 occurs first, (b) the parent of a foreign national minor or a  
10 minor holding dual citizenship has requested that the consulate  
11 be notified, or (c) the ~~department~~ system determines that a  
12 noncustodial parent of a foreign national minor or a minor holding  
13 dual citizenship in its custody resides in the country represented  
14 by the consulate.

15           (3) The ~~department~~ system shall provide the consulate  
16 with the name and date of birth of the foreign national minor or  
17 the minor holding dual citizenship, the name of his or her parent  
18 or custodian, and the name and telephone number of the departmental  
19 caseworker directly responsible for the case.

20           (4) If the consulate needs additional specific  
21 information regarding the case of the foreign national minor or  
22 the minor holding dual citizenship, the consulate may contact  
23 the ~~department~~ system and the ~~department~~ system may release any  
24 information not required to be kept confidential under the Nebraska  
25 Juvenile Code or other state or federal statutes.

26           Sec. 356. Section 43-3805, Revised Statutes Cumulative  
27 Supplement, 2006, is amended to read:



1           43-3805 A consular representative may interview a foreign  
2 national minor or minor holding dual citizenship who is a  
3 citizen of the country represented by the consulate. The consular  
4 representative shall contact the ~~department~~ system to arrange for  
5 an interview of a foreign national minor or a minor holding dual  
6 citizenship.

7           Sec. 357. Section 43-3806, Revised Statutes Cumulative  
8 Supplement, 2006, is amended to read:

9           43-3806 If a court makes a foreign national minor or a  
10 minor holding dual citizenship a ward of the ~~department~~ system and  
11 the minor has become eligible for special immigrant juvenile status  
12 as defined in 8 U.S.C. 1101(a)(27)(J), the consulate will assist  
13 the ~~department~~ system in obtaining the necessary documentation  
14 for completion of the application for special immigrant juvenile  
15 status.

16           Sec. 358. Section 43-3807, Revised Statutes Cumulative  
17 Supplement, 2006, is amended to read:

18           43-3807 The ~~department~~ system may obtain a birth  
19 certificate from the appropriate country for a foreign national  
20 minor or a minor holding dual citizenship in the custody  
21 of the ~~department~~. system. The ~~department~~ system may request  
22 the assistance of the consulate in obtaining the necessary  
23 documentation to complete the application for a birth certificate  
24 under this section.

25           Sec. 359. Section 43-3808, Revised Statutes Cumulative  
26 Supplement, 2006, is amended to read:

27           43-3808 (1) Upon notification to a consulate pursuant

1 to section 43-3804, the ~~department~~ system shall request that the  
2 consulate obtain through the agency the appropriate home studies of  
3 potential families in such country who may be involved in the case  
4 and forward the information to the ~~departmental~~ system's caseworker  
5 directly responsible for the case.

6 (2) When a foreign national minor is placed in his or  
7 her country or a minor holding dual citizenship is placed in the  
8 country other than the United States in which he or she holds  
9 citizenship, the ~~department~~ system shall take all steps necessary  
10 to obtain the cooperation of the consulate and the agency to ensure  
11 the minor's welfare and provide whatever services are needed. The  
12 ~~department~~ system shall request copies of the monitoring reports  
13 prepared by the agency concerning the welfare of the minor.

14 Sec. 360. Section 43-3809, Revised Statutes Cumulative  
15 Supplement, 2006, is amended to read:

16 43-3809 The ~~department~~ system will request the  
17 cooperation of the appropriate consulate in order to notify a  
18 person who resides in a foreign country and is required to appear  
19 in a court in this state regarding the case of a foreign national  
20 minor or a minor holding dual citizenship.

21 Sec. 361. Section 43-3810, Revised Statutes Cumulative  
22 Supplement, 2006, is amended to read:

23 43-3810 The ~~Director of Health and Human Services~~ chief  
24 executive officer of the system or his or her designee shall  
25 meet as necessary with consular officials to discuss, clarify, and  
26 coordinate activities, ideas and concerns of a high-profile nature,  
27 timely media attention, and joint prevention efforts regarding the

1 protection and well-being of foreign national minors and minors  
2 holding dual citizenship and families.

3 Sec. 362. Section 43-3811, Revised Statutes Cumulative  
4 Supplement, 2006, is amended to read:

5 43-3811 The ~~department~~ system may adopt and promulgate  
6 rules and regulations to carry out sections 43-3801 to 43-3810.

7 Sec. 363. Section 44-3,144, Revised Statutes Cumulative  
8 Supplement, 2006, is amended to read:

9 44-3,144 For purposes of sections 44-3,144 to 44-3,150:

10 (1) Authorized attorney has the same meaning as in  
11 section 43-512;

12 (2) Child means an individual to whom or on whose behalf  
13 a legal duty of support is owed by an obligor;

14 ~~(3) Department means the Department of Health and Human~~  
15 ~~Services;~~

16 ~~(4)~~ (3) Employer means an individual, a firm, a  
17 partnership, a corporation, an association, a union, a political  
18 subdivision, a state agency, or any agent thereof who pays income  
19 to an obligor on a periodic basis and has or provides health care  
20 coverage to the obligor-employee;

21 ~~(5)~~ (4) Health care coverage means a health benefit  
22 plan or combination of plans, other than public medical assistance  
23 programs, that provide medical care or benefits;

24 ~~(6)~~ (5) Insurer means an insurer as defined in section  
25 44-103 offering a group health plan as defined in 29 U.S.C. 1167,  
26 as such section existed on January 1, 2002;

27 ~~(7)~~ (6) Medical support means the provision of health

1 care coverage, contribution to the cost of health care coverage,  
2 contribution to expenses associated with the birth of a child,  
3 other uninsured medical expenses of a child, or any combination  
4 thereof;

5 ~~(8)~~ (7) Medical assistance program means the program  
6 established pursuant to the Medical Assistance Act;

7 ~~(9)~~ (8) National medical support notice means a uniform  
8 administrative notice issued by the county attorney, authorized  
9 attorney, or ~~department~~ system to enforce the medical support  
10 provisions of a support order;

11 ~~(10)~~ (9) Obligee has the same meaning as in section  
12 43-3341;

13 ~~(11)~~ (10) Obligor has the same meaning as in section  
14 43-3341;

15 ~~(12)~~ (11) Plan administrator means the person or entity  
16 that administers health care coverage for an employer;

17 ~~(13)~~ (12) Qualified medical child support order means  
18 an order that meets the requirements of 29 U.S.C. 1169, as such  
19 section existed on January 1, 2002; ~~and~~

20 (13) System means the Health and Human Services System;  
21 and

22 (14) Uninsured medical expenses means the reasonable and  
23 necessary health-related expenses that are not paid by health care  
24 coverage.

25 Sec. 364. Section 44-3,146, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27 44-3,146 (1) An insurer shall, in any case in which an

1 obligor is required by a court or administrative order to provide  
2 health care coverage for a child and the obligor is eligible for  
3 family health care coverage through the insurer:

4 (a) Permit an obligor to enroll under such health care  
5 coverage any such child who is otherwise eligible for such coverage  
6 without regard to any enrollment season restriction;

7 (b) If an obligor is covered but fails to make  
8 application to obtain coverage for such child, enroll such child  
9 under such health care coverage upon application by (i) the  
10 obligee without regard to any enrollment season restriction, (ii)  
11 in any case in which services are provided under Title IV-D of  
12 the federal Social Security Act, as such act existed on January  
13 1, 2002, the county attorney or authorized attorney without regard  
14 to any enrollment season restriction, or (iii) in any case in  
15 which services are not provided under Title IV-D of the federal  
16 Social Security Act, as such act existed on January 1, 2002,  
17 the ~~department~~ system without regard to any enrollment season  
18 restriction; and

19 (c) Not cancel or eliminate health care coverage for  
20 any such child unless the insurer is provided satisfactory written  
21 evidence that (i) such court or administrative order is no longer  
22 in effect or (ii) the child is or will be enrolled in comparable  
23 health care coverage through another insurer which will take  
24 effect not later than the effective date of such cancellation or  
25 elimination.

26 (2) An employer doing business in this state shall,  
27 in any case in which an obligor is required by a court or

1 administrative order to provide health care coverage for a child  
2 and the obligor is eligible for family health care coverage through  
3 the employer:

4 (a) Permit an obligor to enroll under such health care  
5 coverage any such child who is otherwise eligible for such coverage  
6 without regard to any enrollment season restriction;

7 (b) If an obligor is covered but fails to make  
8 application to obtain coverage for such child, enroll such child  
9 under such health care coverage upon application by (i) the  
10 obligee without regard to any enrollment season restriction, (ii)  
11 in any case in which services are provided under Title IV-D of  
12 the federal Social Security Act, as such act existed on January  
13 1, 2002, the county attorney or authorized attorney without regard  
14 to any enrollment season restriction, or (iii) in any case in  
15 which services are not provided under Title IV-D of the federal  
16 Social Security Act, as such act existed on January 1, 2002,  
17 the ~~department~~ system without regard to any enrollment season  
18 restriction; and

19 (c) Not cancel or eliminate health care coverage for any  
20 such child unless (i) the employer is provided satisfactory written  
21 evidence that (A) such court or administrative order is no longer  
22 in effect or (B) the child is or will be enrolled in comparable  
23 health care coverage which will take effect not later than the  
24 effective date of such cancellation or elimination or (ii) the  
25 employer has eliminated family health care coverage for all of its  
26 employees.

27 Upon enrollment pursuant to this subsection, premiums

1 shall be deducted from the obligor's compensation and remitted  
2 directly to the insurer. The amount withheld shall not exceed the  
3 maximum amount permitted to be withheld under section 303(b) of  
4 the federal Consumer Credit Protection Act, as such act existed  
5 on January 1, 2002. Amounts withheld pursuant to the Income  
6 Withholding for Child Support Act shall have priority over amounts  
7 withheld pursuant to this subsection. An employer receiving a  
8 national medical support notice shall transmit the notice to  
9 the plan administrator within twenty business days after receipt  
10 of the notice from the county attorney, authorized attorney, or  
11 ~~department~~ system.

12 (3) If an obligor is ordered to provide health care  
13 coverage for a child in any case in which services are provided  
14 under Title IV-D of the federal Social Security Act, as such  
15 act existed on January 1, 2002, the county attorney, authorized  
16 attorney, or ~~department~~ system shall send a national medical  
17 support notice to any employer of the obligor within two business  
18 days after receipt of information regarding employment under the  
19 New Hire Reporting Act. A national medical support notice sent by  
20 the county attorney, authorized attorney, or ~~department~~ system to  
21 an employer pursuant to this section shall have the same effect  
22 as an enrollment application signed by the obligor. The county  
23 attorney, authorized attorney, or ~~department~~ system shall send a  
24 copy of the national medical support notice to the obligor by mail  
25 at his or her last-known address stating:

26 (a) The court or administrative order upon which the  
27 enforcement action is being taken;

1           (b) That if the county attorney, authorized attorney,  
2 or ~~department~~ system sends a national medical support notice  
3 to an employer, the county attorney, authorized attorney, or  
4 ~~department~~ system will also direct the employer to withhold from  
5 the employee's compensation the employee's share of the premium for  
6 health care coverage; and

7           (c) That within fifteen days after receiving the notice  
8 the obligor may request a hearing to contest the enforcement action  
9 based upon evidence that (i) there is an error in the identity  
10 of the obligor, (ii) he or she has enrolled the child in an  
11 insurance plan providing coverage required by the order, (iii)  
12 the parties have stipulated to, and the court or administrative  
13 order specifically provides for, an alternative to employer-based  
14 health care coverage, or (iv) evidence that the premium cost to the  
15 obligor exceeds the amount stated in subsection (2) of this section  
16 or is otherwise unreasonable.

17           If a hearing is requested, the ~~department~~ system shall  
18 hold the hearing within fifteen days after the request, and the  
19 ~~department~~ system shall notify the obligor of its decision within  
20 fifteen days after the date the hearing is held. A national medical  
21 support notice sent by the county attorney, authorized attorney, or  
22 ~~department~~ system to the obligor's employer shall not be held in  
23 abeyance pending the outcome of the hearing.

24           (4) The remedy provided in this section shall be in  
25 addition to and not in substitution for any other remedy and shall  
26 apply without regard to when the order was issued.

27           (5) An insurer or employer shall, upon request by



1 the county attorney, authorized attorney, or ~~department,~~ system,  
2 provide the county attorney, authorized attorney, or ~~department~~  
3 system with the following information regarding an obligor required  
4 by a court or administrative order to provide health care coverage  
5 for a child: (a) The social security number; (b) the address; (c)  
6 whether the obligor has health care coverage and, if so, the policy  
7 name and number and the names of the persons covered; and (d) the  
8 cost to the obligor of enrolling.

9 (6) Upon receipt of a copy of a court or administrative  
10 order requiring an obligor to provide health care coverage for  
11 a child, an insurer or employer shall provide the obligee upon  
12 written request the information necessary to file an application  
13 pursuant to this section.

14 (7) A completed national medical support notice issued by  
15 the county attorney, authorized attorney, or ~~department~~ system that  
16 complies with this section is a qualified medical child support  
17 order for the purposes of the federal Employee Retirement Income  
18 Security Act of 1974, 29 U.S.C. 1169(a), as such section existed on  
19 January 1, 2002.

20 (8) Upon the termination of employment of an obligor  
21 subject to this section, the employer shall promptly notify the  
22 county attorney, authorized attorney, or ~~department~~ system of the  
23 termination of employment in the same manner as required for income  
24 withholding cases in accordance with subdivision (6) of section  
25 43-1723.

26 (9) When there is no longer a current child support  
27 order in effect for an obligor subject to this section, the county

1 attorney, authorized attorney, or ~~department~~ system shall promptly  
2 notify the employer that the order is no longer in effect.

3 Sec. 365. Section 44-3,147, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 44-3,147 The ~~department~~ system shall adopt and promulgate  
6 rules and regulations to carry out section 44-3,146.

7 Sec. 366. Section 44-3,148, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 44-3,148 An insurer may not impose requirements on the  
10 ~~department~~ system when the ~~department~~ system has been assigned the  
11 rights of an individual who is eligible for medical assistance  
12 pursuant to the medical assistance program and who is covered  
13 for health benefits from the insurer that are different from  
14 requirements applicable to an agent or assignee of any other  
15 individual so covered.

16 Sec. 367. Section 44-3,149, Revised Statutes Cumulative  
17 Supplement, 2006, is amended to read:

18 44-3,149 An insurer shall, in any case in which a child  
19 has health care coverage through the insurer of the obligor:

20 (1) Provide such information to the obligor as may be  
21 necessary for the child to obtain benefits through such coverage;

22 (2) Permit the obligor or the provider, with the  
23 obligor's approval, to submit claims for covered services without  
24 the approval of the obligor; and

25 (3) Make payment on claims submitted in accordance with  
26 subdivision (2) of this section directly to such obligor, the  
27 provider, or the ~~department~~ system pursuant to section 68-916.

1           Sec. 368. Section 44-526, Revised Statutes Cumulative  
2 Supplement, 2006, is amended to read:

3           44-526 For purposes of the Standardized Health Claim Form  
4 Act:

5           (1) Ambulatory surgical facility shall mean a facility,  
6 not a part of a hospital, which provides surgical treatment  
7 to patients not requiring hospitalization and which is licensed  
8 as a health clinic as defined by section 71-416 but shall not  
9 include the offices of private physicians or dentists whether for  
10 individual or group practice;

11           (2) Health care shall mean any treatment, procedure, or  
12 intervention to diagnose, cure, care for, or treat the effects of  
13 disease or injury or congenital or degenerative condition;

14           (3) Health care practitioner shall mean an individual  
15 or group of individuals in the form of a partnership, limited  
16 liability company, or corporation licensed, certified, or otherwise  
17 authorized or permitted by law to administer health care in the  
18 course of professional practice and shall include the health care  
19 professions and occupations which are regulated in Chapter 71;

20           (4) Hospital shall mean a hospital as defined by section  
21 71-419 except state hospitals administered by the ~~Department of~~  
22 ~~Health and Human Services,~~ Health and Human Services System;

23           (5) Institutional care providers shall mean all  
24 facilities licensed or otherwise authorized or permitted by law  
25 to administer health care in the ordinary course of business and  
26 shall include all health care facilities defined in the Health Care  
27 Facility Licensure Act;

1           (6) Issuer shall mean an insurance company, fraternal  
2 benefit society, health maintenance organization, third-party  
3 administrator, or other entity reimbursing the costs of health care  
4 expenses;

5           (7) Medicaid shall mean the medical assistance program  
6 pursuant to the Medical Assistance Act;

7           (8) Medicare shall mean Title XVIII of the federal Social  
8 Security Act, 42 U.S.C. 1395 et seq., as amended; and

9           (9) Uniform claim form shall mean the claim forms  
10 and electronic transfer procedures developed pursuant to section  
11 44-527.

12           Sec. 369. Section 44-771, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           44-771 Hospital shall mean an institution licensed as a  
15 hospital by the ~~Department of Health and Human Services Regulation~~  
16 ~~and Licensure~~ Health and Human Services System and defined in  
17 section 71-419.

18           Sec. 370. Section 44-772, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20           44-772 Substance abuse treatment center shall mean an  
21 institution licensed as a substance abuse treatment center by the  
22 ~~Department of Health and Human Services Regulation and Licensure~~  
23 Health and Human Services System and defined in section 71-430,  
24 which provides a program for the inpatient or outpatient treatment  
25 of alcoholism pursuant to a written treatment plan approved and  
26 monitored by a physician and which is affiliated with a hospital  
27 under a contractual agreement with an established system for

1 patient referral.

2           Sec. 371. Section 44-773, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           44-773 Outpatient program shall refer to a program which  
5 is licensed or certified by the ~~Department of Health and Human~~  
6 ~~Services Regulation and Licensure~~ Health and Human Services System  
7 or the ~~Division~~ Department of Behavioral Health ~~Services~~ of the  
8 ~~Department of Health and Human Services~~ system to provide specified  
9 services to persons suffering from the disease of alcoholism.

10           Sec. 372. Section 44-774, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           44-774 Certified shall mean approved by the ~~Division~~  
13 Department of Behavioral Health ~~Services~~ of the ~~Department of~~  
14 ~~Health and Human Services~~ Health and Human Services System to  
15 render specific types or levels of care to the person suffering  
16 from the disease of alcoholism.

17           Sec. 373. Section 44-782, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           44-782 No insurance company, health maintenance  
20 organization, or other health insurance provider shall deny payment  
21 for treatment of mental or nervous disorders under a policy,  
22 contract, certificate, or other evidence of coverage issued or  
23 delivered in Nebraska on the basis that the hospital or state  
24 institution licensed as a hospital by the ~~Department of Health and~~  
25 ~~Human Services Regulation and Licensure~~ Health and Human Services  
26 System and defined in section 71-419 providing such treatment is  
27 publicly funded and charges are reduced or no fee is charged

1 depending on the patient's ability to pay.

2           Sec. 374. Section 44-793, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           44-793 (1) On or after January 1, 2000, notwithstanding  
5 section 44-3,131, any health insurance plan delivered, issued, or  
6 renewed in this state (a) if coverage is provided for treatment  
7 of mental health conditions other than alcohol or substance abuse,  
8 (i) shall not establish any rate, term, or condition that places  
9 a greater financial burden on an insured for access to treatment  
10 for a serious mental illness than for access to treatment for  
11 a physical health condition and (ii) if an out-of-pocket limit  
12 is established for physical health conditions, shall apply such  
13 out-of-pocket limit as a single comprehensive out-of-pocket limit  
14 for both physical health conditions and mental health conditions,  
15 or (b) if no coverage is to be provided for treatment of mental  
16 health conditions, shall provide clear and prominent notice of such  
17 noncoverage in the plan.

18           (2) If a health insurance plan provides coverage for  
19 serious mental illness, the health insurance plan shall cover  
20 health care rendered for treatment of serious mental illness (a)  
21 by a mental health professional, (b) by a person authorized by  
22 the rules and regulations of the ~~Department of Health and Human~~  
23 ~~Services Regulation and Licensure~~ Health and Human Services System  
24 to provide treatment for mental illness, (c) in a mental health  
25 center as defined in section 71-423, or (d) in any other health  
26 care facility licensed under the Health Care Facility Licensure  
27 Act that provides a program for the treatment of a mental health

1 condition pursuant to a written plan. The issuer of a health  
2 insurance plan may require a health care provider under this  
3 subsection to enter into a contract as a condition of providing  
4 benefits.

5 (3) The Director of Insurance may disapprove any plan  
6 that the director determines to be inconsistent with the purposes  
7 of this section.

8 Sec. 375. Section 44-1102, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 44-1102 For purposes of the Viatical Settlements Act:

11 (1) Advertising means any written, electronic, or printed  
12 communication or any communication by means of recorded telephone  
13 messages or transmitted on radio, television, the Internet,  
14 or similar communications media, including film strips, motion  
15 pictures, and videos, published, disseminated, circulated, or  
16 placed before the public, directly or indirectly, for the purpose  
17 of creating an interest in or inducing a person to sell a life  
18 insurance policy pursuant to a viatical settlement contract;

19 (2) Business of viatical settlements means an  
20 activity involved in, but not limited to, the offering,  
21 solicitation, negotiation, procurement, effectuation, purchasing,  
22 investing, financing, monitoring, tracking, underwriting, selling,  
23 transferring, assigning, pledging, or hypothecating of viatical  
24 settlement contracts or purchase agreements;

25 (3) Chronically ill means (a) being unable to perform at  
26 least two activities of daily living, such as eating, toileting,  
27 transferring, bathing, dressing, or continence; (b) requiring

1 substantial supervision to protect the individual from threats to  
2 health and safety due to severe cognitive impairment; or (c) having  
3 a level of disability similar to that described in subdivision  
4 (3) (a) of this section as determined by the ~~Director of Health and~~  
5 ~~Human Services~~, Health and Human Services System;

6 (4) Department means the Department of Insurance;

7 (5) Director means the Director of Insurance;

8 (6) Financing entity means an underwriter, a placement  
9 agent, a lender, a purchaser of securities, a purchaser of a  
10 policy or certificate from a viatical settlement provider, a  
11 credit enhancer, or any entity that has a direct ownership in a  
12 policy or certificate that is the subject of a viatical settlement  
13 contract (a) whose principal activity related to the transaction is  
14 providing funds to effect the viatical settlement or purchase of  
15 one or more viaticated policies and (b) who has an agreement in  
16 writing with one or more licensed viatical settlement providers to  
17 finance the acquisition of viatical settlement contracts. Financing  
18 entity does not include a nonaccredited investor or viatical  
19 settlement purchaser;

20 (7) Fraudulent viatical settlement act means an act or  
21 omission committed by any person who, knowingly and with intent to  
22 defraud and for the purpose of depriving another of property or for  
23 pecuniary gain, commits, or permits his or her employees or agents  
24 to commit, any of the following acts:

25 (a) Presenting, causing to be presented, or preparing  
26 with the knowledge or belief that it will be presented to or by a  
27 viatical settlement provider, viatical settlement broker, viatical



1 settlement purchaser, financing entity, insurer, insurance broker,  
2 insurance agent, or any other person, false material information,  
3 or concealing material information, as part of, in support of, or  
4 concerning a fact material to one or more of the following:

5 (i) An application for the issuance of a viatical  
6 settlement contract or insurance policy;

7 (ii) The underwriting of a viatical settlement contract  
8 or insurance policy;

9 (iii) A claim for payment or benefit pursuant to a  
10 viatical settlement contract or insurance policy;

11 (iv) Premiums paid on an insurance policy;

12 (v) Payments and changes in ownership or beneficiary made  
13 in accordance with the terms of a viatical settlement contract or  
14 insurance policy;

15 (vi) The reinstatement or conversion of an insurance  
16 policy;

17 (vii) The solicitation, offer, effectuation, or sale of a  
18 viatical settlement contract or insurance policy;

19 (viii) The issuance of written evidence of a viatical  
20 settlement contract or insurance;

21 (ix) A financing transaction; or

22 (x) Employing any device, scheme, or artifice to defraud  
23 related to viaticated policies;

24 (b) In the furtherance of a fraud or to prevent the  
25 detection of a fraud:

26 (i) Removing, concealing, altering, destroying, or  
27 sequestering from the director the assets or records of a licensee

1 or other person engaged in the business of viatical settlements;

2 (ii) Misrepresenting or concealing the financial  
3 condition of a licensee, financing entity, insurer, or other  
4 person;

5 (iii) Transacting the business of viatical settlements in  
6 violation of laws requiring a license, certificate of authority,  
7 or other legal authority for the transaction of the business of  
8 viatical settlements; or

9 (iv) Filing with the director or the chief insurance  
10 regulatory official of another jurisdiction a document containing  
11 false information or otherwise concealing information about a  
12 material fact from the director;

13 (c) Presenting, causing to be presented, or preparing  
14 with the knowledge or reason to believe that it will be presented,  
15 to or by a viatical settlement provider, viatical settlement  
16 broker, insurer, insurance agent, financing entity, viatical  
17 settlement purchaser, or any other person, in connection with  
18 a viatical settlement transaction or insurance transaction, an  
19 insurance policy, knowing the policy was fraudulently obtained by  
20 the insured, owner, or any agent thereof;

21 (d) Embezzlement, theft, misappropriation, or conversion  
22 of money, funds, premiums, credits, or other property of a  
23 viatical settlement provider, insurer, insured, viator, insurance  
24 policyowner, or any other person engaged in the business of  
25 viatical settlements or insurance; or

26 (e) Attempting to commit, assisting, aiding, or abetting  
27 in the commission of, or conspiring to commit the acts or omissions

1 specified in this subdivision;

2 (8) Person means a natural person or a legal entity,  
3 including an individual, a partnership, a limited liability  
4 company, an association, a trust, or a corporation;

5 (9) Policy means an individual or group policy, group  
6 certificate, contract, or arrangement of life insurance affecting  
7 the rights of a resident of this state or bearing a reasonable  
8 relation to this state, regardless of whether delivered or issued  
9 for delivery in this state;

10 (10) Related provider trust means a titling trust or  
11 other trust established by a licensed viatical settlement provider  
12 or a financing entity for the sole purpose of holding the ownership  
13 or beneficial interest in purchased policies in connection with  
14 a financing transaction. The trust shall have a written agreement  
15 with the licensed viatical settlement provider under which the  
16 licensed viatical settlement provider is responsible for ensuring  
17 compliance with all statutory and regulatory requirements and under  
18 which the trust agrees to make all records and files related to  
19 viatical settlement transactions available to the director as if  
20 those records and files were maintained directly by the licensed  
21 viatical settlement provider;

22 (11) Special purpose entity means a corporation,  
23 partnership, trust, limited liability company, or other similar  
24 entity formed solely to provide, either directly or indirectly,  
25 access to institutional capital markets for a financing entity or  
26 licensed viatical settlement provider;

27 (12) Terminally ill means having an illness or sickness

1 that can reasonably be expected to result in death in twenty-four  
2 months or less;

3 (13) Viatical settlement broker means a person that  
4 on behalf of a viator and for a fee, commission, or other  
5 valuable consideration offers or attempts to negotiate viatical  
6 settlement contracts between a viator and one or more viatical  
7 settlement providers. Notwithstanding the manner in which the  
8 viatical settlement broker is compensated, a viatical settlement  
9 broker is deemed to represent only the viator and owes a fiduciary  
10 duty to the viator to act according to the viator's instructions  
11 and in the best interest of the viator. Viatical settlement  
12 broker includes a licensed life insurance producer that meets  
13 the requirements of section 44-1103. Viatical settlement broker  
14 does not include an attorney, a certified public accountant,  
15 or a financial planner accredited by a nationally recognized  
16 accreditation agency who is retained to represent the viator and  
17 whose compensation is not paid directly or indirectly by the  
18 viatical settlement provider or purchaser;

19 (14) Viatical settlement contract means a written  
20 agreement establishing the terms under which compensation or  
21 anything of value will be paid, which compensation or value is  
22 less than the expected death benefit of the insurance policy or  
23 certificate, in return for the viator's assignment, transfer, sale,  
24 devise, or bequest of the death benefit or ownership or any portion  
25 of the insurance policy or certificate of insurance. A viatical  
26 settlement contract also includes a contract for a loan or other  
27 financing transaction secured primarily by an individual or group

1 life insurance policy, other than a loan by a life insurance  
2 company pursuant to the terms of the life insurance contract, or a  
3 loan secured by the cash value of a policy. A viatical settlement  
4 contract includes an agreement to transfer ownership or change the  
5 beneficiary designation at a later date regardless of the date that  
6 compensation is paid to the viator;

7 (15) Viatical settlement provider means a person, other  
8 than a viator, that enters into or effectuates a viatical  
9 settlement contract. Viatical settlement provider does not include:

10 (a) A bank, savings bank, savings and loan association,  
11 credit union, or other licensed lending institution that takes an  
12 assignment of a life insurance policy as collateral for a loan;

13 (b) The issuer of a life insurance policy providing  
14 accelerated benefits under and pursuant to the contract;

15 (c) An authorized or eligible insurer that provides  
16 stop-loss coverage to a viatical settlement provider, purchaser,  
17 financing entity, special purpose entity, or related provider  
18 trust;

19 (d) A natural person who enters into or effectuates no  
20 more than one agreement in a calendar year for the transfer of  
21 life insurance policies for any value less than the expected death  
22 benefit;

23 (e) A financing entity;

24 (f) A special purpose entity;

25 (g) A related provider trust;

26 (h) A viatical settlement purchaser; or

27 (i) An accredited investor or qualified institutional

1 buyer as defined respectively in Regulation D, Rule 501, or Rule  
2 144A of the federal Securities Act of 1933, as the act existed  
3 on September 1, 2001, who purchases a viaticated policy from a  
4 viatical settlement provider;

5 (16) Viatical settlement purchaser means a person who  
6 gives a sum of money as consideration for a life insurance policy  
7 or an interest in the death benefits of a life insurance policy,  
8 or a person who owns or acquires or is entitled to a beneficial  
9 interest in a trust that owns a viatical settlement contract or is  
10 the beneficiary of a life insurance policy that has been or will  
11 be the subject of a viatical settlement contract, for the purpose  
12 of deriving an economic benefit. Viatical settlement purchaser does  
13 not include:

14 (a) A licensee under the Viatical Settlements Act;

15 (b) An accredited investor or qualified institutional  
16 buyer as defined respectively in Regulation D, Rule 501, or Rule  
17 144A of the federal Securities Act of 1933, as the act existed on  
18 September 1, 2001;

19 (c) A financing entity;

20 (d) A special purpose entity; or

21 (e) A related provider trust;

22 (17) Viaticated policy means a life insurance policy  
23 or certificate that has been acquired by a viatical settlement  
24 provider pursuant to a viatical settlement contract; and

25 (18) Viator means the owner of a life insurance policy  
26 or a certificate holder under a group policy who enters or seeks  
27 to enter into a viatical settlement contract. For purposes of the

1 Viatical Settlements Act, a viator is not limited to an owner of a  
2 life insurance policy or a certificate holder under a group policy  
3 insuring the life of an individual with a terminal or chronic  
4 illness or condition except as specifically addressed. Viator does  
5 not include:

6 (a) A licensee under the act;

7 (b) An accredited investor or qualified institutional  
8 buyer as defined respectively in Regulation D, Rule 501, or Rule  
9 144A of the federal Securities Act of 1933, as the act existed on  
10 September 1, 2001;

11 (c) A financing entity;

12 (d) A special purpose entity; or

13 (e) A related provider trust.

14 Sec. 376. Section 44-2835, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 44-2835 (1) Each malpractice claim settled or adjudicated  
17 to final judgment against a health care provider under the Nebraska  
18 Hospital-Medical Liability Act shall be reported to the director  
19 by the plaintiff's attorney and by the health care provider or his  
20 or her insurer or risk manager within sixty days following final  
21 disposition of the claim. Such report to the director shall state  
22 the following:

23 (a) The nature of the claim;

24 (b) The alleged injury and the damages asserted;

25 (c) Attorney's fees and expenses incurred in connection  
26 with the claim or defense; and

27 (d) The amount of any settlement or judgment.

1           (2) The director shall forward the name of every health  
2 care provider, except a hospital, against whom a settlement has  
3 been made or judgment has been rendered under the act to the  
4 ~~Department of Health and Human Services Regulation and Licensure~~  
5 Health and Human Services System for such action, if any, as it  
6 deems to be appropriate under the circumstances.

7           Sec. 377. Section 44-2847, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           44-2847 (1) Medical review panels shall be concerned  
10 only with the determination of the questions set forth in section  
11 44-2843. Such panels shall not consider or report on disputed  
12 questions of law.

13           (2) To provide for uniformity of procedure, the ~~Director~~  
14 ~~of Regulation and Licensure~~ Health and Human Services System may  
15 appoint a doctor of medicine from the members of the Board of  
16 Medicine and Surgery who may sit with each panel as an observer and  
17 as an adviser on procedure but without a vote.

18           Sec. 378. Section 44-2901, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20           44-2901 Any three or more hospitals as defined in  
21 section 71-419, which are located in this state and licensed  
22 by the ~~Department of Health and Human Services Regulation and~~  
23 ~~Licensure,~~ Health and Human Services System, may incorporate  
24 a mutual insurance association to insure member hospitals and  
25 their officers, directors, employees, and volunteer workers  
26 against liability arising from rendering, or failing to render,  
27 professional services in the treatment or care of patients by



1 hospitals and their agents and employees or by member physicians.

2           Sec. 379. Section 44-2904, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           44-2904 Any hospital, whether within or without the  
5 state, shall be qualified to become a member of a hospital  
6 association incorporated under sections 44-2901 to 44-2918 if it  
7 is licensed either by the ~~Department of Health and Human Services~~  
8 ~~Regulation and Licensure~~ Health and Human Services System or by  
9 the corresponding authority in the state in which the hospital is  
10 located, except that no hospital outside of this state may become  
11 a member of such an association until one year after March 31,  
12 1976, nor may any risks outside this state be insured under the  
13 provisions of sections 44-2901 to 44-2918 until one year after  
14 the issuance of a certificate of authority to transact insurance  
15 business by the Department of Insurance. All such risks shall be  
16 subject to the prior approval of the Director of Insurance.

17           In determining whether or not to grant approval for the  
18 insuring of risks outside of Nebraska, the Director of Insurance  
19 shall consider the following: (1) Limits of indemnity; (2) past  
20 and present loss experience of the hospital to be insured; (3)  
21 statutes, court decisions, and the insurance climate of the  
22 jurisdiction in which the risk is located; and (4) such other  
23 information as the director may deem relevant.

24           Sec. 380. Section 44-32,119, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26           44-32,119 (1) Upon receipt of an application for issuance  
27 of a certificate of authority, the Director of Insurance shall

1 forthwith transmit copies of such application and accompanying  
2 documents to the ~~Director of Regulation and Licensure~~, Health and  
3 Human Services System.

4 (2) The ~~Director of Regulation and Licensure~~ Health and  
5 Human Services System shall determine whether the applicant has  
6 complied with sections 44-32,126 to 44-32,128 with respect to  
7 health care services to be furnished.

8 (3) Within forty-five days of receipt of the application  
9 for issuance of a certificate of authority, the ~~Director of~~  
10 ~~Regulation and Licensure~~ Health and Human Services System shall  
11 certify to the Director of Insurance that the proposed health  
12 maintenance organization meets the requirements of such sections  
13 or notify the Director of Insurance that the health maintenance  
14 organization does not meet such requirements and specify in what  
15 respects it is deficient.

16 Sec. 381. Section 44-32,120, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 44-32,120 The Director of Insurance shall, within  
19 forty-five days of receipt of certification or notice of  
20 deficiencies pursuant to section 44-32,119, issue a certificate  
21 of authority to any person filing a completed application upon  
22 receiving the prescribed fees and being satisfied that:

23 (1) The persons responsible for the conduct of the  
24 affairs of the applicant are competent, trustworthy, and possess  
25 good reputations;

26 (2) Any deficiencies identified by the ~~Director of~~  
27 ~~Regulation and Licensure~~ Health and Human Services System have been

1 corrected and the ~~Director of Regulation and Licensure~~ system has  
2 certified to the Director of Insurance that the health maintenance  
3 organization's proposed plan of operation meets the requirements of  
4 sections 44-32,126 to 44-32,128;

5 (3) The health maintenance organization will effectively  
6 provide or arrange for the provision of basic health care services  
7 on a prepaid basis, through insurance or otherwise, except to the  
8 extent of reasonable requirements for copayments or deductibles;  
9 and

10 (4) The health maintenance organization is in compliance  
11 with sections 44-32,138 to 44-32,148.

12 A certificate of authority shall be denied only after  
13 the Director of Insurance complies with the requirements of section  
14 44-32,153.

15 Sec. 382. Section 44-32,127, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 44-32,127 Each health maintenance organization shall have  
18 an ongoing, internal quality assurance program to monitor and  
19 evaluate its health care services, including primary and specialist  
20 physician services, and ancillary and preventive health care  
21 services across all institutional and noninstitutional settings.  
22 The quality assurance program shall include, but not be limited to,  
23 the following:

24 (1) A written statement of goals and objectives which  
25 emphasizes improved health status in evaluating the quality of care  
26 rendered to enrollees;

27 (2) A written quality assurance plan which describes the

1 following:

2 (a) The health maintenance organization's scope and  
3 purpose in quality assurance;

4 (b) The organizational structure responsible for quality  
5 assurance activities;

6 (c) Contractual arrangements, when appropriate, for  
7 delegation of quality assurance activities;

8 (d) Confidentiality policies and procedures;

9 (e) A system of ongoing evaluation activities;

10 (f) A system of focused evaluation activities;

11 (g) A system for credentialing providers and performing  
12 peer review activities; and

13 (h) Duties and responsibilities of the designated  
14 physician responsible for the quality assurance activities;

15 (3) A written statement describing the system of ongoing  
16 quality assurance activities, including, but not limited to, the  
17 following:

18 (a) Problem assessment, identification, selection, and  
19 study;

20 (b) Corrective action, monitoring, evaluation, and  
21 reassessment; and

22 (c) Interpretation and analysis of patterns of care  
23 rendered to individual patients by individual providers;

24 (4) A written statement describing the system of focused  
25 quality assurance activities based on representative samples of the  
26 enrolled population which identifies method of topic selection,  
27 study, data collection, analysis, interpretation, and report

1 format; and

2 (5) A written plan for taking appropriate corrective  
3 action whenever, as determined by the quality assurance program,  
4 inappropriate or substandard services have been provided or  
5 services which should have been furnished have not been provided.

6 Each health maintenance organization shall record  
7 proceedings of formal quality assurance program activities and  
8 maintain documentation in a confidential manner. Quality assurance  
9 program minutes shall be available to the ~~Director of Regulation~~  
10 ~~and Licensure.~~ Health and Human Services System. Each health  
11 maintenance organization shall also establish a mechanism for  
12 periodic reporting of quality assurance program activities to  
13 the governing body of the health maintenance organization, the  
14 providers, and appropriate staff.

15 Sec. 383. Section 44-32,128, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 44-32,128 Each health maintenance organization shall  
18 ensure the use and maintenance of an adequate patient record  
19 system which facilitates documentation and retrieval of clinical  
20 information for the purpose of the health maintenance organization  
21 evaluating continuity and coordination of patient care and  
22 assessing the quality of health and medical care provided to  
23 enrollees. Enrollee clinical records shall be available to the  
24 ~~Director of Regulation and Licensure~~ Health and Human Services  
25 System or an authorized designee for examination and review to  
26 ascertain compliance with section 44-32,127 or as deemed necessary  
27 by the ~~Director of Regulation and Licensure.~~ system.

1           Sec. 384. Section 44-32,134, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           44-32,134 (1) Every health maintenance organization  
4 shall file annually, on or before March 1, an annual financial  
5 statement with the Director of Insurance, with a copy to the  
6 ~~Director of Regulation and Licensure,~~ Health and Human Services  
7 System, covering the preceding calendar year. The annual financial  
8 statement shall be on forms prescribed by the Director of  
9 Insurance and shall be prepared in accordance with annual statement  
10 instructions and accounting practices and procedures manuals  
11 as prescribed by the director which conform substantially to  
12 the annual statement instructions and the Accounting Practices  
13 and Procedures Manuals of the National Association of Insurance  
14 Commissioners.

15           (2) Every health maintenance organization shall file  
16 annually, on or before March 1, with the Director of Insurance,  
17 with a copy to the ~~Director of Regulation and Licensure,~~ system:

18           (a) A list of the providers who have executed a contract  
19 that complies with section 44-32,141; and

20           (b) A description of the grievance procedures, the total  
21 number of grievances handled through such procedures, a compilation  
22 of the causes underlying those grievances, and a summary of the  
23 final disposition of those grievances.

24           (3) Every health maintenance organization shall file  
25 annually, on or before June 1, audited financial statements  
26 with the Director of Insurance, with a copy to the ~~Director~~  
27 ~~of Regulation and Licensure,~~ system.

1           (4) The Director of Insurance may require such additional  
2 reports as are deemed necessary and appropriate to carry out his or  
3 her duties under the Health Maintenance Organization Act.

4           Sec. 385. Section 44-32,136, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6           44-32,136 Each health maintenance organization shall  
7 establish and maintain a grievance procedure to provide for the  
8 resolution of grievances initiated by enrollees. The procedure  
9 shall be approved by the Director of Insurance after consultation  
10 with the ~~Director of Regulation and Licensure.~~ Health and Human  
11 Services System. The Director of Insurance or the ~~Director~~  
12 ~~of Regulation and Licensure system~~ may examine the grievance  
13 procedure. The health maintenance organization shall maintain  
14 records regarding grievances received since the date of the last  
15 examination.

16           Sec. 386. Section 44-32,152, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           44-32,152 (1) The Director of Insurance may make an  
19 examination of the affairs of any health maintenance organization  
20 in accordance with the Insurers Examination Act and any provider  
21 with whom such health maintenance organization has contracts,  
22 agreements, or other arrangements as often as is reasonably  
23 necessary for the protection of the interests of the people of  
24 this state. The ~~Director of Regulation and Licensure~~ Health and  
25 Human Services System may make an examination concerning the  
26 quality assurance program of any health maintenance organization  
27 and any provider with whom such health maintenance organization

1 has contracts, agreements, or other arrangements as often as is  
2 reasonably necessary for the protection of the interests of the  
3 people of this state but not less frequently than once every three  
4 years.

5 (2) Every health maintenance organization and provider  
6 shall submit its books and records for an examination and in every  
7 way facilitate the completion of the examination. For the purpose  
8 of an examination, the Director of Insurance and the ~~Director~~  
9 ~~of Regulation and Licensure~~ Health and Human Services System may  
10 administer oaths to and examine the officers and agents of the  
11 health maintenance organization and the principals of a provider  
12 concerning the business. An examination shall not involve the  
13 confidential communications between physicians and patients.

14 (3) The expenses of an examination shall be assessed  
15 against the health maintenance organization being examined and  
16 remitted to the Director of Insurance or the ~~Director of Regulation~~  
17 ~~and Licensure~~ Health and Human Services System for whom the  
18 examination is being conducted in the manner provided in the  
19 Insurers Examination Act.

20 (4) In lieu of an examination, the Director of Insurance  
21 or the ~~Director of Regulation and Licensure~~ Health and Human  
22 Services System may accept the report of an examination made  
23 by the insurance commissioner, insurance director, insurance  
24 superintendent, or equivalent official or director of health or  
25 equivalent official of another state.

26 Sec. 387. Section 44-32,153, Reissue Revised Statutes of  
27 Nebraska, is amended to read:



1           44-32,153 If the Director of Insurance finds that any of  
2 the conditions listed in this section exist, any certificate of  
3 authority issued under the Health Maintenance Organization Act may  
4 be suspended or revoked or any application for a certificate of  
5 authority may be denied:

6           (1) The health maintenance organization is operating  
7 significantly in contravention of its basic organizational document  
8 or in a manner contrary to that described in any other information  
9 submitted under section 44-32,117 unless amendments to such  
10 submissions have been filed with and approved by the director;

11           (2) The health maintenance organization issues an  
12 evidence of coverage or uses a schedule of charges for health care  
13 services which does not comply with the requirements of sections  
14 44-32,129 to 44-32,133 and 44-32,149;

15           (3) The health maintenance organization does not provide  
16 or arrange for basic health care services;

17           (4) ~~The Director of Regulation and Licensure~~ Health and  
18 Human Services System certifies to the Director of Insurance that:

19           (a) The health maintenance organization does not meet the  
20 requirements of subsection (2) of section 44-32,119; or

21           (b) The health maintenance organization is unable to  
22 fulfill its obligations to furnish health care services;

23           (5) The health maintenance organization is no longer  
24 financially responsible and may reasonably be expected to be unable  
25 to meet its obligations to enrollees or prospective enrollees;

26           (6) The health maintenance organization has failed to  
27 correct, within the time prescribed by section 44-32,154, any

1 deficiency occurring due to such health maintenance organization's  
2 prescribed minimum net worth being impaired;

3 (7) The health maintenance organization has failed to  
4 implement grievance procedures in a reasonable manner to resolve  
5 valid complaints;

6 (8) The health maintenance organization or any person  
7 on its behalf has advertised or merchandised its services in an  
8 untrue, misrepresentative, misleading, deceptive, or unfair manner;

9 (9) The continued operation of the health maintenance  
10 organization would be hazardous to its enrollees; or

11 (10) The health maintenance organization has otherwise  
12 failed substantially to comply with the act.

13 Sec. 388. Section 44-32,156, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 44-32,156 Suspension or revocation of a certificate of  
16 authority, the denial of an application for a certificate, or the  
17 imposition of an administrative penalty shall be by written order  
18 and shall be sent by the Director of Insurance to the health  
19 maintenance organization or applicant by certified or registered  
20 mail and to the ~~Director of Regulation and Licensure.~~ Health  
21 and Human Services System. The written order shall state the  
22 grounds, charges, or conduct on which the suspension, revocation,  
23 denial, or administrative penalty is based. The health maintenance  
24 organization or applicant may in writing request a hearing within  
25 thirty days from the date of mailing of the order. If no written  
26 request is made, such order shall be final upon the expiration of  
27 thirty days.

1           Sec. 389. Section 44-32,157, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           44-32,157 (1) If the health maintenance organization or  
4 applicant requests a hearing pursuant to section 44-32,156, the  
5 Director of Insurance shall issue a written notice of hearing and  
6 send it to the health maintenance organization or applicant by  
7 certified or registered mail and to the ~~Director of Regulation and~~  
8 ~~Licensure~~ Health and Human Services System stating:

9           (a) A specific time for the hearing, which may not be  
10 less than twenty nor more than thirty days after mailing of the  
11 notice of hearing; and

12           (b) A specific place for the hearing, which may be either  
13 in Lancaster County or in the county where the health maintenance  
14 organization's or applicant's principal place of business is  
15 located.

16           (2) If a hearing is requested, the ~~Director of Regulation~~  
17 ~~and Licensure~~ chief executive officer of the Health and Human  
18 Services System or his or her designated representative shall  
19 be in attendance and shall participate in the proceedings. The  
20 recommendations and findings of the ~~Director of Regulation and~~  
21 ~~Licensure~~ system with respect to matters relating to the quality  
22 of health care services provided in connection with any decision  
23 regarding denial, suspension, or revocation of a certificate of  
24 authority shall be conclusive and binding upon the Director of  
25 Insurance.

26           (3) After the hearing or upon failure of the health  
27 maintenance organization to appear at such hearing, the Director

1 of Insurance shall take whatever action he or she deems necessary  
2 based on written findings and shall mail his or her decision  
3 to the health maintenance organization or applicant with a copy  
4 to the ~~Director of Regulation and Licensure.~~ Health and Human  
5 Services System. The action of the Director of Insurance and the  
6 recommendation and findings of the ~~Director of Regulation and~~  
7 ~~Licensure~~ system may be appealed, and the appeal shall be in  
8 accordance with the Administrative Procedure Act. The act shall  
9 apply to proceedings under this section to the extent it is not in  
10 conflict with this section.

11           Sec. 390. Section 44-32,163, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           44-32,163 Every health maintenance organization subject  
14 to the Health Maintenance Organization Act shall pay to the  
15 director the following fees:

16           (1) For filing an application for a certificate of  
17 authority or amendment thereto, three hundred dollars;

18           (2) For filing an amendment to the organizational  
19 documents that requires approval, twenty dollars;

20           (3) For filing each annual report, two hundred dollars;

21 and

22           (4) For renewing a certificate of authority, one hundred  
23 dollars.

24           Fees charged under this section shall be distributed  
25 one-half to the Director of Insurance and one-half to the  
26 ~~Department of Health and Human Services Regulation and Licensure.~~  
27 Health and Human Services System. All fees or other assessments

1 transmitted to the Department of Health and Human Services  
2 ~~Regulation and Licensure system~~ pursuant to the act shall be  
3 remitted to the state treasury for credit to the ~~Department of~~  
4 ~~Health and Human Services Regulation and Licensure Cash Fund.~~  
5 Health and Human Services System Cash Fund. There shall be  
6 appropriated from money credited to the fund pursuant to this  
7 section such amounts as are available to pay expenses considered  
8 incident to the administration of the act.

9           Sec. 391. Section 44-32,165, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           44-32,165 If the Director of Insurance or the ~~Director~~  
12 ~~of Regulation and Licensure~~ Health and Human Services System has  
13 for any reason cause to believe that any violation of the Health  
14 Maintenance Organization Act has occurred or is threatened, the  
15 Director of Insurance or the ~~Director of Regulation and Licensure~~  
16 system may give notice to the health maintenance organization  
17 and to the representatives or other persons who appear to be  
18 involved in such suspected violation to arrange a conference with  
19 the alleged violators or their authorized representatives for the  
20 purpose of attempting to ascertain the facts relating to such  
21 suspected violation and, if it appears that any violation has  
22 occurred or is threatened, to arrive at an adequate and effective  
23 means of correcting or preventing such violation. Proceedings  
24 under this section shall not be governed by any formal procedural  
25 requirements and may be conducted in such manner as the Director of  
26 Insurance or the ~~Director of Regulation and Licensure~~ system deems  
27 appropriate under the circumstances. Unless consented to by the

1 health maintenance organization, no rule or order may result from a  
2 conference until the requirements of this section are satisfied.

3 Sec. 392. Section 44-32,176, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 44-32,176 The ~~Director of Regulation and Licensure,~~  
6 Health and Human Services System, in carrying out ~~his or her~~  
7 obligations under the Health Maintenance Organization Act, may  
8 contract with qualified persons to make recommendations concerning  
9 the determinations required to be made by him or her. Such  
10 recommendations may be accepted in full or in part by the system.  
11 ~~Director of Regulation and Licensure.~~

12 Sec. 393. Section 44-4109.01, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 44-4109.01 Policies or contracts authorized by sections  
15 44-4109 and 44-4110 are subject to the following requirements:

16 (1) A prospective insured shall be provided information  
17 about the terms and conditions of the insurance arrangement to  
18 enable him or her to make an informed decision about accepting a  
19 system of health care delivery. If the insurance arrangement is  
20 described orally to a prospective insured, the description shall  
21 use easily understood, truthful, and objective terms. All written  
22 descriptions shall be in a readable and understandable format.  
23 Specific items that shall be included are:

24 (a) Coverage provisions, benefits, and any exclusions by  
25 category of service, provider, or physician and, if applicable, by  
26 specific service;

27 (b) Any prior authorization or other review requirements,

1 including preauthorization review, concurrent review, postservice  
2 review, and postpayment review, the manner in which an insured  
3 may obtain review of a denial of coverage, and the nature of  
4 any liability an insured may incur if the insured does not  
5 comply with the authorization requirements of the policy, contract,  
6 certificate, or other materials; and

7 (c) Information on the insured's financial responsibility  
8 for payment for deductibles, coinsurance, or other noncovered  
9 services;

10 (2) If an insurer conducts customer satisfaction surveys  
11 concerning an insurance arrangement, the results of such surveys  
12 shall be made available upon request to existing and prospective  
13 participants in insurance arrangements;

14 (3) The policy, contract, certificate, or other materials  
15 shall establish a mechanism by which a committee of preferred  
16 providers will be involved in reviewing and advising the insurance  
17 arrangement about medical policy, including coverage of new  
18 technology and procedures, quality and credentialing criteria, and  
19 medical management procedures;

20 (4) All policies or contracts shall have a system for  
21 credentialing participating preferred providers and shall allow  
22 all providers within the insurance arrangement's geographic service  
23 area to apply for such credentials periodically and not less than  
24 annually. The credentialing process:

25 (a) Shall begin upon application of a provider for  
26 inclusion in the policy or contract; and

27 (b) Shall be based solely on quality, accessibility, or

1 economic considerations and shall be applied in accordance with  
2 reasonable business judgment.

3           Credentialing standards or criteria shall be made  
4 available, upon request, to providers and insureds;

5           (5) If the policy or contract is with an organized  
6 delivery system formed by insurers, hospitals, physicians, or  
7 allied health professionals, or a combination of such entities,  
8 participation by a provider may be limited to a participant in the  
9 organized delivery system or to providers having staff privileges  
10 at a particular health care facility;

11           (6) If an insurer or a participant in an insurance  
12 arrangement refuses to contract with a provider, the provider shall  
13 be permitted to appeal the adverse decision. A person conducting  
14 the provider-appeal procedure may be employed by the insurer or  
15 participant in an insurance arrangement if the person does not  
16 initially participate in the decision to take adverse action  
17 against the provider. The provider-appeal procedure shall include,  
18 but not be limited to, notice of the date and time of the hearing,  
19 a statement of the criteria or standards on which the decision  
20 was based, an opportunity for the provider to review information  
21 upon which the adverse decision was based, an opportunity for  
22 the provider to appear personally at the hearing and present any  
23 additional information, and a timely decision on the appeal;

24           (7) If the insurer or participant in an insurance  
25 arrangement excludes or fails to retain a provider previously  
26 contracted with to provide health care services, the provider shall  
27 be permitted to appeal the adverse decision in the same manner



1 as set forth in subdivision (6) of this section. If the provider  
2 disagrees with the decision, the provider shall be permitted to  
3 appeal to an appeals committee consisting of one person selected  
4 by each party to the appeal and one person mutually agreeable to  
5 both parties. The parties to the appeal shall pay to the appeal  
6 committee any costs associated with the person they select and  
7 shall share the costs of the person mutually agreeable to both  
8 parties, which costs shall not be recoverable by the other party;

9 (8) Prior to initiation of a proceeding to terminate  
10 a provider's participation, the provider shall be given an  
11 opportunity to enter into and complete a corrective action plan,  
12 except in cases of fraud or imminent harm to patient health or when  
13 the provider's ability to provide services has been restricted by  
14 an action, including probation or any compliance agreements, by the  
15 ~~Department of Health and Human Services Regulation and Licensure~~  
16 Health and Human Services System or other governmental agency; and

17 (9) Policies and contracts shall not exclude providers  
18 with practices containing a substantial number of patients having  
19 severe or expensive medical conditions, except that this section  
20 shall not prohibit plans from excluding providers who fail to meet  
21 the insurance arrangement's criteria for quality, accessibility, or  
22 economic considerations.

23 Sec. 394. Section 44-7006, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 44-7006 (1) A health carrier shall:

26 (a) Establish written policies and procedures for  
27 credentialing verification of all health care professionals with

1 whom the health carrier contracts and apply these standards  
2 consistently;

3 (b) Verify the credentials of a health care professional  
4 before entering into a contract with that health care professional.  
5 The medical director of the health carrier or other designated  
6 health care professional shall have responsibility for, and shall  
7 participate in, credentialing verification;

8 (c) Establish a credentialing verification committee  
9 consisting of licensed physicians and other health care  
10 professionals to review credentialing verification information and  
11 supporting documents and make decisions regarding credentialing  
12 verification;

13 (d) Make available for review by the applying health care  
14 professional upon written request all application and credentialing  
15 verification policies and procedures;

16 (e) Retain all records and documents relating to a health  
17 care professional's credentialing verification process for at least  
18 five years; and

19 (f) Keep confidential all information obtained in the  
20 credentialing verification process except as otherwise provided by  
21 law.

22 (2) Nothing in the Health Care Professional Credentialing  
23 Verification Act shall be construed to require a health carrier  
24 to select a provider as a participating provider solely because  
25 the provider meets the health carrier's credentialing verification  
26 standards or to prevent a health carrier from utilizing separate or  
27 additional criteria in selecting the health care professionals with

1 whom it contracts.

2 (3) The policies and procedures for credentialing  
3 verification shall be available for review by the director, and,  
4 in the case of a health maintenance organization, shall also  
5 be available for review by the ~~chief medical officer~~, if one  
6 is appointed pursuant to section ~~81-3201~~, and if not, then the  
7 ~~Director of Regulation and Licensure~~, Health and Human Services  
8 System.

9 Sec. 395. Section 44-7107, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 44-7107 (1) A contract between a health carrier and an  
12 intermediary shall satisfy all the requirements contained in this  
13 section.

14 (2) (a) Intermediaries and participating providers  
15 with whom they contract shall comply with all the applicable  
16 requirements of section 44-7106.

17 (b) A health carrier's statutory responsibility to  
18 monitor the offering of covered benefits to covered persons shall  
19 not be delegated or assigned to the intermediary.

20 (c) A health carrier shall have the right to approve or  
21 disapprove participation status of a subcontracted provider in its  
22 own or a contracted network for the purpose of delivering covered  
23 benefits to the health carrier's covered persons.

24 (d) A health carrier shall maintain copies of all  
25 intermediary health care subcontracts at its principal place  
26 of business in the state, or ensure that it has access to  
27 all intermediary subcontracts, including the right to make

1 copies to facilitate regulatory review, upon twenty days' prior  
2 written notice from the health carrier. A health carrier may  
3 meet the requirements of this subdivision by maintaining a  
4 copy of the intermediary health care subcontract forms used  
5 by its intermediaries, and if the health carrier does so, the  
6 health carrier shall also maintain a copy of any portion of an  
7 intermediary health care subcontract which substantially differs  
8 from the intermediary health care subcontract form in subject areas  
9 other than reimbursement.

10 (e) If applicable, an intermediary shall transmit  
11 utilization documentation and claims paid documentation to the  
12 health carrier. The health carrier shall monitor the timeliness  
13 and appropriateness of payments made to providers and health care  
14 services received by covered persons.

15 (f) If applicable, an intermediary shall maintain the  
16 books, records, financial information, and documentation of health  
17 care services provided to covered persons at its principal place of  
18 business in the state and preserve them for five years in a manner  
19 that facilitates regulatory review.

20 (g) An intermediary shall allow the director and a health  
21 maintenance organization shall allow the director and the ~~Director~~  
22 ~~of Regulation and Licensure~~ Health and Human Services System access  
23 to the intermediary's books, records, financial information, and  
24 any documentation of health care services provided to covered  
25 persons, as necessary to determine compliance with the Managed Care  
26 Plan Network Adequacy Act.

27 (h) A health carrier shall have the right, in the event

1 of the intermediary's insolvency, to require the assignment to  
2 the health carrier of the provisions of a provider's contract  
3 addressing the provider's obligation to furnish covered services.

4 Sec. 396. Section 44-7206, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 44-7206 A health carrier that provides managed care  
7 plans shall develop and maintain the infrastructure and disclosure  
8 systems necessary to measure the quality of health care services  
9 provided to covered persons on a regular basis and appropriate to  
10 the types of managed care plans offered by the health carrier. A  
11 health carrier shall:

12 (1) Establish a system designed to assess the quality  
13 of health care provided to covered persons and appropriate to the  
14 types of managed care plans offered by the health carrier. The  
15 system shall include systematic collection, analysis, and reporting  
16 of relevant data in accordance with statutory and regulatory  
17 requirements;

18 (2) Communicate findings in a timely manner to applicable  
19 regulatory agencies, providers, and consumers as provided in  
20 section 44-7209;

21 (3) Report to the appropriate licensing authority any  
22 persistent pattern of problematic care provided by a provider that  
23 is sufficient to cause the health carrier to terminate or suspend  
24 contractual arrangements with the provider. A health carrier acting  
25 in good faith shall be granted immunity from any cause of action  
26 under state law in making the report; and

27 (4) Develop a written description of the quality

1 assessment program available for review by the director, which  
2 shall include a signed certification by a corporate officer of  
3 the health carrier that the filing meets the requirements of the  
4 Quality Assessment and Improvement Act. The written description of  
5 the quality assessment program of a health maintenance organization  
6 shall also be available for review by the ~~Director of Regulation~~  
7 ~~and Licensure.~~ Health and Human Services System.

8           Sec. 397. Section 44-7306, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           44-7306 (1) A health carrier shall maintain in a  
11 grievance register written records to document all grievances  
12 received during a calendar year. A request for a first-level  
13 review of an adverse determination shall be processed in compliance  
14 with section 44-7308 but not considered a grievance for purposes  
15 of the grievance register unless such request includes a written  
16 grievance. A request for a second-level review of an adverse  
17 determination shall be considered a grievance for purposes of the  
18 grievance register. For each grievance required to be recorded in  
19 the grievance register, the grievance register shall contain, at a  
20 minimum, the following information:

21           (a) A general description of the reason for the  
22 grievance;

23           (b) Date received;

24           (c) Date of each review or hearing;

25           (d) Resolution at each level of the grievance;

26           (e) Date of resolution at each level; and

27           (f) Name of the covered person for whom the grievance was

1 filed.

2 (2) The grievance register shall be maintained in a  
3 manner that is reasonably clear and accessible to the director. A  
4 grievance register maintained by a health maintenance organization  
5 shall also be accessible to the ~~Director of Regulation and~~  
6 ~~Licensure-~~ Health and Human Services System.

7 (3) A health carrier shall retain the grievance register  
8 compiled for a calendar year for the longer of three years or until  
9 the director has adopted a final report of an examination that  
10 contains a review of the grievance register for that calendar year.

11 Sec. 398. Section 46-602, Revised Statutes Cumulative  
12 Supplement, 2006, is amended to read:

13 46-602 (1) Each water well completed in this state on  
14 or after July 1, 2001, excluding test holes and dewatering wells  
15 to be used for less than ninety days, shall be registered with  
16 the Department of Natural Resources as provided in this section  
17 within sixty days after completion of construction of the water  
18 well. The water well contractor as defined in section 46-1213  
19 constructing the water well, or the owner of the water well if  
20 the owner constructed the water well, shall file the registration  
21 on a form made available by the department and shall also file  
22 with the department the information from the well log required  
23 pursuant to section 46-1241. The department shall, by January 1,  
24 2002, provide water well contractors with the option of filing such  
25 registration forms electronically. No signature shall be required  
26 on forms filed electronically. The fee required by subsection (3)  
27 of section 46-1224 shall be the source of funds for any required

1 fee to a contractor which provides the on-line services for such  
2 registration. Any discount in the amount paid the state by a credit  
3 card, charge card, or debit card company or a third-party merchant  
4 bank for such registration fees shall be deducted from the portion  
5 of the registration fee collected pursuant to section 46-1224.

6 (2)(a) If the newly constructed water well is a  
7 replacement water well, the registration form shall include  
8 (i) the registration number of the water well being replaced,  
9 if applicable, and (ii) the date the original water well was  
10 decommissioned or a certification that the water well will be  
11 decommissioned within one hundred eighty days or a certification  
12 that the original water well will be modified and equipped to  
13 pump fifty gallons per minute or less and will be used only for  
14 livestock, monitoring, observation, or any other nonconsumptive use  
15 or de minimus use approved by the applicable natural resources  
16 district.

17 (b) For purposes of this section, replacement water well  
18 means a water well which is constructed to provide water for  
19 the same purpose as the original water well and is operating in  
20 accordance with any applicable permit from the department and any  
21 applicable rules and regulations of the natural resources district  
22 and, if the purpose is for irrigation, the replacement water well  
23 delivers water to the same tract of land served by the original  
24 water well and (i) replaces an abandoned water well within three  
25 years after the last operation of the abandoned water well and  
26 the original water well is decommissioned either before or within  
27 one hundred eighty days after such construction, (ii) replaces a



1 water well that has not been abandoned but will not be used after  
2 construction of the new water well and the original water well  
3 will be decommissioned within one hundred eighty days after such  
4 construction, except that in the case of a municipal water well,  
5 the original municipal water well may be used after construction  
6 of the new water well but shall be decommissioned within one year  
7 after completion of the replacement water well, or (iii) will  
8 continue to be used but will be modified and equipped within one  
9 hundred eighty days after such construction of the replacement  
10 water well to pump fifty gallons per minute or less and will  
11 be used only for livestock, monitoring, observation, or any other  
12 nonconsumptive or de minimus use and approved by the applicable  
13 natural resources district.

14 (c) No water well shall be registered as a replacement  
15 water well until the Department of Natural Resources has received  
16 a properly completed notice of decommissioning for the water well  
17 being replaced on a form made available by the department, or  
18 properly completed notice, prepared in accordance with subsection  
19 (7) of this section, of the modification and equipping of the  
20 original water well to pump fifty gallons per minute or less  
21 for use only for livestock, monitoring, observation, or any other  
22 nonconsumptive or de minimus use approved by the applicable natural  
23 resources district. Such notices, as required, shall be completed  
24 by (i) the water well contractor as defined in section 46-1213  
25 who decommissions the water well or modifies and equips the water  
26 well, (ii) the pump installation contractor as defined in section  
27 46-1209 who decommissions the water well or modifies and equips

1 the water well, or (iii) the owner if the owner decommissions  
2 a driven sandpoint well which is on land owned by him or her  
3 for farming, ranching, or agricultural purposes or as his or  
4 her place of abode. The ~~Department of Health and Human Services~~  
5 ~~Regulation and Licensure~~ Health and Human Services System shall, by  
6 rule and regulation, determine which contractor or owner shall be  
7 responsible for such notice in situations in which more than one  
8 contractor or owner may be required to provide notice under this  
9 subsection.

10 (3) For a series of two or more water wells completed and  
11 pumped into a common carrier as part of a single site plan for  
12 irrigation purposes, a registration form and a detailed site plan  
13 shall be filed for each water well. The registration form shall  
14 include the registration numbers of other water wells included in  
15 the series if such water wells are already registered.

16 (4) A series of water wells completed for purposes  
17 of installation of a ground heat exchanger for a structure  
18 for utilizing the geothermal properties of the ground shall be  
19 considered as one water well. One registration form and a detailed  
20 site plan shall be filed for each such series.

21 (5) One registration form shall be required along with  
22 a detailed site plan which shows the location of each such water  
23 well in the site and a log from each such water well for water  
24 wells constructed as part of a single site plan for (a) monitoring  
25 ground water, obtaining hydrogeologic information, or extracting  
26 contaminants from the ground, (b) water wells constructed as part  
27 of remedial action approved by the Department of Environmental

1 Quality pursuant to section 66-1525, 66-1529.02, or 81-15,124, and  
2 (c) water well owners who have a permit issued pursuant to the  
3 Industrial Ground Water Regulatory Act and also have an underground  
4 injection control permit issued by the Department of Environmental  
5 Quality.

6 (6) The Department of Natural Resources shall be notified  
7 by the owner of any change in the ownership of a water well  
8 required to be registered under this section. Notification shall be  
9 in such form and include such evidence of ownership as the Director  
10 of Natural Resources by rule and regulation directs. The department  
11 shall use such notice to update the registration on file. The  
12 department shall not collect a fee for the filing of the notice.

13 (7) The water well contractor or pump installation  
14 contractor responsible therefor shall notify the department within  
15 sixty days on a form provided by the department of any pump  
16 installation or any modifications to the construction of the water  
17 well or pump, after the initial registration of the well. For  
18 a change of use resulting in modification and equipping of an  
19 original water well which is being replaced in accordance with  
20 subsection (2) of this section, the water well contractor or pump  
21 installation contractor shall notify the department within sixty  
22 days on a form provided by the department of the water well and  
23 pump modifications and equipping of the original water well. A  
24 water well owner shall notify the department within sixty days on  
25 a form provided by the department of any other changes or any  
26 inaccuracies in recorded water well information, including, but not  
27 limited to, changes in use. The department shall not collect a fee

1 for the filing of the notice.

2 (8) Whenever a water well becomes an illegal water well  
3 as defined in section 46-706, the owner of the water well shall  
4 either correct the deficiency that causes the well to be an illegal  
5 water well or shall cause the proper decommissioning of the water  
6 well in accordance with rules and regulations adopted pursuant  
7 to the Water Well Standards and Contractors' Licensing Act. The  
8 water well contractor who decommissions the water well, the pump  
9 installation contractor who decommissions the water well, or the  
10 owner if the owner decommissions a driven sandpoint well which is  
11 on land owned by him or her for farming, ranching, or agricultural  
12 purposes or as his or her place of abode, shall provide a properly  
13 completed notice of abandonment to the Department of Natural  
14 Resources within sixty days. ~~The Department of Health and Human~~  
15 ~~Services Regulation and Licensure~~ Health and Human Services System  
16 shall, by rule and regulation, determine which contractor or owner  
17 shall be responsible for such notice in situations in which more  
18 than one contractor or owner may be required to provide notice  
19 under this subsection. The Department of Natural Resources shall  
20 not collect a fee for the filing of the notice.

21 (9) Except for water wells which are used solely for  
22 domestic purposes and were constructed before September 9, 1993,  
23 and for test holes and dewatering wells used for less than ninety  
24 days, each water well which was completed in this state before  
25 July 1, 2001, and which is not registered on that date shall be an  
26 illegal water well until it is registered with the Department of  
27 Natural Resources. Such registration shall be completed by a water

1 well contractor or by the current owner of the water well, shall  
2 be on forms provided by the department, and shall provide as much  
3 of the information required by subsections (1) through (5) of this  
4 section for registration of a new water well as is possible at the  
5 time of registration.

6 (10) Water wells which are or were used solely for  
7 injecting any fluid other than water into the underground water  
8 reservoir, which were constructed before July 16, 2004, and which  
9 have not been properly decommissioned on or before July 16, 2004,  
10 shall be registered on or before July 1, 2005.

11 Sec. 399. Section 46-705, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 46-705 Nothing in the Nebraska Ground Water Management  
14 and Protection Act shall be construed to limit the powers of the  
15 ~~Department of Health and Human Services Regulation and Licensure~~  
16 Health and Human Services System provided in the Nebraska Safe  
17 Drinking Water Act.

18 Nothing in the Nebraska Ground Water Management and  
19 Protection Act relating to the contamination of ground water is  
20 intended to limit the powers of the Department of Environmental  
21 Quality provided in Chapter 81, article 15.

22 Sec. 400. Section 46-724, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 46-724 If the Director of Environmental Quality  
25 determines from the study conducted pursuant to section 46-722 that  
26 one or more sources of contamination are not point sources and if a  
27 management area, a purpose of which is protection of water quality,

1 has been established which includes the affected area, the Director  
2 of Environmental Quality shall consider whether to require the  
3 district which established the management area to adopt an action  
4 plan as provided in sections 46-725 to 46-729.

5           If the Director of Environmental Quality determines that  
6 one or more of the sources are not point sources and if such  
7 a management area has not been established or does not include  
8 all the affected area, he or she shall, within thirty days after  
9 completion of the report required by section 46-722, consult with  
10 the district within whose boundaries the area affected by such  
11 contamination is located and fix a time and place for a public  
12 hearing to consider the report, hear any other evidence, and secure  
13 testimony on whether a management area should be designated or  
14 whether an existing area should be modified. The hearing shall be  
15 held within one hundred twenty days after completion of the report.  
16 Notice of the hearing shall be given as provided in section 46-743,  
17 and the hearing shall be conducted in accordance with such section.

18           At the hearing, all interested persons shall be allowed  
19 to appear and present testimony. The Conservation and Survey  
20 Division of the University of Nebraska, ~~the Department of Health~~  
21 ~~and Human Services Regulation and Licensure,~~ the Department of  
22 Natural Resources, the Health and Human Services System, and the  
23 appropriate district may offer as evidence any information in their  
24 possession which they deem relevant to the purpose of the hearing.  
25 After the hearing and after any studies or investigations conducted  
26 by or on behalf of the Director of Environmental Quality as he  
27 or she deems necessary, the director shall determine whether a

1 management area shall be designated.

2           Sec. 401. Section 46-1011, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           46-1011 Plans and specifications for any proposed  
5 improvement authorized by sections 46-1001 to 46-1020 shall be  
6 filed with the director, the ~~Department of Health and Human~~  
7 ~~Services Regulation and Licensure,~~ Health and Human Services  
8 System, and the secretary of the district. No construction of any  
9 such improvement shall begin until the plans and specifications  
10 for such improvement have been approved by the director and the  
11 ~~Department of Health and Human Services Regulation and Licensure,~~  
12 system, except that if the improvement involves a public water  
13 system as defined in section 71-5301, only the ~~Department of~~  
14 ~~Health and Human Services Regulation and Licensure~~ system shall  
15 be required to review the plans and specifications for such  
16 improvement and approve the same if in compliance with Chapter 71,  
17 article 53, and departmental regulations adopted thereunder.

18           The total benefits of any such improvement shall be  
19 divided into a suitable number of benefit units. Each landowner  
20 within the district shall subscribe to a number of such units  
21 in proportion to the extent he or she desires to participate  
22 in the benefits of the improvements. As long as the capacity of  
23 the district's facilities permits, participating members of the  
24 district may subscribe to additional units upon payment of a unit  
25 fee for each such unit. Owners of land located within the district  
26 who are not participating members may subscribe to such units as  
27 the board in its discretion may grant, and upon payment of the unit

1 fee for each such unit shall be entitled to the same rights as  
2 original participating members. If the capacity of the district's  
3 facilities permits, the district may sell water to persons engaged  
4 in hauling water and to any political subdivision organized under  
5 the laws of the State of Nebraska.

6 Sec. 402. Section 46-1018, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 46-1018 It shall be the duty of the chairperson of the  
9 board of directors to keep in repair such works as are constructed  
10 by the district as authorized in sections 46-1001 to 46-1020 and to  
11 operate such works, all as directed by the board. Such works shall  
12 be operated in conformance with the rules and regulations of the  
13 ~~Department of Health and Human Services Regulation and Licensure~~  
14 Health and Human Services System relating to water supply systems.  
15 The chairperson and all persons who may perform any service or  
16 labor as provided in sections 46-1001 to 46-1020 shall be paid such  
17 just and reasonable compensation as may be allowed by the board  
18 of directors, and such board shall annually prepare an estimated  
19 budget for the coming year, adjust water rates, if necessary to  
20 produce sufficient revenue required by such budget, cause an annual  
21 audit of the district's records and accounts to be made, and make a  
22 report on such matters at each annual meeting.

23 Sec. 403. Section 46-1204.01, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 46-1204.01 Abandoned water well means any water well (1)  
26 the use of which has been accomplished or permanently discontinued,  
27 (2) which has been decommissioned as described in the rules



1 and regulations of the ~~Department of Health and Human Services~~  
2 ~~Regulation and Licensure, system,~~ and (3) for which the notice  
3 of abandonment required by subsection (2) of section 46-602  
4 has been filed with the Department of Natural Resources by the  
5 licensed water well contractor or pump installation contractor who  
6 decommissioned the water well or by the water well owner if the  
7 owner decommissioned the water well.

8           Sec. 404. Section 46-1205.01, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           46-1205.01 Certified natural resources ground water  
11 technician means a natural resources ground water technician who  
12 has taken a training course, passed an examination based on the  
13 training course, and received a certificate from the ~~department~~  
14 system indicating that he or she is a certified natural resources  
15 ground water technician.

16           Sec. 405. Section 46-1206.01, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           46-1206.01 Decommissioned, when used in relation to a  
19 water well, shall mean the act of filling, sealing, and plugging  
20 a water well in accordance with the rules and regulations of the  
21 ~~department. system.~~

22           Sec. 406. Section 46-1207, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           46-1207 ~~Department shall mean the Department of Health~~  
25 ~~and Human Services Regulation and Licensure.~~

26           System means the Health and Human Services System.

27           Sec. 407. Section 46-1207.01, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           46-1207.01 (1) Illegal water well shall mean any water  
3 well which has not been properly decommissioned and which meets any  
4 of the following conditions:

5           (a) The water well is in such a condition that it cannot  
6 be placed in active or inactive status;

7           (b) Any necessary operating equipment has been removed  
8 and the well has not been placed in inactive status;

9           (c) The water well is in such a state of disrepair that  
10 continued use for the purpose for which it was constructed is  
11 impractical;

12           (d) The water well was constructed after October 1, 1986,  
13 but not constructed by a licensed water well contractor or by an  
14 individual on land owned by him or her and used by him or her for  
15 farming, ranching, or agricultural purposes or as his or her place  
16 of abode;

17           (e) The water well poses a health or safety hazard;

18           (f) The water well is an illegal water well in accordance  
19 with section 46-706; or

20           (g) The water well has been constructed after October  
21 1, 1986, and such well is not in compliance with the standards  
22 developed under the Water Well Standards and Contractors' Licensing  
23 Act.

24           (2) Whenever the ~~department~~ system classifies a water  
25 well as an illegal water well, the landowner may petition the  
26 ~~department~~ system to reclassify the water well as an active status  
27 water well, an inactive status water well, or an abandoned water

1 well.

2           Sec. 408. Section 46-1217, Revised Statutes Cumulative  
3 Supplement, 2006, is amended to read:

4           46-1217 There is hereby created a Water Well Standards  
5 and Contractors' Licensing Board. The board shall be composed  
6 of ten members, six of whom shall be appointed by the Governor  
7 as follows: (1) A water well contractor representing irrigation  
8 water well contractors, (2) a water well contractor representing  
9 domestic water well contractors, (3) a water well contractor  
10 representing municipal and industrial water well contractors, (4)  
11 a pump installation contractor, (5) a manufacturer or supplier  
12 of water well or pumping equipment, and (6) a holder of a  
13 license or certificate issued under the Water Well Standards  
14 and Contractors' Licensing Act employed by a natural resources  
15 district. ~~The Director of Health and Human Services Regulation and~~  
16 ~~Licensure or his or her designated representative,~~ chief executive  
17 officer of the Health and Human Services System or his or her  
18 designee, the Director of Environmental Quality or his or her  
19 designated representative, the Director of Natural Resources or  
20 his or her designated representative, and the director of the  
21 Conservation and Survey Division of the University of Nebraska or  
22 his or her designated representative shall also serve as members  
23 of the board. Each member shall be a resident of the state. Each  
24 appointed member of the board shall have had at least five years  
25 of experience in the business of his or her category prior to  
26 appointment and shall be actively engaged in such business at the  
27 time of appointment and while serving on the board. Each member

1 representing a category subject to licensing under the Water Well  
2 Standards and Contractors' Licensing Act, with the exception of  
3 members initially appointed, shall be licensed by the ~~department~~  
4 system pursuant to such act. In making appointments, the Governor  
5 may consider recommendations made by the trade associations of each  
6 category.

7           Sec. 409. Section 46-1219, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           46-1219 The board shall meet within sixty days after the  
10 appointment of its members and thereafter at such other times as  
11 is deemed necessary or advisable. Special meetings of the board  
12 shall be called upon the written request of any three members of  
13 the board. The place of all meetings shall be at the offices of the  
14 ~~department,~~ system, unless otherwise determined by the board. At  
15 the first meeting of the board, a chairperson and vice-chairperson  
16 shall be selected. A majority of the members of the board shall  
17 constitute a quorum for the transaction of business. Every act of  
18 a majority of the total number of members of the board shall be  
19 deemed to be an act of the board.

20           Sec. 410. Section 46-1221, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           46-1221 The ~~department~~ system shall designate an  
23 individual with the approval of the board to serve as executive  
24 secretary of the board, and the ~~department~~ system shall furnish  
25 such offices and materials as may be necessary for the efficient  
26 operation of the board.

27           Sec. 411. Section 46-1223, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           46-1223 (1) The ~~department~~ system with the assistance of  
3 the board shall cause examination to be made of applicants for  
4 licensure or certification. The board shall determine the type,  
5 categories, contents, and required passing grade of examinations  
6 to be administered to applicants for licensing or certification.  
7 Examinations shall be held at such times and places as the  
8 ~~department~~, system, with the advice of the board, may determine.  
9 The ~~department~~ system shall act within ninety days upon all  
10 completed applications for licensure or certification.

11           (2) Examinations for water well monitoring technicians  
12 shall be designed and adopted to examine the knowledge of the  
13 applicant regarding the minimum standards for water wells and water  
14 well pumps, the geological characteristics of the state, measuring  
15 ground water levels, and water sampling practices and techniques.  
16 Examinations for natural resources ground water technicians shall  
17 examine the knowledge of the applicant regarding inspection of  
18 chemigation systems, measuring and recording static water levels,  
19 inspecting and servicing flow meters, and water sampling practices  
20 and techniques. All other examinations shall be designed and  
21 adopted to examine the knowledge of the applicant regarding the  
22 minimum standards for water wells and water well pumps, the  
23 geological characteristics of the state, current drilling or pump  
24 installation practices and techniques, and such other knowledge as  
25 deemed appropriate by the board. The board may adopt any nationally  
26 developed standard examinations as constituting part or all of the  
27 Nebraska examinations.

1           (3) An examinee who fails to pass the initial examination  
2 may retake such examination without charge at any regularly  
3 scheduled examination held within four months after failing to pass  
4 the initial examination, except that when a national standardized  
5 examination is utilized which requires the payment of a fee to  
6 purchase such examination, the board shall require the applicant to  
7 pay the appropriate examination fee whether an initial examination  
8 or a retake of an examination is involved.

9           (4) In cases of hardship, the board may provide and  
10 direct that special arrangements for administering examinations  
11 be utilized. The board may also provide for temporary hardship  
12 licensing without examination due to the death of the current  
13 license holder or for other good cause shown.

14           Sec. 412. Section 46-1223.01, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           46-1223.01 The ~~department~~ system shall develop a  
17 certification program that is designed to train individuals to  
18 become certified natural resources ground water technicians. Such  
19 course shall be developed by the ~~department~~ system in consultation  
20 with the natural resources districts. Such course shall include  
21 inspection of chemigation systems, measuring and recording static  
22 water levels, inspecting and servicing flow meters, and taking  
23 water samples. Training sessions shall not be less than two hours  
24 and shall not exceed eight hours. At the end of the training  
25 session, individuals taking the training shall be required to take  
26 a written examination.

27           Sec. 413. Section 46-1224, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           46-1224 (1) Except as otherwise provided in subsections  
3 (2) through (4) of this section, the board shall set reasonable  
4 fees in an amount calculated to recover the costs incurred by  
5 the ~~department~~ system and the board in administering and carrying  
6 out the purposes of the Water Well Standards and Contractors'  
7 Licensing Act. Such fees shall be paid to the ~~department~~ system  
8 and remitted to the State Treasurer for credit to the Water Well  
9 Standards and Contractors' Licensing Fund, which fund is hereby  
10 created. Such fund shall be used by the ~~department~~ system and the  
11 board for the purpose of administering the Water Well Standards  
12 and Contractors' Licensing Act. Additionally, such fund shall be  
13 used to pay any required fee to a contractor which provides the  
14 on-line services for registration of water wells. Any discount in  
15 the amount paid the state by a credit card, charge card, or debit  
16 card company or a third-party merchant bank for such registration  
17 fees shall be deducted from the portion of the registration fee  
18 collected pursuant to this section. Any money in the fund available  
19 for investment shall be invested by the state investment officer  
20 pursuant to the Nebraska Capital Expansion Act and the Nebraska  
21 State Funds Investment Act.

22           (2) Fees for credentialing individuals under the Water  
23 Well Standards and Contractors' Licensing Act shall be established  
24 and collected as provided in section 71-162.

25           (3) The board shall set a fee of not less than  
26 twenty-five dollars and not more than forty dollars for each  
27 water well which is required to be registered and which is designed

1 and constructed to pump less than fifty gallons per minute and  
2 each monitoring and observation well and a fee of not less than  
3 forty dollars and not more than eighty dollars for each water  
4 well which is required to be registered and which is designed and  
5 constructed to pump fifty gallons per minute or more. For water  
6 wells permitted pursuant to the Industrial Ground Water Regulatory  
7 Act, the fee set pursuant to this subsection shall be collected  
8 for each of the first ten such water wells registered, and for  
9 each group of ten or fewer such water wells registered thereafter,  
10 the fee shall be collected as if only one water well was being  
11 registered. For a series of two or more water wells completed and  
12 pumped into a common carrier, as defined in section 46-601.01,  
13 as part of a single site plan for irrigation purposes, the fee  
14 set pursuant to this subsection shall be collected for each of  
15 the first two such water wells registered. For a series of water  
16 wells completed for purposes of installation of a ground heat  
17 exchanger for a structure for utilizing the geothermal properties  
18 of the ground, the fee set pursuant to this subsection shall be  
19 collected as if only one water well was being registered. For water  
20 wells constructed as part of a single site plan for monitoring  
21 ground water, obtaining hydrogeologic information, or extracting  
22 contaminants from the ground and for water wells constructed as  
23 part of remedial action approved by the Department of Environmental  
24 Quality pursuant to section 66-1525, 66-1529.02, or 81-15,124, the  
25 fee set pursuant to this subsection shall be collected for each of  
26 the first five such water wells registered, and for each group of  
27 five or fewer such water wells registered thereafter, the fee shall



1 be collected as if only one water well was being registered. The  
2 fees shall be remitted to the Director of Natural Resources with  
3 the registration form required by section 46-602 and shall be in  
4 addition to the fee in section 46-606. The director shall remit the  
5 fee to the State Treasurer for credit to the Water Well Standards  
6 and Contractors' Licensing Fund.

7 (4) The board shall set an application fee for a  
8 declaratory ruling or variance of not less than fifty dollars  
9 and not more than one hundred dollars.

10 Sec. 414. Section 46-1226, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 46-1226 The ~~department~~ system shall, with the advice and  
13 consent of the board, adopt and promulgate rules and regulations  
14 for the administration of the Water Well Standards and Contractors'  
15 Licensing Act. The ~~department~~ system shall be responsible for  
16 the administration and enforcement of such act and any standards,  
17 rules, or regulations adopted and promulgated by the ~~department~~  
18 system or the board pursuant to such act. The ~~department~~ system  
19 shall consult with the board in carrying out the ~~departmental~~  
20 duties under such act for (1) conducting examinations, (2) issuing,  
21 denying, refusing renewal of, suspending, or revoking licenses or  
22 certificates, and (3) collecting fees.

23 Sec. 415. Section 46-1227, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 46-1227 The ~~department,~~ system, with the advice and  
26 consent of the board, shall adopt and promulgate uniform rules and  
27 regulations, in accordance with the rules and regulations adopted

1 and promulgated pursuant to sections 46-602 and 81-1505, for  
2 the establishment of standards for the (1) construction of water  
3 wells, (2) installation of pumps and pumping equipment, and (3)  
4 decommissioning water wells. Such rules, regulations, and standards  
5 may recognize differing hydrologic and geologic conditions, may  
6 recognize differing uses of any developed supplies, and shall be  
7 designed to promote efficient methods of operation and prevent  
8 water wells from becoming a source of contamination to the aquifer.  
9 Such standards shall be applicable whether such activities are  
10 carried out by a water well contractor, a pump installation  
11 contractor, a water well drilling supervisor, a pump installation  
12 supervisor, or any other person. Nothing in this section shall be  
13 construed to require that the ~~department~~ system adopt, promulgate,  
14 or amend rules and regulations for programs in existence on October  
15 1, 1986.

16           Sec. 416. Section 46-1228, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           46-1228 The ~~department~~ system shall have (1) authority to  
19 inspect water wells constructed, water wells decommissioned, and  
20 water well locations, (2) access to water wells and accompanying  
21 pumps and pumping equipment at all reasonable times, and (3) power  
22 of inspection in regard to the construction and decommissioning of  
23 all water wells.

24           Sec. 417. Section 46-1229, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26           46-1229 Any person desiring to engage in the construction  
27 of water wells, the installation of pumps and pumping equipment, or

1 the decommissioning of water wells shall make initial application  
2 for a license to the ~~department~~, system. Each such application  
3 shall include satisfactory evidence that the applicant is at  
4 least the age of majority and is of good moral character. The  
5 ~~department~~ system shall charge an application fee established as  
6 provided in section 71-162 for the filing of such application.  
7 The ~~department~~ system shall not act upon any application until  
8 the application fee for such license has been paid. A license to  
9 engage in the construction or decommissioning of water wells or  
10 the installation of pumps and pumping equipment shall be issued  
11 to every applicant who demonstrates professional competence by  
12 successfully passing the examination prescribed in section 46-1223,  
13 pays the appropriate license fee, and otherwise complies with  
14 the Water Well Standards and Contractors' Licensing Act and all  
15 standards, rules, and regulations adopted and promulgated pursuant  
16 to such act. Applicants shall receive licenses for any category or  
17 combination of categories for which they have successfully passed  
18 the required examination. If the applicant is an individual, the  
19 application shall include the applicant's social security number.

20           Sec. 418. Section 46-1230, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           46-1230 Each applicant for licensing or relicensing as a  
23 water well contractor or as a pump installation contractor shall  
24 furnish proof to the ~~department~~ system that there is in force a  
25 policy of public liability and property damage insurance issued to  
26 the applicant in an amount established by the ~~department~~ system by  
27 rules and regulations sufficient to protect the public interest.

1           Sec. 419. Section 46-1231, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           46-1231 Each water well drilling supervisor, pump  
4 installation supervisor, natural resources ground water technician,  
5 and water well monitoring technician shall make application for  
6 a certificate of competence in his or her respective trade. The  
7 application shall include the applicant's social security number.  
8 Such application shall be made to the ~~department~~ system which  
9 shall charge an application fee established as provided in section  
10 71-162 for the filing of such application, and the ~~department~~  
11 system shall not act upon any application until the application  
12 fee for such certificate has been paid. A certificate shall be  
13 issued to every applicant who successfully passes the examination  
14 for such certificate, pays the appropriate certification fee, and  
15 otherwise complies with the Water Well Standards and Contractors'  
16 Licensing Act and all standards, rules, and regulations adopted  
17 and promulgated pursuant to such act. Any individual employed by  
18 a water well contractor or a pump installation contractor who is  
19 not deemed to qualify as a water well drilling supervisor or pump  
20 installation supervisor may make application for a certificate of  
21 competence in his or her respective trade in the same manner as the  
22 water well drilling supervisor or the pump installation supervisor.

23           Sec. 420. Section 46-1232, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           46-1232 No licenses or certificates required by the Water  
26 Well Standards and Contractors' Licensing Act shall be required  
27 until January 1, 1987. Individuals who are engaged as water well

1 contractors, pump installation contractors, water well drilling  
2 supervisors, or pump installation supervisors on January 1, 1986,  
3 may, prior to January 1, 1987, make application for a provisional  
4 license or certificate issued pursuant to the Water Well Standards  
5 and Contractors' Licensing Act. The ~~department~~ system shall issue  
6 a provisional license or certificate to any such applicant without  
7 examination if the applicant pays the application fee and the  
8 license or certificate fees and submits sufficient evidence, under  
9 oath, that he or she was engaged in such activity for at least  
10 twelve months prior to January 1, 1987. Any provisional licensee  
11 or certificate holder shall be required to take and pass the  
12 examination required under section 46-1223 on or before January 1,  
13 1992, to be thereafter renewed.

14           Sec. 421. Section 46-1235, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           46-1235 In cases other than those relating to failure  
17 to meet the requirements for an initial license or an initial  
18 certificate, the ~~department~~ system may deny, refuse renewal of,  
19 suspend, or revoke licenses or certificates or may take other  
20 disciplinary action for any of the following acts or offenses:

21           (1) Practice of fraud or deceit in obtaining a license or  
22 certificate;

23           (2) Violation of the Water Well Standards and  
24 Contractors' Licensing Act or any standards, rules, or regulations  
25 adopted and promulgated pursuant to such act;

26           (3) Incompetence or gross negligence in the performance  
27 of any activity for which licenses or certificates are issued

1 pursuant to the act;

2 (4) Conduct or practices detrimental to the health  
3 or safety of persons hiring the services of the licensee or  
4 certificate holder or of members of the general public;

5 (5) Practice of the trade fraudulently, beyond the  
6 authorized scope, or with manifest incapacity;

7 (6) Practice of the trade while the ability to practice  
8 is impaired by alcohol, controlled substances, narcotic drugs, or  
9 physical disability;

10 (7) Permitting, aiding, or abetting the practice of the  
11 trade or the performance of activities requiring a license or  
12 certificate by a person not licensed or certified to do so;

13 (8) Having had a license or certificate denied,  
14 refused renewal, limited, suspended, or revoked or having been  
15 disciplined in any other manner by another state or jurisdiction  
16 to practice water well construction, water well drilling, water  
17 well decommissioning, or pump installation based upon acts by  
18 the applicant, licensee, or certificate holder similar to acts  
19 described in this section. A certified copy of the record of  
20 denial, refusal of renewal, limitation, suspension, or revocation  
21 of a license or certificate or the taking of other disciplinary  
22 action by another state or jurisdiction shall be conclusive  
23 evidence;

24 (9) Unprofessional conduct as may be defined in rules and  
25 regulations of the board with approval of the ~~department~~, system;

26 (10) Practice of the trade while the license or  
27 certificate to do so is suspended or practice of the trade

1 in contravention of any limitation placed upon the license or  
2 certificate;

3 (11) Failing to file a water well registration required  
4 by subsection (1), (2), (3), (4), or (5) of section 46-602 or  
5 failing to file a notice required by subsection (7) of such  
6 section; or

7 (12) Failing to file a properly completed notice of  
8 abandonment of a water well required by subsection (8) of section  
9 46-602.

10 A licensee or certificate holder shall not engage in  
11 the practice of the trade after a license or certificate is  
12 revoked or during the time for which it is suspended. If a  
13 license or certificate is suspended, the suspension shall be for a  
14 definite period of time to be fixed by the ~~Director of Regulation~~  
15 ~~and Licensure~~, system, and such license or certificate shall be  
16 automatically reinstated upon the expiration of such period if the  
17 current renewal fee has been paid. If such license or certificate  
18 is revoked, such revocation shall be for one year.

19 Sec. 422. Section 46-1235.01, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 46-1235.01 The authority of the ~~Director of Regulation~~  
22 ~~and Licensure~~ system to discipline a licensee or certificate holder  
23 by placing him or her on probation pursuant to sections 46-1235 and  
24 46-1237.02 shall include, but not be limited to, the following:

25 (1) To require the licensee or certificate holder to  
26 obtain additional professional training and to pass an examination  
27 upon the completion of the training. The examination may be written

1 or oral, or both, and may be a practical or technical examination,  
2 or both, or any or all of such combinations of written, oral,  
3 practical, and technical at the option of the ~~director~~, system; or

4 (2) To restrict or limit the extent, scope, or type of  
5 practice of the licensee or certificate holder upon consultation  
6 with the board.

7 Sec. 423. Section 46-1235.02, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 46-1235.02 (1) A person who has been disciplined by  
10 means other than suspension or revocation of his or her license  
11 or certificate may apply for reinstatement of the license or  
12 certificate at any time.

13 (2) A person whose certificate or license has been  
14 revoked may apply for reinstatement of the license or certificate  
15 after a period of not less than one year has elapsed from the date  
16 of revocation.

17 (3) The application for reinstatement shall state such  
18 pertinent facts as may be required by the ~~department~~ system and  
19 shall be accompanied by at least two verified recommendations of  
20 the activities of the applicant since the date of the suspension,  
21 revocation, or other discipline. The ~~department~~ system shall  
22 prescribe forms for application for reinstatement. An applicant for  
23 reinstatement shall complete the continuing competency requirements  
24 in effect at the time of application.

25 (4) In determining whether to approve an application  
26 for reinstatement, the ~~department~~ system may (a) investigate and  
27 consider the activities of the applicant since the disciplinary



1 action was taken, including, but not limited to, activities  
2 prohibited by the Water Well Standards and Contractors' Licensing  
3 Act, the act or offense for which disciplinary action was taken,  
4 the applicant's conduct while the license or certificate was in  
5 good standing, and the applicant's general reputation for truth,  
6 professional ability, and good character, (b) require the applicant  
7 to take additional training, and (c) require the applicant to pass  
8 the examination.

9 (5) Denial of an application for reinstatement may be  
10 appealed. The appeal shall be in accordance with the Administrative  
11 Procedure Act.

12 Sec. 424. Section 46-1236, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 46-1236 All licenses and certificates issued pursuant  
15 to the Water Well Standards and Contractors' Licensing Act shall  
16 expire on December 31 of the year for which issued. A license  
17 or certificate may be renewed on or before December 31 of each  
18 year upon payment of the annual fee established as provided in  
19 section 71-162. If a licensee or certificate holder has not paid  
20 for the renewal of his or her license or certificate on or before  
21 December 1, he or she shall be notified by certified or registered  
22 mail on or before December 15 that the license or certificate  
23 will expire. A license or certificate not renewed on or before  
24 December 31 or the first working day thereafter shall expire and  
25 may not be renewed except as provided in this section. Any licensee  
26 or certificate holder who fails to renew his or her license  
27 before December 31 shall be given a second notice by certified or

1 registered mail on or before January 15 advising him or her (1)  
2 of the failure to renew and (2) that the license or certificate  
3 has expired. The ~~department~~ system shall suspend action for sixty  
4 days following the date of expiration and upon the receipt of the  
5 renewal fee, together with the late fee established as provided  
6 in section 71-162, within sixty days of expiration, shall renew  
7 the license or certificate. An expired license or certificate may  
8 not be renewed after the sixty-day period without passing the  
9 examination required in section 46-1223.

10           Sec. 425. Section 46-1237, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           46-1237 If the ~~department~~ system proposes to deny,  
13 refuse renewal of, suspend, or revoke a license or certificate  
14 or otherwise discipline a licensee or certificate holder for  
15 any of the reasons enumerated in the Water Well Standards and  
16 Contractors' Licensing Act, it shall send to the applicant,  
17 licensee, or certificate holder, by certified or registered mail,  
18 a notice setting forth the specific reasons for the proposed  
19 action. The denial, refusal of renewal, suspension, revocation,  
20 or other disciplinary action shall become final thirty days after  
21 the mailing of the notice unless the applicant, licensee, or  
22 certificate holder, within such period, gives written notice of  
23 a desire for a hearing. The applicant, licensee, or certificate  
24 holder shall then be given an opportunity for a formal hearing  
25 before the ~~department~~ system and shall have the right to present  
26 evidence on his or her own behalf. On the basis of the evidence  
27 presented, the action in question shall be affirmed or set aside,

1 and a copy of the decision setting forth the findings of fact and  
2 the specific reasons upon which the decision is based shall be sent  
3 by either certified or registered mail to the applicant, licensee,  
4 or certificate holder. The decision shall become final thirty  
5 days after the copy is mailed unless the applicant, licensee, or  
6 certificate holder, within such period, appeals the decision.

7           Sec. 426. Section 46-1237.01, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           46-1237.01 The ~~department~~ system may temporarily suspend  
10 or limit a license or certificate without notice or hearing if  
11 the ~~Director of Regulation and Licensure~~ system determines that  
12 there is reasonable cause to believe that grounds exist under  
13 section 46-1235 for the revocation, suspension, or limitation of  
14 the license or certificate and that the licensee's or certificate  
15 holder's continuation in practice would constitute an imminent  
16 danger to public health and safety. Simultaneously with any such  
17 action, the ~~department~~ system shall institute proceedings for a  
18 hearing on the grounds for revocation, suspension, or limitation.  
19 Such hearing shall be held no later than fifteen days from the  
20 date of such temporary suspension or limitation. A continuance  
21 of the hearing shall be granted by the ~~department~~ system upon  
22 written request of the licensee or certificate holder, and such a  
23 continuance shall not exceed thirty days. An order of temporary  
24 suspension or limitation shall take effect when served in person  
25 upon the licensee or certificate holder. A temporary suspension  
26 or limitation shall not be in effect for a period in excess of  
27 one hundred eighty days. At the end of such one-hundred-eighty-day

1 period, the license or certificate shall be reinstated unless the  
2 ~~department~~ system has revoked, suspended, or limited the license or  
3 certificate after notice and hearing.

4 Sec. 427. Section 46-1237.02, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 46-1237.02 (1) All proceedings under the Water Well  
7 Standards and Contractors' Licensing Act shall be summary in  
8 nature and triable as equity actions. Affidavits may be received  
9 in evidence at the discretion of the ~~Director of Regulation and~~  
10 ~~Licensure-~~ system. ~~The department~~ system may administer oaths,  
11 subpoena witnesses and compel their attendance, and issue subpoenas  
12 duces tecum and require the production of books, accounts, and  
13 documents in the same manner and to the same extent as a district  
14 court. Depositions may be used by either party.

15 (2) Upon the completion of any hearing, the ~~director~~  
16 system may enter an order to exercise any or all of the following  
17 powers irrespective of the petition:

18 (a) Issue a censure or reprimand against the licensee or  
19 certificate holder;

20 (b) Suspend judgment;

21 (c) Place the licensee or certificate holder on  
22 probation;

23 (d) Place a limitation on the license or certificate and  
24 upon the right of the licensee or certificate holder to practice  
25 the trade to such extent, scope, or type of practice, for such  
26 time, and under such conditions as are found necessary and proper.  
27 The ~~director~~ system shall consult with the board in all instances

1 prior to issuing an order of limitation;

2 (e) Impose a civil penalty under section 46-1240. The  
3 amount of the penalty shall be based on the severity of the  
4 violation;

5 (f) Enter an order of suspension;

6 (g) Enter an order of revocation; or

7 (h) Dismiss the action.

8 (3) If a licensee or certificate holder fails to appear,  
9 either in person or by counsel, at the time and place designated  
10 in a notice, the ~~director,~~ system, after receiving satisfactory  
11 evidence of the truth of the charges, shall order the license  
12 or certificate revoked or suspended or shall order any other  
13 appropriate disciplinary action.

14 (4) Any order issued under the act may be appealed. The  
15 appeal shall be in accordance with the Administrative Procedure  
16 Act.

17 Sec. 428. Section 46-1237.03, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 46-1237.03 If an order issued under the Water Well  
20 Standards and Contractors' Licensing Act is adverse to the licensee  
21 or certificate holder, the costs shall be charged to him or her  
22 as in ordinary civil actions in the district court, but if the  
23 ~~department~~ system is the unsuccessful party, the costs shall be  
24 paid out of any money of the ~~department~~ system available for that  
25 purpose. Witness fees and costs may be taxed according to the rules  
26 prevailing in the district court. All costs accrued at the instance  
27 of the ~~department~~ system when it is the successful party, which the

1 ~~department~~ system certifies cannot be collected from the defendant,  
2 shall be paid out of any available funds of the ~~department~~ system.

3           Sec. 429. Section 46-1239, Revised Statutes Cumulative  
4 Supplement, 2006, is amended to read:

5           46-1239 Any person who fails to employ or use at least  
6 one individual appropriately licensed or certified and available or  
7 any person who engages, without a license or certificate for such  
8 activities, in the construction of water wells, the installation of  
9 pumps and pumping equipment, or the decommissioning of water wells  
10 is guilty of a Class II misdemeanor or subject to a civil penalty  
11 of not more than one thousand dollars for each day the violation  
12 occurs.

13           Any civil penalty assessed and unpaid shall constitute a  
14 debt to the state which may be collected in the manner of a lien  
15 foreclosure or sued for and recovered in a proper form of action in  
16 the name of the state in the district court of the county in which  
17 the violator resides or owns property. An action to collect a civil  
18 penalty shall be brought within two years of the alleged violation  
19 providing the basis of the penalty, except that if the cause of  
20 action is not discovered and could not be reasonably discovered  
21 within the two-year period, the action may be commenced within two  
22 years after the date of discovery or after the date of discovery  
23 of facts which would reasonably lead to discovery, whichever is  
24 earlier. The ~~department~~ system shall remit the civil penalty to the  
25 State Treasurer, within thirty days after receipt, for distribution  
26 in accordance with Article VII, section 5, of the Constitution of  
27 Nebraska.

1           Sec. 430. Section 46-1240, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           46-1240 Any person who engages in or any person who  
4 employs or uses a person who engages in the construction of  
5 water wells, the installation of pumps and pumping equipment,  
6 the decommissioning of water wells, or the measuring of ground  
7 water levels, the collection of ground water samples from existing  
8 water wells, or the inspection of installed water well equipment,  
9 pumping systems, or chemigation regulation devices or who fails  
10 to decommission or decommissions an illegal water well without  
11 complying with the standards adopted and promulgated pursuant to  
12 the Water Well Standards and Contractors' Licensing Act shall be  
13 guilty of a Class III misdemeanor or subject to a civil penalty  
14 of not more than five hundred dollars for each day an intentional  
15 violation occurs and may be enjoined from continuing such activity,  
16 including a mandatory injunction.

17           Any civil penalty assessed and unpaid shall constitute a  
18 debt to the state which may be collected in the manner of a lien  
19 foreclosure or sued for and recovered in a proper form of action in  
20 the name of the state in the district court of the county in which  
21 the violator resides or owns property. An action to collect a civil  
22 penalty shall be brought within two years of the alleged violation  
23 providing the basis of the penalty, except that if the cause of  
24 action is not discovered and could not be reasonably discovered  
25 within the two-year period, the action may be commenced within two  
26 years after the date of discovery or after the date of discovery  
27 of facts which would reasonably lead to discovery, whichever is

1 earlier. The system shall remit the civil penalty to the State  
2 Treasurer, within thirty days after receipt, for distribution in  
3 accordance with Article VII, section 5, of the Constitution of  
4 Nebraska. ~~The department shall, within thirty days after receipt,~~  
5 ~~remit the civil penalty to the State Treasurer for credit to the~~  
6 ~~permanent school fund.~~

7 Sec. 431. Section 46-1240.01, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 46-1240.01 Any person who files or attempts to file with  
10 the ~~department~~ system any false or forged diploma or certificate  
11 or affidavit of identification or qualification shall be guilty of  
12 forgery.

13 Sec. 432. Section 46-1240.02, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 46-1240.02 Any person who presents to the ~~department~~  
16 system a diploma or certificate of which he or she is not  
17 the rightful owner for the purpose of procuring a license or  
18 certificate, who falsely impersonates anyone to whom a license or  
19 certificate has been issued by the ~~department,~~ system, who falsely  
20 holds himself or herself out to be a person licensed or certified  
21 by the ~~department,~~ system, or who aids and abets another who  
22 is not licensed or certified to practice any trade for which a  
23 license or certificate is required by the Water Well Standards and  
24 Contractors' Licensing Act in practicing the trade shall be guilty  
25 of a Class IV felony.

26 Sec. 433. Section 46-1240.03, Reissue Revised Statutes of  
27 Nebraska, is amended to read:



1           46-1240.03 The ~~department~~ system shall enforce the Water  
2 Well Standards and Contractors' Licensing Act and for that  
3 purpose shall make necessary investigations relative thereto. Every  
4 licensee or certificate holder and member of the board shall  
5 furnish the ~~department~~ system such evidence as he or she may have  
6 relative to any alleged violation which is being investigated. He  
7 or she shall also report to the ~~department~~ system the name of every  
8 person without a license or certificate that he or she has reason  
9 to believe is engaged in practicing any trade for which a license  
10 or certificate is required by the act.

11           Sec. 434. Section 46-1240.05, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           46-1240.05 (1) Whenever the ~~Director of Regulation and~~  
14 ~~Licensure~~ system has reason to believe that a violation of any  
15 provision of the Water Well Standards and Contractors' Licensing  
16 Act or any rule or regulation adopted and promulgated by the  
17 department is occurring or has occurred, he or she may cause  
18 an administrative order to be served upon the person alleged to  
19 be in violation. Such order shall specify the violation and the  
20 facts alleged to constitute a violation and shall order that  
21 necessary corrective action be taken within a reasonable time to  
22 be prescribed in such order. Any such order shall become final  
23 unless the person named in the order requests in writing a hearing  
24 before the ~~director~~ system no later than thirty days after the date  
25 such order is served. In lieu of such order, the ~~director~~ system  
26 may require that the person appear before the ~~director~~ system at  
27 a time and place specified in the notice and answer the charges.

1 The notice shall be served on the person not less than thirty days  
2 before the time set for the hearing.

3 (2) Whenever the ~~director~~ system finds that an emergency  
4 exists requiring immediate action to protect the public health  
5 and welfare concerning a chemical, material, procedure, or act  
6 which is determined by the ~~director~~ system to be harmful or  
7 potentially harmful to human health, the ~~director~~ system may,  
8 without notice or hearing, issue an order reciting the existence  
9 of such an emergency and requiring that such action be taken as  
10 the ~~director~~ system deems necessary to meet the emergency. Such  
11 order shall be effective immediately. Any person to whom such order  
12 is directed shall comply immediately and, on written application  
13 to the ~~director~~, system, shall be afforded a hearing as soon  
14 as possible and not later than ten days after receipt of such  
15 application by such affected person. On the basis of such hearing,  
16 the ~~director~~ system shall continue such order in effect, revoke it,  
17 or modify it.

18 (3) The ~~director~~ system shall afford to the alleged  
19 violator an opportunity for a hearing before the ~~department~~.  
20 system.

21 Sec. 435. Section 46-1240.06, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 46-1240.06 (1) The ~~department~~ system may grant a variance  
24 from any rule, regulation, or standard adopted and promulgated  
25 by the ~~department~~ system relating to the construction of water  
26 wells upon proof by a licensed water well contractor or owner  
27 of a proposed water well satisfactory to the ~~department~~ system

1 that the enforcement of the rule, regulation, or standard would  
2 create an unreasonable hardship or be unreasonable, impractical,  
3 or not feasible under the circumstances. A variance may be under  
4 such terms and conditions and for such time as the ~~department~~  
5 system may prescribe. The terms and conditions of a variance may  
6 include testing, monitoring, reporting, and additional construction  
7 or installation requirements.

8 (2) A variance shall be limited to the construction of a  
9 water well to replace an existing water well.

10 (3) Any person who owns or operates a water well in  
11 violation of the terms and conditions of a variance may be enjoined  
12 from continuing such activities. The injunction may include an  
13 order to properly decommission the water well.

14 Sec. 436. Section 46-1241, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 46-1241 Any owner of a water well or water well  
17 contractor who engages in an act of or the business of constructing  
18 a water well shall keep and maintain an accurate well log of  
19 the construction of each such water well. The well log shall  
20 be available to the ~~department~~ system for inspection and copying  
21 during reasonable hours or the regular business hours of the  
22 contractor.

23 The well log shall include the following information:

24 (1) Legal description of the water well;

25 (2) Description and depth of geologic materials  
26 encountered;

27 (3) Depth and diameter or dimension of constructed water

- 1 well and test hole;
- 2 (4) Depth and diameter or dimension of excavated hole if  
3 applicable;
- 4 (5) Depth of formation stabilizer or gravel pack and size  
5 of particles if used;
- 6 (6) Depth and thickness of grout or other sealing  
7 material if applicable;
- 8 (7) Casing information, including length, inside  
9 diameter, wall thickness, and type of material if applicable;
- 10 (8) Screen information, including length, trade name,  
11 inside and outside diameter, slot size, and type of material if  
12 applicable;
- 13 (9) Static water level;
- 14 (10) Water level when pumped at the designated rate,  
15 giving the rate of pumping and amount of time pumped, if  
16 applicable;
- 17 (11) Yield of water well in gallons per minute or gallons  
18 per hour if applicable;
- 19 (12) Signature of water well contractor;
- 20 (13) Dates drilling commenced and construction completed;
- 21 (14) Intended use of the water well;
- 22 (15) Name and address of the owner;
- 23 (16) Identification number of any permit for the water  
24 well issued pursuant to Chapter 46, article 6, Chapter 66, article  
25 11, or any other law;
- 26 (17) Name, address, and license number of any license  
27 issued pursuant to the Water Well Standards and Contractors'

1 Licensing Act of any person, other than the owner of the water  
2 well, who constructed the water well; and

3 (18) Other data as the board reasonably requires.

4 Sec. 437. Section 47-623, Revised Statutes Cumulative  
5 Supplement, 2006, is amended to read:

6 47-623 (1) The council shall include the following voting  
7 members:

8 (a) The executive director of the Nebraska Commission on  
9 Law Enforcement and Criminal Justice;

10 (b) The Director of Correctional Services;

11 (c) The chairperson of the Board of Parole;

12 (d) The Parole Administrator; and

13 (e) Nine members appointed by the Governor with the  
14 approval of a majority of the Legislature, consisting of: One  
15 representative from a list of persons nominated by the Nebraska  
16 Criminal Defense Attorneys Association; one representative from  
17 a list of persons nominated by the Nebraska County Attorneys  
18 Association; one full-time officer or employee of a law enforcement  
19 agency; one mental health and substance abuse professional; from  
20 each congressional district, one provider of community-based  
21 behavioral health services; and two at-large members.

22 (2) The council shall include the following nonvoting  
23 members:

24 (a) The State Court Administrator;

25 (b) The probation administrator;

26 (c) Two members of the Legislature, appointed by the  
27 Executive Board of the Legislative Council;

1           (d) Two judges of the district court, appointed by the  
2 Chief Justice of the Supreme Court; and

3           ~~(e) The Director of Health and Human Services or his or~~  
4 ~~her designee.~~

5           (e) The chief executive officer of the Health and Human  
6 Services System or his or her designee.

7           (3) The terms of office for members initially appointed  
8 under subdivision (1)(e) of this section shall be three years. Upon  
9 completion of the initial terms of such members, the Governor shall  
10 appoint (a) a representative from law enforcement, a mental health  
11 and substance abuse professional, and one at-large member for  
12 terms of one year, (b) a representative of the Nebraska Criminal  
13 Defense Attorneys Association, one provider of community-based  
14 behavioral health services from the first congressional district,  
15 one provider of community-based behavioral health services from the  
16 third congressional district, and one at-large member for terms  
17 of two years, and (c) a representative of the Nebraska County  
18 Attorneys Association and a provider of community-based behavioral  
19 health services from the second congressional district for terms of  
20 three years. Succeeding appointees shall be appointed for terms of  
21 three years. An appointee to a vacancy occurring from an unexpired  
22 term shall serve out the term of his or her predecessor. Members  
23 whose terms have expired shall continue to serve until their  
24 successors have been appointed and qualified.

25           (4) The council shall by majority vote elect a  
26 chairperson from among the members of the council.

27           (5) The members of the council shall be reimbursed for

1 their actual and necessary expenses incurred while engaged in  
2 the performance of their official duties as provided in sections  
3 81-1174 to 81-1177.

4 Sec. 438. Section 47-702, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 47-702 Primary responsibility for payment of the costs  
7 of medical services provided to individuals who are arrested,  
8 detained, taken into custody, or incarcerated shall be with the  
9 recipients of such services if the recipients are entitled to  
10 payment of or reimbursement for the costs of such medical services  
11 under the terms and provisions of a policy, subscription, or  
12 agreement with an insurer, a health maintenance organization,  
13 a preferred provider organization, or another similar source  
14 as provided in subdivision (1) of this section. Providers of  
15 such medical services shall seek reimbursement from the following  
16 sources in the following order:

17 (1) From an insurer, a health maintenance organization,  
18 a preferred provider organization, or other similar source, if  
19 the recipient of medical services is entitled to payment of or  
20 reimbursement for the costs of such medical services under the  
21 terms and provisions of a policy, subscription, or agreement  
22 with an insurer, a health maintenance organization, a preferred  
23 provider organization, or another similar source. This section  
24 does not extend or enlarge the liability of any such insurer,  
25 health maintenance organization, preferred provider organization,  
26 or other similar source, and no such insurer, health maintenance  
27 organization, preferred provider organization, or other similar

1 source is responsible for paying or reimbursing any costs of  
2 medical services for which it is not otherwise responsible under  
3 the terms of the applicable policy, subscription, or agreement.  
4 Any individual who is entitled to payment or reimbursement for  
5 the costs of medical services under the terms of a policy,  
6 subscription, or agreement with an insurer, a health maintenance  
7 organization, a preferred provider organization, or other similar  
8 source shall cooperate with the providers of such services by  
9 making whatever applications, assignment, or other arrangements  
10 that are necessary in order to secure payment for the services  
11 provided; and

12 (2) From any other available source, including, when  
13 appropriate, the United States Department of Veterans Affairs,  
14 the Social Security Administration, the ~~Department of Health and~~  
15 ~~Human Services~~, Health and Human Services System, or other similar  
16 source.

17 Sec. 439. Section 48-602, Revised Statutes Cumulative  
18 Supplement, 2006, is amended to read:

19 48-602 For purposes of the Employment Security Law,  
20 unless the context otherwise requires:

21 (1) Base period shall mean the last four completed  
22 calendar quarters immediately preceding the first day of an  
23 individual's benefit year, except that the commissioner may  
24 prescribe by rule and regulation that base period shall mean the  
25 first four of the last five completed calendar quarters immediately  
26 preceding the first day of an individual's benefit year;

27 (2) Benefits shall mean the money payments payable to an



1 individual with respect to his or her unemployment;

2           (3) Benefit year, with respect to any individual, shall  
3 mean the one-year period beginning with the first day of the first  
4 week with respect to which the individual first files a valid claim  
5 for benefits, and thereafter the one-year period beginning with the  
6 first day of the first week with respect to which the individual  
7 next files a valid claim for benefits after the termination of his  
8 or her last preceding benefit year. Any claim for benefits made in  
9 accordance with section 48-629 shall be deemed to be a valid claim  
10 for the purpose of this subdivision if the individual has been  
11 paid the wages for insured work required under section 48-627. For  
12 the purposes of this subdivision a week with respect to which an  
13 individual files a valid claim shall be deemed to be in, within,  
14 or during that benefit year which includes the greater part of such  
15 week;

16           (4) Calendar quarter shall mean the period of three  
17 consecutive calendar months ending on March 31, June 30, September  
18 30, or December 31, or the equivalent thereof as the Commissioner  
19 of Labor may by rule and regulation prescribe;

20           (5) Client shall mean any individual, partnership,  
21 limited liability company, corporation, or other legally recognized  
22 entity that contracts with a professional employer organization  
23 to obtain professional employer services relating to worksite  
24 employees through a professional employer agreement;

25           (6) Combined tax shall mean the employer liability  
26 consisting of contributions and the state unemployment insurance  
27 tax;

1           (7) Combined tax rate shall mean the rate which is  
2 applied to wages to determine the combined taxes due;

3           (8) Commissioner shall mean the Commissioner of Labor;

4           (9) Contribution rate shall mean the percentage of the  
5 combined tax rate used to determine the contribution portion of the  
6 combined tax;

7           (10) Contributions shall mean that portion of the  
8 combined tax based upon the contribution rate portion of the  
9 combined tax rate which is deposited in the state Unemployment  
10 Compensation Fund as required by sections 48-648 and 48-649;

11           (11) Department shall mean the Department of Labor;

12           (12) Employment office shall mean a free public  
13 employment office or branch thereof, operated by this state or  
14 maintained as a part of a state-controlled system of public  
15 employment offices, including public employment offices operated by  
16 an agency of a foreign government;

17           (13) Fund shall mean the Unemployment Compensation Fund  
18 established by section 48-617 to which all contributions and  
19 payments in lieu of contributions required and from which all  
20 benefits provided shall be paid;

21           (14) Hospital shall mean an institution which has been  
22 licensed, certified, or approved by the ~~Department of Health and~~  
23 ~~Human Services Regulation and Licensure~~ Health and Human Services  
24 System as a hospital;

25           (15) Institution of higher education shall mean an  
26 institution which: (a) Admits as regular students only individuals  
27 having a certificate of graduation from a high school or the

1 recognized equivalent of such a certificate; (b) is legally  
2 authorized in this state to provide a program of education beyond  
3 high school; (c) provides an educational program for which it  
4 awards a bachelor's degree or higher or provides a program which  
5 is acceptable for full credit toward such a degree, a program of  
6 postgraduate or postdoctoral studies, or a program of training to  
7 prepare students for gainful employment in a recognized occupation;  
8 and (d) is a public or other nonprofit institution; notwithstanding  
9 any of the foregoing provisions of this subdivision, all colleges  
10 and universities in this state are institutions of higher education  
11 for purposes of this section;

12 (16) Insured work shall mean employment for employers;

13 (17) Leave of absence shall mean any absence from work:

14 (a) Mutually and voluntarily agreed to by the employer and the  
15 employee; (b) mutually and voluntarily agreed to between the  
16 employer and the employee's bargaining agent; or (c) to which the  
17 employee is entitled to as a matter of state or federal law;

18 (18) Paid vacation leave shall mean a period of time  
19 while employed or following separation from employment in which the  
20 individual renders no services to the employer but is entitled to  
21 receive vacation pay equal to or exceeding his or her base weekly  
22 wage;

23 (19) Payments in lieu of contributions shall mean the  
24 money payments to the Unemployment Compensation Fund required by  
25 sections 48-649, 48-652, 48-660.01, and 48-661;

26 (20) Professional employer agreement shall mean a written  
27 professional employer services contract whereby:

1           (a) A professional employer organization agrees to  
2 provide payroll services, employee benefit administration, or  
3 personnel services for a majority of the employees providing  
4 services to the client at a client worksite;

5           (b) The agreement is intended to be ongoing rather than  
6 temporary in nature; and

7           (c) Employer responsibilities for worksite employees,  
8 including those of hiring, firing, and disciplining, are shared  
9 between the professional employer organization and the client  
10 by contract. The term professional employer agreement shall not  
11 include a contract between a parent corporation, company, or other  
12 entity and a wholly owned subsidiary;

13           (21) Professional employer organization shall mean any  
14 individual, partnership, limited liability company, corporation, or  
15 other legally recognized entity that enters into a professional  
16 employer agreement with a client or clients for a majority of  
17 a client's workforce at a client worksite. The term professional  
18 employer organization shall not include an insurer as defined in  
19 section 44-103 or a temporary help firm;

20           (22) State includes, in addition to the states of the  
21 United States of America, any dependency of the United States, the  
22 Commonwealth of Puerto Rico, the Virgin Islands, and the District  
23 of Columbia;

24           (23) State unemployment insurance tax shall mean that  
25 portion of the combined tax which is based upon the state  
26 unemployment insurance tax rate portion of the combined tax rate  
27 and which is deposited in the State Unemployment Insurance Trust

1 Fund as required by sections 48-648 and 48-649;

2 (24) State unemployment insurance tax rate shall mean the  
3 percentage of the combined tax rate used to determine the state  
4 unemployment insurance tax portion of the combined tax;

5 (25) Temporary employee shall mean an employee of a  
6 temporary help firm assigned to work for the clients of such  
7 temporary help firm;

8 (26) Temporary help firm shall mean a firm that hires  
9 its own employees and assigns them to clients to support or  
10 supplement the client's work force in work situations such as  
11 employee absences, temporary skill shortages, seasonal workloads,  
12 and special assignments and projects;

13 (27) Unemployed shall mean an individual during any week  
14 in which the individual performs no service and with respect to  
15 which no wages are payable to the individual or any week of less  
16 than full-time work if the wages payable with respect to such week  
17 are less than the individual's weekly benefit amount, but shall not  
18 include any individual on a leave of absence or on paid vacation  
19 leave. When an agreement between the employer and a bargaining unit  
20 representative does not allocate vacation pay allowance or pay in  
21 lieu of vacation to a specified period of time during a period of  
22 temporary layoff or plant shutdown, the payment by the employer or  
23 his or her designated representative will be deemed to be wages  
24 as defined in this section in the week or weeks the vacation is  
25 actually taken;

26 (28) Unemployment Trust Fund shall mean the trust fund  
27 in the Treasury of the United States of America established under

1 section 904 of the federal Social Security Act, 42 U.S.C. 1104, as  
2 such section existed on March 2, 2001, which receives credit from  
3 the state Unemployment Compensation Fund;

4 (29) Wages, except with respect to services performed  
5 in employment as provided in subdivisions (4)(c) and (d) of  
6 section 48-604, shall mean all remuneration for personal services,  
7 including commissions and bonuses, remuneration for personal  
8 services paid under a contract of hire, and the cash value of  
9 all remunerations in any medium other than cash. The reasonable  
10 cash value of remuneration in any medium other than cash shall be  
11 estimated and determined in accordance with rules and regulations  
12 prescribed by the commissioner. After December 31, 1985, wages  
13 shall include tips which are received while performing services  
14 which constitute employment and which are included in a written  
15 statement furnished to the employer pursuant to section 6053(a) of  
16 the Internal Revenue Code as defined in section 49-801.01.

17 With respect to services performed in employment in  
18 agricultural labor as is provided in subdivision (4)(c) of section  
19 48-604 or in domestic service as is provided in subdivision (4)(d)  
20 of section 48-604, wages shall mean cash remuneration for such  
21 services.

22 The term wages shall not include:

23 (a) The amount of any payment, including any amount paid  
24 by an employer for insurance or annuities or into a fund to  
25 provide for such payment, made to, or on behalf of, an individual  
26 in employment or any of his or her dependents under a plan  
27 or system established by an employer which makes provision for

1 such individuals generally or for a class or classes of such  
2 individuals, including any amount paid by an employer for insurance  
3 or annuities or into a fund to provide for any such payment, on  
4 account of (i) sickness or accident disability, except, in the case  
5 of payments made to an employee or any of his or her dependents,  
6 this subdivision (i) shall exclude from wages only payments which  
7 are received under a workers' compensation law, (ii) medical and  
8 hospitalization expenses in connection with sickness or accident  
9 disability, or (iii) death;

10 (b) The payment by an employer, without deduction from  
11 the remuneration of the employee, of the tax imposed upon an  
12 employee under section 3101 of the Internal Revenue Code as defined  
13 in section 49-801.01;

14 (c) Any payment on account of sickness or accident  
15 disability, or medical or hospitalization expenses in connection  
16 with sickness or accident disability, made by an employer to, or  
17 on behalf of, an individual after the expiration of six calendar  
18 months following the last calendar month in which such individual  
19 worked for such employer;

20 (d) Any payment made to, or on behalf of, an individual  
21 or his or her beneficiary (i) from or to a trust described in  
22 section 401(a) of the Internal Revenue Code as defined in section  
23 49-801.01 which is exempt from tax under section 501(a) of the  
24 Internal Revenue Code as defined in section 49-801.01 at the time  
25 of such payment unless such payment is made to an employee of the  
26 trust as remuneration for services rendered as such employee and  
27 not as a beneficiary of the trust or (ii) under or to an annuity

1 plan which, at the time of such payment, meets the requirements  
2 of section 401 of the Internal Revenue Code as defined in section  
3 49-801.01;

4 (e) Any payment made to, or on behalf of, an employee  
5 or his or her beneficiary (i) under a simplified employee pension  
6 as defined by the commissioner, (ii) under or to an annuity  
7 contract as defined by the commissioner, other than a payment  
8 for the purchase of such contract which is made by reason of  
9 a salary reduction agreement, whether evidenced by a written  
10 instrument or otherwise, (iii) under or to an exempt governmental  
11 deferred compensation plan as defined by the commissioner, (iv)  
12 to supplement pension benefits under a plan or trust, as defined  
13 by the commissioner, to take into account some portion or all of  
14 the increase in the cost of living since retirement, but only if  
15 such supplemental payments are under a plan which is treated as a  
16 welfare plan, or (v) under a cafeteria benefits plan;

17 (f) Remuneration paid in any medium other than cash to an  
18 individual for service not in the course of the employer's trade or  
19 business;

20 (g) Benefits paid under a supplemental unemployment  
21 benefit plan which satisfies the eight points set forth in Internal  
22 Revenue Service Revenue Ruling 56-249 as the ruling existed on  
23 March 2, 2001, and is in compliance with the standards set forth in  
24 Internal Revenue Service Revenue Rulings 58-128 and 60-330 as the  
25 rulings existed on March 2, 2001; and

26 (h) Remuneration for service performed in the employ of  
27 any state in the exercise of his or her duties as a member of the



1 Army National Guard or Air National Guard or in the employ of the  
2 United States of America as a member of any military reserve unit;

3 (30) Week shall mean such period of seven consecutive  
4 days as the commissioner may by rule and regulation prescribe;

5 (31) Week of unemployment with respect to any individual  
6 shall mean any week during which he or she performs less than  
7 full-time work and the wages payable to him or her with respect to  
8 such week are less than his or her weekly benefit amount;

9 (32) Wholly owned subsidiary means a corporation,  
10 company, or other entity which has eighty percent or more of  
11 its outstanding voting stock or membership owned or controlled,  
12 directly or indirectly, by the parent entity; and

13 (33) Worksite employee shall mean a person receiving  
14 wages or benefits from a professional employer organization  
15 pursuant to the terms of a professional employer agreement for work  
16 performed at a client's worksite.

17 Sec. 440. Section 48-647, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 48-647 (1) Any assignment, pledge, or encumbrance of any  
20 right to benefits which are or may become due or payable under  
21 sections 48-623 to 48-626 shall be void except as set forth in  
22 this section. Such rights to benefits shall be exempt from levy,  
23 execution, attachment, or any other remedy whatsoever provided for  
24 the collection of debt. Benefits received by any individual, so  
25 long as they are not mingled with other funds of the recipient,  
26 shall be exempt from any remedy whatsoever for the collection of  
27 all debts except debts incurred for necessities furnished to such

1 individual or his or her spouse or dependents during the time  
2 when such individual was unemployed. Any waiver of any exemption  
3 provided for in this section shall be void. Any assignment,  
4 pledge, or encumbrance of any right or claim to contributions or  
5 to any money credited to any employer's reserve account in the  
6 Unemployment Compensation Fund shall be void, and the same shall  
7 be exempt from levy, execution, attachment, or any other remedy  
8 whatsoever provided for the collection of debt, and any waiver of  
9 any exemption provided for in this section shall be void.

10 (2) (a) An individual filing a new claim for unemployment  
11 compensation shall, at the time of filing such claim, disclose  
12 whether or not he or she owes child support obligations as defined  
13 under subdivision (h) of this subsection. If such individual  
14 discloses that he or she owes child support obligations and  
15 is determined to be eligible for unemployment compensation, the  
16 commissioner shall notify the ~~Director of Health and Human Services~~  
17 Health and Human Services System that the individual has been  
18 determined to be eligible for unemployment compensation.

19 (b) The commissioner shall deduct and withhold from  
20 any unemployment compensation otherwise payable to an individual  
21 disclosing child support obligations:

22 (i) The amount specified by the individual to the  
23 commissioner to be deducted under this subsection, if neither  
24 subdivision (ii) nor (iii) of this subdivision is applicable;

25 (ii) The amount, if any, determined pursuant to an  
26 agreement between the ~~director~~ Health and Human Services System  
27 and such individual owing the child support obligations to have

1 a specified amount withheld and such agreement being submitted to  
2 the commissioner, unless subdivision (iii) of this subdivision is  
3 applicable; or

4 (iii) The amount otherwise required to be so deducted  
5 and withheld from such unemployment compensation pursuant to legal  
6 process, as that term is defined in subdivision (2)(i) of this  
7 section, properly served upon the commissioner.

8 (c) Any amount deducted and withheld under subdivision  
9 (b) of this subsection shall be paid by the commissioner to the  
10 ~~director.~~ Health and Human Services System.

11 (d) Any amount deducted and withheld under subdivision  
12 (b) or (g) of this subsection shall for all purposes be treated as  
13 if it were paid to the individual as unemployment compensation and  
14 paid by such individual to the director in satisfaction of his or  
15 her child support obligations.

16 (e) For purposes of subdivisions (a) through (d) and  
17 (g) of this subsection, the term unemployment compensation shall  
18 mean any compensation payable under the Employment Security Law  
19 and including amounts payable by the commissioner pursuant to  
20 an agreement by any federal law providing for compensation,  
21 assistance, or allowances with respect to unemployment.

22 (f) This subsection shall apply only if appropriate  
23 arrangements have been made for reimbursement by the ~~Department~~  
24 ~~of Health and Human Services~~ Health and Human Services System for  
25 the administrative costs incurred by the commissioner under this  
26 section which are attributable to child support obligations being  
27 enforced by the ~~department.~~ system.

1           (g) The ~~director~~ Health and Human Services System and  
2 the commissioner shall develop and implement a collection system  
3 to carry out the intent of this subdivision. The collection system  
4 shall, at a minimum, provide that:

5           (i) The commissioner shall periodically notify the  
6 ~~director~~ system of the information listed in section 43-1719 with  
7 respect to individuals determined to be eligible for unemployment  
8 compensation during such period;

9           (ii) Unless the county attorney, the authorized attorney,  
10 or the ~~Department of Health and Human Services~~ system has sent a  
11 notice on the same support order under section 43-1720, upon the  
12 notification required by subdivision (2)(g)(i) of this section, the  
13 ~~director~~ system shall send notice to any such individual who owes  
14 child support obligations and who is subject to income withholding  
15 pursuant to subdivision (2)(a), (2)(b)(ii), or (2)(b)(iii) of  
16 section 43-1718.01. The notice shall be sent by certified mail to  
17 the last-known address of the individual and shall state the same  
18 information as required under section 43-1720;

19           (iii)(A) If the support obligation is not based on a  
20 foreign support order entered pursuant to section 43-1729 and the  
21 individual requests a hearing, the ~~Department of Health and Human~~  
22 ~~Services~~ system shall hold a hearing within fifteen days of the  
23 date of receipt of the request. The hearing shall be in accordance  
24 with the Administrative Procedure Act. The assignment shall be held  
25 in abeyance pending the outcome of the hearing. The ~~department~~  
26 system shall notify the individual and the commissioner of its  
27 decision within fifteen days of the date the hearing is held; and

1           (B) If the support obligation is based on a foreign  
2 support order entered pursuant to section 43-1729 and the  
3 individual requests a hearing, the county attorney or authorized  
4 attorney shall apply the procedures described in sections 43-1732  
5 to 43-1742;

6           (iv) (A) If no hearing is requested by the individual  
7 under this subsection or pursuant to a notice sent under section  
8 43-1720, (B) if after a hearing under this subsection or section  
9 43-1721 the ~~department~~ system determines that the assignment should  
10 go into effect, (C) in cases in which the court has ordered income  
11 withholding for child support pursuant to subsection (1) of section  
12 43-1718.01, or (D) in cases in which the court has ordered income  
13 withholding for child support pursuant to section 43-1718.02 and  
14 the case subsequently becomes one in which child support collection  
15 services are being provided under Title IV-D of the federal Social  
16 Security Act, as amended, the ~~director~~ system shall certify to  
17 the commissioner the amount to be withheld for child support  
18 obligations from the individual's unemployment compensation. Such  
19 amount shall not in any case exceed the maximum amount permitted  
20 to be withheld under section 303(b) of the federal Consumer Credit  
21 Protection Act, 15 U.S.C. 1673(b)(2)(A) and (B), and the amount  
22 withheld to satisfy an arrearage of child support when added to  
23 the amount withheld to pay current support shall not exceed such  
24 maximum amount;

25           (v) The collection system shall comply with the  
26 requirements of Title III and Title IV-D of the federal Social  
27 Security Act, as amended;

1           (vi) The collection system shall be in addition to and  
2 not in substitution for or derogation of any other available  
3 remedy; and

4           (vii) The ~~director~~ system and the commissioner shall  
5 adopt and promulgate rules and regulations to carry out subdivision  
6 (2)(g) of this section.

7           (h) For purposes of this subsection, the term child  
8 support obligations shall include only obligations which are being  
9 enforced pursuant to a plan described in section 454 of the federal  
10 Social Security Act which has been approved by the Secretary of  
11 Health and Human Services under Part D of Title IV of the federal  
12 Social Security Act.

13           (i) For purposes of this subsection, the term legal  
14 process shall mean any writ, order, summons, or other similar  
15 process in the nature of garnishment, which:

16           (i) Is issued by a court of competent jurisdiction  
17 of any state, territory, or possession of the United States or  
18 an authorized official pursuant to order of such a court of  
19 competent jurisdiction or pursuant to state law. For purposes of  
20 this subdivision, the ~~Director of Health and Human Services~~ chief  
21 executive officer of the Health and Human Services System shall  
22 be deemed an authorized official pursuant to order of a court of  
23 competent jurisdiction or pursuant to state law; and

24           (ii) Is directed to, and the purpose of which is  
25 to compel, the commissioner to make a payment for unemployment  
26 compensation otherwise payable to an individual in order to satisfy  
27 a legal obligation of such individual to provide child support.

1           (j) Nothing in this subsection shall be construed to  
2 authorize withholding from unemployment compensation of any support  
3 obligation other than child support obligations.

4           (3) (a) An individual filing a new claim for unemployment  
5 compensation shall, at the time of filing such claim, disclose  
6 whether or not he or she owes an uncollected overissuance, as  
7 defined in section 13(c) (1) of the federal Food Stamp Act of 1977,  
8 of food stamp benefits, if not otherwise known or disclosed to  
9 the state food stamp agency. The commissioner shall notify the  
10 state food stamp agency enforcing such obligation of any individual  
11 disclosing that he or she owes an uncollected overissuance whom the  
12 commissioner determines is eligible for unemployment compensation.

13           (b) The commissioner shall deduct and withhold from any  
14 unemployment compensation payable to an individual who owes an  
15 uncollected overissuance (i) the amount specified by the individual  
16 to the commissioner to be deducted and withheld under this  
17 subsection, (ii) the amount, if any, determined pursuant to an  
18 agreement submitted to the state food stamp agency under section  
19 13(c) (3) (A) of the federal Food Stamp Act of 1977, or (iii)  
20 any amount otherwise required to be deducted and withheld from  
21 unemployment compensation pursuant to section 13(c) (3) (B) of such  
22 federal act.

23           (c) Any amount deducted and withheld under this  
24 subsection shall be paid by the commissioner to the state food  
25 stamp agency.

26           (d) Any amount deducted and withheld under subdivision  
27 (b) of this subsection shall be treated for all purposes as if it

1 were paid to the individual as unemployment compensation and paid  
2 by such individual to the state food stamp agency as repayment of  
3 the individual's uncollected overissuance.

4 (e) For purposes of this subsection, unemployment  
5 compensation means any compensation payable under the Employment  
6 Security Law, including amounts payable by the commissioner  
7 pursuant to an agreement under any federal law providing  
8 for compensation, assistance, or allowances with respect to  
9 unemployment.

10 (f) This subsection applies only if arrangements have  
11 been made for reimbursement by the state food stamp agency for  
12 the administrative costs incurred by the commissioner under this  
13 subsection which are attributable to the repayment of uncollected  
14 overissuances to the state food stamp agency.

15 Sec. 441. Section 48-1619, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 48-1619 (1) At least one comprehensive one-stop career  
18 center shall be established in each local area of the state.  
19 State agencies providing services at a comprehensive one-stop  
20 career center include the Department of Labor, ~~Department of Health~~  
21 ~~and Human Services~~, Department of Economic Development, State  
22 Department of Education, the Health and Human Services System, and  
23 community colleges in the area where the one-stop career center  
24 is located. The following minimum level of programs and activities  
25 shall be available at a comprehensive one-stop career center:

26 (a) Adult, youth, and dislocated workers employment and  
27 training programs provided under Title I of the federal Workforce



1 Investment Act;

2 (b) Programs authorized under the Wagner-Peyser Act, 29  
3 U.S.C. 49 et seq., as the act existed on March 2, 2001;

4 (c) Adult education and literacy activities authorized  
5 under Title II of the federal Workforce Investment Act;

6 (d) Programs authorized under Title I of the  
7 Rehabilitation Act of 1973, 29 U.S.C. 720 et seq., as the act  
8 existed on March 2, 2001;

9 (e) Welfare to work programs authorized under section  
10 403(a)(5) of the Social Security Act, 42 U.S.C. 603(a)(5), as the  
11 section existed on March 2, 2001;

12 (f) Older American community service programs authorized  
13 under Title V of the Older Americans Act of 1965, 42 U.S.C. 3056 et  
14 seq., as the act existed on March 2, 2001;

15 (g) Postsecondary education activities authorized under  
16 the Carl D. Perkins Vocational and Applied Technology Education  
17 Act, 20 U.S.C. 2301 et seq., as the act existed on March 2, 2001.  
18 Preference shall be given to the applications of one-stop career  
19 centers which have submitted and obtained approval of a business  
20 plan to the local board;

21 (h) Trade adjustment assistance for workers authorized  
22 under Title II of the Trade Act of 1974, 19 U.S.C. 2271 et seq., as  
23 the act existed on March 2, 2001;

24 (i) Job counseling and training and placement services  
25 for veterans authorized under Chapter 41 of Title 38 of the United  
26 States Code, as such chapter existed on March 2, 2001;

27 (j) Employment and training activities carried out under

1 the Community Services Block Grant Act, 42 U.S.C. 9901 et seq., as  
2 the act existed on March 2, 2001;

3 (k) Employment and training activities carried out by the  
4 federal Department of Housing and Urban Development; and

5 (1) Unemployment benefit and reemployment services  
6 authorized under the Employment Security Law.

7 (2) In addition to the mandatory programs in subsection  
8 (1) of this section, a local board is encouraged to include  
9 participation by the Department of Correctional Services, youth  
10 programs authorized under section 129 of the federal Workforce  
11 Investment Act, 29 U.S.C. 2854, the Nebraska Workers' Compensation  
12 Court, public and private postsecondary educational institutions,  
13 and secondary education activities authorized under the Carl D.  
14 Perkins Vocational and Applied Technology Education Act, 20 U.S.C.  
15 2301 et seq., as the act existed on March 2, 2001.

16 (3) A local board may establish one or more affiliate  
17 career centers which offer one or more of the program services  
18 described in subsection (1) of this section and can provide a  
19 direct link to the comprehensive one-stop career center through  
20 technology.

21 (4) Comprehensive one-stop career centers shall utilize  
22 a common intake and common application system for persons applying  
23 for services or training offered at the one-stop career center.

24 Sec. 442. Section 48-1625, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26 48-1625 (1) The state board shall submit to the Governor  
27 recommendations for changes in the state plan submitted to the

1 Secretary of Labor outlining the five-year strategy for the  
2 statewide workforce investment system for the State of Nebraska  
3 in accordance with section 112 of the federal Workforce Investment  
4 Act, 29 U.S.C. 2822.

5 (2) The state board shall submit to the chairperson and  
6 members of the Business and Labor Committee of the Legislature, the  
7 chairperson of each of the standing committees of the Legislature,  
8 the Speaker of the Legislature, the Clerk of the Legislature, ~~the~~  
9 ~~Department of Health and Human Services,~~ the Department of Economic  
10 Development, the Health and Human Services System, the State  
11 Department of Education, and the Department of Labor a copy of any  
12 recommendations for modification of the state plan and the annual  
13 report of the state board. The annual report of the state board  
14 shall include information on the number of individuals served, the  
15 state's average cost per individual receiving training or placement  
16 services, short-term and long-term performance measures of job  
17 placements, and training and skill levels of training participants.  
18 In order to promote better accountability, such reports shall  
19 contain measures of accomplishment of the performance measures set  
20 forth at 20 C.F.R. 666.100, as the regulation existed on March  
21 2, 2001, and shall use consistent units of measure in order  
22 to provide comparability both within a single annual report and  
23 between different annual reports.

24 Sec. 443. Section 48-1902, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26 48-1902 For purposes of sections 48-1901 to 48-1910,  
27 unless the context otherwise requires:

1           (1) Alcohol shall mean any product of distillation of  
2 any fermented liquid, whether rectified or diluted, whatever may be  
3 the origin thereof, synthetic ethyl alcohol, the four varieties of  
4 liquor defined in subdivisions (1) through (4) of section 53-103,  
5 alcohol, spirits, wine, and beer, every liquid or solid, patented  
6 or not, containing alcohol, spirits, wine, or beer, and alcohol  
7 used in the manufacture of denatured alcohol, flavoring extracts,  
8 syrups, or medicinal, mechanical, scientific, culinary, and toilet  
9 preparations;

10           (2) Breath-testing device shall mean intoxilyzer model  
11 4011AS or other scientific testing equivalent as approved by and  
12 operated in accordance with the department rules and regulations;

13           (3) Breath-testing-device operator shall mean a person  
14 who has obtained or been issued a permit pursuant to the ~~department~~  
15 system rules and regulations;

16           ~~(4) Department shall mean the Department of Health and~~  
17 ~~Human Services Regulation and Licensure;~~

18           ~~(5) Department rules and regulations shall mean the~~  
19 ~~techniques and methods authorized pursuant to section 60-6,201;~~

20           ~~(6)~~ (4) Drug shall mean any substance, chemical, or  
21 compound as described, defined, or delineated in sections 28-405  
22 and 28-419 or any metabolite or conjugated form thereof, except  
23 that any substance, chemical, or compound containing any product as  
24 defined in subdivision (1) of this section may also be defined as  
25 alcohol;

26           ~~(7)~~ (5) Employee shall mean any person who receives any  
27 remuneration, commission, bonus, or other form of wages in return

1 for such person's actions which directly or indirectly benefit an  
2 employer; ~~and~~

3 ~~(8)~~ (6) Employer shall mean the State of Nebraska and  
4 its political subdivisions, all other governmental entities, or any  
5 individual, association, corporation, or other organization doing  
6 business in the State of Nebraska unless it, he, or she employs a  
7 total of less than six full-time and part-time employees at any one  
8 time; -

9 (7) System shall mean the Health and Human Services  
10 System; and

11 (8) System rules and regulations shall mean the  
12 techniques and methods authorized pursuant to section 60-6,201.

13 Sec. 444. Section 48-1903, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 48-1903 Any results of any test performed on the body  
16 fluid or breath specimen of an employee, as directed by the  
17 employer, to determine the presence of drugs or alcohol shall not  
18 be used to deny any continued employment or in any disciplinary or  
19 administrative action unless the following requirements are met:

20 (1) A positive finding of drugs by preliminary  
21 screening procedures has been subsequently confirmed by gas  
22 chromatography-mass spectrometry or other scientific testing  
23 technique which has been or may be approved by the ~~department;~~  
24 system; and

25 (2) A positive finding of alcohol by preliminary  
26 screening procedures is subsequently confirmed by either:

27 (a) Gas chromatography with a flame ionization detector

1 or other scientific testing technique which has been or may be  
2 approved by the ~~department;~~ system; or

3 (b) A breath-testing device operated by a  
4 breath-testing-device operator. Nothing in this subdivision shall  
5 be construed to preclude an employee from immediately requesting  
6 further confirmation of any breath-testing results by a blood  
7 sample if the employee voluntarily submits to give a blood sample  
8 taken by qualified medical personnel in accordance with the rules  
9 and regulations adopted and promulgated by the ~~department;~~ system.

10 If the confirmatory blood test results do not confirm a violation  
11 of the employer's work rules, any disciplinary or administrative  
12 action shall be rescinded.

13 Except for a confirmatory breath test as provided in  
14 subdivision (2)(b) of this section, all confirmatory tests shall be  
15 performed by a clinic, hospital, or laboratory which is certified  
16 pursuant to the federal Clinical Laboratories Improvement Act of  
17 1967, 42 U.S.C. 263a.

18 Sec. 445. Section 48-2302, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 48-2302 For purposes of the New Hire Reporting Act:

21 (1) Date of hire means the day an employee begins  
22 employment with an employer;

23 ~~(2) Department means the Department of Health and Human~~  
24 ~~Services;~~

25 ~~(3) (2) Employee means any person who is compensated by~~  
26 or receives income from an employer or other payor, regardless of  
27 how such income is denominated;

1           ~~(4)~~ (3) Employer means any individual, partnership,  
2 limited liability company, firm, corporation, association,  
3 political subdivision, or department or agency of the state or  
4 federal government, labor organization, or any other entity with  
5 an employee;

6           ~~(5)~~ (4) Income means compensation paid, payable, due, or  
7 to be due for labor or personal services, whether denominated as  
8 wages, salary, earnings, income, commission, bonus, or otherwise;

9           ~~(6)~~ (5) Payor includes a person, partnership, limited  
10 partnership, limited liability partnership, limited liability  
11 company, corporation, or other entity doing business or authorized  
12 to do business in the State of Nebraska, including a financial  
13 institution, or a department or an agency of state, county, or city  
14 government; ~~and~~

15           ~~(7)~~ (6) Rehire means the first day an employee begins  
16 employment with the employer following a termination of employment  
17 with such employer. Termination of employment does not include  
18 temporary separations from employment, such as an unpaid medical  
19 leave, an unpaid leave of absence, a temporary layoff, or an  
20 absence for disability or maternity; ~~and -~~

21           (7) System means the Health and Human Services System.  
22           Sec. 446. Section 48-2303, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           48-2303 (1) Beginning October 1, 1997, employers who hire  
25 or rehire any employee, for any amount of income or compensation,  
26 shall report to the ~~department~~ system within the time period  
27 specified in subsection (2) of this section the name, address,

1 and social security number of that employee, the date of hire  
2 or rehire, and the name, address, and federal tax identification  
3 number of the employer. Employers shall transmit the required  
4 information to the ~~department~~ system by forwarding a copy of the  
5 employee's federal W-4 with the date of hire or rehire inscribed  
6 upon it or any form approved in advance by the ~~department~~ system.  
7 Employers may transmit the required information by first-class  
8 mail, fax, magnetic tape, disc, or electronic or any other means  
9 approved by the ~~department~~ system.

10 (2) Employers shall report the hire or rehire of  
11 employees (a) within twenty days after the date of hire or rehire  
12 or (b) if reports are transmitted magnetically or electronically,  
13 by two monthly transmissions, if necessary, which are not less than  
14 twelve days or more than sixteen days apart.

15 Sec. 447. Section 48-2305, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 48-2305 An employer that has employees who are employed  
18 in two or more states and that transmits reports magnetically  
19 or electronically may comply with the New Hire Reporting Act by  
20 designating one of such states in which the employer has employees  
21 as the state to which the employer will transmit the report  
22 described in section 48-2303. Any Nebraska employer that transmits  
23 reports pursuant to this section shall notify the ~~Director~~ of  
24 ~~Health and Human Services~~ system in writing of the state which such  
25 employer designates for the purpose of transmitting reports.

26 Sec. 448. Section 48-2306, Reissue Revised Statutes of  
27 Nebraska, is amended to read:



1                   48-2306 On and after October 1, 1998, the ~~department~~  
2 system may levy a fine not to exceed twenty-five dollars for each  
3 employee not reported by the employer to the ~~department-~~ system.  
4 The ~~department~~ system shall determine whether or not to levy a fine  
5 based upon the good faith efforts of an employer to comply with  
6 the New Hire Reporting Act. The system shall remit fines collected  
7 under this section to the State Treasurer for distribution in  
8 accordance with Article VII, section 5, of the Constitution of  
9 Nebraska. ~~The department shall remit any money collected pursuant~~  
10 ~~to this section to the State Treasurer for credit to the permanent~~  
11 ~~school fund-~~

12                   Sec. 449. Section 48-2307, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14                   48-2307 The ~~Director of Health and Human Services~~ system  
15 shall issue a report to the Legislature on or before January 31 of  
16 each year which discloses the number of employees reported to the  
17 ~~department~~ system and the number of matches during the preceding  
18 calendar year for purposes of the New Hire Reporting Act.

19                   Sec. 450. Section 48-2308, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21                   48-2308 The ~~department~~ system shall adopt and promulgate  
22 rules and regulations to carry out the New Hire Reporting Act.

23                   Sec. 451. Section 49-506, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25                   49-506 After the Secretary of State has made the  
26 distribution provided by section 49-503, he or she shall deliver  
27 additional copies of the session laws and the journal of the

1 Legislature pursuant to this section in print or electronic format  
2 as he or she determines, upon recommendation by the Clerk of the  
3 Legislature and approval of the Executive Board of the Legislative  
4 Council.

5           One copy of the session laws shall be delivered to  
6 the Lieutenant Governor, the State Treasurer, the Auditor of  
7 Public Accounts, the Reporter of the Supreme Court and Court of  
8 Appeals, the State Court Administrator, the State Fire Marshal,  
9 the Department of Administrative Services, the Department of  
10 Aeronautics, the Department of Agriculture, the Department of  
11 Banking and Finance, the State Department of Education, the  
12 Department of Environmental Quality, the Department of Insurance,  
13 the Department of Labor, the Department of Motor Vehicles, the  
14 Department of Property Assessment and Taxation, the Department  
15 of Revenue, the Department of Roads, the Department of Veterans'  
16 Affairs, the Department of Natural Resources, the Military  
17 Department, the Nebraska State Patrol, the Nebraska Commission  
18 on Law Enforcement and Criminal Justice, each of the Nebraska  
19 state colleges, the Game and Parks Commission, the Nebraska  
20 Library Commission, the Nebraska Liquor Control Commission, the  
21 Nebraska Accountability and Disclosure Commission, the Public  
22 Service Commission, the State Real Estate Commission, the Nebraska  
23 State Historical Society, the Public Employees Retirement Board,  
24 the Risk Manager, the Legislative Fiscal Analyst, the Public  
25 Counsel, the materiel division of the Department of Administrative  
26 Services, the State Records Administrator, the budget division  
27 of the Department of Administrative Services, ~~the Department of~~

1 ~~Health and Human Services, the Department of Health and Human~~  
2 ~~Services Regulation and Licensure, the Department of Health and~~  
3 ~~Human Services Finance and Support, the Tax Equalization and Review~~  
4 Commission, the inmate library at all state penal and correctional  
5 institutions, the Commission on Public Advocacy, and the Library of  
6 Congress; two copies to the Governor, the Secretary of State, the  
7 Nebraska Workers' Compensation Court, the Commission of Industrial  
8 Relations, and the Coordinating Commission for Postsecondary  
9 Education, one of which shall be for use by the community colleges;  
10 three copies to the Health and Human Services System; four copies  
11 to the Nebraska Publications Clearinghouse; five copies to the  
12 Attorney General; nine copies to the Revisor of Statutes; sixteen  
13 copies to the Supreme Court and the Legislative Council; and  
14 thirty-five copies to the University of Nebraska College of Law.

15           One copy of the journal of the Legislature shall be  
16 delivered to the Governor, the Lieutenant Governor, the State  
17 Treasurer, the Auditor of Public Accounts, the Reporter of the  
18 Supreme Court and Court of Appeals, the State Court Administrator,  
19 the Nebraska State Historical Society, the Legislative Fiscal  
20 Analyst, the Tax Equalization and Review Commission, the Commission  
21 on Public Advocacy, and the Library of Congress; two copies to  
22 the Secretary of State, the Commission of Industrial Relations,  
23 and the Nebraska Workers' Compensation Court; four copies to the  
24 Nebraska Publications Clearinghouse; five copies to the Attorney  
25 General and the Revisor of Statutes; eight copies to the Clerk  
26 of the Legislature; thirteen copies to the Supreme Court and the  
27 Legislative Council; and thirty-five copies to the University of

1 Nebraska College of Law. The remaining copies shall be delivered  
2 to the State Librarian who shall use the same, so far as required  
3 for exchange purposes, in building up the State Library and in the  
4 manner specified in sections 49-507 to 49-509.

5 Sec. 452. Section 49-617, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 49-617 The Revisor of Statutes shall cause the statutes  
8 to be printed. The printer shall deliver all completed copies to  
9 the Supreme Court. These copies shall be held and disposed of  
10 by the court as follows: Sixty copies to the State Library to  
11 exchange for statutes of other states; five copies to the State  
12 Library to keep for daily use; not to exceed twenty-five copies  
13 to the Legislative Council for bill drafting and related services  
14 to the Legislature and executive state officers; as many copies  
15 to the Attorney General as he or she has attorneys on his or her  
16 staff; as many copies to the Commission on Public Advocacy as it  
17 has attorneys on its staff; up to sixteen copies to the State  
18 Court Administrator; twelve copies to the Tax Commissioner; eight  
19 copies to the Nebraska Publications Clearinghouse; six copies to  
20 the Public Service Commission; four copies to the Secretary of  
21 State; four copies to the Clerk of the Legislature for use in his  
22 or her office and three copies to be maintained in the legislative  
23 chamber, one copy on each side of the chamber and one copy at  
24 the desk of the Clerk of the Legislature, under control of the  
25 sergeant at arms; three copies to the Auditor of Public Accounts;  
26 three copies to the Health and Human Services System; two copies  
27 each to the Governor of the state, the Chief Justice and each

1 judge of the Supreme Court, each judge of the Court of Appeals,  
2 the Clerk of the Supreme Court, the Reporter of the Supreme Court  
3 and Court of Appeals, the Commissioner of Labor, and the Revisor  
4 of Statutes; one copy each to the Secretary of State of the  
5 United States, each Indian tribal court located in the State of  
6 Nebraska, the library of the Supreme Court of the United States,  
7 the Adjutant General, the Air National Guard, the Commissioner  
8 of Education, the State Treasurer, the Board of Educational  
9 Lands and Funds, the Director of Agriculture, the Director of  
10 Administrative Services, the Director of Aeronautics, the Director  
11 of Economic Development, the director of the Public Employees  
12 Retirement Board, the Director-State Engineer, the Director of  
13 Banking and Finance, the Director of Insurance, the Director of  
14 Motor Vehicles, the Property Tax Administrator, the Director of  
15 Veterans' Affairs, the Director of Natural Resources, the Director  
16 of Correctional Services, the Nebraska Emergency Operating Center,  
17 each judge of the Nebraska Workers' Compensation Court, each judge  
18 of the Commission of Industrial Relations, the Nebraska Liquor  
19 Control Commission, the State Real Estate Commission, the Tax  
20 Equalization and Review Commission, the secretary of the Game  
21 and Parks Commission, the Board of Pardons, ~~the Department of~~  
22 ~~Health and Human Services,~~ the Department of Health and Human  
23 ~~Services Regulation and Licensure,~~ the Department of Health and  
24 ~~Human Services Finance and Support,~~ each state institution under  
25 the Department of Health and Human Services, Health and Human  
26 Services System, each state institution under the State Department  
27 of Education, the State Surveyor, the Nebraska State Patrol, the

1 materiel division of the Department of Administrative Services, the  
2 personnel division of the Department of Administrative Services,  
3 the Nebraska Motor Vehicle Industry Licensing Board, the Board of  
4 Trustees of the Nebraska State Colleges, each of the Nebraska state  
5 colleges, each district judge of the State of Nebraska, each judge  
6 of the county court, each judge of a separate juvenile court,  
7 the Lieutenant Governor, each United States Senator from Nebraska,  
8 each United States Representative from Nebraska, each clerk of the  
9 district court for the use of the district court, the clerk of  
10 the Nebraska Workers' Compensation Court, each clerk of the county  
11 court, each county attorney, each county public defender, each  
12 county law library, and the inmate library at all state penal and  
13 correctional institutions, and each member of the Legislature shall  
14 be entitled to two complete sets, and two complete sets of such  
15 volumes as are necessary to update previously issued volumes, but  
16 each member of the Legislature and each judge of any court referred  
17 to in this section shall be entitled, on request, to an additional  
18 complete set. Copies of the statutes distributed without charge,  
19 as listed in this section, shall be the property of the state or  
20 governmental subdivision of the state and not the personal property  
21 of the particular person receiving a copy. Distribution of statutes  
22 to the library of the College of Law of the University of Nebraska  
23 shall be as provided in sections 85-176 and 85-177.

24           Sec. 453. Section 54-703, Revised Statutes Cumulative  
25 Supplement, 2006, is amended to read:

26           54-703 (1) The Department of Agriculture and all  
27 inspectors and persons appointed and authorized to assist in the

1 work of the department shall enforce sections 54-701 to 54-753.05,  
2 54-797 to 54-7,103, and 54-7,105 to 54-7,108 as designated.

3 (2) The department and any officer, agent, employee, or  
4 appointee of the department shall have the right to enter upon  
5 the premises of any person who has, or is suspected of having,  
6 any animal thereon, including any premises where the carcass or  
7 carcasses of dead livestock may be found or where a facility for  
8 the disposal or storage of dead livestock is located, for the  
9 purpose of making any and all inspections, examinations, tests, and  
10 treatments of such animal, to inspect livestock carcass disposal  
11 practices, and to declare, carry out, and enforce any and all  
12 quarantines.

13 (3) The department, in consultation with the Department  
14 of Environmental Quality and the Department of Health and Human  
15 Services Regulation and Licensure, Health and Human Services  
16 System, may adopt and promulgate rules and regulations reflecting  
17 best management practices for the burial of carcasses of dead  
18 livestock.

19 (4) The Department of Agriculture shall further adopt and  
20 promulgate such rules and regulations as are necessary to promptly  
21 and efficiently enforce and effectuate the general purpose and  
22 provisions of such sections.

23 Sec. 454. Section 54-744.01, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 54-744.01 (1) Livestock carcasses may be disposed of  
26 in a research or demonstration facility for innovative livestock  
27 disposal methods registered with the Department of Agriculture,

1 except that a research or demonstration facility of liquefaction  
2 shall not be registered under this section and liquefaction  
3 shall not be permitted as a method of livestock disposal. The  
4 registration of a facility under this section shall contain a  
5 description of the facility, the location and proposed duration of  
6 the research or demonstration, and a description of the method of  
7 disposal to be utilized. The department may register up to five  
8 such research or demonstration facilities conducted in conjunction  
9 with private livestock operations which meet all of the following  
10 conditions:

11 (a) The project is designed and conducted by one or more  
12 research faculty of the University of Nebraska;

13 (b) The project does not duplicate other research or  
14 demonstration projects;

15 (c) The project sponsors submit annual reports on the  
16 project and a final report at the conclusion of the project;

17 (d) The project employs adequate safeguards against  
18 disease transmission or environmental contamination; and

19 (e) The project meets any other conditions deemed prudent  
20 by the director.

21 (2) It is the intent of the Legislature that the  
22 department register at least one research or demonstration facility  
23 for innovative livestock disposal methods which shall be located  
24 upon the premises of an animal feeding operation as defined in  
25 section 54-2417. Before registering such facility, the department  
26 shall first consult with the Department of Environmental Quality  
27 and the ~~Department of Health and Human Services Regulation and~~



1 ~~Licensure.~~ Health and Human Services System. The Department of  
2 Agriculture may revoke the registration of the facility at any time  
3 if the director has reason to believe that the facility no longer  
4 meets the conditions for registration.

5 (3) Only the carcasses of livestock that have died  
6 upon the animal feeding operation premises where a research or  
7 demonstration facility for innovative livestock disposal methods is  
8 located may be disposed of at such facility. Carcasses from other  
9 locations shall not be transported to such facility for disposal.

10 (4) A facility registered under this section is exempt  
11 from the requirements for disposal of solid waste under the  
12 Integrated Solid Waste Management Act.

13 Sec. 455. Section 54-747, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 54-747 Whenever any animal has been adjudged to  
16 be affected with any infectious, contagious, or otherwise  
17 transmissible disease, other than a disease for which specific  
18 legislation exists, and has been ordered killed, the owner or  
19 custodian thereof shall be notified of such finding and order.  
20 Within forty-eight hours thereafter, such owner or custodian may  
21 file a protest with the Department of Agriculture stating under  
22 oath that to the best of his or her knowledge and belief such  
23 animal is free from such infectious, contagious, or otherwise  
24 transmissible disease. Thereupon, an examination of the animal  
25 involved shall be made by three veterinarians, graduates of a  
26 college of veterinary medicine which has been approved by the  
27 Department of Health and Human Services Regulation and Licensure

1 Health and Human Services System as a preliminary qualification  
2 for admission to practice veterinary medicine in the state. One of  
3 such veterinarians shall be appointed by the department, one by  
4 the person making such protest, and the two thus appointed shall  
5 choose the third. In case all three veterinarians or any two of  
6 them find such animal to be free from such infectious, contagious,  
7 or otherwise transmissible disease, the expense of such examination  
8 shall be paid by the state. In case the three veterinarians or any  
9 two of them find such animal to be affected with such infectious,  
10 contagious, or otherwise transmissible disease, the expense of the  
11 examination shall be paid by the person making the protest. The  
12 department and the person making such protest shall be bound by  
13 the result of such examination.

14           Sec. 456. Section 60-3,135, Revised Statutes Cumulative  
15 Supplement, 2006, is amended to read:

16           60-3,135 (1)(a) Undercover license plates may be issued  
17 to state, county, city, or village law enforcement agencies  
18 and shall be used only for legitimate criminal investigatory  
19 purposes. Undercover license plates may also be issued to the  
20 Nebraska State Patrol, the Game and Parks Commission, deputy  
21 state sheriffs employed by the Nebraska Brand Committee and State  
22 Fire Marshal for state law enforcement purposes, persons employed  
23 by the Tax Commissioner for state revenue enforcement purposes,  
24 the ~~Department of Health and Human Services~~ Health and Human  
25 Services System for the purposes of communicable disease control  
26 or for the prevention and control of those communicable diseases  
27 which endanger the public health, ~~the Department of Health and~~

1 ~~Human Services Regulation and Licensure~~ and in the enforcement  
2 of drug control laws or for other investigation purposes, the  
3 Department of Agriculture for special investigative purposes, and  
4 the Insurance Fraud Prevention Division of the Department of  
5 Insurance for investigative purposes. Undercover license plates  
6 shall not be used on personally owned vehicles or for personal use  
7 of government-owned vehicles.

8 (b) The director shall prescribe a form for agencies to  
9 apply for undercover license plates. The form shall include a space  
10 for the name and signature of the contact person for the requesting  
11 agency, a statement that the undercover license plates are to be  
12 used only for legitimate criminal investigatory purposes, and a  
13 statement that undercover license plates are not to be used on  
14 personally owned vehicles or for personal use of government-owned  
15 vehicles.

16 (2) The agency shall include the name and signature of  
17 the contact person for the agency on the form and pay the fee  
18 prescribed in section 60-3,102. If the undercover license plates  
19 will be used for the investigation of a specific event rather than  
20 for ongoing investigations, the agency shall designate on the form  
21 an estimate of the length of time the undercover license plates  
22 will be needed. The contact person in the agency shall sign the  
23 form and verify the information contained in the form.

24 (3) Upon receipt of a completed form, the director shall  
25 determine whether the undercover license plates will be used by an  
26 approved agency for a legitimate purpose pursuant to subsection (1)  
27 of this section. If the director determines that the undercover

1 license plates will be used for such a purpose, he or she may issue  
2 the undercover license plates in the form and under the conditions  
3 he or she determines to be necessary. The decision of the director  
4 regarding issuance of undercover license plates is final.

5 (4) The department shall keep records pertaining to  
6 undercover license plates confidential, and such records shall not  
7 be subject to public disclosure.

8 (5) The contact person shall return the undercover  
9 license plates to the department if:

10 (a) The undercover license plates expire and are not  
11 renewed;

12 (b) The purpose for which the undercover license plates  
13 were issued has been completed or terminated; or

14 (c) The director requests their return.

15 (6) A state agency, board, or commission that uses  
16 motor vehicles from the transportation services bureau of the  
17 Department of Administrative Services shall notify the bureau  
18 immediately after undercover license plates have been assigned to  
19 the motor vehicle and shall provide the equipment and license plate  
20 number and the undercover license plate number to the bureau. The  
21 transportation services bureau shall maintain a list of state-owned  
22 motor vehicles which have been assigned undercover license plates.  
23 The list shall be confidential and not be subject to public  
24 disclosure.

25 (7) The contact person shall be held accountable to keep  
26 proper records of the number of undercover plates possessed by  
27 the agency, the particular license plate numbers for each motor

1 vehicle, and the person who is assigned to the motor vehicle.  
2 This record shall be confidential and not be subject to public  
3 disclosure.

4 Sec. 457. Section 60-480.01, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 60-480.01 (1)(a) Undercover drivers' licenses may be  
7 issued to state, county, city, or village law enforcement agencies  
8 and shall be used only for legitimate criminal investigatory  
9 purposes. Undercover drivers' licenses may also be issued to  
10 the Nebraska State Patrol, the Game and Parks Commission, deputy  
11 state sheriffs employed by the Nebraska Brand Committee and State  
12 Fire Marshal for state law enforcement purposes, persons employed  
13 by the Tax Commissioner for state revenue enforcement purposes,  
14 the ~~Department of Health and Human Services~~ Health and Human  
15 Services System for the purposes of communicable disease control  
16 or for the prevention and control of those communicable diseases  
17 which endanger the public health, ~~the Department of Health and~~  
18 ~~Human Services Regulation and Licensure~~ and in the enforcement  
19 of drug control laws or for other investigation purposes, and  
20 the Department of Agriculture for special investigative purposes.  
21 Undercover drivers' licenses are not for personal use.

22 (b) The director shall prescribe a form for agencies  
23 to apply for undercover drivers' licenses. The form shall include  
24 a space for the name and signature of the contact person for  
25 the requesting agency, a statement that the undercover drivers'  
26 licenses are to be used only for legitimate criminal investigatory  
27 purposes, and a statement that undercover drivers' licenses are not

1 for personal use.

2 (2) The agency shall include the name and signature of  
3 the contact person for the agency on the form and pay the fees  
4 prescribed in section 60-4,115. If the undercover drivers' licenses  
5 will be used for the investigation of a specific event rather than  
6 for ongoing investigations, the agency shall designate on the form  
7 an estimate of the length of time the undercover drivers' licenses  
8 will be needed. The contact person in the agency shall sign the  
9 form and verify the information contained in the form.

10 (3) Upon receipt of a completed form, the director shall  
11 determine whether the undercover drivers' licenses will be used by  
12 an approved agency for a legitimate purpose pursuant to subsection  
13 (1) of this section. If the director determines that the undercover  
14 drivers' licenses will be used for such a purpose, he or she may  
15 issue the undercover drivers' licenses in the form and under the  
16 conditions he or she determines to be necessary. The decision of  
17 the director regarding issuance of undercover drivers' licenses is  
18 final.

19 (4) The Department of Motor Vehicles shall keep records  
20 pertaining to undercover drivers' licenses confidential, and such  
21 records shall not be subject to public disclosure. Any person who  
22 receives information pertaining to undercover drivers' licenses in  
23 the course of his or her employment and who discloses any such  
24 information to any unauthorized individual shall be guilty of a  
25 Class III misdemeanor.

26 (5) The contact person shall return the undercover  
27 drivers' licenses to the Department of Motor Vehicles if:

1 (a) The undercover drivers' licenses expire and are not  
2 renewed;

3 (b) The purpose for which the undercover drivers'  
4 licenses were issued has been completed or terminated;

5 (c) The persons for whom the undercover drivers' licenses  
6 were issued cease to be employees of the agency; or

7 (d) The director requests their return.

8 Sec. 458. Section 60-493, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 60-493 When a person applies for an operator's license or  
11 state identification card, the county treasurer or examiner of the  
12 Department of Motor Vehicles shall distribute a brochure provided  
13 by an organ and tissue procurement organization and approved by the  
14 ~~Department of Health and Human Services Regulation and Licensure~~  
15 Health and Human Services System containing a description and  
16 explanation of the Uniform Anatomical Gift Act to each person  
17 applying for a new or renewal license or card.

18 If an individual desires to receive additional specific  
19 information regarding organ and tissue donation and the Donor  
20 Registry of Nebraska as indicated on an application or examiner's  
21 certificate under section 60-484, 60-4,144, or 60-4,181, the  
22 department shall notify a representative of the federally  
23 designated organ procurement organization in Nebraska within five  
24 working days of the name and address of such individual.

25 Sec. 459. Section 60-495, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27 60-495 (1) The director shall adopt and promulgate such

1 rules and regulations and prepare and furnish all forms and  
2 information necessary to carry out sections 60-493 to 60-495,  
3 71-4802, and 71-4804.

4 (2) The Organ and Tissue Donor Awareness and Education  
5 Fund is created. The county treasurer shall remit all funds  
6 contributed under sections 60-484, 60-4,144, and 60-4,181 to  
7 the State Treasurer for credit to the fund. The ~~Department of~~  
8 ~~Health and Human Services~~ Health and Human Services System shall  
9 administer the Organ and Tissue Donor Awareness and Education Fund  
10 for the promotion of organ and tissue donation. The ~~department~~  
11 system shall use the fund to assist organizations such as the  
12 Organ and Tissue Donor Task Force of Nebraska, Inc., in carrying  
13 out activities which promote organ and tissue donation through the  
14 creation and dissemination of educational information. Any money in  
15 the fund available for investment shall be invested by the state  
16 investment officer pursuant to the Nebraska Capital Expansion Act  
17 and the Nebraska State Funds Investment Act.

18 Sec. 460. Section 60-4,118.02, Reissue Revised Statutes  
19 of Nebraska, is amended to read:

20 60-4,118.02 (1) There is hereby created the Health  
21 Advisory Board which shall consist of six health care providers  
22 appointed by the director with the advice and recommendation of  
23 the ~~Director of Regulation and Licensure.~~ Health and Human Services  
24 System. The members of the board shall consist of one general  
25 practice physician, one physician engaged in the practice of  
26 ophthalmology, one physician engaged in the practice of orthopedic  
27 surgery, one physician engaged in the practice of neurological



1 medicine and surgery, one optometrist, and one psychiatrist. Each  
2 member of the board shall be licensed to practice his or her  
3 profession pursuant to the Uniform Licensing Law.

4 (2) Of the initial members of the board, two shall be  
5 appointed for four years, two shall be appointed for three years,  
6 and two shall be appointed for two years. Thereafter, each member  
7 shall be appointed for a term of four years and until a successor  
8 is appointed and qualified. If a vacancy occurs for any reason  
9 other than the expiration of a term, the Director of Motor Vehicles  
10 may appoint a person licensed in the same type of professional  
11 practice as the member being replaced to serve out the unexpired  
12 term. Members of the board shall be reimbursed for their actual and  
13 necessary expenses as provided in sections 81-1174 to 81-1177.

14 (3) The board shall meet as necessary at the call of the  
15 director. At the initial meeting of the board following completion  
16 of the initial appointments, the board shall select from among its  
17 members a chairperson and shall designate any other officers or  
18 committees as it deems necessary. The board may select officers and  
19 committees annually or as necessary to fill vacancies and to carry  
20 out duties of the board.

21 Sec. 461. Section 60-4,164.01, Reissue Revised Statutes  
22 of Nebraska, is amended to read:

23 60-4,164.01 (1) Any physician, registered nurse, other  
24 trained person employed by a licensed health care facility or  
25 health care service defined in the Health Care Facility Licensure  
26 Act, a clinical laboratory certified pursuant to the federal  
27 Clinical Laboratories Improvement Act of 1967, as amended, or Title

1 XVIII or XIX of the federal Social Security Act, as amended, to  
2 withdraw human blood for scientific or medical purposes, or a  
3 hospital shall be an agent of the State of Nebraska when performing  
4 the act of withdrawing blood at the request of a peace officer  
5 pursuant to section 60-4,164. The state shall be liable in damages  
6 for any illegal or negligent acts or omissions of such agents in  
7 performing the act of withdrawing blood. The agent shall not be  
8 individually liable in damages or otherwise for any act done or  
9 omitted in performing the act of withdrawing blood at the request  
10 of a peace officer pursuant to such section except for acts of  
11 willful, wanton, or gross negligence of the agent or of persons  
12 employed by such agent.

13 (2) Any person listed in subsection (1) of this section  
14 withdrawing a blood specimen for purposes of section 60-4,164  
15 shall, upon request, furnish to any law enforcement agency or the  
16 person being tested a certificate stating that such specimen was  
17 taken in a medically acceptable manner. The certificate shall be  
18 signed under oath before a notary public and shall be admissible  
19 in any proceeding as evidence of the statements contained in the  
20 certificate. The form of the certificate shall be prescribed by the  
21 ~~Department of Health and Human Services Regulation and Licensure~~  
22 Health and Human Services System and such forms shall be made  
23 available to the persons listed in subsection (1) of this section.

24 Sec. 462. Section 60-6,104, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26 60-6,104 All samples and tests of body fluids under  
27 sections 60-6,101 to 60-6,103 shall be submitted to and performed

1 by an individual possessing a valid permit issued by the ~~Department~~  
2 ~~of Health and Human Services Regulation and Licensure~~ Health  
3 and Human Services System for such purpose. Such tests shall be  
4 performed according to methods approved by the ~~department-~~ system.  
5 Such individual shall promptly perform such analysis and report the  
6 results thereof to the official submitting the sample.

7           Sec. 463. Section 60-6,107, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           60-6,107 (1) Except as provided in subsection (2) of this  
10 section, the ~~Department of Health and Human Services Regulation and~~  
11 ~~Licensure~~ Health and Human Services System shall adopt necessary  
12 rules and regulations for the administration of the provisions of  
13 sections 60-6,101 to 60-6,106.

14           (2) The Department of Roads shall adopt and promulgate  
15 rules and regulations which shall provide for the release and  
16 disclosure of the results of tests conducted under sections  
17 60-6,102 and 60-6,103.

18           Sec. 464. Section 60-6,201, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20           60-6,201 (1) Any test made under section 60-6,197, if  
21 made in conformity with the requirements of this section, shall  
22 be competent evidence in any prosecution under a state statute  
23 or city or village ordinance involving operating a motor vehicle  
24 while under the influence of alcoholic liquor or drugs or involving  
25 driving or being in actual physical control of a motor vehicle when  
26 the concentration of alcohol in the blood or breath is in excess of  
27 allowable levels.

1           (2) Any test made under section 60-6,211.02, if made  
2 in conformity with the requirements of this section, shall be  
3 competent evidence in any prosecution involving operating or being  
4 in actual physical control of a motor vehicle in violation of  
5 section 60-6,211.01.

6           (3) To be considered valid, tests of blood, breath, or  
7 urine made under section 60-6,197 or tests of blood or breath made  
8 under section 60-6,211.02 shall be performed according to methods  
9 approved by the ~~Department of Health and Human Services Regulation~~  
10 ~~and Licensure~~ Health and Human Services System and by an individual  
11 possessing a valid permit issued by such ~~department~~ system for  
12 such purpose, except that a physician, registered nurse, or other  
13 trained person employed by a licensed health care facility or  
14 health care service which is defined in the Health Care Facility  
15 Licensure Act or clinical laboratory certified pursuant to the  
16 federal Clinical Laboratories Improvement Act of 1967, as such act  
17 existed on September 1, 2001, or Title XVIII or XIX of the federal  
18 Social Security Act, as such act existed on September 1, 2001,  
19 to withdraw human blood for scientific or medical purposes, acting  
20 at the request of a peace officer, may withdraw blood for the  
21 purpose of a test to determine the alcohol concentration or the  
22 presence of drugs and no permit from the ~~department~~ system shall  
23 be required for such person to withdraw blood pursuant to such an  
24 order. The ~~department~~ system may approve satisfactory techniques or  
25 methods to perform such tests and may ascertain the qualifications  
26 and competence of individuals to perform such tests and issue  
27 permits which shall be subject to termination or revocation at the

1 discretion of the ~~department~~ system.

2 (4) A permit fee may be established by regulation by  
3 the ~~department~~ Health and Human Services System which shall not  
4 exceed the actual cost of processing the initial permit. Such fee  
5 shall be charged annually to each permit holder. The fees shall be  
6 used to defray the cost of processing and issuing the permits and  
7 other expenses incurred by the ~~department~~ system in carrying out  
8 this section. The fee shall be remitted to the State Treasurer for  
9 credit to the ~~Department of Health and Human Services Regulation~~  
10 ~~and Licensure Cash Fund~~ Health and Human Services System Cash Fund  
11 as a laboratory service fee.

12 (5) Relevant evidence shall not be excluded in any  
13 prosecution under a state statute or city or village ordinance  
14 involving operating a motor vehicle while under the influence of  
15 alcoholic liquor or drugs or involving driving or being in actual  
16 physical control of a motor vehicle when the concentration of  
17 alcohol in the blood or breath is in excess of allowable levels  
18 on the ground that the evidence existed or was obtained outside of  
19 this state.

20 Sec. 465. Section 60-6,202, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 60-6,202 (1) Any physician, registered nurse, other  
23 trained person employed by a licensed health care facility or  
24 health care service defined in the Health Care Facility Licensure  
25 Act, a clinical laboratory certified pursuant to the federal  
26 Clinical Laboratories Improvement Act of 1967, as amended, or Title  
27 XVIII or XIX of the federal Social Security Act, as amended, to

1 withdraw human blood for scientific or medical purposes, or a  
2 hospital shall be an agent of the State of Nebraska when performing  
3 the act of withdrawing blood at the request of a peace officer  
4 pursuant to sections 60-6,197 and 60-6,211.02. The state shall be  
5 liable in damages for any illegal or negligent acts or omissions of  
6 such agents in performing the act of withdrawing blood. The agent  
7 shall not be individually liable in damages or otherwise for any  
8 act done or omitted in performing the act of withdrawing blood at  
9 the request of a peace officer pursuant to such sections except for  
10 acts of willful, wanton, or gross negligence of the agent or of  
11 persons employed by such agent.

12 (2) Any person listed in subsection (1) of this section  
13 withdrawing a blood specimen for purposes of section 60-6,197 or  
14 60-6,211.02 shall, upon request, furnish to any law enforcement  
15 agency or the person being tested a certificate stating that  
16 such specimen was taken in a medically acceptable manner. The  
17 certificate shall be signed under oath before a notary public and  
18 shall be admissible in any proceeding as evidence of the statements  
19 contained in the certificate. The form of the certificate shall  
20 be prescribed by the ~~Department of Health and Human Services~~  
21 ~~Regulation and Licensure~~ Health and Human Services System and such  
22 forms shall be made available to the persons listed in subsection  
23 (1) of this section.

24 Sec. 466. Section 68-104, Revised Statutes Cumulative  
25 Supplement, 2006, is amended to read:

26 68-104 The ~~Department of Health and Human Services~~ Health  
27 and Human Services System shall be the overseer of the poor and

1 shall be vested with the entire and exclusive superintendence of  
2 the poor in this state, except that the county board of each county  
3 shall furnish such medical service as may be required for the poor  
4 of the county who are not eligible for other medical assistance  
5 programs and general assistance for the poor of the county. Any  
6 person who is or becomes ineligible for other medical assistance  
7 programs due to his or her own actions or inactions shall also be  
8 ineligible for medical services from the county.

9           The county board of each county shall administer the  
10 medical assistance provided pursuant to this section. A county  
11 board may enter into an agreement with the ~~Department of Health~~  
12 ~~and Human Services~~ Health and Human Services System which allows  
13 the ~~department~~ system to aid in the administration of such medical  
14 assistance program. In providing medical and hospital care for the  
15 poor, the county board shall make use of any existing facilities,  
16 including tax-supported hospitals and charitable clinics so far as  
17 the same may be available, and shall use the financial eligibility  
18 criteria established for the standard of need developed by the  
19 county pursuant to section 68-126.

20           Sec. 467. Section 68-126, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           68-126 The ~~Director of Finance and Support~~ shall  
23 ~~immediately~~ Health and Human Services System shall adopt and  
24 promulgate rules and regulations establishing maximum payments for  
25 all health services furnished to recipients of public assistance.  
26 Each county shall, not later than December 31, 1984, establish  
27 a standard of need for medical services furnished, pursuant to

1 section 68-104, by the counties to indigent persons who are not  
2 eligible for other medical assistance programs. This standard shall  
3 not exceed the Office of Management and Budget income poverty  
4 guidelines.

5 Sec. 468. Section 68-128, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 68-128 From such funds as may be appropriated for such  
8 purpose, the ~~Department of Health and Human Services~~ Health and  
9 Human Services System shall provide emergency assistance benefits  
10 on behalf of families who have children.

11 Sec. 469. Section 68-129, Revised Statutes Cumulative  
12 Supplement, 2006, is amended to read:

13 68-129 The ~~Director of Health and Human Services~~ Health  
14 and Human Services System shall, by rule and regulation, when  
15 determining need for public assistance on the basis of available  
16 resources, exclude from the definition of available resources of  
17 an applicant for assistance either the funds deposited in an  
18 irrevocable trust fund created pursuant to section 12-1106 or up  
19 to four thousand dollars, increased annually as provided in this  
20 section, of the amount paid for a policy of insurance the proceeds  
21 of which are specifically and irrevocably designated, assigned,  
22 or pledged for the payment of the applicant's burial expenses.  
23 The ~~Department of Health and Human Services~~ system shall increase  
24 such amount annually on September 1 beginning with the year 2006  
25 by the percentage change in the Consumer Price Index for All  
26 Urban Consumers published by the Federal Bureau of Labor Statistics  
27 at the close of the twelve-month period ending on August 31 of



1 such year. This section shall not preclude the eligibility for  
2 assistance of an applicant who has purchased such a policy of  
3 insurance prior to July 9, 1988, unless such applicant is subject  
4 to subdivision (3) of section 68-1002.

5           Sec. 470. Section 68-130, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           68-130 Counties shall maintain, at no additional cost to  
8 the ~~Department of Health and Human Services Finance and Support,~~  
9 Health and Human Services System, office and service facilities  
10 used for the administration of the public assistance programs as  
11 such facilities existed on April 1, 1983.

12           Sec. 471. Section 68-134, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           68-134 The standards established pursuant to section  
15 68-133 and all amendments to such standards shall be reviewed  
16 by the county on a biennial basis to insure that such standards  
17 reflect changes in living standards and costs-of-living. A copy  
18 of all standards and amendments to such standards shall be filed  
19 with the ~~Department of Health and Human Services~~ Health and Human  
20 Services System within thirty days after their adoption by the  
21 county. Upon request of a county board, the ~~Department of Health~~  
22 ~~and Human Services~~ system shall assist the board in developing  
23 standards or amendments. Each county shall make a copy of its  
24 standards and amendments available for public inspection during  
25 normal business hours.

26           Sec. 472. Section 68-156, Revised Statutes Cumulative  
27 Supplement, 2006, is amended to read:

1           68-156 Any county utilizing a community service program  
2 for employable recipients as outlined in sections 68-151 to 68-155  
3 shall file an annual written report which shall include the number  
4 of persons placed through the community service program, the  
5 numbers of hours of experience provided, the duration and location  
6 of each placement including the name and address of the business or  
7 agency accepting the placement, and the specific skills learned in  
8 the placement.

9           The report shall be filed with the ~~Department of Health~~  
10 ~~and Human Services~~ Health and Human Services System by October 1 of  
11 each year for the fiscal year ending the preceding June 30.

12           Sec. 473. Section 68-309, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           68-309 The ~~Department of Health and Human Services~~  
15 ~~Finance and Support~~ Health and Human Services System shall be  
16 the sole agency of the State of Nebraska to administer the  
17 State Assistance Fund for assistance to the aged, blind, or  
18 disabled, aid to dependent children, medical assistance, medically  
19 handicapped children's services, child welfare services, and such  
20 other assistance and services as may be made available to the State  
21 of Nebraska by the government of the United States.

22           Sec. 474. Section 68-312, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           68-312 The ~~Department of Health and Human Services, the~~  
25 ~~Department of Health and Human Services Regulation and Licensure,~~  
26 ~~and the Department of Health and Human Services Finance and~~  
27 ~~Support~~ Health and Human Services System shall have the power to

1 establish and enforce reasonable rules and regulations governing  
2 the custody, use, and preservation of the records, papers, files,  
3 and communications of the state. The use of such records, papers,  
4 files, and communications by any other agency or department of  
5 government to which they may be furnished shall be limited to the  
6 purposes for which they are furnished.

7           Sec. 475. Section 68-313, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           68-313 It shall be unlawful, except as permitted by  
10 section 68-313.01 and except for purposes directly connected with  
11 the administration of general assistance, medically handicapped  
12 children's services, medical assistance, assistance to the aged,  
13 blind, or disabled, or aid to dependent children, and in accordance  
14 with the rules and regulations of the ~~Department of Health and~~  
15 ~~Human Services,~~ the Department of Health and Human Services  
16 Regulation and Licensure, and the Department of Health and Human  
17 ~~Services Finance and Support,~~ Health and Human Services System,  
18 for any person or persons to solicit, disclose, receive, make use  
19 of, authorize, knowingly permit, participate in, or acquiesce in  
20 the use of, any list of or names of, any information concerning,  
21 or persons applying for or receiving such aid or assistance,  
22 directly or indirectly derived from the records, papers, files, or  
23 communications of the state, or subdivisions or agencies thereof,  
24 or acquired in the course of the performance of official duties.

25           Sec. 476. Section 68-621, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27           68-621 (1) A referendum group, as referred to in sections

1 68-621 to 68-630, shall consist of the employees of the state, a  
2 single political subdivision of this state, or any instrumentality  
3 jointly created by this state and any other state or states, the  
4 employees of which are or may be members of a retirement system  
5 covering such employees, except that: (a) The employees of the  
6 University of Nebraska shall constitute a referendum group; (b)  
7 the employees of a Class V school district shall constitute a  
8 referendum group; (c) all employees of the State of Nebraska who  
9 are or may be members of the School Retirement System of the State  
10 of Nebraska, including employees of institutions operated by the  
11 Board of Trustees of the Nebraska State Colleges, employees of  
12 institutions operated by the Department of Correctional Services  
13 and the ~~Department of Health and Human Services,~~ Health and Human  
14 Services System, and employees subordinate to the State Board  
15 of Education, shall constitute a referendum group; and (d) all  
16 employees of school districts of the State of Nebraska, county  
17 superintendents, and county school administrators, who are or  
18 may be members of the School Retirement System of the State of  
19 Nebraska, shall constitute a single referendum group.

20 (2) The managing authority of a political subdivision or  
21 educational institution shall be the board, committee, or council  
22 having general authority over a political subdivision, university,  
23 college, or school district whose employees constitute or are  
24 included in a referendum group; the managing authority of the state  
25 shall be the Governor; and insofar as sections 68-601 to 68-613  
26 and 68-621 to 68-630 may be applicable to county superintendents  
27 and county school administrators, managing authority shall mean the

1 board of county commissioners or county supervisors of the county  
2 in which the county superintendent was elected or with which the  
3 county school administrator contracted.

4 (3) Eligible employees, as referred to in sections 68-621  
5 to 68-630, shall mean those employees of the state or any political  
6 subdivision thereof who at or during the time of voting in a  
7 referendum as herein provided are in positions covered by a  
8 retirement system, are members of such retirement system, and  
9 were in such positions at the time of giving of the notice of  
10 such referendum, as herein required, except that no such employee  
11 shall be considered an eligible employee if at the time of such  
12 voting such employee is in a position to which the state agreement  
13 applies or if such employee is in service in a police officer or  
14 firefighter position.

15 (4) State agreement, as referred to in sections 68-621 to  
16 68-630, shall mean the agreement between the State of Nebraska and  
17 the designated officer of the United States of America entered into  
18 pursuant to section 68-603.

19 Sec. 477. Section 68-703.01, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 68-703.01 ~~The Department of Health and Human Services,~~  
22 ~~the Department of Health and Human Services Regulation and~~  
23 ~~Licensure, and the Department of Health and Human Services Finance~~  
24 ~~and Support~~ Health and Human Services System shall have authority  
25 to use any funds which may be made available through an agency  
26 of the government of the United States to reimburse any county  
27 of this state, either in whole or in part, for the following

1 expenditures: (1) Employment of staff whose duties involve the  
2 giving or strengthening of services to children, (2) the return of  
3 any nonresident child to his or her place of residence when such  
4 child shall be found in the county, and (3) the temporary cost of  
5 board and care of a needy child who by necessity requires care in  
6 a foster home.

7 Sec. 478. Section 68-716, Revised Statutes Cumulative  
8 Supplement, 2006, is amended to read:

9 68-716 An application for medical assistance shall give  
10 a right of subrogation to the ~~Department of Health and Human~~  
11 ~~Services Finance and Support~~ Health and Human Services System or  
12 its assigns. Subject to sections 68-921 to 68-925, subrogation  
13 shall include every claim or right which the applicant may have  
14 against a third party when such right or claim involves money for  
15 medical care. The third party shall be liable to make payments  
16 directly to the ~~department~~ system or its assigns as soon as he or  
17 she is notified in writing of the valid claim for subrogation under  
18 this section.

19 Sec. 479. Section 68-717, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 68-717 The ~~Department of Health and Human Services and~~  
22 ~~the Department of Health and Human Services Finance and Support~~  
23 Health and Human Services System shall assume the responsibility  
24 for all public assistance, including aid to families with dependent  
25 children, emergency assistance, assistance to the aged, blind, or  
26 disabled, medically handicapped children's services, commodities,  
27 food stamps, and medical assistance.

1           Sec. 480. Section 68-718, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           68-718 All furniture, equipment, books, files, records,  
4 and personnel utilized by the county divisions or boards of public  
5 welfare for the administration of public assistance programs shall  
6 be transferred and delivered to the ~~Department of Health and Human~~  
7 ~~Services Finance and Support.~~ Health and Human Services System. The  
8 transferred employees shall not lose any accrued benefits or status  
9 due to the transfer and shall receive the same benefits as other  
10 state employees, including participation in the State Employees  
11 Retirement Fund.

12           Sec. 481. Section 68-902, Revised Statutes Cumulative  
13 Supplement, 2006, is amended to read:

14           68-902 The purposes of the Medical Assistance Act are  
15 to (1) reorganize and recodify statutes relating to the medical  
16 assistance program, (2) provide for implementation of the Medicaid  
17 Reform Plan, (3) clarify public policy relating to the medical  
18 assistance program, (4) provide for administration of the medical  
19 assistance program within the ~~department,~~ system, and (5) provide  
20 for legislative oversight and public comment regarding the medical  
21 assistance program.

22           Sec. 482. Section 68-907, Revised Statutes Cumulative  
23 Supplement, 2006, is amended to read:

- 24           68-907 For purposes of the Medical Assistance Act:
- 25           (1) Committee means the Health and Human Services  
26 Committee of the Legislature;
- 27           ~~(2) Department means the Department of Health and Human~~

1 ~~Services Finance and Support;~~

2 ~~(3) Director means the Director of Finance and Support;~~

3 ~~(4) (2) Medicaid Reform Plan means the Medicaid Reform~~  
4 ~~Plan submitted on December 1, 2005, pursuant to the Medicaid Reform~~  
5 ~~Act enacted pursuant to Laws 2005, LB 709;~~

6 ~~(5) (3) Medicaid state plan means the comprehensive~~  
7 ~~written document, developed and amended by the ~~department~~ system~~  
8 ~~and approved by the federal Centers for Medicare and Medicaid~~  
9 ~~Services, which describes the nature and scope of the medical~~  
10 ~~assistance program and provides assurances that the ~~department~~~~  
11 ~~system will administer the program in compliance with federal~~  
12 ~~requirements;~~

13 ~~(6) (4) Provider means a person providing health care or~~  
14 ~~related services under the medical assistance program; and~~

15 ~~(5) System means the Health and Human Services System;~~  
16 ~~and~~

17 ~~(7) (6) Waiver means the waiver of applicability to~~  
18 ~~the state of one or more provisions of federal law relating to~~  
19 ~~the medical assistance program based on an application by the~~  
20 ~~~~department~~ system and approval of such application by the federal~~  
21 ~~Centers for Medicare and Medicaid Services.~~

22 Sec. 483. Section 68-908, Revised Statutes Cumulative  
23 Supplement, 2006, is amended to read:

24 68-908 (1) The ~~department~~ system shall administer the  
25 medical assistance program.

26 (2) The ~~department~~ system may (a) enter into contracts  
27 and interagency agreements, (b) adopt and promulgate rules and



1 regulations, (c) adopt fee schedules, (d) apply for and implement  
2 waivers and managed care plans for eligible recipients, and (e)  
3 perform such other activities as necessary and appropriate to carry  
4 out its duties under the Medical Assistance Act.

5 (3) The ~~department~~ system shall maintain the  
6 confidentiality of information regarding applicants for or  
7 recipients of medical assistance and such information shall only  
8 be used for purposes related to administration of the medical  
9 assistance program and the provision of such assistance or as  
10 otherwise permitted by federal law.

11 (4) (a) The ~~department~~ system shall prepare a biennial  
12 summary and analysis of the medical assistance program for  
13 legislative and public review, including, but not limited to,  
14 a description of eligible recipients, covered services, provider  
15 reimbursement, program trends and projections, program budget and  
16 expenditures, the status of implementation of the Medicaid Reform  
17 Plan, and recommendations for program changes.

18 (b) The ~~department~~ system shall provide a draft report  
19 of such summary and analysis to the Medicaid Reform Council no  
20 later than October 1 of each even-numbered year. The council shall  
21 conduct a public meeting no later than October 15 of such year  
22 to discuss and receive public comment regarding such report. The  
23 council shall provide any comments and recommendations regarding  
24 such report in writing to the ~~director~~ system and the committee no  
25 later than November 1 of such year. The ~~department~~ system shall  
26 submit a final report of such summary and analysis to the Governor,  
27 the Legislature, and the council no later than December 1 of such

1 year.

2           Sec. 484. Section 68-909, Revised Statutes Cumulative  
3 Supplement, 2006, is amended to read:

4           68-909 (1) All contracts, agreements, rules, and  
5 regulations relating to the medical assistance program as entered  
6 into or adopted and promulgated by the ~~department~~ system prior  
7 to July 1, 2006, and all provisions of the medicaid state plan  
8 and waivers adopted by the ~~department~~ system prior to July 1,  
9 2006, shall remain in effect until revised, amended, repealed, or  
10 nullified pursuant to law.

11           (2) Prior to the adoption and promulgation of proposed  
12 rules and regulations under section 68-912 or relating to the  
13 implementation of medicaid state plan amendments or waivers,  
14 the ~~department~~ system shall provide a report to the Governor,  
15 the Legislature, and the Medicaid Reform Council summarizing  
16 the purpose and content of such proposed rules and regulations  
17 and the projected impact of such proposed rules and regulations  
18 on recipients of medical assistance and medical assistance  
19 expenditures.

20           (3) The Medicaid Reform Council, no later than thirty  
21 days after the date of receipt of any report under subsection (2)  
22 of this section, may conduct a public meeting to receive public  
23 comment regarding such report. The council shall promptly provide  
24 any comments and recommendations regarding such report in writing  
25 to the ~~department~~ system. Such comments and recommendations shall  
26 be advisory only and shall not be binding on the ~~department~~,  
27 system, but the ~~department~~ system shall promptly provide a written

1 response to such comments or recommendations to the council.

2 (4) The ~~department~~ system shall monitor and shall  
3 periodically, as necessary, but no less than biennially, report  
4 to the Governor, the Legislature, and the Medicaid Reform Council  
5 on the implementation of rules and regulations, medicaid state  
6 plan amendments, and waivers adopted under the Medical Assistance  
7 Act and the effect of such rules and regulations, amendments, or  
8 waivers on eligible recipients of medical assistance and medical  
9 assistance expenditures.

10 Sec. 485. Section 68-912, Revised Statutes Cumulative  
11 Supplement, 2006, is amended to read:

12 68-912 (1) The ~~department~~ system may establish (a)  
13 premiums, copayments, and deductibles for goods and services  
14 provided under the medical assistance program, (b) limits on the  
15 amount, duration, and scope of goods and services that recipients  
16 may receive under the medical assistance program, and (c)  
17 requirements for recipients of medical assistance as a necessary  
18 condition for the continued receipt of such assistance, including,  
19 but not limited to, active participation in care coordination and  
20 appropriate disease management programs and activities.

21 (2) In establishing and limiting coverage for services  
22 under the medical assistance program, the ~~department~~ system  
23 shall consider (a) the effect of such coverage and limitations  
24 on recipients of medical assistance and medical assistance  
25 expenditures, (b) the public policy in section 68-905, (c) the  
26 experience and outcomes of other states, (d) the nature and scope  
27 of benchmark or benchmark-equivalent health insurance coverage as

1 recognized under federal law, and (e) other relevant factors as  
2 determined by the ~~department~~ system.

3 (3) Coverage for mandatory and optional services and  
4 limitations on covered services as established by the ~~department~~  
5 system prior to July 1, 2006, shall remain in effect until revised,  
6 amended, repealed, or nullified pursuant to law. Any proposed  
7 reduction or expansion of services or limitation of covered  
8 services by the ~~department~~ system under this section shall be  
9 subject to the reporting and review requirements of section 68-909.

10 (4) Except as otherwise provided in this subsection,  
11 proposed rules and regulations under this section relating to the  
12 establishment of premiums, copayments, or deductibles for eligible  
13 recipients or limits on the amount, duration, or scope of covered  
14 services for eligible recipients shall not become effective until  
15 the conclusion of the earliest regular session of the Legislature  
16 in which there has been a reasonable opportunity for legislative  
17 consideration of such rules and regulations. This subsection does  
18 not apply to rules and regulations that are (a) required by  
19 federal or state law, (b) related to a waiver in which recipient  
20 participation is voluntary, or (c) proposed due to a loss of  
21 federal matching funds relating to a particular covered service  
22 or eligibility category. Legislative consideration includes, but  
23 is not limited to, the introduction of a legislative bill, a  
24 legislative resolution, or an amendment to pending legislation  
25 relating to such rules and regulations.

26 Sec. 486. Section 68-913, Revised Statutes Cumulative  
27 Supplement, 2006, is amended to read:

1           68-913 (1) Each public school district shall annually,  
2 at the beginning of the school year, provide written information  
3 supplied by the ~~Department of Health and Human Services and the~~  
4 ~~Department of Health and Human Services Finance and Support~~ system  
5 to every student describing the availability of children's health  
6 services provided under the medical assistance program.

7           (2) Each hospital shall provide the mother of every  
8 child born in such hospital, at the time of such birth, written  
9 information provided by the ~~departments~~ system describing the  
10 availability of children's health services provided under the  
11 medical assistance program.

12           (3) The ~~departments~~ system shall develop and implement  
13 other activities designed to increase public awareness of the  
14 availability of children's health services provided under the  
15 medical assistance program. Such activities shall include materials  
16 and efforts designed to increase participation in the program by  
17 minority populations.

18           Sec. 487. Section 68-914, Revised Statutes Cumulative  
19 Supplement, 2006, is amended to read:

20           68-914 An applicant for medical assistance shall file  
21 an application with the ~~department~~ system in a manner and form  
22 prescribed by the ~~department.~~ system. The ~~department~~ system shall  
23 notify an applicant for or recipient of medical assistance of  
24 any decision of the ~~department~~ system to deny or discontinue  
25 eligibility or to deny or modify medical assistance. Decisions of  
26 the ~~department,~~ system, including the failure of the ~~department~~  
27 system to act with reasonable promptness, may be appealed, and the

1 appeal shall be in accordance with the Administrative Procedure  
2 Act.

3 Sec. 488. Section 68-915, Revised Statutes Cumulative  
4 Supplement, 2006, is amended to read:

5 68-915 The following persons shall be eligible for  
6 medical assistance:

7 (1) Dependent children as defined in section 43-504;

8 (2) Aged, blind, and disabled persons as defined in  
9 sections 68-1002 to 68-1005;

10 (3) Children under nineteen years of age who are eligible  
11 under section 1905(a)(i) of the federal Social Security Act;

12 (4) Persons who are presumptively eligible as allowed  
13 under sections 1920 and 1920B of the federal Social Security Act;

14 (5) Children under nineteen years of age and pregnant  
15 women with a family income equal to or less than one hundred  
16 eighty-five percent of the Office of Management and Budget income  
17 poverty guideline, as allowed under Title XIX and Title XXI of the  
18 federal Social Security Act, without regard to resources. Children  
19 described in this subdivision and subdivision (6) of this section  
20 shall remain eligible for six consecutive months from the date  
21 of initial eligibility prior to redetermination of eligibility.

22 The ~~department~~ system may review eligibility monthly thereafter  
23 pursuant to rules and regulations adopted and promulgated by the  
24 ~~department.~~ system. The ~~department~~ system may determine upon such  
25 review that a child is ineligible for medical assistance if such  
26 child no longer meets eligibility standards established by the  
27 ~~department;~~ system;

1           (6) For purposes of Title XIX of the federal Social  
2 Security Act as provided in subdivision (5) of this section,  
3 children with a family income as follows:

4           (a) Equal to or less than one hundred fifty percent of  
5 the Office of Management and Budget income poverty guideline with  
6 eligible children one year of age or younger;

7           (b) Equal to or less than one hundred thirty-three  
8 percent of the Office of Management and Budget income poverty  
9 guideline with eligible children over one year of age and under six  
10 years of age; or

11           (c) Equal to or less than one hundred percent of the  
12 Office of Management and Budget income poverty guideline with  
13 eligible children six years of age or older and less than nineteen  
14 years of age;

15           (7) Persons who are medically needy caretaker relatives  
16 as allowed under 42 U.S.C. 1396d(a)(ii);

17           (8) As allowed under 42 U.S.C. 1396a(a)(10)(A)(ii),  
18 disabled persons as defined in section 68-1005 with a family income  
19 of less than two hundred fifty percent of the Office of Management  
20 and Budget income poverty guideline and who, but for earnings in  
21 excess of the limit established under 42 U.S.C. 1396d(q)(2)(B),  
22 would be considered to be receiving federal Supplemental Security  
23 Income. ~~The Department of Health and Human Services~~ system shall  
24 apply for a waiver to disregard any unearned income that is  
25 contingent upon a trial work period in applying the Supplemental  
26 Security Income standard. Such disabled persons shall be subject to  
27 payment of premiums as a percentage of family income beginning at

1 not less than two hundred percent of the Office of Management and  
2 Budget income poverty guideline. Such premiums shall be graduated  
3 based on family income and shall not be less than two percent or  
4 more than ten percent of family income; and

5 (9) As allowed under 42 U.S.C. 1396a(a)(10)(A)(ii),  
6 persons who:

7 (a) Have been screened for breast and cervical cancer  
8 under the Centers for Disease Control and Prevention breast and  
9 cervical cancer early detection program established under Title XV  
10 of the federal Public Health Service Act, 42 U.S.C. 300k et seq.,  
11 in accordance with the requirements of section 1504 of such act, 42  
12 U.S.C. 300n, and who need treatment for breast or cervical cancer,  
13 including precancerous and cancerous conditions of the breast or  
14 cervix;

15 (b) Are not otherwise covered under creditable coverage  
16 as defined in section 2701(c) of the federal Public Health Service  
17 Act, 42 U.S.C. 300gg(c);

18 (c) Have not attained sixty-five years of age; and

19 (d) Are not eligible for medical assistance under any  
20 mandatory categorically needy eligibility group.

21 Eligibility shall be determined under this section  
22 using an income budgetary methodology that determines children's  
23 eligibility at no greater than one hundred eighty-five percent of  
24 the Office of Management and Budget income poverty guideline and  
25 adult eligibility using adult income standards no greater than the  
26 applicable categorical eligibility standards established pursuant  
27 to state or federal law. The ~~department~~ system shall determine



1 eligibility under this section pursuant to such income budgetary  
2 methodology and subdivision (1)(s) of section 68-1713.

3 Sec. 489. Section 68-916, Revised Statutes Cumulative  
4 Supplement, 2006, is amended to read:

5 68-916 The application for medical assistance shall  
6 constitute an automatic assignment of the rights specified in  
7 this section to the ~~department~~ system or its assigns effective  
8 from the date of eligibility for such assistance. The assignment  
9 shall include the rights of the applicant or recipient and also the  
10 rights of any other member of the assistance group for whom the  
11 applicant or recipient can legally make an assignment.

12 Pursuant to this section and subject to sections 68-921  
13 to 68-925, the applicant or recipient shall assign to the  
14 ~~department~~ system or its assigns any rights to medical care support  
15 available to him or her or to other members of the assistance group  
16 under an order of a court or administrative agency and any rights  
17 to pursue or receive payments from any third party liable to pay  
18 for the cost of medical care and services arising out of injury,  
19 disease, or disability of the applicant or recipient or other  
20 members of the assistance group which otherwise would be covered  
21 by medical assistance. Medicare benefits shall not be assigned  
22 pursuant to this section. Rights assigned to the ~~department~~ system  
23 or its assigns under this section may be directly reimbursable  
24 to the ~~department~~ system or its assigns by liable third parties,  
25 as provided by rule or regulation of the ~~department,~~ system, when  
26 prior notification of the assignment has been made to the liable  
27 third party.

1           Sec. 490. Section 68-917, Revised Statutes Cumulative  
2 Supplement, 2006, is amended to read:

3           68-917 Refusal by the applicant or recipient specified  
4 in section 68-916 to cooperate in obtaining reimbursement for  
5 medical care or services provided to himself or herself or any  
6 other member of the assistance group renders the applicant or  
7 recipient ineligible for assistance. Ineligibility shall continue  
8 for so long as such person refuses to cooperate. Cooperation  
9 may be waived by the ~~department~~ system upon a determination of  
10 the reasonable likelihood of physical or emotional harm to the  
11 applicant, recipient, or other member of the assistance group if  
12 the applicant or recipient were to cooperate. Eligibility shall  
13 continue for any individual who cannot legally assign his or her  
14 own rights and who would have been eligible for assistance but  
15 for the refusal by another person, legally able to assign such  
16 individual's rights, to cooperate as required by this section.

17           Sec. 491. Section 68-918, Revised Statutes Cumulative  
18 Supplement, 2006, is amended to read:

19           68-918 If the applicant or recipient or any member of  
20 the assistance group becomes ineligible for medical assistance, the  
21 ~~department~~ system shall restore to him or her the rights assigned  
22 under section 68-916.

23           Sec. 492. Section 68-919, Revised Statutes Cumulative  
24 Supplement, 2006, is amended to read:

25           68-919 (1) The recipient of medical assistance under the  
26 medical assistance program shall be indebted to the ~~department~~  
27 system for the total amount paid for medical assistance on behalf

1 of the recipient if:

2 (a) The recipient was fifty-five years of age or older at  
3 the time the medical assistance was provided; or

4 (b) The recipient resided in a medical institution and,  
5 at the time of institutionalization or application for medical  
6 assistance, whichever is later, the ~~department~~ system determines  
7 that the recipient could not have reasonably been expected to be  
8 discharged and resume living at home. For purposes of this section,  
9 medical institution means a nursing facility, intermediate care  
10 facility for the mentally retarded, or inpatient hospital.

11 (2) The debt accruing under subsection (1) of this  
12 section arises during the life of the recipient but shall be held  
13 in abeyance until the death of the recipient. Any such debt to  
14 the ~~department~~ system that exists when the recipient dies shall  
15 be recovered only after the death of the recipient's spouse, if  
16 any, and only when the recipient is not survived by a child who  
17 either is under twenty-one years of age or is blind or totally and  
18 permanently disabled as defined by the Supplemental Security Income  
19 criteria.

20 (3) The debt shall include the total amount of medical  
21 assistance provided when the recipient was fifty-five years of age  
22 or older or during a period of institutionalization as described in  
23 subsection (1) of this section and shall not include interest.

24 (4) In any probate proceedings in which the ~~department~~  
25 system has filed a claim under this section, no additional  
26 evidence of foundation shall be required for the admission of  
27 the ~~department's~~ system's payment record supporting its claim if

1 the payment record bears the seal of the ~~department~~, system, is  
2 certified as a true copy, and bears the signature of an authorized  
3 representative of the ~~department~~. system.

4 (5) The ~~department~~ system may waive or compromise its  
5 claim, in whole or in part, if the ~~department~~ system determines  
6 that enforcement of the claim would not be in the best interests of  
7 the state or would result in undue hardship.

8 Sec. 493. Section 68-920, Revised Statutes Cumulative  
9 Supplement, 2006, is amended to read:

10 68-920 The ~~department~~ system may garnish the wages,  
11 salary, or other employment income of a person for the costs of  
12 health services provided to a child who is eligible for medical  
13 assistance pursuant to the medical assistance program if:

14 (1) The person is required by court or administrative  
15 order to provide health care coverage for the costs of such  
16 services; and

17 (2) The person has received payment from a third party  
18 for the costs of such services but has not used the payment to  
19 reimburse either the other parent or guardian or the provider of  
20 such services.

21 The amount garnished shall be limited to the amount  
22 necessary to reimburse the ~~department~~ system for its expenditures  
23 for the costs of such services under the medical assistance  
24 program. Any claim for current or past-due child support shall take  
25 priority over a claim for the costs of health services.

26 Sec. 494. Section 68-921, Revised Statutes Cumulative  
27 Supplement, 2006, is amended to read:

1                   68-921 For purposes of sections 68-921 to 68-925:

2                   (1) Assets means property which is not exempt from  
3 consideration in determining eligibility for medical assistance  
4 under rules and regulations adopted and promulgated under section  
5 68-922;

6                   (2) Community spouse monthly income allowance means the  
7 amount of income determined by the ~~Department of Health and Human~~  
8 ~~Services~~ system in accordance with section 1924 of the federal  
9 Social Security Act, as amended, Public Law 100-360, 42 U.S.C.  
10 1396r-5;

11                   (3) Community spouse resource allowance means the amount  
12 of assets determined in accordance with section 1924 of the federal  
13 Social Security Act, as amended, Public Law 100-360, 42 U.S.C.  
14 1396r-5. For purposes of 42 U.S.C. 1396r-5(f)(2)(A)(i), the amount  
15 specified by the state shall be twelve thousand dollars;

16                   (4) Home and community-based services means services  
17 furnished under home and community-based waivers as defined in  
18 Title XIX of the federal Social Security Act, as amended, 42 U.S.C.  
19 1396;

20                   (5) Qualified applicant means a person (a) who applies  
21 for medical assistance on or after July 9, 1988, (b) who is  
22 under care in a state-licensed hospital, skilled nursing facility,  
23 intermediate care facility, intermediate care facility for the  
24 mentally retarded, nursing facility, assisted-living facility, or  
25 center for the developmentally disabled, as such terms are defined  
26 in the Health Care Facility Licensure Act, or an adult family home  
27 certified by the ~~Department of Health and Human Services~~ system

1 or is receiving home and community-based services, and (c) whose  
2 spouse is not under such care or receiving such services and is not  
3 applying for or receiving medical assistance;

4 (6) Qualified recipient means a person (a) who has  
5 applied for medical assistance before July 9, 1988, and is eligible  
6 for such assistance, (b) who is under care in a facility certified  
7 to receive medical assistance funds or is receiving home and  
8 community-based services, and (c) whose spouse is not under such  
9 care or receiving such services and is not applying for or  
10 receiving medical assistance; and

11 (7) Spouse means the spouse of a qualified applicant or  
12 qualified recipient.

13 Sec. 495. Section 68-922, Revised Statutes Cumulative  
14 Supplement, 2006, is amended to read:

15 68-922 For purposes of determining medical assistance  
16 eligibility and the right to and obligation of medical support  
17 pursuant to sections 68-716, 68-915, and 68-916, a spouse may  
18 retain (1) assets equivalent to the community spouse resource  
19 allowance and (2) an amount of income equivalent to the community  
20 spouse monthly income allowance.

21 ~~The Department of Health and Human Services system~~ shall  
22 administer this section in accordance with section 1924 of the  
23 Social Security Act, as amended, Public Law 100-360, 42 U.S.C.  
24 1396r-5, and shall adopt and promulgate rules and regulations as  
25 necessary to implement and enforce sections 68-921 to 68-925.

26 Sec. 496. Section 68-923, Revised Statutes Cumulative  
27 Supplement, 2006, is amended to read:

1           68-923 If a portion of the aggregate assets is designated  
2 in accordance with section 68-924:

3           (1) Only the assets not designated for the spouse shall  
4 be considered in determining the eligibility of an applicant for  
5 medical assistance;

6           (2) In determining the eligibility of an applicant, the  
7 assets designated for the spouse shall not be taken into account  
8 and proof of adequate consideration for any assignment or transfer  
9 made as a result of the designation of assets shall not be  
10 required;

11           (3) The assets designated for the spouse shall not be  
12 considered to be available to an applicant or recipient for future  
13 medical support and the spouse shall have no duty of future medical  
14 support of the applicant or recipient from such assets;

15           (4) Recovery may not be made from the assets designated  
16 for the spouse for any amount paid for future medical assistance  
17 provided to the applicant or recipient; and

18           (5) Neither the ~~Director of Health and Human Services~~  
19 system nor the state shall be subrogated to or assigned any future  
20 right of the applicant or recipient to medical support from the  
21 assets designated for the spouse.

22           Sec. 497. Section 68-924, Revised Statutes Cumulative  
23 Supplement, 2006, is amended to read:

24           68-924 A designation of assets pursuant to section 68-922  
25 shall be evidenced by a written statement listing such assets and  
26 signed by the spouse. A copy of such statement shall be provided  
27 to the ~~Director of Health and Human Services~~ system at the time

1 of application and shall designate assets owned as of the date  
2 of application. Failure to complete any assignments or transfers  
3 necessary to place the designated assets in sole ownership of the  
4 spouse within a reasonable time after the statement is signed as  
5 provided in rules and regulations adopted and promulgated under  
6 section 68-922 may render the applicant or recipient ineligible for  
7 assistance in accordance with such rules and regulations.

8           Sec. 498. Section 68-925, Revised Statutes Cumulative  
9 Supplement, 2006, is amended to read:

10           68-925 ~~The Department of Health and Human Services~~  
11 system shall furnish to each qualified applicant for and each  
12 qualified recipient of medical assistance a clear and simple  
13 written statement explaining the provisions of section 68-922.

14           Sec. 499. Section 68-926, Revised Statutes Cumulative  
15 Supplement, 2006, is amended to read:

16           68-926 The Legislature finds that (1) the ~~Department~~  
17 ~~of Health and Human Services and the Department of Health~~  
18 ~~and Human Services Finance and Support~~ rely system relies on  
19 health insurance and claims information from private insurers to  
20 ensure accuracy in processing state benefit program payments to  
21 providers and in verifying individual recipients' eligibility, (2)  
22 delay or refusal to provide such information causes unnecessary  
23 expenditures of state funds, (3) disclosure of such information to  
24 the ~~Department of Health and Human Services and the Department~~  
25 ~~of Health and Human Services Finance and Support~~ system is  
26 permitted pursuant to the federal Health Insurance Portability  
27 and Accountability privacy rules under 45 C.F.R. part 164, and



1 (4) for medical assistance program recipients who also have other  
2 insurance coverage, including coverage by licensed and self-funded  
3 insurers, the ~~Department of Health and Human Services Finance and~~  
4 ~~Support~~ system is required by 42 U.S.C. 1396a(a)(25) to assure  
5 that licensed and self-funded insurers coordinate benefits with the  
6 program.

7 Sec. 500. Section 68-927, Revised Statutes Cumulative  
8 Supplement, 2006, is amended to read:

9 68-927 For purposes of sections 68-926 to 68-933:

10 (1) Coordinate benefits means:

11 (a) Provide to the ~~Department of Health and Human~~  
12 ~~Services or the Department of Health and Human Services Finance~~  
13 ~~and Support~~ system information regarding the licensed insurer's or  
14 self-funded insurer's existing coverage for an individual who is  
15 eligible for a state benefit program; and

16 (b) Meet payment obligations;

17 (2) Coverage information means health information  
18 possessed by a licensed insurer or self-funded insurer that is  
19 limited to the following information about an individual:

20 (a) Eligibility for coverage under a health plan;

21 (b) Coverage of health care under the health plan; or

22 (c) Benefits and payments associated with the health  
23 plan;

24 (3) Health plan means any policy of insurance issued  
25 by a licensed insurer or any employee benefit plan offered by a  
26 self-funded insurer that provides for payment to or on behalf of  
27 an individual as a result of an illness, disability, or injury or

1 change in a health condition;

2 (4) Individual means a person covered by a state benefit  
3 program, including the medical assistance program, or a person  
4 applying for such coverage;

5 (5) Licensed insurer means any insurer, except a  
6 self-funded insurer, including a fraternal benefit society,  
7 producer, or other person licensed or required to be licensed,  
8 authorized or required to be authorized, or registered or required  
9 to be registered pursuant to the insurance laws of the state; and

10 (6) Self-funded insurer means any employer or union who  
11 or which provides a self-funded employee benefit plan.

12 Sec. 501. Section 68-928, Revised Statutes Cumulative  
13 Supplement, 2006, is amended to read:

14 68-928 (1) Except as provided in subsection (2) of this  
15 section, at the request of the ~~Department of Health and Human~~  
16 ~~Services or the Department of Health and Human Services Finance and~~  
17 ~~Support, system~~, a licensed insurer or a self-funded insurer shall  
18 provide coverage information to the ~~requesting department~~ system  
19 without an individual's authorization for purposes of:

20 (a) Determining an individual's eligibility for state  
21 benefit programs, including the medical assistance program; or

22 (b) Coordinating benefits with state benefit programs.

23 Such information shall be provided within thirty days  
24 after the date of request unless good cause is shown. Requests for  
25 coverage information shall specify individual recipients for whom  
26 information is being requested.

27 (2) (a) Coverage information requested pursuant to

1 subsection (1) of this section regarding a limited benefit policy  
2 shall be limited to whether a specified individual has coverage  
3 and, if so, a description of that coverage, and such information  
4 shall be used solely for the purposes of subdivision (1)(a) of this  
5 section.

6 (b) For purposes of this section, limited benefit policy  
7 means a policy of insurance issued by a licensed insurer that  
8 consists only of one or more, or any combination of the following:

9 (i) Coverage only for accident or disability income  
10 insurance, or any combination thereof;

11 (ii) Coverage for specified disease or illness; or

12 (iii) Hospital indemnity or other fixed indemnity  
13 insurance.

14 Sec. 502. Section 68-930, Revised Statutes Cumulative  
15 Supplement, 2006, is amended to read:

16 68-930 The Department of Health and Human Services  
17 Finance and Support system may impose and collect a civil penalty  
18 on a self-funded insurer who violates the requirements of section  
19 68-928 if the ~~department~~ system finds that the self-funded insurer:

20 (1) Committed the violation flagrantly and in conscious  
21 disregard of the requirements; or

22 (2) Has committed violations with such frequency as to  
23 indicate a general business practice to engage in that type of  
24 conduct.

25 The civil penalty shall not be more than one thousand  
26 dollars for each violation, not to exceed an aggregate penalty of  
27 thirty thousand dollars, unless the violation by the self-funded

1 insurer was committed flagrantly and in conscious disregard of  
2 section 68-928, in which case the penalty shall not be more than  
3 fifteen thousand dollars for each violation, not to exceed an  
4 aggregate penalty of one hundred fifty thousand dollars.

5 Sec. 503. Section 68-931, Revised Statutes Cumulative  
6 Supplement, 2006, is amended to read:

7 68-931 The Department of Health and Human Services  
8 Finance and Support system is authorized to recover all amounts  
9 paid or to be paid to state benefit programs as a result of failure  
10 to coordinate benefits by a licensed insurer or a self-funded  
11 insurer.

12 Sec. 504. Section 68-932, Revised Statutes Cumulative  
13 Supplement, 2006, is amended to read:

14 68-932 The Department of Health and Human Services  
15 Finance and Support system shall establish a process by rule and  
16 regulation for resolving any violation by a self-funded insurer of  
17 section 68-928 and for assessing the financial penalties contained  
18 in section 68-930. Any appeal of an action by the ~~department~~ system  
19 under such policies shall be in accordance with the Administrative  
20 Procedure Act.

21 Sec. 505. Section 68-937, Revised Statutes Cumulative  
22 Supplement, 2006, is amended to read:

23 68-937 A person violates the False Medicaid Claims Act,  
24 and is subject to civil liability as provided in section 68-936,  
25 if such person is a beneficiary of an inadvertent submission of  
26 a false medicaid claim to the state, and subsequently discovers  
27 and, knowing the claim is false, fails to report the claim to

1 the ~~department~~ system within sixty days of such discovery. The  
2 beneficiary is not obliged to make such a report to the ~~department~~  
3 system if more than six years have passed since submission of the  
4 claim.

5 Sec. 506. Section 68-940, Revised Statutes Cumulative  
6 Supplement, 2006, is amended to read:

7 68-940 (1) In determining the amount of any penalties or  
8 damages awarded under the False Medicaid Claims Act, the following  
9 shall be taken into account:

10 (a) The nature of claims and the circumstances under  
11 which they were presented;

12 (b) The degree of culpability and history of prior  
13 offenses of the person presenting the claims;

14 (c) Coordination of the total penalties and damages  
15 arising from the same claims, goods, or services, whether based on  
16 state or federal statute; and

17 (d) Such other matters as justice requires.

18 (2) (a) Any person who presents a false medicaid claim is  
19 subject to civil liability as provided in section 68-936, except  
20 when the court finds that:

21 (i) The person committing the violation of the False  
22 Medicaid Claims Act furnished officials of the state responsible  
23 for investigating violations of the act with all information known  
24 to such person about the violation within thirty days after the  
25 date on which the defendant first obtained the information;

26 (ii) Such person fully cooperated with any state  
27 investigation of such violation; and

1 (iii) At the time such person furnished the state with  
2 the information about the violation, no criminal prosecution, civil  
3 action, or administrative action had commenced under the act with  
4 respect to such violation and the person did not have actual  
5 knowledge of the existence of an investigation into such violation.

6 (b) The court may assess not more than two times the  
7 amount of the false medicaid claims submitted because of the action  
8 of a person coming within the exception under subdivision (2)(a)  
9 of this section, and such person is also liable for the state's  
10 costs and attorney's fees for a civil action brought to recover any  
11 penalty or damages.

12 (3) Amounts recovered under the False Medicaid Claims  
13 Act shall be remitted to the State Treasurer for credit to the  
14 ~~Department of Health and Human Services Cash Fund,~~ Health and Human  
15 Services System Cash Fund, except that the State Treasurer shall  
16 distribute civil penalties in accordance with Article VII, section  
17 5, of the Constitution of Nebraska.

18 Sec. 507. Section 68-942, Revised Statutes Cumulative  
19 Supplement, 2006, is amended to read:

20 68-942 (1) In any case involving allegations of civil  
21 violations or criminal offenses under the False Medicaid Claims  
22 Act, the Attorney General may take full charge of any investigation  
23 or advancement or prosecution of the case.

24 (2) The ~~department~~ system shall cooperate with the state  
25 medicaid fraud control unit in conducting such investigations,  
26 civil actions, and criminal prosecutions and shall provide such  
27 information for such purposes as may be requested by the Attorney

1 General.

2           Sec. 508. Section 68-945, Revised Statutes Cumulative  
3 Supplement, 2006, is amended to read:

4           68-945 In carrying out the duties and responsibilities  
5 under the False Medicaid Claims Act, the Attorney General may:

6           (1) Enter upon the premises of any provider participating  
7 in the medical assistance program (a) to examine all accounts  
8 and records that are relevant in determining the existence of  
9 fraud in the medical assistance program, (b) to investigate  
10 alleged abuse or neglect of patients, or (c) to investigate  
11 alleged misappropriation of patients' private funds. The accounts  
12 or records of a nonmedicaid patient may not be reviewed by, or  
13 turned over to, the Attorney General without the patient's written  
14 consent or a court order;

15           (2) Subpoena witnesses or materials, including medical  
16 records relating to recipients, within or outside the state  
17 and, through any duly designated employee, administer oaths and  
18 affirmations and collect evidence for possible use in either civil  
19 or criminal judicial proceedings;

20           (3) Request and receive the assistance of any prosecutor  
21 or law enforcement agency in the investigation and prosecution of  
22 any violation of this section; and

23           (4) Refer to the ~~department~~ system for collection each  
24 instance of overpayment to a provider under the medical assistance  
25 program which is discovered during the course of an investigation.

26           Sec. 509. Section 68-946, Revised Statutes Cumulative  
27 Supplement, 2006, is amended to read:

1           68-946 (1) Notwithstanding any other provision of law,  
2 the Attorney General, upon reasonable request, shall have full  
3 access to all records held by a provider, or by any other person on  
4 his or her behalf, that are relevant to the determination of (a)  
5 the existence of civil violations or criminal offenses under the  
6 False Medicaid Claims Act or related offenses, (b) the existence  
7 of patient abuse, mistreatment, or neglect, or (c) the theft of  
8 patient funds.

9           (2) In examining such records, the Attorney General shall  
10 safeguard the privacy rights of recipients, avoiding unnecessary  
11 disclosure of personal information concerning named recipients.  
12 The Attorney General may transmit such information as he or she  
13 deems appropriate to the ~~department~~ system and to other agencies  
14 concerned with the regulation of health care facilities or health  
15 professionals.

16           (3) No person holding such records may refuse to provide  
17 the Attorney General access to such records for the purposes  
18 described in the act on the basis that release would violate (a) a  
19 recipient's right of privacy, (b) a recipient's privilege against  
20 disclosure or use, or (c) any professional or other privilege or  
21 right.

22           Sec. 510. Section 68-948, Revised Statutes Cumulative  
23 Supplement, 2006, is amended to read:

24           68-948 (1) The Medicaid Reform Council is established.  
25 The council shall consist of ten persons appointed by the  
26 chairperson of the committee, in consultation with the committee,  
27 the Governor, and the director. The council shall include,



1 but not be limited to, at least one representative from each  
2 of the following: Providers, recipients of medical assistance,  
3 advocates for such recipients, business representatives, insurers,  
4 and elected officials. The chairperson of the committee shall  
5 appoint the chairperson of the council. Members of the council may  
6 be reimbursed for their actual and necessary expenses as provided  
7 in sections 81-1174 to 81-1177.

8 (2) The council shall (a) oversee and support  
9 implementation of reforms to the medical assistance program,  
10 including, but not limited to, reforms such as those contained in  
11 the Medicaid Reform Plan, (b) conduct at least two public meetings  
12 annually and other meetings at the call of the chairperson of the  
13 council, in consultation with the director and the chairperson of  
14 the committee, and (c) provide comments and recommendations to  
15 the ~~department~~ system regarding the administration of the medical  
16 assistance program and any proposed changes to such program.

17 (3) The Medicaid Reform Council and this section  
18 terminate on June 30, 2010.

19 Sec. 511. Section 68-949, Revised Statutes Cumulative  
20 Supplement, 2006, is amended to read:

21 68-949 (1) It is the intent of the Legislature  
22 that the ~~department~~ system implement reforms to the medical  
23 assistance program such as those contained in the Medicaid  
24 Reform Plan, including (a) an incremental expansion of home  
25 and community-based services for aged persons and persons with  
26 disabilities consistent with such plan, (b) an increase in care  
27 coordination or disease management initiatives to better manage

1 medical assistance expenditures on behalf of high-cost recipients  
2 with multiple or chronic medical conditions, and (c) other reforms  
3 as deemed necessary and appropriate by the ~~department~~, system, in  
4 consultation with the committee and the Medicaid Reform Council.

5 (2) (a) The ~~department~~ system shall develop  
6 recommendations relating to the provision of health care and  
7 related services for medicaid-eligible children under the state  
8 children's health insurance program as allowed under Title XIX  
9 and Title XXI of the federal Social Security Act. Such study  
10 and recommendations shall include, but not be limited to, the  
11 organization and administration of such program, the establishment  
12 of premiums, copayments, and deductibles under such program, and  
13 the establishment of limits on the amount, scope, and duration of  
14 services offered to recipients under such program.

15 (b) The ~~department~~ system shall provide a draft report  
16 of such recommendations to the committee and the Medicaid Reform  
17 Council no later than October 1, 2007. The council shall conduct  
18 a public meeting no later than October 15, 2007, to discuss and  
19 receive public comment regarding such report. The council shall  
20 provide any comments and recommendations regarding such report in  
21 writing to the director and the committee no later than November 1,  
22 2007. The ~~department~~ system shall provide a final report of such  
23 recommendations to the Governor, the committee, and the council no  
24 later than December 1, 2007.

25 (3) (a) The ~~department~~ system shall develop  
26 recommendations for further modification or replacement of the  
27 defined benefit structure of the medical assistance program. Such

1 recommendations shall be consistent with the public policy in  
2 section 68-905 and shall consider the needs and resources of  
3 low-income Nebraska residents who are eligible or may become  
4 eligible for medical assistance, the experience and outcomes of  
5 other states that have developed and implemented such changes, and  
6 other relevant factors as determined by the ~~department~~ system.

7 (b) The ~~department~~ system shall provide a draft report  
8 of such recommendations to the committee and the Medicaid Reform  
9 Council no later than October 1, 2008. The council shall conduct  
10 a public meeting no later than October 15, 2008, to discuss and  
11 receive public comment regarding such report. The council shall  
12 provide any comments and recommendations regarding such report in  
13 writing to the director and the committee no later than November 1,  
14 2008. The ~~department~~ system shall provide a final report of such  
15 recommendations to the Governor, the committee, and the council no  
16 later than December 1, 2008.

17 Sec. 512. Section 68-1001, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 68-1001 There is hereby established in and for the State  
20 of Nebraska a program to be known as assistance to the aged,  
21 blind, or disabled, which assistance shall be administered by the  
22 ~~Department of Health and Human Services~~. Health and Human Services  
23 System. Such assistance shall consist of money payments to, medical  
24 care in behalf of, or any type of remedial care in behalf of needy  
25 individuals.

26 Sec. 513. Section 68-1001.01, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

1           68-1001.01 For the purpose of adding to the security and  
2 social adjustment of former and potential recipients of assistance  
3 to the aged, blind, and disabled, and of medical assistance, the  
4 ~~Director of Health and Human Services~~ Health and Human Services  
5 System is authorized to promulgate rules and regulations providing  
6 for services to such persons.

7           Sec. 514. Section 68-1002, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           68-1002 In order to qualify for assistance to the aged,  
10 blind, or disabled, an individual:

11           (1) Must be a bona fide resident of the State of  
12 Nebraska, except that a resident of another state who enters the  
13 State of Nebraska solely for the purpose of receiving care in  
14 a home licensed by the ~~Department of Health and Human Services~~  
15 Regulation and Licensure Health and Human Services System shall not  
16 be deemed to be a bona fide resident of Nebraska while such care is  
17 being provided;

18           (2) ~~Is not~~ Shall not be receiving care or services as an  
19 inmate of a public institution, except as a patient in a medical  
20 institution, and if the individual is a patient in an institution  
21 for tuberculosis or mental diseases he or she has attained the age  
22 of sixty-five years;

23           (3) ~~Has not~~ Shall not have deprived himself or herself  
24 directly or indirectly of any property whatsoever for the purpose  
25 of qualifying for assistance to the aged, blind, or disabled;

26           (4) May receive care in a public or private institution  
27 only if such institution is subject to a state authority or

1 authorities which shall be responsible for establishing and  
2 maintaining standards for such institutions; and

3 (5) Must be in need of shelter, maintenance, or medical  
4 care.

5 Sec. 515. Section 68-1005, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 68-1005 In order to qualify for assistance to the  
8 disabled, an individual shall, in addition to the requirements  
9 set forth in section 68-1002, be considered to be disabled  
10 if he or she is unable to engage in any substantial gainful  
11 activity by reason of any medically determinable physical or  
12 mental impairment which can be expected to result in death or  
13 which has lasted or can be expected to last for a continuous  
14 period of not less than one hundred eighty days or, in the case  
15 of a child under eighteen years of age, if he or she suffers  
16 from any medically determinable physical or mental impairment of  
17 comparable severity. In determining eligibility for assistance to  
18 the disabled, the ~~Department of Health and Human Services~~ Health  
19 and Human Services System may adopt the determination of the Social  
20 Security Administration that an individual is or is not disabled  
21 for the purposes of the federal programs of Supplemental Security  
22 Income or Old Age Survivors' and Disability Insurance, except  
23 that if the Social Security Administration has denied benefits to  
24 an individual on the basis of the duration of the individual's  
25 disability, the ~~department~~ system shall perform an independent  
26 medical review of such individual's disability.

27 Sec. 516. Section 68-1006.01, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           68-1006.01 The ~~Department of Health and Human Services~~  
3 Health and Human Services System shall include in the standard of  
4 need for eligible aged, blind, and disabled persons at least fifty  
5 dollars per month for a personal needs allowance if such persons  
6 reside in an alternative living arrangement.

7           For purposes of this section, an alternative living  
8 arrangement shall include board and room, a boarding home, a  
9 certified adult family home, a licensed assisted-living facility, a  
10 licensed group home for children or child-caring agency, a licensed  
11 center for the developmentally disabled, and a long-term care  
12 facility.

13           Sec. 517. Section 68-1007, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15           68-1007 In determining need for assistance to the aged,  
16 blind, or disabled, the ~~Director of Health and Human Services~~  
17 Health and Human Services System shall take into consideration  
18 all other income and resources of the individual claiming such  
19 assistance, as well as any expenses reasonably attributable to  
20 the earning of any such income, except as otherwise provided in  
21 this section. In making such determination with respect to any  
22 individual who is blind, there shall be disregarded the first  
23 eighty-five dollars per month of earned income plus one-half of  
24 earned income in excess of eighty-five dollars per month and, for a  
25 period not in excess of twelve months, such additional amounts of  
26 other income and resources, in the case of an individual who has  
27 an approved plan for achieving self-support, as may be necessary

1 for the fulfillment of such plan. In making such determination with  
2 respect to an individual who has attained age sixty-five, or who  
3 is permanently and totally disabled, and is claiming aid to the  
4 aged, blind, or disabled, the ~~Director of Health and Human Services~~  
5 system shall disregard earned income at least to the extent such  
6 income was disregarded on January 1, 1972, as provided in 42 U.S.C.  
7 1396 a(f).

8           Sec. 518. Section 68-1008, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           68-1008 Upon the filing of an application for assistance  
11 to the aged, blind, or disabled, the ~~Department of Health and~~  
12 ~~Human Services,~~ the Department of Health and Human Services  
13 ~~Regulation and Licensure,~~ and the Department of Health and  
14 ~~Human Services Finance and Support~~ Health and Human Services  
15 System shall make such investigation as it deems necessary to  
16 determine the circumstances existing in each case. Each applicant  
17 and recipient shall be notified in writing as to (1) the approval  
18 or disapproval of any application, (2) the amount of payments  
19 awarded, (3) any change in the amount of payments awarded, and (4)  
20 the discontinuance of payments.

21           Sec. 519. Section 68-1014, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23           68-1014 If any guardian or conservator shall have been  
24 appointed to take charge of the property of any recipient of  
25 assistance to the aged, blind, or disabled, aid to dependent  
26 children, or medical assistance, such assistance payments shall be  
27 made to the guardian or conservator upon his or her filing with

1 the ~~Director of Health and Human Services~~ Health and Human Services  
2 System a certified copy of his or her letters of guardianship or  
3 conservatorship.

4 Sec. 520. Section 68-1015, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 68-1015 For the purpose of any investigation or hearing,  
7 the ~~Director of Health and Human Services,~~ the Director of  
8 ~~Regulation and Licensure,~~ and the Director of Finance and Support,  
9 chief executive officer of the Health and Human Services System and  
10 the department directors appointed pursuant to section 6 of this  
11 act, through his or her authorized agents, shall have the power to  
12 compel, by subpoena, the attendance and testimony of witnesses and  
13 the production of books and papers. Witnesses may be examined on  
14 oath or affirmation.

15 Sec. 521. Section 68-1016, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 68-1016 The ~~Director of Health and Human Services~~ chief  
18 executive officer of the Health and Human Services System, or his  
19 or her designated representative, shall provide for granting an  
20 opportunity for a fair hearing before the Department of Health  
21 and Human Services to any individual whose claim for assistance to  
22 the aged, blind, or disabled, aid to dependent children, emergency  
23 assistance, medical assistance, commodities, or food stamp benefits  
24 is denied, is not granted in full, or is not acted upon with  
25 reasonable promptness. An appeal shall be taken by filing with the  
26 ~~director~~ system a written notice of appeal setting forth the facts  
27 on which the appeal is based. The ~~director~~ system shall thereupon,



1 in writing, notify the appellant of the time and place for hearing  
2 which shall be not less than one week nor more than six weeks from  
3 the date of such notice. Hearings shall be before the ~~director or~~  
4 ~~his or her~~ duly authorized agent of the system. On the basis of  
5 evidence adduced, the ~~director~~ duly authorized agent shall enter a  
6 final order on such appeal, which order shall be transmitted to the  
7 appellant.

8           Sec. 522. Section 68-1017, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           68-1017 Any person, including vendors and providers  
11 of medical assistance and social services, who, by means of a  
12 willfully false statement or representation, or by impersonation  
13 or other device, obtains or attempts to obtain, or aids or abets  
14 any person to obtain or to attempt to obtain (1) an assistance  
15 certificate of award to which he or she is not entitled, (2)  
16 any commodity, any foodstuff, any food coupon, any food stamp  
17 coupon, electronic benefit, or electronic benefit card, or any  
18 payment to which such individual is not entitled or a larger  
19 payment than that to which he or she is entitled, (3) any payment  
20 made on behalf of a recipient of medical assistance or social  
21 services, or (4) any other benefit administered by the ~~Department~~  
22 ~~of Health and Human Services or the Department of Health and Human~~  
23 ~~Services Finance and Support,~~ Health and Human Services System,  
24 or who violates any statutory provision relating to assistance to  
25 the aged, blind, or disabled, aid to dependent children, social  
26 services, or medical assistance, commits an offense and shall upon  
27 conviction be punished as follows: (a) If the aggregate value of

1 all funds or other benefits obtained or attempted to be obtained is  
2 less than five hundred dollars, the person so convicted shall be  
3 guilty of a Class III misdemeanor; or (b) if the aggregate value of  
4 all funds and other benefits obtained or attempted to be obtained  
5 is five hundred dollars or more, the person so convicted shall be  
6 guilty of a Class IV felony.

7 Sec. 523. Section 68-1095.01, Revised Statutes Cumulative  
8 Supplement, 2006, is amended to read:

9 68-1095.01 The Long-Term Care Partnership Program is  
10 established. The program shall be administered by the ~~Department~~  
11 ~~of Health and Human Services Finance and Support~~ Health and Human  
12 Services System in accordance with federal requirements on state  
13 long-term care partnership programs. In order to implement the  
14 program, the ~~department~~ system shall file a state plan amendment  
15 with the federal Centers for Medicare and Medicaid Services  
16 pursuant to the requirements set forth in 42 U.S.C. 1396p(b),  
17 as such section existed on March 1, 2006.

18 Sec. 524. Section 68-1101, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 68-1101 The ~~Department of Health and Human Services~~  
21 Department of Medicaid and Long-Term Care Advisory Committee on  
22 Aging is created. The committee shall consist of twelve members,  
23 one from each of the planning-and-service areas as designated in  
24 the Nebraska Community Aging Services Act and the remaining members  
25 from the state at large.

26 Any member serving on the ~~Department on Aging~~ Department  
27 of Medicaid and Long-Term Care Advisory Committee on Aging on

1 ~~January 1, 1997,~~ July 1, 2007, shall continue to serve until his  
2 or her term expires. As the terms of the members expire, the  
3 Governor shall, on or before March 1 of such year, appoint or  
4 reappoint a member of the committee for a term of four years. Each  
5 area agency on aging serving a designated planning-and-service area  
6 shall recommend to the Governor the names of persons qualified to  
7 represent the senior population of the planning-and-service area.  
8 Any vacancy on the committee shall be filled for the unexpired  
9 term. A vacancy shall exist when a member of the committee ceases  
10 to be a resident of the planning-and-service area from which he  
11 or she was appointed or reappointed. The members to be appointed  
12 to represent a planning-and-service area shall be residents of the  
13 planning-and-service area from which they are appointed. Members  
14 of the advisory committee shall not be elected public officials or  
15 staff of the ~~Department of Health and Human Services~~ Health and  
16 Human Services System or of an area agency on aging.

17           Sec. 525. Section 68-1103, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           68-1103 Members of the ~~Department of Health and Human~~  
20 ~~Services~~ Health and Human Services System Advisory Committee on  
21 Aging shall meet within thirty days after their appointment to  
22 select from the members of the committee a chairperson, and such  
23 other officers as committee members deem necessary, who shall  
24 serve for a period of two years. The committee shall elect a new  
25 chairperson every two years thereafter. The committee shall meet  
26 at regular intervals at least once each year and may hold special  
27 meetings at the call of the chairperson or at the request of a

1 majority of the members of the committee. The committee shall meet  
2 at the seat of government or such other place as the members of the  
3 committee may designate.

4 Sec. 526. Section 68-1104, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 68-1104 The ~~Department of Health and Human Services~~  
7 Department of Medicaid and Long-Term Care Advisory Committee on  
8 Aging shall advise the ~~Department of Health and Human Services~~  
9 system regarding:

10 (1) The collection of facts and statistics and special  
11 studies of conditions and problems pertaining to the employment,  
12 health, financial status, recreation, social adjustment, or other  
13 conditions and problems pertaining to the general welfare of the  
14 aging of the state;

15 (2) Recommendations to state and local agencies serving  
16 the aging for purposes of coordinating such agencies' activities,  
17 and reports from the various state agencies and institutions on  
18 matters within the jurisdiction of the committee;

19 (3) The latest developments of research, studies, and  
20 programs being conducted throughout the nation on the problems and  
21 needs of the aging;

22 (4) The mutual exchange of ideas and information on the  
23 aging between federal, state, and local governmental agencies,  
24 private organizations, and individuals; and

25 (5) Cooperation with agencies, federal, state, and  
26 local or private organizations, in administering and supervising  
27 demonstration programs of services for aging designed to foster

1 continued participation of older people in family and community  
2 life and to prevent insofar as possible the onset of dependency and  
3 the need for long-term institutional care.

4 The committee shall have the power to create special  
5 committees to undertake such special studies as members of the  
6 committee shall authorize and may include noncommittee members who  
7 are qualified in any field of activity related to the general  
8 welfare of the aging in the membership of such committees.

9 Sec. 527. Section 68-1105, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 68-1105 The members of the ~~Department of Health and~~  
12 ~~Human Services Department of Medicaid and Long-Term Care~~ Advisory  
13 Committee on Aging, and noncommittee members serving on special  
14 committees, shall receive no compensation for their services other  
15 than reimbursement for actual and necessary expenses as provided  
16 in sections 81-1174 to 81-1177. Committee expenses and any office  
17 expenses shall be paid from funds made available to the committee  
18 by the Legislature.

19 Sec. 528. Section 68-1204, Revised Statutes Cumulative  
20 Supplement, 2006, is amended to read:

21 68-1204 (1) For the purpose of providing or purchasing  
22 social services described in section 68-1202, the state hereby  
23 accepts and assents to all applicable provisions of the federal  
24 Social Security Act, as such act existed on July 1, 2006. The  
25 ~~Director of Health and Human Services and the Director of Finance~~  
26 ~~and Support~~ Health and Human Services System may each adopt and  
27 promulgate rules and regulations, enter into agreements, and adopt

1 fee schedules with regard to social services described in section  
2 68-1202.

3 (2) ~~The Department of Health and Human Services~~ Health  
4 and Human Services System shall adopt and promulgate rules and  
5 regulations to administer funds under Title XX of the federal  
6 Social Security Act, as such title existed on July 1, 2006,  
7 designated for specialized developmental disability services.

8 Sec. 529. Section 68-1205, Revised Statutes Cumulative  
9 Supplement, 2006, is amended to read:

10 68-1205 The matching funds required to obtain the federal  
11 share of the services described in section 68-1202 may come from  
12 either state, county, or donated sources in amounts and other  
13 provisions to be determined by the ~~Director of Health and Human~~  
14 ~~Services or the Director of Finance and Support.~~ Health and Human  
15 Services System.

16 Sec. 530. Section 68-1206, Revised Statutes Cumulative  
17 Supplement, 2006, is amended to read:

18 68-1206 (1) ~~The Director of Health and Human Services~~  
19 ~~and the Director of Finance and Support~~ Health and Human Services  
20 System shall administer the program of social services in this  
21 state. ~~The Department of Health and Human Services and the~~  
22 ~~Department of Health and Human Services Finance and Support~~ system  
23 may contract with other social agencies for the purchase of social  
24 services at rates not to exceed those prevailing in the state  
25 or the cost at which the ~~departments~~ system could provide those  
26 services. The statutory maximum payments for the separate program  
27 of aid to dependent children shall apply only to public assistance

1 grants and shall not apply to payments for social services.

2 (2) In determining the rate or rates to be paid by the  
3 ~~Department of Health and Human Services~~ Health and Human Services  
4 System for child care as defined in section 43-2605, the ~~Director~~  
5 ~~of Health and Human Services~~ system shall adopt a fixed-rate  
6 schedule for the state or a fixed-rate schedule for an area of the  
7 state applicable to each child care program category of provider  
8 as defined in section 71-1910 which may claim reimbursement for  
9 services provided by the federal Child Care Subsidy program, except  
10 that the ~~department~~ system shall not pay a rate higher than  
11 that charged by an individual provider to that provider's private  
12 clients. The schedule may provide separate rates for care for  
13 infants, for children with special needs, including disabilities  
14 or technological dependence, or for other individual categories of  
15 children. The schedule shall be effective on October 1 of every  
16 year and shall be revised annually by the ~~Director of Health and~~  
17 ~~Human Services.~~ system.

18 Sec. 531. Section 68-1207, Revised Statutes Cumulative  
19 Supplement, 2006, is amended to read:

20 68-1207 The ~~Director of Health and Human Services~~ Health  
21 and Human Services System shall supervise all public child welfare  
22 services as described by law. The ~~director~~ system shall establish  
23 and maintain caseloads to carry out child welfare services  
24 which provide for adequate, timely, and indepth investigations  
25 and services to children and families. In establishing the  
26 standards for such caseloads, the ~~director~~ system shall (1)  
27 include the workload factors that may differ due to geographic

1 responsibilities, office location, and the travel required to  
2 provide a timely response in the investigation of abuse and  
3 neglect, the protection of children, and the provision of services  
4 to children and families in a uniform and consistent statewide  
5 manner and (2) consider workload standards recommended by national  
6 child welfare organizations and factors related to the attainment  
7 of such standards. The ~~director~~ system shall consult with the  
8 appropriate employee representative in establishing such standards.

9           To carry out the provisions of this section, the  
10 Legislature shall provide funds for additional staff.

11           Sec. 532. Section 68-1207.01, Revised Statutes Cumulative  
12 Supplement, 2006, is amended to read:

13           68-1207.01 The ~~Director of Health and Human Services~~  
14 Health and Human Services System shall annually provide a report  
15 to the Legislature and Governor outlining the caseloads of child  
16 protective services, the factors considered in their establishment,  
17 and the fiscal resources necessary for their maintenance. Such  
18 report shall include:

19           (1) A comparison of caseloads established by the ~~director~~  
20 system with the workload standards recommended by national child  
21 welfare organizations along with the amount of fiscal resources  
22 necessary to maintain such caseloads in Nebraska;

23           (2) (a) The number of child welfare services caseworkers  
24 and case managers employed by the State of Nebraska and child  
25 welfare services workers, providing services directly to children  
26 and families, who are under contract with the State of Nebraska  
27 or employed by a private entity under contract with the State of



1 Nebraska and (b) statistics on the average length of employment in  
2 such positions, statewide and by health and human services area;

3 (3) (a) The average caseload of child welfare services  
4 caseworkers and case managers employed by the State of Nebraska  
5 and child welfare services workers, providing services directly to  
6 children and families, who are under contract with the State of  
7 Nebraska or employed by a private entity under contract with the  
8 State of Nebraska and (b) the outcomes of such cases, including  
9 the number of children reunited with their families, children  
10 adopted, children in guardianships, placement of children with  
11 relatives, and other permanent resolutions established, statewide  
12 and by health and human services area; and

13 (4) The average cost of training child welfare services  
14 caseworkers and case managers employed by the State of Nebraska  
15 and child welfare services workers, providing services directly to  
16 children and families, who are under contract with the State of  
17 Nebraska or employed by a private entity under contract with the  
18 State of Nebraska, statewide and by health and human services area.

19 Sec. 533. Section 68-1210, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 68-1210 Notwithstanding any other provision of law, the  
22 ~~Director of Health and Human Services~~ Health and Human Services  
23 System shall have the authority through rule or regulation to  
24 establish payment rates for children with special needs who are  
25 in foster care and in the custody of the ~~Department of Health and~~  
26 ~~Human Services.~~ system.

27 Sec. 534. Section 68-1402, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2           68-1402 The ~~Director of Finance and Support~~ Health and  
3 Human Services System shall establish and administer a program  
4 for the medical care of persons of all ages with genetically  
5 handicapping conditions, including cystic fibrosis, hemophilia, and  
6 sickle cell disease, through physicians and health care providers  
7 that are qualified pursuant to the regulations of the ~~Department~~  
8 ~~of Health and Human Services Finance and Support~~ system to provide  
9 such medical services. The ~~director~~ system shall adopt such rules  
10 and regulations pursuant to the Administrative Procedure Act, as  
11 are necessary for the implementation of the provisions of the  
12 Genetically Handicapped Persons Act. The ~~director~~ system shall  
13 establish priorities for the use of funds and provision of services  
14 under the Genetically Handicapped Persons Act.

15           Sec. 535. Section 68-1403, Revised Statutes Cumulative  
16 Supplement, 2006, is amended to read:

17           68-1403 The program established under the Genetically  
18 Handicapped Persons Act, which shall be under the supervision of  
19 the ~~Department of Health and Human Services Finance and Support,~~  
20 Health and Human Services System, shall include any or all of the  
21 following:

- 22           (1) Initial intake and diagnostic evaluation;
- 23           (2) The cost of blood transfusion and use of blood  
24 derivatives, or both;
- 25           (3) Rehabilitation services, including reconstructive  
26 surgery;
- 27           (4) Expert diagnosis;

- 1 (5) Medical treatment;
- 2 (6) Surgical treatment;
- 3 (7) Hospital care;
- 4 (8) Physical therapy;
- 5 (9) Occupational therapy;
- 6 (10) Materials and prescription drugs;
- 7 (11) Appliances and their upkeep, maintenance, and care;
- 8 (12) Maintenance, transportation, or care incidental to
- 9 any other form of services; and
- 10 (13) Appropriate and sufficient staff to carry out the
- 11 provisions of the Genetically Handicapped Persons Act.

12 Sec. 536. Section 68-1405, Revised Statutes Cumulative  
13 Supplement, 2006, is amended to read:

14 68-1405 The Department of Health and Human Services  
15 ~~Finance and Support~~ Health and Human Services System shall  
16 establish uniform standards of financial eligibility for the  
17 treatment services under the program established under the  
18 Genetically Handicapped Persons Act, including a uniform formula  
19 for the payment of services by physicians and health care providers  
20 rendered under such program and such formula for payment shall  
21 provide for reimbursement at rates similar to those set by other  
22 federal and state programs, and private entitlements. The standards  
23 of the ~~department~~ system for financial eligibility shall be the  
24 same as those established for Medically Handicapped Children's  
25 Services, as administered by the ~~department.~~ system. All county or  
26 district health departments shall use the uniform standards for  
27 financial eligibility and uniform formula for payment established

1 by the ~~department~~, system. All payments shall be used in support of  
2 the program for services established under the act.

3 The ~~department~~ system shall establish payment schedules  
4 for services.

5 Sec. 537. Section 68-1503, Revised Statutes Cumulative  
6 Supplement, 2006, is amended to read:

7 68-1503 For purposes of the Disabled Persons and Family  
8 Support Act:

9 ~~(1) Department means the Department of Health and Human~~  
10 ~~Services Finance and Support;~~

11 ~~(2)~~ (1) Disabled family member or disabled person means a  
12 person who has a medically determinable severe, chronic disability  
13 which:

14 (a) Is attributable to a mental or physical impairment or  
15 combination of mental and physical impairments;

16 (b) Is likely to continue indefinitely;

17 (c) Results in substantial functional limitations in  
18 two or more of the following areas of major life activity: (i)  
19 Self-care, (ii) receptive and expressive language, (iii) learning,  
20 (iv) mobility, (v) self-direction, (vi) capacity for independent  
21 living, (vii) work skills or work tolerance, and (viii) economic  
22 sufficiency; and

23 (d) Reflects the person's need for a combination and  
24 sequence of special, interdisciplinary, or generic care, treatment,  
25 vocational rehabilitation, or other services which are of lifelong  
26 or extended duration and are individually planned and coordinated;  
27 and

1           ~~(3)~~ (2) Other support programs means all forms of local,  
2 state, or federal assistance, grants-in-aid, educational programs,  
3 or support provided by public or private funds for disabled persons  
4 or their families; and -

5           (3) System means the Health and Human Services System.

6           Sec. 538. Section 68-1504, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           68-1504 The ~~department~~ system may provide support to  
9 families providing for a disabled member in the home and to  
10 disabled persons in independent living situations. Such support may  
11 be made available to compensate for present and future expenses,  
12 including, but not limited to:

13           (1) The purchase or lease of special equipment or  
14 architectural modifications of a home made to improve or facilitate  
15 the care, treatment, therapy, general living conditions, or access  
16 of the disabled person;

17           (2) Medical, surgical, therapeutic, diagnostic, and other  
18 health services related to the disability or disabilities of the  
19 disabled person;

20           (3) Counseling or training programs which assist the  
21 family in providing proper care for the disabled family member  
22 or assist the disabled person in an independent living situation  
23 and which provide for the special needs of the family or disabled  
24 person;

25           (4) Attendant care, respite care, home health aid  
26 services, homemaker services, and chore services which provide  
27 assistance with training, routine body functions, dressing,

1 preparation, consumption of food, and ambulation as well as  
2 providing respite assistance to the family;

3 (5) Transportation services for the disabled person; and

4 (6) Transportation, room, and board costs incurred by  
5 the family or disabled person during evaluations or treatment of  
6 the disabled family member which receive prior approval from the  
7 ~~department.~~ system.

8 Sec. 539. Section 68-1507, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 68-1507 The determination of disability and the need for  
11 programs and services shall be supported by current program plans,  
12 evaluations, and medical reports which shall be provided to the  
13 ~~department~~ system upon request. The ~~department~~ system may decide  
14 that additional evaluations of the disabled person are necessary to  
15 determine eligibility or the need for programs and services. Such  
16 additional evaluations shall be provided by the ~~department.~~ system.

17 Sec. 540. Section 68-1508, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 68-1508 The ~~department~~ system may allocate costs for  
20 programs and services between the ~~department~~ system and the  
21 family or the disabled person in an independent living situation.  
22 Such cost allocation shall be based on the need for support  
23 pursuant to sections 68-1501 to 68-1519 and shall not be based on  
24 income guidelines or fee schedules established for other programs  
25 administered by the ~~department.~~ system.

26 Sec. 541. Section 68-1509, Revised Statutes Cumulative  
27 Supplement, 2006, is amended to read:

1           68-1509 The ~~department,~~ system, in considering the needs  
2 and eligibility criteria of families and disabled persons, shall  
3 consider various factors, including, but not limited to:

4           (1) Total family income, except that the amount which  
5 the spouse may designate as provided in section 68-922 shall be  
6 excluded in determining total family income per month;

7           (2) The cost of providing supplemental services to the  
8 family or the disabled person;

9           (3) The need for each program or service received by the  
10 family or the disabled person;

11           (4) The eligibility of the family or the disabled person  
12 for other support programs;

13           (5) The costs of providing for the family or the disabled  
14 person in an independent living situation, notwithstanding the  
15 special circumstances of providing for a disabled person;

16           (6) The number of persons in the family; and

17           (7) The availability of insurance to cover the cost of  
18 needed programs and services.

19           If assets have been designated for an individual in  
20 accordance with section 68-922, such assets shall not be considered  
21 in determining the eligibility for support of the individual's  
22 disabled spouse.

23           Sec. 542. Section 68-1510, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           68-1510 The support available under sections 68-1501 to  
26 68-1519 shall be supplemental to other support programs for which  
27 the family or disabled person is eligible and is not intended

1 to reduce the responsibility for the provision of services and  
2 support by such other programs. The ~~department~~ system shall (1)  
3 determine whether any request under sections 68-1501 to 68-1519  
4 is appropriate to and available from other support programs, (2)  
5 deny any request if the requested assistance is appropriate to and  
6 available from other support programs, and (3) provide information  
7 and referral to all families and disabled persons whose request for  
8 assistance was denied pursuant to this section on the procedure for  
9 applying for other appropriate and available support programs.

10           Sec. 543. Section 68-1511, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           68-1511 The ~~department~~ system may, by agreement with  
13 the head of the family or disabled person, provide support  
14 pursuant to sections 68-1501 to 68-1519 (1) directly to the  
15 family or the disabled person, or (2) directly to qualified  
16 programs and services. The ~~department~~ system shall assist each  
17 family or disabled person receiving support under sections 68-1501  
18 to 68-1519 in locating qualified programs and services. The family  
19 or the disabled person may be required to be responsible for  
20 contracting for those programs and services which the ~~department~~  
21 system approves and shall furnish the ~~department~~ system a copy of  
22 each contract. The family or the disabled person may compensate  
23 the providers of such programs and services directly. Providers  
24 of programs and services shall be required to comply with all  
25 standards established by the ~~department~~ system for participation  
26 pursuant to sections 68-1501 to 68-1519.

27           Sec. 544. Section 68-1512, Reissue Revised Statutes of



1 Nebraska, is amended to read:

2           68-1512 The maximum support allowable under sections  
3 68-1501 to 68-1519 shall be (1) three hundred dollars per month  
4 per disabled person averaged over any one-year period or (2) three  
5 hundred dollars per month per family averaged over any one-year  
6 period for the first disabled family member plus one hundred  
7 fifty dollars per month averaged over any one-year period for  
8 each additional disabled family member. The ~~department~~ system shall  
9 not provide support, pursuant to sections 68-1501 to 68-1519, to  
10 any family or disabled person whose gross income less the cost  
11 of medical or other care specifically related to the disability  
12 exceeds the median family income for a family of four in Nebraska,  
13 except that the ~~department~~ system shall make adjustments for the  
14 actual size of the family.

15           Sec. 545. Section 68-1513, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17           68-1513 The ~~department~~ system shall review the needs  
18 of each family or disabled person receiving support under  
19 sections 68-1501 to 68-1519 on a regular basis, as established  
20 by the ~~department~~, system, or upon the showing of a change of  
21 circumstances by the head of the family.

22           Sec. 546. Section 68-1514, Revised Statutes Cumulative  
23 Supplement, 2006, is amended to read:

24           68-1514 The ~~Director of Finance and Support~~ chief  
25 executive officer of the system, or his or her designated  
26 representative, shall provide an opportunity for a fair hearing  
27 ~~before the department~~ to any family or disabled person who is

1 denied support pursuant to the Disabled Persons and Family Support  
2 Act.

3 Sec. 547. Section 68-1515, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 68-1515 The ~~department~~ system shall adopt and promulgate  
6 rules and regulations, as necessary, to implement sections 68-1501  
7 to 68-1519, including:

8 (1) Standards and procedures for determining approval  
9 of qualified programs and services to participate under sections  
10 68-1501 to 68-1519;

11 (2) Identification of the need for programs and services  
12 of families providing for a disabled family member in the home or  
13 of disabled persons in an independent living situation;

14 (3) Identification of the need for support to families  
15 and disabled persons and procedures for the provision of support  
16 under sections 68-1501 to 68-1519;

17 (4) Procedures for review of each family or disabled  
18 person receiving support under sections 68-1501 to 68-1519;

19 (5) Procedures and guidelines for determining priorities,  
20 eligibility standards, and eligibility criteria for the selection  
21 of families and disabled persons to participate in programs  
22 pursuant to sections 68-1501 to 68-1519;

23 (6) Procedures and guidelines for determining when  
24 support pursuant to sections 68-1501 to 68-1519 would be a  
25 duplication of support from other support programs or would result  
26 in excessive support to a family or disabled person; and

27 (7) An annual determination of the family income

1 guidelines necessary to carry out the provisions of section  
2 68-1512. Such guidelines shall be based on population, per capita  
3 income, and other data provided by the United States Department of  
4 Commerce, Bureau of the Census.

5 Sec. 548. Section 68-1516, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 68-1516 The ~~department~~ system shall begin providing  
8 support pursuant to sections 68-1501 to 68-1519 on July 1,  
9 1982. From July 1, 1982, to July 1, 1986, the ~~department~~  
10 system shall provide support on a priority basis to families  
11 and disabled persons eligible to receive support pursuant to  
12 sections 68-1501 to 68-1519. The ~~department~~ system shall give  
13 priority to those families providing for a severely or multiple  
14 disabled family member and to severely or multiple disabled persons  
15 in independent living situations. Priority shall also be given to  
16 those families and disabled persons (1) with the greatest need  
17 for support to maintain the disabled person in the family home or  
18 independent living situation, (2) who have the greatest possibility  
19 of maintaining the disabled person in the home or independent  
20 living situation on a continual basis, and (3) who demonstrate that  
21 support pursuant to sections 68-1501 to 68-1519 will provide the  
22 most cost-effective form of care for the disabled person.

23 Sec. 549. Section 68-1517, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 68-1517 The ~~department~~ system may expend funds for the  
26 administration of the Disabled Persons and Family Support Act and  
27 for support pursuant to the act.

1           Sec. 550. Section 68-1518, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           68-1518 The ~~department~~ system shall file an annual report  
4 with the Governor and the Clerk of the Legislature on or before  
5 January 1 of each year beginning January 1, 1983. Such report shall  
6 include:

7           (1) The number of families and disabled persons applying  
8 for support pursuant to sections 68-1501 to 68-1519 and the number  
9 of families and disabled persons receiving support pursuant to  
10 sections 68-1501 to 68-1519;

11           (2) The types of services and programs being applied for  
12 and those being provided through sections 68-1501 to 68-1519;

13           (3) The effects of the support provided under sections  
14 68-1501 to 68-1519 on the disabled and their families; and

15           (4) Any proposals for amendment of sections 68-1501 to  
16 68-1519.

17           Sec. 551. Section 68-1521, Revised Statutes Cumulative  
18 Supplement, 2006, is amended to read:

19           68-1521 For purposes of sections 68-1520 to 68-1528:

20           (1) Caregiver means an individual providing ongoing care  
21 for an individual unable to care for himself or herself;

22           (2) Community lifespan respite services program means a  
23 noncategorical respite services program that:

24           (a) Is operated by a community-based private nonprofit  
25 or for-profit agency or a public agency that provides respite  
26 services;

27           (b) Receives funding through the Nebraska Lifespan

1 Respite Services Program established under section 68-1522;

2 (c) Serves an area in one or more of the six regional  
3 services areas of the ~~department~~; system;

4 (d) Acts as a single local source for respite services  
5 information and referral; and

6 (e) Facilitates access to local respite services;

7 ~~(3) Department means the Department of Health and Human  
8 Services Finance and Support;~~

9 ~~(4) (3) Noncategorical care means care without regard to  
10 the age, type of special needs, or other status of the individual  
11 receiving care;~~

12 ~~(5) (4) Provider means an individual or agency selected  
13 by a family or caregiver to provide respite services to an  
14 individual with special needs;~~

15 ~~(6) (5) Respite care means the provision of short-term  
16 relief to primary caregivers from the demands of ongoing care for  
17 an individual with special needs; and~~

18 ~~(7) (6) Respite services includes:~~

19 (a) Recruiting and screening of paid and unpaid respite  
20 care providers;

21 (b) Identifying local training resources and organizing  
22 training opportunities for respite care providers;

23 (c) Matching of families and caregivers with providers  
24 and other types of respite care;

25 (d) Linking families and caregivers with payment  
26 resources;

27 (e) Identifying, coordinating, and developing community

1 resources for respite services;

2 (f) Quality assurance and evaluation; and

3 (g) Assisting families and caregivers to identify respite  
4 care needs and resources; and -

5 (7) System means the Health and Human Services System.

6 Sec. 552. Section 68-1522, Revised Statutes Cumulative  
7 Supplement, 2006, is amended to read:

8 68-1522 The ~~Director of Finance and Support~~ system shall  
9 establish the Nebraska Lifespan Respite Services Program to develop  
10 and encourage statewide coordination of respite services and to  
11 work with community-based private nonprofit or for-profit agencies,  
12 public agencies, and interested citizen groups in the establishment  
13 of community lifespan respite services programs. The Nebraska  
14 Lifespan Respite Services Program shall:

15 (1) Provide policy and program development support,  
16 including, but not limited to, data collection and outcome  
17 measures;

18 (2) Identify and promote resolution of local and  
19 state-level policy concerns;

20 (3) Provide technical assistance to community lifespan  
21 respite services programs;

22 (4) Develop and distribute respite services information;

23 (5) Promote the exchange of information and coordination  
24 among state and local governments, community lifespan respite  
25 services programs, agencies serving individuals unable to care  
26 for themselves, families, and respite care advocates to encourage  
27 efficient provision of respite services and reduce duplication of

1 effort;

2 (6) Ensure statewide access to community lifespan respite  
3 services programs; and

4 (7) Monitor and evaluate implementation of community  
5 lifespan respite services programs.

6 Sec. 553. Section 68-1523, Revised Statutes Cumulative  
7 Supplement, 2006, is amended to read:

8 68-1523 (1) The ~~department,~~ system, through the  
9 Nebraska Lifespan Respite Services Program, shall coordinate the  
10 establishment of community lifespan respite services programs. The  
11 program shall accept proposals submitted in the form and manner  
12 required by the program from community-based private nonprofit  
13 or for-profit agencies or public agencies that provide respite  
14 services to operate community lifespan respite services programs.  
15 According to criteria established by the ~~department,~~ system, the  
16 Nebraska Lifespan Respite Services Program shall designate and fund  
17 agencies described in this section to operate community lifespan  
18 respite services programs.

19 (2) The ~~Director of Finance and Support~~ system shall  
20 create the position of program specialist for the Nebraska Lifespan  
21 Respite Services Program to administer the program.

22 Sec. 554. Section 68-1526, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 68-1526 The ~~department~~ system shall adopt and promulgate  
25 rules and regulations for the operation and administration of the  
26 Nebraska Lifespan Respite Services Program, including, but not  
27 limited to:

1           (1) Criteria, procedures, and timelines for designation  
2 of the community-based private nonprofit or for-profit agencies  
3 or public agencies that will receive funding to provide respite  
4 services under community lifespan respite services programs;

5           (2) A requirement that each community lifespan respite  
6 services program publicize the telephone number and address where  
7 families and caregivers may contact the program; and

8           (3) Procedures and guidelines for determining priorities,  
9 eligibility standards, and eligibility criteria for the selection  
10 of caregivers to participate in programs funded under the Nebraska  
11 Lifespan Respite Services Program.

12           Sec. 555. Section 68-1527, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           68-1527 The ~~department~~ system shall establish at least  
15 six community lifespan respite services programs in Nebraska on or  
16 before July 1, 2000.

17           Sec. 556. Section 68-1603, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           68-1603 For purposes of the Homeless Shelter Assistance  
20 Trust Fund Act, ~~department shall mean~~ system means the Department  
21 ~~of Health and Human Services.~~ Health and Human Services System.

22           Sec. 557. Section 68-1604, Revised Statutes Cumulative  
23 Supplement, 2006, is amended to read:

24           68-1604 The Homeless Shelter Assistance Trust Fund is  
25 hereby created. The fund shall include the proceeds raised from  
26 the documentary stamp tax and remitted for such fund pursuant to  
27 section 76-903. Money remitted to such fund shall be used by the



1 ~~department~~ system (1) for grants to eligible shelter providers as  
2 set out in section 68-1605 for the purpose of assisting in the  
3 alleviation of homelessness, to provide temporary and permanent  
4 shelters for homeless persons, to encourage the development of  
5 projects which link housing assistance to programs promoting the  
6 concept of self-sufficiency, and to address the needs of the  
7 migrant farmworker and (2) to aid in defraying the expenses of  
8 administering the Homeless Shelter Assistance Trust Fund Act, which  
9 shall not exceed seventy-five thousand dollars in any fiscal year.

10 Any money in the fund available for investment shall be  
11 invested by the state investment officer pursuant to the Nebraska  
12 Capital Expansion Act and the Nebraska State Funds Investment Act.

13 Sec. 558. Section 68-1605, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 68-1605 (1) The ~~department~~ system shall use the funds  
16 in the Homeless Shelter Assistance Trust Fund to finance grants  
17 for projects or programs that provide for persons or families with  
18 special housing needs.

19 (2) Projects and programs to which funds shall  
20 be provided include eligible community, neighborhood-based,  
21 housing-assistance organizations, institutions, associations, and  
22 societies or corporations that:

23 (a) Are exempt from taxation under section 501(c)(3) of  
24 the Internal Revenue Code as defined in section 49-801.01;

25 (b) Do not discriminate on the basis of age, religion,  
26 sex, race, color, or national origin;

27 (c) Provide residential housing for at least eight hours

1 of every twenty-four-hour period; and

2 (d) Operate a drug-free premises.

3 (3) The ~~department~~ system shall establish an advisory  
4 committee consisting of individuals and groups involved with  
5 housing issues, in particular those pertaining to persons or  
6 families with special housing needs, to advise and assist the  
7 ~~department~~ system in establishing criteria, priorities, and  
8 guidelines for eligibility requirements, application requirements  
9 and dates, public notification, and monitoring and shall assist  
10 the ~~department~~ system in adopting and promulgating rules and  
11 regulations for providing grants from the fund.

12 (4) An application submitted by an organization  
13 representing a number of eligible applicants may be considered even  
14 though the representing organization may itself not qualify under  
15 this section.

16 (5) In making grants pursuant to the Homeless Shelter  
17 Assistance Trust Fund Act, the ~~department~~ system shall consider,  
18 but not be limited to, the following factors:

19 (a) The number of night-lodging units provided by the  
20 applicant as measured by the number of persons housed per night;

21 (b) Participation by the applicant in community planning  
22 processes and activities aimed at preventing and alleviating  
23 homelessness;

24 (c) Other verifiable units of service provided by the  
25 applicant; and

26 (d) The geographic distribution of funds.

27 Sec. 559. Section 68-1607, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           68-1607 Recipients of grant money shall, upon request,  
3 submit to the ~~department~~ system records for verification of the  
4 information included on applications submitted for grants from the  
5 Homeless Shelter Assistance Trust Fund.

6           Sec. 560. Section 68-1608, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           68-1608 The ~~department~~ system shall adopt and promulgate  
9 rules and regulations to carry out the Homeless Shelter Assistance  
10 Trust Fund Act.

11           Sec. 561. Section 68-1710, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           68-1710 It is the intent of the Legislature that, with  
14 the passage of the federal Personal Responsibility and Work  
15 Opportunity Reconciliation Act of 1996, Public Law 104-193, the  
16 ~~Department of Health and Human Services~~ Health and Human Services  
17 System no longer be required to maintain federal approval to  
18 implement the Welfare Reform Act and the waivers enumerated in the  
19 act.

20           Sec. 562. Section 68-1711, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           68-1711 State agencies, including the ~~Department of~~  
23 ~~Health and Human Services~~ Health and Human Services System and the  
24 Department of Labor, which assess training options, job readiness,  
25 adult basic skills, aptitudes, interests, workplace maturity, and  
26 career development of applicants for services shall utilize a  
27 common, comprehensive assessment tool.

1           Sec. 563. Section 68-1713, Revised Statutes Cumulative  
2 Supplement, 2006, is amended to read:

3           68-1713 (1) ~~The Department of Health and Human Services~~  
4 Health and Human Services System shall submit a waiver request or  
5 requests to the United States Department of Health and Human  
6 Services and the United States Department of Agriculture as  
7 necessary for federal authorization to implement the provisions  
8 of the Welfare Reform Act. ~~The Department of Health and Human~~  
9 ~~Services~~ system may include the provisions of sections 68-1718 to  
10 68-1726 in its waiver requests and shall designate counties for  
11 implementation on or after July 1, 1995, of such sections for  
12 recipient families in the aid to dependent children program. It is  
13 the intent of the Legislature that such designated counties include  
14 at least one county with a population of not more than thirty-five  
15 thousand inhabitants and one county with a population of at least  
16 one hundred fifty thousand inhabitants but not more than three  
17 hundred thousand inhabitants.

18           ~~The Department of Health and Human Services~~ Health and  
19 Human Services System shall implement the following policies:

20           (a) Permit Work Experience in Private for Profit  
21 Enterprises;

22           (b) Permit Job Search;

23           (c) Permit Employment to be Considered a JOBS Program  
24 Component;

25           (d) Make Sanctions More Stringent to Emphasize  
26 Participant Obligations;

27           (e) Alternative Hearing Process;

1 (f) Permit Adults in Two-Parent Households to Participate  
2 in JOBS Activities Based on Their Self-Sufficiency Needs;

3 (g) Eliminate Exemptions for Individuals with Children  
4 Between the Ages of 12 Weeks and Age Six;

5 (h) Providing Poor Working Families with Transitional  
6 Child Care to Ease the Transition from Welfare to Self-Sufficiency;

7 (i) Provide Transitional Health Care for 12 Months After  
8 Termination of ADC;

9 (j) Cap Family Benefits Based on the Number of Children  
10 in the Unit at the Time of Initial Eligibility;

11 (k) Require Adults to Ensure that Children in the Family  
12 Unit Attend School;

13 (l) Encourage Minor Parents to Live with Their Parents;

14 (m) Establish a Resource Limit of \$4,000 for a single  
15 individual and \$6,000 for two or more individuals for ADC;

16 (n) Exclude the Value of One Vehicle Per Family When  
17 Determining ADC Eligibility;

18 (o) Exclude the Cash Value of Life Insurance Policies in  
19 Calculating Resources for ADC;

20 (p) Permit the Self-Sufficiency Contract Assessment to  
21 Substitute for the Six-Month ADC Redetermination Process;

22 (q) Establish Food Stamps as a Continuous Benefit with  
23 Eligibility Reevaluated with Yearly Redeterminations;

24 (r) Establish a Budget the Gap Methodology Whereby  
25 Countable Earned Income is Subtracted from the Standard of the  
26 Need and Payment is Based on the Difference or Maximum Payment  
27 Level, Whichever is Less. That this Gap be Established at a Level

1 that Encourages Work but at Least at a Level that Ensures that  
2 Those Currently Eligible for ADC do not Lose Eligibility Because of  
3 the Adoption of this Methodology;

4 (s) Adopt an Earned Income Disregard of Twenty Percent of  
5 Gross Earnings in the ADC Program and One Hundred Dollars in the  
6 Related Medical Assistance Program;

7 (t) Disregard Financial Assistance Received Intended for  
8 Books, Tuition, or Other Self-Sufficiency Related Use;

9 (u) Culture: Eliminate the 100-Hour Rule, The Quarter of  
10 Work Requirement, and The 30-Day Unemployed/Underemployed Period  
11 for ADC-UP Eligibility;

12 (v) Make ADC a Time-Limited Program;

13 (w) Eliminate Self-Initiated Training as a JOBS Option;

14 and

15 (x) Other Waivers: Statewide Operation of the  
16 Demonstration Project.

17 At the end of the first year of implementation, the  
18 ~~department~~ Health and Human Services System shall identify any  
19 adjustments or adaptations that may be needed before the policies  
20 of the Welfare Reform Act are implemented in other areas of the  
21 state. Such review shall include an evaluation of the impact  
22 of such policies. The ~~department~~ system shall implement the  
23 policies in additional counties as necessary to complete statewide  
24 implementation.

25 (2) The ~~Department of Health and Human Services~~ Health  
26 and Human Services System shall (a) apply for a waiver to allow for  
27 a sliding-fee schedule for the population served by the caretaker

1 relative program or (b) pursue other public or private mechanisms,  
2 to provide for transitional health care benefits to individuals  
3 and families who do not qualify for cash assistance. It is the  
4 intent of the Legislature that transitional health care coverage be  
5 made available on a sliding-scale basis to individuals and families  
6 with incomes up to one hundred eighty-five percent of the federal  
7 poverty level if other health care coverage is not available.

8           Sec. 564. Section 68-1715, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           68-1715 The Department of Health and Human Services  
11 Health and Human Services System shall adopt and promulgate rules  
12 and regulations to carry out the Welfare Reform Act.

13           Sec. 565. Section 68-1722, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15           68-1722 The Legislature finds that the state has  
16 responsibilities to help ensure the success of the self-sufficiency  
17 contract for each recipient. The Department of Health and  
18 ~~Human Services~~ Health and Human Services System shall employ  
19 case management practices and supportive services to the extent  
20 necessary to facilitate movement toward self-sufficiency within the  
21 two-year limit on participation as provided in section 68-1724.

22           The ~~department~~ system may purchase case management  
23 services. It is the intent of the Legislature that any case  
24 management utilized by the ~~department~~ system shall include  
25 standards which emphasize communication skills; appropriate  
26 interviewing techniques; and methods for positive feedback,  
27 support, encouragement, and counseling. The case management

1 provided shall also include a recognition of family dynamics and  
2 emphasize working with all family members; shall respect diversity;  
3 shall empower individuals; and shall include recognizing,  
4 capitalizing, and building on a family's strengths and existing  
5 support network. It is the intent of the Legislature that generally  
6 a case manager would have a family caseload of no more than seventy  
7 cases.

8 Supportive services shall include, but not be limited  
9 to, assistance with transportation expenses, participation and  
10 work expenses, parenting education, family planning, budgeting,  
11 and relocation to provide for specific needs critical to the  
12 recipient's or the recipient family's self-sufficiency contract.  
13 For purposes of this section, family planning shall not include  
14 abortion counseling, referral for abortion, or funding for  
15 abortion. If the state fails to meet the specific terms of the  
16 self-sufficiency contract, the two-year limit on cash assistance  
17 under section 68-1724 shall be extended for an additional period  
18 of not more than two years.

19 Sec. 566. Section 68-1725, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 68-1725 The Department of Health and Human Services  
22 Health and Human Services System may either develop an electronic  
23 benefit system for purposes of eliminating as much paper and coupon  
24 conveyance of public assistance as is practical or provide cash in  
25 lieu of coupons.

26 Sec. 567. Section 68-1732, Reissue Revised Statutes of  
27 Nebraska, is amended to read:



1           68-1732 It is the intent of the Legislature that the  
2 ~~Department of Health and Human Services Regulation and Licensure,~~  
3 ~~the Department of Health and Human Services,~~ Health and Human  
4 Services System, the State Department of Education, the Department  
5 of Labor, ~~the Department of Health and Human Services Finance and~~  
6 ~~Support,~~ the Office of Probation Administration, the Department of  
7 Correctional Services, and the Department of Economic Development  
8 will have integrated programs and policies when serving a common  
9 customer. Organizational mergers and operating agreements shall be  
10 developed within state government which bring together the state's  
11 community-based child-serving and family-serving resources in the  
12 areas of health care services, social services, mental health  
13 services, developmental disabilities services, juvenile justice,  
14 and education. Such actions shall eliminate the need for the public  
15 to understand the differing roles, responsibilities, and services  
16 of the agencies enumerated in this section and their affiliates.

17           Sec. 568. Section 68-1736, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           68-1736 The Legislature finds that welfare reform and the  
20 prevention of poverty are the responsibility of both the public and  
21 the private sectors and that low-income Nebraskans will best attain  
22 and maintain economic self-sufficiency through the job market. The  
23 Governor shall establish the Governor's Roundtable composed of  
24 current and former welfare recipients and leaders from business,  
25 industry, labor, and government. The Governor's Roundtable and  
26 the community colleges, state colleges, University of Nebraska,  
27 Department of Economic Development, State Department of Education,

1 Department of Labor, Department of Revenue, and ~~Department of~~  
2 ~~Health and Human Services~~ the Health and Human Services System  
3 shall analyze the job needs and training needs of business,  
4 industry, and labor in Nebraska. On the basis of this analysis,  
5 the Governor's Roundtable shall recommend processes, strategies,  
6 and resources for linking the unemployed and underemployed with  
7 training or jobs that pay a living wage. The Governor's Roundtable  
8 shall also make recommendations pertaining to job creation, tax  
9 incentives, unemployment compensation, education and training  
10 programs, child care, and health care to assist low-income  
11 Nebraskans to attain and maintain economic self-sufficiency. Such  
12 recommendations, including any necessary legislation, shall be  
13 presented to the Governor and the Legislature not later than  
14 December 1, 1997.

15 Sec. 569. Section 68-1738, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 68-1738 The ~~Department of Health and Human Services~~  
18 Health and Human Services System shall make state funds available  
19 which are appropriated to meet the needs of people living on tribal  
20 lands or in tribal service areas as defined in section 43-1503 if  
21 the people residing on tribal lands or in tribal services areas  
22 choose to operate their own welfare reform programs.

23 Sec. 570. Section 68-1802, Revised Statutes Cumulative  
24 Supplement, 2006, is amended to read:

25 68-1802 For purposes of the ICF/MR Reimbursement  
26 Protection Act:

27 ~~(1) Department means the Department of Health and Human~~

1 ~~Services Finance and Support;~~

2 ~~(2)~~ (1) Intermediate care facility for the mentally  
3 retarded has the definition found in section 71-421;

4 ~~(3)~~ (2) Medical assistance program means the program  
5 established pursuant to the Medical Assistance Act; ~~and~~

6 ~~(4)~~ (3) Net revenue means the revenue paid to an  
7 intermediate care facility for the mentally retarded for resident  
8 care, room, board, and services less contractual adjustments and  
9 does not include revenue from sources other than operations,  
10 including, but not limited to, interest and guest meals; ~~and~~ -

11 (4) System means the Health and Human Services System.

12 Sec. 571. Section 68-1803, Revised Statutes Cumulative  
13 Supplement, 2006, is amended to read:

14 68-1803 (1) Each intermediate care facility for the  
15 mentally retarded shall pay a tax equal to six percent of its net  
16 revenue for the most recent State of Nebraska fiscal year.

17 (2) Taxes collected under this section shall be remitted  
18 to the State Treasurer for credit to the ICF/MR Reimbursement  
19 Protection Fund.

20 (3) Taxes collected pursuant to this section shall be  
21 reported on a separate line on the cost report of the intermediate  
22 care facility for the mentally retarded, regardless of how such  
23 costs are reported on any other cost report or income statement.

24 The ~~department~~ system shall recognize such tax as an allowable  
25 cost within the state plan for reimbursement of intermediate care  
26 facilities for the mentally retarded which participate in the  
27 medical assistance program. The tax shall be a direct pass-through

1 and shall not be subject to cost limitations.

2           Sec. 572. Section 68-1804, Revised Statutes Cumulative  
3 Supplement, 2006, is amended to read:

4           68-1804 (1) The ICF/MR Reimbursement Protection Fund is  
5 created. Any money in the fund available for investment shall be  
6 invested by the state investment officer pursuant to the Nebraska  
7 Capital Expansion Act and the Nebraska State Funds Investment Act.  
8 Interest and income earned by the fund shall be credited to the  
9 fund.

10           (2) For fiscal year 2004-05, proceeds from the tax  
11 imposed under section 68-1803 shall be allocated as follows:

12           (a) First, fifty-five thousand dollars to the ~~department~~  
13 system for administration of the fund;

14           (b) Second, payment to intermediate care facilities for  
15 the mentally retarded for the cost of the tax;

16           (c) Third, three hundred thousand dollars, in addition  
17 to any federal medicaid matching funds, for increases in payments  
18 to non-state-operated intermediate care facilities for the mentally  
19 retarded which shall be such facilities' only increase in payments  
20 for such fiscal year;

21           (d) Fourth, three hundred twelve thousand dollars, in  
22 addition to any federal medicaid matching funds, for payment to  
23 providers of community-based services for the purpose of reducing  
24 the waiting list of persons with developmental disabilities; and

25           (e) Fifth, any money remaining in the fund after the  
26 allocations required by subdivisions (2)(a) through (d) of this  
27 section have been made shall be transferred to the General Fund.

1           (3) For FY2005-06 and each fiscal year thereafter,  
2 proceeds from the tax imposed pursuant to section 68-1803 shall be  
3 remitted to the State Treasurer for credit as follows:

4           (a) To the ICF/MR Reimbursement Protection Fund for  
5 allocation as described in this subdivision: (i) Fifty-five  
6 thousand dollars for administration of the fund; (ii) the amount  
7 needed to reimburse intermediate care facilities for the mentally  
8 retarded for the cost of the tax; (iii) three hundred thousand  
9 dollars for payment of rates to non-state-operated intermediate  
10 care facilities; and (iv) three hundred twelve thousand dollars  
11 for community-based services for persons with developmental  
12 disabilities; and

13           (b) To the General Fund: The remainder of the proceeds.

14           Sec. 573. Section 68-1805, Revised Statutes Cumulative  
15 Supplement, 2006, is amended to read:

16           68-1805 (1) On or before July 1, 2004, the ~~department~~  
17 system shall submit an application to the Centers for Medicare  
18 and Medicaid Services of the United States Department of Health  
19 and Human Services amending the state medicaid plan to provide for  
20 utilization of money in the ICF/MR Reimbursement Protection Fund to  
21 increase medicaid payments to intermediate care facilities for the  
22 mentally retarded.

23           (2) The tax imposed under section 68-1803 is not due and  
24 payable until such amendment to the state medicaid plan is approved  
25 by the Centers for Medicare and Medicaid Services.

26           Sec. 574. Section 68-1806, Revised Statutes Cumulative  
27 Supplement, 2006, is amended to read:

1                   68-1806 (1) Collection of the tax imposed by section  
2 68-1803 shall be discontinued if:

3                   (a) The amendment to the state medicaid plan described  
4 in section 68-1805 is disapproved by the Centers for Medicare and  
5 Medicaid Services;

6                   (b) The ~~department~~ system reduces rates paid to  
7 intermediate care facilities for the mentally retarded to an amount  
8 less than the rates effective September 1, 2003; or

9                   (c) The ~~department~~ system or any other state agency  
10 attempts to utilize the money in the ICF/MR Reimbursement  
11 Protection Fund for any use other than uses permitted pursuant to  
12 the ICF/MR Reimbursement Protection Act.

13                   (2) If collection of the tax is discontinued as provided  
14 in subsection (1) of this section, all money in the fund shall  
15 be returned to the intermediate care facilities for the mentally  
16 retarded from which the tax was collected on the same basis as the  
17 tax was assessed.

18                   Sec. 575. Section 68-1807, Revised Statutes Cumulative  
19 Supplement, 2006, is amended to read:

20                   68-1807 (1) An intermediate care facility for the  
21 mentally retarded that fails to pay the tax required by section  
22 68-1803 shall be subject to a penalty of five hundred dollars per  
23 day of delinquency. The total amount of the penalty assessed under  
24 this section shall not exceed five percent of the tax due from the  
25 intermediate care facility for the mentally retarded for the year  
26 for which the tax is assessed.

27                   (2) The system shall collect the penalties and remit them

1 to the State Treasurer for distribution in accordance with Article  
2 VII, section 5, of the Constitution of Nebraska. Penalties shall be  
3 collected by the department and remitted to the State Treasurer for  
4 credit to the permanent school fund.

5           Sec. 576. Section 68-1808, Revised Statutes Cumulative  
6 Supplement, 2006, is amended to read:

7           68-1808 An intermediate care facility for the mentally  
8 retarded that has paid a tax that is not required by section  
9 68-1803 may file a claim for refund with the ~~department,~~ system.  
10 The ~~department~~ system may by rule and regulation establish  
11 procedures for filing and consideration of such claims.

12           Sec. 577. Section 68-1809, Revised Statutes Cumulative  
13 Supplement, 2006, is amended to read:

14           68-1809 The ~~department~~ system may adopt and promulgate  
15 rules and regulations to carry out the ICF/MR Reimbursement  
16 Protection Act.

17           Sec. 578. Section 69-302, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           69-302 For purposes of the Mail Order Contact Lens Act:

20           (1) Contact lens prescription means a written order  
21 bearing the original signature of an optometrist or physician or an  
22 oral or electromagnetic order issued by an optometrist or physician  
23 that authorizes the dispensing of contact lenses to a patient and  
24 meets the requirements of section 69-303;

25           ~~(2) Department means the Department of Health and Human~~  
26 ~~Services Regulation and Licensure;~~

27           ~~(3)~~ (2) Mail-order ophthalmic provider means an entity

1 that ships, mails, or in any manner delivers dispensed contact  
2 lenses to Nebraska residents;

3 ~~(4)~~ (3) Optometrist means a person licensed to practice  
4 optometry pursuant to sections 71-1,133 to 71-1,136.09; and

5 ~~(5)~~ (4) Physician means a person licensed to practice  
6 medicine and surgery pursuant to sections 71-1,102 to 71-1,107.14;  
7 and -

8 (5) System means the Health and Human Services System.

9 Sec. 579. Section 69-304, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 69-304 The ~~department~~ system shall require and provide  
12 for an annual registration for all mail-order ophthalmic providers  
13 located outside of this state, including those providing services  
14 via the Internet, that dispense contact lenses to Nebraska  
15 residents. The ~~department~~ system shall grant a mail-order  
16 ophthalmic provider's registration upon the disclosure and  
17 certification by such provider of the following:

18 (1) That it is licensed or registered to dispense contact  
19 lenses in the state where the dispensing facility is located and  
20 from where the contact lenses are dispensed, if required;

21 (2) The location, names, and titles of all principal  
22 corporate officers and the person who is responsible for overseeing  
23 the dispensing of contact lenses to Nebraska residents;

24 (3) That it complies with directions and appropriate  
25 requests for information from the regulating agency of each state  
26 where it is licensed or registered;

27 (4) That it will respond directly and within a reasonable



1 period of time to all communications from the ~~department~~ system  
2 concerning emergency circumstances arising from the dispensing of  
3 contact lenses to Nebraska residents;

4 (5) That it maintains its records of contact lenses  
5 dispensed to Nebraska residents so that such records are readily  
6 retrievable;

7 (6) That it will cooperate with the ~~department~~ system in  
8 providing information to the regulatory agency of any state where  
9 it is licensed or registered concerning matters related to the  
10 dispensing of contact lenses to Nebraska residents;

11 (7) That it conducts business in a manner that conforms  
12 to the requirements of section 69-303;

13 (8) That it provides a toll-free telephone service for  
14 responding to patient questions and complaints during its regular  
15 hours of operation and agrees to (a) include the toll-free number  
16 in literature provided with mailed contact lenses and (b) refer all  
17 questions relating to eye care for the lenses prescribed back to  
18 the contact lens prescriber; and

19 (9) That it provides the following, or substantially  
20 equivalent, written notification to the patient whenever contact  
21 lenses are supplied:

22 WARNING: IF YOU ARE HAVING ANY OF THE FOLLOWING  
23 SYMPTOMS, REMOVE YOUR LENSES IMMEDIATELY AND CONSULT YOUR EYE CARE  
24 PRACTITIONER BEFORE WEARING YOUR LENSES AGAIN: UNEXPLAINED EYE  
25 DISCOMFORT, WATERING, VISION CHANGE, OR REDNESS.

26 Sec. 580. Section 69-305, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

1           69-305 The mail-order ophthalmic provider shall pay a  
2 fee equivalent to the annual fee for an initial or renewal permit  
3 to operate a pharmacy in Nebraska as established in and at the  
4 times provided for in the Health Care Facility Licensure Act. Such  
5 fees shall be remitted to the State Treasurer for credit to the  
6 ~~Department of Health and Human Services Regulation and Licensure~~  
7 Health and Human Services System Cash Fund.

8           Sec. 581. Section 69-306, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           69-306 The ~~department,~~ system, upon the recommendation  
11 of the Board of Pharmacy, the Board of Optometry, or the Board  
12 of Medicine and Surgery, shall notify the Attorney General of any  
13 possible violations of the Mail Order Contact Lens Act. If the  
14 Attorney General has reason to believe that an out-of-state person  
15 is operating in violation of the act, the Attorney General may  
16 commence an action in the district court of Lancaster County to  
17 enjoin such person from further mailing, shipping, or otherwise  
18 delivering contact lenses into Nebraska.

19           Sec. 582. Section 69-307, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21           69-307 The ~~department,~~ system, upon the joint  
22 recommendation of the Board of Pharmacy, Board of Optometry, and  
23 Board of Medicine and Surgery, may adopt and promulgate rules and  
24 regulations for enforcement of the Mail Order Contact Lens Act.

25           Sec. 583. Section 69-2409.01, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27           69-2409.01 (1) For purposes of sections 69-2401 to

1 69-2425, the Nebraska State Patrol shall be furnished upon the  
2 patrol's request with only such information as may be necessary  
3 for the sole purpose of determining whether an individual is  
4 disqualified from purchasing or possessing a handgun pursuant to  
5 state or federal law. Such information shall be furnished by the  
6 ~~Department of Health and Human Services.~~ Health and Human Services  
7 System. The clerks of the various courts shall furnish to the  
8 ~~Department of Health and Human Services,~~ system, within thirty days  
9 after the order of commitment or finding and the discharge, all  
10 information necessary to set up and maintain the data base required  
11 by this section. This information shall include (a) information  
12 regarding those persons who are currently receiving mental health  
13 treatment pursuant to a commitment order of a mental health board  
14 or who have been discharged and (b) information regarding those  
15 persons who have been committed to treatment pursuant to section  
16 29-3702. The ~~Department of Health and Human Services~~ system shall  
17 also maintain in the data base a listing of persons committed  
18 to treatment pursuant to section 29-3702. Information regarding  
19 mental health board commitments and commitments pursuant to section  
20 29-3702 shall not be retained in the data base maintained by  
21 the ~~department~~ system on persons who have been discharged from  
22 those commitments more than five years previously. Any such  
23 information maintained or disclosed under this subsection shall  
24 remain privileged and confidential and shall not be redisclosed or  
25 utilized for any other purpose. The procedures for furnishing such  
26 information shall guarantee that no information is released beyond  
27 what is necessary for purposes of this section.

1           (2) In order to comply with sections 69-2401 and 69-2403  
2 to 69-2408 and this section, the Nebraska State Patrol shall  
3 provide to the chief of police or sheriff of an applicant's place  
4 of residence or a licensee in the process of a criminal history  
5 record check pursuant to section 69-2411 only the information  
6 regarding whether or not the applicant is disqualified from  
7 purchasing or possessing a handgun.

8           (3) Any person, agency, or mental health board  
9 participating in good faith in the reporting or disclosure of  
10 records and communications under this section is immune from any  
11 liability, civil, criminal, or otherwise, that might result by  
12 reason of the action.

13           (4) Any person who intentionally causes the Nebraska  
14 State Patrol to request information pursuant to this section  
15 without reasonable belief that the named individual has submitted  
16 a written application under section 69-2404 or has completed a  
17 consent form under section 69-2410 shall be guilty of a Class II  
18 misdemeanor in addition to other civil or criminal liability under  
19 state or federal law.

20           Sec. 584. Section 69-2426, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           69-2426 (1) Dealers of firearms shall distribute to all  
23 purchasers information developed by the ~~Department of Health and~~  
24 ~~Human Services Health and Human Services System~~ regarding the  
25 dangers of leaving loaded firearms unattended around children.

26           (2) There is hereby created the Firearm Information Fund.  
27 Private contributions shall be credited by the State Treasurer to

1 such fund for the implementation of the provisions of this section.

2           Sec. 585. Section 70-101, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           70-101 Notwithstanding any other provision of law  
5 regarding confidentiality of records, every district or corporation  
6 organized under Chapter 70 shall, upon request, furnish to any  
7 county attorney, any authorized attorney as defined in section  
8 42-347, or the ~~Department of Health and Human Services~~ Health and  
9 Human Services System a utility service subscriber's name, social  
10 security number, and mailing and residence addresses only for the  
11 purposes of establishing and collecting child, spousal, and medical  
12 support and of conducting reviews under sections 43-512.12 to  
13 43-512.18. Such information shall be used for no other purpose. An  
14 action may be filed in district court to enforce this section. For  
15 purposes of this section, utility service shall mean electrical,  
16 gas, water, telephone, garbage disposal, or waste disposal service.

17           Sec. 586. Section 70-1603, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           70-1603 No municipal utility owned and operated by a  
20 village furnishing water, natural gas, or electricity at retail in  
21 this state shall discontinue service to any domestic subscriber for  
22 nonpayment of any past-due account unless such utility first gives  
23 written notice by mail to any subscriber whose service is proposed  
24 to be terminated at least seven days prior to termination. As to  
25 any subscriber who has previously been identified as a welfare  
26 recipient to the utility by the ~~Department of Health and Human~~  
27 ~~Services,~~ Health and Human Services System, such notice shall be

1 by certified mail and notice of such proposed termination shall be  
2 given to the ~~department.~~ system.

3           Sec. 587. Section 70-1605, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           70-1605 No public or private utility company, other than  
6 a municipal utility owned and operated by a village, furnishing  
7 water, natural gas, or electricity at retail in this state shall  
8 discontinue service to any domestic subscriber for nonpayment of  
9 any past-due account unless the utility company first gives notice  
10 by first-class mail or in person to any subscriber whose service  
11 is proposed to be terminated. If notice is given by first-class  
12 mail, such mail shall be conspicuously marked as to its importance.  
13 Service shall not be discontinued for at least seven days after  
14 notice is sent or given. Holidays and weekends shall be excluded  
15 from the seven days. As to any subscriber who has previously been  
16 identified as a welfare recipient to the company by the ~~Department~~  
17 ~~of Health and Human Services,~~ Health and Human Services System,  
18 such notice shall be by certified mail and notice of such proposed  
19 termination shall be given to the ~~department.~~ system.

20           Sec. 588. Section 71-101, Revised Statutes Cumulative  
21 Supplement, 2006, is amended to read:

22           71-101 Sections 71-101 to 71-1,107.30, 71-1,133 to  
23 71-1,338, 71-1,343 to 71-1,361, and 71-1301 to 71-1354 and the  
24 Physical Therapy Practice Act shall be known and may be cited as  
25 the Uniform Licensing Law.

26           For purposes of the Uniform Licensing Law, unless the  
27 context otherwise requires:

1           (1) Board or professional board means one of the boards  
2 appointed by the State Board of Health pursuant to sections 71-111  
3 and 71-112;

4           (2) Licensed, when applied to any licensee in any of the  
5 professions named in section 71-102, means a person licensed under  
6 the Uniform Licensing Law;

7           (3) Profession or health profession means any of the  
8 several groups named in section 71-102;

9           (4) Department means the Department of Public Health;  
10 ~~Department of Health and Human Services Regulation and Licensure~~;

11           (5) Whenever a particular gender is used, it is construed  
12 to include both the masculine and the feminine, and the singular  
13 number includes the plural when consistent with the intent of the  
14 Uniform Licensing Law;

15           (6) License, licensing, or licensure means permission to  
16 engage in a health profession which would otherwise be unlawful  
17 in this state in the absence of such permission and which is  
18 granted to individuals who meet prerequisite qualifications and  
19 allows them to perform prescribed health professional tasks and use  
20 a particular title;

21           (7) Certificate, certify, or certification, with respect  
22 to professions, means a voluntary process by which a statutory,  
23 regulatory entity grants recognition to an individual who has met  
24 certain prerequisite qualifications specified by such regulatory  
25 entity and who may assume or use the word certified in the title or  
26 designation to perform prescribed health professional tasks. When  
27 appropriate, certificate means a document issued by the department

1 which designates particular credentials for an individual;

2 (8) Lapse means the termination of the right or privilege  
3 to represent oneself as a licensed, certified, or registered person  
4 and to practice the profession when a license, certificate, or  
5 registration is required to do so;

6 (9) Credentialing means the totality of the process  
7 associated with obtaining state approval to provide health care  
8 services or human services or changing aspects of a current  
9 approval. Credentialing grants permission to use a protected  
10 title that signifies that a person is qualified to provide the  
11 services of a certain profession. Credential includes a license,  
12 certificate, or registration; and

13 (10) Dependence means a compulsive or chronic need for  
14 or an active addiction to alcohol or any controlled substance or  
15 narcotic drug; and -

16 (11) Director means the Director of Public Health of the  
17 Health and Human Services System.

18 Sec. 589. Section 71-102, Revised Statutes Cumulative  
19 Supplement, 2006, is amended to read:

20 71-102 (1) No person shall engage in the practice  
21 of medicine and surgery, athletic training, respiratory care,  
22 osteopathic medicine, chiropractic, dentistry, dental hygiene,  
23 pharmacy, podiatry, optometry, massage therapy, physical therapy,  
24 audiology, speech-language pathology, embalming, funeral directing,  
25 psychology, veterinary medicine and surgery, medical nutrition  
26 therapy, acupuncture, mental health practice, or alcohol and drug  
27 counseling unless such person has obtained a license from the



1 ~~Department of Health and Human Services Regulation and Licensure~~  
2 department for that purpose.

3 (2) No person shall hold himself or herself out as a  
4 certified social worker or certified master social worker unless  
5 such person has obtained a certificate from the department for that  
6 purpose.

7 (3) No person shall hold himself or herself out as a  
8 certified professional counselor unless such person has obtained a  
9 certificate from the department for such purpose.

10 (4) No person shall hold himself or herself out as a  
11 certified marriage and family therapist unless such person has  
12 obtained a certificate from the department for such purpose.

13 Sec. 590. Section 71-104, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 71-104 ~~The Department of Health and Human Services~~  
16 ~~Regulation and Licensure~~ department may refuse to grant a license,  
17 certificate, or registration to practice a profession to any  
18 person, otherwise qualified, upon any of the grounds for which  
19 a license, certificate, or registration may be revoked under the  
20 provisions of the Uniform Licensing Law.

21 Sec. 591. Section 71-105, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 71-105 Every credential to practice a profession shall be  
24 in the form of a document under the name and seal of the department  
25 and signed by the ~~Director of Regulation and Licensure~~ director and  
26 the Governor. It shall also be countersigned by the members of the  
27 appropriate professional board, except that all credentials granted

1 without examination may be issued by the department under its name  
2 and seal and signed by its director and the Governor. A copy of all  
3 credentials shall be retained in the department and given the same  
4 number as has been assigned to the credentialed person in the other  
5 records of the department.

6 Sec. 592. Section 71-121.01, Revised Statutes Cumulative  
7 Supplement, 2006, is amended to read:

8 71-121.01 The department shall be responsible for the  
9 general administration of the activities of each of the boards as  
10 defined in the Advanced Practice Registered Nurse Licensure Act,  
11 the Certified Registered Nurse Anesthetist Act, the Clinical Nurse  
12 Specialist Practice Act, the Nebraska Certified Nurse Midwifery  
13 Practice Act, the Nebraska Cosmetology Act, the Nurse Practice  
14 Act, the Nurse Practitioner Act, the Occupational Therapy Practice  
15 Act, and sections 71-4701 to 71-4719 and 71-6053 to 71-6068 and  
16 the boards covered by the scope of the Uniform Licensing Law and  
17 named in section 71-102. The cost of operation and administration  
18 of the boards shall be paid from fees, gifts, grants, and other  
19 money credited to the Professional and Occupational Credentialing  
20 Cash Fund. ~~The Director of Regulation and Licensure~~ director shall  
21 determine the proportionate share of this cost to be paid from the  
22 fees of the respective boards, except that no fees shall be paid  
23 for such purpose from the fund without the prior approval of the  
24 boards concerned. The director's determinations shall become final  
25 when approved by the respective boards ~~and the department~~ and shall  
26 be valid for one fiscal year only.

27 Sec. 593. Section 71-139, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           71-139 (1) The department may, without examination,  
3 except when a practical examination is required, issue a license  
4 to practice any profession, except pharmacy, podiatry, dentistry,  
5 medicine and surgery, optometry, osteopathic medicine and surgery  
6 or as an osteopathic physician, and audiology and speech-language  
7 pathology, to a person who has been in the active practice of  
8 such profession in another state or territory of the United  
9 States or the District of Columbia upon (a) certification by the  
10 proper licensing authority of the state, territory, or District  
11 of Columbia that (i) the applicant is duly licensed, (ii) his or  
12 her license has never been suspended or revoked, and (iii) so far  
13 as the records of such authority are concerned, the applicant is  
14 entitled to its endorsement and (b) proof of the following:

15           (i) That the state, territory, or District of Columbia  
16 has and maintains standards regulating such profession equal to  
17 those maintained in this state;

18           (ii) That his or her license was based upon a written  
19 examination and the grades given at such examination;

20           (iii) The date of his or her license;

21           (iv) That he or she has been actively engaged in the  
22 practice of such profession under such license or in an accepted  
23 residency or graduate training program for at least one of the  
24 three years immediately preceding the application for license by  
25 reciprocity;

26           (v) That the applicant is of good moral character and  
27 standing in his or her profession as evidenced by completing under

1 oath an application from the ~~department~~ system containing such a  
2 statement; and

3 (vi) That the applicant has been in the active and  
4 continuous practice of such profession under license by examination  
5 in such state, territory, or District of Columbia for at least one  
6 year.

7 (2) An applicant for reciprocal registration coming from  
8 any state may be licensed by reciprocity if his or her individual  
9 qualifications meet the Nebraska legal requirements.

10 (3) The department may issue certificates or  
11 registrations on a reciprocal basis to persons who are  
12 required to be certified or registered pursuant to the Uniform  
13 Licensing Law. The department may adopt and promulgate rules and  
14 regulations for reciprocity pursuant to this section.

15 (4) Persons who graduate from schools or colleges of  
16 osteopathic medicine accredited by the department on recommendation  
17 of the Board of Examiners in Osteopathy since January 1, 1963, and  
18 prior to May 23, 1981, and after May 23, 1981, persons who graduate  
19 from schools or colleges of osteopathic medicine accredited by  
20 the department on recommendation of the Board of Medicine and  
21 Surgery who meet the requirements of this section and who have  
22 passed a written examination which is equivalent to that required  
23 in section 71-1,104 as determined by the Board of Medicine and  
24 Surgery and who meet the requirements of section 71-1,137 for the  
25 practice of osteopathic medicine and surgery as evidenced by a  
26 certificate of the Board of Medicine and Surgery may be granted a  
27 license to practice osteopathic medicine and surgery as defined in

1 section 71-1,137 if such person has been actively engaged in the  
2 practice under such license or in an accepted residency or graduate  
3 training program for at least one of the three years immediately  
4 preceding the application for license by reciprocity. Graduates  
5 of an accredited school or college of osteopathic medicine since  
6 January 1, 1963, who meet the requirements of this section and  
7 who meet the applicable requirements of section 71-1,139.01 as  
8 certified by the Board of Medicine and Surgery may be granted a  
9 special license as doctor of osteopathic medicine and surgery.

10 (5) The department may approve without examination any  
11 person who has been duly licensed to practice optometry in another  
12 state or territory of the United States or the District of Columbia  
13 under conditions and circumstances which the Board of Optometry  
14 shall find to be comparable to the requirements of the State of  
15 Nebraska for obtaining a license to practice optometry if such  
16 person has been actively engaged in the practice under such license  
17 for at least one of the three years immediately preceding the  
18 application for license by reciprocity. The applicant shall produce  
19 evidence satisfactory to the board that he or she has had the  
20 required secondary and professional education and training. The  
21 applicant shall provide certification from the proper licensing  
22 authority of the state, territory, or District of Columbia where  
23 he or she is licensed to practice such profession that he or she  
24 is duly licensed, that his or her license has not been suspended  
25 or revoked, and that so far as the records of such authority  
26 are concerned he or she is entitled to its endorsement. If the  
27 applicant is found to meet the requirements provided in this

1 section and is qualified to be licensed to practice the profession  
2 of optometry in the State of Nebraska, the board shall issue a  
3 license to practice optometry in the State of Nebraska to such  
4 applicant.

5 (6) The Board of Dentistry may approve any person who  
6 has been duly licensed to practice dentistry or dental hygiene in  
7 another state or territory of the United States or the District of  
8 Columbia under conditions and circumstances which the board finds  
9 to be comparable to the requirements of the State of Nebraska for  
10 obtaining a license to practice dentistry or dental hygiene if such  
11 person has been actively engaged in the practice under such license  
12 or in an accepted residency or graduate training program for at  
13 least three years, one of which shall be within the three years  
14 immediately preceding the application for license by reciprocity.  
15 The applicant shall produce evidence satisfactory to the board  
16 that he or she has had the required secondary and professional  
17 education and training and is possessed of good character and  
18 morals as required by the laws of the State of Nebraska. The  
19 applicant shall provide certification from the proper licensing  
20 authority of the state, territory, or District of Columbia where  
21 he or she is licensed to practice such profession that he or she  
22 is duly licensed, that his or her license has not been suspended  
23 or revoked, and that so far as the records of such authority are  
24 concerned he or she is entitled to its endorsement. The applicant  
25 shall submit evidence of completion during the twelve-month period  
26 preceding the application of continuing competency requirements  
27 comparable to the requirements of this state. The board may

1 administer an oral examination to all applicants for licensure by  
2 reciprocity to assess their knowledge of basic clinical aspects  
3 of dentistry or dental hygiene. If the applicant is found by  
4 the board to meet the requirements provided in this section,  
5 the board shall certify such fact to the department, and the  
6 department upon receipt of such certification shall issue a license  
7 to practice dentistry or dental hygiene in the State of Nebraska  
8 to such applicant. If the board finds that the applicant does not  
9 satisfy the requirements of this section, the board shall certify  
10 its findings to the department. The ~~Director of Regulation and~~  
11 ~~Licensure~~ director shall review the findings, and if he or she  
12 agrees with the findings, the director shall deny the application.

13           Sec. 594. Section 71-141, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15           71-141 In order that the department may determine the  
16 standards established by law and by rule in the other states,  
17 the director ~~Director of Regulation and Licensure~~, or some other  
18 person authorized by the director, shall gather information from  
19 other states bearing upon this point. The applicant shall, upon the  
20 request of the department, be responsible for securing information  
21 from the proper authority of the place from which he or she  
22 comes, of the standards maintained there, and the laws and rules  
23 relating thereto. In determining these standards, the department  
24 shall submit to the appropriate professional board any question  
25 that requires the exercise of expert knowledge.

26           Sec. 595. Section 71-142, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

1           71-142 Where the licensing authority in any other state  
2 shall refuse to accept applicants from Nebraska who are qualified  
3 to be admitted under the laws of that state, and have been properly  
4 certified by the ~~Department of Health and Human Services Regulation~~  
5 ~~and Licensure~~ department of this state, then the department may  
6 decline to admit without examination licensees from that state.

7           Sec. 596. Section 71-150, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           71-150 (1) The ~~Director of Regulation and Licensure~~  
10 director shall have jurisdiction of proceedings (a) to deny the  
11 issuance of a license, certificate, or registration, (b) to refuse  
12 renewal of a license, certificate, or registration, and (c) to  
13 discipline a licensee, certificate holder, or registrant.

14           (2) To deny or refuse renewal of a license, certificate,  
15 or registration, the department shall send the applicant, licensee,  
16 certificate holder, or registrant, by registered or certified  
17 mail, notice setting forth the action taken and the reasons  
18 for the determination. The denial or refusal to renew shall  
19 become final thirty days after mailing the notice unless the  
20 applicant, licensee, certificate holder, or registrant, within such  
21 thirty-day period, gives written notice of his or her desire for  
22 a hearing. The hearing shall be conducted in accordance with the  
23 Administrative Procedure Act.

24           (3) In order for the director to discipline a licensee,  
25 certificate holder, or registrant, a petition shall be filed by  
26 the Attorney General in all cases. The petition shall be filed in  
27 the office of the director. The department may withhold a petition



1 for discipline or a final decision from public access for a period  
2 of five days from the date of filing the petition or the date  
3 the decision is entered or until service is made, whichever is  
4 earliest.

5 Sec. 597. Section 71-151, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 71-151 The Attorney General shall comply with such  
8 directions of the Department of Health and Human Services  
9 Regulation and Licensure ~~or of the Director of Regulation and~~  
10 ~~Licensure~~ director and prosecute such action on behalf of the  
11 state, but the county attorney of any county where a licensee,  
12 certificate holder, or registrant has practiced, at the request  
13 of the Attorney General or of the department, shall appear and  
14 prosecute such action.

15 Sec. 598. Section 71-153, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 71-153 Upon the presentation of the petition to the  
18 ~~Director of Regulation and Licensure,~~ director, he or she shall  
19 make an order fixing the time and place for the hearing, which  
20 shall not be less than thirty nor more than sixty days thereafter.

21 Sec. 599. Section 71-155, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 71-155 (1) The proceeding under section 71-150 shall be  
24 summary in its nature and triable as an equity action and shall  
25 be heard by ~~the Director of Regulation and Licensure~~ director  
26 or by a hearing officer designated by the director under rules  
27 and regulations of the department. Affidavits may be received in

1 evidence in the discretion of the director or hearing officer. The  
2 department shall have the power to administer oaths, to subpoena  
3 witnesses and compel their attendance, and to issue subpoenas duces  
4 tecum and require the production of books, accounts, and documents  
5 in the same manner and to the same extent as the district courts  
6 of the state. Depositions may be used by either party. Upon the  
7 completion of any hearing held under this section, the director  
8 shall, if the petition is brought with respect to subdivision  
9 (15) of section 71-148, make findings as to whether the licensee's  
10 conduct was necessary to save the life of a mother whose life was  
11 endangered by a physical disorder, physical illness, or physical  
12 injury, including a life-endangering physical condition caused by  
13 or arising from the pregnancy itself, and shall have the authority  
14 through entry of an order to exercise in his or her discretion any  
15 or all of the following powers, irrespective of the petition:

- 16 (a) Issue a censure against the credentialed person;
- 17 (b) Place the credentialed person on probation;
- 18 (c) Place a limitation or limitations on the credential  
19 and upon the right of the credentialed person to practice the  
20 profession to such extent, scope, or type of practice, for such  
21 time, and under such conditions as are found necessary and proper;
- 22 (d) Impose a civil penalty not to exceed twenty thousand  
23 dollars. The amount of the penalty shall be based on the severity  
24 of the violation;
- 25 (e) Enter an order of suspension of the credential;
- 26 (f) Enter an order of revocation of the credential; and
- 27 (g) Dismiss the action.

1           (2) If the director determines that guilt has been  
2 established, the director may, at his or her discretion, consult  
3 with the professional board for the profession involved concerning  
4 sanctions to be imposed or terms and conditions of the sanctions.  
5 When the director consults with a professional board, the  
6 credentialed person shall be provided with a copy of the director's  
7 request, the recommendation of the board, and an opportunity to  
8 respond in such manner as the director determines.

9           (3) The credentialed person shall not engage in the  
10 practice of a profession after a credential to practice such  
11 profession is revoked or during the time for which it is suspended.  
12 If a credential is suspended, the suspension shall be for a  
13 definite period of time to be set by the director. The director may  
14 provide that the credential shall be automatically reinstated upon  
15 expiration of such period, reinstated if the terms and conditions  
16 as set by the director are satisfied, or reinstated subject to  
17 probation or limitations or conditions upon the practice of the  
18 credentialed person. If such credential is revoked, such revocation  
19 shall be for all times, except that at any time after the  
20 expiration of two years, application may be made for reinstatement  
21 pursuant to section 71-161.04.

22           Sec. 600. Section 71-155.01, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           71-155.01 If a chief medical officer is appointed  
25 pursuant to section ~~81-3201~~, 6 of this act, he or she shall perform  
26 the duties of the ~~Director of Regulation and Licensure~~ director  
27 for decisions in contested cases under sections 71-150, 71-153

1 to 71-155, 71-156, 71-161.02, 71-161.03, 71-161.07, 71-161.11 to  
2 71-161.15, 71-161.17, 71-161.18, 71-161.20, 71-1,104, 71-1,142,  
3 71-1,147.31, 71-1,147.44, and 71-1,147.45.

4 Sec. 601. Section 71-155.03, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 71-155.03 Any civil penalty assessed and unpaid under  
7 section 71-155 shall constitute a debt to the State of Nebraska  
8 which may be collected in the manner of a lien foreclosure or sued  
9 for and recovered in a proper form of action in the name of the  
10 state in the district court of the county in which the violator  
11 resides or owns property. The department shall remit any collected  
12 civil penalties to the State Treasurer, within thirty days after  
13 receipt, for distribution in accordance with Article VII, section  
14 5, of the Constitution of Nebraska. The department shall, within  
15 thirty days from receipt, transmit any collected civil penalty to  
16 the State Treasurer for deposit in the permanent school fund.

17 Sec. 602. Section 71-156, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 71-156 In case the licensee, certificate holder, or  
20 registrant fails to appear, either in person or by counsel at the  
21 time and place designated in the notice required by section 71-154,  
22 the ~~Director of Regulation and Licensure~~ director after receiving  
23 satisfactory evidence of the truth of the charges shall order  
24 the license, certificate, or registration revoked or suspended or  
25 shall ~~order~~ take any or all of the other appropriate disciplinary  
26 measures authorized by section 71-155 ~~to be taken~~ against the  
27 licensee, certificate holder, or registrant.

1           Sec. 603. Section 71-161.02, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           71-161.02 The authority of the ~~Director of Regulation and~~  
4 ~~Licensure~~ director to discipline a licensee, certificate holder, or  
5 registrant by placing him or her on probation pursuant to section  
6 71-155 shall include, but not be limited to, the following:

7           (1) To require the licensee, certificate holder, or  
8 registrant to obtain additional professional training and to pass  
9 an examination upon the completion of the training. The examination  
10 may be written or oral or both and may be a practical or clinical  
11 examination or both or any or all of such combinations of written,  
12 oral, practical, and clinical, at the option of the director;

13           (2) To require the licensee, certificate holder, or  
14 registrant to submit to a complete diagnostic examination by one or  
15 more physicians appointed by the director. If the director requires  
16 the licensee, certificate holder, or registrant to submit to such  
17 an examination, the director shall receive and consider any other  
18 report of a complete diagnostic examination given by one or more  
19 physicians of the licensee's, certificate holder's, or registrant's  
20 choice if the licensee, certificate holder, or registrant chooses  
21 to make available such a report or reports by his or her physician  
22 or physicians; and

23           (3) To limit the extent, scope, or type of practice of  
24 the licensee, certificate holder, or registrant.

25           Sec. 604. Section 71-161.03, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27           71-161.03 (1) Any petition filed with the ~~Director of~~

1 ~~Regulation and Licensure~~ director pursuant to section 71-150 may,  
2 at any time prior to the entry of any order by the director,  
3 be disposed of by stipulation, agreed settlement, consent order,  
4 or similar method as agreed to between the parties. A proposed  
5 settlement shall be submitted and considered in camera and shall  
6 not be a public record unless accepted by the director. The  
7 director may review the input provided to the Attorney General  
8 by the board pursuant to subsection (2) of this section. If the  
9 settlement is acceptable to the director, he or she shall make  
10 it the sole basis of any order he or she enters in the matter,  
11 and it may be modified or added to by the director only upon the  
12 mutual consent of both of the parties thereto. If the settlement is  
13 not acceptable to the director, it shall not be admissible in any  
14 subsequent hearing and it shall not be considered in any manner as  
15 an admission.

16           (2) The Attorney General shall not enter into any  
17 agreed settlement or dismiss any petition without first having  
18 given notice of the proposed action and an opportunity to the  
19 appropriate professional board to provide input into the terms of  
20 the settlement or on dismissal. The board shall have fifteen days  
21 from the date of the Attorney General's request to respond, but  
22 the recommendation of the board, if any, shall not be binding  
23 on the Attorney General. Meetings of the board for such purpose  
24 shall be in closed session, and any recommendation by the board  
25 to the Attorney General shall not be a public record until the  
26 pending action is complete, except that if the director reviews the  
27 input provided to the Attorney General by the board as provided

1 in subsection (1) of this section, the licensee, ~~or~~ certificate  
2 holder, or registrant shall also be provided a copy of the  
3 input and opportunity to respond in such manner as the director  
4 determines.

5 Sec. 605. Section 71-161.06, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 71-161.06 A petition for reinstatement of a license,  
8 certificate, or registration shall be considered at the next  
9 meeting of the board that is held not earlier than thirty days  
10 after the petition was filed. No public hearing need be held  
11 on the petition if the board recommends reinstatement of the  
12 license, certificate, or registration. Opportunity for a formal  
13 public hearing on the petition shall be granted by the board, if  
14 formally requested by the petitioner, prior to any recommendation  
15 by the board against reinstatement. Any petition for reinstatement  
16 accompanied by the requisite information and necessary documents  
17 shall be conclusively acted upon by the board within one hundred  
18 eighty days after the filing of the properly prepared petition and  
19 necessary accompanying documents with the board. If the petitioner  
20 formally requests opportunity for a formal public hearing thereon  
21 or if the board otherwise holds such a hearing, the petitioner  
22 shall be given at least thirty days' prior notice thereof by  
23 sending a copy of the notice of hearing by means of certified or  
24 registered mail directed to the petitioner at his or her last-known  
25 residence or business post office address as shown by the files or  
26 records of the ~~Department of Health and Human Services Regulation~~  
27 ~~and Licensure~~ department or as otherwise known or by means of

1 personal service by being personally served by any sheriff or  
2 constable or by any person especially appointed by the board. The  
3 hearing may be continued from time to time as the board finds  
4 necessary.

5 Sec. 606. Section 71-161.07, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 71-161.07 (1) Each professional board shall make a  
8 recommendation to the ~~Director of Regulation and Licensure~~ director  
9 regarding reinstatement following disciplinary action within the  
10 board's profession. In determining whether reinstatement should  
11 be recommended, the board (a) may request the department to  
12 investigate the petitioner to determine if the petitioner has  
13 committed acts or offenses prohibited by sections 71-147 and  
14 71-148, (b) may require the petitioner to submit to a complete  
15 diagnostic examination by one or more physicians appointed by the  
16 board, the petitioner being free also to consult a physician or  
17 physicians of his or her own choice for a complete diagnostic  
18 examination and to make available a report or reports thereof to  
19 the board, (c) may require the petitioner to pass a written, oral,  
20 or practical examination or any combination of such examinations,  
21 and (d) may require additional education.

22 (2) The affirmative vote of a majority of the members  
23 of the board shall be necessary to recommend reinstatement of  
24 a credential with or without terms, conditions, or restrictions.  
25 The board may grant or deny, without a hearing or argument,  
26 any petition to recommend reinstatement filed pursuant to section  
27 71-161.04 when the petitioner has been afforded a hearing or an



1 opportunity for a hearing upon any such petition within a period of  
2 two years immediately preceding the filing of such petition.

3 (3) Denial by the board of the petition for  
4 recommendation of reinstatement of the license or certificate  
5 may be appealed. The appeal shall be in accordance with the  
6 Administrative Procedure Act.

7 Sec. 607. Section 71-161.12, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 71-161.12 In addition to the grounds for denial, refusal  
10 of renewal, limitation, suspension, or revocation of a license,  
11 certificate, or registration as otherwise provided by law, a  
12 license, certificate, or registration to practice any profession  
13 or occupation regulated by the ~~Department of Health and Human~~  
14 ~~Services Regulation and Licensure~~ department pursuant to Chapter 71  
15 shall be denied, refused renewal, limited, suspended, or revoked  
16 automatically by the ~~Director of Regulation and Licensure~~ director  
17 when the applicant, licensee, certificate holder, or registrant is  
18 found to be not qualified to practice the particular profession or  
19 occupation for which he or she is applying, licensed, certified,  
20 or registered because of habitual intoxication or dependence,  
21 physical or mental illness, or physical or mental deterioration or  
22 disability.

23 Sec. 608. Section 71-161.13, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 71-161.13 When any complaint has been filed with the  
26 department by any person or any report has been made to the  
27 ~~Director of Regulation and Licensure~~ director by the Licensee

1 Assistance Program under section 71-172.01 alleging that an  
2 applicant for a credential or a person credentialed to practice any  
3 profession or occupation in the state regulated by the department  
4 pursuant to Chapter 71 is suffering from habitual intoxication  
5 or dependence, physical or mental illness, or physical or mental  
6 deterioration or disability, the ~~Director of Regulation and~~  
7 ~~Licensure~~ director shall investigate such complaint to determine  
8 if any reasonable cause exists to question the qualification of  
9 the applicant or credentialed person to practice or to continue  
10 to practice such profession or occupation. If the director on the  
11 basis of such investigation or, in the absence of such complaint,  
12 upon the basis of his or her own independent knowledge finds  
13 that reasonable cause exists to question the qualification of  
14 the applicant or credentialed person to practice such profession  
15 or occupation because of habitual intoxication or dependence,  
16 physical or mental illness, or physical or mental deterioration or  
17 disability, the director shall report such finding and evidence  
18 supporting it to the appropriate professional board and if  
19 such board agrees that reasonable cause exists to question the  
20 qualification of such applicant or credentialed person, the board  
21 shall appoint a committee of three qualified physicians to examine  
22 the applicant or credentialed person and to report their findings  
23 and conclusions to the board. The board shall then consider the  
24 findings and the conclusions of the physicians and any other  
25 evidence or material which may be submitted to that board by  
26 the applicant or credentialed person, by the director, or by  
27 any other person and shall then determine if the applicant or

1    credentialed person is qualified to practice or to continue to  
2    practice such profession or occupation in the State of Nebraska.  
3    If such board finds the applicant or credentialed person to  
4    be not qualified to practice or to continue to practice such  
5    profession or occupation because of habitual intoxication or  
6    dependence, physical or mental illness, or physical or mental  
7    deterioration or disability, the board shall so certify that fact  
8    to the director with a recommendation for the denial, refusal of  
9    renewal, limitation, suspension, or revocation of such credential.  
10   The director shall thereupon deny, refuse renewal of, suspend, or  
11   revoke the credential or limit the credential of the credentialed  
12   person to practice such profession or occupation in the state in  
13   such manner and to such extent as the director determines to be  
14   necessary for the protection of the public.

15            Sec. 609. Section 71-161.14, Reissue Revised Statutes of  
16   Nebraska, is amended to read:

17            71-161.14 The denial, refusal of renewal, limitation,  
18   suspension, or revocation of a credential as provided in section  
19   71-161.13 shall continue in effect until reversed on appeal or  
20   until the cause of such denial, refusal of renewal, limitation,  
21   suspension, or revocation no longer exists and the appropriate  
22   professional board finds, upon competent medical evaluation by  
23   a qualified physician or physicians, that the applicant, former  
24   credentialed person, or credentialed person is qualified to engage  
25   in the practice of the profession or occupation for which he or she  
26   made application, for which he or she was formerly credentialed,  
27   or for which he or she was credentialed subject to limitation and

1 certifies that fact to the ~~Director of Regulation and Licensure~~  
2 director. Upon such finding the director, notwithstanding the  
3 provision of any other statute, shall issue, return, or reinstate  
4 such credential or remove any limitation on such credential if  
5 the person is otherwise qualified as determined by the appropriate  
6 professional board to practice or to continue in the practice of  
7 the profession or occupation.

8           Sec. 610. Section 71-161.16, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           71-161.16 Any applicant, licensee, certificate holder, or  
11 registrant shall have the right to appeal from an order denying,  
12 refusing renewal of, limiting, suspending, or revoking a license,  
13 certificate, or registration to practice a profession or occupation  
14 regulated by the ~~Department of Health and Human Services Regulation~~  
15 ~~and Licensure~~ department pursuant to Chapter 71 because of habitual  
16 intoxication or dependence, physical or mental illness, or physical  
17 or mental deterioration or disability. Such appeal shall be in  
18 accordance with the Administrative Procedure Act.

19           Sec. 611. Section 71-161.17, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21           71-161.17 (1) The license, certificate, or registration  
22 of any person to practice any profession or occupation licensed,  
23 certified, or registered by the ~~Department of Health and Human~~  
24 ~~Services Regulation and Licensure~~ department pursuant to the  
25 provisions of Chapter 71 shall be suspended automatically if  
26 he or she is determined by legal process to be mentally ill.

27           (2) A certified copy of the document evidencing that such

1 a licensee, certificate holder, or registrant has been determined  
2 by legal process to be mentally ill shall be transmitted to the  
3 ~~Director of Regulation and Licensure~~ director as soon as possible  
4 following such determination.

5 (3) A suspension under this section may be terminated by  
6 the ~~Director of Regulation and Licensure~~ director when he or she  
7 receives competent evidence that such former practitioner is not  
8 or is no longer mentally ill and is otherwise satisfied, with due  
9 regard for the public interest, that such former practitioner's  
10 license, certificate, or registration to practice may be restored.

11 Sec. 612. Section 71-161.20, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 71-161.20 (1) An applicant may apply to the ~~Director of~~  
14 ~~Regulation and Licensure~~ director for reinstatement only with an  
15 affirmative recommendation of the appropriate professional board,  
16 and such application to the director may not be received or  
17 filed by the director unless accompanied by (a) the written  
18 recommendation of the board, including any finding of fact or  
19 order of the board, (b) the application submitted to the board,  
20 (c) the record of hearing if any, and (d) any pleadings, motions,  
21 requests, preliminary or intermediate rulings and orders, and  
22 similar correspondence to or from the board and the petitioner.

23 (2) The director shall then review the application and  
24 other documents and may affirm the recommendation of the board and  
25 grant reinstatement or may reverse or modify the recommendation if  
26 the board's recommendation is (a) in excess of statutory authority,  
27 (b) made upon unlawful procedure, (c) unsupported by competent,

1 material, and substantial evidence in view of the entire record, or  
2 (d) arbitrary or capricious.

3 Sec. 613. Section 71-164.01, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 71-164.01 (1) The department may assess an administrative  
6 penalty of ten dollars per day for each day that evidence  
7 exists of practice prior to issuance, renewal after expiration,  
8 or reinstatement of a credential of an individual or entity listed  
9 in section 71-162. The total penalty shall not exceed one thousand  
10 dollars.

11 (2) It shall be prima facie evidence of practice without  
12 being credentialed when any of the following conditions exist:

13 (a) The person admits to engaging in practice;

14 (b) Staffing records or other reports from the employer  
15 of the person indicate that the person was engaged in practice;

16 (c) Billing or payment records document the provision of  
17 service, care, or treatment by the person;

18 (d) Service, care, or treatment records document the  
19 provision of service, care, or treatment by the person;

20 (e) Appointment records indicate that the person was  
21 engaged in practice;

22 (f) Water well registrations or other government records  
23 indicate that the person was engaged in practice; and

24 (g) The person or entity opens a business or practice  
25 site and announces or advertises that the business or site is open  
26 to provide service, care, or treatment.

27 (3) When the department assesses an administrative

1 penalty, the department shall provide written notice of the  
2 assessment to the person. The notice shall be delivered in the  
3 manner prescribed by the department and shall include notice of the  
4 opportunity for a hearing.

5           (4) The department shall remit any administrative penalty  
6 to the State Treasurer, within thirty days after receipt, for  
7 distribution in accordance with Article VII, section 5, of the  
8 Constitution of Nebraska. The department shall, within thirty  
9 days after receipt, transmit an administrative penalty to the  
10 State Treasurer for credit to the permanent school fund. An  
11 administrative penalty assessed and unpaid under this section shall  
12 constitute a debt to the State of Nebraska which may be collected  
13 in the manner of a lien foreclosure or sued for and recovered in  
14 a proper form of action in the name of the state in the district  
15 court of the county in which the violator resides or owns property.

16           Sec. 614. Section 71-165, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           71-165 Any person who shall file, or attempt to file,  
19 with the ~~Department of Health and Human Services Regulation and~~  
20 ~~Licensure~~ department any false or forged diploma or certificate,  
21 or affidavit of identification or qualification, shall be deemed  
22 guilty of forgery, and upon conviction thereof shall be punished  
23 according to the penalties imposed in the statutes relating to that  
24 subject.

25           Sec. 615. Section 71-169, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27           71-169 The ~~Department of Health and Human Services~~

1 ~~Regulation and Licensure~~ department shall promulgate necessary  
2 rules and regulations and forms for carrying out the provisions of  
3 the Uniform Licensing Law. It may also adopt rules and regulations  
4 supplementing any of the provisions herein contained but not  
5 inconsistent therewith.

6           Sec. 616. Section 71-172.01, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           71-172.01 (1) ~~The Department of Health and Human Services~~  
9 ~~Regulation and Licensure may contract with the Department of Health~~  
10 ~~and Human Services to~~ department may provide a Licensee Assistance  
11 Program to credential holders regulated by the ~~Department of~~  
12 ~~Health and Human Services Regulation and Licensure.~~ department.

13 The program shall be limited to providing education, referral  
14 assistance, and monitoring of compliance with treatment of habitual  
15 intoxication or dependence and shall be limited to voluntary  
16 participation by credential holders.

17           (2)(a) Participation in the program shall be  
18 confidential, except that if any evaluation by the program  
19 determines that the intoxication or dependence may be of a nature  
20 which constitutes a danger to the public health and safety by the  
21 person's continued practice or if the person fails to comply with  
22 any term or condition of a treatment plan, the program shall report  
23 the same to the ~~Director of Regulation and Licensure.~~ director.

24           (b) Participation in the program shall not preclude the  
25 investigation of alleged statutory violations which could result  
26 in disciplinary action against the person's credential or criminal  
27 action against the person. Any report from any person or from the



1 program to the ~~Department of Health and Human Services Regulation~~  
2 ~~and Licensure~~ department indicating that a credential holder is  
3 suffering from habitual intoxication or dependence shall be treated  
4 as a complaint against such credential and shall subject such  
5 credential holder to discipline under sections 71-150 to 71-155.

6 (3) No person who makes a report of intoxication or  
7 dependence to the program or from the program to the department  
8 shall be liable in damages to any person for slander, libel,  
9 defamation of character, breach of any privileged communication, or  
10 other criminal or civil action of any nature, whether direct or  
11 derivative, for making such report or providing information to the  
12 program or department in accordance with this section.

13 (4) Any person who contacts the department for  
14 information on or assistance in obtaining referral or treatment  
15 of himself or herself or any other person credentialed by the  
16 department for habitual intoxication or dependence shall be  
17 referred to the program. Such inquiries shall not be used by  
18 the department as the basis for investigation for disciplinary  
19 action, except that such limitation shall not apply to complaints  
20 or any other reports or inquiries made to the department concerning  
21 persons who may be suffering from habitual intoxication or  
22 dependence or when a complaint has been filed or an investigation  
23 or disciplinary or other administrative proceeding is in process.

24 Sec. 617. Section 71-172.02, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26 71-172.02 The ~~Department of Health and Human Services~~  
27 ~~Regulation and Licensure~~ department shall charge a fee of one

1 dollar per year, in addition to any other fee, for each credential.  
2 Such fee shall be collected at the time of issuance or renewal and  
3 shall be remitted to the State Treasurer for credit to the Licensee  
4 Assistance Cash Fund, which fund is hereby created. Money in the  
5 fund shall be used to carry out section 71-172.01. Any money in  
6 the fund available for investment shall be invested by the state  
7 investment officer pursuant to the Nebraska Capital Expansion Act  
8 and the Nebraska State Funds Investment Act.

9           Sec. 618. Section 71-181, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           71-181 ~~The Department of Health and Human Services~~  
12 ~~Regulation and Licensure~~ department may in its discretion dispense  
13 with the examination in case of a chiropractor duly authorized  
14 to practice chiropractic in any other state, territory, or the  
15 District of Columbia, maintaining standards established by law or  
16 by duly authorized rules, equal to those of Nebraska, and who  
17 presents a certificate or license based on written examination  
18 issued by the proper authority of such other state, territory, or  
19 the District of Columbia.

20           Sec. 619. Section 71-188, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           71-188 When a person licensed to practice dentistry in  
23 this state changes his or her place of residence, he or she  
24 shall forthwith notify the ~~Department of Health and Human Services~~  
25 ~~Regulation and Licensure~~ department of such change, which shall be  
26 noted in the records of the department.

27           Sec. 620. Section 71-193.01, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2           71-193.01 There is hereby established the Office of Oral  
3 Health and Dentistry in the ~~Department of Health and Human Services~~  
4 ~~Regulation and Licensure- department.~~ The head of such office shall  
5 be known as the Dental Health Director and shall be appointed by  
6 the department. The Dental Health Director shall give full time to  
7 his or her duties.

8           Sec. 621. Section 71-193.13, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           71-193.13 Any licensed dentist, public institution, or  
11 school may employ dental assistants, in addition to licensed  
12 dental hygienists. Such dental assistants, under the supervision  
13 of a licensed dentist, may perform such duties as are prescribed  
14 in accordance with rules and regulations adopted and promulgated  
15 by the ~~Department of Health and Human Services Regulation and~~  
16 ~~Licensure- department.~~

17           Sec. 622. Section 71-193.15, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           71-193.15 A licensed dental hygienist shall perform the  
20 traditional dental hygiene functions set forth in section 71-193.17  
21 only when authorized to do so by a licensed dentist who shall be  
22 responsible for the total oral health care of the patient. The  
23 ~~Department of Health and Human Services Regulation and Licensure~~  
24 department in the conduct of public health-related services may  
25 authorize a licensed dental hygienist to conduct preliminary  
26 charting and screening examinations, provide oral health education  
27 for patients including the teaching of appropriate plaque control

1 techniques, and perform or provide all of the duties that any  
2 dental assistant is authorized to perform.

3           Sec. 623. Section 71-193.18, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           71-193.18 (1) A licensed dental hygienist may monitor  
6 nitrous oxide analgesia under the indirect supervision of a  
7 licensed dentist.

8           (2) A licensed dental hygienist may be approved by the  
9 department, upon the recommendation of the Board of Dentistry,  
10 to administer local anesthesia under the indirect supervision of  
11 a licensed dentist. The department may, upon the recommendation  
12 of the board, prescribe by rule and regulation: The necessary  
13 education and preparation, which shall include, but not be limited  
14 to, instruction in the areas of head and neck anatomy, osteology,  
15 physiology, pharmacology, medical emergencies, and clinical  
16 techniques; the necessary clinical experience; and the necessary  
17 examination for purposes of determining the competence of licensed  
18 dental hygienists to administer local anesthesia.

19           Upon the recommendation of the board, the department may  
20 approve successful completion after July 1, 1994, of a course of  
21 instruction to determine competence to administer local anesthesia.  
22 The course of instruction must be at an institution accredited  
23 by a regional or professional accrediting organization which  
24 is recognized by the United States Department of Education and  
25 approved by the ~~Department of Health and Human Services Regulation~~  
26 ~~and Licensure.~~ department. The course of instruction must be taught  
27 by a faculty member or members of the institution presenting the

1 course. The department may approve for purposes of this subsection  
2 a course of instruction if such course includes:

3 (a) At least twelve clock hours of classroom lecture,  
4 including instruction in (i) medical history evaluation procedures,  
5 (ii) anatomy of the head, neck, and oral cavity as it relates to  
6 administering local anesthetic agents, (iii) pharmacology of local  
7 anesthetic agents, vasoconstrictor, and preservatives, including  
8 physiologic actions, types of anesthetics, and maximum dose per  
9 weight, (iv) systemic conditions which influence selection and  
10 administration of anesthetic agents, (v) signs and symptoms of  
11 reactions to local anesthetic agents, including monitoring of vital  
12 signs, (vi) management of reactions to or complications associated  
13 with the administration of local anesthetic agents, (vii) selection  
14 and preparation of the armamentaria for administering various  
15 local anesthetic agents, and (viii) methods of administering local  
16 anesthetic agents;

17 (b) At least twelve clock hours of clinical instruction  
18 during which time at least three injections of each of the  
19 anterior, middle and posterior superior alveolar, naso and greater  
20 palatine, inferior alveolar, lingual, mental, long buccal, and  
21 infiltration injections are administered; and

22 (c) Procedures, which shall include an examination, for  
23 purposes of determining whether the hygienist has acquired the  
24 necessary knowledge and proficiency to administer local anesthetic  
25 agents.

26 Sec. 624. Section 71-193.19, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

1                   71-193.19 ~~The Department of Health and Human Services~~  
2 ~~Regulation and Licensure~~ department may, by rule and regulation,  
3 prescribe functions, procedures, and services in addition to those  
4 in section 71-193.17 which may be performed by a licensed dental  
5 hygienist under the supervision of a licensed dentist when such  
6 additional procedures are educational or related to the oral  
7 prophylaxis and intended to attain or maintain optimal oral health.

8                   Sec. 625. Section 71-193.22, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10                   71-193.22 As used in the Dental Anesthesia Act, unless  
11 the context otherwise requires:

12                   (1) Analgesia shall mean the diminution or elimination of  
13 pain in the conscious patient;

14                   (2) Board shall mean the Board of Dentistry;

15                   (3) Department shall mean the Department of Public  
16 Health; ~~Department of Health and Human Services Regulation and~~  
17 ~~Licensure;~~

18                   ~~(4)~~ (3) General anesthesia shall mean a controlled state  
19 of unconsciousness accompanied by a partial or complete loss  
20 of protective reflexes, including the inability to independently  
21 maintain an airway and respond purposefully to physical  
22 stimulation or verbal command, and produced by a pharmacologic or  
23 nonpharmacologic method or a combination thereof;

24                   ~~(5)~~ (4) Inhalation analgesia shall mean the  
25 administration of nitrous oxide and oxygen to diminish or  
26 eliminate pain in a conscious patient;

27                   ~~(6)~~ (5) Parenteral shall mean administration other than

1 through the digestive tract, including, but not limited to,  
2 intravenous administration; and

3 ~~(7)~~ (6) Sedation shall mean a depressed level of  
4 consciousness in which the patient's ability to independently  
5 and continuously maintain an airway and respond appropriately  
6 to physical stimulation or verbal command is retained and which  
7 is produced by a pharmacologic or nonpharmacologic method or a  
8 combination thereof.

9 Sec. 626. Section 71-1,104, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 71-1,104 (1) Each applicant for a license to practice  
12 medicine and surgery shall:

13 (a) (i) Present proof that he or she is a graduate of  
14 an accredited school or college of medicine, (ii) if a foreign  
15 medical graduate, provide a copy of a permanent certificate issued  
16 by the Educational Commission on Foreign Medical Graduates that  
17 is currently effective and relates to such applicant or provide  
18 such credentials as are necessary to certify that such foreign  
19 medical graduate has successfully passed the Visa Qualifying  
20 Examination or its successor or equivalent examination required  
21 by the United States Department of Health and Human Services and  
22 the United States Immigration and Naturalization Service, or (iii)  
23 if a graduate of a foreign medical school who has successfully  
24 completed a program of American medical training designated as  
25 the Fifth Pathway and who additionally has successfully passed  
26 the Educational Commission on Foreign Medical Graduates examination  
27 but has not yet received the permanent certificate attesting to

1 the same, provide such credentials as certify the same to the  
2 ~~Department of Health and Human Services Regulation and Licensure;~~  
3 department;

4 (b) Present proof that he or she has served at least  
5 one year of graduate medical education approved by the Board of  
6 Medicine and Surgery or, if a foreign medical graduate, present  
7 proof that he or she has served at least three years of graduate  
8 medical education approved by the board;

9 (c) Pass a licensing examination designated by the board  
10 and the department covering appropriate medical subjects; and

11 (d) Present proof satisfactory to the board that he or  
12 she, within the three years immediately preceding the application  
13 for licensure, (i) has been in the active practice of the  
14 profession of medicine and surgery in some other state, a  
15 territory, the District of Columbia, or Canada for a period of  
16 one year, (ii) has had at least one year of graduate medical  
17 education as described in subdivision (1)(b) of this section, (iii)  
18 has completed continuing education in medicine and surgery approved  
19 by the board, (iv) has completed a refresher course in medicine and  
20 surgery approved by the board, or (v) has completed the special  
21 purposes examination approved by the board.

22 (2) The department, upon the recommendation of the board,  
23 may waive any requirement for more than one year of approved  
24 graduate medical education, as set forth in subdivision (1)(b)  
25 of this section, if the applicant has served at least one year  
26 of graduate medical education approved by such board and if the  
27 following conditions are met:



1           (a) The applicant meets all other qualifications for a  
2 license to practice medicine and surgery;

3           (b) The applicant submits satisfactory proof that the  
4 issuance of a license based on the waiver of the requirement of  
5 more than one year of approved graduate medical education will not  
6 jeopardize the health, safety, and welfare of the citizens of this  
7 state; and

8           (c) The applicant submits proof that he or she will enter  
9 into the practice of medicine in a health profession shortage area  
10 designated as such by the Nebraska Rural Health Advisory Commission  
11 immediately upon obtaining a license to practice medicine and  
12 surgery based upon a waiver of the requirement for more than one  
13 year of graduate medical education.

14           (3) A license issued on the basis of such a waiver shall  
15 be subject to the limitation that the licensee continue in practice  
16 in the health profession shortage area and such other limitations,  
17 if any, deemed appropriate under the circumstances by the ~~Director~~  
18 ~~of Regulation and Licensure~~, director, upon recommendation of the  
19 board, which may include, but shall not be limited to, supervision  
20 by a medical practitioner, training, education, and scope of  
21 practice. After two years of practice under a limited license  
22 issued on the basis of a waiver of the requirement of more than  
23 one year of graduate medical education, a licensee may apply to the  
24 department for removal of the limitations. The director, upon the  
25 recommendation of the board, may grant or deny such application or  
26 may continue the license with limitations.

27           (4) In addition to any other grounds for disciplinary

1 action against the license contained in the Uniform Licensing  
2 Law, the department may take disciplinary action against a license  
3 granted on the basis of a waiver of the requirement of more  
4 than one year of graduate medical education for violation of the  
5 limitations on the license. The department, upon the recommendation  
6 of the board, shall adopt and promulgate rules and regulations for  
7 the purpose of implementing and administering this section.

8           Sec. 627. Section 71-1,104.01, Revised Statutes  
9 Cumulative Supplement, 2006, is amended to read:

10           71-1,104.01 (1) Except as provided in section 71-519  
11 and except for newborn screening tests ordered by physicians to  
12 comply with the law of the state in which the infant was born,  
13 a physician or an individual to whom the physician has delegated  
14 authority to perform a selected act, task, or function shall not  
15 order a predictive genetic test without first obtaining the written  
16 informed consent of the patient to be tested. Written informed  
17 consent consists of a signed writing executed by the patient  
18 or the representative of a patient lacking decisional capacity  
19 that confirms that the physician or individual acting under the  
20 delegated authority of the physician has explained, and the patient  
21 or his or her representative understands:

22           (a) The nature and purpose of the predictive genetic  
23 test;

24           (b) The effectiveness and limitations of the predictive  
25 genetic test;

26           (c) The implications of taking the predictive genetic  
27 test, including the medical risks and benefits;

1           (d) The future uses of the sample taken to conduct the  
2 predictive genetic test and the genetic information obtained from  
3 the predictive genetic test;

4           (e) The meaning of the predictive genetic test results  
5 and the procedure for providing notice of the results to the  
6 patient; and

7           (f) Who will have access to the sample taken to conduct  
8 the predictive genetic test and the genetic information obtained  
9 from the predictive genetic test, and the patient's right to  
10 confidential treatment of the sample and the genetic information.

11           (2) ~~The Department of Health and Human Services~~  
12 ~~Regulation and Licensure~~ department shall develop and distribute  
13 a model informed consent form for purposes of this section. The  
14 department shall include in the model form all of the information  
15 required under subsection (1) of this section. The department  
16 shall distribute the model form and all revisions to the form  
17 to physicians and other individuals subject to this section upon  
18 request and at no charge. The department shall review the model  
19 form at least annually for five years after the first model form is  
20 distributed and shall revise the model form if necessary to make  
21 the form reflect the latest developments in medical genetics. The  
22 department may also develop and distribute a pamphlet that provides  
23 further explanation of the information included in the model form.

24           (3) If a patient or his or her representative signs a  
25 copy of the model informed consent form developed and distributed  
26 under subsection (2) of this section, the physician or individual  
27 acting under the delegated authority of the physician shall give

1 the patient a copy of the signed informed consent form and shall  
2 include the original signed informed consent form in the patient's  
3 medical record.

4 (4) If a patient or his or her representative signs a  
5 copy of the model informed consent form developed and distributed  
6 under subsection (2) of this section, the patient is barred  
7 from subsequently bringing a civil action for damages against  
8 the physician, or an individual to whom the physician delegated  
9 authority to perform a selected act, task, or function, who ordered  
10 the predictive genetic test, based upon failure to obtain informed  
11 consent for the predictive genetic test.

12 (5) A physician's duty to inform a patient under this  
13 section does not require disclosure of information beyond what  
14 a physician reasonably well-qualified to order and interpret  
15 the predictive genetic test would know. A person acting under  
16 the delegated authority of a physician shall understand and be  
17 qualified to provide the information required by subsection (1) of  
18 this section.

19 (6) For purposes of this section:

20 (a) Genetic information means information about a gene,  
21 gene product, or inherited characteristic derived from a genetic  
22 test;

23 (b) Genetic test means the analysis of human DNA, RNA,  
24 chromosomes, epigenetic status, and those tissues, proteins, and  
25 metabolites used to detect heritable or somatic disease-related  
26 genotypes or karyotypes for clinical purposes. Tests of tissues,  
27 proteins, and metabolites are included only when generally accepted

1 in the scientific and medical communities as being specifically  
2 determinative of a heritable or somatic disease-related genetic  
3 condition. Genetic test does not include a routine analysis,  
4 including a chemical analysis, of body fluids or tissues unless  
5 conducted specifically to determine a heritable or somatic  
6 disease-related genetic condition. Genetic test does not include  
7 a physical examination or imaging study. Genetic test does not  
8 include a procedure performed as a component of biomedical research  
9 that is conducted pursuant to federal common rule under 21 C.F.R.  
10 parts 50 and 56 and 45 C.F.R. part 46, as such regulations existed  
11 on January 1, 2003; and

12 (c) Predictive genetic test means a genetic test for an  
13 otherwise undetectable genotype or karyotype relating to the risk  
14 for developing a genetically related disease or disability, the  
15 results of which can be used to substitute a patient's prior risk  
16 based on population data or family history with a risk based on  
17 genotype or karyotype. Predictive genetic test does not include  
18 diagnostic testing conducted on a person exhibiting clinical signs  
19 or symptoms of a possible genetic condition. Predictive genetic  
20 testing does not include prenatal genetic diagnosis, unless the  
21 prenatal testing is conducted for an adult-onset condition not  
22 expected to cause clinical signs or symptoms before the age of  
23 majority.

24 Sec. 628. Section 71-1,107, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26 71-1,107 The Department of Health and Human Services  
27 Regulation and Licensure department may accept in lieu of

1 the examination provided in section 71-1,104 a certificate of  
2 examination issued by the National Board of Medical Examiners of  
3 the United States of America, but every applicant for a license  
4 upon the basis of such certificate shall be required to pay the  
5 fees prescribed for licenses issued in medicine and surgery without  
6 examination based upon a license by examination held in another  
7 state, territory, or the District of Columbia.

8           Sec. 629. Section 71-1,107.06, Reissue Revised Statutes  
9 of Nebraska, is amended to read:

10           71-1,107.06 The duration of any permit issued pursuant  
11 to sections 71-1,107.01 to 71-1,107.14 shall be determined by the  
12 ~~Department of Health and Human Services Regulation and Licensure~~  
13 department but in no case shall it be in excess of one year.  
14 The permit may be renewed from time to time at the discretion  
15 of the ~~Department of Health and Human Services Regulation and~~  
16 ~~Licensure~~ department but in no case shall it be renewed for  
17 more than five one-year periods. The department may issue to  
18 all qualified graduates of accredited colleges of medicine or  
19 accredited schools or colleges of osteopathic medicine, who are  
20 eligible for the examination provided in section 71-1,104, and  
21 who make application for such examination, a temporary educational  
22 permit, without charge. Such permit shall be issued only for the  
23 duration of the time between the date of the examination and  
24 the date of licensure granted as a result of such examination.  
25 Any person issued a temporary educational permit without charge  
26 shall meet all requirements provided for in sections 71-1,107.01  
27 to ~~71-1,107.13,~~ 71-1,107.14, except the required fee, and such

1 exemption is only for the period of time between the examination  
2 date and the licensing date and for only those individuals who take  
3 the examination as provided in section 71-1,104.

4           Sec. 630. Section 71-1,107.07, Reissue Revised Statutes  
5 of Nebraska, is amended to read:

6           71-1,107.07 Before granting any temporary educational  
7 permit, the ~~Department of Health and Human Services Regulation and~~  
8 ~~Licensure~~ department shall ascertain by evidence satisfactory to  
9 such board that an accredited hospital or school or college of  
10 medicine in the State of Nebraska has requested the issuance of  
11 a temporary educational permit for an applicant to serve as a  
12 graduate student in its approved program for the period involved  
13 and any application for the issuance of such permit shall be signed  
14 by the applicant requesting that such permit be issued to him or  
15 her and shall designate the specified approved graduate medical  
16 educational program with respect to which such permit shall apply.

17           Sec. 631. Section 71-1,107.08, Reissue Revised Statutes  
18 of Nebraska, is amended to read:

19           71-1,107.08 Before a visiting faculty permit shall be  
20 issued, the ~~Department of Health and Human Services Regulation~~  
21 ~~and Licensure~~ department shall determine on the basis of evidence  
22 satisfactory to the department that an accredited school or college  
23 of medicine in the State of Nebraska has requested issuance of  
24 such visiting faculty permit for the individual involved to serve  
25 as a member of the faculty of such school or college of medicine  
26 and that the applicant for such permit has met the requirements of  
27 sections 71-1,107.01 to 71-1,107.14. Any application for issuing a

1 visiting faculty permit shall be signed by the applicant to whom  
2 such permit is to be issued and shall designate the accredited  
3 school or college of medicine where such applicant proposes to  
4 serve as a member of the faculty and shall outline the faculty  
5 duties to be performed pursuant to the permit.

6 Sec. 632. Section 71-1,107.16, Reissue Revised Statutes  
7 of Nebraska, is amended to read:

8 71-1,107.16 For purposes of sections 71-1,107.15 to  
9 71-1,107.30, unless the context otherwise requires:

10 (1) Approved program means a program for the education of  
11 physician assistants which the board formally approves;

12 (2) Board means the Board of Medicine and Surgery;

13 (3) Department means the Department of Public Health;  
14 ~~Department of Health and Human Services Regulation and Licensure;~~

15 (4) Physician assistant means any person who graduates  
16 from a program approved by the Commission on Accreditation of  
17 Allied Health Education Programs or its predecessor or successor  
18 agency and the board, who satisfactorily completes a proficiency  
19 examination, and whom the board, with the concurrence of the  
20 department, approves to perform medical services under the  
21 supervision of a physician or group of physicians approved by the  
22 board to supervise such assistant;

23 (5) Supervision means the ready availability of the  
24 supervising physician for consultation and direction of the  
25 activities of the physician assistant. Contact with the supervising  
26 physician by telecommunication shall be sufficient to show ready  
27 availability if the board finds that such contact is sufficient to



1 provide quality medical care. The level of supervision may vary by  
2 geographic location as provided in section 71-1,107.17;

3 (6) Trainee means any person who is currently enrolled in  
4 an approved program;

5 (7) Proficiency examination means the initial proficiency  
6 examination approved by the board for the licensure of physician  
7 assistants, including, but not limited to, the examination  
8 administered by the National Commission on Certification of  
9 Physician Assistants or other national organization established for  
10 such purpose that is recognized by the board;

11 (8) Supervising physician means a (a) board-approved  
12 physician who utilizes an approved physician assistant or (b)  
13 backup physician;

14 (9) Backup physician means a physician designated by  
15 the supervising physician to ensure supervision of the physician  
16 assistant in the supervising physician's absence. A backup  
17 physician shall be subject to the same requirements imposed upon  
18 the supervising physician when the backup physician is acting as a  
19 supervising physician; and

20 (10) Committee means the Physician Assistant Committee  
21 created in section 71-1,107.25.

22 Sec. 633. Section 71-1,132.05, Revised Statutes  
23 Cumulative Supplement, 2006, is amended to read:

24 71-1,132.05 For purposes of the Nurse Practice Act,  
25 unless the context otherwise requires:

26 (1) Executive director means the executive director of  
27 the Board of Nursing;

1                   (2) Board means the Board of Nursing;

2                   (3) License by endorsement means the granting of active  
3 status and the authority to practice to an individual who has been  
4 licensed in another jurisdiction;

5                   (4) License by examination means the authority to  
6 practice is based on an assessment of minimum competency by such  
7 means as the board may determine;

8                   (5) License, for purposes of discipline, includes the  
9 multistate licensure privilege to practice granted by the Nurse  
10 Licensure Compact. If the multistate licensure privilege is  
11 restricted due to disciplinary action by the home state, the  
12 department may, upon request by the individual, grant the authority  
13 to practice in this state;

14                   (6) Licensed practitioner means a person lawfully  
15 authorized to prescribe medications or treatments;

16                   (7) The practice of nursing means the performance for  
17 compensation or gratuitously of any act expressing judgment or  
18 skill based upon a systematized body of nursing knowledge.  
19 Such acts include the identification of and intervention in  
20 actual or potential health problems of individuals, families,  
21 or groups, which acts are directed toward maintaining health  
22 status, preventing illness, injury, or infirmity, improving health  
23 status, and providing care supportive to or restorative of life and  
24 well-being through nursing assessment and through the execution of  
25 nursing care and of diagnostic or therapeutic regimens prescribed  
26 by any person lawfully authorized to prescribe. Each nurse is  
27 directly accountable and responsible to the consumer for the

1 quality of nursing care rendered. Licensed nurses may use the  
2 services of unlicensed individuals to provide assistance with  
3 personal care and activities of daily living;

4 (8) The practice of nursing by a registered nurse means  
5 assuming responsibility and accountability for nursing actions  
6 which include, but are not limited to:

7 (a) Assessing human responses to actual or potential  
8 health conditions;

9 (b) Establishing nursing diagnoses;

10 (c) Establishing goals and outcomes to meet identified  
11 health care needs;

12 (d) Establishing and maintaining a plan of care;

13 (e) Prescribing nursing interventions to implement the  
14 plan of care;

15 (f) Implementing the plan of care;

16 (g) Teaching health care practices;

17 (h) Delegating, directing, or assigning nursing  
18 interventions that may be performed by others and that do not  
19 conflict with the act;

20 (i) Maintaining safe and effective nursing care rendered  
21 directly or indirectly;

22 (j) Evaluating responses to interventions, including, but  
23 not limited to, performing physical and psychological assessments  
24 of patients under restraint and seclusion as required by federal  
25 law, if the registered nurse has been trained in the use of  
26 emergency safety intervention;

27 (k) Teaching theory and practice of nursing;

1                   (1) Conducting, evaluating, and utilizing nursing  
2 research;

3                   (m) Administering, managing, and supervising the practice  
4 of nursing; and

5                   (n) Collaborating with other health professionals in the  
6 management of health care;

7                   (9) The practice of nursing by a licensed practical nurse  
8 means the assumption of responsibilities and accountability for  
9 nursing practice in accordance with knowledge and skills acquired  
10 through an approved program of practical nursing. A licensed  
11 practical nurse may function at the direction of a licensed  
12 practitioner or a registered nurse. Such responsibilities and  
13 performances of acts must utilize procedures leading to predictable  
14 outcomes and must include, but not be limited to:

15                   (a) Contributing to the assessment of the health status  
16 of individuals and groups;

17                   (b) Participating in the development and modification of  
18 a plan of care;

19                   (c) Implementing the appropriate aspects of the plan of  
20 care;

21                   (d) Maintaining safe and effective nursing care rendered  
22 directly or indirectly;

23                   (e) Participating in the evaluation of response to  
24 interventions; and

25                   (f) Assigning and directing nursing interventions that  
26 may be performed by others and that do not conflict with the act;

27                   (10) Department means the Department of Public Health;

1 ~~Health and Human Services Regulation and Licensure~~

2 (11) Director means the Director of Public Health;  
3 ~~Regulation and Licensure~~

4 (12) Inactive status means the designation given to a  
5 licensee who requests this status and pays the fee. A licensee on  
6 inactive status is issued a card indicating inactive status but  
7 shall not practice;

8 (13) Lapsed status means the designation given to a  
9 licensee who requests this status. A licensee on lapsed status  
10 shall not practice;

11 (14) Expiration date means the date on which the license  
12 expires has passed. The licensee whose license has expired shall  
13 not practice;

14 (15) Suspended means the licensee's authority to practice  
15 has been temporarily removed as a result of disciplinary action;

16 (16) Revoked means the licensee's authority to practice  
17 has been removed as a result of disciplinary action. The licensee  
18 may apply for reinstatement of his or her license two years or more  
19 after the date of revocation;

20 (17) Reinstatement means the return to active status and  
21 the restoration of the authority to practice to a licensee who was  
22 previously licensed in this state;

23 (18) Verification means attesting to the current status  
24 of an individual's license;

25 (19) Certification means attesting to the current status  
26 of an individual's license, any disciplinary action taken, and the  
27 means by which the individual was licensed;

1           (20) Probation means that the individual's authority to  
2 practice is contingent on the licensee meeting specified conditions  
3 imposed as a result of disciplinary action;

4           (21) Limited license means that certain restrictions have  
5 been imposed on the individual's authority to practice as a result  
6 of disciplinary action;

7           (22) Assignment means appointing or designating another  
8 individual the responsibility for the performance of nursing  
9 interventions;

10           (23) Delegation means transferring to another individual  
11 the authority, responsibility, and accountability to perform  
12 nursing interventions; and

13           (24) Direction means managing, guiding, and supervising  
14 the nursing interventions performed by another individual.

15           Sec. 634. Section 71-1,132.53, Reissue Revised Statutes  
16 of Nebraska, is amended to read:

17           71-1,132.53 ~~The Department of Health and Human Services~~  
18 ~~Regulation and Licensure~~ department shall:

19           (1) Conduct hearings upon charges of suspension or  
20 revocation of a license;

21           (2) Have power to issue subpoenas and compel the  
22 attendance of witnesses and administer oaths to persons giving  
23 testimony at hearings;

24           (3) Cause the prosecution of all persons violating the  
25 Nurse Practice Act and have power to incur the necessary expense;  
26 and

27           (4) Establish fees for credentialing activities under the

1 Nurse Practice Act as provided in section 71-162.

2           Sec. 635. Section 71-1,135.02, Reissue Revised Statutes  
3 of Nebraska, is amended to read:

4           71-1,135.02 (1) (a) No optometrist licensed in this state,  
5 except an optometrist who has been certified by the department  
6 prior to April 30, 1987, or by another state with substantially  
7 equivalent requirements for certification as determined by the  
8 department upon recommendation of the Board of Optometry to use  
9 topical ocular pharmaceutical agents for diagnostic purposes prior  
10 to April 30, 1987, shall use topical ocular pharmaceutical agents  
11 for diagnostic purposes authorized under subdivision (2) of section  
12 71-1,133 unless such person (i) submits to the board the required  
13 fee and evidence of satisfactory completion of a pharmacology  
14 course at an institution accredited by a regional or professional  
15 accrediting organization which is recognized by the United States  
16 Department of Education and approved by the ~~Department of Health~~  
17 ~~and Human Services Regulation and Licensure,~~ Department of Public  
18 Health, (ii) passes an examination approved by the department, and  
19 (iii) has been certified by the department upon the recommendation  
20 of the board as qualified to use topical ocular pharmaceutical  
21 agents for diagnostic purposes.

22           (b) The department may approve for certification pursuant  
23 to subdivision (1) (a) (i) of this section a pharmacology course if  
24 such course includes:

25           (i) A study of ocular anesthetics, mydriatics,  
26 cycloplegics, ocular toxicity of pharmaceutical agents, ocular  
27 allergies of ocular agents, and pharmacologic effects of ocular

1 drug substances;

2 (ii) The consideration of the mechanism of action of  
3 anesthetics, cycloplegics, and mydriatics in human beings and the  
4 uses of such substances in the diagnosis of occurring ocular  
5 disorders;

6 (iii) At least one hundred hours of classroom education,  
7 clinical training, and examination; and

8 (iv) The correlation of the utilization of pharmaceutical  
9 agents and optical instrumentation and procedures.

10 (c) The department may approve for certification pursuant  
11 to subdivision (1)(a)(ii) of this section an examination if such  
12 examination is:

13 (i) Based upon the competencies taught in a pharmacology  
14 course; and

15 (ii) Administered by an institution accredited by  
16 a regional or professional accrediting organization which is  
17 recognized by the United States Department of Education and  
18 approved by the ~~Department of Health and Human Services Regulation~~  
19 ~~and Licensure.~~ Department of Public Health.

20 (2)(a) No optometrist licensed in this state on or after  
21 April 30, 1987, shall use topical ocular pharmaceutical agents for  
22 therapeutic purposes authorized under subdivision (3) of section  
23 71-1,133 unless such person (i) submits to the board the required  
24 fee and evidence of satisfactory completion of a minimum of one  
25 hundred hours since January 1, 1984, of which forty hours shall be  
26 classroom education and sixty hours shall be supervised clinical  
27 training as it applies to optometry with particular emphasis



1 on the examination, diagnosis, and treatment of the eye, ocular  
2 adnexa, and visual system offered by a school or college approved  
3 by the department, (ii) passes an examination approved by the  
4 department, (iii) has been certified by the department upon the  
5 recommendation of the board to use topical ocular pharmaceutical  
6 agents for therapeutic purposes, and (iv) has been certified by  
7 the department upon the recommendation of the board to use topical  
8 ocular pharmaceutical agents for diagnostic purposes.

9 (b) The department may approve for certification pursuant  
10 to subdivision (2)(a)(i) of this section a therapeutic course  
11 or courses of instruction, from an institution accredited by  
12 a regional or professional accrediting organization which is  
13 recognized by the United States Department of Education, that  
14 have been completed after January 1, 1984. Such course or courses  
15 shall include, but not be limited to:

- 16 (i) Review of general pharmacology and therapeutics;  
17 (ii) Review of ocular therapeutic pharmacology;  
18 (iii) Diagnosis and treatment of diseases of the eye,  
19 ocular adnexa, and visual system;  
20 (iv) Diagnosis of corneal disease and trauma including  
21 corneal foreign bodies;  
22 (v) Diagnosis and treatment of anterior segment eye  
23 diseases;  
24 (vi) Clinical procedures related to the diagnosis and  
25 treatment of the eye, ocular adnexa, and visual system;  
26 (vii) Ocular manifestations of systemic disease;  
27 (viii) Review of systemic disease syndromes;

1           (ix) Ocular therapy including management of acute  
2 systemic emergencies; and

3           (x) Consultation criteria in ocular disease and trauma.

4           (3)(a) An optometrist who is licensed and certified to  
5 use pharmaceutical agents for therapeutic purposes on July 15,  
6 1998, who graduated from an accredited school of optometry prior  
7 to January 1, 1996, shall complete the educational requirements  
8 relative to the treatment of glaucoma, as determined by the board,  
9 prior to January 1, 2000, and shall complete such educational  
10 requirements prior to treating glaucoma. Failure to complete such  
11 education prior to January 1, 2000, shall result in the revocation  
12 of the licensee's certification to use pharmaceutical agents for  
13 therapeutic purposes.

14           (b) An optometrist who applies for licensure on or  
15 after July 15, 1998, who graduated from an accredited school  
16 of optometry prior to January 1, 1996, shall complete the  
17 educational requirements relative to the treatment of glaucoma,  
18 as determined by the board, prior to being issued a license to  
19 practice optometry.

20           (c) An optometrist who graduated from an accredited  
21 school of optometry after January 1, 1996, shall be deemed to  
22 have met the educational requirements for certification to use  
23 pharmaceutical agents for therapeutic purposes which includes the  
24 treatment and management of glaucoma.

25           Sec. 636. Section 71-1,136, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27           71-1,136 No school of optometry shall be approved by the

1 ~~Department of Health and Human Services Regulation and Licensure~~  
2 Department of Public Health as an accredited school unless the  
3 school is accredited by a regional or professional accrediting  
4 organization which is recognized by the United States Department of  
5 Education.

6           Sec. 637. Section 71-1,141, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           71-1,141 With respect to licenses issued pursuant to  
9 sections 71-1,139 and 71-1,139.01 and any renewals thereof, the  
10 ~~Department of Health and Human Services Regulation and Licensure~~  
11 department shall designate the extent of such practice as follows:

- 12           (1) License to practice as an osteopathic physician; or  
13           (2) License to practice osteopathic medicine and surgery.

14           Every license issued under sections 71-1,139 and  
15 71-1,139.01 shall confer upon the holder thereof the right to  
16 practice osteopathic medicine and surgery as taught in the schools  
17 or colleges of osteopathic medicine recognized by the American  
18 Osteopathic Association in the manner and to the extent provided  
19 by such license.

20           Sec. 638. Section 71-1,142, Revised Statutes Cumulative  
21 Supplement, 2006, is amended to read:

22           71-1,142 For purposes of sections 71-1,142 to 71-1,151  
23 and elsewhere in the Uniform Licensing Law, unless the context  
24 otherwise requires:

- 25           (1) Practice of pharmacy means (a) the interpretation,  
26 evaluation, and implementation of a medical order, (b) the  
27 dispensing of drugs and devices, (c) drug product selection,

1 (d) the administration of drugs or devices, (e) drug utilization  
2 review, (f) patient counseling, (g) the provision of pharmaceutical  
3 care, and (h) the responsibility for compounding and labeling of  
4 dispensed or repackaged drugs and devices, proper and safe storage  
5 of drugs and devices, and maintenance of proper records. The active  
6 practice of pharmacy means the performance of the functions set  
7 out in this subdivision by a pharmacist as his or her principal or  
8 ordinary occupation;

9 (2) Administer means to directly apply a drug or device  
10 by injection, inhalation, ingestion, or other means to the body of  
11 a patient or research subject;

12 (3) Administration means the act of (a) administering,  
13 (b) keeping a record of such activity, and (c) observing,  
14 monitoring, reporting, and otherwise taking appropriate action  
15 regarding desired effect, side effect, interaction, and  
16 contraindication associated with administering the drug or device;

17 (4) Board means the Board of Pharmacy;

18 (5) Caregiver means any person acting as an agent on  
19 behalf of a patient or any person aiding and assisting a patient;

20 (6) Chart order means an order for a drug or device  
21 issued by a practitioner for a patient who is in the hospital  
22 where the chart is stored or for a patient receiving detoxification  
23 treatment or maintenance treatment pursuant to section 28-412.  
24 Chart order does not include a prescription;

25 (7) Compounding means the preparation of components into  
26 a drug product (a) as the result of a practitioner's medical order  
27 or initiative occurring in the course of practice based upon the

1 relationship between the practitioner, patient, and pharmacist or  
2 (b) for the purpose of, or as an incident to, research, teaching,  
3 or chemical analysis and not for sale or dispensing. Compounding  
4 includes the preparation of drugs or devices in anticipation of  
5 receiving medical orders based upon routine, regularly observed  
6 prescribing patterns;

7 (8) Delegated dispensing means the practice of pharmacy  
8 by which one or more pharmacists have jointly agreed, on a  
9 voluntary basis, to work in conjunction with one or more persons  
10 pursuant to sections 71-1,147.42 to 71-1,147.64 under a protocol  
11 which provides that such person may perform certain dispensing  
12 functions authorized by the pharmacist or pharmacists under certain  
13 specified conditions and limitations;

14 (9) Deliver or delivery means to actually,  
15 constructively, or attempt to transfer a drug or device from one  
16 person to another, whether or not for consideration;

17 (10) Department means the Department of Public Health;  
18 ~~Health and Human Services Regulation and Licensure~~;

19 (11) Device means an instrument, apparatus, implement,  
20 machine, contrivance, implant, in vitro reagent, or other similar  
21 or related article, including any component, part, or accessory,  
22 which is prescribed by a practitioner and dispensed by a pharmacist  
23 or other person authorized by law to do so;

24 (12) Dialysis drug or device distributor means a  
25 manufacturer or wholesaler who provides dialysis drugs, solutions,  
26 supplies, or devices, to persons with chronic kidney failure for  
27 self-administration at the person's home or specified address,

1 pursuant to a prescription;

2 (13) Dialysis drug or device distributor worker means a  
3 person working for a dialysis drug or device distributor with a  
4 delegated dispensing permit who has completed the approved training  
5 and has demonstrated proficiency to perform the task or tasks of  
6 assembling, labeling, or delivering drugs or devices pursuant to a  
7 prescription;

8 (14) Dispense or dispensing means interpreting,  
9 evaluating, and implementing a medical order, including preparing  
10 and delivering a drug or device to a patient or caregiver  
11 in a suitable container appropriately labeled for subsequent  
12 administration to, or use by, a patient. Dispensing includes (a)  
13 dispensing incident to practice, (b) dispensing pursuant to a  
14 delegated dispensing permit, (c) dispensing pursuant to a medical  
15 order, and (d) any transfer of a prescription drug or device to a  
16 patient or caregiver other than by administering;

17 (15) Distribute means to deliver a drug or device, other  
18 than by administering or dispensing;

19 (16) Facility means a health care facility as defined in  
20 section 71-413;

21 (17) Hospital has the same meaning as in section 71-419;

22 (18) Person means an individual, corporation,  
23 partnership, limited liability company, association, or other legal  
24 entity;

25 (19) Labeling means the process of preparing and affixing  
26 a label to any drug container or device container, exclusive  
27 of the labeling by a manufacturer, packer, or distributor of

1 a nonprescription drug or commercially packaged legend drug or  
2 device. Any such label shall include all information required by  
3 federal and state law or regulation;

4 (20) Medical order means a prescription, a chart order,  
5 or an order for pharmaceutical care issued by a practitioner;

6 (21) Pharmaceutical care means the provision of drug  
7 therapy for the purpose of achieving therapeutic outcomes that  
8 improve a patient's quality of life. Such outcomes include (a) the  
9 cure of disease, (b) the elimination or reduction of a patient's  
10 symptomatology, (c) the arrest or slowing of a disease process, or  
11 (d) the prevention of a disease or symptomatology. Pharmaceutical  
12 care includes the process through which the pharmacist works in  
13 concert with the patient and his or her caregiver, physician, or  
14 other professionals in designing, implementing, and monitoring a  
15 therapeutic plan that will produce specific therapeutic outcomes  
16 for the patient;

17 (22) Pharmacist means any person who is licensed by the  
18 State of Nebraska to practice pharmacy;

19 (23) Pharmacy has the same meaning as in section 71-425;

20 (24) Drugs, medicines, and medicinal substances means (a)  
21 articles recognized in the official United States Pharmacopoeia,  
22 the Homeopathic Pharmacopoeia of the United States, the official  
23 National Formulary, or any supplement to any of them, (b) articles  
24 intended for use in the diagnosis, cure, mitigation, treatment, or  
25 prevention of diseases in humans or animals, (c) articles, except  
26 food, intended to affect the structure or any function of the  
27 body of a human or an animal, (d) articles intended for use as a

1 component of any articles specified in subdivision (a), (b), or (c)  
2 of this subdivision, except any device or its components, parts, or  
3 accessories, and (e) prescription drugs or devices as defined in  
4 subdivision (31) of this section;

5 (25) Patient counseling means the verbal communication  
6 by a pharmacist, pharmacist intern, or practitioner, in a manner  
7 reflecting dignity and the right of the patient to a reasonable  
8 degree of privacy, of information to the patient or caregiver in  
9 order to improve therapeutic outcomes by maximizing proper use of  
10 prescription drugs and devices and also includes the duties set out  
11 in section 71-1,147.35;

12 (26) Pharmacist in charge means a pharmacist who is  
13 designated on a pharmacy license or designated by a hospital as  
14 being responsible for the practice of pharmacy in the pharmacy  
15 for which a pharmacy license is issued and who works within the  
16 physical confines of such pharmacy for a majority of the hours  
17 per week that the pharmacy is open for business averaged over a  
18 twelve-month period or thirty hours per week, whichever is less;

19 (27) Pharmacist intern means a person who meets the  
20 requirements of section 71-1,144;

21 (28) Pharmacy technician means an individual at least  
22 eighteen years of age who is a high school graduate or officially  
23 recognized by the State Department of Education as possessing the  
24 equivalent degree of education, who has never been convicted of  
25 any drug-related misdemeanor or felony, and who, under the written  
26 control procedures and guidelines of an employing pharmacy, may  
27 perform those functions which do not require professional judgment



1 and which are subject to verification to assist a pharmacist in the  
2 practice of pharmacy;

3 (29) Practitioner means a certified registered nurse  
4 anesthetist, a certified nurse midwife, a dentist, an optometrist,  
5 a nurse practitioner, a physician assistant, a physician, a  
6 podiatrist, or a veterinarian;

7 (30) Prescribe means to issue a medical order;

8 (31) Prescription drug or device or legend drug or  
9 device means (a) a drug or device which is required under  
10 federal law to be labeled with one of the following statements  
11 prior to being dispensed or delivered: (i) Caution: Federal law  
12 prohibits dispensing without prescription; (ii) Caution: Federal  
13 law restricts this drug to use by or on the order of a licensed  
14 veterinarian; or (iii) "Rx Only" or (b) a drug or device which is  
15 required by any applicable federal or state law to be dispensed  
16 pursuant only to a prescription or chart order or which is  
17 restricted to use by practitioners only;

18 (32) Prescription means an order for a drug or device  
19 issued by a practitioner for a specific patient, for emergency use,  
20 or for use in immunizations. Prescription does not include a chart  
21 order;

22 (33) Nonprescription drugs means nonnarcotic medicines or  
23 drugs which may be sold without a medical order and which are  
24 prepackaged for use by the consumer and labeled in accordance with  
25 the requirements of the laws and regulations of this state and the  
26 federal government;

27 (34) Public health clinic worker means a person in a

1 public health clinic with a delegated dispensing permit who has  
2 completed the approved training and has demonstrated proficiency  
3 to perform the task of dispensing authorized refills of oral  
4 contraceptives pursuant to a written prescription;

5 (35) Public health clinic means the department, any  
6 county, city-county, or multicounty health department, or any  
7 private not-for-profit family planning clinic licensed as a health  
8 clinic as defined in section 71-416;

9 (36) Signature means the name, word, or mark of a person  
10 written in his or her own hand with the intent to authenticate a  
11 writing or other form of communication or a digital signature which  
12 complies with section 86-611 or an electronic signature;

13 (37) Supervision means the immediate personal guidance  
14 and direction by the licensed pharmacist on duty in the facility of  
15 the performance by a pharmacy technician of authorized activities  
16 or functions subject to verification by such pharmacist, except  
17 that when a pharmacy technician performs authorized activities or  
18 functions to assist a pharmacist on duty in the facility when the  
19 prescribed drugs or devices will be administered by a licensed  
20 staff member or consultant or by a licensed physician assistant to  
21 persons who are patients or residents of a facility, the activities  
22 or functions of such pharmacy technician shall only be subject to  
23 verification by a pharmacist on duty in the facility;

24 (38) Verification means the confirmation by a supervising  
25 pharmacist of the accuracy and completeness of the acts, tasks,  
26 or functions undertaken by a pharmacy technician to assist the  
27 pharmacist in the practice of pharmacy;

1           (39) Written control procedures and guidelines means  
2 the document prepared and signed by the pharmacist in charge  
3 and approved by the board which specifies the manner in which  
4 basic levels of competency of pharmacy technicians employed by  
5 the pharmacy are determined, the manner in which supervision is  
6 provided, the manner in which the functions of pharmacy technicians  
7 are verified, the maximum ratio of pharmacy technicians to one  
8 pharmacist used in the pharmacy, and guidelines governing the use  
9 of pharmacy technicians and the functions which they may perform;

10           (40) Medical gas distributor means a person who dispenses  
11 medical gases to a patient or ultimate user but does not include a  
12 person who manufactures medical gases or a person who distributes,  
13 transfers, delivers, dispenses, or sells medical gases to a person  
14 other than a patient or ultimate user;

15           (41) Facsimile means a copy generated by a system that  
16 encodes a document or photograph into electrical signals, transmits  
17 those signals over telecommunications lines, and reconstructs the  
18 signals to create an exact duplicate of the original document at  
19 the receiving end;

20           (42) Electronic signature has the same definition found  
21 in section 86-621; and

22           (43) Electronic transmission means transmission of  
23 information in electronic form. Electronic transmission may  
24 include computer-to-computer transmission or computer-to-facsimile  
25 transmission.

26           Sec. 639. Section 71-1,143.01, Revised Statutes  
27 Cumulative Supplement, 2006, is amended to read:

1                   71-1,143.01 (1) Every applicant for examination and  
2 licensure as a pharmacist shall be not less than twenty-one years  
3 of age, of good moral character and temperate habits, a graduate  
4 of an accredited pharmacy program, recognized by the board, except  
5 that an applicant who is a graduate of a pharmacy program located  
6 outside of the United States and which is not accredited shall be  
7 deemed to have satisfied the requirement of being a graduate of  
8 an accredited pharmacy program upon providing evidence satisfactory  
9 to the board of graduation from such foreign pharmacy program and  
10 upon successfully passing an equivalency examination approved by  
11 the board.

12                   (2) Every applicant shall (a) file proof of sufficient  
13 internship experience in pharmacy, under the supervision of a  
14 licensed pharmacist, as may be required by the board, which  
15 shall comply with national requirements for internship as set  
16 forth by the National Association of Boards of Pharmacy, (b) have  
17 satisfactorily completed at least five years of college of which  
18 at least three years shall have been in an accredited pharmacy  
19 program, and (c) pass an examination satisfactory to the board.

20                   (3) Proof of the qualifications for licensure prescribed  
21 in this section shall be made to the satisfaction of the board,  
22 substantiated by proper affidavits. In all cases the actual time  
23 of attendance in an accredited pharmacy program shall be certified  
24 by the appropriate school, college, or university authority by  
25 the issuance of the degree granted to a graduate of such school,  
26 college, or university. Service and experience in pharmacy under  
27 the supervision of a licensed pharmacist, as required in this

1 section, shall be predominantly related to the practice of pharmacy  
2 and shall include the keeping of records and the making of reports  
3 required under state and federal statutes. The ~~Department of Health~~  
4 ~~and Human Services Regulation and Licensure~~, department, upon the  
5 recommendation of the board, shall adopt and promulgate rules  
6 and regulations as may be required to establish standards for  
7 internship which shall comply with national requirements to effect  
8 reciprocity with other states which have similar requirements for  
9 licensure. The required fee for pharmacy internship shall accompany  
10 the application.

11           Sec. 640. Section 71-1,147.26, Reissue Revised Statutes  
12 of Nebraska, is amended to read:

13           71-1,147.26 The duration of any temporary educational  
14 permit issued pursuant to sections 71-1,147.17 to 71-1,147.32 shall  
15 be determined by the ~~Department of Health and Human Services~~  
16 ~~Regulation and Licensure~~ department but in no case shall it be in  
17 excess of one year. The permit may be renewed from time to time  
18 at the discretion of the ~~Department of Health and Human Services~~  
19 ~~Regulation and Licensure~~ department but in no case shall it be  
20 renewed for more than five one-year periods.

21           Sec. 641. Section 71-1,147.28, Reissue Revised Statutes  
22 of Nebraska, is amended to read:

23           71-1,147.28 Before granting any temporary educational  
24 permit, the ~~Department of Health and Human Services Regulation~~  
25 ~~and Licensure~~ department shall ascertain by evidence satisfactory  
26 to the department that an accredited hospital or clinic or an  
27 accredited school or college of pharmacy in the State of Nebraska

1 has requested the issuance of a temporary educational permit for an  
2 applicant to serve as a graduate student in its approved program  
3 for the period involved. Any application for the issuance of such  
4 permit shall be signed by the applicant requesting that such permit  
5 be issued to him or her and shall designate the specified approved  
6 graduate pharmacy educational program with respect to which such  
7 permit shall apply.

8           Sec. 642. Section 71-1,147.31, Reissue Revised Statutes  
9 of Nebraska, is amended to read:

10           71-1,147.31 Any temporary educational permit granted  
11 under the authority of sections 71-1,147.17 to 71-1,147.32  
12 may be suspended, limited, or revoked by the department, upon  
13 recommendation of the board, at any time upon a finding that the  
14 reasons for issuing such permit no longer exist or that the person  
15 to whom such permit has been issued is no longer qualified to hold  
16 such permit or for any reason for which a pharmacist license could  
17 be suspended, limited, or revoked. A hearing on the suspension,  
18 limitation, or revocation of the temporary educational permit  
19 by the department shall be held in the same manner as for the  
20 denial of a pharmacist license. The final order of the ~~Director of~~  
21 ~~Regulation and Licensure~~ director may be appealed, and the appeal  
22 shall be in accordance with the Administrative Procedure Act.

23           Sec. 643. Section 71-1,147.33, Revised Statutes  
24 Cumulative Supplement, 2006, is amended to read:

25           71-1,147.33 (1) A pharmacy technician shall only perform  
26 tasks which do not require professional judgment and which are  
27 subject to verification to assist a pharmacist in the practice of

1 pharmacy.

2 (2) The functions and tasks which shall not be performed  
3 by pharmacy technicians or individuals dispensing pursuant to a  
4 delegated dispensing permit include, but are not limited to:

5 (a) Receiving oral medical orders from a practitioner or  
6 his or her agent;

7 (b) Providing patient counseling;

8 (c) Performing any evaluation or necessary clarification  
9 of a medical order or performing any functions other than strictly  
10 clerical functions involving a medical order;

11 (d) Supervising or verifying the tasks and functions of  
12 pharmacy technicians;

13 (e) Interpreting or evaluating the data contained in a  
14 patient's record maintained pursuant to section 71-1,147.35;

15 (f) Releasing any confidential information maintained by  
16 the pharmacy;

17 (g) Performing any professional consultations; and

18 (h) Drug product selecting, with regard to an individual  
19 medical order, in accordance with the Nebraska Drug Product  
20 Selection Act.

21 (3) The ~~Director of Regulation and Licensure~~ director  
22 shall, upon recommendation of the board, waive any of the  
23 limitations in subsection (2) of this section for purposes of  
24 a scientific study of the role of pharmacy technicians approved  
25 by the board. Such study shall be based upon providing improved  
26 patient care or enhanced pharmaceutical care. Any such waiver shall  
27 state the length of the study and shall require that all study data

1 and results be made available to the board upon the completion of  
2 the study. Nothing in this subsection shall require the board to  
3 approve any study proposed by this subsection.

4 (4) The pharmacy employing pharmacy technicians shall  
5 be responsible for the supervision and performance of such  
6 technicians.

7 (5) The pharmacist in charge shall be responsible  
8 for the practice of pharmacy and the establishment of written  
9 control procedures and guidelines governing the qualifications,  
10 onsite training, functions, supervision, and verification of the  
11 performance of pharmacy technicians. The supervision of such  
12 technicians at the place of employment shall be performed by  
13 the licensed pharmacist who is on duty in the facility with the  
14 pharmacy technicians.

15 (6)(a) Each pharmacy shall document, in a manner  
16 and method specified in the written control procedures and  
17 guidelines, the basic competence of the pharmacy technician prior  
18 to performance of tasks and functions by such technician. Such  
19 basic competence shall include, but not be limited to:

- 20 (i) Basic pharmaceutical nomenclature;  
21 (ii) Metric system measures, both liquid and solid;  
22 (iii) The meaning and use of Roman numerals;  
23 (iv) Abbreviations used for dosages and directions to  
24 patients;  
25 (v) Basic medical terms, including terms relating to  
26 ailments, diseases, or infirmities;  
27 (vi) The use and operation of automated dispensing and



1 record-keeping systems if used by the employing pharmacy;

2 (vii) Applicable statutes, rules, and regulations  
3 governing the preparation, compounding, dispensing, and  
4 distribution of drugs or devices, record keeping with regard to  
5 such functions, and the employment, use, and functions of pharmacy  
6 technicians; and

7 (viii) The contents of the written control procedures and  
8 guidelines.

9 (b) Written control procedures and guidelines shall  
10 specify the functions that pharmacy technicians may perform in the  
11 employing pharmacy. The written control procedures and guidelines  
12 shall specify the means used by the employing pharmacy to verify  
13 that the prescribed drug or device, the dosage form, and the  
14 directions provided to the patient or caregiver conform to the  
15 medical order authorizing the drug or device to be dispensed.

16 (c) The written control procedures and guidelines shall  
17 specify the manner in which the verification made prior to  
18 dispensing is documented.

19 (7) Each pharmacy or facility shall, before using  
20 pharmacy technicians, file with the board a copy of its written  
21 control procedures and guidelines and receive approval of its  
22 written control procedures and guidelines from the board. The  
23 board shall, within ninety days from the filing of such written  
24 control procedures and guidelines, review and either approve or  
25 disapprove them. The board shall notify the pharmacy or facility  
26 of the approval or disapproval. The board or its representatives  
27 shall have access to the approved written control procedures

1 and guidelines upon request. Any written control procedures and  
2 guidelines for supportive pharmacy personnel that were filed by a  
3 pharmacy and approved by the board prior to May 26, 1999, shall be  
4 deemed to be approved and to apply to pharmacy technicians.

5 (8) Any hospital using supportive pharmacy personnel  
6 prior to June 11, 1993, and using pharmacy technicians on or after  
7 May 1, 2001, shall file a copy of written control procedures and  
8 guidelines with the board by February 1, 2002, or such hospital  
9 shall be in violation of subsection (2) of section 71-1,147.

10 (9) (a) If pharmacy technicians perform functions  
11 requiring professional judgment and licensure as a pharmacist,  
12 perform functions not specified under approved written control  
13 procedures and guidelines, or perform functions without supervision  
14 and such acts are known to the pharmacist supervising the pharmacy  
15 technicians or the pharmacist in charge or are of such a nature  
16 that they should have been known to a reasonable person, such acts  
17 may be considered acts of unprofessional conduct on the part of the  
18 pharmacist supervising the pharmacy technicians or the pharmacist  
19 in charge pursuant to section 71-147 against whom disciplinary  
20 measures may be taken.

21 (b) Acts described in subdivision (a) of this subsection  
22 may be grounds for the department, upon the recommendation of the  
23 board, to apply to the district court in the judicial district in  
24 which the pharmacy is located for an order to cease and desist  
25 from the performance of any unauthorized acts. On or at any time  
26 after such application the court may, in its discretion, issue an  
27 order restraining such pharmacy or its agents or employees from

1 the performance of unauthorized acts. After a full hearing the  
2 court shall either grant or deny the application. Such order shall  
3 continue until the court, after a like hearing, finds the basis for  
4 such order has been removed.

5 Sec. 644. Section 71-1,147.44, Reissue Revised Statutes  
6 of Nebraska, is amended to read:

7 71-1,147.44 (1) If the department determines to deny an  
8 application for a delegated dispensing permit or to revoke, limit,  
9 suspend, or refuse renewal of a delegated dispensing permit, the  
10 department shall send to the applicant or permittee, by certified  
11 mail, a notice setting forth the particular reasons for the  
12 determination. The denial, limitation, suspension, revocation, or  
13 refusal of renewal shall become final thirty days after the mailing  
14 of the notice unless the applicant or permittee, within such  
15 thirty-day period, requests a hearing in writing. The applicant  
16 or permittee shall be given a fair hearing before the department  
17 and may present such evidence as may be proper. On the basis of  
18 such evidence, the determination involved shall be affirmed or set  
19 aside, and a copy of such decision setting forth the finding of  
20 facts and the particular reasons upon which it is based shall be  
21 sent by certified mail to the applicant or permittee. The decision  
22 shall become final thirty days after a copy of such decision is  
23 mailed unless the applicant or permittee within such thirty-day  
24 period appeals the decision pursuant to section 71-1,147.46.

25 (2) The procedure governing hearings authorized by this  
26 section shall be in accordance with rules and regulations adopted  
27 and promulgated by the department. A full and complete record shall

1 be kept of all proceedings. Witnesses may be subpoenaed by either  
2 party and shall be allowed a fee at a rate prescribed by the  
3 rules and regulations adopted and promulgated by the department.  
4 The proceedings shall be summary in nature and triable as equity  
5 actions. Affidavits may be received in evidence in the discretion  
6 of the ~~Director of Regulation and Licensure~~ director. The  
7 department shall have the power to administer oaths, to subpoena  
8 witnesses and compel their attendance, and to issue subpoenas duces  
9 tecum and require the production of books, accounts, and documents  
10 in the same manner and to the same extent as the district courts of  
11 the state. Depositions may be used by either party.

12           Sec. 645. Section 71-1,147.45, Reissue Revised Statutes  
13 of Nebraska, is amended to read:

14           71-1,147.45 (1) Upon the completion of any hearing  
15 pursuant to section 71-1,147.44, the ~~Director of Regulation and~~  
16 ~~Licensure~~ director shall have the authority through entry of an  
17 order to exercise in his or her discretion any or all of the  
18 following powers:

19           (a) Issue a censure against the permittee;

20           (b) Place the permittee on probation;

21           (c) Place a limitation or limitations on the permit and  
22 upon the right of the permittee to dispense drugs or devices to the  
23 extent, scope, or type of operation, for such time, and under such  
24 conditions as the director finds necessary and proper. The director  
25 shall consult with the board in all instances prior to issuing an  
26 order of limitation;

27           (d) Impose a civil penalty not to exceed twenty thousand

1 dollars. The amount of the civil penalty, if any, shall be based  
2 on the severity of the violation. If any violation is a repeated  
3 or continuing violation, each violation or each day a violation  
4 continues shall constitute a separate violation for the purpose of  
5 computing the applicable civil penalty, if any;

6 (e) Enter an order of suspension of the permit;

7 (f) Enter an order of revocation of the permit; and

8 (g) Dismiss the action.

9 (2) The permittee shall not dispense drugs or devices  
10 after a permit is revoked or during the time for which the permit  
11 is suspended. If a permit is suspended, the suspension shall be for  
12 a definite period of time to be fixed by the director. The permit  
13 shall be automatically reinstated upon the expiration of such  
14 period if the current renewal fees have been paid. If the permit  
15 is revoked, the revocation shall be permanent, except that at any  
16 time after the expiration of two years, application may be made  
17 for reinstatement by any permittee whose permit has been revoked.  
18 The application shall be addressed to the director but may not be  
19 received or filed by him ~~or her~~ unless accompanied by a written  
20 recommendation of reinstatement by the board. The department may  
21 adopt and promulgate the necessary rules and regulations concerning  
22 notice and hearing of such application.

23 (3) Any civil penalty assessed and unpaid under this  
24 section shall constitute a debt to the State of Nebraska which  
25 may be collected in the manner of a lien foreclosure or sued for  
26 and recovered in a proper form of action in the name of the state  
27 in the district court of the county in which the violator resides

1 or owns property. The department shall remit any collected civil  
2 penalty to the State Treasurer, within thirty days after receipt,  
3 for distribution in accordance with Article VII, section 5, of  
4 the Constitution of Nebraska. The department shall within thirty  
5 days after receipt remit any collected civil penalty to the State  
6 Treasurer for credit to the permanent school fund.

7           Sec. 646. Section 71-1,147.48, Reissue Revised Statutes  
8 of Nebraska, is amended to read:

9           71-1,147.48 (1) Upon recommendation of the board, the  
10 ~~Director of Regulation and Licensure~~ director shall approve a  
11 formulary to be used by individuals dispensing pursuant to a  
12 delegated dispensing permit. A formulary shall consist of a list  
13 of drugs or devices appropriate to delegated dispensing activities  
14 authorized by the delegated dispensing permit. Except as otherwise  
15 provided in this section, if the board finds that a formulary would  
16 be unnecessary to protect the public health and welfare and promote  
17 public convenience and necessity, the board shall recommend that no  
18 formulary be approved.

19           (2) (a) Upon the recommendation of the board, which shall  
20 be based on the recommendations of the Public Health Clinic  
21 Formulary Advisory Committee, the ~~director~~ system shall approve the  
22 formulary to be used by public health clinics dispensing pursuant  
23 to a delegated dispensing permit.

24           (b) The formulary for a public health clinic shall  
25 consist of a list of drugs and devices for contraception,  
26 sexually transmitted diseases, and vaginal infections which may  
27 be dispensed and stored, patient instruction requirements which

1 shall include directions on the use of drugs and devices, potential  
2 side effects and drug interactions, criteria for contacting the  
3 on-call pharmacist, and accompanying written patient information.

4 (c) In no event shall the ~~director~~ system approve for  
5 inclusion in the formulary any drug or device not approved by the  
6 committee or exclude any of the provisions for patient instruction  
7 approved by the board.

8 (d) Drugs and devices with the following characteristics  
9 shall not be eligible to be included in the formulary:

10 (i) Controlled substances;

11 (ii) Drugs with significant dietary interactions;

12 (iii) Drugs with significant drug-drug interactions; and

13 (iv) Drugs or devices with complex counseling profiles.

14 (3) (a) Upon the recommendation of the board, the director  
15 shall approve a formulary to be used by dialysis drug or device  
16 distributors.

17 (b) The formulary for a dialysis drug or device  
18 distributor shall consist of a list of drugs, solutions, supplies,  
19 and devices for the treatment of chronic kidney failure which may  
20 be dispensed and stored.

21 (c) In no event shall the director approve for inclusion  
22 in the formulary any drug or device not approved by the board.

23 (d) Controlled substances shall not be eligible to be  
24 included in the formulary.

25 Sec. 647. Section 71-1,147.53, Reissue Revised Statutes  
26 of Nebraska, is amended to read:

27 71-1,147.53 Under a delegated dispensing permit for a

1 public health clinic, approved formulary drugs and devices may  
2 be dispensed by a public health clinic worker or a health care  
3 professional licensed in Nebraska to practice medicine and surgery  
4 or licensed in Nebraska as a registered nurse, licensed practical  
5 nurse, or physician assistant without the onsite services of a  
6 pharmacist if:

7 (1) The initial dispensing of all prescriptions for  
8 approved formulary drugs and devices is conducted by a health care  
9 professional licensed in Nebraska to practice medicine and surgery  
10 or pharmacy or licensed in Nebraska as a registered nurse, licensed  
11 practical nurse, or physician assistant;

12 (2) The drug or device is dispensed pursuant to a  
13 prescription written on site by a practitioner;

14 (3) The only prescriptions to be refilled under  
15 the delegated dispensing permit are prescriptions for oral  
16 contraceptives;

17 (4) Prescriptions are accompanied by patient instructions  
18 and written information approved by the ~~Director of Regulation and~~  
19 ~~Licensure~~; director;

20 (5) The dispensing of authorized refills of oral  
21 contraceptives is done by a licensed health care professional  
22 listed in subdivision (1) of this section or by a public health  
23 clinic worker;

24 (6) All drugs or devices are prepackaged by the  
25 manufacturer or at a public health clinic by a pharmacist into  
26 the quantity to be prescribed and dispensed at the public health  
27 clinic;



1           (7) All drugs and devices stored, received, or dispensed  
2 under the authority of public health clinics are properly labeled  
3 at all times. For purposes of this subdivision, properly labeled  
4 means that the label affixed to the container prior to dispensing  
5 contains the following information:

6           (a) The name of the manufacturer;

7           (b) The lot number and expiration date from the  
8 manufacturer or, if prepackaged by a pharmacist, the lot number and  
9 calculated expiration date. Calculated expiration date means the  
10 expiration date on the manufacturer's container or one year from  
11 the date the drug is repackaged, whichever is earlier;

12           (c) Directions for patient use;

13           (d) The quantity of drug in the container;

14           (e) The name, strength, and dosage form of the drug; and

15           (f) Auxiliary labels as needed for proper adherence to  
16 any prescription;

17           (8) The following additional information is added to the  
18 label of each container when the drug or device is dispensed:

19           (a) The patient's name;

20           (b) The name of the prescribing health care professional;

21           (c) The prescription number;

22           (d) The date dispensed; and

23           (e) The name and address of the public health clinic;

24           (9) The only drugs and devices allowed to be dispensed or  
25 stored by public health clinics appear on the formulary approved  
26 pursuant to section 71-1,147.48; and

27           (10) At any time that dispensing is occurring from a

1 public health clinic, the delegating pharmacist for the public  
2 health clinic or on-call pharmacist in Nebraska is available,  
3 either in person or by telephone, to answer questions from  
4 clients, staff, public health clinic workers, or volunteers. This  
5 availability shall be confirmed and documented at the beginning  
6 of each day that dispensing will occur. The delegating pharmacist  
7 or on-call pharmacist shall inform the public health clinic if  
8 he or she will not be available during the time that his or  
9 her availability is required. If a pharmacist is unavailable, no  
10 dispensing shall occur.

11           Sec. 648. Section 71-1,147.59, Reissue Revised Statutes  
12 of Nebraska, is amended to read:

13           71-1,147.59 (1) The board may appoint formulary advisory  
14 committees as deemed necessary for the determination of formularies  
15 for delegated dispensing permittees.

16           (2) The Public Health Clinic Formulary Advisory Committee  
17 is created. The committee shall consist of eight members as  
18 follows:

19           (a) Two members designated by the board;

20           (b) Two members who are employees of the department  
21 with knowledge of and interest in reproductive health and sexually  
22 transmitted diseases;

23           (c) Two members who are licensed pharmacists in this  
24 state and who are selected by the ~~Director of Regulation and~~  
25 ~~Licensure.~~ director. The Nebraska Pharmacists Association may  
26 submit to the director a list of five persons of recognized ability  
27 in the profession. If such a list is submitted, the director shall

1 consider the names on such list and may appoint one or more of  
2 the persons so named. The director may appoint any qualified person  
3 even if such person is not named on the list submitted by the  
4 association; and

5 (d) Two members who are employees of public health  
6 clinics which hold or will hold a delegated dispensing permit and  
7 who are selected by the director from names recommended by such  
8 public health clinics.

9 (3) Designations and recommendations shall be made and  
10 submitted to the director in July prior to the third quarter  
11 meeting of the committee. Members shall serve for terms of two  
12 years each beginning with the third quarter meeting. Members may  
13 serve for consecutive terms as approved by the director. The  
14 director may remove a member of the committee for inefficiency,  
15 neglect of duty, or misconduct in office.

16 Sec. 649. Section 71-1,154, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 71-1,154 When used in the Nebraska Veterinary Practice  
19 Act and elsewhere in the Uniform Licensing Law, unless the context  
20 otherwise requires:

21 (1) Animal means any animal other than man and includes  
22 birds, fish, and reptiles, wild or domestic, living or dead, except  
23 domestic poultry;

24 (2) Veterinary medicine and surgery includes veterinary  
25 surgery, obstetrics, dentistry, and all other branches or  
26 specialties of veterinary medicine;

27 (3) Practice of veterinary medicine and surgery means:

1           (a) To diagnose, treat, correct, change, relieve, or  
2 prevent animal disease, deformity, defect, injury, or other  
3 physical or mental conditions, including the prescription or  
4 administration of any drug, medicine, biologic, apparatus,  
5 application, anesthetic, or other therapeutic or diagnostic  
6 substance or technique, and the use of any manual or mechanical  
7 procedure for testing for pregnancy or for correcting sterility or  
8 infertility. The acts described in this subdivision shall not be  
9 done without a valid veterinarian-client-patient relationship;

10           (b) To render advice or recommendation with regard to any  
11 act described in subdivision (a) of this subdivision;

12           (c) To represent, directly or indirectly, publicly or  
13 privately, an ability and willingness to do any act described in  
14 subdivision (a) of this subdivision; and

15           (d) To use any title, words, abbreviation, or letters  
16 in a manner or under circumstances which induce the belief that  
17 the person using them is qualified to do any act described in  
18 subdivision (a) of this subdivision;

19           (4) Veterinarian means a person who has received a  
20 ~~doctor's degree in veterinary medicine~~ the degree of Doctor of  
21 Veterinary Medicine or its equivalent from an accredited school of  
22 veterinary medicine; ~~or its equivalent;~~

23           (5) Licensed veterinarian means a person who is validly  
24 and currently licensed to practice veterinary medicine and surgery  
25 in this state;

26           (6) Veterinarian-client-patient relationship means that:

27           (a) The veterinarian has assumed the responsibility for

1 making clinical judgments regarding the health of the animal and  
2 the need for medical treatment, and the client has agreed to follow  
3 the veterinarian's instructions;

4 (b) The veterinarian has sufficient knowledge of the  
5 animal to initiate at least a general or preliminary diagnosis  
6 of the medical condition of the animal. This means that the  
7 veterinarian has recently seen and is personally acquainted with  
8 the keeping and care of the animal by virtue of an examination of  
9 the animal or by medically appropriate and timely visits to the  
10 premises where the animal is kept; and

11 (c) The veterinarian is readily available or has arranged  
12 for emergency coverage and for followup evaluation in the event of  
13 adverse reactions or the failure of the treatment regimen;

14 (7) Accredited school of veterinary medicine within the  
15 meaning of the Nebraska Veterinary Practice Act means:

16 (a) One approved by the department upon the  
17 recommendation of the board;

18 (b) A veterinary college or division of a university or  
19 college that offers the degree of Doctor of Veterinary Medicine or  
20 its equivalent; and

21 (c) One that conforms to the standards required for  
22 accreditation by the American Veterinary Medical Association;

23 (8) Person means any individual, firm, partnership,  
24 limited liability company, association, joint venture, cooperative  
25 and corporation, or any other group or combination acting in  
26 concert; and whether or not acting as a principal, trustee,  
27 fiduciary, receiver, or as any other kind of legal or personal

1 representative, or as the successor in interest, assignee,  
2 agent, factor, servant, employee, director, officer, or any other  
3 representative of such person;

4 (9) Board means the Board of Veterinary Medicine and  
5 Surgery;

6 (10) Department means the Department of Public Health;  
7 ~~Health and Human Services Regulation and Licensure~~;

8 (11) Veterinary technician means an individual who has  
9 met one of the requirements of subsection (1) of section 71-1,165;

10 (12) Licensed veterinary technician means a veterinary  
11 technician who is validly and currently licensed as a veterinary  
12 technician in this state. Only a licensed veterinary technician may  
13 advertise or offer his or her services in a manner calculated to  
14 lead others to believe that he or she is a veterinary technician;

15 (13) Unlicensed assistant means an individual who is  
16 not a veterinarian or a veterinary technician who is working in  
17 veterinary medicine;

18 (14) Supervisor means a licensed veterinarian or licensed  
19 veterinary technician as required by statute or rule or regulation  
20 for the particular delegated task being performed by a veterinary  
21 technician or unlicensed assistant;

22 (15) Immediate supervision means that the supervisor is  
23 on the premises and is in direct eyesight and hearing range of  
24 the animal and the veterinary technician or unlicensed assistant  
25 who is treating the animal and the animal has been examined by  
26 a veterinarian at such times as acceptable veterinary practice  
27 requires consistent with the particular delegated animal health

1 care task;

2 (16) Direct supervision means that the supervisor is  
3 on the premises and is available to the veterinary technician or  
4 unlicensed assistant who is treating the animal and the animal  
5 has been examined by a veterinarian at such times as acceptable  
6 veterinary practice requires consistent with the particular  
7 delegated animal health care task; and

8 (17) Indirect supervision means that the supervisor is  
9 not on the premises but is easily accessible and has given  
10 written or oral instructions for treatment of the animal and  
11 the animal has been examined by a veterinarian at such times  
12 as acceptable veterinary practice requires consistent with the  
13 particular delegated animal health care task.

14 Sec. 650. Section 71-1,190.01, Reissue Revised Statutes  
15 of Nebraska, is amended to read:

16 71-1,190.01 Commencing July 1, 1985, all audiologists  
17 and speech-language pathologists, except those specified in section  
18 71-1,187, shall be required to be licensed by the ~~Department of~~  
19 ~~Health and Human Services Regulation and Licensure.~~ department.

20 Sec. 651. Section 71-1,206.05, Reissue Revised Statutes  
21 of Nebraska, is amended to read:

22 71-1,206.05 Department shall mean the Department of  
23 Public Health. ~~Health and Human Services Regulation and Licensure.~~

24 Sec. 652. Section 71-1,206.18, Revised Statutes  
25 Cumulative Supplement, 2006, is amended to read:

26 71-1,206.18 Except as provided in this section, a person  
27 licensed as a psychologist under the law in effect immediately

1 prior to September 1, 1994, but not certified in clinical  
2 psychology:

3 (1) Shall be issued a special license to practice  
4 psychology that continues existing requirements for supervision.  
5 Any psychological practice that involves the diagnosis and  
6 treatment of major mental and emotional disorders by a person  
7 holding a special license shall be done under the supervision of  
8 a licensed psychologist approved by the board in accordance with  
9 regulations developed by the board. A psychologist licensed under  
10 this subdivision shall not supervise mental health practitioners  
11 or independently evaluate persons under the Nebraska Mental Health  
12 Commitment Act or the Sex Offender Commitment Act. Supervisory  
13 relationships shall be registered with the board by a notarized  
14 letter signed by both the supervisor and supervisee. The letter  
15 shall contain:

16 (a) A general description of the supervisee's practice  
17 and the plan of supervision;

18 (b) A statement by the supervisor that he or she has  
19 the necessary experience and training to supervise this area of  
20 practice; and

21 (c) A statement by the supervisor that he or she accepts  
22 the legal and professional responsibility for the supervisee's  
23 practice with individuals having major mental and emotional  
24 disorders.

25 Psychologists practicing with special licenses may  
26 continue to use the title licensed psychologist but shall  
27 disclose supervisory relationships to clients or patients for whom



1 supervision is required and to third-party payors when relevant.  
2 Psychologists who wish to continue supervisory relationships  
3 existing immediately prior to September 1, 1994, with qualified  
4 physicians may do so if a letter as described in this subdivision  
5 is received by the board within three months after such date;

6 (2) May apply for licensure before December 1, 1995,  
7 by demonstrating that he or she has rendered psychological  
8 diagnostic and treatment services as the major element of his or  
9 her employment in an educational, correctional, or health care  
10 setting for at least four years after licensure. A psychologist  
11 demonstrating such experience shall be deemed to have met  
12 equivalent requirements for licensure to those required by section  
13 71-1,206.15 and shall be eligible for renewal of licensure in  
14 accordance with the Uniform Licensing Law. For purposes of this  
15 subdivision:

16 (a) Educational settings shall be those which are part  
17 of a university or state college and those regulated by the State  
18 Department of Education;

19 (b) Correctional settings shall be those under the  
20 jurisdiction of the Department of Correctional Services; and

21 (c) Health care settings shall be hospitals, skilled  
22 nursing facilities, clinics, and mental health centers licensed  
23 by the ~~Department of Health and Human Services Regulation and~~  
24 ~~Licensure~~ department and accredited by the Joint Commission on  
25 Hospital Accreditation, by the Commission on Accreditation of  
26 Rehabilitation Facilities, by the ~~Department of Health and Human~~  
27 ~~Services,~~ Health and Human Services System, or by a similar or an

1 equivalent accrediting body as determined by the board.

2           The four-year period shall be continuous and represent  
3 four years of full-time employment or a combination of half-time  
4 and full-time employment that totals four years. For purposes  
5 of this subdivision, year shall mean a calendar year except  
6 for educational settings that may define the employment year in  
7 nine-month increments. In no case shall an applicant receive four  
8 years of credit for experience accrued in less than four calendar  
9 years; or

10           (3) May apply for licensure within three months of  
11 September 1, 1994, by demonstrating that he or she has been  
12 employed as full-time faculty in a program of graduate education  
13 in psychology approved by the American Psychological Association  
14 for a period not less than five years after licensure. A  
15 person demonstrating such employment shall be deemed to have  
16 met equivalent requirements for licensure under section 71-1,206.15  
17 and shall be eligible for renewal of licensure in accordance with  
18 the Uniform Licensing Law.

19           A person licensed but not certified to practice clinical  
20 psychology under the law in effect immediately prior to September  
21 1, 1994, who has failed the examination for clinical certification  
22 shall not be eligible to apply under subdivisions (2) and (3)  
23 of this section. The board may deny an application under such  
24 subdivisions if the applicant has had any action taken against him  
25 or her for violations of the laws licensing psychologists by the  
26 board or the boards of other jurisdictions. Such person shall be  
27 granted a special license under subdivision (1) of this section.

1           Sec. 653. Section 71-1,206.25, Reissue Revised Statutes  
2 of Nebraska, is amended to read:

3           71-1,206.25 (1) Nothing in sections 71-1,206.01 to  
4 71-1,206.35 shall be construed to prevent the teaching of  
5 psychology, the conduct of psychological research, or the provision  
6 of psychological services or consultation to organizations or  
7 institutions if such teaching, research, or service does not  
8 involve the delivery or supervision of direct psychological  
9 services to individuals or groups of individuals who are  
10 themselves, rather than a third party, the intended beneficiaries  
11 of such services, without regard to the source or extent of payment  
12 for services rendered. Nothing in such sections shall prevent the  
13 provision of expert testimony by psychologists who are otherwise  
14 exempted by such sections. Persons holding a doctoral degree in  
15 psychology from an institution of higher education may use the  
16 title psychologist in conjunction with the activities permitted by  
17 this subsection.

18           (2) Nothing in sections 71-1,206.01 to 71-1,206.35 shall  
19 be construed to prevent members of other recognized professions  
20 that are licensed, certified, or regulated under the laws of this  
21 state from rendering services consistent with their professional  
22 training and code of ethics and within the scope of practice as set  
23 out in the statutes regulating their professional practice if they  
24 do not represent themselves to be psychologists.

25           (3) Nothing in sections 71-1,206.01 to 71-1,206.35 shall  
26 be construed to prevent duly recognized members of the clergy from  
27 functioning in their ministerial capacity if they do not represent

1 themselves to be psychologists or their services as psychological.

2 (4) Nothing in sections 71-1,206.01 to 71-1,206.35 shall  
3 be construed to prevent persons who are certified as school  
4 psychologists by the State Board of Education from using the title  
5 school psychologist and practicing psychology as defined in such  
6 sections if such practice is restricted to regular employment  
7 within a setting under the jurisdiction of the State Board of  
8 Education. Such individuals shall be employees of the educational  
9 setting and not independent contractors providing psychological  
10 services to educational settings.

11 (5) Nothing in sections 71-1,206.01 to 71-1,206.35 shall  
12 be construed to prevent any of the following persons from engaging  
13 in activities defined as the practice of psychology if they do  
14 not represent themselves by the title psychologist, if they do  
15 not use terms other than psychological trainee, psychological  
16 intern, psychological resident, or psychological assistant to refer  
17 to themselves, and if they perform their activities under the  
18 supervision and responsibility of a psychologist in accordance with  
19 the rules and regulations of the board:

20 (a) A matriculated graduate student in psychology whose  
21 activities constitute a part of the course of study for a graduate  
22 degree in psychology at an institution of higher education;

23 (b) An individual pursuing postdoctoral training or  
24 experience in psychology, including persons seeking to fulfill  
25 the requirements for licensure under sections 71-1,206.01 to  
26 71-1,206.35; or

27 (c) An individual with a master's degree in clinical,

1 counseling, or educational psychology or an educational specialist  
2 degree in school psychology who administers and scores and  
3 may develop interpretations of psychological testing under the  
4 supervision of a psychologist. Such individuals shall be deemed  
5 to be conducting their duties as an extension of the legal and  
6 professional authority of the supervising psychologist and shall  
7 not independently provide interpretive information or treatment  
8 recommendations to clients or other health care professionals  
9 prior to obtaining appropriate supervision. The board may adopt  
10 and promulgate rules and regulations governing the conduct and  
11 supervision of persons referred to in this subdivision, including  
12 the number of such persons that may be supervised by a licensed  
13 psychologist. Persons who have carried out the duties described  
14 in this subdivision as part of their employment in institutions  
15 accredited by the ~~Department of~~ Health and Human Services  
16 System, the State Department of Education, or the Department of  
17 Correctional Services for a period of two years prior to September  
18 1, 1994, may use the title psychologist associate in the context  
19 of their employment in such settings. Use of the title shall be  
20 restricted to duties described in this subdivision, and the title  
21 shall be used in its entirety. Partial or abbreviated use of the  
22 title and use of the title beyond what is specifically authorized  
23 in this subdivision shall constitute the unlicensed practice of  
24 psychology.

25           Sec. 654. Section 71-1,238, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27           71-1,238 For purposes of sections 71-1,238 to 71-1,242,

1 unless the context otherwise requires:

2 (1) Athletic trainer means a person who is responsible  
3 for the prevention, emergency care, first aid, treatment, and  
4 rehabilitation of athletic injuries under guidelines established  
5 with a licensed physician and who is licensed to perform the  
6 functions set out in section 71-1,240. When athletic training  
7 is provided in a hospital outpatient department or clinic or  
8 an outpatient-based medical facility, the athletic trainer will  
9 perform the functions described in section 71-1,240 with a referral  
10 from a licensed physician for athletic training;

11 (2) Athletic training means the prevention, evaluation,  
12 emergency care, first aid, treatment, and rehabilitation of  
13 athletic injuries utilizing the treatments set out in section  
14 71-1,240;

15 (3) Athletic injuries means the types of musculoskeletal  
16 injury or common illness and conditions which athletic trainers are  
17 educated to treat or refer, incurred by athletes, which prevent or  
18 limit participation in sports or recreation;

19 (4) Board means the Board of Athletic Training;

20 (5) Department means the Department of Public Health; and  
21 ~~Health and Human Services Regulation and Licensure; and~~

22 (6) Practice site means the location where the athletic  
23 trainer practices athletic training.

24 Sec. 655. Section 71-1,290, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26 71-1,290 The department shall issue a license, signed by  
27 the ~~Director of Regulation and Licensure,~~ director, to each person

1 who is qualified to be a licensed medical nutrition therapist.

2           Sec. 656. Section 71-1,312, Revised Statutes Cumulative  
3 Supplement, 2006, is amended to read:

4           71-1,312 No person shall engage in mental health practice  
5 or hold himself or herself out as a mental health practitioner  
6 unless he or she is licensed for such purpose pursuant to the  
7 Uniform Licensing Law, except that this section shall not be  
8 construed to prevent:

9           (1) Qualified members of other professions who are  
10 licensed, certified, or registered by this state from practice  
11 of any mental health activity consistent with the scope of practice  
12 of their respective professions;

13           (2) Alcohol and drug counselors who are licensed by the  
14 ~~Department of Health and Human Services Regulation and Licensure~~  
15 department and problem gambling counselors who are certified by  
16 the ~~Department of Health and Human Services~~ System from practicing  
17 their profession. Such exclusion shall include students training  
18 and working under the supervision of an individual qualified under  
19 section 71-1,356;

20           (3) Any person employed by an agency, bureau, or division  
21 of the federal government from discharging his or her official  
22 duties, except that if such person engages in mental health  
23 practice in this state outside the scope of such official duty  
24 or represents himself or herself as a licensed mental health  
25 practitioner, he or she shall be licensed;

26           (4) Teaching or the conduct of research related to mental  
27 health services or consultation with organizations or institutions

1 if such teaching, research, or consultation does not involve the  
2 delivery or supervision of mental health services to individuals  
3 or groups of individuals who are themselves, rather than a third  
4 party, the intended beneficiaries of such services;

5 (5) The delivery of mental health services by:

6 (a) Students, interns, or residents whose activities  
7 constitute a part of the course of study for medicine, psychology,  
8 nursing, school psychology, social work, clinical social work,  
9 counseling, marriage and family therapy, or other health care or  
10 mental health service professions; or

11 (b) Individuals seeking to fulfill postgraduate  
12 requirements for licensure when those individuals are supervised by  
13 a licensed professional consistent with the applicable regulations  
14 of the appropriate professional board;

15 (6) Duly recognized members of the clergy from providing  
16 mental health services in the course of their ministerial duties  
17 and consistent with the codes of ethics of their profession if they  
18 do not represent themselves to be mental health practitioners;

19 (7) The incidental exchange of advice or support by  
20 persons who do not represent themselves as engaging in mental  
21 health practice, including participation in self-help groups when  
22 the leaders of such groups receive no compensation for their  
23 participation and do not represent themselves as mental health  
24 practitioners or their services as mental health practice;

25 (8) Any person providing emergency crisis intervention  
26 or referral services or limited services supporting a service plan  
27 developed by and delivered under the supervision of a licensed



1 mental health practitioner, licensed physician, or a psychologist  
2 licensed to engage in the practice of psychology if such persons  
3 are not represented as being licensed mental health practitioners  
4 or their services are not represented as mental health practice; or

5 (9) Staff employed in a program designated by an agency  
6 of state government to provide rehabilitation and support services  
7 to individuals with mental illness from completing a rehabilitation  
8 assessment or preparing, implementing, and evaluating an individual  
9 rehabilitation plan.

10 Sec. 657. Section 71-1,339, Revised Statutes Cumulative  
11 Supplement, 2006, is amended to read:

12 71-1,339 The clerk of any county or district court in  
13 this state shall report to the ~~Department of Health and Human~~  
14 ~~Services Regulation and Licensure~~ Department of Public Health the  
15 conviction of any person licensed, certified, or registered by the  
16 department under the Advanced Practice Registered Nurse Licensure  
17 Act, the Certified Registered Nurse Anesthetist Act, the Clinical  
18 Nurse Specialist Practice Act, the Emergency Medical Services Act,  
19 the Licensed Practical Nurse-Certified Act, the Nebraska Certified  
20 Nurse Midwifery Practice Act, the Nebraska Cosmetology Act, the  
21 Nurse Practice Act, the Nurse Practitioner Act, the Occupational  
22 Therapy Practice Act, the Uniform Controlled Substances Act, the  
23 Uniform Licensing Law, the Wholesale Drug Distributor Licensing  
24 Act, or sections 71-3702 to 71-3715, 71-4701 to 71-4719, or 71-6053  
25 to 71-6068 of any felony or of any misdemeanor involving the use,  
26 sale, distribution, administration, or dispensing of a controlled  
27 substance, alcohol or chemical impairment, or substance abuse and

1 shall also report a judgment against any such licensee, certificate  
2 holder, or registrant arising out of a claim of professional  
3 liability. The Attorney General or city or county prosecutor  
4 prosecuting any such criminal action and plaintiff in any such  
5 civil action shall provide the court with information concerning  
6 the licensure, certification, or registration of the defendant or  
7 party. Notice to the department shall be filed within thirty days  
8 after the date of conviction or judgment in a manner agreed to by  
9 the ~~Director of Regulation and Licensure~~ Director of Public Health  
10 and the State Court Administrator.

11 Sec. 658. Section 71-1,367, Revised Statutes Cumulative  
12 Supplement, 2006, is amended to read:

13 71-1,367 Department means the Department of Public  
14 Health. ~~Health and Human Services Regulation and Licensure.~~

15 Sec. 659. Section 71-354, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 71-354 System means the Health and Human Services System.  
18 ~~Department shall mean the Department of Health and Human Services~~  
19 ~~Regulation and Licensure.~~

20 Sec. 660. Section 71-373, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 71-373 There is hereby created the Board of Cosmetology  
23 Examiners as the direct and only successor to the Board of  
24 Cosmetologist Examiners. The purpose of the Board of Cosmetology  
25 Examiners is to advise the ~~department~~ system in administering the  
26 Nebraska Cosmetology Act and all rules and regulations adopted  
27 pursuant to such act, in accordance with the findings and intent of

1 the Legislature, in order to protect the health and safety of the  
2 citizens of Nebraska.

3 Sec. 661. Section 71-376, Revised Statutes Cumulative  
4 Supplement, 2006, is amended to read:

5 71-376 The ~~department~~ system shall:

6 (1) With the approval of the board, adopt, promulgate,  
7 and revise necessary rules and regulations, including procedures  
8 for approving cosmetology, nail technology, and electrology  
9 establishments and body art facilities;

10 (2) With the approval of the board, develop standards in  
11 cooperation with the owners of cosmetology, nail technology, and  
12 electrology establishments and body art facilities to be used in  
13 the evaluation and approval of such establishments and facilities;

14 (3) Review such standards at least once every five years;

15 (4) Survey each licensed cosmetology, nail technology,  
16 and electrology establishment and body art facility every two years  
17 for the purpose of determining compliance with all relevant laws,  
18 rules, and regulations; and

19 (5) Approve for renewal of its license each cosmetology,  
20 nail technology, or electrology establishment or body art facility  
21 found to be operating in compliance with all relevant laws, rules,  
22 and regulations.

23 Sec. 662. Section 71-377, Revised Statutes Cumulative  
24 Supplement, 2006, is amended to read:

25 71-377 The board shall:

26 (1) Review all reports of alleged violations investigated  
27 by the ~~department~~ system and recommend action as authorized under

1 the Nebraska Cosmetology Act;

2 (2) Approve all licensing examinations used;

3 (3) Serve as consultant to the ~~department~~ system in all  
4 matters relating to the practices regulated under the act and to  
5 the enforcement and implementation of the act;

6 (4) Recommend applicants to the ~~department~~ system for the  
7 professional level position which will be responsible for the daily  
8 administration of the act; and

9 (5) Establish continuing competency requirements for  
10 persons licensed under the act for adoption and promulgation by the  
11 ~~department~~ system in rules and regulations. Continuing education  
12 is sufficient to meet continuing competency requirements. The  
13 requirements may also include, but not be limited to, one or more  
14 of the continuing competency activities listed in section 71-161.09  
15 which a licensee may select as an alternative to continuing  
16 education.

17 Sec. 663. Section 71-379, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 71-379 The ~~department~~ system shall, with the approval  
20 of the board, adopt and promulgate rules and regulations defining  
21 conflict of interest and procedures to be followed in the event  
22 such conflict arises.

23 Sec. 664. Section 71-380, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 71-380 The ~~department~~ system shall employ one  
26 professional level employee whose responsibilities shall be limited  
27 to the administration of the Nebraska Cosmetology Act. The

1 ~~department~~ system shall also employ other staff necessary to carry  
2 out the act.

3           Sec. 665. Section 71-385.02, Revised Statutes Cumulative  
4 Supplement, 2006, is amended to read:

5           71-385.02 (1) On or after April 1, 2005, no person shall  
6 perform any of the practices of body art or display a sign to,  
7 or in any other way, advertise or purport to be engaged in the  
8 business of practicing body art unless such person is licensed by  
9 the ~~department~~, system.

10           (2) An applicant for licensure in any of the practices of  
11 body art shall show to the satisfaction of the ~~department~~ system  
12 that the applicant:

13           (a) Has complied with the Nebraska Cosmetology Act and  
14 the applicable rules and regulations adopted and promulgated under  
15 the act;

16           (b) Is at least eighteen years of age;

17           (c) Has a high school diploma or GED;

18           (d) Has submitted evidence of training or experience  
19 prescribed or approved by the board to ensure the protection of  
20 the public in performing the practices of body art for which the  
21 applicant is seeking licensure; and

22           (e) Has successfully completed an examination prescribed  
23 or approved by the board to test the applicant's knowledge of  
24 safety, sanitation, and sterilization techniques and infection  
25 control practices and requirements, except that the ~~department~~  
26 system may waive all or a portion of the examination for persons  
27 engaged in the practice of body art prior to April 1, 2005, upon

1 submission of evidence satisfactory to the ~~department~~ system.

2           Sec. 666. Section 71-386, Revised Statutes Cumulative  
3 Supplement, 2006, is amended to read:

4           71-386 (1) All practitioners shall be licensed or  
5 registered by the ~~department~~ system under the Nebraska Cosmetology  
6 Act in a category or categories appropriate to their practice.

7           (2) Licensure shall be required before any person  
8 may engage in the full, unsupervised practice or teaching of  
9 cosmetology, electrology, esthetics, nail technology, or on or  
10 after April 1, 2005, body art, and no person may assume the title  
11 of cosmetologist, electrologist, esthetician, instructor, nail  
12 technician, nail technology instructor, esthetics instructor, or on  
13 or after April 1, 2005, permanent color technician, tattoo artist,  
14 body piercer, or body brander without first being licensed by the  
15 ~~department~~ system under the Nebraska Cosmetology Act.

16           Sec. 667. Section 71-387, Revised Statutes Cumulative  
17 Supplement, 2006, is amended to read:

18           71-387 In order to be licensed by the ~~department~~ system  
19 by examination, an individual shall meet, and present to the  
20 ~~department~~ system evidence of meeting, the following requirements:

21           (1) Has attained the age of seventeen years on or  
22 before the beginning date of the examination for which application  
23 is being made, as evidenced by a birth certificate, baptismal  
24 certificate, or other equivalent document as determined by the  
25 ~~department~~; system;

26           (2) Has completed formal education equivalent to a United  
27 States high school education, as evidenced by a high school

1 diploma, general educational development certificate, or equivalent  
2 document as determined by the ~~department,~~ system;

3 (3) Possesses the ability to identify and respond  
4 to emergency situations that could occur in the practice of  
5 cosmetology, esthetics, or electrology, as evidenced by successful  
6 completion of a basic first-aid course;

7 (4) Makes complete and proper application to the  
8 ~~department~~ system which includes the individual's social security  
9 number, accompanied by the appropriate fee;

10 (5) Possesses a minimum competency in the knowledge and  
11 skills necessary to perform the practices for which licensure is  
12 sought, as evidenced by successful completion of an examination in  
13 the appropriate practices approved by the board and administered by  
14 the ~~department,~~ system;

15 (6) Possesses sufficient ability to read the English  
16 language to permit the applicant to practice in a safe manner, as  
17 evidenced by successful completion of the written examination; and

18 (7) Has graduated from a school of cosmetology or an  
19 apprentice salon in Nebraska, a school of esthetics in or outside  
20 of Nebraska, or a school of electrolysis upon completion of a  
21 program of studies appropriate to the practices for which licensure  
22 is being sought, as evidenced by a diploma or certificate from the  
23 school or apprentice salon to the effect that the applicant has  
24 complied with the following:

25 (a) For licensure as a cosmetologist, the program of  
26 studies shall consist of a minimum of two thousand one hundred  
27 hours and two thousand credits;

1           (b) For licensure as an esthetician, the program of  
2 studies shall consist of a minimum of six hundred hours and six  
3 hundred credits;

4           (c) For licensure as a cosmetology instructor, the  
5 program of studies shall consist of a minimum of nine hundred  
6 twenty-five hours beyond the program of studies required for  
7 licensure as a cosmetologist earned in a period of not less than  
8 six months;

9           (d) For licensure as a cosmetology instructor, be  
10 currently licensed as a cosmetologist in Nebraska, as evidenced by  
11 possession of a valid Nebraska cosmetology license;

12           (e) For licensure as an electrologist, the program of  
13 studies shall consist of a minimum of six hundred hours and six  
14 hundred credits;

15           (f) For licensure as an electrology instructor, be  
16 currently licensed as an electrologist in Nebraska and have  
17 practiced electrology actively for at least five years immediately  
18 before the application; and

19           (g) For licensure as an esthetics instructor, completion  
20 of a program of studies consisting of a minimum of three hundred  
21 hours beyond the program of studies required for licensure as an  
22 esthetician and current licensure as an esthetician in Nebraska.

23           If any lapse in training of two years or longer occurs,  
24 all hours and credits earned shall be forfeited. Hours and credits  
25 shall be earned exclusively in either a school of cosmetology,  
26 school of esthetics, school of electrolysis, or apprentice salon.  
27 No hours or credits earned in one type of establishment may be



1 transferred to an establishment of another type. The ~~department~~  
2 system shall grant a license in the appropriate category to any  
3 person meeting the requirements specified in this section.

4 Sec. 668. Section 71-388, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 71-388 Application for any type of licensure or  
7 registration shall be made on forms and in the manner prescribed  
8 by the ~~department~~ system with the approval of the board. A  
9 complete application for examination shall be postmarked no  
10 later than fifteen days before the beginning of the examination  
11 for which application is being made. Applications received  
12 after such date shall be considered as applications for the  
13 next scheduled examination. No application for any type of  
14 licensure or registration shall be considered complete unless all  
15 information requested in the application has been supplied, all  
16 seals and signatures required have been obtained, all supporting  
17 and documentary evidence has been received by the ~~department,~~  
18 system, and the application is accompanied by the appropriate fee  
19 established and collected as provided in section 71-162.

20 Sec. 669. Section 71-389, Revised Statutes Cumulative  
21 Supplement, 2006, is amended to read:

22 71-389 (1) The board shall approve and the ~~department~~  
23 system shall cause examinations to be administered as required for  
24 licensure under the Nebraska Cosmetology Act for the purpose of  
25 establishing the possession of minimum competency in the knowledge  
26 and skills required on the part of the applicant.

27 (2) No person shall be permitted to take an examination

1 for licensure unless he or she has met all the requirements of  
2 subdivisions (1) through (4) and (7) of section 71-387 except for  
3 persons taking the examination under section 71-395.

4 (3) The ~~department~~ system shall provide at least one  
5 year's notice of future examination dates to schools of cosmetology  
6 and apprentice salons. Such establishments shall be responsible for  
7 notifying their students and apprentices of upcoming examination  
8 dates.

9 Sec. 670. Section 71-390, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 71-390 (1) Examinations approved by the board may  
12 be national standardized examinations, but in all cases the  
13 examinations shall be related to the knowledge and skills necessary  
14 to perform the practices being examined and shall be related to  
15 the curricula required to be taught in schools of cosmetology or  
16 schools of electrolysis.

17 (2) The board shall fix the time and place of each  
18 examination no less than one year in advance. At least two  
19 examinations shall be given annually. All examinations shall be  
20 conducted in the city of Lincoln unless ordered otherwise by the  
21 ~~department.~~ system.

22 (3) If examinations are administered directly by the  
23 ~~department,~~ system, the examination shall be administered by a  
24 chief examiner who shall be an employee of the ~~department.~~  
25 system. Persons serving as examiners for practical examinations  
26 administered directly by the ~~department~~ system shall hold current  
27 licenses in the field of practice being examined or in cosmetology,

1 except that examiners for instructors' examinations shall each hold  
2 an instructor's license, either active or inactive.

3 (4) Practical examinations shall be conducted in such a  
4 manner that the identity of the applicant is not disclosed to the  
5 examiners in any way.

6 (5) In order to successfully complete the examination,  
7 an applicant shall obtain an average grade of seventy-five percent  
8 on the written examination and an average grade of seventy-five  
9 percent with no individual subject grade below sixty-five percent  
10 on the practical examination.

11 (6) For practical examinations administered directly by  
12 the ~~department~~, system, examination grades shall be approved by the  
13 board and the ~~department~~ system before they become official. Any  
14 disagreements regarding a grade to be given among the examiners  
15 shall be settled by the chief examiner. An examiner may appeal  
16 such a decision to the Director of Regulation and Licensure Public  
17 Health or his or her designee.

18 (7) The ~~department~~ system shall keep a permanent record  
19 of all grades received in examinations and shall provide any  
20 individual a copy of his or her grades upon request without charge.

21 (8) The ~~department~~ system may adopt and promulgate  
22 rules and regulations to provide for procedures, development,  
23 administration, scoring, and reviewing of examinations and to  
24 protect the security of the contents of examination questions and  
25 answers in the examination review. The ~~department~~ system shall  
26 not enter into an agreement to adopt an examination from a  
27 national testing service without first obtaining from such service

1 detailed documentation of the process of examination development  
2 and maintenance.

3           Sec. 671. Section 71-391, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           71-391 (1) An individual failing the examination may  
6 retake the examination within one year of the date of the failed  
7 examination by submitting a complete application to the ~~department-~~  
8 system. The applicant may retake the examination one time without  
9 paying an additional fee.

10           (2) Persons failing a segmented practical examination due  
11 to an overall average grade of less than seventy-five percent  
12 or due to having received three or more subject grades below  
13 sixty-five percent shall retake the entire practical examination.

14           (3) Persons failing a segmented practical examination due  
15 to having received one or two subject grades below sixty-five  
16 percent, but who achieved an overall grade average of seventy-five  
17 percent or more, shall retake only the subjects they failed.

18           (4) Persons failing the practical examination but passing  
19 the written examination shall retake all or part of the practical  
20 examination, as appropriate, but need not retake the written  
21 examination. Persons failing the written examination but passing  
22 the practical examination shall retake the written examination, but  
23 need not retake the practical examination.

24           (5) After examination grades have been approved by the  
25 board and the ~~department,~~ system, the ~~department~~ system shall  
26 promptly notify each applicant of the results of his or her  
27 examination.

1           Sec. 672. Section 71-393, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           71-393 An applicant may review his or her examination  
4 questions, answers, papers, grades, and grading key or standards  
5 used in the licensure examinations under such terms and conditions  
6 as may be established by the ~~department,~~ system, with the following  
7 restrictions:

8           (1) No such review shall be permitted which violates any  
9 contractual agreement between the ~~department~~ system and the testing  
10 agency providing the examination; and

11           (2) No material made available for review may be copied  
12 in any manner by the applicant or his or her representatives.

13           Sec. 673. Section 71-394, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15           71-394 The ~~department~~ system may waive the requirement  
16 for examination and grant a license to any person who meets the  
17 requirements of subdivisions (1) through (4) of section 71-387 and  
18 who presents proof of the following:

19           (1) That he or she is currently licensed in the  
20 appropriate category in another jurisdiction, that he or she  
21 has never been disciplined or had his or her license revoked,  
22 and that, so far as the records of the licensing authority of  
23 the jurisdiction are concerned, the applicant is entitled to its  
24 endorsement. An applicant seeking licensure as an instructor in  
25 the manner provided in this section shall be licensed as an  
26 instructor in another jurisdiction. An applicant seeking licensure  
27 as a cosmetologist in the manner provided in this section shall be

1 licensed as a cosmetologist in another jurisdiction. An applicant  
2 seeking licensure as an esthetician in the manner provided in this  
3 section shall be licensed as a cosmetologist, an esthetician, or  
4 an equivalent title in another jurisdiction. An applicant seeking  
5 licensure as an esthetics instructor in the manner provided in this  
6 section shall be licensed as a cosmetology instructor, esthetics  
7 instructor, or the equivalent in another jurisdiction. An applicant  
8 seeking licensure as an electrologist or an electrology instructor  
9 in the manner provided in this section shall be licensed as  
10 an electrologist or an electrology instructor, respectively, in  
11 another jurisdiction;

12 (2) That such license was issued on the basis of  
13 a written and practical examination and the results of the  
14 examinations, except that a practical examination shall not  
15 be required for an electrologist's or electrology instructor's  
16 license; and

17 (3) That the applicant complies with the hour  
18 requirements of subdivision (7) of section 71-387 through any  
19 combination of hours earned as a student or apprentice in  
20 a cosmetology establishment or an electrology establishment  
21 licensed or approved by the jurisdiction in which it was located  
22 and hour-equivalents granted for recent work experience, with  
23 hour-equivalents recognized as follows:

24 (a) Each month of full-time practice as an instructor  
25 within the five years immediately preceding application shall  
26 be valued as one hundred hour-equivalents toward an instructor's  
27 license or a cosmetology license and fifty hour-equivalents toward

1 an esthetician's license;

2 (b) Each month of full-time practice as a cosmetologist  
3 within the five years immediately preceding application shall be  
4 valued as one hundred hour-equivalents toward a cosmetology license  
5 and fifty hour-equivalents toward an esthetician's license;

6 (c) Each month of full-time practice as an esthetician  
7 within the five years immediately preceding application shall be  
8 valued as fifty hour-equivalents toward an esthetician's license;

9 (d) Each month of full-time practice as an esthetics  
10 instructor within the five years immediately preceding application  
11 shall be valued as one hundred hour-equivalents toward an esthetics  
12 instructor's license; and

13 (e) Each month of full-time practice as an electrologist  
14 within the five years immediately preceding application shall be  
15 valued as fifty hour-equivalents toward an electrologist's license.

16 Sec. 674. Section 71-394.01, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 71-394.01 Any person practicing any of the practices of  
19 electrology may apply to the ~~department~~ system for the appropriate  
20 license without examination if:

21 (1) Such application is made prior to January 1, 1996;

22 (2) The applicant presents evidence that he or she (a)  
23 has been engaged in the practice of electrology in Nebraska for  
24 six months prior to September 9, 1995, or (b) has completed a  
25 board-approved apprenticeship, has passed all of the necessary  
26 board-approved examinations, and pays the required fee for such  
27 examinations; and

1           (3) The required credentialing fee is submitted.

2           Sec. 675. Section 71-395, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           71-395 Applicants for Nebraska licensure who received  
5 their training in foreign countries may not be licensed by waiver  
6 of examination. In order to be considered eligible to take the  
7 examination, they shall meet the requirements of subdivisions  
8 (1) through (4) of section 71-387 and, in order to establish  
9 equivalency with subdivision (7) of section 71-387, shall present  
10 proof satisfactory to the ~~department~~ system of one of the  
11 following:

12           (1) Current licensure or equivalent official recognition  
13 of the right to practice in a foreign country; or

14           (2) At least five years of practice within the eight  
15 years immediately preceding the application.

16           In all cases such applicants shall take the examination  
17 for licensure in the State of Nebraska.

18           Sec. 676. Section 71-396, Revised Statutes Cumulative  
19 Supplement, 2006, is amended to read:

20           71-396 Every person holding a license or registration  
21 issued by the ~~department~~ system under the Nebraska Cosmetology  
22 Act shall display it in a conspicuous place in his or her  
23 principal place of employment, and every cosmetology establishment,  
24 electrology establishment, and body art facility shall so display  
25 the licenses and registrations of all practitioners there employed.

26           Sec. 677. Section 71-398, Revised Statutes Cumulative  
27 Supplement, 2006, is amended to read:



1           71-398 Registration shall be required before any person  
2 may act as a guest artist, guest body artist, cosmetician, student,  
3 apprentice, student instructor, or temporary practitioner, and no  
4 person shall assume any title indicative of any of such areas of  
5 activity without first being registered by the ~~department~~ system  
6 under the Nebraska Cosmetology Act.

7           Sec. 678. Section 71-399, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           71-399 In order to become registered by the ~~department~~,  
10 system, an individual shall make complete and proper application,  
11 including the appropriate fee, to the ~~department~~ system and shall  
12 meet, and present to the ~~department~~ system evidence of meeting, the  
13 requirements for the specific type of registration applied for.

14           Sec. 679. Section 71-3,102, Revised Statutes Cumulative  
15 Supplement, 2006, is amended to read:

16           71-3,102 (1) An applicant for registration as a standard  
17 student or apprentice shall show evidence that he or she attained  
18 the age of seventeen years on or before the date of his or her  
19 enrollment in a school of cosmetology, a school of esthetics,  
20 or an apprentice salon, has completed the equivalent of a high  
21 school education, has been accepted for enrollment at a school of  
22 cosmetology, a school of esthetics, or an apprentice salon, and  
23 has not undertaken any training in cosmetology or esthetics without  
24 being registered as a student or apprentice.

25           (2) An applicant for registration as a special study  
26 student or apprentice shall show evidence that he or she:

27           (a) Has attained the age of seventeen years on or before

1 the date of enrollment in a school of cosmetology, a school of  
2 esthetics, or an apprentice salon;

3 (b) Has completed the tenth grade;

4 (c) Has been accepted for enrollment at a school of  
5 cosmetology, a school of esthetics, or an apprentice salon; and

6 (d) Is actively continuing his or her formal high school  
7 education on a full-time basis as determined by the ~~department-~~  
8 system.

9 An applicant for registration as a special study student  
10 or apprentice shall not have undertaken any training in cosmetology  
11 or esthetics without being registered as a student or apprentice.

12 Special study students shall be limited to attending a  
13 school of cosmetology, a school of esthetics, or an apprentice  
14 salon for no more than eight hours per week during the school year.

15 (3) Proof of age shall consist of a birth certificate,  
16 baptismal certificate, or other equivalent document as determined  
17 by the ~~department-~~ system. Evidence of education shall consist of  
18 a high school diploma, general educational development certificate,  
19 or equivalent document as determined by the ~~department-~~ system.

20 No school of cosmetology, school of esthetics, or apprentice  
21 salon shall accept an individual for enrollment who does not  
22 provide evidence of meeting the age and education requirements for  
23 registration. Each school of cosmetology, school of esthetics, or  
24 apprentice salon shall submit a complete registration within five  
25 days following the first day of courses. No school of cosmetology,  
26 school of esthetics, or apprentice salon shall continue training an  
27 individual for whom the establishment has not submitted a complete

1 registration application within such five-day period. No school  
2 of cosmetology, school of esthetics, or apprentice salon shall  
3 continue to train or enroll a person who has not received his or  
4 her registration within thirty days of its submission without the  
5 permission of the ~~department~~ system.

6           Sec. 680. Section 71-3,104, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           71-3,104 An applicant for registration as a temporary  
9 practitioner shall show evidence that his or her completed  
10 application for licensure has been accepted by the ~~department~~,  
11 system, that he or she has not failed any portion of the licensure  
12 examination, and that he or she has been accepted for work in  
13 a licensed cosmetology establishment under the supervision of a  
14 licensed practitioner.

15           Sec. 681. Section 71-3,106, Revised Statutes Cumulative  
16 Supplement, 2006, is amended to read:

17           71-3,106 The Nebraska Cosmetology Act does not apply to  
18 or restrict the activities of the following:

19           (1) Any person holding a current license or certificate  
20 issued pursuant to Chapter 71 when engaged in the usual and  
21 customary practice of his or her profession or occupation;

22           (2) Any person engaging solely in earlobe piercing;

23           (3) Any person when engaged in domestic or charitable  
24 administration;

25           (4) Any person performing any of the practices of  
26 cosmetology or nail technology solely for theatrical presentations  
27 or other entertainment functions;

1           (5) Any person practicing cosmetology, electrology,  
2 esthetics, or nail technology within the confines of a hospital,  
3 nursing home, massage therapy establishment, funeral establishment,  
4 or other similar establishment or facility licensed or otherwise  
5 regulated by the ~~department~~, system, except that no unlicensed or  
6 unregistered person may accept compensation for such practice;

7           (6) Any person providing services during a bona fide  
8 emergency;

9           (7) Any retail or wholesale establishment or any person  
10 engaged in the sale of cosmetics, nail technology products, or  
11 other beauty products when the products are applied by the customer  
12 or when the application of the products is in direct connection  
13 with the sale or attempted sale of such products at retail;

14           (8) Any person when engaged in nonvocational training;

15           (9) A person demonstrating on behalf of a manufacturer  
16 or distributor any cosmetology, nail technology, electrolysis, or  
17 body art equipment or supplies if such demonstration is performed  
18 without charge;

19           (10) Any person or licensee engaged in the practice or  
20 teaching of manicuring; and

21           (11) Any person or licensee engaged in the practice of  
22 airbrush tanning or temporary, nonpermanent airbrush tattooing.

23           Sec. 682. Section 71-3,115, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           71-3,115 A licensee who fails to complete continuing  
26 competency activities as required by the board pursuant to section  
27 71-377 may request that his or her license be placed on inactive

1 status upon its expiration. Such a request shall be granted upon  
2 payment of the inactive status fee. No person shall practice in  
3 any manner under an inactive license. An inactive license may  
4 be restored to active status at such time as the licensee so  
5 petitions the ~~department~~ system and presents evidence that he or  
6 she has completed continuing competency activities as required by  
7 the board.

8           Sec. 683. Section 71-3,119, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           71-3,119 No person shall operate or profess or attempt  
11 to operate a cosmetology establishment unless such establishment is  
12 licensed by the ~~department~~ system under the Nebraska Cosmetology  
13 Act. The ~~department~~ system shall not issue or renew a license  
14 for a cosmetology establishment until all requirements of the  
15 Nebraska Cosmetology Act have been complied with. No person shall  
16 engage in any of the practices of cosmetology in any location or  
17 premises other than a licensed cosmetology establishment except as  
18 specifically permitted in the Nebraska Cosmetology Act.

19           Sec. 684. Section 71-3,119.02, Revised Statutes  
20 Cumulative Supplement, 2006, is amended to read:

21           71-3,119.02 (1) On or after April 1, 2005, no person  
22 shall establish or operate a body art facility in this state  
23 unless such facility is licensed by the ~~department~~ system under  
24 the Nebraska Cosmetology Act. The ~~department~~ system shall not issue  
25 or renew a license for a body art facility until all applicable  
26 requirements of the Nebraska Cosmetology Act have been complied  
27 with and the facility has been inspected by the ~~department~~ system.

1 No person shall engage in any of the practices of body art in  
2 any location or premises other than a licensed body art facility  
3 except as specifically permitted in the Nebraska Cosmetology Act.  
4 The ~~department~~ system shall issue a license to operate a body art  
5 facility to each qualified applicant.

6 (2) Each body art facility license shall expire and be  
7 subject to renewal on March 31 of each odd-numbered year. The  
8 procedure for renewing a body art facility license shall be in  
9 accordance with section 71-110.01, except that in addition to all  
10 other requirements, no body art facility license may be renewed  
11 unless the facility has attained a rating of satisfactory on its  
12 most recent operation inspection. The license of any facility  
13 not attaining such rating shall be placed on inactive status and  
14 shall not be open to the public until all deficiencies have been  
15 corrected.

16 (3) The license of a body art facility that has been  
17 revoked for any reason shall not be reinstated. An original  
18 application for licensure shall be submitted and approved before  
19 such facility can reopen for business.

20 (4) Each body art facility license shall be in effect  
21 solely for the owner or owners and premises named thereon and shall  
22 lapse automatically upon any change of ownership or location. An  
23 original application for licensure shall be submitted and approved  
24 before such facility may reopen for business.

25 Sec. 685. Section 71-3,119.03, Revised Statutes  
26 Cumulative Supplement, 2006, is amended to read:

27 71-3,119.03 (1) In order to maintain a license in good

1 standing, each body art facility or the owner of such facility or  
2 his or her agent shall:

3 (a) At all times comply with all applicable provisions of  
4 the Nebraska Cosmetology Act and all rules and regulations adopted  
5 and promulgated under such act;

6 (b) Notify the ~~department~~ system at least thirty days  
7 prior to any change of ownership, name, or address, and within one  
8 week after a facility is permanently closed, except in emergency  
9 circumstances as determined by the ~~department~~; system;

10 (c) Permit any duly authorized agent of the ~~department~~  
11 system to conduct an operation inspection or investigation at any  
12 time during normal operating hours, without prior notice, and the  
13 owner and manager shall assist the inspector by providing access to  
14 all areas, personnel, and records requested by the inspector; and

15 (d) Display in a conspicuous place near the place where  
16 body art is performed the following records:

17 (i) The then current license to operate the body art  
18 facility;

19 (ii) The then current license of each person performing  
20 body art; and

21 (iii) The inspection report from the most recent  
22 operation inspection.

23 (2) The owner of each body art facility shall have  
24 full responsibility for ensuring that the facility is operated  
25 in compliance with all applicable laws, rules, and regulations  
26 and shall be liable for any and all violations occurring in the  
27 facility.

1           Sec. 686. Section 71-3,121, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           71-3,121 In order to be licensed as a salon by the  
4 ~~department~~, system, an applicant shall meet, and present to the  
5 ~~department~~ system evidence of meeting, the following requirements:

6           (1) The proposed salon shall be a fixed, permanent  
7 structure or part of one;

8           (2) The proposed salon shall be physically separated from  
9 all other business or residential activities except barbering and  
10 retail sales;

11           (3) The separation required in subdivision (2) of this  
12 section shall be by fixed walls or by partitions not less than six  
13 feet high;

14           (4) Areas of the salon used for barbering shall be  
15 clearly identified as such to the public by a sign and shall be  
16 visually distinct from other areas of the salon;

17           (5) All areas of the salon, including those used for  
18 retail sales, shall comply with the sanitary requirements of the  
19 Nebraska Cosmetology Act;

20           (6) A salon located in a residence shall be entirely  
21 distinct and separate from any living quarters, except that there  
22 may be one connecting door to the living portion of the dwelling as  
23 an access entrance to the salon for the owner or operator, but such  
24 entrance shall not be for the use of the general public;

25           (7) The entrance into the proposed salon used by the  
26 general public shall lead directly from the outside to the salon,  
27 except that a salon located in a commercial building may have



1 its entrance open from a public area such as a foyer, hallway,  
2 mall, concourse, or retail sales floor. Any salon in existence and  
3 licensed on August 30, 1987, shall not be required to comply with  
4 this subdivision;

5 (8) The proposed salon shall have at least one hundred  
6 fifty square feet of floor space. If more than one practitioner  
7 is to be employed in the salon at the same time, the salon shall  
8 contain an additional space of at least fifty square feet for each  
9 additional practitioner, except that a salon employing a licensee  
10 exclusively to perform home services need not provide additional  
11 space for such employee;

12 (9) The proposed salon shall include toilet facilities  
13 unless the salon is located in a commercial building in which  
14 public toilet facilities are available that open directly off of a  
15 public area; and

16 (10) The proposed salon shall meet all state or local  
17 building code and fire code requirements.

18 Sec. 687. Section 71-3,122, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 71-3,122 Any person seeking a license to operate a  
21 salon shall submit an application to the ~~department.~~ system.  
22 The application shall be on such forms and shall include such  
23 information as the ~~department~~ system and the board may require. A  
24 completed application shall be received by the ~~department~~ system at  
25 least thirty days before construction or remodeling of the building  
26 proposed for use is scheduled to begin. If no construction or  
27 remodeling is planned, the application shall be submitted at least

1 thirty days before the proposed opening of the salon for operation.

2 Along with the application the applicant shall submit:

3 (1) A detailed floor plan or blueprint of the proposed  
4 salon sufficient to demonstrate compliance with the requirements of  
5 section 71-3,121; and

6 (2) A statement confirming application for minimal  
7 property damage, bodily injury, and liability insurance coverage  
8 for the proposed salon.

9 Sec. 688. Section 71-3,123, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 71-3,123 Each application for a license to operate a  
12 salon shall be reviewed by the ~~department~~ system for compliance  
13 with the requirements of the Nebraska Cosmetology Act. In the  
14 event an application is denied, the applicant shall be informed  
15 in writing of the grounds for denial, and such denial shall  
16 not prejudice future applications by the applicant. In the  
17 event an application is approved, the ~~department~~ system shall  
18 issue the applicant a certificate of consideration to operate  
19 a salon pending an operation inspection. The ~~department~~ system  
20 shall conduct an operation inspection of each salon issued a  
21 certificate of consideration within six months of the issuance of  
22 such certificate. Salons passing the inspection shall be issued  
23 a permanent license. Salons failing the inspection shall submit  
24 within fifteen days evidence of corrective action taken to improve  
25 those aspects of operation found deficient. If evidence is not  
26 submitted within fifteen days or if after a second inspection the  
27 salon does not receive a satisfactory rating, it shall immediately

1 relinquish its certificate of consideration and cease operation.

2           Sec. 689. Section 71-3,124, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           71-3,124 In order to maintain its license in good  
5 standing, each salon shall operate in accordance with the following  
6 requirements:

7           (1) The salon shall at all times comply with all  
8 applicable provisions of the Nebraska Cosmetology Act and all  
9 rules and regulations adopted and promulgated under such act;

10           (2) The salon owner or his or her agent shall notify  
11 the ~~department~~ system at least thirty days prior to any change of  
12 ownership, name, or address, and within one week if a salon is  
13 permanently closed, except in emergency circumstances as determined  
14 by the ~~department,~~ system;

15           (3) No salon shall permit any unlicensed or unregistered  
16 person to perform any of the practices of cosmetology within its  
17 confines or employment;

18           (4) The salon shall display a name upon, over, or near  
19 the entrance door distinguishing it as a salon;

20           (5) The salon shall permit any duly authorized agent  
21 of the ~~department~~ system to conduct an operation inspection or  
22 investigation at any time during the normal operating hours of the  
23 salon, without prior notice, and the owner and manager shall assist  
24 the inspector by providing access to all areas of the salon, all  
25 personnel, and all records requested by the inspector;

26           (6) The salon shall be open to the public for business at  
27 least four hundred hours during each full calendar year for which

1 the salon is licensed. Appointment records, employee time sheets,  
2 or similar records shall constitute evidence of being open;

3 (7) The salon shall display in a conspicuous place the  
4 following records:

5 (a) The current license or certificate of consideration  
6 to operate a salon;

7 (b) The current licenses or registrations of all persons  
8 employed by or working in the salon; and

9 (c) The rating sheet from the most recent operation  
10 inspection;

11 (8) At no time shall a salon employ more employees  
12 than permitted by the square footage requirements of the Nebraska  
13 Cosmetology Act; and

14 (9) The salon shall not knowingly permit its employees  
15 or clients to use, consume, serve, or in any manner possess or  
16 distribute intoxicating beverages or controlled substances upon its  
17 premises during the hours the salon is open to the public.

18 Sec. 690. Section 71-3,129, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 71-3,129 In order to be licensed as a cosmetic  
21 establishment by the ~~department~~, system, an applicant shall meet,  
22 and present to the ~~department~~ system evidence of meeting, the  
23 following requirements:

24 (1) The proposed cosmetic establishment shall be a fixed  
25 permanent structure or part of one;

26 (2) The proposed cosmetic establishment need not consist  
27 of a separate room or rooms, but may be a counter or other clearly

1 identifiable portion of a room or floor;

2 (3) The proposed cosmetic establishment shall have, or  
3 have convenient access to, handwashing facilities; and

4 (4) The proposed cosmetic establishment, if located in  
5 a private dwelling, shall be located in a room or rooms separate  
6 from the living quarters and having a private entrance. Such room  
7 or rooms shall not be used for any residential purpose during the  
8 hours the cosmetic establishment is being used, and all doors and  
9 windows connecting to residential quarters shall be closed at such  
10 times.

11 Sec. 691. Section 71-3,130, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 71-3,130 Any person seeking a license to operate  
14 a cosmetic establishment shall submit an application to the  
15 ~~department.~~ system. The application shall be on such forms and  
16 shall include such information as the ~~department~~ system and the  
17 board may require. A completed application shall be received by  
18 the ~~department~~ system at least thirty days before the proposed  
19 opening of the cosmetic establishment for operation. Along with the  
20 application the applicant shall submit:

21 (1) A floor plan or blueprint sufficient to identify the  
22 location of the proposed cosmetic establishment within any larger  
23 structure and the location of handwashing facilities; and

24 (2) The names of all persons registered or proposed  
25 to be registered as cosmeticians to be employed in the cosmetic  
26 establishment.

27 In the event that more than one counter or area within

1 a larger commercial establishment will be used as a cosmetic  
2 establishment, only one license is required for all such counters  
3 or areas if all are identified on the floor plan or blueprint  
4 accompanying the application. Each application shall be reviewed by  
5 the ~~department~~ system for compliance with the requirements of the  
6 Nebraska Cosmetology Act. In the event an application is denied,  
7 the applicant shall be informed in writing of the grounds for  
8 denial and such denial shall not prejudice future applications  
9 by the applicant. In the event an application is approved,  
10 the ~~department~~ system shall issue the applicant a certificate  
11 of consideration to operate a cosmetic establishment pending  
12 an operation inspection. The ~~department~~ system shall conduct  
13 an operation inspection of each cosmetic establishment issued a  
14 certificate of consideration within six months of the issuance of  
15 such certificate. Cosmetic establishments passing the inspection  
16 shall be issued a permanent license. Cosmetic establishments  
17 failing the inspection shall submit, within fifteen days, evidence  
18 of corrective action taken to improve those aspects of operation  
19 found deficient. If evidence is not submitted within fifteen days  
20 or if after a second inspection the cosmetic establishment does not  
21 receive a satisfactory rating, it shall immediately relinquish its  
22 certificate of consideration and cease operation.

23           Sec. 692. Section 71-3,131, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           71-3,131 In order to maintain its license in good  
26 standing, each cosmetic establishment shall operate in accordance  
27 with the following requirements:

1           (1) The cosmetic establishment shall at all times comply  
2 with all applicable provisions of the Nebraska Cosmetology Act and  
3 all rules and regulations adopted and promulgated under such act;

4           (2) The owner of the cosmetic establishment or his or  
5 her agent shall notify the ~~department~~ system at least thirty days  
6 prior to any change of ownership, name, or address, and within one  
7 week after a cosmetic establishment is permanently closed, except  
8 in emergency circumstances as determined by the ~~department,~~ system;

9           (3) No cosmetic establishment shall permit anyone  
10 other than a cosmetician, cosmetologist, or esthetician to apply  
11 cosmetics to members of the general public upon its premises;

12           (4) The cosmetic establishment shall display a sign at  
13 each counter or area used for such purposes indicating that it  
14 is a licensed cosmetic establishment and that all persons applying  
15 cosmetics are registered cosmeticians or licensed cosmetologists or  
16 estheticians;

17           (5) The cosmetic establishment shall permit any duly  
18 authorized agent of the ~~department~~ system to conduct an operation  
19 inspection or investigation at any time during normal operating  
20 hours, without prior notice, and the owner and manager shall assist  
21 the inspector by providing access to all areas, personnel, and  
22 records requested by the inspector; and

23           (6) The cosmetic establishment shall display in a  
24 conspicuous place near the place where cosmetics are applied the  
25 following records:

26           (a) The current license or certificate of consideration  
27 to operate a cosmetic establishment;

1 (b) The current licenses or registrations of all persons  
2 applying cosmetics; and

3 (c) The rating sheet from the most recent operation  
4 inspection.

5 Sec. 693. Section 71-3,136, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 71-3,136 In order to be licensed as a school of  
8 cosmetology by the ~~department~~, system, an applicant shall meet  
9 and present to the ~~department~~ system evidence of meeting the  
10 following requirements:

11 (1) The proposed school shall be a fixed permanent  
12 structure or part of one;

13 (2) The proposed school shall have a contracted  
14 enrollment of at least fifteen full-time students;

15 (3) The proposed school shall contain at least three  
16 thousand five hundred square feet of floor space and facilities,  
17 staff, apparatus, and equipment appropriate to its projected  
18 enrollment in accordance with the standards established by the  
19 board and the ~~department~~ system by rule and regulation; and

20 (4) The proposed school shall not have the same entrance  
21 as or direct access to a cosmetology salon.

22 A school of cosmetology is not required to be licensed  
23 as a school of esthetics in order to provide an esthetics training  
24 program.

25 Sec. 694. Section 71-3,137, Revised Statutes Cumulative  
26 Supplement, 2006, is amended to read:

27 71-3,137 Any person seeking a license to operate a school



1 of cosmetology or school of esthetics shall submit an application  
2 to the ~~department~~ system. The application shall be on such forms  
3 and shall include such information as the ~~department~~ system and the  
4 board may require. A completed application shall be received by  
5 the ~~department~~ system at least thirty days before construction or  
6 remodeling of the building proposed for use is scheduled to begin.  
7 If no construction or remodeling is planned, the application shall  
8 be received at least thirty days before the proposed opening of the  
9 school. If the applicant is an individual, the application shall  
10 include the applicant's social security number.

11           Sec. 695. Section 71-3,138.02, Reissue Revised Statutes  
12 of Nebraska, is amended to read:

13           71-3,138.02 In order to be licensed as a school of  
14 esthetics by the ~~department~~, system, an applicant shall meet and  
15 present to the ~~department~~ system evidence of meeting the following  
16 requirements:

17           (1) The proposed school shall be a fixed permanent  
18 structure or part of one;

19           (2) The proposed school shall have a contracted  
20 enrollment of at least four but not more than six students for each  
21 licensed esthetics instructor on the staff of the proposed school;

22           (3) The proposed school shall contain at least one  
23 thousand square feet of floor space and facilities, staff,  
24 apparatus, and equipment appropriate to its projected enrollment  
25 in accordance with the standards established by the board and the  
26 ~~department~~ system by rule and regulation; and

27           (4) The proposed school shall not have the same entrance

1 as or direct access to a cosmetology salon, an esthetics salon, or  
2 a nail technology salon.

3 Sec. 696. Section 71-3,139, Revised Statutes Cumulative  
4 Supplement, 2006, is amended to read:

5 71-3,139 Each application for a license to operate a  
6 school of cosmetology or school of esthetics shall be reviewed  
7 by the ~~department~~ system for compliance with the requirements  
8 of the Nebraska Cosmetology Act. If an application is denied,  
9 the applicant shall be informed in writing of the grounds for  
10 denial and such denial shall not prejudice future applications  
11 by the applicant. If an application is accepted, the board and  
12 the ~~department~~ system shall immediately conduct an accreditation  
13 inspection of the proposed school. A school passing the inspection  
14 shall be issued a license and may begin operation as soon as  
15 the inspection results are received. If the proposed school fails  
16 the inspection, the applicant shall submit, within fifteen days,  
17 evidence of corrective action taken to improve those aspects of  
18 operation found deficient. If, after a second inspection to be  
19 conducted within thirty days of receipt of evidence, the school  
20 does not receive a satisfactory rating, or if evidence is not  
21 received within fifteen days, the application may be denied.

22 Sec. 697. Section 71-3,140, Revised Statutes Cumulative  
23 Supplement, 2006, is amended to read:

24 71-3,140 In order to maintain its license in good  
25 standing, each school of cosmetology or school of esthetics shall  
26 operate in accordance with the following requirements:

27 (1) The school shall at all times comply with all

1 applicable provisions of the Nebraska Cosmetology Act and all rules  
2 and regulations adopted and promulgated under such act;

3 (2) The school owner or owners or the authorized agent  
4 thereof shall notify the ~~department~~ system at least thirty days  
5 prior to any change of ownership, name, or address, and at least  
6 sixty days prior to closure, except in emergency circumstances as  
7 determined by the ~~department~~; system;

8 (3) No school shall permit anyone other than a student,  
9 student instructor, instructor, or guest artist to perform any of  
10 the practices of cosmetology or esthetics within its confines or  
11 employ, except that such restriction shall not prevent a school  
12 from inviting guest teachers who are not licensed or registered to  
13 provide lectures to students or student instructors if the guest  
14 lecturer does not perform any of the practices of cosmetology or  
15 esthetics;

16 (4) The school shall display a name upon or near the  
17 entrance door designating it as a school of cosmetology or a school  
18 of esthetics;

19 (5) The school shall display in a conspicuous place  
20 within the clinic area a sign reading: All services in this school  
21 are performed by students who are training in cosmetology or  
22 esthetics, as applicable. A notice to such effect shall also appear  
23 in all advertising conducted by the school for its clinic services;

24 (6) The school shall permit any duly authorized agent  
25 of the ~~department~~ system to conduct an operation inspection or  
26 investigation at any time during the normal operating hours of the  
27 school without prior notice, and the owner or manager shall assist

1 the inspector by providing access to all areas of the school, all  
2 personnel, and all records requested by the inspector;

3 (7) The school shall display in a conspicuous place the  
4 following records:

5 (a) The current license to operate a school of  
6 cosmetology or school of esthetics;

7 (b) The current licenses or registrations of all persons,  
8 except students, employed by or working in the school; and

9 (c) The rating sheet from the most recent accreditation  
10 inspection;

11 (8) At no time shall a school enroll more students  
12 than permitted by the Nebraska Cosmetology Act or the rules and  
13 regulations adopted and promulgated under such act;

14 (9) The school shall not knowingly permit its students,  
15 employees, or clients to use, consume, serve, or in any other  
16 manner possess or distribute intoxicating beverages or controlled  
17 substances upon its premises during the hours the school is in  
18 operation;

19 (10) Food shall not be consumed in any area where  
20 cosmetology or esthetics services are being taught or performed or  
21 stored in the same area where chemical supplies or used equipment  
22 are stored;

23 (11) No instructor or student instructor shall perform,  
24 and no school shall permit such person to perform, any of the  
25 practices of cosmetology or esthetics on the public in a school  
26 of cosmetology or school of esthetics other than that part of the  
27 practical work which pertains directly to the teaching of practical

1 subjects to students or student instructors and in no instance  
2 shall complete cosmetology or esthetics services be provided for  
3 a client unless done in a demonstration class of theoretical or  
4 practical studies;

5 (12) The school shall maintain space, staff, library,  
6 teaching apparatus, and equipment as established by rules and  
7 regulations adopted and promulgated under the Nebraska Cosmetology  
8 Act;

9 (13) The school shall keep a daily record of the  
10 attendance and clinical performance of each student and student  
11 instructor;

12 (14) The school shall maintain regular class and  
13 instructor hours and shall require the minimum curriculum;

14 (15) The school shall establish and maintain criteria  
15 and standards for student grading, evaluation, and performance  
16 and shall award a certificate or diploma to a student only  
17 upon completing a full course of study in compliance with such  
18 standards, except that no student shall receive such certificate or  
19 diploma until he or she has satisfied or made an agreement with  
20 the school to satisfy all outstanding financial obligations to the  
21 school;

22 (16) The school shall maintain on file the registrations  
23 of each student;

24 (17) The school shall submit a monthly report to the  
25 ~~department, system,~~ on forms established by the department, system,  
26 indicating the students and student instructors enrolled, the  
27 hours and credits earned, the instructors employed, the hours of

1 operation, and such other pertinent information as the board and  
2 the ~~department~~ system shall require. No hours or credits shall be  
3 allowed for any student unless such student is duly registered and  
4 the hours and credits are reported by the school; and

5 (18) The school shall print and provide to each student a  
6 copy of the school rules, which shall not be inconsistent with the  
7 Nebraska Cosmetology Act or with the rules and regulations adopted  
8 and promulgated under such act and which shall include policies  
9 of the school with respect to tuition, reimbursement, conduct,  
10 attendance, grading, earning of hours and credits, demerits,  
11 penalties, dismissal, graduation requirements, dress, and other  
12 information sufficient to advise the student of the standards he or  
13 she will be required to maintain. The board may review any school's  
14 rules to determine their consistency with the intent and content of  
15 the Nebraska Cosmetology Act and its rules and regulations and may  
16 overturn any rules found not to be in accord.

17 Sec. 698. Section 71-3,141, Revised Statutes Cumulative  
18 Supplement, 2006, is amended to read:

19 71-3,141 In order to maintain its license in good  
20 standing, each school of cosmetology or school of esthetics shall  
21 operate in accordance with the following requirements:

22 (1) All persons accepted for enrollment as students shall  
23 meet the qualifications established in section 71-3,102;

24 (2) The school shall submit a completed student entrance  
25 notification, including the student registration fee, on forms  
26 prescribed by the ~~department~~, system, for each person enrolling in  
27 the school before such person may begin training;

1           (3) The school shall, at all times the school is in  
2 operation, have at least one instructor in the school for each six  
3 students or fraction thereof enrolled in the school, except (a)  
4 that freshman and advanced students shall be taught by different  
5 instructors in separate classes and (b) as provided in section  
6 71-3,138.02;

7           (4) The school shall not permit any student to render  
8 clinical services on members of the public with or without fees  
9 until such student has satisfactorily completed the freshman  
10 curriculum, except that the board may establish guidelines by  
11 which it may approve such practices as part of the freshman  
12 curriculum;

13           (5) No school shall pay direct compensation to any of  
14 its students. Student instructors may be paid as determined by the  
15 school;

16           (6) All students and student instructors shall be under  
17 the supervision of an instructor at all times, except that students  
18 shall be under the direct supervision of an instructor or student  
19 instructor at all times when cosmetology or esthetics services are  
20 being taught or performed;

21           (7) Students shall be classified for reporting purposes  
22 as follows:

23           (a) A full-time student shall mean one who regularly  
24 trains at least eight hours a day during the normal school week,  
25 including normal excused absences as defined in the school rules;  
26 and

27           (b) A part-time student shall mean any student not

1 classified as a full-time student;

2 (8) Students no longer attending the school shall be  
3 classified for reporting purposes as follows:

4 (a) A graduate shall mean a student who has completed his  
5 or her hours and credits, has satisfied all school requirements,  
6 and has been granted a certificate or diploma by the school;

7 (b) A transfer shall mean a student who has transferred  
8 to another school in Nebraska or in another state;

9 (c) A temporary drop shall mean a student who has stopped  
10 attending school for a period of less than three months and has  
11 given no indication that he or she intends to drop permanently; and

12 (d) A permanent drop shall mean a student who has stopped  
13 attending school for a period of three months or more or one who  
14 has stopped attending for a shorter time but has informed the  
15 school in writing of his or her intention to drop permanently;

16 (9) Once a student has been classified as a permanent  
17 drop, the ~~department~~ system shall keep a record of his or her hours  
18 and credits for a period of two years from the last date upon which  
19 the student attended school. If, after two years, the student has  
20 not reenrolled in a school of cosmetology or school of esthetics in  
21 Nebraska or transferred his or her hours and credits to a school in  
22 another state, all hours and credits earned by the student shall be  
23 declared void;

24 (10) No student shall be permitted by the school to train  
25 or work in a school in any manner for more than ten hours a day;  
26 and

27 (11) The school shall not credit a student or student



1 instructor with hours and credits except when such hours and  
2 credits were earned in the study or practice of cosmetology  
3 or esthetics in accordance with the required curriculum. Hours  
4 and credits shall be credited on a daily basis. Once credited,  
5 hours or credits cannot be removed or disallowed except by the  
6 ~~department~~ system upon a finding that the hours or credits have  
7 been wrongfully allowed.

8           Sec. 699. Section 71-3,142, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           71-3,142 Students may transfer from one school of  
11 cosmetology in Nebraska to another at any time without penalty if  
12 all tuition obligations to the school from which the student is  
13 transferring have been honored, upon fulfillment of the following  
14 requirements:

15           (1) The student shall secure a letter from the school  
16 from which he or she is transferring stating that the student  
17 has not left any unfulfilled tuition obligations and stating the  
18 number of hours and credits earned by the student at such school,  
19 including any hours and credits the student transferred into that  
20 school, and the dates of attendance of the student at that school;

21           (2) The school to which the student is transferring shall  
22 submit a copy of such letter to the ~~department~~ system along with a  
23 completed student entrance notification and fee. Documents already  
24 on file with the ~~department~~ system with the original notification  
25 need not be resubmitted; and

26           (3) The student may not begin training at the new school  
27 until the requirements of subdivisions (1) and (2) of this section

1 have been met.

2           The school to which the student is transferring shall  
3 be entitled to receive from the student's previous school, upon  
4 request, credit books and any and all records pertaining to the  
5 student.

6           Sec. 700. Section 71-3,143, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           71-3,143 Students may transfer into a school of  
9 cosmetology in Nebraska from a school in another state if:

10           (1) The school in the other state meets all requirements  
11 of section 71-3,141; and

12           (2) The student submits to the ~~department~~ system evidence  
13 that the school from which he or she is transferring was fully  
14 accredited by the appropriate body in that state at the time the  
15 student attended.

16           In order to be honored in Nebraska, some portion of  
17 the student's hours shall have been earned within the two years  
18 immediately prior to the transfer. The board and the ~~department~~  
19 system shall adopt and promulgate rules and regulations for  
20 determining the manner in which hours and credits shall be awarded  
21 to students transferring from such schools.

22           Sec. 701. Section 71-3,147, Revised Statutes Cumulative  
23 Supplement, 2006, is amended to read:

24           71-3,147 (1) Each school license issued under the  
25 Nebraska Cosmetology Act shall expire and be subject to renewal on  
26 December 31 of each odd-numbered year. The procedure for renewing  
27 a school license shall be in accordance with section 71-110.01,

1 except that in addition to all other requirements, the school of  
2 cosmetology or school of esthetics shall receive a satisfactory  
3 rating on an accreditation inspection conducted by the board and  
4 the ~~department,~~ system, in consultation with the State Department  
5 of Education, within the six months immediately prior to the date  
6 of license renewal.

7 (2) Any school of cosmetology or school of esthetics  
8 which has current accreditation from a national accrediting  
9 organization approved by the board shall be considered to satisfy  
10 the accreditation requirements outlined in this section, except  
11 that successful completion of an operation inspection shall be  
12 required. Each school of cosmetology or school of esthetics,  
13 whether or not it is nationally accredited, shall satisfy all  
14 curriculum and sanitation requirements outlined in the Nebraska  
15 Cosmetology Act to maintain its license.

16 (3) Any school not able to meet the requirements for  
17 license renewal shall have its license placed on inactive status  
18 until all deficiencies have been corrected, and the school shall  
19 not operate in any manner during the time its license is inactive.  
20 If the deficiencies are not corrected within six months of the  
21 date of license renewal, the license may be revoked unless the  
22 board approves an extension of the time limit. The license of  
23 a school that has been revoked or lapsed for any reason shall  
24 not be reinstated. An original application for licensure shall be  
25 submitted and approved before such school may reopen.

26 Sec. 702. Section 71-3,148, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

1           71-3,148 Each school license issued shall be in effect  
2 solely for the owner or owners and premises named thereon and shall  
3 lapse automatically upon any change of ownership or change in the  
4 county of location. An original application for licensure shall  
5 be submitted and approved before such school may reopen, except  
6 that a school moving to a new location within the same county  
7 may do so by filing an application as required by the ~~department,~~  
8 system, paying the required fee, submitting a new floor plan, and  
9 passing an operation inspection. Materials shall be received by the  
10 ~~department~~ system no less than thirty days prior to the move, and  
11 all provisions of this section shall be complied with before the  
12 school may begin operation at its new location.

13           Sec. 703. Section 71-3,149, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15           71-3,149 Any school of cosmetology may apply to the  
16 ~~department~~ system for a license to operate a satellite classroom.  
17 A satellite classroom shall be subject to all requirements of the  
18 Nebraska Cosmetology Act and rules and regulations adopted and  
19 promulgated under such act, except as follows:

20           (1) A satellite classroom shall consist of classroom  
21 facilities only, and no clinical activities may be performed  
22 thereat. A satellite classroom shall contain a minimum of four  
23 hundred square feet of floor space;

24           (2) Students located at a satellite classroom may move to  
25 the home school, or vice versa, without being considered transfer  
26 students;

27           (3) Students in a satellite classroom shall be reported

1 on the same monthly report form as students in the home school; and

2 (4) No satellite classroom may operate in any manner  
3 unless the home school is at the time operating and possesses  
4 a full active license, except a satellite classroom may keep  
5 different days and hours of operation from those of its home  
6 school. The license to operate a satellite classroom shall be  
7 revoked or shall lapse at the same time as that for its home  
8 school.

9 The board and the ~~department~~ system may by rules and  
10 regulations modify or waive any of the operating or student  
11 requirements of a school of cosmetology for a satellite classroom  
12 if the board and the ~~department~~ system determine that such  
13 requirements are not applicable or appropriate to a satellite  
14 classroom.

15 Sec. 704. Section 71-3,151, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 71-3,151 In order to be licensed as an apprentice  
18 salon by the ~~department,~~ system, an applicant shall meet and  
19 present to the ~~department~~ system evidence of meeting the following  
20 requirements:

21 (1) The proposed apprentice salon shall hold a current  
22 active license as a cosmetology salon or esthetics salon;

23 (2) The proposed apprentice salon shall employ or plan to  
24 employ one active instructor for each two apprentices or fraction  
25 thereof it enrolls; and

26 (3) The proposed apprentice salon shall provide an area  
27 of not less than one hundred square feet to be used solely for

1 educational purposes.

2           Sec. 705. Section 71-3,152, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           71-3,152 Any person seeking a license to operate an  
5 apprentice salon shall submit an application to the ~~department~~  
6 system. The application shall be on such forms and shall include  
7 such information as the ~~department~~ system and the board may  
8 require. If the applicant is an individual, the application  
9 shall include the applicant's social security number. A complete  
10 application shall be received by the ~~department~~ system at least  
11 thirty days before construction or remodeling of the building  
12 proposed for use is scheduled to begin. If no construction or  
13 remodeling is planned, the application shall be received at least  
14 thirty days before training of apprentices is scheduled to begin.  
15 Along with the application the applicant shall submit:

16           (1) A detailed floor plan or blueprint of the proposed  
17 apprentice salon sufficient to demonstrate compliance with the  
18 Nebraska Cosmetology Act;

19           (2) A statement confirming application for a surety bond  
20 in the amount of one thousand dollars for each apprentice planned  
21 to be enrolled conforming to the requirements of the bond required  
22 for schools of cosmetology;

23           (3) A list of the names and qualifications of all  
24 instructors employed or proposed to be employed;

25           (4) Completed student entrance notifications for all  
26 apprentices proposed to be enrolled;

27           (5) A copy of the rules the salon proposes to use for its

1 apprentices;

2 (6) A copy of the apprentice contract;

3 (7) A copy of the curriculum proposed to be used;

4 (8) A proposed schedule of training for each apprentice;

5 and

6 (9) A completed cosmetology education evaluation scale.

7 Sec. 706. Section 71-3,153, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 71-3,153 Each application for a license to operate an  
10 apprentice salon shall be reviewed by the ~~department~~ system for  
11 compliance with the requirements of the Nebraska Cosmetology Act.  
12 In the event an application is denied, the applicant shall be  
13 informed in writing of the grounds for denial and such denial shall  
14 not prejudice further applications by the applicant. In the event  
15 an application is approved, the ~~department~~ system shall immediately  
16 conduct an operation inspection of the proposed apprentice salon. A  
17 salon passing the inspection shall be issued a license to operate  
18 and may begin training apprentices upon receipt of notification to  
19 such effect. A salon failing the operation inspection shall submit,  
20 within fifteen days, evidence of corrective action to improve those  
21 aspects of operation found deficient. If, after a second inspection  
22 to be conducted within thirty days of receipt of evidence, the  
23 salon does not receive a satisfactory rating, or if evidence is not  
24 submitted within fifteen days, the application may be denied.

25 Sec. 707. Section 71-3,154, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27 71-3,154 In order to maintain and renew its license in

1 good standing, each apprentice salon shall operate in accordance  
2 with the following requirements:

3 (1) The apprentice salon shall at all times comply with  
4 all applicable provisions of the Nebraska Cosmetology Act and all  
5 rules and regulations adopted and promulgated under such act;

6 (2) The salon shall maintain its salon license in good  
7 standing; and

8 (3) The salon shall operate in accordance with all  
9 operating requirements and all student requirements of a school of  
10 cosmetology or school of esthetics, except that the board and the  
11 ~~department~~ system may by rule and regulation modify or waive any  
12 such requirements that are deemed not applicable to an apprentice  
13 salon.

14 Sec. 708. Section 71-3,159, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 71-3,159 (1) Practice outside a licensed cosmetology  
17 establishment shall be permitted in the following circumstances:

18 (a) A registered cosmetician may apply cosmetics or  
19 esthetics products within the scope of such activity permitted a  
20 cosmetician in the home of a client or customer; and

21 (b) A licensed cosmetology salon or esthetics salon may  
22 employ licensed cosmetologists and estheticians, according to the  
23 licensed activities of the salon, to perform home services by  
24 meeting the following requirements:

25 (i) In order to be issued a home services permit by the  
26 ~~department,~~ system, an applicant shall hold a current active salon  
27 license; and



1           (ii) Any person seeking a home services permit shall  
2 submit an application to the ~~department~~ system. The application  
3 shall be on such forms and shall contain such information as the  
4 ~~department~~ system and the board may require. A complete application  
5 shall be received by the ~~department~~ system at least ten days before  
6 the proposed date for beginning home services. Along with the  
7 application the applicant shall submit evidence of application for  
8 liability insurance or bonding.

9           (2) The ~~department~~ system shall issue a home services  
10 permit to each applicant meeting the requirements set forth in  
11 subsection (1) of this section.

12           (3) Any licensed electrology establishment may have its  
13 licensed electrologist make calls outside of its establishment  
14 if the licensed establishment holds a home services permit for  
15 electrology from the ~~department~~ system to do so. Any establishment  
16 seeking such a permit shall submit an application to the ~~department~~  
17 system on a form supplied by the ~~department~~ system. Such  
18 application shall contain such information as the ~~department~~ system  
19 may require. A complete application shall be received by the  
20 ~~department~~ system at least ten days before the proposed date for  
21 beginning home services.

22           Sec. 709. Section 71-3,160, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           71-3,160 In order to maintain in good standing or  
25 renew its home services permit or home services permit for  
26 electrology, a salon or electrology establishment shall at all  
27 times operate in accordance with all requirements for operation,

1 maintain its license in good standing, and comply with the  
2 following requirements:

3 (1) Clients receiving home services shall be in emergency  
4 circumstances which shall generally be defined as any condition  
5 sufficiently immobilizing to prevent the client from leaving his or  
6 her residence regularly to conduct routine affairs of daily living  
7 such as grocery shopping, visiting friends and relatives, attending  
8 social events, attending worship services, and other similar  
9 activities. Emergency circumstances may include such conditions  
10 or situations as:

11 (a) Chronic illness or injury leaving the client  
12 bedridden or with severely restricted mobility;

13 (b) Extreme general infirmity such as that associated  
14 with the aging process;

15 (c) Temporary conditions including, but not limited  
16 to, immobilizing injury and recuperation from serious illness  
17 or surgery;

18 (d) Having sole responsibility for the care of an invalid  
19 dependent requiring constant attention; or

20 (e) Any other conditions that, in the opinion of the  
21 board, meet the general definition of emergency circumstances;

22 (2) The salon or electrology establishment shall  
23 determine that each person receiving home services meets the  
24 requirements of subdivision (1) of this section and shall:

25 (a) Complete a client information form supplied by the  
26 ~~department~~ system before home services may be provided to any  
27 client; and

1           (b) Keep on file the client information forms of all  
2 clients it is currently providing with home services or to whom it  
3 has provided such services within the past two years;

4           (3) The salon or electrology establishment shall employ  
5 or contract with persons licensed under the Nebraska Cosmetology  
6 Act to provide home services and shall not permit any person to  
7 perform any home services under its authority for which he or she  
8 is not licensed;

9           (4) Each salon or electrology establishment holding a  
10 home services permit or home services permit for electrology shall  
11 report to the ~~department~~ system every six months, as directed by  
12 the ~~department~~, system, on the current status of each home services  
13 client;

14           (5) No client shall be left unattended while any chemical  
15 service is in progress or while any electrical appliance is in use;  
16 and

17           (6) Each salon or electrology establishment providing  
18 home services shall post a daily itinerary for each licensee  
19 providing home services. The kit for each licensee shall be  
20 available for inspection at the salon or at the home of the client  
21 receiving services.

22           Sec. 710. Section 71-3,161, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           71-3,161 Agents of the ~~department~~ system may make  
25 operation inspections in the homes of clients if such inspections  
26 are limited to the activities, procedures, and materials of the  
27 licensee providing home services.

1           Sec. 711. Section 71-3,165, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           71-3,165 The ~~department~~ system shall enforce the Nebraska  
4 Cosmetology Act and for that purpose shall make necessary  
5 investigations and inspections relative thereto. Every licensee  
6 shall assist the ~~department~~ system in such regard to the best of  
7 his or her ability and shall not withhold any information that may  
8 have a bearing on any investigation or inspection.

9           Sec. 712. Section 71-3,166, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           71-3,166 Upon the request of the ~~department,~~ system, the  
12 Attorney General shall institute in the name of the state the  
13 proper proceedings against any person whom the board finds to be in  
14 violation of the Nebraska Cosmetology Act or any rule or regulation  
15 adopted and promulgated under such act, and the county attorney,  
16 at the request of the Attorney General or the ~~department,~~ system,  
17 shall appear and prosecute such action when brought in his or her  
18 county.

19           Sec. 713. Section 71-3,167, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21           71-3,167 The ~~department~~ system may initiate an  
22 investigation when it receives a complaint regarding a possible  
23 violation or when the board or the ~~department,~~ system, on the  
24 basis of its own knowledge, deems such an investigation necessary.  
25 The purpose of the investigation shall be to ascertain facts and  
26 evidence for presentation to the board relating to the possible  
27 violation. Investigations shall be conducted only by employees or

1 agents of the ~~department~~ system specifically authorized to conduct  
2 investigations.

3           Sec. 714. Section 71-3,168, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           71-3,168 (1) The board shall review the results of each  
6 investigation brought before it by the ~~department~~ system and shall  
7 make a recommendation as to whether the evidence presented appears  
8 to substantiate the existence of a violation.

9           (2) When the ~~department~~, system, upon the recommendation  
10 of the board, finds that there is probable cause to suspect a  
11 violation has occurred based on the results of an investigation, it  
12 shall forward all pertinent material along with a statement of its  
13 findings to the Attorney General. The Attorney General shall review  
14 the material submitted, taking the recommendation of the board  
15 under advisement, and shall advise the board and the ~~department~~  
16 system promptly of his or her findings. If the Attorney General  
17 determines that a probable violation has occurred, he or she shall  
18 begin proceedings to obtain an injunction against the party or  
19 parties involved if such a step is deemed necessary or to take  
20 other disciplinary action against a licensee.

21           Sec. 715. Section 71-3,169, Revised Statutes Cumulative  
22 Supplement, 2006, is amended to read:

23           71-3,169 (1) The ~~department~~ system shall conduct  
24 inspections as required by the Nebraska Cosmetology Act. Two  
25 types of inspections shall be conducted which shall be known as  
26 operation inspections and accreditation inspections. An operation  
27 inspection shall be conducted to ascertain that an establishment or

1 a facility is operating in full compliance with all laws, rules,  
2 and regulations. An accreditation inspection shall be conducted to  
3 accomplish the purposes of an operation inspection and to ascertain  
4 that a school of cosmetology, a nail technology school, a school of  
5 esthetics, or an apprentice salon is maintaining academic standards  
6 and requirements of a quality consistent with the purpose of the  
7 Nebraska Cosmetology Act. All accreditation inspections shall be  
8 announced at least two weeks prior to the actual inspection.

9 (2) The board and the ~~department~~ system shall adopt  
10 and promulgate rules and regulations governing the standards and  
11 criteria to be used in the conduct of inspections, the rating  
12 system to be used, and the level of achievement necessary to  
13 receive a passing grade.

14 (3) Operation inspections shall be unannounced and shall  
15 be conducted during the normal working hours of the establishment  
16 or facility. The inspector shall make every effort to gather the  
17 information he or she needs to complete the operation inspection in  
18 an inconspicuous manner.

19 (4) At the conclusion of the inspection, the owner or  
20 manager of the establishment or facility shall receive a copy of  
21 the rating form, which form shall be promptly displayed, and a  
22 verbal statement of any deficiencies noted.

23 Sec. 716. Section 71-3,170, Revised Statutes Cumulative  
24 Supplement, 2006, is amended to read:

25 71-3,170 If a cosmetology establishment, a nail  
26 technology establishment, an electrology establishment, or a body  
27 art facility receives a rating of unsatisfactory, it shall submit

1 evidence to the ~~department~~ system within fifteen days providing  
2 proof of corrective action taken. A repeat inspection shall be  
3 conducted within sixty days after the original inspection to  
4 determine if corrective action has occurred. The ~~department~~ system  
5 may assess a fee for each repeat inspection required. If the  
6 establishment or facility receives an unsatisfactory rating on the  
7 repeat inspection, or if evidence is not submitted within fifteen  
8 days, the license shall immediately be placed on inactive status  
9 pending action by the ~~department,~~ system, and the establishment  
10 or facility may not operate in any manner while its license is  
11 inactive.

12           The owner or manager of an establishment or a facility  
13 whose license has been placed on inactive status shall appear  
14 before the board and the ~~department~~ system to show cause why the  
15 ~~department~~ system should not ask the Attorney General to initiate  
16 steps to revoke the license. The ~~department~~ system may, as a  
17 result of such appearance, grant additional time for corrective  
18 action to occur, but the establishment or facility may not operate  
19 during such time. The establishment or facility may not return  
20 to operation until it has achieved a satisfactory rating on an  
21 inspection.

22           Sec. 717. Section 71-3,172, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           71-3,172 Before sending a request to the Attorney  
25 General for revocation or prosecution, the ~~department~~ system  
26 may request the person charged with the violation to appear  
27 before the ~~department~~ system for the purpose of reaching a

1 settlement to voluntarily surrender or limit the license, permit,  
2 or registration, in accordance with the procedures of section  
3 71-161.11. Such agreement may be negotiated in lieu of prosecution  
4 or revocation at the discretion of the ~~department~~ system. The  
5 provisions of the settlement may include any of the penalties  
6 prescribed in the Nebraska Cosmetology Act or any other measures  
7 the board deems appropriate for the protection of the public and  
8 the effective discipline of the practitioner.

9           Sec. 718. Section 71-3,175, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           71-3,175 (1) Any person who files or attempts to  
12 file with the ~~department~~ system any false or forged diploma,  
13 certificate, affidavit of identification or qualification,  
14 credential, or official document of any kind shall be deemed  
15 guilty of criminal simulation and upon conviction thereof shall be  
16 punished as provided in section 28-606.

17           (2) Any person who presents to the ~~department~~ system a  
18 diploma or certificate of which he or she is not the rightful  
19 owner for the purpose of procuring a license, falsely impersonates  
20 a person to whom a license or registration has been issued by  
21 the ~~department~~, system, or falsely impersonates a candidate for  
22 examination shall be guilty of a Class IV felony.

23           Sec. 719. Section 71-3,177, Revised Statutes Cumulative  
24 Supplement, 2006, is amended to read:

25           71-3,177 Each of the following may be considered an act  
26 of unprofessional conduct when committed by a person licensed or  
27 registered under the Nebraska Cosmetology Act:



1           (1) Performing any of the practices regulated under the  
2 Nebraska Cosmetology Act for which an individual is not licensed or  
3 registered;

4           (2) Obstructing, interfering, or failing to cooperate  
5 with an inspection or investigation conducted by an authorized  
6 representative of the ~~department~~ system when acting in accordance  
7 with the Nebraska Cosmetology Act;

8           (3) Failing to report to the ~~department~~ system a  
9 suspected violation of the Nebraska Cosmetology Act;

10           (4) Aiding and abetting an individual to practice any  
11 of the practices regulated under the Nebraska Cosmetology Act for  
12 which he or she is not licensed or registered;

13           (5) Engaging in any of the practices regulated under  
14 the Nebraska Cosmetology Act for compensation in an unauthorized  
15 location;

16           (6) Engaging in the practice of any healing art or  
17 profession for which a license is required without holding such a  
18 license;

19           (7) Enrolling a student or an apprentice without  
20 submitting a complete student entrance notification to the  
21 ~~department;~~ system;

22           (8) Knowingly falsifying any student or apprentice record  
23 or report;

24           (9) Initiating or continuing home services to a client  
25 who does not meet the criteria established in the Nebraska  
26 Cosmetology Act;

27           (10) Knowingly issuing a certificate of completion or

1 diploma to a student or an apprentice who has not completed all  
2 requirements for the issuance of such document;

3 (11) Failing, by a school of cosmetology, a nail  
4 technology school, a school of esthetics, or an apprentice salon,  
5 to follow its published rules;

6 (12) Violating, by a school of cosmetology, nail  
7 technology school, or school of esthetics, any federal or state  
8 law involving the operation of a vocational school or violating  
9 any federal or state law involving participation in any federal or  
10 state loan or grant program;

11 (13) Knowingly permitting any person under supervision to  
12 violate any law, rule, or regulation or knowingly permitting any  
13 establishment or facility under supervision to operate in violation  
14 of any law, rule, or regulation;

15 (14) Receiving two unsatisfactory inspection reports  
16 within any sixty-day period;

17 (15) Engaging in any of the practices regulated under  
18 the Nebraska Cosmetology Act while afflicted with any active case  
19 of a serious contagious disease, infection, or infestation, as  
20 determined by the ~~department~~, system, or in any other circumstances  
21 when such practice might be harmful to the health or safety of  
22 clients;

23 (16) Violating any rule or regulation relating to the  
24 practice of body art; and

25 (17) Performing body art on or to any person under  
26 eighteen years of age (a) without the prior written consent of  
27 the parent or court-appointed guardian of such person, (b) without

1 the presence of such parent or guardian during the procedure, or  
2 (c) without retaining a copy of such consent for a period of five  
3 years.

4 Sec. 720. Section 71-3,178, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 71-3,178 ~~(1) All licenses, certificates, or other~~  
7 ~~credentials issued under sections 71-312 to 71-339 prior to July~~  
8 ~~17, 1986, shall continue in full force and effect after July~~  
9 ~~17, 1986, until such time as they are scheduled to expire or be~~  
10 ~~renewed. No operating credential shall be terminated solely due to~~  
11 ~~the enactment of the Nebraska Cosmetology Act.~~

12 ~~(2) (1) Any person practicing any of the practices of~~  
13 ~~cosmetology, or any person operating an establishment that did~~  
14 ~~not require licensure, registration, or other credentials prior to~~  
15 ~~July 17, 1986, but does require such credentials as a result of~~  
16 ~~the Nebraska Cosmetology Act, shall be permitted to apply to the~~  
17 ~~department system for the appropriate license, registration, or~~  
18 ~~other credentials without meeting any of the requirements of the~~  
19 ~~Nebraska Cosmetology Act for initial licensure, if:~~

20 (a) Such application is made prior to January 31, 1988;

21 (b) The applicant presents evidence that he or she has  
22 been engaged in the practice for which he or she seeks credentials  
23 or has operated the establishment for which he or she seeks  
24 credentials for a period of at least six months prior to July 17,  
25 1986; and

26 (c) The applicant provides a written statement of his  
27 or her intention to comply with all provisions of the Nebraska

1 Cosmetology Act and all rules and regulations adopted and  
2 promulgated under such act.

3 ~~(3)~~ (2) The ~~department~~ system shall issue an original  
4 license, registration, or permit in the appropriate category to  
5 each such applicant upon payment of the appropriate fee for  
6 original accreditation. Each such credential granted shall expire  
7 and be subject to renewal at the same time as all others in its  
8 class and shall be subject to the same requirements for renewal as  
9 all others in its class.

10 Sec. 721. Section 71-3,179, Revised Statutes Cumulative  
11 Supplement, 2006, is amended to read:

12 71-3,179 The ~~department~~, system, with the assistance of  
13 the board, shall adopt and promulgate all rules, regulations,  
14 and guidelines necessary for the administration of the Nebraska  
15 Cosmetology Act. In particular, the ~~department~~ system shall adopt  
16 and promulgate the following rules and regulations:

17 (1) Minimum standards governing licensure, license  
18 renewal, discipline of licensees, and license reinstatement;

19 (2) Operation of schools of cosmetology, nail technology  
20 schools, schools of esthetics, and apprentice salons, including  
21 standards and requirements governing application, curriculum,  
22 course of study, hours and credits, staff and faculty, student  
23 and nail technology student admission and registration, student  
24 instructor, nail technology student instructor, and apprentice  
25 admission and registration, instruction and supervision, textbooks,  
26 transfers, examinations, grading and evaluation, graduation  
27 requirements, records, reporting requirements, sanitation, attire,

1 school and salon rules and policies, smoking, subject content,  
2 lesson plans, methods of counting and recording hours and credits,  
3 library facilities, space requirements, teaching equipment and  
4 apparatus, supplies, organization and administration, transfer  
5 of location, closing a school, change of ownership or location,  
6 scheduling of courses, class size, ratio of instructors,  
7 esthetics instructors, or nail technology instructors to students  
8 or nail technology students, clinical experience requirements  
9 and locations, inspections, license renewal procedures and  
10 requirements, and any other related areas;

11 (3) Minimum standards governing the licensure, license  
12 renewal, discipline of licensees, license reinstatement, and  
13 operation of satellite classrooms, including movement of students  
14 among satellite classrooms and home schools, location of  
15 records, ratio of students to instructors, inspections, reporting  
16 requirements, and any other related areas;

17 (4) Minimum standards governing the licensure, license  
18 renewal, discipline of licensees, license reinstatement, and  
19 operation of cosmetology salons, nail technology salons, and  
20 esthetics salons, including standards and requirements governing  
21 space, facilities, equipment, hours of operation, cleanliness and  
22 sanitation, smoking, laundry, storage facilities, instruments,  
23 implements, materials and supplies, methods and particular aspects  
24 of sanitizing, pets, toilet facilities, water, client files,  
25 employment and supervision of temporary practitioners, practices  
26 permitted, application, inspection, sale or change of ownership,  
27 closing a salon, records, reporting requirements, license renewal

1 standards and procedures, and any other related areas;

2 (5) Situations constituting a conflict of interest for  
3 board members and procedures for dealing with such situations;

4 (6) Procedures for the conduct and grading of  
5 examinations and performance standards for examinations;

6 (7) Minimum standards governing the licensure, license  
7 renewal, discipline of licensees, license reinstatement, and  
8 operation of cosmetic establishments including type and amount  
9 of instruction provided to cosmeticians or electrologists, safety  
10 and sanitary procedures and standards, application, inspection,  
11 reporting requirements, license renewal standards and procedures,  
12 and any other related areas;

13 (8) Minimum standards governing the registration,  
14 expiration, discipline, and practice of cosmeticians, nail  
15 technicians, electrologists, guest artists, guest body artists,  
16 nail technology students, nail technology student instructors,  
17 students, apprentices, student instructors, nail technology  
18 temporary practitioners, and temporary practitioners, including  
19 application, supervision, type of training received, locations of  
20 practice, reporting requirements, grounds for discipline, and any  
21 other related areas;

22 (9) Continuing competency requirements for persons  
23 licensed under the Nebraska Cosmetology Act as approved by the  
24 board under section 71-377;

25 (10) Criteria and standards to be used in the conduct of  
26 inspections and procedures to be used in the conduct of inspections  
27 and investigations, including rating systems, level of achievement

1 necessary to receive a passing grade, conduct of inspections and  
2 investigations, and any other related areas;

3 (11) Minimum standards governing the granting, discipline  
4 of, and renewal of home services permits, nail technology home  
5 services permits, or home services permits for electrology and the  
6 provision of home services; and

7 (12) Acts constituting unprofessional conduct on the part  
8 of licensed and registered practitioners, licensed establishments  
9 and nail technology establishments, and licensed body art  
10 facilities.

11 Sec. 722. Section 71-3,182, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 71-3,182 Any person who has been engaged in the practice  
14 of nail technology or nail technology instruction may apply to the  
15 ~~department~~ system for the appropriate license without examination  
16 as provided in section 71-3,209.

17 Sec. 723. Section 71-3,183, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 71-3,183 In order to be licensed as a nail technician  
20 or nail technology instructor by examination, an individual shall  
21 meet, and present to the ~~department~~ system evidence of meeting, the  
22 following requirements:

23 (1) He or she has attained the age of seventeen years  
24 on or before the beginning date of the examination for which  
25 application is being made, as evidenced by a birth certificate,  
26 baptismal certificate, or other equivalent document as determined  
27 by the ~~department,~~ system;

1           (2) He or she has completed formal education equivalent  
2 to a United States high school education, as evidenced by a high  
3 school diploma, general educational development certificate, or  
4 equivalent document as determined by the ~~department~~; system;

5           (3) He or she possesses the ability to identify and  
6 respond to emergency situations that could occur in the practice of  
7 nail technology, as evidenced by successful completion of a basic  
8 first-aid course;

9           (4) He or she files a complete and proper application  
10 with the ~~department~~ system which includes the individual's social  
11 security number, accompanied by the appropriate fee;

12           (5) He or she possesses sufficient ability to read the  
13 English language to permit the applicant to practice in a safe  
14 manner, as evidenced by successful completion of the written  
15 examination; and

16           (6) He or she has graduated from a school of cosmetology  
17 or nail technology school providing a nail technology program.  
18 Evidence of graduation shall include documentation of the total  
19 number of hours of training earned and a diploma or certificate  
20 from the school to the effect that the applicant has complied with  
21 the following:

22           (a) For licensure as a nail technician, the program of  
23 studies shall consist of a minimum of not less than one hundred  
24 fifty hours and not more than three hundred hours, as set by  
25 the board, sixteen hours of which shall include instruction on  
26 operating a nail drill; and

27           (b) For licensure as a nail technology instructor, the



1 program of studies shall consist of a minimum of not less than one  
2 hundred fifty hours and not more than three hundred hours, as set  
3 by the board, beyond the program of studies required for licensure  
4 as a nail technician and the individual shall be currently licensed  
5 as a nail technician in Nebraska as evidenced by possession of a  
6 valid Nebraska nail technician license.

7 The ~~department~~ system shall grant a license in the  
8 appropriate category to any person meeting the requirements  
9 specified in this section.

10 Sec. 724. Section 71-3,184, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 71-3,184 An application for any type of nail technology  
13 licensure or registration shall be made on forms and in the  
14 manner prescribed by the ~~department~~ system with the approval  
15 of the board. No application for any type of licensure or  
16 registration shall be considered complete unless all information  
17 requested on the application form has been supplied, all seals  
18 and signatures required have been obtained, all supporting and  
19 documentary evidence has been received by the ~~department,~~ system,  
20 and the application is accompanied by the appropriate fee.

21 Sec. 725. Section 71-3,186, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 71-3,186 The board shall approve and the ~~department~~  
24 system shall cause examinations to be administered as required for  
25 licensure in nail technology under the Nebraska Cosmetology Act for  
26 the purpose of establishing the possession of minimum competency in  
27 the knowledge and skills required on the part of the applicant.

1           The ~~department~~ system shall provide at least one year's  
2 notice of future examination dates to nail technology schools  
3 and schools of cosmetology. Such schools shall be responsible for  
4 notifying their students of upcoming examination dates.

5           Sec. 726. Section 71-3,187, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           71-3,187 (1) Examinations approved by the board may  
8 be national standardized examinations, but in all cases the  
9 examinations shall be related to the knowledge and skills necessary  
10 to perform the practices being examined and shall be related to the  
11 curricula required to be taught in nail technology programs.

12           (2) The board shall fix the time and place of each  
13 examination no less than one year in advance. At least two  
14 examinations shall be given annually. All examinations shall be  
15 conducted in the city of Lincoln unless ordered otherwise by the  
16 ~~department.~~ system.

17           (3) If examinations are administered directly by the  
18 ~~department,~~ system, the examination shall be administered by a  
19 chief examiner who shall be an employee of the ~~department.~~ system.

20           (4) In order to successfully complete the examination, an  
21 applicant shall obtain an average grade of seventy-five percent on  
22 the written examination.

23           (5) The ~~department~~ system shall keep a permanent record  
24 of all grades received in examinations and shall provide any  
25 individual a copy of his or her grades upon request without charge.

26           (6) The ~~department~~ system may adopt and promulgate  
27 rules and regulations to provide for procedures, development,

1 administration, scoring, and reviewing of examinations and to  
2 protect the security of the contents of examination questions and  
3 answers in the examination review. The ~~department~~ system shall  
4 not enter into an agreement to adopt an examination from a  
5 national testing service without first obtaining from such service  
6 detailed documentation of the process of examination development  
7 and maintenance.

8           Sec. 727. Section 71-3,188, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           71-3,188 (1) An individual failing the examination under  
11 sections 71-3,186 and 71-3,187 may retake the examination within  
12 one year of the date of the failed examination by submitting a  
13 written request to the ~~department~~ system to retake the examination.  
14 The applicant may retake the examination one time without paying an  
15 additional fee.

16           (2) After examination grades have been approved by the  
17 board and the ~~department,~~ system, the ~~department~~ system shall  
18 promptly notify each applicant of the results of his or her  
19 examination.

20           Sec. 728. Section 71-3,190, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           71-3,190 An applicant for licensure under sections  
23 71-3,183 to 71-3,188 may review his or her examination questions,  
24 answers, papers, grades, and grading key or standards used in  
25 the licensure examinations under such terms and conditions as  
26 may be established by the ~~department,~~ system, with the following  
27 restrictions:

1           (1) No such review shall be permitted which violates any  
2 contractual agreement between the ~~department~~ system and the testing  
3 agency providing the examination; and

4           (2) No material made available for review may be copied  
5 in any manner by the applicant or his or her representatives.

6           Sec. 729. Section 71-3,191, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           71-3,191 The ~~department~~ system may grant a license to a  
9 nail technician or nail technology instructor who presents proof of  
10 the following:

11           (1) He or she has attained the age of seventeen years, as  
12 evidenced by a birth certificate, baptismal certificate, or other  
13 equivalent document as determined by the ~~department;~~ system;

14           (2) He or she has completed formal education equivalent  
15 to a United States high school education, as evidenced by a high  
16 school diploma, general educational development certificate, or  
17 equivalent document as determined by the ~~department;~~ system;

18           (3) He or she has filed a complete and proper application  
19 with the ~~department~~ system which includes the individual's social  
20 security number, accompanied by the appropriate fee;

21           (4) He or she is currently licensed as a nail technician  
22 or its equivalent or as a nail technology instructor or its  
23 equivalent in another jurisdiction, that he or she has never been  
24 disciplined or had his or her license revoked, and that, so far  
25 as the records of the licensing authority of the jurisdiction are  
26 concerned, the applicant is entitled to its endorsement;

27           (5) For licensure as a nail technician, evidence of:

1           (a) Completion of a program of nail technician studies  
2 consisting of a minimum of not less than one hundred fifty hours  
3 and not more than three hundred hours, as set by the board, sixteen  
4 hours of which shall include instruction on operating a nail drill,  
5 and successful passage of a written examination. If a written  
6 examination was not required for licensure in another jurisdiction,  
7 the applicant must take the Nebraska written examination; or

8           (b) At least twelve months of practice as a nail  
9 technician following issuance of such license in another  
10 jurisdiction; and

11           (6) For licensure as a nail technology instructor,  
12 evidence of:

13           (a) Completion of a program of studies consisting of a  
14 minimum of not less than one hundred fifty hours and not more  
15 than three hundred hours, as set by the board, beyond the program  
16 of studies required for licensure in another jurisdiction as a  
17 nail technician, successful passage of a written examination, and  
18 current licensure as a nail technician in Nebraska as evidenced  
19 by possessing a valid Nebraska nail technician license. If a  
20 written examination was not required for licensure as a nail  
21 technology instructor, the applicant must take the Nebraska written  
22 examination; or

23           (b) At least twelve months of practice as a nail  
24 technology instructor following issuance of such license in another  
25 jurisdiction.

26           Sec. 730. Section 71-3,192, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

1           71-3,192 Every person holding a license or registration  
2 in nail technology issued by the ~~department~~ system under the  
3 Nebraska Cosmetology Act shall display it in a conspicuous place in  
4 his or her principal place of employment, and every nail technology  
5 establishment shall so display the licenses and registrations of  
6 all practitioners there employed.

7           Sec. 731. Section 71-3,193, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           71-3,193 On and after January 1, 2000, registration  
10 shall be required before any person may act as a nail technology  
11 temporary practitioner, and no person shall assume such title  
12 without first being registered by the ~~department~~ system under  
13 section 71-3,194.

14           Sec. 732. Section 71-3,194, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           71-3,194 An applicant for registration as a nail  
17 technology temporary practitioner shall file a complete and proper  
18 application with the ~~department~~ system and shall show evidence that  
19 his or her completed application for licensure has been accepted by  
20 the ~~department,~~ system, that he or she has not failed any portion  
21 of the licensure examination, and that he or she has been accepted  
22 for work in a licensed nail technology or cosmetology establishment  
23 under the supervision of a licensed nail technician or licensed  
24 cosmetologist.

25           Sec. 733. Section 71-3,205, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27           71-3,205 A nail technician or nail technology instructor

1 who fails to complete continuing competency activities as required  
2 by the board pursuant to section 71-377 may request that his or her  
3 license be placed on inactive status upon its expiration. Such a  
4 request shall be granted upon payment of the inactive status fee.  
5 No person shall practice in any manner under an inactive or revoked  
6 license. An inactive license may be restored to active status  
7 at such time as the licensee so petitions the ~~department~~ system  
8 and presents evidence that he or she has completed continuing  
9 competency activities as required by the board.

10           Sec. 734. Section 71-3,208, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           71-3,208 On and after January 1, 2000, no person shall  
13 operate or profess or attempt to operate a nail technology  
14 establishment unless such establishment is licensed by the  
15 ~~department~~ system under the Nebraska Cosmetology Act. The  
16 ~~department~~ system shall not issue or renew a license for a nail  
17 technology establishment until all requirements of the Nebraska  
18 Cosmetology Act have been complied with. No person shall engage in  
19 any of the practices of nail technology in any location or premises  
20 other than a licensed nail technology or cosmetology establishment  
21 except as specifically permitted in the Nebraska Cosmetology Act.

22           Sec. 735. Section 71-3,209, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           71-3,209 (1) Any person practicing any of the practices  
25 of nail technology or any person operating an establishment that  
26 did not require licensure, registration, or other credentials in  
27 nail technology prior to August 28, 1999, but does require such

1 credentials on or after such date shall be permitted to continue  
2 practicing or operating and apply to the ~~department~~ system for  
3 the appropriate license, registration, or other credential without  
4 meeting any of the requirements of the Nebraska Cosmetology Act for  
5 initial licensure if:

6 (a) Such application is made on or before November 1,  
7 1999;

8 (b) The required fee is submitted; and

9 (c) The applicant provides a written statement of his  
10 or her intention to comply with all provisions of the Nebraska  
11 Cosmetology Act and all rules and regulations adopted and  
12 promulgated under such act.

13 (2) The ~~department~~ system shall issue an original  
14 license, registration, or permit in the appropriate category to  
15 each such applicant upon payment of the appropriate fee for the  
16 original credential. Each such credential granted shall expire and  
17 be subject to renewal at the same time as all others in its class  
18 and shall be subject to the same requirements for renewal as all  
19 others in its class. Any license issued pursuant to this section  
20 shall be effective on and after January 1, 2000.

21 Sec. 736. Section 71-3,210, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 71-3,210 In order to be licensed as a nail technology  
24 salon by the ~~department~~, system, an applicant shall meet, and  
25 present to the ~~department~~ system evidence of meeting, the following  
26 requirements:

27 (1) The proposed nail technology salon shall be a fixed,



1 permanent structure or part of one;

2 (2) The proposed nail technology salon shall be  
3 physically separated from all other business or residential  
4 activities except cosmetology, barbering, and retail sales;

5 (3) The separation required in subdivision (2) of this  
6 section shall be by fixed walls or by partitions not less than six  
7 feet high;

8 (4) All areas of the nail technology salon, including  
9 those used for retail sales, shall comply with the sanitary  
10 requirements of the Nebraska Cosmetology Act;

11 (5) A nail technology salon located in a residence shall  
12 be entirely distinct and separate from any living quarters, except  
13 that there may be one connecting door to the living portion of  
14 the dwelling as an access entrance to the salon for the owner or  
15 operator, but such entrance shall not be for the use of the general  
16 public;

17 (6) The entrance into the proposed nail technology salon  
18 used by the general public shall lead directly from the outside to  
19 the salon, except that a salon located in a commercial building may  
20 have its entrance open from a public area such as a foyer, hallway,  
21 mall, concourse, or retail sales floor;

22 (7) The proposed nail technology salon shall have at  
23 least one hundred fifty square feet of floor space. If more than  
24 one practitioner is to be employed in the salon at the same time,  
25 the salon shall contain an additional space of at least fifty  
26 square feet for each additional practitioner, except that a salon  
27 employing a licensee exclusively to perform home services need not

1 provide additional space for such employee;

2 (8) The proposed nail technology salon shall include  
3 toilet facilities unless the salon is located in a commercial  
4 building in which public toilet facilities are available that open  
5 directly off of a public area;

6 (9) The proposed nail technology salon shall have  
7 handwashing facilities within the salon; and

8 (10) The proposed nail technology salon shall meet all  
9 state or local building code and fire code requirements.

10 Sec. 737. Section 71-3,211, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 71-3,211 Any person seeking a license to operate a nail  
13 technology salon shall submit an application to the ~~department~~  
14 system. The application shall be on such forms and shall  
15 include such information as the ~~department~~ system and the board  
16 may require. A completed application shall be received by the  
17 ~~department~~ system at least thirty days before construction or  
18 remodeling of the building proposed for use is scheduled to begin.  
19 If the applicant is an individual, the application shall include  
20 the applicant's social security number. If no construction or  
21 remodeling is planned, the application shall be submitted at least  
22 thirty days before the proposed opening of the salon for operation.  
23 Along with the application the applicant shall submit:

24 (1) A detailed floor plan or blueprint of the proposed  
25 salon sufficient to demonstrate compliance with the requirements of  
26 section 71-3,210; and

27 (2) A statement confirming application for minimal

1 property damage, bodily injury, and liability insurance coverage  
2 for the proposed salon.

3           Sec. 738. Section 71-3,212, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           71-3,212 Each application for a license to operate a  
6 nail technology salon shall be reviewed by the ~~department~~ system  
7 for compliance with the requirements of the Nebraska Cosmetology  
8 Act. If an application is denied, the applicant shall be informed  
9 in writing of the grounds for denial and such denial shall not  
10 prejudice future applications by the applicant. If an application  
11 is approved, the ~~department~~ system shall issue the applicant  
12 a certificate of consideration to operate a salon pending an  
13 operation inspection. The ~~department~~ system shall conduct an  
14 operation inspection of each salon issued a certificate of  
15 consideration within six months after the issuance of such  
16 certificate. Salons passing the inspection shall be issued a  
17 permanent license. Salons failing the inspection shall submit  
18 within fifteen days evidence of corrective action taken to improve  
19 those aspects of operation found deficient. If evidence is not  
20 submitted within fifteen days or if after a second inspection the  
21 salon does not receive a satisfactory rating, it shall immediately  
22 relinquish its certificate of consideration and cease operation.

23           Sec. 739. Section 71-3,213, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           71-3,213 In order to maintain its license in good  
26 standing, each nail technology salon shall operate in accordance  
27 with the following requirements:

1           (1) The nail technology salon shall at all times comply  
2 with all applicable provisions of the Nebraska Cosmetology Act and  
3 all rules and regulations adopted and promulgated under such act;

4           (2) The nail technology salon owner or his or her agent  
5 shall notify the ~~department~~ system at least thirty days prior to  
6 any change of ownership, name, or address, and at least one week  
7 prior to closure, except in emergency circumstances as determined  
8 by the ~~department~~, system;

9           (3) No nail technology salon shall permit any unlicensed  
10 or unregistered person to perform any of the practices of nail  
11 technology within its confines or employment;

12           (4) The nail technology salon shall display a name upon,  
13 over, or near the entrance door distinguishing it as a nail  
14 technology salon;

15           (5) The nail technology salon shall permit any duly  
16 authorized agent of the ~~department~~ system to conduct an operation  
17 inspection or investigation at any time during the normal operating  
18 hours of the nail technology salon, without prior notice, and the  
19 owner and manager shall assist the inspector by providing access  
20 to all areas of the nail technology salon, all personnel, and all  
21 records requested by the inspector;

22           (6) The nail technology salon shall display in a  
23 conspicuous place the following records:

24           (a) The current license or certificate of consideration  
25 to operate a nail technology salon;

26           (b) The current licenses or registrations of all persons  
27 employed by or working in the nail technology salon; and

1           (c) The rating sheet from the most recent operation  
2 inspection;

3           (7) At no time shall a nail technology salon employ more  
4 employees than permitted by the square footage requirements of the  
5 Nebraska Cosmetology Act; and

6           (8) The nail technology salon shall not knowingly permit  
7 its employees or clients to use, consume, serve, or in any  
8 manner possess or distribute intoxicating beverages or controlled  
9 substances upon its premises during the hours the nail technology  
10 salon is open to the public.

11           Sec. 740. Section 71-3,218, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           71-3,218 In order to be licensed as a nail technology  
14 school by the ~~department~~, system, an applicant shall meet, and  
15 present to the ~~department~~ system evidence of meeting, the following  
16 requirements:

17           (1) The proposed school shall be a fixed, permanent  
18 structure or part of one;

19           (2) The proposed school shall have a contracted  
20 enrollment of students;

21           (3) The proposed school shall contain at least five  
22 hundred square feet of floor space and facilities, staff,  
23 apparatus, and equipment appropriate to its projected enrollment  
24 in accordance with the standards established by the board and the  
25 ~~department~~ system by rule and regulation; and

26           (4) The proposed school shall not have the same entrance  
27 as or direct access to a cosmetology salon or nail technology

1 salon.

2           Sec. 741. Section 71-3,220, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           71-3,220 Any person seeking a license to operate  
5 a nail technology school shall submit an application to the  
6 ~~department.~~ system. The application shall be on such forms and  
7 shall include such information as the ~~department~~ system and the  
8 board may require. A completed application shall be received by  
9 the ~~department~~ system at least thirty days before construction or  
10 remodeling of the building proposed for use is scheduled to begin.  
11 If no construction or remodeling is planned, the application shall  
12 be received at least thirty days before the proposed opening of the  
13 school. If the applicant is an individual, the application shall  
14 include the applicant's social security number.

15           Sec. 742. Section 71-3,221, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17           71-3,221 Along with the application, an applicant for a  
18 license to operate a nail technology school shall submit:

19           (1) A detailed floor plan or blueprint of the proposed  
20 school building sufficient to show compliance with the relevant  
21 rules and regulations;

22           (2) A statement confirming application for minimal  
23 property damage, personal injury, and liability insurance coverage  
24 for the proposed school;

25           (3) A copy of the curriculum to be taught for all  
26 courses;

27           (4) A copy of the school rules and the student contract;

1           (5) A list of the names and credentials of all persons  
2 licensed or registered under the Nebraska Cosmetology Act to be  
3 employed by the school and the name and qualifications of the  
4 school manager;

5           (6) A completed nail technology education evaluation  
6 scale;

7           (7) A schedule of proposed hours of operation and class  
8 and course scheduling;

9           (8) Any additional information the ~~department~~ system may  
10 require; and

11           (9) The required fee.

12           A nail technology school's license shall be valid only  
13 for the location named in the application. When a school desires to  
14 change locations, it shall comply with section 71-3,229.

15           Sec. 743. Section 71-3,222, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17           71-3,222 Each application for a license to operate a  
18 nail technology school shall be reviewed by the ~~department~~ system  
19 for compliance with the requirements of the Nebraska Cosmetology  
20 Act. If an application is denied, the applicant shall be informed  
21 in writing of the grounds for denial and such denial shall not  
22 prejudice future applications by the applicant. If an application  
23 is accepted, the board and the ~~department~~ system shall immediately  
24 conduct an accreditation inspection of the proposed school. A  
25 school passing the inspection shall be issued a license and may  
26 begin operation as soon as the inspection results are received.  
27 If the proposed school fails the inspection, the applicant shall

1 submit, within fifteen days, evidence of corrective action taken  
2 to improve those aspects of operation found deficient. If, after a  
3 second inspection to be conducted within thirty days after receipt  
4 of evidence, the school does not receive a satisfactory rating, or  
5 if evidence is not received within fifteen days, the application  
6 may be denied.

7           Sec. 744. Section 71-3,223, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           71-3,223 In order to maintain its license in good  
10 standing, each nail technology school shall operate in accordance  
11 with the following requirements:

12           (1) The school shall at all times comply with all  
13 applicable provisions of the Nebraska Cosmetology Act and all rules  
14 and regulations adopted and promulgated under such act;

15           (2) The school owner or owners or their authorized agent  
16 shall notify the ~~department~~ system at least thirty days prior to  
17 any change of ownership, name, or address, and at least sixty days  
18 prior to closure, except in emergency circumstances as determined  
19 by the ~~department,~~ system;

20           (3) No school shall permit anyone other than a nail  
21 technology student, nail technology student instructor, or nail  
22 technology instructor to perform any of the practices of nail  
23 technology within its confines or employ, except that such  
24 restriction shall not prevent a school from inviting guest teachers  
25 who are not licensed or registered to provide lectures to students  
26 or student instructors if the guest lecturer does not perform any  
27 of the practices of nail technology;



1           (4) The school shall display a name upon or near the  
2 entrance door designating it as a nail technology school;

3           (5) The school shall display in a conspicuous place  
4 within the clinic area a sign reading: All services in this school  
5 are performed by students who are training in nail technology.  
6 A notice to such effect shall also appear in all advertising  
7 conducted by the school for its clinic services;

8           (6) The school shall permit any duly authorized agent  
9 of the ~~department~~ system to conduct an operation inspection or  
10 investigation at any time during the normal operating hours of the  
11 school without prior notice, and the owner or manager shall assist  
12 the inspector by providing access to all areas of the school, all  
13 personnel, and all records requested by the inspector;

14           (7) The school shall display in a conspicuous place the  
15 following records:

16           (a) The current license to operate a nail technology  
17 school;

18           (b) The current licenses or registrations of all persons  
19 licensed or registered under the act, except students, employed by  
20 or working in the school; and

21           (c) The rating sheet from the most recent accreditation  
22 inspection;

23           (8) At no time shall a school enroll more students  
24 than permitted by the Nebraska Cosmetology Act or the rules and  
25 regulations adopted and promulgated under such act;

26           (9) The school shall not knowingly permit its students,  
27 employees, or clients to use, consume, serve, or in any other

1 manner possess or distribute intoxicating beverages or controlled  
2 substances upon its premises during the hours the school is in  
3 operation;

4 (10) Food shall not be consumed in any area where nail  
5 technology services are being taught or performed and food shall  
6 not be stored in the same area where chemical supplies or used  
7 equipment is stored;

8 (11) No nail technology instructor or nail technology  
9 student instructor shall perform, and no school shall permit such  
10 person to perform, any of the practices of nail technology on the  
11 public in a nail technology school other than that part of the  
12 practical work which pertains directly to the teaching of practical  
13 subjects to nail technology students or nail technology student  
14 instructors, and complete nail technology services shall not be  
15 provided for a client unless done in a demonstration class of  
16 theoretical or practical studies;

17 (12) The school shall maintain space, staff, library,  
18 teaching apparatus, and equipment as established by rules and  
19 regulations adopted and promulgated under the Nebraska Cosmetology  
20 Act;

21 (13) The school shall keep a daily record of the  
22 attendance and clinical performance of each student and student  
23 instructor;

24 (14) The school shall maintain regular class and  
25 instructor hours and shall require the minimum curriculum;

26 (15) The school shall establish and maintain criteria  
27 and standards for student grading, evaluation, and performance

1 and shall award a certificate or diploma to a student only  
2 upon completing a full course of study in compliance with such  
3 standards, except that no student shall receive such certificate or  
4 diploma until he or she has satisfied or made an agreement with  
5 the school to satisfy all outstanding financial obligations to the  
6 school;

7 (16) The school shall maintain on file the enrollment of  
8 each student; and

9 (17) The school shall print and provide to each student a  
10 copy of the school rules, which shall not be inconsistent with the  
11 Nebraska Cosmetology Act or with the rules and regulations adopted  
12 and promulgated under such act and which shall include policies  
13 of the school with respect to tuition, reimbursement, conduct,  
14 attendance, grading, earning of hours and credits, demerits,  
15 penalties, dismissal, graduation requirements, dress, and other  
16 information sufficient to advise the student of the standards he or  
17 she will be required to maintain. The board may review any school's  
18 rules to determine their consistency with the intent and content of  
19 the Nebraska Cosmetology Act and its rules and regulations and may  
20 overturn any school rules found not to be in accord.

21 Sec. 745. Section 71-3,224, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 71-3,224 In order to maintain its license in good  
24 standing, each nail technology school shall operate in accordance  
25 with the following requirements:

26 (1) Every person accepted for enrollment as a standard  
27 student shall meet the following qualifications:

1 (a) He or she has attained the age of seventeen years on  
2 or before the date of his or her enrollment in a nail technology  
3 school;

4 (b) He or she has completed the equivalent of a high  
5 school education; and

6 (c) He or she has not undertaken any training in nail  
7 technology in this state after January 1, 2000, without being  
8 enrolled as a nail technology student;

9 (2) Every person accepted for enrollment as a  
10 special study nail technology student shall meet the following  
11 requirements:

12 (a) He or she has attained the age of seventeen years on  
13 or before the date of enrollment in a nail technology school;

14 (b) He or she has completed the tenth grade; and

15 (c) He or she is actively continuing his or her formal  
16 high school education on a full-time basis as determined by the  
17 ~~department.~~ system.

18 Special study nail technology students shall be limited  
19 to attending a nail technology school for no more than eight hours  
20 per week during the school year;

21 (3) Proof of age shall consist of a birth certificate,  
22 baptismal certificate, or other equivalent document as determined  
23 by the ~~department.~~ system. Evidence of education shall consist of  
24 a high school diploma, general educational development certificate,  
25 or equivalent document as determined by the ~~department.~~ system. No  
26 nail technology school shall accept an individual for enrollment  
27 who does not provide evidence of meeting the age and education

1 requirements for registration;

2 (4) Every person accepted for enrollment as a nail  
3 technology student instructor shall show evidence of current  
4 licensure as a nail technician in Nebraska and completion of formal  
5 education equivalent to a United States high school education;

6 (5) The school shall, at all times the school is in  
7 operation, have at least one nail technology instructor in the  
8 school for each twenty students or fraction thereof enrolled in the  
9 school;

10 (6) The school shall not permit any nail technology  
11 student to render clinical services on members of the public with  
12 or without fees until such student has satisfactorily completed  
13 the beginning curriculum, except that the board may establish  
14 guidelines by which it may approve such practices as part of the  
15 beginning curriculum;

16 (7) No school shall pay direct compensation to any of its  
17 nail technology students. Nail technology student instructors may  
18 be paid as determined by the school;

19 (8) All nail technology students and nail technology  
20 student instructors shall be under the supervision of a nail  
21 technology instructor or nail technology student instructor at all  
22 times when nail technology services are being taught or performed;

23 (9) Once a nail technology student has been classified as  
24 a permanent drop, if after two years the student has not reenrolled  
25 in a nail technology school in Nebraska or transferred his or her  
26 hours to a school in another state, all hours earned by the student  
27 shall be declared void;

1           (10) No student shall be permitted by the school to train  
2 or work in a school in any manner for more than ten hours a day;  
3 and

4           (11) The school shall not credit a nail technology  
5 student or nail technology student instructor with hours except  
6 when such hours were earned in the study or practice of nail  
7 technology in accordance with the required curriculum. Hours shall  
8 be credited on a daily basis. Once credited, hours cannot be  
9 removed or disallowed except by the ~~department~~ system upon a  
10 finding that the hours have been wrongfully allowed.

11           Sec. 746. Section 71-3,226, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           71-3,226 Nail technology students or nail technology  
14 student instructors may transfer into a nail technology school in  
15 Nebraska from a school in another state if:

16           (1) The school in the other state meets all requirements  
17 of section 71-3,224; and

18           (2) The student submits to the ~~department~~ system evidence  
19 that the school from which he or she is transferring was fully  
20 accredited by the appropriate body in that state at the time the  
21 student attended.

22           In order to be honored in Nebraska, some portion of the  
23 nail technology student's hours shall have been earned within  
24 the two years immediately prior to the transfer. The board  
25 and the ~~department~~ system shall adopt and promulgate rules and  
26 regulations for determining the manner in which hours shall be  
27 awarded to students or nail technology students transferring from

1 such schools.

2           Sec. 747. Section 71-3,228, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           71-3,228 Each nail technology school license issued under  
5 the Nebraska Cosmetology Act shall expire and be subject to  
6 renewal on December 31 of each odd-numbered year. The procedure  
7 for renewing a school license shall be in accordance with section  
8 71-110.01, except that in addition to all other requirements, the  
9 nail technology school shall receive a satisfactory rating on an  
10 accreditation inspection conducted by the board and the ~~department,~~  
11 system, in consultation with the State Department of Education,  
12 within the six months immediately prior to the date of license  
13 renewal.

14           Any nail technology school not able to meet the  
15 requirements for license renewal shall have its license placed  
16 on inactive status until all deficiencies have been corrected,  
17 and the school shall not operate in any manner during the time  
18 its license is inactive. If the deficiencies are not corrected  
19 within six months after the date of license renewal, the license  
20 may be revoked unless the board approves an extension of the time  
21 limit. The license of a school that has been revoked or lapsed  
22 for any reason shall not be reinstated. An original application  
23 for licensure shall be submitted and approved before such school  
24 may reopen.

25           Sec. 748. Section 71-3,229, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27           71-3,229 Each nail technology school license issued shall

1 be in effect solely for the owner or owners and premises named  
2 thereon and shall lapse automatically upon any change of ownership  
3 or change in the county of location. An original application for  
4 licensure shall be submitted and approved before such school may  
5 reopen, except that a school moving to a new location within the  
6 same county may do so by filing an application as required by  
7 the ~~department,~~ system, paying the required fee, submitting a new  
8 floor plan, and passing an operation inspection. Materials shall be  
9 received by the ~~department~~ system no less than thirty days prior to  
10 the move, and all provisions of this section shall be complied with  
11 before the school may begin operation at its new location.

12           Sec. 749. Section 71-3,230, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           71-3,230 A licensed nail technology salon may employ  
15 licensed nail technicians to perform nail technology home services  
16 by meeting the following requirements:

17           (1) In order to be issued a nail technology home services  
18 permit by the ~~department,~~ system, an applicant shall hold a current  
19 active cosmetology salon license or nail technology salon license;  
20 and

21           (2) Any person seeking a nail technology home services  
22 permit shall submit an application to the ~~department.~~ system.  
23 The application shall be on such forms and shall contain such  
24 information as the ~~department~~ system and the board may require.  
25 A complete application shall be received by the ~~department~~ system  
26 at least ten days before the proposed date for beginning home  
27 services. Along with the application the applicant shall submit



1 evidence of application for liability insurance or bonding.

2           The ~~department~~ system shall issue a nail technology home  
3 services permit to each applicant meeting the requirements set  
4 forth in this section.

5           Sec. 750. Section 71-3,231, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           71-3,231 In order to maintain in good standing or renew  
8 its nail technology home services permit, a nail technology salon  
9 shall at all times operate in accordance with all requirements for  
10 operation, maintain its license in good standing, and comply with  
11 the following requirements:

12           (1) Clients receiving nail technology home services shall  
13 be in emergency circumstances which shall generally be defined as  
14 any condition sufficiently immobilizing to prevent the client from  
15 leaving his or her residence regularly to conduct routine affairs  
16 of daily living such as grocery shopping, visiting friends and  
17 relatives, attending social events, attending worship services, and  
18 other similar activities. Emergency circumstances may include such  
19 conditions or situations as:

20           (a) Chronic illness or injury leaving the client  
21 bedridden or with severely restricted mobility;

22           (b) Extreme general infirmity such as that associated  
23 with the aging process;

24           (c) Temporary conditions including, but not limited  
25 to, immobilizing injury and recuperation from serious illness  
26 or surgery;

27           (d) Having sole responsibility for the care of an invalid

1 dependent requiring constant attention; or

2 (e) Any other conditions that, in the opinion of the  
3 board, meet the general definition of emergency circumstances;

4 (2) The nail technology salon shall determine that  
5 each person receiving nail technology home services meets the  
6 requirements of subdivision (1) of this section and shall:

7 (a) Complete a client information form supplied by the  
8 ~~department~~ system before nail technology home services may be  
9 provided to any client; and

10 (b) Keep on file the client information forms of all  
11 clients it is currently providing with nail technology home  
12 services or to whom it has provided such services within the  
13 past two years;

14 (3) The nail technology salon shall employ or contract  
15 with persons licensed under the Nebraska Cosmetology Act to provide  
16 nail technology home services and shall not permit any person to  
17 perform any home services under its authority for which he or she  
18 is not licensed;

19 (4) No client shall be left unattended while any chemical  
20 service is in progress or while any electrical appliance is in use;  
21 and

22 (5) Each nail technology salon providing nail technology  
23 home services shall post a daily itinerary for each licensee  
24 providing home services. The kit for each licensee shall be  
25 available for inspection at the salon or at the home of the client  
26 receiving services.

27 Sec. 751. Section 71-3,232, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           71-3,232 Agents of the ~~department~~ system may make  
3 operation inspections in the homes of clients if such inspections  
4 are limited to the activities, procedures, and materials of the  
5 licensee providing nail technology home services.

6           Sec. 752. Section 71-410, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           71-410 Department means the Department of Public Health.  
9 ~~Health and Human Services Regulation and Licensure.~~

10           Sec. 753. Section 71-411, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           71-411 Director means the Director of Public Health.  
13 ~~Regulation and Licensure.~~

14           Sec. 754. Section 71-434, Revised Statutes Cumulative  
15 Supplement, 2006, is amended to read:

16           71-434 (1) Licensure activities under the Health Care  
17 Facility Licensure Act shall be funded by license fees. An  
18 applicant for an initial or renewal license under section 71-433  
19 shall pay a license fee as provided in this section.

20           (2) License fees shall include a base fee of fifty  
21 dollars and an additional fee based on:

22           (a) Variable costs to the department of inspections,  
23 architectural plan reviews, and receiving and investigating  
24 complaints, including staff salaries, travel, and other similar  
25 direct and indirect costs;

26           (b) The number of beds available to persons residing at  
27 the health care facility;

1           (c) The program capacity of the health care facility or  
2 health care service; or

3           (d) Other relevant factors as determined by the  
4 department.

5           Such additional fee shall be no more than two thousand  
6 six hundred dollars for a hospital or a health clinic operating  
7 as an ambulatory surgical center, no more than two thousand  
8 dollars for an assisted-living facility, a health clinic providing  
9 hemodialysis or labor and delivery services, an intermediate care  
10 facility, an intermediate care facility for the mentally retarded,  
11 a nursing facility, or a skilled nursing facility, no more than one  
12 thousand dollars for home health agencies, hospice services, and  
13 centers for the developmentally disabled, and no more than seven  
14 hundred dollars for all other health care facilities and health  
15 care services.

16           (3) If the licensure application is denied, the license  
17 fee shall be returned to the applicant, except that the department  
18 may retain up to twenty-five dollars as an administrative fee  
19 and may retain the entire license fee if an inspection has been  
20 completed prior to such denial.

21           (4) The department shall also collect the fee provided in  
22 subsection (1) of this section for reinstatement of a license that  
23 has lapsed or has been suspended or revoked. The department shall  
24 collect a fee of ten dollars for a duplicate original license.

25           (5) The department shall adopt and promulgate rules  
26 and regulations for the establishment of license fees under this  
27 section.

1           (6) The department shall remit all license fees collected  
2 under this section to the State Treasurer for credit to the  
3 ~~Department of Health and Human Services Regulation and Licensure~~  
4 Health and Human Services System Cash Fund. License fees collected  
5 under this section shall only be used for activities related to the  
6 licensure of health care facilities and health care services.

7           Sec. 755. Section 71-445, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           71-445 A health care facility or health care service  
10 shall not discriminate or retaliate against a person residing  
11 in, served by, or employed at such facility or service who has  
12 initiated or participated in any proceeding authorized by the  
13 Health Care Facility Licensure Act or who has presented a complaint  
14 or provided information to the administrator of such facility  
15 or service, ~~the Department of Health and Human Services, the~~  
16 ~~Department of Health and Human Services Finance and Support,~~  
17 ~~or the Department of Health and Human Services Regulation and~~  
18 ~~Licensure.~~ or the Health and Human Services System. Such person may  
19 maintain an action for any type of relief, including injunctive and  
20 declaratory relief, permitted by law.

21           Sec. 756. Section 71-448, Revised Statutes Cumulative  
22 Supplement, 2006, is amended to read:

23           71-448 The department may take disciplinary action  
24 against a license issued under the Health Care Facility Licensure  
25 Act on any of the following grounds:

26           (1) Violation of any of the provisions of the  
27 Assisted-Living Facility Act, the Health Care Facility Licensure

1 Act, the Nebraska Nursing Home Act, or the rules and regulations  
2 adopted and promulgated under such acts;

3 (2) Committing or permitting, aiding, or abetting the  
4 commission of any unlawful act;

5 (3) Conduct or practices detrimental to the health or  
6 safety of a person residing in, served by, or employed at the  
7 health care facility or health care service;

8 (4) A report from an accreditation body or public  
9 agency sanctioning, modifying, terminating, or withdrawing the  
10 accreditation or certification of the health care facility or  
11 health care service;

12 (5) Failure to allow an agent or employee of the  
13 ~~Department of Health and Human Services, the Department of Health~~  
14 ~~and Human Services Finance and Support, or the Department of~~  
15 ~~Health and Human Services Regulation and Licensure~~ Health and Human  
16 Services System access to the health care facility or health care  
17 service for the purposes of inspection, investigation, or other  
18 information collection activities necessary to carry out the duties  
19 of ~~such departments, the system;~~

20 (6) Discrimination or retaliation against a person  
21 residing in, served by, or employed at the health care facility or  
22 health care service who has submitted a complaint or information  
23 to the ~~Department of Health and Human Services, the Department of~~  
24 ~~Health and Human Services Finance and Support, or the Department of~~  
25 ~~Health and Human Services Regulation and Licensure;~~ system;

26 (7) Discrimination or retaliation against a person  
27 residing in, served by, or employed at the health care facility or

1 health care service who has presented a grievance or information to  
2 the office of the state long-term care ombudsman;

3 (8) Failure to allow a state long-term care ombudsman or  
4 an ombudsman advocate access to the health care facility or health  
5 care service for the purposes of investigation necessary to carry  
6 out the duties of the office of the state long-term care ombudsman  
7 as specified in the rules and regulations adopted and promulgated  
8 by the ~~Department of Health and Human Services~~; system;

9 (9) Violation of the Emergency Box Drug Act;

10 (10) Failure to file a report required by section  
11 71-168.02;

12 (11) Violation of the Medication Aide Act; or

13 (12) Failure to file a report of suspected abuse or  
14 neglect as required by sections 28-372 and 28-711.

15 Sec. 757. Section 71-449, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 71-449 (1) The department may impose any one or a  
18 combination of the following types of disciplinary action against  
19 the license of a health care facility or health care service:

20 (a) A fine not to exceed ten thousand dollars per  
21 violation;

22 (b) A prohibition on admissions or readmissions, a  
23 limitation on enrollment, or a prohibition or limitation on the  
24 provision of care or treatment;

25 (c) A period of probation not to exceed two years during  
26 which the facility or service may continue to operate under terms  
27 and conditions fixed by the order of probation;

1 (d) A period of suspension not to exceed three years  
2 during which the facility or service may not operate; and

3 (e) Revocation which is a permanent termination of the  
4 license and the licensee may not apply for a license for a minimum  
5 of two years after the effective date of the revocation.

6 (2) Any fine imposed and unpaid under the Health Care  
7 Facility Licensure Act shall constitute a debt to the State of  
8 Nebraska which may be collected in the manner of a lien foreclosure  
9 or sued for and recovered in any proper form of action in the  
10 name of the State of Nebraska in the district court of the  
11 county in which the facility or service is located. ~~The department~~  
12 ~~shall, within thirty days after receipt, remit fines to the State~~  
13 ~~Treasurer for credit to the permanent school fund. The department~~  
14 shall remit fines to the State Treasurer, within thirty days after  
15 receipt, for distribution in accordance with Article VII, section  
16 5, of the Constitution of Nebraska.

17 Sec. 758. Section 71-501, Revised Statutes Cumulative  
18 Supplement, 2006, is amended to read:

19 71-501 (1) The local public health department as defined  
20 in section 71-1626 or the county board of a county that has  
21 not established or joined in the establishment of a local public  
22 health department shall make and enforce regulations to prevent the  
23 introduction and spread of contagious, infectious, and malignant  
24 diseases in the county or counties under its jurisdiction.

25 (2) The county board of a county that has not established  
26 or joined in the establishment of a local public health department  
27 shall establish a county board of health consisting of three



1 members: The sheriff, who shall be chairperson and quarantine  
2 officer; a physician who resides permanently in the county, but  
3 if the county has no resident physician, then one conveniently  
4 situated, who shall be medical adviser, and who shall be chosen by  
5 the county board; and the county clerk, who shall be secretary. The  
6 county board may pay the chairperson of the county board of health  
7 a salary for such services not to exceed fifty dollars per month,  
8 as fixed by the county board.

9 (3) The local public health department or the county  
10 board of health shall make rules and regulations to safeguard  
11 the health of the people and prevent nuisances and insanitary  
12 conditions and shall enforce and provide penalties for the  
13 violation of such rules and regulations for the county or counties  
14 under its jurisdiction except for incorporated cities and villages.  
15 If the local public health department or the county board of health  
16 fails to enact such rules and regulations, it shall enforce the  
17 rules and regulations adopted and promulgated by the ~~Department~~  
18 ~~of Health and Human Services Regulation and Licensure.~~ Health and  
19 Human Services System.

20 Sec. 759. Section 71-501.02, Revised Statutes Cumulative  
21 Supplement, 2006, is amended to read:

22 71-501.02 The ~~Department of Health and Human Services~~  
23 ~~Regulation and Licensure~~ Health and Human Services System may  
24 establish and administer a statewide acquired immunodeficiency  
25 syndrome program for the purpose of providing education,  
26 prevention, detection, and counseling services to protect the  
27 public health. In order to implement the program, the ~~department~~

1 system may:

2 (1) Apply for, receive, and administer federal and other  
3 public and private funds and contract for services, equipment, and  
4 property as necessary to use such funds for the purposes specified  
5 in section 71-501.01 and this section;

6 (2) Provide education and training regarding acquired  
7 immunodeficiency syndrome and its related diseases and conditions  
8 to the general public and to health care providers. The ~~department~~  
9 system may charge fees based on administrative costs for such  
10 services. Any fees collected shall be deposited in the state  
11 treasury and shall be credited to the ~~Department of Health and~~  
12 ~~Human Services Regulation and Licensure~~ Health and Human Services  
13 System Cash Fund;

14 (3) Provide resource referrals for medical care and  
15 social services to persons affected by acquired immunodeficiency  
16 syndrome and its related diseases and conditions;

17 (4) Contract or provide for voluntary, anonymous, or  
18 confidential screening, testing, and counseling services. All sites  
19 providing such services pursuant to a contract with the ~~department~~  
20 system shall provide services on an anonymous basis if so requested  
21 by the individual seeking such services. The ~~department~~ system may  
22 charge and permit its contractors to charge an administrative fee  
23 or may request donations to defer the cost of the services but  
24 shall not deny the services for failure to pay any administrative  
25 fee or for failure to make a donation;

26 (5) Cooperate with the Centers for Disease Control and  
27 Prevention of the Public Health Service of the United States

1 Department of Health and Human Services or its successor for  
2 the purposes of research into and investigation of acquired  
3 immunodeficiency syndrome and its related diseases and conditions;  
4 and

5 (6) To the extent funds are available, offer services  
6 that are culturally and language specific upon request to persons  
7 identified as having tested positive for the human immunodeficiency  
8 virus infection. Such services shall include, but not be limited  
9 to, posttest counseling, partner notification, and such early  
10 intervention services as case management, behavior modification and  
11 support services, laboratory quantification of lymphocyte subsets,  
12 immunizations, Mantoux testing for tuberculosis, prophylactic  
13 treatment, and referral for other medical and social services.

14 Sec. 760. Section 71-502, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 71-502 The Department of Health and Human Services  
17 Regulation and Licensure Health and Human Services System shall  
18 have supervision and control of all matters relating to necessary  
19 communicable disease control and shall adopt and promulgate such  
20 proper and reasonable general rules and regulations as will  
21 best serve to promote communicable disease control throughout  
22 the state and prevent the introduction or spread of disease.  
23 In addition to such general and standing rules and regulations,  
24 (1) in cases of emergency in which the health of the people  
25 of the entire state or any locality in the state is menaced by  
26 or exposed to any contagious, infectious, or epidemic disease,  
27 illness, or poisoning, (2) when a local board of health having

1 jurisdiction of a particular locality fails or refuses to act  
2 with sufficient promptitude and efficiency in any such emergency,  
3 or (3) in localities in which no local board of health has been  
4 established, as provided by law, the ~~department~~ system shall adopt,  
5 promulgate, and enforce special communicable disease control rules  
6 and regulations such as the occasion and proper protection of the  
7 public health may require. All necessary expenses incurred in the  
8 enforcement of such rules and regulations shall be paid by the  
9 city, village, or county for and within which the same have been  
10 incurred. All officers and other persons shall obey and enforce  
11 such communicable disease control rules and regulations as may be  
12 adopted and promulgated by the ~~department.~~ system.

13           Sec. 761. Section 71-502.01, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15           71-502.01 Sexually transmitted diseases are declared to  
16 be contagious, infectious, communicable, and dangerous to the  
17 public health. Sexually transmitted diseases shall include, but  
18 not be limited to, syphilis, gonorrhea, chancroid, and such other  
19 sexually transmitted diseases as the ~~Department of Health and Human~~  
20 ~~Services Regulation and Licensure~~ Health and Human Services System  
21 may from time to time specify.

22           Sec. 762. Section 71-502.02, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           71-502.02 The ~~Department of Health and Human Services~~  
25 ~~Regulation and Licensure~~ Health and Human Services System shall  
26 adopt and promulgate such rules and regulations as shall, in its  
27 judgment, be necessary to control and suppress sexually transmitted

1 diseases.

2           Sec. 763. Section 71-502.03, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           71-502.03 Every physician, or other person authorized by  
5 law to practice obstetrics, who is attending a pregnant woman  
6 in the state for conditions relating to her pregnancy during the  
7 period of gestation or at delivery shall take or cause to be  
8 taken a sample of the blood of such woman at the time of the  
9 first examination and shall submit such sample to an approved  
10 laboratory for a standard serological test for syphilis. Every  
11 other person permitted by law to attend pregnant women in the  
12 state, but not permitted by law to take blood samples, shall  
13 cause such a sample of the blood of such pregnant women to be  
14 taken by a physician, duly licensed to practice either medicine  
15 and surgery or obstetrics, or other person authorized by law to  
16 take such sample of blood and have such sample submitted to an  
17 approved laboratory for a standard serological test for syphilis.  
18 The results of all such laboratory tests shall be reported to  
19 the ~~Director of Regulation and Licensure~~ Health and Human Services  
20 System on standard forms prescribed and furnished by the ~~Department~~  
21 ~~of Health and Human Services Regulation and Licensure.~~ system. For  
22 the purpose of this section, a standard serological test shall  
23 be a test for syphilis approved by the ~~Director of Regulation~~  
24 ~~and Licensure~~ system and shall be made at a laboratory approved  
25 to make such tests by the ~~Director of Regulation and Licensure.~~  
26 system. Such laboratory tests, as are required by this section,  
27 shall be made on request at the ~~Department of Health and Human~~

1 ~~Services Regulation and Licensure laboratory.~~ Health and Human  
2 Services System Laboratory. A fee may be established by rule and  
3 regulation by the ~~department~~ system to defray no more than the  
4 actual cost of such tests. Such fee shall be deposited in the  
5 state treasury and credited to the ~~Department of Health and Human~~  
6 ~~Services Regulation and Licensure~~ Health and Human Services System  
7 Cash Fund. In reporting every birth and stillbirth, physicians and  
8 others required to make such reports shall state on the portion of  
9 the certificate entitled For Medical and Health Use Only whether  
10 a blood test for syphilis has been made upon a specimen of blood  
11 taken from the woman who bore the child for which a birth or  
12 stillbirth certificate is filed and the approximate date when the  
13 specimen was taken. No birth certificate shall show the result of  
14 such test. If no test was made, the reason shall be stated. The  
15 ~~department~~ system shall provide the necessary clerical, printing,  
16 and other expenses in carrying out this section.

17           Sec. 764. Section 71-502.04, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           71-502.04 Any person who is in charge of a clinical  
20 laboratory in which a laboratory examination of any specimen  
21 derived from the human body yields microscopical, cultural,  
22 immunological, serological, or other evidence of disease, illness,  
23 or poisoning as the ~~Department of Health and Human Services~~  
24 ~~Regulation and Licensure~~ Health and Human Services System may from  
25 time to time specify shall promptly notify the official local  
26 health department or the ~~Department of Health and Human Services~~  
27 ~~Regulation and Licensure~~ system of such findings.

1           Each notification shall give the date and result of the  
2 test performed, the name and, when available, the age of the person  
3 from whom the specimen was obtained, and the name and address of  
4 the physician for whom such examination or test was performed. A  
5 legible copy of the laboratory report shall be deemed satisfactory  
6 notification.

7           Sec. 765. Section 71-503, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           71-503 All attending physicians shall report to the  
10 official local health department or the ~~Department of Health and~~  
11 ~~Human Services Regulation and Licensure~~ Health and Human Services  
12 System promptly, upon the discovery thereof, the existence of any  
13 contagious or infectious diseases and such other disease, illness,  
14 or poisoning as the ~~Department of Health and Human Services~~  
15 ~~Regulation and Licensure~~ system may from time to time specify. Any  
16 attending physician, knowing of the existence of any such disease,  
17 illness, or poisoning, who fails promptly to report the same in  
18 accordance with this section, shall be deemed guilty of a Class V  
19 misdemeanor for each offense.

20           Sec. 766. Section 71-503.01, Revised Statutes Cumulative  
21 Supplement, 2006, is amended to read:

22           71-503.01 Whenever any statute of the state, any  
23 ordinance or resolution of a municipal corporation or political  
24 subdivision enacted pursuant to statute, or any rule or regulation  
25 of an administrative agency adopted and promulgated pursuant to  
26 statute requires medical practitioners or other persons to report  
27 cases of communicable diseases, including sexually transmitted

1 diseases and other reportable diseases, illnesses, or poisonings  
2 or to give notification of positive laboratory findings to the  
3 ~~Department of Health and Human Services Regulation and Licensure~~  
4 Health and Human Services System or any county or city board of  
5 health, local health department established pursuant to sections  
6 71-1626 to 71-1636, city health department, local health agency,  
7 or state or local public official exercising the duties and  
8 responsibilities of any board of health or health department, such  
9 reports or notifications and the resulting investigations shall  
10 be confidential except as provided in this section, shall not be  
11 subject to subpoena, and shall be privileged and inadmissible in  
12 evidence in any legal proceeding of any kind or character and shall  
13 not be disclosed to any other department or agency of the State  
14 of Nebraska.

15           In order to further the protection of public health,  
16 such reports and notifications may be disclosed by the ~~Department~~  
17 ~~of Health and Human Services Regulation and Licensure,~~ system,  
18 the official local health department, and the person making such  
19 reports or notifications to the Centers for Disease Control and  
20 Prevention of the Public Health Service of the United States  
21 Department of Health and Human Services or its successor in such a  
22 manner as to ensure that the identity of any individual cannot be  
23 ascertained. To further protect the public health, the ~~Department~~  
24 ~~of Health and Human Services Regulation and Licensure,~~ system,  
25 the official local health department, and the person making the  
26 report or notification may disclose to the official state and  
27 local health departments of other states, territories, and the



1 District of Columbia such reports and notifications, including  
2 sufficient identification and information so as to ensure that such  
3 investigations as deemed necessary are made.

4           The appropriate board, health department, agency, or  
5 official may: (1) Publish analyses of such reports and information  
6 for scientific and public health purposes in such a manner as  
7 to ensure that the identity of any individual concerned cannot  
8 be ascertained; (2) discuss the report or notification with the  
9 attending physician; and (3) make such investigation as deemed  
10 necessary.

11           Any medical practitioner, any official health department,  
12 the Department of Health and Human Services Regulation and  
13 ~~Licensure, system,~~ or any other person making such reports or  
14 notifications shall be immune from suit for slander or libel  
15 or breach of privileged communication based on any statements  
16 contained in such reports and notifications.

17           Sec. 767. Section 71-504, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           71-504 The ~~Director of Health and Human Services, the~~  
20 ~~Director of Regulation and Licensure,~~ chief medical officer as  
21 designated in section 6 of this act, or local director of health,  
22 if a physician, or his or her agent, or any physician, upon  
23 consultation by any person as a patient, shall, with the consent  
24 of such person who is hereby granted the right of giving such  
25 consent, make or cause to be made a diagnostic examination for  
26 sexually transmitted diseases and prescribe for and treat such  
27 person for sexually transmitted diseases including prophylactic

1 treatment for exposure to sexually transmitted diseases whenever  
2 such person is suspected of having a sexually transmitted disease  
3 or contact with anyone having a sexually transmitted disease.  
4 All such examinations and treatment may be performed without the  
5 consent of or notification to the parent, parents, guardian, or any  
6 other person having custody of such person. In any such case, the  
7 ~~Director of Health and Human Services, the Director of Regulation~~  
8 ~~and Licensure,~~ chief medical officer, or local director of health,  
9 if a physician, or his or her agent, or the physician shall  
10 incur no civil or criminal liability by reason of having made  
11 such diagnostic examination or rendered such treatment, but such  
12 immunity shall not apply to any negligent acts or omissions. The  
13 ~~Director of Health and Human Services~~ chief medical officer or  
14 local director of health, if a physician, or his or her agent, or  
15 the physician shall incur no civil or criminal liability by reason  
16 of any adverse reaction to medication administered if reasonable  
17 care is taken to elicit from any such person who is under twenty  
18 years of age any history of sensitivity or previous adverse  
19 reaction to medication. Parents shall be liable for expenses  
20 of such treatment to minors under their custody. In the event  
21 such person is affected with a sexually transmitted disease, the  
22 ~~Director of Regulation and Licensure~~ chief medical officer or local  
23 director of health may cause an interview of the person by a  
24 sexually transmitted disease investigator to secure the names of  
25 sexual contacts so that appropriate investigation can be made in an  
26 effort to locate and eliminate sources of infection.

27           Sec. 768. Section 71-505, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2           71-505 (1) ~~The Department of Health and Human Services~~  
3 ~~Regulation and Licensure~~ Health and Human Services System shall  
4 secure and maintain in all parts of the state an official  
5 record and notification of reportable diseases, illnesses, or  
6 poisonings, provide popular literature upon the different branches  
7 of public health and distribute the same free throughout the state  
8 in a manner best calculated to promote that interest, prepare  
9 and exhibit in the different communities of the state public  
10 health demonstrations accompanied by lectures and audiovisual aids,  
11 provide preventive services to protect the public, and in all other  
12 effective ways prevent the origin and spread of disease and promote  
13 the public health.

14           (2) The ~~department~~ system may provide technical services  
15 to and on behalf of health care providers and may charge fees for  
16 such services in an amount sufficient to recover the administrative  
17 costs of such services. Such fees shall be paid into the state  
18 treasury and credited to the ~~Department of Health and Human~~  
19 ~~Services Regulation and Licensure~~ Health and Human Services System  
20 Cash Fund.

21           Sec. 769. Section 71-507, Revised Statutes Cumulative  
22 Supplement, 2006, is amended to read:

23           71-507 For purposes of sections 71-507 to 71-513:

24           (1) Alternate facility means a facility other than a  
25 health care facility that receives a patient transported to the  
26 facility by an emergency services provider;

27           ~~(2) Department means the Department of Health and Human~~

1 ~~Services Regulation and Licensure;~~

2           ~~(3)~~ (2) Designated physician means the physician  
3 representing the emergency services provider as identified by name,  
4 address, and telephone number on the significant exposure report  
5 form. The designated physician shall serve as the contact for  
6 notification in the event an emergency services provider believes  
7 he or she has had significant exposure to an infectious disease  
8 or condition. Each emergency services provider shall designate a  
9 physician as provided in subsection (2) of section 71-509;

10           ~~(4)~~ (3) Emergency services provider means an  
11 out-of-hospital emergency care provider certified pursuant  
12 to the Emergency Medical Services Act, a sheriff, a deputy sheriff,  
13 a police officer, a state highway patrol officer, a funeral  
14 director, a paid or volunteer firefighter, a school district  
15 employee, and a person rendering emergency care gratuitously as  
16 described in section 25-21,186;

17           ~~(5)~~ (4) Funeral director means a person licensed under  
18 section 71-1302 or an employee of such a person with responsibility  
19 for transport or handling of a deceased human;

20           ~~(6)~~ (5) Funeral establishment means a business licensed  
21 under section 71-1327;

22           ~~(7)~~ (6) Health care facility has the meaning found  
23 in sections 71-419, 71-420, 71-424, and 71-429 or any facility  
24 that receives patients of emergencies who are transported to the  
25 facility by emergency services providers;

26           ~~(8)~~ (7) Infectious disease or condition means hepatitis  
27 B, hepatitis C, meningococcal meningitis, active pulmonary

1 tuberculosis, human immunodeficiency virus, diphtheria, plague,  
2 hemorrhagic fevers, rabies, and such other diseases as the  
3 ~~department~~ system may by rule and regulation specify;

4 ~~(9)~~ (8) Patient means an individual who is sick, injured,  
5 wounded, deceased, or otherwise helpless or incapacitated;

6 ~~(10)~~ (9) Patient's attending physician means the  
7 physician having the primary responsibility for the patient as  
8 indicated on the records of a health care facility;

9 ~~(11)~~ (10) Provider agency means any law enforcement  
10 agency, fire department, emergency medical service, funeral  
11 establishment, or other entity which employs or directs emergency  
12 services providers or public safety officials;

13 ~~(12)~~ (11) Public safety official means a sheriff, a  
14 deputy sheriff, a police officer, a state highway patrol officer, a  
15 paid or volunteer firefighter, a school district employee, and any  
16 civilian law enforcement employee or volunteer performing his or  
17 her duties, other than those as an emergency services provider;

18 ~~(13)~~ (12) Responsible person means an individual who  
19 has been designated by an alternate facility to carry out the  
20 facility's responsibilities under sections 71-507 to 71-513. A  
21 responsible person may be designated on a case-by-case basis;

22 ~~(14)~~ (13) Significant exposure means a situation in  
23 which the body fluids, including blood, saliva, urine, respiratory  
24 secretions, or feces, of a patient or individual have entered  
25 the body of an emergency services provider or public safety  
26 official through a body opening including the mouth or nose, a  
27 mucous membrane, or a break in skin from cuts or abrasions, from

1 a contaminated needlestick or scalpel, from intimate respiratory  
2 contact, or through any other situation when the patient's or  
3 individual's body fluids may have entered the emergency services  
4 provider's or public safety official's body or when an airborne  
5 pathogen may have been transmitted from the patient or individual  
6 to the emergency services provider or public safety official; ~~and~~

7 ~~(15)~~ (14) Significant exposure report form means the form  
8 used by the emergency services provider to document information  
9 necessary for notification of significant exposure to an infectious  
10 disease or condition; and -

11 (15) System means the Health and Human Services System.

12 Sec. 770. Section 71-508, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 71-508 The ~~department~~ system shall prescribe a form for  
15 use by the emergency services provider to notify the health care  
16 facility or alternate facility and the designated physician that  
17 the provider believes he or she has had a significant exposure  
18 to an infectious disease or condition. The form shall include  
19 identifying information for the emergency services provider,  
20 the provider agency, the designated physician, the patient, the  
21 patient's attending physician, and the receiving health care  
22 facility or alternate facility, a description of the exposure, a  
23 description of the protective measures and equipment used by the  
24 provider to minimize exposure hazard, and such other information  
25 as is necessary to protect the public health and safety and to  
26 implement sections 71-507 to 71-513.

27 Sec. 771. Section 71-509, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           71-509 (1) If a health care facility or alternate  
3 facility determines that a patient treated or transported by  
4 an emergency services provider has been diagnosed or detected  
5 with an infectious airborne disease, the health care facility  
6 or alternate facility shall notify the ~~department~~ system as  
7 soon as practical but not later than forty-eight hours after  
8 the determination has been made. The ~~department~~ system shall  
9 investigate all notifications from health care facilities and  
10 alternate facilities and notify as soon as practical the physician  
11 medical director of each emergency medical service with an affected  
12 out-of-hospital emergency medical services provider employed by  
13 or associated with the service, the fire chief of each fire  
14 department with an affected firefighter employed by or associated  
15 with the department, the head of each law enforcement agency  
16 with an affected peace officer employed by or associated with  
17 the agency, the funeral director of each funeral establishment  
18 with an affected individual employed by or associated with the  
19 funeral establishment, and any emergency services provider known  
20 to the ~~department~~ system with a significant exposure who is not  
21 employed by or associated with an emergency medical service, a fire  
22 department, a law enforcement agency, or a funeral establishment.  
23 Notification of affected individuals shall be made as soon as  
24 practical.

25           (2) Whenever an emergency services provider believes  
26 he or she has had a significant exposure while acting as an  
27 emergency services provider, he or she may complete a significant

1 exposure report form. A copy of the completed form shall be given  
2 by the emergency services provider to the health care facility  
3 or alternate facility, to the emergency services provider's  
4 supervisor, and to the designated physician.

5 (3) Upon receipt of the significant exposure form, if a  
6 patient has been diagnosed during the normal course of treatment  
7 as having an infectious disease or condition or information is  
8 received from which it may be concluded that a patient has an  
9 infectious disease or condition, the health care facility or  
10 alternate facility receiving the form shall notify the designated  
11 physician pursuant to subsection (5) of this section. If the  
12 patient has not been diagnosed as having an infectious disease  
13 or condition and upon the request of the designated physician,  
14 the health care facility or alternate facility shall request the  
15 patient's attending physician or other responsible person to order  
16 the necessary diagnostic testing of the patient to determine the  
17 presence of an infectious disease or condition. Upon such request,  
18 the patient's attending physician or other responsible person shall  
19 order the necessary diagnostic testing subject to section 71-510.  
20 Each health care facility shall develop a policy or protocol to  
21 administer such testing and assure confidentiality of such testing.

22 (4) Results of tests conducted under this section and  
23 section 71-510 shall be reported by the health care facility  
24 or alternate facility that conducted the test to the designated  
25 physician and to the patient's attending physician, if any.

26 (5) Notification of the patient's diagnosis of infectious  
27 disease or condition, including the results of any tests, shall be



1 made orally to the designated physician within forty-eight hours  
2 of confirmed diagnosis. A written report shall be forwarded to  
3 the designated physician within seventy-two hours of confirmed  
4 diagnosis.

5 (6) Upon receipt of notification under subsection (5)  
6 of this section, the designated physician shall notify the  
7 emergency services provider of the exposure to infectious disease  
8 or condition and the results of any tests conducted under this  
9 section and section 71-510.

10 (7) The notification to the emergency services provider  
11 shall include the name of the infectious disease or condition  
12 diagnosed but shall not contain the patient's name or any other  
13 identifying information. Any person receiving such notification  
14 shall treat the information received as confidential and shall not  
15 disclose the information except as provided in sections 71-507 to  
16 71-513.

17 (8) The provider agency shall be responsible for the  
18 costs of diagnostic testing required under this section and section  
19 71-510, except that if a person renders emergency care gratuitously  
20 as described in section 25-21,186, such person shall be responsible  
21 for the costs.

22 (9) The patient's attending physician shall inform the  
23 patient of test results for all tests conducted under such  
24 sections.

25 Sec. 772. Section 71-514.02, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27 71-514.02 For purposes of sections 71-514.01 to

1 71-514.05:

2 (1) Health care provider means a person who provides care  
3 to a patient which is designed to improve the status of his or her  
4 health whether this care is rendered in the hospital or community  
5 setting and whether the provider is paid or voluntary. Health care  
6 provider does not mean an emergency services provider as defined in  
7 section 71-507;

8 (2) Infectious disease or condition means hepatitis  
9 B, hepatitis C, meningococcal meningitis, active pulmonary  
10 tuberculosis, human immunodeficiency virus, and such other diseases  
11 as the ~~Department of Health and Human Services Regulation and~~  
12 ~~Licensure~~ Health and Human Services System may from time to time  
13 specify;

14 (3) Patient means an individual who is sick, injured,  
15 wounded, or otherwise helpless or incapacitated;

16 (4) Provider agency means any health care facility or  
17 agency which is in the business of providing health care services;  
18 and

19 (5) Significant exposure to blood or other body fluid  
20 means a specific eye, mouth, other mucous membrane, nonintact  
21 skin, or parenteral contact with blood or other materials known to  
22 transmit infectious diseases that results from providing care.

23 Sec. 773. Section 71-516.02, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 71-516.02 The Legislature finds and declares that:

26 (1) Certain nursing homes and related facilities and  
27 assisted-living facilities claim special care for persons who have

1 Alzheimer's disease, dementia, or a related disorder;

2 (2) It is in the public interest to provide for the  
3 protection of consumers regarding the accuracy and authenticity of  
4 such claims; and

5 (3) The provisions of the Alzheimer's Special Care  
6 Disclosure Act are intended to require such facilities to disclose  
7 the reasons for those claims, require records of such disclosures  
8 to be kept, and require the ~~Department of Health and Human Services~~  
9 ~~Regulation and Licensure~~ Health and Human Services System to  
10 examine the records.

11 Sec. 774. Section 71-516.03, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 71-516.03 For the purposes of the Alzheimer's Special  
14 Care Disclosure Act, Alzheimer's special care unit shall mean  
15 any nursing facility or assisted-living facility, licensed by the  
16 ~~Department of Health and Human Services Regulation and Licensure,~~  
17 Health and Human Services System, which secures, segregates, or  
18 provides a special program or special unit for residents with a  
19 diagnosis of probable Alzheimer's disease, dementia, or a related  
20 disorder and which advertises, markets, or otherwise promotes the  
21 facility as providing specialized Alzheimer's disease, dementia, or  
22 related disorder care services.

23 Sec. 775. Section 71-516.04, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 71-516.04 Any facility which offers to provide or  
26 provides care for persons with Alzheimer's disease, dementia, or a  
27 related disorder by means of an Alzheimer's special care unit shall

1 disclose the form of care or treatment provided that distinguishes  
2 such form as being especially applicable to or suitable for such  
3 persons. The disclosure shall be made to the ~~Department of Health~~  
4 ~~and Human Services Regulation and Licensure~~ Health and Human  
5 Services System and to any person seeking placement within an  
6 Alzheimer's special care unit. The ~~department~~ system shall examine  
7 all such disclosures in the records of the ~~department~~ system as  
8 part of the facility's license renewal procedure at the time of  
9 licensure or relicensure.

10           The information disclosed shall explain the additional  
11 care provided in each of the following areas:

12           (1) The Alzheimer's special care unit's written statement  
13 of its overall philosophy and mission which reflects the needs  
14 of residents afflicted with Alzheimer's disease, dementia, or a  
15 related disorder;

16           (2) The process and criteria for placement in, transfer  
17 to, or discharge from the unit;

18           (3) The process used for assessment and establishment of  
19 the plan of care and its implementation, including the method by  
20 which the plan of care evolves and is responsive to changes in  
21 condition;

22           (4) Staff training and continuing education practices;

23           (5) The physical environment and design features  
24 appropriate to support the functioning of cognitively impaired  
25 adult residents;

26           (6) The frequency and types of resident activities;

27           (7) The involvement of families and the availability of

1 family support programs; and

2 (8) The costs of care and any additional fees.

3 Sec. 776. Section 71-519, Revised Statutes Cumulative  
4 Supplement, 2006, is amended to read:

5 71-519 (1) All infants born in the State of Nebraska  
6 shall be screened for phenylketonuria, primary hypothyroidism,  
7 biotinidase deficiency, galactosemia, hemoglobinopathies,  
8 medium-chain acyl co-a dehydrogenase (MCAD) deficiency, and  
9 such other metabolic diseases as the ~~Department of Health and~~  
10 ~~Human Services Regulation and Licensure~~ Health and Human Services  
11 System may from time to time specify. Confirmatory tests shall be  
12 performed if a presumptive positive result on the screening test  
13 is obtained.

14 (2) The attending physician shall collect or cause to  
15 be collected the prescribed blood specimen or specimens and shall  
16 submit or cause to be submitted the same to the laboratory  
17 designated by the ~~department~~ Health and Human Services System  
18 for the performance of such tests within the period and in the  
19 manner prescribed by the ~~department.~~ system. If a birth is not  
20 attended by a physician and the infant does not have a physician,  
21 the person registering the birth shall cause such tests to be  
22 performed within the period and in the manner prescribed by the  
23 ~~department.~~ system. The laboratory shall within the period and in  
24 the manner prescribed by the ~~department~~ system perform such tests  
25 as are prescribed by the ~~department~~ system on the specimen or  
26 specimens submitted and report the results of these tests to the  
27 physician, if any, the hospital or other birthing facility or other

1 submitter, and the ~~department~~ system. The laboratory shall report  
2 to the department the results of such tests that are presumptive  
3 positive or confirmed positive within the period and in the manner  
4 prescribed by the ~~department~~ system.

5 (3) The hospital or other birthing facility shall record  
6 the collection of specimens for tests for metabolic diseases and  
7 the report of the results of such tests or the absence of such  
8 report. For purposes of tracking, monitoring, and referral, the  
9 hospital or other birthing facility shall provide from its records,  
10 upon the ~~department's~~ Health and Human Services System's request,  
11 information about the infant's and mother's location and contact  
12 information, and care and treatment of the infant.

13 (4) (a) The ~~department~~ Health and Human Services System  
14 shall have authority over the use, retention, and disposal of blood  
15 specimens and all related information collected in connection with  
16 metabolic disease testing conducted under subsection (1) of this  
17 section.

18 (b) The ~~department~~ system shall adopt and promulgate  
19 rules and regulations relating to the retention and disposal of  
20 such specimens. The rules and regulations shall: (i) Be consistent  
21 with nationally recognized standards for laboratory accreditation  
22 and shall comply with all applicable provisions of federal law;  
23 (ii) require that the disposal be conducted in the presence of a  
24 witness who may be an individual involved in the disposal or any  
25 other individual; and (iii) provide for maintenance of a written or  
26 electronic record of the disposal, verified by such witness.

27 (c) The ~~department~~ system shall adopt and promulgate

1 rules and regulations relating to the use of such specimens  
2 and related information. Such use shall only be made for public  
3 health purposes and shall comply with all applicable provisions  
4 of federal law. The ~~department~~ system may charge a reasonable fee  
5 for evaluating proposals relating to the use of such specimens for  
6 public health research and for preparing and supplying specimens  
7 for research proposals approved by the ~~department~~ system.

8 (5) The ~~department~~ Health and Human Services System  
9 shall prepare written materials explaining the requirements of  
10 this section. The ~~department~~ system shall include the following  
11 information in the pamphlet:

12 (a) The nature and purpose of the testing program  
13 required under this section, including, but not limited to, a brief  
14 description of each condition or disorder listed in subsection (1)  
15 of this section;

16 (b) The purpose and value of the infant's parent,  
17 guardian, or person in loco parentis retaining a blood specimen  
18 obtained under subsection (6) of this section in a safe place;

19 (c) The ~~department's~~ system's procedures for retaining  
20 and disposing of blood specimens developed under subsection (4) of  
21 this section; and

22 (d) That the blood specimens taken for purposes of  
23 conducting the tests required under subsection (1) of this section  
24 may be used for research pursuant to subsection (4) of this  
25 section.

26 (6) In addition to the requirements of subsection (1)  
27 of this section, the attending physician or person registering

1 the birth may offer to draw an additional blood specimen from  
2 the infant. If such an offer is made, it shall be made to the  
3 infant's parent, guardian, or person in loco parentis at the  
4 time the blood specimens are drawn for purposes of subsection (1)  
5 of this section. If the infant's parent, guardian, or person in  
6 loco parentis accepts the offer of an additional blood specimen,  
7 the blood specimen shall be preserved in a manner that does not  
8 require special storage conditions or techniques, including, but  
9 not limited to, lamination. The attending physician or person  
10 making the offer shall explain to the parent, guardian, or person  
11 in loco parentis at the time the offer is made that the additional  
12 blood specimen can be used for future identification purposes and  
13 should be kept in a safe place. The attending physician or person  
14 making the offer may charge a fee that is not more than the actual  
15 cost of obtaining and preserving the additional blood specimen.

16 (7) The person responsible for causing the tests to be  
17 performed under subsection (2) of this section shall inform the  
18 parent or legal guardian of the infant of the tests and of the  
19 results of the tests and provide, upon any request for further  
20 information, at least a copy of the written materials prepared  
21 under subsection (5) of this section.

22 (8) Dietary and therapeutic management of the infant with  
23 phenylketonuria, primary hypothyroidism, biotinidase deficiency,  
24 galactosemia, hemoglobinopathies, MCAD deficiency, or such other  
25 metabolic diseases as the ~~department~~ Health and Human Services  
26 System may from time to time specify shall be the responsibility  
27 of the child's parent, guardian, or custodian with the aid of a



1 physician selected by such person.

2 (9) Except for acts of gross negligence or willful or  
3 wanton conduct, any physician, hospital or other birthing facility,  
4 laboratory, or other submitter making reports or notifications  
5 under sections 71-519 to 71-524 shall be immune from criminal or  
6 civil liability of any kind or character based on any statements  
7 contained in such reports or notifications.

8 Sec. 777. Section 71-520, Revised Statutes Cumulative  
9 Supplement, 2006, is amended to read:

10 71-520 ~~The Department of Health and Human Services~~  
11 ~~Regulation and Licensure~~ Health and Human Services System shall  
12 establish a program to provide food supplements and treatment  
13 services to individuals suffering from the metabolic diseases set  
14 forth in section 71-519. To defray or help defray the costs of any  
15 program which may be established by the ~~department~~ system under  
16 this section, the ~~department~~ system may prescribe and assess a  
17 scale of fees for the food supplements. The maximum prescribed  
18 fee for food supplements shall be no more than the actual cost of  
19 providing such supplements. No fees may be charged for formula, and  
20 up to two thousand dollars of pharmaceutically manufactured food  
21 supplements shall be available to an individual without fees each  
22 year.

23 Sec. 778. Section 71-521, Revised Statutes Cumulative  
24 Supplement, 2006, is amended to read:

25 71-521 ~~The Department of Health and Human Services~~  
26 ~~Regulation and Licensure~~ Health and Human Services System shall  
27 prescribe the tests, the test methods and techniques, and such

1 reports and reporting procedures as are necessary to implement  
2 sections 71-519 to 71-524.

3 Sec. 779. Section 71-522, Revised Statutes Cumulative  
4 Supplement, 2006, is amended to read:

5 71-522 ~~The Department of Health and Human Services~~  
6 ~~Regulation and Licensure~~ Health and Human Services System shall  
7 establish and maintain a central data registry for the collection  
8 and storage of reported data concerning metabolic diseases. The  
9 ~~department~~ system shall use reported data to ensure that all  
10 infants born in the State of Nebraska are tested for diseases set  
11 forth in section 71-519 or by rule and regulation. The ~~department~~  
12 system shall also use reported data to evaluate the quality of the  
13 statewide system of newborn screening and develop procedures for  
14 quality assurance. Reported data in anonymous or statistical form  
15 may be made available by the ~~department~~ system for purposes of  
16 research.

17 Sec. 780. Section 71-523, Revised Statutes Cumulative  
18 Supplement, 2006, is amended to read:

19 71-523 (1) ~~The Department of Health and Human Services~~  
20 ~~Regulation and Licensure~~ Health and Human Services System shall  
21 provide educational and resource services regarding metabolic  
22 diseases to persons affected by sections 71-519 to 71-524 and  
23 to the public generally.

24 (2) ~~The Department of Health and Human Services, the~~  
25 ~~Department of Health and Human Services Finance and Support,~~  
26 ~~and the Department of Health and Human Services Regulation and~~  
27 ~~Licensure~~ Health and Human Services System may apply for, receive,

1 and administer assessed fees and federal or other funds which are  
2 available for the purpose of implementing sections 71-519 to 71-524  
3 and may contract for or provide services as may be necessary to  
4 implement such sections.

5 (3) The Department of Health and Human Services  
6 ~~Regulation and Licensure~~ Health and Human Services System shall  
7 adopt and promulgate rules and regulations to implement sections  
8 71-519 to 71-524.

9 (4) The Department of Health and Human Services  
10 ~~Regulation and Licensure~~ Health and Human Services System shall  
11 contract, following competitive bidding, with a single laboratory  
12 to perform tests, report results, set forth the fee the laboratory  
13 will charge for testing, and collect and submit fees pursuant to  
14 sections 71-519 to 71-524. The ~~department~~ system shall require  
15 the contracting laboratory to: (a) Perform testing for all of the  
16 diseases pursuant to section 71-519 and in accordance with rules  
17 and regulations adopted and promulgated pursuant to this section,  
18 (b) maintain certification under the federal Clinical Laboratories  
19 Improvement Act of 1967, 42 U.S.C. 263a, as such act and section  
20 existed on July 20, 2002, (c) participate in appropriate quality  
21 assurance proficiency testing programs offered by the Centers for  
22 Disease Control and Prevention of the United States Department  
23 of Health and Human Services or other professional laboratory  
24 organization, as determined by the ~~Department of Health and Human~~  
25 ~~Services Regulation and Licensure~~, system, (d) maintain sufficient  
26 contingency arrangements to ensure testing delays of no longer than  
27 twenty-four hours in the event of natural disaster or laboratory

1 equipment failure, and (e) charge to the hospital, other birthing  
2 facility, or other submitter the fee provided in the contract for  
3 laboratory testing costs and the administration fee specified in  
4 subsection (5) of this section. The administration fee collected  
5 pursuant to such subsection shall be remitted to the ~~Department of~~  
6 ~~Health and Human Services Finance and Support~~ system.

7 (5) The ~~Department of Health and Human Services~~  
8 ~~Regulation and Licensure~~ Health and Human Services System shall  
9 set an administration fee of not more than ten dollars. The  
10 ~~department~~ system may use the administration fee to pay for the  
11 costs of the central data registry, tracking, monitoring, referral,  
12 quality assurance, program operation, program development, program  
13 evaluation, and treatment services authorized under sections 71-519  
14 to 71-523. The fee shall be collected by the contracting laboratory  
15 as provided in subdivision (4)(e) of this section.

16 (6) Fees collected for the ~~department~~ Health and Human  
17 Services System pursuant to sections 71-519 to 71-523 shall be  
18 remitted to the State Treasurer for credit to the ~~Department of~~  
19 ~~Health and Human Services Finance and Support~~ Health and Human  
20 Services System Cash Fund.

21 Sec. 781. Section 71-524, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 71-524 In addition to any other remedies which may be  
24 available by law, a civil proceeding to enforce section 71-519 may  
25 be brought in the district court of the county where the infant is  
26 domiciled or found. The attending physician, the hospital or other  
27 birthing facility, the Attorney General, or the county attorney of

1 the county where the infant is domiciled or found may institute  
2 such proceedings as are necessary to enforce such section. It shall  
3 be the duty of the Attorney General or the county attorney to whom  
4 the ~~Director of Regulation and Licensure~~ Health and Human Services  
5 System reports a violation to cause appropriate proceedings to be  
6 initiated without delay. A hearing on any action brought pursuant  
7 to this section shall be held within seventy-two hours of the  
8 filing of such action, and a decision shall be rendered by the  
9 court within twenty-four hours of the close of the hearing.

10 Sec. 782. Section 71-529, Revised Statutes Cumulative  
11 Supplement, 2006, is amended to read:

12 71-529 The ~~Department of Health and Human Services~~  
13 ~~Regulation and Licensure~~ Health and Human Services System may  
14 participate in the national efforts described in sections 71-527  
15 and 71-528 and may develop a statewide immunization action plan  
16 which is comprehensive in scope and reflects contributions from a  
17 broad base of providers and consumers. In order to implement the  
18 statewide immunization action plan, the ~~department~~ system may:

19 (1) Actively seek the participation and commitment of the  
20 public, health care professionals and facilities, the educational  
21 community, and community organizations in a comprehensive program  
22 to ensure that the state's children are appropriately immunized;

23 (2) Apply for and receive public and private awards  
24 to purchase vaccines and to administer a statewide comprehensive  
25 program;

26 (3) Provide immunization information and education to the  
27 public, parents, health care providers, and educators to establish

1 and maintain a high level of awareness and demand for immunization  
2 by parents;

3 (4) Assist parents, health care providers, and  
4 communities in developing systems, including demonstration and  
5 pilot projects, which emphasize well-child care and the use  
6 of private practitioners and which improve the availability of  
7 immunization and improve management of immunization delivery so as  
8 to ensure the adequacy of the vaccine delivery system;

9 (5) Evaluate the effectiveness of these statewide  
10 efforts, conduct ongoing measurement of children's immunization  
11 status, identify children at special risk for deficiencies in  
12 immunization, and report on the activities of the statewide  
13 immunization program annually to the Legislature and the citizens  
14 of Nebraska;

15 (6) Recognize persons who volunteer their efforts towards  
16 achieving the goal of providing immunization of the children of  
17 Nebraska and in meeting the Healthy People 2000 objective of  
18 series-complete immunization coverage for ninety percent or more of  
19 United States children by their second birthday;

20 (7) Establish a statewide program to immunize Nebraska  
21 children from birth up to six years of age against measles, mumps,  
22 rubella, poliomyelitis, diphtheria, pertussis, tetanus, hepatitis  
23 B, and haemophilus influenzae type B. The program shall serve  
24 children who are not otherwise eligible for childhood immunization  
25 coverage with medicaid or other federal funds or are not covered by  
26 private third-party payment; and

27 (8) Contract to provide vaccine under the statewide

1 program authorized under subdivision (7) of this section without  
2 cost to health care providers subject to the following conditions:

3 (a) In order to receive vaccine without cost, health  
4 care providers shall not charge for the cost of the vaccine.  
5 Health care providers may charge a fee for the administration  
6 of the vaccine but may not deny service because of the parent's  
7 or guardian's inability to pay such fee. Fees for administration  
8 of the vaccine shall be negotiated between the ~~department~~ Health  
9 and Human Services System and the health care provider, shall be  
10 uniform among participating providers, and shall be no more than  
11 the cost ceiling for the region in which Nebraska is included as  
12 set by the Secretary of the United States Department of Health and  
13 Human Services for the Vaccines for Children Program authorized by  
14 the Omnibus Budget Reconciliation Act of 1993;

15 (b) Health care providers shall administer vaccines  
16 according to the schedule recommended by the Advisory Committee  
17 on Immunization Practices of the Centers for Disease Control and  
18 Prevention or by the American Academy of Pediatrics unless in the  
19 provider's medical judgment, subject to accepted medical practice,  
20 such compliance is medically inappropriate; and

21 (c) Health care providers shall maintain records on  
22 immunizations as prescribed by this section for inspection and  
23 audit by the ~~Department of Health and Human Services Regulation~~  
24 ~~and Licensure~~ system or the Auditor of Public Accounts, including  
25 responses by parents or guardians to simple screening questions  
26 related to payment coverage by public or private third-party  
27 payors, identification of the administration fee as separate from

1 any other cost charged for other services provided at the same  
2 time the vaccination service is provided, and other information as  
3 determined by the ~~department~~ system to be necessary to comply with  
4 subdivision (5) of this section. Such immunization records may also  
5 be used for information exchange as provided in sections 71-539 to  
6 71-544.

7           Sec. 783. Section 71-530, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           71-530 The Childhood Vaccine Act is not intended to  
10 create an entitlement to any activities described in the act,  
11 and the ~~Department of Health and Human Services~~ Health and Human  
12 Services System may perform the activities described in the act to  
13 the extent funds are available.

14           Sec. 784. Section 71-532, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           71-532 The ~~Department of Health and Human Services~~  
17 Regulation and Licensure Health and Human Services System shall  
18 adopt and promulgate rules and regulations which make the human  
19 immunodeficiency virus infection reportable by name in the same  
20 manner as communicable diseases under section 71-502.

21           Sec. 785. Section 71-539, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23           71-539 It is the intent of the Legislature that  
24 sections 71-539 to 71-544 provide for the exchange of immunization  
25 information between professionals, facilities, and ~~departments~~  
26 agencies for the purpose of protecting the public health by  
27 facilitating age-appropriate immunizations which will minimize the



1 risk of outbreak of childhood diseases.

2           Sec. 786. Section 71-541, Revised Statutes Cumulative  
3 Supplement, 2006, is amended to read:

4           71-541 A physician, an advanced practice registered nurse  
5 practicing under and in accordance with his or her applicable  
6 certification act, a physician assistant, a pharmacist, a licensed  
7 health care facility, a public immunization clinic, a local or  
8 district health department, ~~the Department of Health and Human~~  
9 ~~Services,~~ ~~the Department of Health and Human Services Regulation~~  
10 ~~and Licensure,~~ and the Department of Health and Human Services  
11 ~~Finance and Support~~ and the Health and Human Services System  
12 may share immunization information which is not restricted under  
13 section 71-540. The unrestricted immunization information shared  
14 may include, but is not limited to, the patient's name, date of  
15 birth, dates and vaccine types administered, and any immunization  
16 information obtained from other sources.

17           Sec. 787. Section 71-543, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           71-543 The Department of Health and Human Services, the  
20 ~~Department of Health and Human Services Regulation and Licensure,~~  
21 ~~and the Department of Health and Human Services Finance and~~  
22 ~~Support~~ Health and Human Services System may adopt and promulgate  
23 rules and regulations to implement sections 71-539 to 71-544,  
24 including procedures and methods for access to and security of the  
25 immunization information.

26           Sec. 788. Section 71-601.01, Revised Statutes Cumulative  
27 Supplement, 2006, is amended to read:

1                   71-601.01 For purposes of the Vital Statistics Act:

2                   (1) Abstract of marriage means a certified document that  
3 summarizes the facts of marriage, including, but not limited to,  
4 the name of the bride and groom, the date of the marriage, the  
5 place of the marriage, and the name of the office filing the  
6 original marriage license. An abstract of marriage does not include  
7 signatures;

8                   (2) Certificate means the record of a vital event;

9                   (3) Certification means the process of recording, filing,  
10 amending, or preserving a certificate, which process may be by  
11 any means, including, but not limited to, microfilm, electronic,  
12 imaging, photographic, typewritten, or other means designated by  
13 the ~~department~~, system; and

14                   (4) System means the Health and Human Services System.  
15 ~~Department means the Department of Health and Human Services~~  
16 ~~Finance and Support.~~

17                   Sec. 789. Section 71-602, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19                   71-602 (1) The ~~Department of Health and Human Services~~  
20 ~~Finance and Support~~ system shall adopt and promulgate rules and  
21 regulations prescribing all standard forms for registering with or  
22 reporting to the ~~department~~ system and for certification to the  
23 public of any birth, abortion, marriage, annulment, dissolution  
24 of marriage, or death registered in Nebraska. Such forms shall  
25 (a) provide for the registration of vital events as accurately as  
26 possible, (b) secure information about the economic, educational,  
27 occupational, and sociological backgrounds of the individuals

1 involved in the registered events and their parents as a basis  
2 for statistical research in order to reduce morbidity and mortality  
3 and improve the quality of life, (c) accomplish such duties in  
4 a manner which will be uniform with forms for reporting similar  
5 events which have been established by the United States Public  
6 Health Service to the extent such forms are consistent with state  
7 law, and (d) permit other deviations from such forms as will  
8 reduce the costs of gathering information, increase efficiency, or  
9 protect the health and safety of the people of Nebraska without  
10 jeopardizing such uniformity.

11 (2) All information designated by the ~~department~~ system  
12 on all certificates as being for health data and statistical  
13 research shall be confidential and may be released only to the  
14 United States Public Health Service or its successor, government  
15 health agencies, or a researcher as approved by the ~~department~~  
16 system in accordance with its rules and regulations. The ~~department~~  
17 system may publish analyses of any information received on the  
18 forms for scientific and public health purposes in such a manner  
19 as to assure that the identity of any individual cannot be  
20 ascertained. The release of such information pursuant to this  
21 section shall not make otherwise confidential information a public  
22 record.

23 Sec. 790. Section 71-602.01, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 71-602.01 All information designated by the ~~Department~~  
26 ~~of Health and Human Services Finance and Support~~ system on all  
27 certificates as being for health data and statistical research

1 shall be confidential but may be released to the Department  
2 of Health and Human Services and the Department of Health and  
3 Human Services Regulation and Licensure system for research and  
4 statistical purposes. The Department of Health and Human Services  
5 Finance and Support system may release cost, health, and associated  
6 health risk information from medicaid records to the Department  
7 of Health and Human Services and the Department of Health and  
8 Human Services Regulation and Licensure system for research and  
9 statistical purposes. Release of information shall be pursuant to  
10 a written agreement between the Department of Health and Human  
11 Services Finance and Support and the Department of Health and  
12 Human Services and between the Department of Health and Human  
13 Services Finance and Support and the Department of Health and  
14 Human Services Regulation and Licensure. Such agreement release  
15 shall provide for protection of the security of the content of  
16 the information, including access limitations, storage of the  
17 information, destruction of the information, and use of the  
18 information. The release of such information pursuant to this  
19 section shall not make otherwise confidential information a public  
20 record.

21 Sec. 791. Section 71-603, Revised Statutes Cumulative  
22 Supplement, 2006, is amended to read:

23 71-603 The ~~department~~ system shall provide for the  
24 registration of vital events and shall adopt, promulgate, and  
25 enforce such rules and regulations as are necessary to carry out  
26 the purposes of the Vital Statistics Act.

27 Sec. 792. Section 71-603.01, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2           71-603.01 The ~~department~~ system shall provide for an  
3 electronic means of receiving electronic signatures as provided in  
4 section 86-611 for purposes of filing and amending death and fetal  
5 death certificates under the Vital Statistics Act.

6           Sec. 793. Section 71-604, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           71-604 (1) A certificate for each live birth which  
9 occurs in the State of Nebraska shall be filed on a standard  
10 Nebraska certificate form. Such certificate shall be filed with the  
11 ~~Department of Health and Human Services Finance and Support~~ system  
12 within five business days after the birth.

13           (2) When a birth occurs in an institution or en route  
14 thereto, the person in charge of the institution or his or her  
15 authorized designee shall obtain the personal data, prepare the  
16 certificate which shall include the name, title, and address of  
17 the attendant, certify that the child was born alive at the place  
18 and time and on the date stated either by standard procedure or  
19 by an approved electronic process, and file the certificate. The  
20 physician or other person in attendance shall provide the medical  
21 information required for the certificate within seventy-two hours  
22 after the birth.

23           (3) When a birth occurs outside an institution, the  
24 certificate of birth shall be prepared and filed by one of the  
25 following:

26           (a) The physician in attendance at or immediately after  
27 the birth;

1           (b) The father, the mother, or, in the absence of the  
2 father and the inability of the mother, the person in charge of the  
3 premises where the birth occurred; or

4           (c) Any other person in attendance at or immediately  
5 after the birth.

6           Sec. 794. Section 71-604.01, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           71-604.01 Upon receipt of a notarized affidavit from the  
9 physician that performed sex reassignment surgery on an individual  
10 born in this state and a certified copy of an order of a court  
11 of competent jurisdiction changing the name of such person, the  
12 ~~Department of Health and Human Services Finance and Support~~ system  
13 shall prepare a new certificate of birth in the new name and sex  
14 of such person in substantially the same form as that used for  
15 other live births. The evidence from which the new certificate is  
16 prepared and the original certificate of birth shall be available  
17 for inspection only upon the order of a court of competent  
18 jurisdiction.

19           Sec. 795. Section 71-604.05, Revised Statutes Cumulative  
20 Supplement, 2006, is amended to read:

21           71-604.05 (1) ~~The Department of Health and Human Services~~  
22 ~~Finance and Support~~ system shall not file (a) a certificate  
23 of live birth, (b) a certificate of delayed birth registration  
24 for a registrant who is under twenty-five years of age when an  
25 application for such certificate is filed, (c) a certificate of  
26 live birth filed after adoption of a Nebraska-born person who is  
27 under twenty-five years of age or a person born outside of the

1 jurisdiction of the United States, or (d) a certificate of live  
2 birth issued pursuant to section 71-628 unless the social security  
3 number or numbers issued to the parents are furnished by the person  
4 seeking to register the birth. No such certificate may be amended  
5 to show paternity unless the social security number of the father  
6 is furnished by the person requesting the amendment. The social  
7 security number shall not be required if no social security number  
8 has been issued to the parent or if the social security number is  
9 unknown.

10           (2) Social security numbers (a) shall be recorded on  
11 the birth certificate but shall not be considered part of the  
12 birth certificate and (b) shall only be used for the purpose of  
13 enforcement of child support orders in Nebraska as permitted by  
14 Title IV-D of the federal Social Security Act, as amended, or  
15 as permitted by section 7(a) of the federal Privacy Act of 1974,  
16 as amended. ~~The Department of Health and Human Services Finance~~  
17 ~~and Support shall make social security numbers available to the~~  
18 ~~Department of Health and Human Services for purposes permitted~~  
19 ~~under Title IV-D of the federal Social Security Act, as amended.~~

20           (3) ~~The Department of Health and Human Services Finance~~  
21 ~~and Support, or on receipt of a written or electronic request by~~  
22 ~~the Department of Health and Human Services, system may release~~  
23 data to the Social Security Administration which is necessary to  
24 obtain a social security number and which is contained on the birth  
25 certificate of any individual who has applied for or is receiving  
26 medicaid or food stamp benefits. ~~The Department of Health and Human~~  
27 ~~Services Finance and Support system shall make such data available~~

1 only for the purpose of obtaining a social security number for the  
2 individual.

3 (4) The Department of Health and Human Services  
4 ~~Finance and Support~~ system shall provide to the Social Security  
5 Administration each parent's name and social security number  
6 collected in the birth certification process as required by the  
7 federal Taxpayer Relief Act of 1997.

8 Sec. 796. Section 71-605, Revised Statutes Cumulative  
9 Supplement, 2006, is amended to read:

10 71-605 (1) The funeral director and embalmer in charge  
11 of the funeral of any person dying in the State of Nebraska  
12 shall cause a certificate of death to be filled out with all the  
13 particulars contained in the standard form adopted and promulgated  
14 by the ~~department~~ system. Such standard form shall include a space  
15 for veteran status and the period of service in the armed forces  
16 of the United States and a statement of the cause of death made by  
17 a person holding a valid license as a physician who last attended  
18 the deceased. The standard form shall also include the deceased's  
19 social security number. Death and fetal death certificates shall  
20 be completed by the funeral directors and embalmers and physicians  
21 for the purpose of filing with the ~~department~~ system and providing  
22 child support enforcement information pursuant to section 43-3340.

23 (2) The physician shall have the responsibility and duty  
24 to complete and sign in his or her own handwriting or by electronic  
25 means pursuant to section 71-603.01, within twenty-four hours from  
26 the time of death, that part of the certificate of death entitled  
27 medical certificate of death. In the case of a death when no person



1 licensed as a physician was in attendance, the funeral director  
2 and embalmer shall refer the case to the county attorney who shall  
3 have the responsibility and duty to complete and sign the death  
4 certificate in his or her own handwriting or by electronic means  
5 pursuant to section 71-603.01.

6           No cause of death shall be certified in the case of  
7 the sudden and unexpected death of a child between the ages of  
8 one week and three years until an autopsy is performed at county  
9 expense by a qualified pathologist pursuant to section 23-1824. The  
10 parents or guardian shall be notified of the results of the autopsy  
11 by their physician, community health official, or county coroner  
12 within forty-eight hours. The term sudden infant death syndrome  
13 shall be entered on the death certificate as the principal cause of  
14 death when the term is appropriately descriptive of the pathology  
15 findings and circumstances surrounding the death of a child.

16           If the circumstances show it possible that death was  
17 caused by neglect, violence, or any unlawful means, the case  
18 shall be referred to the county attorney for investigation and  
19 certification. The county attorney shall, within twenty-four hours  
20 after taking charge of the case, state the cause of death as  
21 ascertained, giving as far as possible the means or instrument  
22 which produced the death. All death certificates shall show clearly  
23 the cause, disease, or sequence of causes ending in death. If  
24 the cause of death cannot be determined within the period of time  
25 stated above, the death certificate shall be filed to establish  
26 the fact of death. As soon as possible thereafter, and not  
27 more than six weeks later, supplemental information as to the

1 cause, disease, or sequence of causes ending in death shall be  
2 filed with the ~~department~~ system to complete the record. For all  
3 certificates stated in terms that are indefinite, insufficient,  
4 or unsatisfactory for classification, inquiry shall be made to  
5 the person completing the certificate to secure the necessary  
6 information to correct or complete the record.

7 (3) A completed death certificate shall be filed with  
8 the ~~department~~ system within five business days after the date of  
9 death. If it is impossible to complete the certificate of death  
10 within five business days, the funeral director and embalmer shall  
11 notify the ~~department~~ system of the reason for the delay and file  
12 the certificate as soon as possible.

13 (4) Before any dead human body may be cremated, a  
14 cremation permit shall first be signed by the county attorney, or  
15 by his or her authorized representative as designated by the county  
16 attorney in writing, of the county in which the death occurred on a  
17 form prescribed and furnished by the ~~department.~~ system.

18 (5) A permit for disinterment shall be required prior to  
19 disinterment of a dead human body. The permit shall be issued by  
20 the ~~department~~ system to a licensed funeral director and embalmer  
21 upon proper application. The request for disinterment shall be made  
22 by the next of kin of the deceased, as listed in section 71-1339,  
23 or a county attorney on a form furnished by the ~~department.~~  
24 system. The application shall be signed by the funeral director and  
25 embalmer who will be directly supervising the disinterment. When  
26 the disinterment occurs, the funeral director and embalmer shall  
27 sign the permit giving the date of disinterment and file the permit

1 with the ~~department~~ system within ten days of the disinterment.

2 (6) When a request is made under subsection (5) of  
3 this section for the disinterment of more than one dead human  
4 body, an order from a court of competent jurisdiction shall be  
5 submitted to the ~~department~~ system prior to the issuance of a  
6 permit for disinterment. The order shall include, but not be  
7 limited to, the number of bodies to be disinterred if that number  
8 can be ascertained, the method and details of transportation of the  
9 disinterred bodies, the place of reinterment, and the reason for  
10 disinterment. No sexton or other person in charge of a cemetery  
11 shall allow the disinterment of a body without first receiving from  
12 the ~~department~~ system a disinterment permit properly completed.

13 (7) No dead human body shall be removed from the  
14 state for final disposition without a transit permit issued by  
15 the funeral director and embalmer having charge of the body in  
16 Nebraska, except that when the death is subject to investigation,  
17 the transit permit shall not be issued by the funeral director and  
18 embalmer without authorization of the county attorney of the county  
19 in which the death occurred. No agent of any transportation company  
20 shall allow the shipment of any body without the properly completed  
21 transit permit prepared in duplicate.

22 (8) The interment, disinterment, or reinterment of a  
23 dead human body shall be performed under the direct supervision  
24 of a licensed funeral director and embalmer, except that hospital  
25 disposition may be made of the remains of a child born dead  
26 pursuant to section 71-20,121.

27 (9) All transit permits issued in accordance with the

1 law of the place where the death occurred in a state other than  
2 Nebraska shall be signed by the funeral director and embalmer in  
3 charge of burial and forwarded to the ~~department~~ system within five  
4 business days after the interment takes place.

5           Sec. 797. Section 71-605.01, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           71-605.01 Death certificates issued by or under the  
8 authority of the United States for persons who were residents of  
9 Nebraska at the time they entered the military or armed forces of  
10 the United States, and died while in the service of their country  
11 while outside the continental limits of the United States may be  
12 recorded with the ~~Department of Health and Human Services Finance~~  
13 ~~and Support~~ system.

14           Sec. 798. Section 71-605.02, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           71-605.02 The ~~Department of Health and Human Services~~  
17 ~~Finance and Support~~ system shall preserve permanently and index all  
18 such certificates and shall charge and collect in advance the fee  
19 prescribed in section 71-612, to be paid by the applicant for each  
20 certified copy supplied to the applicant or for any search made  
21 at the applicant's request for access to or a certified copy of  
22 any record, whether or not the record is found on file with the  
23 ~~department~~ system. All fees so collected shall be remitted to the  
24 State Treasurer for credit to the ~~Department of Health and Human~~  
25 ~~Services Finance and Support~~ Health and Human Services System Cash  
26 Fund as provided in section 71-612.

27           Sec. 799. Section 71-606, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           71-606 A child born dead shall be registered as a fetal  
3 death on a certificate form furnished by the ~~Department of Health~~  
4 ~~and Human Services Finance and Support~~ system. Such certificate  
5 shall not be required for a child which has not advanced to the  
6 twentieth week of gestation. The certificate shall be filed with  
7 the ~~department~~ system by the funeral director and embalmer in  
8 charge of the funeral and shall include a statement of the cause  
9 of death made by a person holding a valid license as a physician  
10 who was in attendance. In the event of hospital disposition, as  
11 provided in section 71-20,121, the entire certificate shall be  
12 completed by the attending physician and subscribed to also by the  
13 hospital administrator or his or her designated representative. If  
14 the attendant is not a physician, the death shall be referred to  
15 the county attorney for certification. The same time limit for  
16 completion shall apply as for a regular death certificate.

17           Sec. 800. Section 71-608.01, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           71-608.01 Persons in any county containing a city of the  
20 metropolitan or primary class which has an established city-county  
21 or county health department pursuant to sections 71-1626 to 71-1636  
22 which has an established birth and death registration system shall  
23 be exempt from the requirements of direct filing of birth and death  
24 certificates required by sections 71-604, 71-605, and 71-606. The  
25 certificates for the births and deaths occurring in any such county  
26 shall be filed with the vital statistics office of the city-county  
27 or county health department within five business days of the date

1 of the birth or death. The city-county or county health department  
2 shall forward the certificates to the ~~Department of Health and~~  
3 ~~Human Services Finance and Support~~ system within ten business days  
4 of the date of the birth or death.

5           Sec. 801. Section 71-609, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           71-609 Every retail dealer in caskets shall keep a record  
8 of sales, which record shall include the name and post office  
9 address of the purchaser and the name and date and place of death  
10 of the deceased. A report of sales or no sales shall be forwarded  
11 to the ~~Department of Health and Human Services Finance and Support~~  
12 system on the first day of each month. This requirement shall  
13 not apply to persons selling caskets only to dealers or funeral  
14 directors and embalmers. Every seller of a casket at retail who  
15 does not have charge of the disposition of the body shall enclose  
16 within the casket a notice calling attention to the requirements of  
17 the law and a blank certificate of death.

18           Sec. 802. Section 71-610, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20           71-610 Maternity homes and lying-in hospitals, and places  
21 used as such, shall report to the ~~Department of Health and Human~~  
22 ~~Services Finance and Support~~ system on the first day of each month  
23 the sex and date of birth of all children born in their respective  
24 institutions during the preceding month. The report shall also show  
25 the names and addresses of the parents and attending physicians.

26           Sec. 803. Section 71-611, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

1           71-611 The ~~Department of Health and Human Services~~  
2 ~~Finance and Support~~ system shall supply all necessary blanks,  
3 forms, and instructions pertaining to the recording of births  
4 and deaths to physicians, hospitals, and funeral directors  
5 and embalmers. Upon written request, the ~~department~~ system may  
6 authorize a funeral director and embalmer licensed in Nebraska to  
7 use computer-generated death certificate forms on paper supplied by  
8 the ~~department~~ system which is of the same quality and identical  
9 in form established in ~~department~~ system regulations for death  
10 certificates which are not computer-generated.

11           Sec. 804. Section 71-612, Revised Statutes Cumulative  
12 Supplement, 2006, is amended to read:

13           71-612 (1) The ~~Director of Finance and Support,~~ system,  
14 as the State Registrar, ~~through the Department of Health and Human~~  
15 ~~Services Finance and Support~~ shall preserve permanently and index  
16 all certificates received. The ~~department~~ system shall supply to  
17 any applicant for any proper purpose, as defined by rules and  
18 regulations of the ~~department,~~ system, a certified copy of the  
19 record of any birth, death, marriage, annulment, or dissolution of  
20 marriage or an abstract of marriage. The ~~department~~ system shall  
21 supply a copy of a public vital record for viewing purposes at its  
22 office upon an application signed by the applicant and upon proof  
23 of the identity of the applicant. The application may include the  
24 name, address, and telephone number of the applicant, purpose for  
25 viewing each record, and other information as may be prescribed  
26 by the ~~department~~ system by rules and regulations to protect the  
27 integrity of vital records and prevent their fraudulent use. Except

1 as provided in subsections (2), (3), (5), (6), and (7) of this  
2 section, the ~~department~~ system shall be entitled to charge and  
3 collect in advance a fee of eleven dollars to be paid by the  
4 applicant for each certified copy or abstract of marriage supplied  
5 to the applicant or for any search made at the applicant's request  
6 for access to or a certified copy of any record or abstract of  
7 marriage, whether or not the record or abstract is found on file  
8 with the ~~department.~~ system.

9 (2) The ~~department~~ system shall, free of charge, search  
10 for and furnish a certified copy of any record or abstract of  
11 marriage on file with the ~~department~~ system upon the request of  
12 (a) the United States Department of Veterans Affairs or any lawful  
13 service organization empowered to represent veterans if the copy  
14 of the record or abstract of marriage is to be issued, for the  
15 welfare of any member or veteran of the armed forces of the United  
16 States or in the interests of any member of his or her family, in  
17 connection with a claim growing out of service in the armed forces  
18 of the nation or (b) the Military Department.

19 (3) The ~~Department of Health and Human Services Finance~~  
20 ~~and Support~~ system may, free of charge, search for and furnish  
21 a certified copy of any record or abstract of marriage on file  
22 with the ~~department~~ system when in the opinion of the ~~Director of~~  
23 ~~Finance and Support~~ system it would be a hardship for the claimant  
24 of old age, survivors, or disability benefits under the federal  
25 Social Security Act to pay the fee provided in this section.

26 (4) A strict account shall be kept of all funds received  
27 by the ~~department.~~ system. Funds received pursuant to subsections



1 (1), (5), (6), and (8) of this section shall be remitted to the  
2 State Treasurer for credit to the ~~Department of Health and Human~~  
3 ~~Services Finance and Support~~ Health and Human Services System Cash  
4 Fund. Money credited to the fund pursuant to this section shall be  
5 used for the purpose of administering the laws relating to vital  
6 statistics and may be used to create a petty cash fund administered  
7 by the ~~department~~ system to facilitate the payment of refunds to  
8 individuals who apply for copies or abstracts of records. The petty  
9 cash fund shall be subject to section 81-104.01, except that the  
10 amount in the petty cash fund shall not be less than twenty-five  
11 dollars nor more than one thousand dollars.

12 (5) The ~~department~~ system shall, upon request, conduct  
13 a search of death certificates for stated individuals for the  
14 Nebraska Medical Association or any of its allied medical societies  
15 or any inhospital staff committee pursuant to sections 71-3401 to  
16 71-3403. If such death certificate is found, the ~~department~~ system  
17 shall provide a noncertified copy. The ~~department~~ system shall  
18 charge a fee for each search or copy sufficient to cover its actual  
19 direct costs, except that the fee shall not exceed two dollars per  
20 individual search or copy requested.

21 (6) The ~~department~~ system may permit use of data from  
22 vital records for statistical or research purposes under section  
23 71-602 or disclose data from certificates or records to federal,  
24 state, county, or municipal agencies of government for use in  
25 administration of their official duties and charge and collect  
26 a fee that will recover the ~~department's~~ system's cost of  
27 production of the data. The ~~department~~ system may provide access

1 to public vital records for viewing purposes by electronic means,  
2 if available, under security provisions which shall assure the  
3 integrity and security of the records and data base and shall  
4 charge and collect a fee that shall recover the ~~department's~~  
5 system's costs.

6 (7) In addition to the fees charged under subsection (1)  
7 of this section, the ~~department~~ system shall charge and collect an  
8 additional fee of one dollar for any certified copy of the record  
9 of any birth or for any search made at the applicant's request  
10 for access to or a certified copy of any such record, whether  
11 or not the record is found on file with the ~~department-~~ system.  
12 Any county containing a city of the metropolitan class which has  
13 an established city-county or county health department pursuant to  
14 sections 71-1626 to 71-1636 which has an established system of  
15 registering births and deaths shall charge and collect in advance a  
16 fee of one dollar for any certified copy of the record of any birth  
17 or for any search made at the applicant's request for such record,  
18 whether or not the record is found on file with the county. All  
19 fees collected under this subsection shall be remitted to the State  
20 Treasurer for credit to the Nebraska Child Abuse Prevention Fund.

21 (8) The ~~department~~ system shall not charge other state  
22 agencies the fees authorized under subsections (1) and (7) of this  
23 section for automated review of any certificates or abstracts of  
24 marriage. The ~~department~~ system shall charge and collect a fee from  
25 other state agencies for such automated review that will recover  
26 the ~~department's~~ system's cost.

27 Sec. 805. Section 71-614, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           71-614 (1) On or before the fifth day of each month,  
3 the county clerk of each county shall return to the ~~Department of~~  
4 ~~Health and Human Services Finance and Support~~ system upon suitable  
5 blank forms, to be provided by the ~~department,~~ system, a statement  
6 of all marriages recorded by him or her during the preceding  
7 calendar month. If no marriages were performed in the county during  
8 the preceding month, a card furnished by the ~~department~~ system  
9 indicating such information shall be submitted on or before the  
10 fifth day of each month to the ~~department.~~ system. Upon neglect or  
11 refusal to make such returns, such county clerk shall, for each  
12 such neglect or refusal, forfeit and pay the sum of twenty-five  
13 dollars for the use of the proper county, to be collected as debts  
14 of like amount are now collectible.

15           (2) As soon as possible after completion of an amendment  
16 to a marriage license by the ~~Department of Health and Human~~  
17 ~~Services Finance and Support,~~ system, the ~~department~~ system shall  
18 forward a noncertified copy of the marriage license reflecting the  
19 amendment to the county clerk of the county in which the license  
20 was filed. Upon receipt of the amended copy, the county clerk shall  
21 make the necessary changes on the marriage license on file in his  
22 or her office to reflect the amendment.

23           Sec. 806. Section 71-615, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           71-615 On or before the fifth day of each month, the  
26 clerk of the district court of each county shall make and return  
27 to the ~~Department of Health and Human Services Finance and Support,~~

1 system, upon suitable forms furnished by the ~~department~~, system, a  
2 statement of each action for annulment or dissolution of marriage  
3 granted in the court of which he or she is clerk during the  
4 preceding calendar month. The information shall be furnished by  
5 the petitioner or his or her legal representative and presented  
6 to the clerk of the court with the petition. In all cases, the  
7 furnishing of the information to complete the record shall be a  
8 prerequisite to the granting of the final decree. If no annulments  
9 or dissolutions of marriage were granted in the county during  
10 the preceding month, a card furnished by the ~~department~~ system  
11 indicating such information shall be submitted on or before the  
12 fifth day of each month to the ~~department~~. system. Upon neglect or  
13 refusal to make such return, such clerk shall, for each neglect or  
14 refusal, forfeit and pay the sum of twenty-five dollars for the use  
15 of the county.

16           Sec. 807. Section 71-616, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           71-616 The ~~Department of Health and Human Services~~  
19 ~~Finance and Support~~ system shall preserve permanently and index  
20 all births, deaths, marriages, and divorces received, and shall  
21 tabulate statistics therefrom.

22           Sec. 808. Section 71-616.01, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           71-616.01 To protect the integrity of vital records  
25 and to prevent the fraudulent use of birth certificates of  
26 deceased persons, the ~~department~~ system is authorized to match  
27 birth and death certificates and to post the facts of death to the

1 appropriate birth certificate. To assist in the matching process,  
2 the ~~department~~ system is authorized to enter into agreements with  
3 offices of vital records outside the state to exchange the birth or  
4 death records or reports of each state's citizens. Copies of birth  
5 certificates issued of deceased persons shall be marked deceased.

6 The ~~department~~ system may also maintain applications for  
7 viewing vital records and match the same against requests for  
8 certified copies or adopt such other security measures as may serve  
9 to identify requests to view vital records made for unlawful or  
10 fraudulent purposes.

11 Sec. 809. Section 71-616.02, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 71-616.02 Information required in certificates or reports  
14 authorized by sections 71-605.02, 71-612, and 71-616.01 may be  
15 filed and registered by electronic or other means if authorized  
16 by the ~~department~~ system and as prescribed by ~~department~~ system  
17 regulation.

18 Sec. 810. Section 71-616.03, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 71-616.03 The ~~Department of Health and Human Services~~  
21 ~~Finance and Support~~ system may accept for filing and issue  
22 certified copies of vital records generated from microfilm,  
23 imaging, electronic means, or any other medium as designated by the  
24 ~~department.~~ system.

25 Sec. 811. Section 71-616.04, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27 71-616.04 To preserve vital records, the ~~Department of~~

1 ~~Health and Human Services Finance and Support system~~ may prepare  
2 typewritten, photographic, electronic, or other reproductions of  
3 certificates or reports of vital records. Such reproductions, when  
4 verified and approved by the ~~department,~~ system, shall be accepted  
5 as the original records, and the documents from which permanent  
6 reproductions have been made may be disposed of as provided by  
7 rules and regulations of the ~~department.~~ system.

8           Sec. 812. Section 71-617.02, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           71-617.02 A notarized application may be filed with the  
11 ~~Department of Health and Human Services Finance and Support system~~  
12 for a delayed registration of birth of any person born in the State  
13 of Nebraska whose birth is not registered within one year after the  
14 date of birth. If the birth occurred in the State of Nebraska at  
15 any time since the commencement in 1905 of mandatory registration  
16 under the laws of Nebraska, the applicant shall pay the statutory  
17 file search fee prescribed by section 71-612 to determine that such  
18 birth is not recorded. The certificate shall be registered based  
19 upon documentary evidence furnished to substantiate the alleged  
20 facts of birth. As used in the Delayed Birth Registration Act,  
21 unless the context otherwise requires, documentary evidence shall  
22 mean independent records each of which was created for a different  
23 purpose.

24           Sec. 813. Section 71-617.06, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26           71-617.06 Independent supporting records shall include,  
27 but not be limited to, original records or certified or notarized

1 copies of:

2 (1) A recorded certificate of baptism performed under age  
3 four;

4 (2) An insurance policy application personal history  
5 sheet;

6 (3) A federal census record;

7 (4) A school census record;

8 (5) A military service record;

9 (6) A family Bible record when proved beyond a reasonable  
10 doubt that the record was made before the child reached age four;

11 (7) Other evidence on file in the ~~Department of Health~~  
12 ~~and Human Services Finance and Support~~ system taken from other  
13 registrations;

14 (8) A record at least five years old or established  
15 within seven years of the date of birth such as a physician's  
16 certificate or an affidavit taken from physician, hospital,  
17 nursing, or clinic records;

18 (9) An affidavit from a parent or longtime acquaintance;

19 (10) A printed notice of birth;

20 (11) A record from a birthday or baby book;

21 (12) A school record; or

22 (13) A church record.

23 An affidavit shall include the full name of the person  
24 whose birth is being registered as well as the date and place of  
25 birth and the basis of the affiant's knowledge of these facts.

26 Sec. 814. Section 71-617.07, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

1           71-617.07 If an applicant for a certificate of delayed  
2 birth registration fails to submit the minimum documentation  
3 required for the delayed registration or if the ~~Department~~  
4 ~~of Health and Human Services Finance and Support~~ system has  
5 reasonable cause to question the validity or adequacy of either  
6 the applicant's sworn statement or the documentary evidence due  
7 to conflicting evidence submitted and if the deficiencies are not  
8 corrected, the ~~department~~ system shall not issue and register a  
9 delayed certificate of birth and shall advise the applicant of  
10 the reasons for such action. The ~~department~~ system shall further  
11 advise the applicant of his or her right of appeal to the ~~Director~~  
12 ~~of Finance and Support~~ system and then, if not satisfied, to the  
13 county court as provided in section 71-617.08.

14           Sec. 815. Section 71-617.08, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           71-617.08 (1) If a delayed certificate of birth is denied  
17 by the ~~Department of Health and Human Services Finance and Support~~  
18 ~~and the Director of Finance and Support,~~ system, a petition signed  
19 and sworn to by the petitioner may be filed with the county court  
20 of Lancaster County, of the county of the petitioner's residence,  
21 or of the county in which the birth is claimed to have occurred.

22           (2) The petition shall be made on a form prescribed and  
23 furnished by the ~~Department of Health and Human Services Finance~~  
24 ~~and Support~~ system and shall allege:

25           (a) That the person for whom a delayed certificate of  
26 birth is sought was born in this state;

27           (b) That no certificate of birth of such person can be



1 found in the files or records of the ~~Department of Health and Human~~  
2 ~~Services Finance and Support~~; system;

3 (c) That diligent efforts by the petitioner have failed  
4 to obtain evidence required by sections 71-617.05 and 71-617.06  
5 that is considered acceptable by the ~~Department of Health and Human~~  
6 ~~Services Finance and Support~~; system;

7 (d) That the ~~Department of Health and Human Services~~  
8 ~~Finance and Support~~ system has refused to register a delayed  
9 certificate of birth; and

10 (e) Such other allegations as may be required.

11 Sec. 816. Section 71-617.09, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 71-617.09 A statement of the ~~Director of Finance and~~  
14 ~~Support~~ system indicating why a delayed certificate of birth was  
15 not issued and registered and all documentary evidence which was  
16 submitted to the ~~Department of Health and Human Services Finance~~  
17 ~~and Support~~ system in support of such registration shall accompany  
18 a petition filed under section 71-617.08.

19 Sec. 817. Section 71-617.10, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 71-617.10 The court shall fix a time and place for a  
22 hearing upon a petition filed under section 71-617.08 and shall  
23 give the ~~Department of Health and Human Services Finance and~~  
24 ~~Support~~ ten calendar days' notice of such hearing. ~~The Director~~  
25 ~~of Finance and Support~~ or one of his or her authorized Authorized  
26 representatives of the system may appear and testify in the  
27 proceeding.

1                   Sec. 818. Section 71-617.11, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   71-617.11 If the court finds from the evidence presented  
4 that the person for whom a delayed certificate of birth is sought  
5 was born in this state, it shall make findings as to the place and  
6 date of birth, parentage, and such other findings as the case may  
7 require and shall issue an order on a form prescribed and furnished  
8 by the ~~Department of Health and Human Services Finance and Support~~  
9 system to establish a certificate of birth. The order shall include  
10 the birth data to be registered, a description of the evidence  
11 presented, and the date of the court's action.

12                   Sec. 819. Section 71-617.12, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14                   71-617.12 The clerk of the court shall forward any order  
15 made under section 71-617.11 to the ~~Department of Health and Human~~  
16 ~~Services Finance and Support~~ system not later than the tenth day  
17 of the calendar month following the month in which it was entered.  
18 The order shall be registered by the ~~department~~ system and shall  
19 constitute the certificate of birth.

20                   Sec. 820. Section 71-617.13, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22                   71-617.13 The ~~Department of Health and Human Services~~  
23 ~~Finance and Support~~ system shall certify on a delayed registration  
24 of birth that no other record of the birth is on file with the  
25 ~~department.~~ system.

26                   Sec. 821. Section 71-617.15, Revised Statutes Cumulative  
27 Supplement, 2006, is amended to read:

1           71-617.15 (1) The ~~department~~ system shall charge and  
2 collect the same fee as prescribed in subsection (1) of section  
3 71-612 when an application for a delayed birth certificate is  
4 filed. All such fees shall be remitted to the State Treasurer for  
5 credit to the ~~Department of Health and Human Services Finance and~~  
6 ~~Support~~ Health and Human Services System Cash Fund. The ~~department~~  
7 system shall collect an additional fee of one dollar when a  
8 delayed birth certificate is issued. All amounts collected from  
9 such additional fee shall be remitted to the State Treasurer for  
10 credit to the Nebraska Child Abuse Prevention Fund.

11           (2) Upon request and payment of the fees required by  
12 section 71-612, a certified copy of a delayed birth certificate  
13 shall be furnished by the ~~Director of Finance and Support-~~ system.  
14 All fees for a certified copy shall be handled as provided in  
15 section 71-612.

16           Sec. 822. Section 71-626, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           71-626 (1) For each adoption of a Nebraska-born or  
19 foreign-born person decreed by any court of this state, the court  
20 shall require the preparation of a report of adoption on a form  
21 prescribed and furnished by the ~~Department of Health and Human~~  
22 ~~Services Finance and Support-~~ system. The report shall (a) include  
23 the original name, date, and place of birth and the name of the  
24 parent or parents of such person; (b) provide information necessary  
25 to establish a new certificate of birth of the person adopted; (c)  
26 provide the name and address of the child placement agency, if any,  
27 which placed the child for adoption; and (d) identify the decree of

1 adoption and be certified by the clerk of the court.

2 (2) Information in the possession of the petitioner  
3 necessary to prepare the report of adoption shall be furnished  
4 with the petition for adoption by each petitioner or his or her  
5 attorney. The social or welfare agency or other person concerned  
6 shall supply the court with such additional information in his  
7 or her possession as may be necessary to complete the report.  
8 The supplying of such information shall be a prerequisite to the  
9 issuance of a decree.

10 (3) Whenever an adoption decree is amended or set aside,  
11 the clerk of the court shall prepare a report thereof, which  
12 shall include such facts as are necessary to identify the original  
13 adoption report and the facts amended in the adoption decree as  
14 shall be necessary to properly amend the birth record.

15 (4) Not later than the tenth day after the decree has  
16 been entered, the clerk of such court shall forward the report to  
17 the ~~Department of Health and Human Services Finance and Support~~  
18 system whenever an adoptive birth certificate is to be filed or has  
19 already been filed.

20 Sec. 823. Section 71-626.01, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 71-626.01 (1) The ~~Department of Health and Human Services~~  
23 ~~Finance and Support~~ system shall establish a new certificate of  
24 birth for a person born in the State of Nebraska whenever it  
25 receives any of the following:

26 (a) A report of adoption as provided in section 71-626  
27 on a form supplied by the ~~Department of Health and Human Services~~

1 ~~Finance and Support~~ system or a certified copy of the decree of  
2 adoption together with the information required in such report,  
3 except that a new certificate of birth shall not be established if  
4 so requested in writing by the court decreeing the adoption, the  
5 adoptive parents, or the adopted person; or

6 (b) A report of adoption or a certified copy of the  
7 decree of adoption entered in a court of competent jurisdiction  
8 of any other state or nation declaring adopted a person born in  
9 the State of Nebraska, together with the information necessary to  
10 identify the original certificate of birth and to establish the new  
11 certificate of birth, except that a new certificate of birth shall  
12 not be established when so requested by the court decreeing the  
13 adoption, the adoptive parents, or the adopted person.

14 (2) The new certificate of birth for a person born in the  
15 State of Nebraska shall be on the form in use at the time of its  
16 preparation and shall include the following items in addition to  
17 such other information as may be necessary to complete the form:

18 (a) The adoptive name of the person;

19 (b) The names and personal particulars of the adoptive  
20 parents;

21 (c) The date and place of birth as transcribed from the  
22 original certificate;

23 (d) The name of the attendant, printed or typed;

24 (e) The same birth number as was assigned to the original  
25 certificate; and

26 (f) The original filing date.

27 The data necessary to locate the existing certificate

1 and the data necessary to complete the new certificate shall be  
2 submitted to the ~~Department of Health and Human Services Finance~~  
3 ~~and Support~~ system.

4 (3) When an adoptive certificate of birth is established,  
5 the actual place of birth and date of birth shall be shown.  
6 It shall be substituted for the original certificate of birth.  
7 Thereafter, the original certificate and the evidence of adoption  
8 shall not be subject to inspection except (a) upon order of a  
9 court of competent jurisdiction, (b) as provided in sections 43-138  
10 to 43-140, (c) as provided in sections 43-146.11 to 43-146.13,  
11 or (d) as provided by rules and regulations of the ~~Department~~  
12 ~~of Health and Human Services Finance and Support~~ system. Upon  
13 receipt of notice that an adoption has been set aside, the original  
14 certificate of birth shall be restored to its place in the files  
15 and the new certificate and evidence shall not be subject to  
16 inspection except upon order of a court of competent jurisdiction.

17 (4) Whenever a new certificate of birth is established by  
18 the ~~Department of Health and Human Services Finance and Support~~,  
19 system, all copies of the original certificate of birth in the  
20 custody of any custodian of permanent local records in this state  
21 shall be sealed from inspection.

22 (5) The ~~Department of Health and Human Services Finance~~  
23 ~~and Support~~ system may adopt and promulgate such rules and  
24 regulations as are necessary and proper to assist it in the  
25 implementation and administration of section 71-626 and this  
26 section.

27 Sec. 824. Section 71-627, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2           71-627 (1) The certificate of birth of adopted children  
3 shall be filed as other certificates of birth. The ~~department~~  
4 system shall charge and collect the same fee as prescribed in  
5 subsection (1) of section 71-612 for each certificate filed. All  
6 such fees shall be remitted to the State Treasurer for credit to  
7 the ~~Department of Health and Human Services Finance and Support~~  
8 Health and Human Services System Cash Fund. The ~~department~~ system  
9 shall charge and collect an additional fee of one dollar for each  
10 certificate issued. All amounts collected from such additional fee  
11 shall be remitted to the State Treasurer for credit to the Nebraska  
12 Child Abuse Prevention Fund.

13           (2) Upon request and payment of the fees required by  
14 section 71-612, a certified copy of an adoptive birth certificate  
15 shall be furnished by the ~~Director of Finance and Support~~ system.  
16 All fees for a certified copy shall be handled as provided in  
17 section 71-612.

18           Sec. 825. Section 71-627.01, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20           71-627.01 Whenever a decree of adoption is entered in any  
21 court of competent jurisdiction in the State of Nebraska, as to a  
22 child born in another state, the judge of the court in which such  
23 decree is entered shall, on forms to be furnished by the ~~Director~~  
24 ~~of Finance and Support~~ system, notify the agency having authority  
25 to issue adoptive birth certificates in the state in which such  
26 child was born for the purpose of securing the issuance of an  
27 adoptive birth certificate from the state of birth.

1           Sec. 826. Section 71-627.02, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           71-627.02 Upon receipt of a Report of Adoption or a  
4 certified copy of a decree of adoption issued by any court  
5 of competent jurisdiction in the State of Nebraska as to any  
6 foreign-born person, the ~~Director of Finance and Support~~ system  
7 shall prepare a birth certificate in the new name of the adopted  
8 person. The birth certificate shall show specifically (1) the new  
9 name of the adopted person, (2) the date of birth and sex of the  
10 adopted person, (3) statistical information concerning the adoptive  
11 parents in place of the natural parents, and (4) the true or  
12 probable place of birth including the city or town and country.

13           Sec. 827. Section 71-628, Revised Statutes Cumulative  
14 Supplement, 2006, is amended to read:

15           71-628 In case of the legitimation of any child born  
16 in Nebraska by the subsequent marriage of such child's parents  
17 as provided in section 43-1406, the ~~department,~~ system, upon  
18 the receipt of a certified copy of the marriage certificate or  
19 abstract of marriage of the parents and a statement of the parents  
20 acknowledging paternity, shall prepare a new certificate of birth  
21 in the new name of the child so legitimated, in substantially the  
22 same form as that used for other live births. The ~~department~~ system  
23 shall charge and collect the same fee as prescribed in subsection  
24 (1) of section 71-612. All such fees shall be remitted to the State  
25 Treasurer for credit to the ~~Department of Health and Human Services~~  
26 ~~Finance and Support~~ Health and Human Services System Cash Fund.  
27 The ~~department~~ system shall charge and collect an additional fee



1 of one dollar for each new certificate of birth filed. All amounts  
2 collected from such additional fee shall be remitted to the State  
3 Treasurer for credit to the Nebraska Child Abuse Prevention Fund.

4 Sec. 828. Section 71-629, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 71-629 A certified copy or copies of the certificate of  
7 birth of any such legitimized child may be furnished upon request  
8 by the ~~Director of Finance and Support~~, system, but the evidence  
9 upon which the new certificate is made and the original certificate  
10 of birth shall be available for inspection only upon the order of  
11 a court of competent jurisdiction.

12 Sec. 829. Section 71-630, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 71-630 (1) A birth or death certificate filed with the  
15 ~~Department of Health and Human Services Finance and Support~~ system  
16 may be amended only in accordance with this section and sections  
17 71-635 to 71-644 and rules and regulations adopted pursuant thereto  
18 by the ~~department~~ system as necessary and proper to protect the  
19 integrity and accuracy of records of vital statistics.

20 (2) A certificate that is amended under this section  
21 shall have a properly dated reference placed on the face of the  
22 certificate and state that it is amended, except as provided in  
23 subsection (4) of this section.

24 (3) Upon receipt of a certified copy of a court order  
25 changing the name of a person born in this state and upon  
26 request of such person or his or her parent, guardian, or legal  
27 representative, the ~~Department of Health and Human Services Finance~~

1 ~~and Support~~ system shall amend the certificate of birth to reflect  
2 the change in name.

3 (4) Upon request and receipt of a sworn acknowledgment  
4 of paternity of a child born out of wedlock signed by both  
5 parents, the ~~Department of Health and Human Services Finance and~~  
6 ~~Support~~ system shall amend the certificate of birth to show such  
7 paternity if paternity is not shown on the birth certificate. Such  
8 certificate shall not be marked amended.

9 Sec. 830. Section 71-634, Revised Statutes Cumulative  
10 Supplement, 2006, is amended to read:

11 71-634 The ~~department~~ system shall charge and collect the  
12 same fee as prescribed in subsection (1) of section 71-612 for each  
13 proceeding under sections 71-630 and 71-635 to 71-644. All fees so  
14 collected shall be remitted to the State Treasurer for credit to  
15 the ~~Department of Health and Human Services Finance and Support~~  
16 Health and Human Services System Cash Fund. The ~~department~~ system  
17 shall collect the fees required by section 71-612 for a certified  
18 copy of the amended record. All fees for a certified copy shall be  
19 handled as provided in section 71-612.

20 If a certificate is amended pursuant to sections 71-630  
21 and 71-635 to 71-644 as the result of an error committed by  
22 the ~~department~~ system in the issuance of such certificate, the  
23 ~~department~~ system may waive any fee required under this section.

24 Sec. 831. Section 71-636, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26 71-636 Amendment of obvious errors, of transposition of  
27 letters in words of common knowledge, or of omissions on birth

1 certificates may be made by the ~~Department of Health and Human~~  
2 ~~Services Finance and Support~~ system within the first year after the  
3 date of the birth, either upon its own observation, upon query,  
4 or upon request of a person with a direct and tangible interest  
5 in the certificate. When such additions or minor amendments are  
6 made by the ~~department,~~ system, a notation as to the source of  
7 the information together with the date the change was made and the  
8 initials of the authorized agent making the change shall be made on  
9 the reverse side of the certificate in such a way as not to become  
10 a part of the certificate. The certificate shall not be marked  
11 amended.

12           Sec. 832. Section 71-639, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           71-639 The ~~Department of Health and Human Services~~  
15 ~~Finance and Support~~ system shall evaluate all evidence submitted  
16 for amendments to vital records and when it finds reason to  
17 question its validity or adequacy it may reject the amendment and  
18 shall advise the applicant of the reasons for this action.

19           Sec. 833. Section 71-640.02, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21           71-640.02 The ~~Department of Health and Human Services~~  
22 ~~Finance and Support~~ system shall enter on the birth certificate  
23 of any child born out of wedlock the name of the father of the  
24 child upon receipt of (1) a certified copy of a court order showing  
25 that paternity has been established or a statement in writing by  
26 the father that he is the father of the child and (2) the written  
27 request of (a) the parent having legal custody of the child or

1 (b) the guardian or agency having legal custody of the child. The  
2 surname of the child shall be determined in accordance with section  
3 71-640.03.

4 Sec. 834. Section 71-640.03, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 71-640.03 (1) In any case in which paternity of a child  
7 is determined by a court of competent jurisdiction, the surname of  
8 the child may be entered on the record the same as the surname of  
9 the father.

10 (2) The surname of the child shall be the parents'  
11 prerogative, except that the ~~Department of Health and Human~~  
12 ~~Services Finance and Support~~ system shall not accept a birth  
13 certificate with a child's surname that implies any obscene or  
14 objectionable words or abbreviations.

15 Sec. 835. Section 71-641, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 71-641 (1) Until the registrant's seventh birthday, the  
18 given name, for a child whose birth was recorded without a given  
19 name, may be added based upon an affidavit signed by (a) both  
20 parents, (b) the mother in the case of a child born out of wedlock  
21 or the death or incapacity of the father, (c) the father in the  
22 case of the death or incapacity of the mother, or (d) the guardian  
23 or agency having legal custody of the registrant in the case of the  
24 death or incapacity of both parents. A certificate amended in this  
25 manner prior to the first birthday shall not be marked amended.

26 (2) After the seventh birthday, one or more items of  
27 documentary evidence must be submitted to substantiate the name

1 being added.

2 (3) For a legal change of name, a certified copy of the  
3 court order changing the name must be presented to the ~~Department~~  
4 ~~of Health and Human Services Finance and Support~~ system along with  
5 data to identify the birth certificate and a request that it be  
6 amended to show the new name.

7 Sec. 836. Section 71-642, Revised Statutes Cumulative  
8 Supplement, 2006, is amended to read:

9 71-642 All items in the medical certification or of a  
10 medical nature in a vital record may be amended only upon receipt  
11 of a signed statement from those responsible for completion of  
12 the entries involved as provided in the Vital Statistics Act.  
13 The ~~department~~ system may, at its discretion, require documentary  
14 evidence to substantiate the requested amendment.

15 Sec. 837. Section 71-644, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 71-644 A certificate or report that is amended under  
18 sections 71-635 to 71-644 shall indicate that it has been amended  
19 as provided by rules and regulations of the ~~Department of Health~~  
20 ~~and Human Services Finance and Support~~ system. A record shall be  
21 maintained which identifies the evidence upon which the amendment  
22 was based, the date of the amendment, and the identity of the  
23 person making the amendment.

24 Sec. 838. Section 71-645, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26 71-645 It is hereby found that the occurrence of  
27 malformation or inherited disease at the time of birth is a

1 tragedy for the child, the family, and the community, and a  
2 matter of vital concern to the public health. In order to  
3 provide for the protection and promotion of the health of the  
4 citizens of the state, the ~~Department of Health and Human Services~~  
5 ~~Regulation and Licensure system~~ shall have the responsibility for  
6 the implementation and development of scientific investigations and  
7 research concerning the causes, methods of prevention, treatment,  
8 and cure of birth defects.

9           Sec. 839. Section 71-646, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           71-646 The ~~Director of Regulation and Licensure system~~  
12 shall establish ~~within the Department of Health and Human Services~~  
13 ~~Regulation and Licensure system~~ a birth defects registry for the  
14 purpose of initiating and conducting investigations of the causes,  
15 mortality, methods of prevention, treatment, and cure of birth  
16 defects and allied diseases. Any information released from the  
17 registry shall be disclosed as Class I, Class II, Class III, or  
18 Class IV data as provided in sections 81-663 to 81-675.

19           Sec. 840. Section 71-647, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21           71-647 (1) The ~~Department of Health and Human Services~~  
22 ~~Regulation and Licensure system~~ shall have and may exercise the  
23 following powers and duties:

24           (a) To conduct scientific investigations and surveys of  
25 the causes, mortality, methods of prevention, treatment, and cure  
26 of birth defects;

27           (b) To publish at least annually the results of such

1 investigations and surveys for the benefit of the public health  
2 and to annually collate such publications for distribution to  
3 scientific organizations and qualified scientists and physicians;

4 (c) To carry on programs of professional education and  
5 training of medical students, physicians, nurses, scientists, and  
6 technicians in the causes, methods of prevention, treatment, and  
7 cure of birth defects;

8 (d) To conduct and support clinical counseling services  
9 in medical facilities; and

10 (e) To secure necessary scientific, educational,  
11 training, technical, administrative, and operational personnel and  
12 services including laboratory facilities by contract or otherwise  
13 from public or private entities in order to carry out the purposes  
14 of this section.

15 (2) Any information released from the birth defects  
16 registry shall be disclosed as Class I, Class II, Class III, or  
17 Class IV data as provided in sections 81-663 to 81-675.

18 Sec. 841. Section 71-648, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 71-648 Birth defects and allied diseases shall be  
21 reported by physicians, hospitals, and persons in attendance at  
22 births in the manner and on such forms as may be prescribed  
23 by the ~~Department of Health and Human Services Regulation and~~  
24 ~~Licensure~~ system. Such reports may be included in the monthly  
25 report to the ~~department~~ system on births as required by section  
26 71-610. Such reports shall be forwarded to the ~~department~~ system no  
27 later than the tenth day of the succeeding month after the birth.

1 When objection is made by either parent to furnishing information  
2 relating to the medical and health condition of a live-born child  
3 because of conflict with religion, such information shall not be  
4 required to be entered as provided in this section.

5 Sec. 842. Section 71-649, Revised Statutes Cumulative  
6 Supplement, 2006, is amended to read:

7 71-649 (1) Any person who (a) willfully and knowingly  
8 makes any false statement in a certificate, record, or report  
9 required to be filed pursuant to the Vital Statistics Act, in an  
10 application for an amendment thereof, or in an application for  
11 a certified copy of a vital record or willfully and knowingly  
12 supplies false information intending that such information be used  
13 in the preparation of any such report, record, certificate, or  
14 amendment thereof; (b) without lawful authority and with the intent  
15 to deceive, makes, counterfeits, alters, amends, or mutilates  
16 any certificate, record, or report required to be filed pursuant  
17 to the act or a certified copy of such certificate, record,  
18 or report; (c) willfully and knowingly obtains, possesses, uses,  
19 sells, furnishes, or attempts to obtain, possess, use, sell, or  
20 furnish to another, for any purpose of deception, any certificate,  
21 record, report, or certified copy thereof so made, counterfeited,  
22 altered, amended, or mutilated; (d) with the intention to deceive,  
23 willfully and knowingly obtains, possesses, uses, sells, furnishes,  
24 or attempts to obtain, possess, use, sell, or furnish to another  
25 any certificate of birth or certified copy of a certificate  
26 of birth knowing that such certificate or certified copy was  
27 issued upon a certificate which is false in whole or in part



1 or which relates to the birth of another person, whether living  
2 or deceased; (e) willfully and knowingly furnishes or possesses a  
3 certificate of birth or certified copy of a certificate of birth  
4 with the knowledge or intention that it be used for the purposes of  
5 deception by a person other than the person to whom the certificate  
6 of birth relates; (f) without lawful authority possesses any  
7 certificate, record, or report required by the act or a copy or  
8 certified copy of such certificate, record, or report knowing the  
9 same to have been stolen or otherwise unlawfully obtained; or  
10 (g) willfully and knowingly tampers with an electronic signature  
11 authorized under section 71-603.01 shall be guilty of a Class IV  
12 felony.

13 (2) Any person who (a) willfully and knowingly refuses  
14 to provide information required by the Vital Statistics Act or  
15 rules and regulations adopted under the act or (b) willfully and  
16 knowingly neglects or violates any of the provisions of the act or  
17 refuses to perform any of the duties imposed upon him or her under  
18 the act shall be guilty of a Class I misdemeanor.

19 (3) The ~~department~~ system may include on any appropriate  
20 certificate or document a statement warning of the consequences for  
21 any such violation.

22 Sec. 843. Section 71-701, Revised Statutes Cumulative  
23 Supplement, 2006, is amended to read:

24 71-701 The Women's Health Initiative of Nebraska is  
25 created within the ~~Department of Health and Human Services~~  
26 ~~Regulation and Licensure.~~ Health and Human Services System. The  
27 Women's Health Initiative of Nebraska shall strive to improve the

1 health of women in Nebraska by fostering the development of a  
2 comprehensive system of coordinated services, policy development,  
3 advocacy, and education. The initiative shall:

4 (1) Serve as a clearinghouse for information regarding  
5 women's health issues, including pregnancy, breast and cervical  
6 cancers, acquired immunodeficiency syndrome, osteoporosis,  
7 menopause, heart disease, smoking, and mental health issues as well  
8 as other issues that impact women's health, including substance  
9 abuse, domestic violence, teenage pregnancy, sexual assault,  
10 adequacy of health insurance, access to primary and preventative  
11 health care, and rural and ethnic disparities in health outcomes;

12 (2) Perform strategic planning within the ~~Department~~  
13 ~~of Health and Human Services, the Department of Health and~~  
14 ~~Human Services Regulation and Licensure, and the Department of~~  
15 ~~Health and Human Services Finance and Support~~ system to develop  
16 ~~department-wide~~ system-wide plans for implementation of goals and  
17 objectives for women's health;

18 (3) Conduct ~~department-wide~~ system-wide policy analysis  
19 on specific issues related to women's health;

20 (4) Coordinate pilot projects and planning projects  
21 funded by the state that are related to women's health;

22 (5) Communicate and disseminate information and perform a  
23 liaison function ~~within the departments~~ and to providers of health,  
24 social, educational, and support services to women;

25 (6) Provide technical assistance to communities, other  
26 public entities, and private entities for initiatives in women's  
27 health, including, but not limited to, community health assessment

1 and strategic planning and identification of sources of funding and  
2 assistance with writing of grants; and

3 (7) Encourage innovative responses by public and private  
4 entities that are attempting to address women's health issues.

5 Sec. 844. Section 71-702, Revised Statutes Cumulative  
6 Supplement, 2006, is amended to read:

7 71-702 (1) The Women's Health Initiative Advisory  
8 Council is created and shall consist of not more than thirty  
9 members, at least three-fourths of whom are women. At least  
10 one member shall be appointed from the following disciplines:

11 (a) An obstetrician/gynecologist; (b) a nurse practitioner or  
12 physician's assistant from a rural community; (c) a geriatrics  
13 physician or nurse; (d) a pediatrician; (e) a community public  
14 health representative from each congressional district; (f) a  
15 health educator; (g) an insurance industry representative; (h) a  
16 mental health professional; (i) a representative from a statewide  
17 health volunteer agency; (j) a private health care industry  
18 representative; (k) an epidemiologist or a health statistician; (l)  
19 a foundation representative; and (m) a woman who is a health care  
20 consumer from each of the following age categories: Eighteen to  
21 thirty; thirty-one to forty; forty-one to sixty-five; and sixty-six  
22 and older. The membership shall also include a representative of  
23 the University of Nebraska Medical Center, a representative from  
24 Creighton University Medical Center, the executive director of the  
25 Nebraska Commission on the Status of Women or his or her designee,  
26 the chief medical officer if one is appointed under section  
27 ~~81-3201, 6 of this act,~~ and the Title V Director of the ~~Department~~

1 ~~of Health and Human Services.~~ Health and Human Services System.

2 (2) The Governor shall appoint advisory council members  
3 and shall consider and attempt to balance representation based  
4 on political party affiliation, race, and different geographical  
5 areas of Nebraska when making appointments. The Governor shall  
6 appoint the first chairperson and vice-chairperson of the advisory  
7 council. There shall be two ex officio, nonvoting members from the  
8 Legislature, one of which shall be the chairperson of the Health  
9 and Human Services Committee.

10 (3) The terms of the initial members shall be as follows:  
11 One-third shall serve for one-year terms, one-third shall serve  
12 for two-year terms, and one-third shall serve for three-year terms  
13 including the members designated chairperson and vice-chairperson.  
14 Thereafter members shall serve for three-year terms. Members may  
15 not serve more than two consecutive three-year terms.

16 (4) The Governor shall make the appointments within three  
17 months after July 13, 2000.

18 (5) The advisory council shall meet quarterly the first  
19 two years. After this time the advisory council shall meet at least  
20 every six months or upon the call of the chairperson or a majority  
21 of the voting members. A quorum shall be one-half of the voting  
22 members.

23 (6) The members of the advisory council shall be  
24 reimbursed for their actual and necessary expenses as provided  
25 in sections 81-1174 to 81-1177 and pursuant to policies of the  
26 advisory council. Funds for reimbursement for expenses shall be  
27 from the Women's Health Initiative Fund.

1           (7) The advisory council shall advise the Women's Health  
2 Initiative of Nebraska in carrying out its duties under section  
3 71-701 and may solicit private funds to support the initiative.

4           (8) The advisory council terminates on December 31, 2009.  
5           Sec. 845. Section 71-703, Revised Statutes Cumulative  
6 Supplement, 2006, is amended to read:

7           71-703 ~~The Director of Regulation and Licensure Health~~  
8 and Human Services System will determine how the ~~Department of~~  
9 ~~Health and Human Services Regulation and Licensure system~~ will  
10 provide personnel to carry out the Women's Health Initiative of  
11 Nebraska. ~~The Director of Regulation and Licensure system~~ shall  
12 employ personnel, including an executive director, necessary to  
13 carry out the powers and duties of the initiative. The Governor's  
14 Policy Research Office, ~~the Department of Health and Human Services~~  
15 ~~Finance and Support,~~ ~~the Department of Health and Human Services~~  
16 ~~Regulation and Licensure,~~ ~~the Department of Health and Human~~  
17 ~~Services,~~ system, and other state agencies as necessary may  
18 provide administrative and technical support under the direct  
19 supervision of the Governor. The initiative may secure cooperation  
20 and assistance of other appropriate government and private-sector  
21 entities for women's health issues, programs, and educational  
22 materials.

23           Sec. 846. Section 71-705, Revised Statutes Cumulative  
24 Supplement, 2006, is amended to read:

25           71-705 The Women's Health Initiative Fund is created.  
26 The fund shall consist of money received as gifts or grants or  
27 collected as fees or charges from any federal, state, public,

1 or private source. Money in the fund shall be used to reimburse  
2 the expenses of the Women's Health Initiative of Nebraska and  
3 expenses of members of the Women's Health Initiative Advisory  
4 Council. Nothing in sections 71-701 to 71-707 requires the Women's  
5 Health Initiative of Nebraska to accept any private donations that  
6 are not in keeping with the goals and objectives set forth by  
7 the initiative and the ~~Department of Health and Human Services~~  
8 ~~Regulation and Licensure~~ Health and Human Services System. No  
9 funds expended or received by or through the initiative shall pay  
10 for abortion referral or abortion services. Any money in the fund  
11 available for investment shall be invested by the state investment  
12 officer pursuant to the Nebraska Capital Expansion Act and the  
13 Nebraska State Funds Investment Act.

14 Sec. 847. Section 71-706, Revised Statutes Cumulative  
15 Supplement, 2006, is amended to read:

16 71-706 The ~~Department of Health and Human Services~~  
17 ~~Regulation and Licensure~~ Health and Human Services System shall  
18 have all powers necessary to implement the purposes and intent of  
19 sections 71-701 to 71-707, including applying for, receiving, and  
20 administering federal and other public and private funds credited  
21 to the Women's Health Initiative Fund. Any funds obtained for the  
22 Women's Health Initiative of Nebraska shall be remitted to the  
23 State Treasurer for credit to the Women's Health Initiative Fund.

24 Sec. 848. Section 71-707, Revised Statutes Cumulative  
25 Supplement, 2006, is amended to read:

26 71-707 The ~~Department of Health and Human Services~~  
27 ~~Regulation and Licensure~~ Health and Human Services System shall

1 issue an annual report to the Governor and the Legislature on  
2 September 1 for the preceding fiscal year's activities of the  
3 Women's Health Initiative of Nebraska. The report shall include  
4 progress reports on any programs, activities, or educational  
5 promotions that were undertaken by the initiative. The report  
6 shall also include a status report on women's health in Nebraska  
7 and any results achieved by the initiative.

8           Sec. 849. Section 71-802, Revised Statutes Cumulative  
9 Supplement, 2006, is amended to read:

10           71-802 The purposes of the Nebraska Behavioral Health  
11 Services Act are to: (1) Reorganize statutes relating to the  
12 provision of publicly funded behavioral health services; (2)  
13 provide for the organization and administration of the public  
14 behavioral health system within the ~~department~~; system; (3) rename  
15 mental health regions as behavioral health regions; (4) provide for  
16 the naming of regional behavioral health authorities and ongoing  
17 activities of regional governing boards; (5) reorganize and rename  
18 the State Mental Health Planning and Evaluation Council, the State  
19 Alcoholism and Drug Abuse Advisory Committee, and the Nebraska  
20 Advisory Commission on Compulsive Gambling; (6) change and add  
21 provisions relating to development of community-based behavioral  
22 health services and funding for behavioral health services; and (7)  
23 authorize the closure of regional centers.

24           Sec. 850. Section 71-804, Revised Statutes Cumulative  
25 Supplement, 2006, is amended to read:

26           71-804 For purposes of the Nebraska Behavioral Health  
27 Services Act:

1           ~~(1) Administrator means the administrator of the~~  
2 ~~division;~~

3           ~~(2)~~ (1) Behavioral health disorder means mental illness  
4 or alcoholism, drug abuse, problem gambling, or other addictive  
5 disorder;

6           ~~(3)~~ (2) Behavioral health region means a behavioral  
7 health region established in section 71-807;

8           ~~(4)~~ (3) Behavioral health services means services,  
9 including, but not limited to, consumer-provided services, support  
10 services, inpatient and outpatient services, and residential and  
11 nonresidential services, provided for the prevention, diagnosis,  
12 and treatment of behavioral health disorders and the rehabilitation  
13 and recovery of persons with such disorders;

14           ~~(5)~~ (4) Community-based behavioral health services or  
15 community-based services means behavioral health services that are  
16 not provided at a regional center;

17           ~~(6) Department means the Department of Health and Human~~  
18 ~~Services;~~

19           ~~(7)~~ (5) Director means the Director of Behavioral Health;  
20 Health and Human Services;

21           ~~(8)~~ (6) Division Department means the Division Department  
22 of Behavioral Health Services of the department; system;

23           ~~(9)~~ (7) Medical assistance program means the program  
24 established pursuant to the Medical Assistance Act;

25           ~~(10) Nebraska Health and Human Services System means the~~  
26 ~~Department of Health and Human Services, the Department of Health~~  
27 ~~and Human Services Regulation and Licensure, and the Department of~~



1 ~~Health and Human Services Finance and Support;~~

2 ~~(11) Policy Cabinet means the Policy Cabinet of the~~  
3 ~~Nebraska Health and Human Services System established in section~~  
4 ~~81-3009;~~

5 ~~(12) (8) Public behavioral health system means the~~  
6 ~~statewide array of behavioral health services for children~~  
7 ~~and adults provided by the public sector or private sector~~  
8 ~~and supported in whole or in part with funding received and~~  
9 ~~administered by the Nebraska Health and Human Services System;~~  
10 system, including behavioral health services provided under the  
11 medical assistance program;

12 ~~(13) (9) Regional center means one of the state hospitals~~  
13 ~~for the mentally ill designated in section 83-305; and~~

14 ~~(14) (10) Regional center behavioral health services or~~  
15 ~~regional center services means behavioral health services provided~~  
16 ~~at a regional center; and -~~

17 (11) System means the Health and Human Services System.

18 Sec. 851. Section 71-805, Revised Statutes Cumulative  
19 Supplement, 2006, is amended to read:

20 71-805 ~~(1) The Division of Behavioral Health Services is~~  
21 ~~established within the department. The division shall establish and~~  
22 ~~maintain a separate budget and shall separately account for all~~  
23 ~~revenue and expenditures.~~

24 ~~(2) The administrator of the division shall be appointed~~  
25 ~~by the Governor and confirmed by a majority of the members of the~~  
26 ~~Legislature. The administrator shall report to the director and~~  
27 ~~shall be responsible for the administration and management of the~~

1 ~~division.~~ (1) The director shall appoint a chief clinical officer  
2 and a program administrator for consumer affairs for the ~~division.~~  
3 department. The chief clinical officer shall be a board-certified  
4 psychiatrist and shall serve as the medical director for the  
5 ~~division~~ department and all facilities and programs operated by  
6 the ~~division.~~ department. The program administrator for consumer  
7 affairs shall be a consumer or former consumer of behavioral health  
8 services and shall have specialized knowledge, experience, or  
9 expertise relating to consumer-directed behavioral health services,  
10 behavioral health delivery systems, and advocacy on behalf of  
11 consumers of behavioral health services and their families. The  
12 chief clinical officer and the program administrator for consumer  
13 affairs shall report to the ~~administrator of the division.~~  
14 director. The Governor and the director shall conduct a search for  
15 qualified candidates and shall solicit and consider recommendations  
16 from interested parties for such positions prior to making such  
17 appointments.

18 (3) The ~~administrator of the division~~ director shall  
19 establish and maintain an office of consumer affairs within  
20 the ~~division.~~ department. The program administrator for consumer  
21 affairs shall be responsible for the administration and management  
22 of the office.

23 Sec. 852. Section 71-806, Revised Statutes Cumulative  
24 Supplement, 2006, is amended to read:

25 71-806 (1) The ~~division~~ department shall act as the chief  
26 behavioral health authority for the State of Nebraska and shall  
27 direct the administration and coordination of the public behavioral

1 health system, including, but not limited to: (a) Administration  
2 and management of the ~~division,~~ department, regional centers,  
3 and any other facilities and programs operated by the ~~division,~~  
4 department; (b) integration and coordination of the public  
5 behavioral health system; (c) comprehensive statewide planning  
6 for the provision of an appropriate array of community-based  
7 behavioral health services and continuum of care; (d) coordination  
8 and oversight of regional behavioral health authorities, including  
9 approval of regional budgets and audits of regional behavioral  
10 health authorities; (e) development and management of data and  
11 information systems; (f) prioritization and approval of all  
12 expenditures of funds received and administered by the ~~division,~~  
13 department, including the establishment of rates to be paid and  
14 reimbursement methodologies for behavioral health services and fees  
15 to be paid by consumers of such services; (g) cooperation with the  
16 ~~Department of Health and Human Services Regulation and Licensure~~  
17 system in the licensure and regulation of behavioral health  
18 professionals, programs, and facilities; (h) cooperation with the  
19 ~~Department of Health and Human Services Finance and Support~~ system  
20 in the provision of behavioral health services under the medical  
21 assistance program; (i) audits of behavioral health programs and  
22 services; and (j) promotion of activities in research and education  
23 to improve the quality of behavioral health services, recruitment  
24 and retention of behavioral health professionals, and access to  
25 behavioral health programs and services.

26 (2) The ~~department~~ system shall adopt and promulgate  
27 rules and regulations to carry out the Nebraska Behavioral Health

1 Services Act.

2 Sec. 853. Section 71-808, Revised Statutes Cumulative  
3 Supplement, 2006, is amended to read:

4 71-808 (1) A regional behavioral health authority shall  
5 be established in each behavioral health region by counties acting  
6 under provisions of the Interlocal Cooperation Act. Each regional  
7 behavioral health authority shall be governed by a regional  
8 governing board consisting of one county board member from each  
9 county in the region. Board members shall serve for staggered  
10 terms of three years and until their successors are appointed and  
11 qualified. Board members shall serve without compensation but shall  
12 be reimbursed for their actual and necessary expenses as provided  
13 in sections 81-1174 to 81-1177.

14 (2) The regional governing board shall appoint a regional  
15 administrator who shall be responsible for the administration  
16 and management of the regional behavioral health authority.  
17 Each regional behavioral health authority shall encourage and  
18 facilitate the involvement of consumers in all aspects of service  
19 planning and delivery within the region and shall coordinate such  
20 activities with the office of consumer affairs within the ~~division.~~  
21 department. Each regional behavioral health authority shall  
22 establish and utilize a regional advisory committee consisting  
23 of consumers, providers, and other interested parties and may  
24 establish and utilize such other task forces, subcommittees, or  
25 other committees as it deems necessary and appropriate to carry out  
26 its duties under this section.

27 (3) Each county in a behavioral health region shall

1 provide funding for the operation of the behavioral health  
2 authority and for the provision of behavioral health services  
3 in the region. The total amount of funding provided by counties  
4 under this subsection shall be equal to one dollar for every  
5 three dollars from the General Fund. The ~~division~~ department  
6 shall annually certify the total amount of county matching funds  
7 to be provided. At least forty percent of such amount shall  
8 consist of local and county tax revenue, and the remainder shall  
9 consist of other nonfederal sources. The regional governing board  
10 of each behavioral health authority, in consultation with all  
11 counties in the region, shall determine the amount of funding  
12 to be provided by each county under this subsection. Any General  
13 Funds transferred from regional centers for the provision of  
14 community-based behavioral health services after July 1, 2004,  
15 shall be excluded from any calculation of county matching funds  
16 under this subsection.

17           Sec. 854. Section 71-809, Revised Statutes Cumulative  
18 Supplement, 2006, is amended to read:

19           71-809 (1) Each regional behavioral health authority  
20 shall be responsible for the development and coordination of  
21 publicly funded behavioral health services within the behavioral  
22 health region pursuant to rules and regulations adopted and  
23 promulgated by the ~~department,~~ system, including, but not limited  
24 to, (a) administration and management of the regional behavioral  
25 health authority, (b) integration and coordination of the public  
26 behavioral health system within the behavioral health region, (c)  
27 comprehensive planning for the provision of an appropriate array

1 of community-based behavioral health services and continuum of  
2 care for the region, (d) submission for approval by the division  
3 of an annual budget and a proposed plan for the funding and  
4 administration of publicly funded behavioral health services within  
5 the region, (e) submission of annual reports and other reports as  
6 required by the ~~division~~, department, (f) initiation and oversight  
7 of contracts for the provision of publicly funded behavioral health  
8 services, and (g) coordination with the ~~division~~ department in  
9 conducting audits of publicly funded behavioral health programs and  
10 services.

11 (2) Except for services being provided by a regional  
12 behavioral health authority on July 1, 2004, under applicable  
13 state law in effect prior to such date, no regional behavioral  
14 health authority shall provide behavioral health services funded  
15 in whole or in part with revenue received and administered by the  
16 ~~division~~ department under the Nebraska Behavioral Health Services  
17 Act unless:

18 (a) There has been a public competitive bidding process  
19 for such services;

20 (b) There are no qualified and willing providers to  
21 provide such services; and

22 (c) The regional behavioral health authority receives  
23 written authorization from the administrator and enters into a  
24 contract with the ~~division~~ department to provide such services.

25 (3) Each regional behavioral health authority shall  
26 comply with all applicable rules and regulations of the ~~department~~  
27 system relating to the provision of behavioral health services

1 by such authority, including, but not limited to, rules and  
2 regulations which (a) establish definitions of conflicts of  
3 interest for regional behavioral health authorities and procedures  
4 in the event such conflicts arise, (b) establish uniform and  
5 equitable public bidding procedures for such services, and (c)  
6 require each regional behavioral health authority to establish and  
7 maintain a separate budget and separately account for all revenue  
8 and expenditures for the provision of such services.

9           Sec. 855. Section 71-810, Revised Statutes Cumulative  
10 Supplement, 2006, is amended to read:

11           71-810 (1) The ~~division~~ department shall encourage  
12 and facilitate the statewide development and provision of an  
13 appropriate array of community-based behavioral health services  
14 and continuum of care for the purposes of (a) providing greater  
15 access to such services and improved outcomes for consumers of such  
16 services and (b) reducing the necessity and demand for regional  
17 center behavioral health services.

18           (2) The ~~division~~ department may reduce or discontinue  
19 regional center behavioral health services only if (a) appropriate  
20 community-based services or other regional center behavioral health  
21 services are available for every person receiving the regional  
22 center services that would be reduced or discontinued, (b) such  
23 services possess sufficient capacity and capability to effectively  
24 replace the service needs which otherwise would have been  
25 provided at such regional center, and (c) no further commitments,  
26 admissions, or readmissions for such services are required due  
27 to the availability of community-based services or other regional

1 center services to replace such services.

2 (3) The ~~division~~ department shall notify the Governor  
3 and the Legislature of any intended reduction or discontinuation  
4 of regional center services under this section. Such notice shall  
5 include detailed documentation of the community-based services or  
6 other regional center services that are being utilized to replace  
7 such services. The Behavioral Health Oversight Commission of the  
8 Legislature shall review such documentation and shall report to  
9 the Governor and the Health and Human Services Committee of the  
10 Legislature whether, in its opinion, the requirements of subsection  
11 (2) of this section have been met with respect to such intended  
12 reduction or discontinuation of regional center services and shall  
13 enumerate the criteria used by the commission in making such  
14 determination.

15 (4) As regional center services are reduced or  
16 discontinued under this section, the ~~division~~ department shall make  
17 appropriate corresponding reductions in regional center personnel  
18 and other expenditures related to the provision of such services.  
19 All funding related to the provision of regional center services  
20 that are reduced or discontinued under this section shall be  
21 reallocated and expended by the division for purposes related  
22 to the statewide development and provision of community-based  
23 services.

24 (5) The ~~division~~ department may establish state-operated  
25 community-based services to replace regional center services that  
26 are reduced or discontinued under this section. The ~~division~~  
27 department shall provide regional center employees with appropriate



1 training and support to transition such employees into positions as  
2 may be necessary for the provision of such state-operated services.

3 (6) When the occupancy of the licensed psychiatric  
4 hospital beds of any regional center reaches twenty percent or  
5 less of its licensed psychiatric hospital bed capacity on March  
6 15, 2004, the ~~division~~ department shall notify the Governor and  
7 the Legislature of such fact. Upon such notification, the ~~division,~~  
8 department, with the approval of a majority of members of the  
9 Executive Board of the Legislative Council, may provide for the  
10 transfer of all remaining patients at such center to appropriate  
11 community-based services or other regional center services pursuant  
12 to this section and cease the operation of such regional center.

13 (7) The ~~division,~~ department, in consultation with  
14 each regional behavioral health authority, shall establish and  
15 maintain a data and information system for all persons receiving  
16 state-funded behavioral health services under the Nebraska  
17 Behavioral Health Services Act. Information maintained by the  
18 ~~division~~ department shall include, but not be limited to, (a)  
19 the number of persons receiving regional center services, (b)  
20 the number of persons ordered by a mental health board to  
21 receive inpatient or outpatient treatment and receiving regional  
22 center services, (c) the number of persons ordered by a mental  
23 health board to receive inpatient or outpatient treatment and  
24 receiving community-based services, (d) the number of persons  
25 voluntarily admitted to a regional center and receiving regional  
26 center services, (e) the number of persons waiting to receive  
27 regional center services, (f) the number of persons waiting to

1 be transferred from a regional center to community-based services  
2 or other regional center services, (g) the number of persons  
3 discharged from a regional center who are receiving community-based  
4 services or other regional center services, and (h) the number  
5 of persons admitted to behavioral health crisis centers. Each  
6 regional behavioral health authority shall provide such information  
7 as requested by the ~~division~~ department and necessary to carry  
8 out this subsection. The division shall submit reports of such  
9 information to the Governor and the Legislature on a quarterly  
10 basis beginning July 1, 2005, in a format which does not identify  
11 any person by name, address, county of residence, social security  
12 number, or other personally identifying characteristic.

13 (8) The provisions of this section are self-executing and  
14 require no further authorization or other enabling legislation.

15 Sec. 856. Section 71-811, Revised Statutes Cumulative  
16 Supplement, 2006, is amended to read:

17 71-811 The ~~division~~ department shall coordinate the  
18 integration and management of all funds appropriated by the  
19 Legislature or otherwise received by the ~~Nebraska Health and~~  
20 ~~Human Services System~~ system from any other public or private  
21 source and designated by the Policy Cabinet for the provision of  
22 behavioral health services to ensure the statewide availability of  
23 an appropriate array of community-based behavioral health services  
24 and continuum of care and the allocation of such funds to support  
25 the consumer and his or her plan of treatment.

26 Sec. 857. Section 71-812, Revised Statutes Cumulative  
27 Supplement, 2006, is amended to read:

1           71-812 (1) The Behavioral Health Services Fund is  
2 created. The fund shall be administered by the ~~division~~ department  
3 and shall contain cash funds appropriated by the Legislature or  
4 otherwise received by the ~~Nebraska Health and Human Services System~~  
5 system for the provision of behavioral health services from any  
6 other public or private source and directed by ~~the Policy Cabinet~~  
7 ~~or~~ the Legislature for credit to the fund.

8           (2) The fund shall be used to encourage and facilitate  
9 the statewide development and provision of community-based  
10 behavioral health services, including, but not limited to, (a) the  
11 provision of grants, loans, and other assistance for such purpose  
12 and (b) reimbursement to providers of such services.

13           (3) (a) Money transferred to the fund under section  
14 76-903 shall be used for housing-related assistance for very  
15 low-income adults with serious mental illness, except that if the  
16 ~~division~~ department determines that all housing-related assistance  
17 obligations under this subsection have been fully satisfied, the  
18 ~~division~~ department may distribute any excess, up to twenty percent  
19 of such money, to regional behavioral health authorities for  
20 acquisition or rehabilitation of housing to assist such persons.  
21 The ~~division~~ department shall manage and distribute such funds  
22 based upon a formula established by the ~~division~~, department,  
23 in consultation with regional behavioral health authorities and  
24 the ~~Department of Health and Human Services Finance and Support~~,  
25 system, in a manner consistent with and reasonably calculated  
26 to promote the purposes of the public behavioral health system  
27 enumerated in section 71-803. The ~~division~~ department shall

1 contract with each regional behavioral health authority for the  
2 provision of such assistance. Each regional behavioral health  
3 authority may contract with qualifying public, private, or  
4 nonprofit entities for the provision of such assistance.

5 (b) For purposes of this subsection:

6 (i) Adult with serious mental illness means a person  
7 eighteen years of age or older who has, or at any time during  
8 the immediately preceding twelve months has had, a diagnosable  
9 mental, behavioral, or emotional disorder of sufficient duration  
10 to meet diagnostic criteria identified in the most recent edition  
11 of the Diagnostic and Statistical Manual of Mental Disorders and  
12 which has resulted in functional impairment that substantially  
13 interferes with or limits one or more major life functions. Serious  
14 mental illness does not include DSM V codes, substance abuse  
15 disorders, or developmental disabilities unless such conditions  
16 exist concurrently with a diagnosable serious mental illness;

17 (ii) Housing-related assistance includes rental payments,  
18 utility payments, security and utility deposits, and other related  
19 costs and payments; and

20 (iii) Very low-income means a household income of fifty  
21 percent or less of the applicable median family income estimate as  
22 established by the United States Department of Housing and Urban  
23 Development.

24 (4) Any money in the fund available for investment  
25 shall be invested by the state investment officer pursuant to  
26 the Nebraska Capital Expansion Act and the Nebraska State Funds  
27 Investment Act.

1           Sec. 858. Section 71-814, Revised Statutes Cumulative  
2 Supplement, 2006, is amended to read:

3           71-814 (1) The State Advisory Committee on Mental Health  
4 Services is created. Members of the committee shall have a  
5 demonstrated interest and commitment and specialized knowledge,  
6 experience, or expertise relating to the provision of mental  
7 health services in the State of Nebraska. The committee shall  
8 consist of twenty-three members appointed by the Governor as  
9 follows: (a) One regional governing board member, (b) one regional  
10 administrator, (c) twelve consumers of behavioral health services  
11 or their family members, (d) two providers of behavioral health  
12 services, (e) two representatives from the State Department of  
13 Education, including one representative from the Division of  
14 Vocational Rehabilitation of the State Department of Education,  
15 (f) three representatives from the ~~Nebraska~~ Health and Human  
16 Services System representing mental health, social services, and  
17 medicaid, (g) one representative from the Nebraska Commission on  
18 Law Enforcement and Criminal Justice, and (h) one representative  
19 from the Housing Office of the Community and Rural Development  
20 Division of the Department of Economic Development.

21           (2) The committee shall be responsible to the ~~division~~  
22 department and shall (a) serve as the state's mental health  
23 planning council as required by Public Law 102-321, (b) conduct  
24 regular meetings, (c) provide advice and assistance to the  
25 division relating to the provision of mental health services  
26 in the State of Nebraska, including, but not limited to, the  
27 development, implementation, provision, and funding of organized

1 peer support services, (d) promote the interests of consumers and  
2 their families, including, but not limited to, their inclusion  
3 and involvement in all aspects of services design, planning,  
4 implementation, provision, education, evaluation, and research, (e)  
5 provide reports as requested by the ~~division~~, department, and (f)  
6 engage in such other activities as directed or authorized by the  
7 ~~division~~. department.

8           Sec. 859. Section 71-815, Revised Statutes Cumulative  
9 Supplement, 2006, is amended to read:

10           71-815 (1) The State Advisory Committee on Substance  
11 Abuse Services is created. Members of the committee shall have  
12 a demonstrated interest and commitment and specialized knowledge,  
13 experience, or expertise relating to the provision of substance  
14 abuse services in the State of Nebraska. The committee shall  
15 consist of twelve members appointed by the Governor and shall  
16 include at least three consumers of substance abuse services.

17           (2) The committee shall be responsible to the ~~division~~  
18 department and shall (a) conduct regular meetings, (b) provide  
19 advice and assistance to the ~~division~~ department relating to the  
20 provision of substance abuse services in the State of Nebraska, (c)  
21 promote the interests of consumers and their families, (d) provide  
22 reports as requested by the ~~division~~, department, and (e) engage in  
23 such other activities as directed or authorized by the ~~division~~.  
24 department.

25           Sec. 860. Section 71-816, Revised Statutes Cumulative  
26 Supplement, 2006, is amended to read:

27           71-816 (1) The State Advisory Committee on Problem

1 Gambling and Addiction Services is created. Members of the  
2 committee shall have a demonstrated interest and commitment and  
3 specialized knowledge, experience, or expertise relating to the  
4 provision of problem gambling and addiction services in the  
5 State of Nebraska. The committee shall consist of twelve members  
6 appointed by the Governor and shall include at least three  
7 consumers of problem gambling or addiction services.

8 (2) The committee shall be responsible to the ~~division~~  
9 department and shall (a) conduct regular meetings, (b) provide  
10 advice and assistance to the ~~division~~ department relating to  
11 the provision of problem gambling and addiction services in the  
12 State of Nebraska, (c) evaluate applications for funding from  
13 the Compulsive Gamblers Assistance Fund and make recommendations  
14 relating to disbursements from the fund, (d) promote the interests  
15 of consumers and their families, (e) provide reports as requested  
16 by the ~~division~~, department, and (f) engage in such other  
17 activities as directed or authorized by the ~~division~~. department.

18 Sec. 861. Section 71-817, Revised Statutes Cumulative  
19 Supplement, 2006, is amended to read:

20 71-817 The Compulsive Gamblers Assistance Fund is  
21 created. The fund shall include revenue transferred from the State  
22 Lottery Operation Trust Fund under section 9-812 and the Charitable  
23 Gaming Operations Fund under section 9-1,101 and any other revenue  
24 received by the ~~division~~ department for credit to the fund from  
25 any other public or private source, including, but not limited to,  
26 appropriations, grants, donations, gifts, devises, bequests, fees,  
27 or reimbursements. The ~~division~~ department shall administer the

1 fund for the treatment of problem gamblers as recommended by the  
2 State Advisory Committee on Problem Gambling and Addiction Services  
3 established under section 71-816 and shall spend no more than ten  
4 percent of the money appropriated to the fund for administrative  
5 costs. The Director of Administrative Services shall draw warrants  
6 upon the Compulsive Gamblers Assistance Fund upon the presentation  
7 of proper vouchers by the ~~division~~ department. Money from the  
8 Compulsive Gamblers Assistance Fund shall be used exclusively  
9 for the purpose of providing assistance to agencies, groups,  
10 organizations, and individuals that provide education, assistance,  
11 and counseling to individuals and families experiencing difficulty  
12 as a result of problem gambling, to promote the awareness of  
13 gamblers assistance programs, and to pay the costs and expenses of  
14 the ~~division~~ department and the committee with regard to problem  
15 gambling. The ~~division~~ department shall not provide any direct  
16 services to problem gamblers or their families. Funds appropriated  
17 from the Compulsive Gamblers Assistance Fund shall not be granted  
18 or loaned to or administered by any regional behavioral health  
19 authority unless the authority is a direct provider of a problem  
20 gamblers assistance program. Any money in the fund available for  
21 investment shall be invested by the state investment officer  
22 pursuant to the Nebraska Capital Expansion Act and the Nebraska  
23 State Funds Investment Act.

24           Sec. 862. Section 71-916, Revised Statutes Cumulative  
25 Supplement, 2006, is amended to read:

26           71-916 (1) The ~~Department of Health and Human Services~~  
27 Health and Human Services System shall provide appropriate training



1 to members and alternate members of each mental health board  
2 and shall consult with consumer and family advocacy groups in  
3 the development and presentation of such training. Members and  
4 alternate members shall be reimbursed for any actual and necessary  
5 expenses incurred in attending such training in a manner and  
6 amount determined by the presiding judge of the district court.  
7 No person shall remain on a mental health board or be eligible  
8 for appointment or reappointment as a member or alternate member  
9 of such board unless he or she has attended and satisfactorily  
10 completed such training pursuant to rules and regulations adopted  
11 and promulgated by the ~~department~~ system.

12 (2) The ~~Director of Health and Human Services~~ system  
13 shall provide the mental health boards with blanks for warrants,  
14 certificates, and other forms and printed copies of applicable  
15 rules and regulations of the ~~department~~ system that will enable  
16 the boards to carry out their powers and duties under the Nebraska  
17 Mental Health Commitment Act or the Sex Offender Commitment Act.

18 Sec. 863. Section 71-919, Revised Statutes Cumulative  
19 Supplement, 2006, is amended to read:

20 71-919 (1) A law enforcement officer who has probable  
21 cause to believe that a person is mentally ill and dangerous or  
22 a dangerous sex offender and that the harm described in section  
23 71-908 or subdivision (1) of section 83-174.01 is likely to occur  
24 before mental health board proceedings under the Nebraska Mental  
25 Health Commitment Act or the Sex Offender Commitment Act may be  
26 initiated to obtain custody of the person may take such person into  
27 emergency protective custody, cause him or her to be taken into

1 emergency protective custody, or continue his or her custody if  
2 he or she is already in custody. Such person shall be admitted to  
3 an appropriate and available medical facility, jail, or Department  
4 of Correctional Services facility as provided in subsection (2) of  
5 this section. Each county shall make arrangements with appropriate  
6 facilities inside or outside the county for such purpose and shall  
7 pay the cost of the emergency protective custody of persons from  
8 such county in such facilities. A mental health professional who  
9 has probable cause to believe that a person is mentally ill and  
10 dangerous or a dangerous sex offender may cause such person to be  
11 taken into custody and shall have a limited privilege to hold such  
12 person until a law enforcement officer or other authorized person  
13 arrives to take custody of such person.

14           (2) (a) A person taken into emergency protective custody  
15 under this section shall be admitted to an appropriate and  
16 available medical facility unless such person has a prior  
17 conviction for a sex offense listed in section 29-4003.

18           (b) A person taken into emergency protective custody  
19 under this section who has a prior conviction for a sex offense  
20 listed in section 29-4003 shall be admitted to a jail or Department  
21 of Correctional Services facility unless a medical or psychiatric  
22 emergency exists for which treatment at a medical facility is  
23 required. The person in emergency protective custody shall remain  
24 at the medical facility until the medical or psychiatric emergency  
25 has passed and it is safe to transport such person, at which time  
26 the person shall be transferred to an available jail or Department  
27 of Correctional Services facility.

1           (3) Upon admission to a facility of a person taken into  
2 emergency protective custody by a law enforcement officer under  
3 this section, such officer shall execute a written certificate  
4 prescribed and provided by the ~~Director of Health and Human~~  
5 ~~Services-~~ Health and Human Services System. The certificate shall  
6 allege the officer's belief that the person in custody is mentally  
7 ill and dangerous or a dangerous sex offender and shall contain  
8 a summary of the person's behavior supporting such allegations.  
9 A copy of such certificate shall be immediately forwarded to the  
10 county attorney.

11           (4) The administrator of the facility shall have such  
12 person evaluated by a mental health professional as soon as  
13 reasonably possible but not later than thirty-six hours after  
14 admission. The mental health professional shall not be the mental  
15 health professional who causes such person to be taken into custody  
16 under this section and shall not be a member or alternate member  
17 of the mental health board that will preside over any hearing  
18 under the Nebraska Mental Health Commitment Act or the Sex Offender  
19 Commitment Act with respect to such person. A person shall be  
20 released from emergency protective custody after completion of such  
21 evaluation unless the mental health professional determines, in  
22 his or her clinical opinion, that such person is mentally ill and  
23 dangerous or a dangerous sex offender.

24           Sec. 864. Section 71-925, Revised Statutes Cumulative  
25 Supplement, 2006, is amended to read:

26           71-925 (1) The state has the burden to prove by clear  
27 and convincing evidence that (a) the subject is mentally ill

1 and dangerous and (b) neither voluntary hospitalization nor other  
2 treatment alternatives less restrictive of the subject's liberty  
3 than inpatient or outpatient treatment ordered by the mental health  
4 board are available or would suffice to prevent the harm described  
5 in section 71-908.

6 (2) If the mental health board finds that the subject  
7 is not mentally ill and dangerous, the board shall dismiss the  
8 petition and order the unconditional discharge of the subject.

9 (3) If the mental health board finds that the subject  
10 is mentally ill and dangerous but that voluntary hospitalization  
11 or other treatment alternatives less restrictive of the subject's  
12 liberty than treatment ordered by the mental health board are  
13 available and would suffice to prevent the harm described in  
14 section 71-908, the board shall (a) dismiss the petition and order  
15 the unconditional discharge of the subject or (b) suspend further  
16 proceedings for a period of up to ninety days to permit the  
17 subject to obtain voluntary treatment. At any time during such  
18 ninety-day period, the county attorney may apply to the board for  
19 reinstatement of proceedings with respect to the subject, and after  
20 notice to the subject, the subject's counsel, and the subject's  
21 legal guardian or conservator, if any, the board shall hear the  
22 application. If no such application is filed or pending at the  
23 conclusion of such ninety-day period, the board shall dismiss the  
24 petition and order the unconditional discharge of the subject.

25 (4) If the subject admits the allegations of the petition  
26 or the mental health board finds that the subject is mentally ill  
27 and dangerous and that neither voluntary hospitalization nor other

1 treatment alternatives less restrictive of the subject's liberty  
2 than inpatient or outpatient treatment ordered by the board are  
3 available or would suffice to prevent the harm described in section  
4 71-908, the board shall, within forty-eight hours, (a) order the  
5 subject to receive outpatient treatment or (b) order the subject to  
6 receive inpatient treatment. If the subject is ordered by the board  
7 to receive inpatient treatment, the order shall commit the subject  
8 to the custody of the ~~Department of Health and Human Services~~  
9 Health and Human Services System for such treatment.

10 (5) A subject who (a) is ordered by the mental health  
11 board to receive inpatient treatment and (b) has not yet been  
12 admitted for such treatment pursuant to such order may petition for  
13 a rehearing by the mental health board based on improvement in the  
14 subject's condition such that inpatient treatment ordered by the  
15 board would no longer be necessary or appropriate.

16 (6) A treatment order by the mental health board  
17 under this section shall represent the appropriate available  
18 treatment alternative that imposes the least possible restraint  
19 upon the liberty of the subject. The board shall consider  
20 all treatment alternatives, including any treatment program or  
21 conditions suggested by the subject, the subject's counsel, or  
22 other interested person. Inpatient hospitalization or custody shall  
23 only be considered as a treatment alternative of last resort.  
24 The county attorney and the subject may jointly offer a proposed  
25 treatment order for adoption by the board. The board may enter the  
26 proposed order without a full hearing.

27 (7) The mental health board may request the assistance

1 of the ~~Department of Health and Human Services~~ Health and Human  
2 Services System or any other person or public or private entity to  
3 advise the board prior to the entry of a treatment order pursuant  
4 to this section and may require the subject to submit to reasonable  
5 psychiatric and psychological evaluation to assist the board in  
6 preparing such order. Any mental health professional conducting  
7 such evaluation at the request of the mental health board shall be  
8 compensated by the county or counties served by such board at a  
9 rate determined by the district judge and reimbursed for mileage at  
10 the rate provided in section 81-1176.

11           Sec. 865. Section 71-927, Revised Statutes Cumulative  
12 Supplement, 2006, is amended to read:

13           71-927 If the mental health board finds the subject to  
14 be mentally ill and dangerous and commits the subject to the  
15 custody of the ~~Department of Health and Human Services~~ Health  
16 and Human Services System to receive inpatient treatment, the  
17 ~~department~~ system shall secure placement of the subject in an  
18 appropriate inpatient treatment facility to receive such treatment.  
19 The board shall issue a warrant authorizing the administrator  
20 of such treatment facility to receive and keep the subject as  
21 a patient. The warrant shall state the findings of the board  
22 and the legal settlement of the subject, if known, or any  
23 available information relating thereto. Such warrant shall shield  
24 every official and employee of the treatment facility against all  
25 liability to prosecution of any kind on account of the reception  
26 and detention of the subject if the detention is otherwise in  
27 accordance with the Nebraska Mental Health Commitment Act, rules

1 and regulations adopted and promulgated under the act, and policies  
2 of the treatment facility.

3 Sec. 866. Section 71-961, Revised Statutes Cumulative  
4 Supplement, 2006, is amended to read:

5 71-961 (1) All records kept on any subject shall remain  
6 confidential except as otherwise provided by law. Such records  
7 shall be accessible to (a) the subject, except as otherwise  
8 provided in subsection (2) of this section, (b) the subject's legal  
9 counsel, (c) the subject's guardian or conservator, if any, (d)  
10 the mental health board having jurisdiction over the subject, (e)  
11 persons authorized by an order of a judge or court, (f) persons  
12 authorized by written permission of the subject, (g) agents or  
13 employees of the ~~Department of Health and Human Services Regulation~~  
14 ~~and Licensure~~ Health and Human Services System upon delivery  
15 of a subpoena from the ~~department~~ system in connection with a  
16 licensing or licensure investigation by the ~~department,~~ system, (h)  
17 individuals authorized to receive notice of the release of a sex  
18 offender pursuant to section 83-174, (i) the Nebraska State Patrol  
19 or the ~~Department of Health and Human Services~~ system pursuant  
20 to section 69-2409.01, or (j) the Office of Parole Administration  
21 if the subject meets the requirements for lifetime community  
22 supervision pursuant to section 83-174.03.

23 (2) Upon application by the county attorney or by the  
24 administrator of the treatment facility where the subject is in  
25 custody and upon a showing of good cause therefor, a judge of  
26 the district court of the county where the mental health board  
27 proceedings were held or of the county where the treatment facility

1 is located may order that the records not be made available to  
2 the subject if, in the judgment of the court, the availability of  
3 such records to the subject will adversely affect his or her mental  
4 illness or personality disorder and the treatment thereof.

5 (3) When a subject is absent without authorization from  
6 a treatment facility or program described in section 71-939 or  
7 71-1223 and is considered to be dangerous to others, the subject's  
8 name and description and a statement that the subject is believed  
9 to be considered dangerous to others may be disclosed in order to  
10 aid in the subject's apprehension and to warn the public of such  
11 danger.

12 Sec. 867. Section 71-1001, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 71-1001 The heads of the anatomy departments of the  
15 medical schools and colleges of this state, one professor of  
16 anatomy appointed by the head of the anatomy department from each  
17 medical school or college of this state, one professor of anatomy  
18 appointed from each dental school or college of this state, and one  
19 layperson appointed by the ~~Department of Health and Human Services~~  
20 ~~Regulation and Licensure~~ Health and Human Services System shall  
21 constitute the State Anatomical Board of the State of Nebraska  
22 for the distribution, delivery, and use of certain dead human  
23 bodies, described in section 71-1002, to and among such schools,  
24 colleges, and persons as are entitled thereto under the provisions  
25 of such section. The board shall have power to establish rules and  
26 regulations for its government and for the collection, storage, and  
27 distribution of dead human bodies for anatomical purposes. It shall



1 have power to appoint and remove its officers and agents. It shall  
2 keep minutes of its meetings. It shall cause a record to be kept of  
3 all of its transactions, of bodies received and distributed by it,  
4 and of the school, college, or person receiving every such body,  
5 and its records shall be open at all times to the inspection of  
6 each member of the board and to every county attorney within this  
7 state.

8 Sec. 868. Section 71-1106, Revised Statutes Cumulative  
9 Supplement, 2006, is amended to read:

10 71-1106 System means the Health and Human Services  
11 System. Department means the Department of Health and Human  
12 Services.

13 Sec. 869. Section 71-1119, Revised Statutes Cumulative  
14 Supplement, 2006, is amended to read:

15 71-1119 (1) The petitioner may apply to the court to have  
16 the subject taken into emergency custody and held pending a hearing  
17 on the petition and disposition pursuant to sections 71-1122 to  
18 71-1126. The application for emergency custody shall be supported  
19 by affidavit or sworn testimony which establishes probable cause  
20 to believe that (a) the subject is eighteen years of age or older  
21 or will become eighteen years of age within ninety days after the  
22 date of filing the application, (b) the subject is a person with a  
23 developmental disability, (c) the subject poses a threat of harm to  
24 others, and (d) if the application is not granted, substantial harm  
25 to others is likely to occur before a trial and disposition of the  
26 matter can be completed.

27 (2) If the court concludes that there is probable cause

1 to grant the application pursuant to subsection (1) of this  
2 section, the court may issue an ex parte order granting the  
3 application. The ~~department~~ system shall provide a recommendation  
4 of an appropriate treatment program for the subject which has  
5 available space and is willing to hold the subject in emergency  
6 custody. The court shall direct the sheriff or any other peace  
7 officer to take the subject into emergency custody and deliver him  
8 or her to the program ordered by the court to be held pending  
9 further hearing and order of the court. The order shall establish  
10 terms and conditions of the emergency placement as appropriate  
11 under the Developmental Disabilities Court-Ordered Custody Act. The  
12 ~~department~~ system shall evaluate the subject within seven days  
13 after the date the application is granted to determine if the  
14 subject is a person with one or more developmental disabilities and  
15 poses a threat of harm to others. The results of the evaluation  
16 shall be provided to the court and all parties.

17           Sec. 870. Section 71-1121, Revised Statutes Cumulative  
18 Supplement, 2006, is amended to read:

19           71-1121 The petitioner shall cause notice of the petition  
20 and summons to be served on the subject, the subject's attorney,  
21 if any, the subject's guardian, if any, the subject's closest  
22 relative, if known, any other person having custody and control of  
23 the subject, if known, and the ~~department.~~ system.

24           Sec. 871. Section 71-1122, Revised Statutes Cumulative  
25 Supplement, 2006, is amended to read:

26           71-1122 When a petition is filed under the Developmental  
27 Disabilities Court-Ordered Custody Act, the court shall ensure

1 that the subject is represented by legal counsel and shall set  
2 a time and date for a hearing on the petition. The clerk of  
3 the court shall provide notice of the date and time of such  
4 hearing to the subject, the subject's legal counsel, the subject's  
5 guardian, if any, the subject's closest relative, if known, any  
6 other person having custody and control of the subject, if known,  
7 the petitioner, and the ~~department~~ system. The notice of hearing  
8 on the petition shall state the date, time, and location of the  
9 hearing and shall contain a list of the subject's rights under  
10 section 71-1118. The court may order an examination and evaluation  
11 of the subject to be completed by the ~~department~~ system prior to  
12 the hearing, and the results shall be provided to all parties. The  
13 hearing on the petition shall be held within ninety days after the  
14 date of filing the petition or, if the subject is in emergency  
15 custody pursuant to section 71-1119, as soon as practicable but not  
16 later than forty-five days from the date when the subject was taken  
17 into emergency custody unless continuances are granted by the court  
18 upon the subject's motion.

19 Sec. 872. Section 71-1124, Revised Statutes Cumulative  
20 Supplement, 2006, is amended to read:

21 71-1124 The petitioner has the burden to prove by clear  
22 and convincing evidence that the subject is a person in need of  
23 court-ordered custody and treatment. The court shall make specific  
24 findings of fact and state its conclusions of law.

25 If after the hearing is complete the court finds that  
26 the subject is not a person in need of court-ordered custody and  
27 treatment, it shall dismiss the petition and immediately release

1 the subject from any emergency custody order.

2 If after the hearing is complete the court finds that the  
3 subject is a person in need of court-ordered custody and treatment,  
4 the court shall order the ~~department~~ system to evaluate the subject  
5 and submit a plan for custody and treatment of the subject in  
6 the least restrictive alternative within thirty days and provide a  
7 copy to all parties in interest. The court shall set the matter  
8 for dispositional hearing within fifteen days after receipt of the  
9 ~~department's~~ system's plan, unless continued for good cause shown.

10 Sec. 873. Section 71-1125, Revised Statutes Cumulative  
11 Supplement, 2006, is amended to read:

12 71-1125 The plan submitted by the ~~department~~ system  
13 pursuant to section 71-1124 shall include the evaluation and  
14 recommendations of an independent mental health professional. The  
15 independent mental health professional may have been previously  
16 involved in evaluating the subject and advising the court pursuant  
17 to the Developmental Disabilities Court-Ordered Custody Act and  
18 may also be an employee of or a contractor with the ~~department~~.  
19 system. The plan shall include: A history of the subject's past  
20 treatment, if any; a comprehensive evaluation of the subject's  
21 developmental disabilities; a risk analysis; the treatment and  
22 staffing requirements of the subject; appropriate terms and  
23 conditions to provide custody and treatment of the subject in the  
24 least restrictive alternative; and an appropriate treatment program  
25 that is capable of providing and willing to provide treatment in  
26 accordance with the plan.

27 Sec. 874. Section 71-1126, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2           71-1126 At the dispositional hearing, the court shall  
3 consider the plan submitted pursuant to section 71-1125, the  
4 arguments of the parties, and any other relevant evidence. The  
5 Nebraska Evidence Rules shall not apply at the dispositional  
6 hearing. The plan shall be approved by the court unless it is  
7 shown by a preponderance of the evidence that the plan is not the  
8 least restrictive alternative for the subject. After the hearing is  
9 completed, the court shall issue an order of disposition placing  
10 custody of the subject with the ~~department~~ system and setting forth  
11 the treatment plan for the subject. The court shall establish the  
12 duration of the court-ordered custody and treatment of the subject,  
13 but such duration under the initial order shall not be longer than  
14 one year.

15           Sec. 875. Section 71-1127, Revised Statutes Cumulative  
16 Supplement, 2006, is amended to read:

17           71-1127 The court shall hold annual review hearings of  
18 each order of disposition issued under section 71-1126 prior to the  
19 expiration date of such order. Prior to the annual review hearing,  
20 the ~~department~~ system shall submit an updated plan for custody and  
21 treatment of the subject. It shall be the burden of the state to  
22 show by clear and convincing evidence that court-ordered custody  
23 and treatment continues to be necessary. The court shall determine  
24 whether the evidence supports continuing the court-ordered custody  
25 and treatment of the subject. At the review hearing, the court  
26 shall consider the evidence received at the original and any  
27 subsequent hearings, the plan and updates submitted by the

1 ~~department~~, system, progress reports and recommendations from the  
2 treatment program, and any other relevant evidence. Following the  
3 review hearing, the court may continue or modify the court-ordered  
4 custody and treatment or may vacate such custody and treatment and  
5 dismiss the matter.

6           Sec. 876. Section 71-1128, Revised Statutes Cumulative  
7 Supplement, 2006, is amended to read:

8           71-1128 (1) If at any time it appears that the subject  
9 no longer poses a threat of harm to others, any party may file a  
10 motion for a review hearing to be held as soon as practicable. The  
11 party filing the motion under this subsection shall have the burden  
12 of showing by a preponderance of the evidence that the subject  
13 no longer poses a threat of harm to others. If it is shown that  
14 the subject no longer poses a threat of harm to others, the court  
15 shall enter an order dismissing the case and immediately release  
16 the subject.

17           (2) If at any time it appears that (a) the plan submitted  
18 under section 71-1124 or 71-1127 is not sufficient to protect  
19 society or the subject or (b) the circumstances upon which the  
20 plan was based have changed significantly, any party may file a  
21 motion, to be granted for good cause shown, for a review hearing  
22 to be held as soon as practicable. The party filing the motion  
23 under this subsection shall have the burden of showing by clear and  
24 convincing evidence that the court-ordered custody and treatment of  
25 the subject should be modified or vacated.

26           (3) Upon the filing of a motion for a review hearing  
27 pursuant to this section, the ~~department~~ system shall immediately

1 provide notice to the Attorney General and the county attorney  
2 who filed a petition under section 71-1117 if the proceeding by  
3 which the subject is placed in court-ordered custody included  
4 evidence of a sex offense as defined in section 83-174.01 or if any  
5 prior proceedings resulting in a civil commitment or court-ordered  
6 custody included evidence of a sex offense as defined in section  
7 83-174.01.

8           Sec. 877. Section 71-1131, Revised Statutes Cumulative  
9 Supplement, 2006, is amended to read:

10           71-1131 If the subject cannot afford to pay, the county  
11 shall pay court costs, costs of emergency custody, and related  
12 expenses for a petition filed pursuant to the Developmental  
13 Disabilities Court-Ordered Custody Act, including the costs of  
14 legal counsel appointed to represent the subject and any expert  
15 hired to evaluate and testify on behalf of the subject. In counties  
16 having a public defender, the court may appoint the public defender  
17 as legal counsel for the subject. The county shall be responsible  
18 for the cost of transporting the subject to and from court hearings  
19 under the act and to any emergency custody or other custody ordered  
20 under the act. The ~~department~~ system shall pay the costs of the  
21 ~~department's~~ system's evaluations of the subject, the costs of the  
22 plans completed by the ~~department~~ system and the independent mental  
23 health professional, and the costs of the court-ordered custody and  
24 treatment of the subject following an order of disposition, except  
25 as provided by sections 83-363 to 83-380.

26           Sec. 878. Section 71-1134, Revised Statutes Cumulative  
27 Supplement, 2006, is amended to read:

1           71-1134 The ~~department~~ system in collaboration with the  
2 Advisory Committee on Developmental Disabilities established under  
3 section 83-1212.01 shall submit quarterly reports to the court, all  
4 parties of record, and the guardian of any subject in court-ordered  
5 custody.

6           The ~~department~~ system shall submit an annual report to  
7 the Legislature regarding the implementation of the Developmental  
8 Disabilities Court-Ordered Custody Act. Such reports shall not  
9 contain any name, address, or other identifying factors or other  
10 confidential information regarding any subject.

11           Sec. 879. Section 71-1209, Revised Statutes Cumulative  
12 Supplement, 2006, is amended to read:

13           71-1209 (1) The state has the burden to prove by clear  
14 and convincing evidence that (a) the subject is a dangerous  
15 sex offender and (b) neither voluntary hospitalization nor other  
16 treatment alternatives less restrictive of the subject's liberty  
17 than inpatient or outpatient treatment ordered by the mental health  
18 board are available or would suffice to prevent the harm described  
19 in subdivision (1) of section 83-174.01.

20           (2) If the mental health board finds that the subject is  
21 not a dangerous sex offender, the board shall dismiss the petition  
22 and order the unconditional discharge of the subject.

23           (3) If the mental health board finds that the subject  
24 is a dangerous sex offender but that voluntary hospitalization  
25 or other treatment alternatives less restrictive of the subject's  
26 liberty than treatment ordered by the mental health board are  
27 available and would suffice to prevent the harm described in



1 subdivision (1) of section 83-174.01, the board shall (a) dismiss  
2 the petition and order the unconditional discharge of the subject  
3 or (b) suspend further proceedings for a period of up to ninety  
4 days to permit the subject to obtain voluntary treatment. At any  
5 time during such ninety-day period, the county attorney may apply  
6 to the board for reinstatement of proceedings with respect to the  
7 subject, and after notice to the subject, the subject's counsel,  
8 and the subject's legal guardian or conservator, if any, the board  
9 shall hear the application. If no such application is filed or  
10 pending at the conclusion of such ninety-day period, the board  
11 shall dismiss the petition and order the unconditional discharge of  
12 the subject.

13 (4) If the subject admits the allegations of the petition  
14 or the mental health board finds that the subject is a dangerous  
15 sex offender and that neither voluntary hospitalization nor other  
16 treatment alternatives less restrictive of the subject's liberty  
17 than inpatient or outpatient treatment ordered by the board are  
18 available or would suffice to prevent the harm described in  
19 subdivision (1) of section 83-174.01, the board shall, within  
20 forty-eight hours, (a) order the subject to receive outpatient  
21 treatment or (b) order the subject to receive inpatient treatment.  
22 If the subject is ordered by the board to receive inpatient  
23 treatment, the order shall commit the subject to the custody of the  
24 ~~Department of Health and Human Services~~ Health and Human Services  
25 System for such treatment.

26 (5) A subject who (a) is ordered by the mental health  
27 board to receive inpatient treatment and (b) has not yet been

1 admitted for such treatment pursuant to such order may petition for  
2 a rehearing by the mental health board based on improvement in the  
3 subject's condition such that inpatient treatment ordered by the  
4 board would no longer be necessary or appropriate.

5 (6) A treatment order by the mental health board  
6 under this section shall represent the appropriate available  
7 treatment alternative that imposes the least possible restraint  
8 upon the liberty of the subject. The board shall consider  
9 all treatment alternatives, including any treatment program or  
10 conditions suggested by the subject, the subject's counsel, or  
11 other interested person. Inpatient hospitalization or custody shall  
12 only be considered as a treatment alternative of last resort.  
13 The county attorney and the subject may jointly offer a proposed  
14 treatment order for adoption by the board. The board may enter the  
15 proposed order without a full hearing.

16 (7) The mental health board may request the assistance  
17 of the ~~Department of Health and Human Services~~ Health and Human  
18 Services System or any other person or public or private entity to  
19 advise the board prior to the entry of a treatment order pursuant  
20 to this section and may require the subject to submit to reasonable  
21 psychiatric and psychological evaluation to assist the board in  
22 preparing such order. Any mental health professional conducting  
23 such evaluation at the request of the mental health board shall be  
24 compensated by the county or counties served by such board at a  
25 rate determined by the district judge and reimbursed for mileage at  
26 the rate provided in section 81-1176.

27 Sec. 880. Section 71-1211, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2           71-1211 If the mental health board finds the subject  
3 to be a dangerous sex offender and commits the subject to the  
4 custody of the ~~Department of Health and Human Services~~ Health  
5 and Human Services System to receive inpatient treatment, the  
6 ~~department system~~ shall secure placement of the subject in an  
7 appropriate inpatient treatment facility to receive such treatment.  
8 The board shall issue a warrant authorizing the administrator  
9 of such treatment facility to receive and keep the subject  
10 as a patient. The warrant shall state the findings of the  
11 board and the legal settlement of the subject, if known, or  
12 any available information relating thereto. Such warrant shall  
13 shield every official and employee of the treatment facility  
14 against all liability to prosecution of any kind on account of  
15 the reception and detention of the subject if the detention is  
16 otherwise in accordance with the Sex Offender Commitment Act, rules  
17 and regulations adopted and promulgated under the act, and policies  
18 of the treatment facility.

19           Sec. 881. Section 71-1301, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21           71-1301 For purposes of sections 71-1301 to 71-1306 and  
22 71-1326 to 71-1354, unless the context otherwise requires:

23           (1) Accredited school of mortuary science means a school  
24 of the same type as those rated Class A by the Conference of  
25 Funeral Service Examining Boards of the United States, Inc.,  
26 approved by the department upon recommendation of the board;

27           (2) Apprentice means a person registered with the

1 department as an apprentice who is completing a twelve-month  
2 apprenticeship under the supervision of a licensed funeral director  
3 and embalmer practicing in the State of Nebraska. The licensed  
4 funeral director and embalmer is responsible for all funeral  
5 assists and embalmings completed by the apprentice;

6 (3) Board means the Board of Funeral Directing and  
7 Embalming;

8 (4) Branch establishment means a place of business  
9 situated at a specific street address or location which is a  
10 subsidiary of a licensed funeral establishment, which contains a  
11 casket display room, a viewing area, or an area for conducting  
12 funeral services, or all of them, and where any portion of the  
13 funeral service or arrangements for the disposition of a dead human  
14 body is conducted;

15 (5) Casket means a receptacle for a dead human body and  
16 does not include vaults, lawn crypts, mausoleums, or other outside  
17 receptacles for caskets;

18 (6) Crematory authority means the legal entity subject to  
19 licensure by the department to maintain and operate a crematory and  
20 perform cremation;

21 (7) Department means the Department of Public Health;  
22 ~~Health and Human Services Regulation and Licensure;~~

23 (8) Embalming means the practice of preparing a dead  
24 human body for burial or other final disposal by a licensed funeral  
25 director and embalmer or an apprentice, requesting and obtaining  
26 burial or removal permits, or assuming any of the other duties  
27 incident to the practice of embalming. Any person who publicly

1 professes to be a funeral director and embalmer or an apprentice is  
2 deemed to be practicing embalming. The performance of the following  
3 acts is also deemed to be the practice of embalming: (a) The  
4 disinfection and preservation of dead human beings, entire or in  
5 part; and (b) the attempted disinfection and preservation thereof  
6 by the use or application of chemical substances, fluids, or gases  
7 ordinarily used, prepared, or intended for such purposes, either by  
8 outward application of such chemical substances, fluids, or gases  
9 on the body or by introducing them into the body, by vascular or  
10 hypodermic injection, or by direct introduction into the organs or  
11 cavities;

12 (9) Funeral directing means (a) counseling families or  
13 next of kin in regard to the conduct of a funeral service for a  
14 dead human body for burial, disposition, or cremation or directing  
15 or supervising burial, disposition, or cremation of dead human  
16 bodies, (b) providing for or maintaining a funeral establishment,  
17 or (c) the act of representing oneself as or using in connection  
18 with one's name the title of funeral director, mortician, or any  
19 other title implying that he or she is engaged in the business of  
20 funeral directing;

21 (10) Funeral establishment means a place of business  
22 situated at a specific street address or location devoted to the  
23 care and preparation of dead human bodies for burial, disposition,  
24 or cremation or to conducting or arranging funeral services for  
25 dead human bodies;

26 (11) Licensee means a person licensed by the department  
27 as a funeral director and embalmer on or after January 1, 1994,

1 or a person licensed as a funeral director or embalmer prior to  
2 January 1, 1994;

3 (12) Licensure examination means a national standardized  
4 examination, the state jurisprudence examination, and the vital  
5 statistic forms examination; and

6 (13) Supervision means the direct oversight or the easy  
7 availability of the supervising funeral director and embalmer. The  
8 first twenty-five funeral assists and embalmings shall be completed  
9 under direct onsite supervision of the supervising funeral director  
10 and embalmer.

11 Sec. 882. Section 71-1333.01, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 71-1333.01 (1) The department shall deny an application  
14 for a license as a funeral establishment or branch establishment,  
15 revoke or suspend a license, or refuse renewal of such a license on  
16 any of the following grounds:

17 (a) Conviction of any crime involving moral turpitude;

18 (b) Obtaining a license as a funeral establishment or a  
19 branch establishment by false representation or fraud;

20 (c) Operating a funeral establishment or branch  
21 establishment without a manager responsible for the operations of  
22 the establishment;

23 (d) A conviction of a violation of any of the provisions  
24 of sections 71-147, 71-148, 71-1301 to 71-1306, and 71-1326 to  
25 71-1354;

26 (e) Unprofessional conduct, which is hereby defined to  
27 include (i) misrepresentation or fraud in the conduct of a funeral

1 establishment or branch establishment or (ii) aiding or abetting an  
2 unlicensed person to practice funeral directing and embalming; or

3 (f) Violation of the rules and regulations governing the  
4 practice of funeral directing and embalming.

5 (2) If the department determines to deny the application  
6 for a license as or to revoke, suspend, or refuse renewal of  
7 the license of a funeral establishment or branch establishment,  
8 it shall send to the applicant or licensee, by certified mail, a  
9 notice setting forth the particular reasons for the determination.  
10 The denial, revocation, suspension, or refusal of renewal shall  
11 become final thirty days after the mailing of the notice unless  
12 the applicant or licensee, within such thirty-day period, requests  
13 a hearing in writing. The applicant or licensee shall be given a  
14 fair hearing before the department and may present such evidence  
15 as may be proper. On the basis of such evidence, the determination  
16 involved shall be affirmed or set aside and a copy of such decision  
17 setting forth the finding of facts and the particular reasons  
18 upon which it is based shall be sent by certified mail to the  
19 applicant or licensee. The decision shall become final thirty days  
20 after a copy of such decision is mailed unless the applicant  
21 or licensee within such thirty-day period appeals the decision  
22 pursuant to section 71-1333.03. The procedure governing hearings  
23 authorized by this section shall be in accordance with rules and  
24 regulations adopted and promulgated by the department. A full and  
25 complete record shall be kept of all proceedings. Witnesses may be  
26 subpoenaed by either party and shall be allowed a fee at a rate  
27 prescribed by the rules and regulations of the department.

1           (3) The proceeding shall be summary in its nature and  
2 triable as an equity action. Affidavits may be received in evidence  
3 in the discretion of the department. The department shall have the  
4 power to administer oaths, to subpoena witnesses and compel their  
5 attendance, and to issue subpoenas duces tecum and require the  
6 production of books, accounts, and documents in the same manner  
7 and to the same extent as the district courts of the state.  
8 Depositions may be used by either party. Upon the completion of any  
9 hearing, the ~~director~~ Director of Public Health may, through entry  
10 of an order, exercise ~~in his or her discretion~~ any or all of the  
11 following powers:

12           (a) Issue a censure against the manager;

13           (b) Place the manager on probation;

14           (c) Place a limitation or limitations on the license and  
15 upon the right of the manager to operate a funeral establishment  
16 or branch establishment to the extent, scope, or type of operation,  
17 for such time, and under such conditions as the director finds  
18 necessary and proper. The director shall consult with the board in  
19 all instances prior to issuing an order of limitation;

20           (d) Impose a civil penalty not to exceed twenty thousand  
21 dollars;

22           (e) Enter an order of suspension of the license;

23           (f) Enter an order of revocation of the license; or

24           (g) Dismiss the action.

25           (4) The manager of a funeral establishment or branch  
26 establishment shall not operate such establishment after its  
27 license is revoked or during the time for which it is suspended.



1 If a funeral establishment or branch establishment license is  
2 suspended, the suspension shall be for a definite period of time  
3 to be fixed by the ~~director~~. Director of Public Health. Such  
4 license shall be automatically reinstated upon the expiration of  
5 such period if the current renewal fees have been paid. If such  
6 license is revoked, such revocation shall be permanent, except that  
7 at any time after the expiration of two years application may be  
8 made for reinstatement of any manager whose funeral establishment  
9 or branch establishment license has been revoked. Such application  
10 shall be addressed to the director but may not be received or filed  
11 by him or her unless accompanied by a written recommendation of  
12 reinstatement by the board.

13 (5) The amount of any civil penalty assessed under  
14 this section shall be based on the severity of the violation.  
15 If any violation is a repeated or continuing violation, each  
16 violation or each day a violation continues shall constitute a  
17 separate violation for the purpose of computing the applicable  
18 civil penalty, if any. The department may adopt and promulgate the  
19 necessary rules and regulations concerning notice and hearing of  
20 such application. Any civil penalty assessed and unpaid under this  
21 section shall constitute a debt to the State of Nebraska which  
22 may be collected in the manner of a lien foreclosure or sued for  
23 and recovered in a proper form of action in the name of the state  
24 in the district court of the county in which the violator resides  
25 or owns property. The department shall remit any collected civil  
26 penalty to the State Treasurer, within thirty days after receipt,  
27 for distribution in accordance with Article VII, section 5, of

1 ~~the Constitution of Nebraska. The department shall within thirty~~  
2 ~~days from receipt remit any collected civil penalty to the State~~  
3 ~~Treasurer for credit to the permanent school fund.~~

4           Sec. 883. Section 71-1340, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6           71-1340 A decedent, prior to his or her death, may direct  
7 the preparation for the final disposition of his or her remains  
8 by written instructions. If such instructions are in a will or  
9 other written instrument, the decedent may direct that the whole  
10 or any part of such remains be given to a teaching institution,  
11 university, college, or legally licensed hospital, to the ~~Director~~  
12 ~~of Regulation and Licensure,~~ Director of Public Health, or to or  
13 for the use of any nonprofit blood bank, artery bank, eye bank,  
14 or other therapeutic service operated by any agency approved by  
15 the ~~Director of Regulation and Licensure~~ director under rules and  
16 regulations established by the director. The person or persons  
17 otherwise entitled to control the disposition of the remains under  
18 this section shall faithfully carry out the directions of the  
19 decedent.

20           If such instructions are contained in a will or other  
21 written instrument, they shall be immediately carried out,  
22 regardless of the validity of the will in other respects or of the  
23 fact that the will may not be offered for or admitted to probate  
24 until a later date.

25           This section shall be administered and construed to  
26 the end that such expressed instructions of any person shall be  
27 faithfully and promptly performed.

1           A funeral director and embalmer, physician, or cemetery  
2 authority shall not be liable to any person or persons for  
3 carrying out such instructions of the decedent, and any teaching  
4 institution, university, college, or legally licensed hospital or  
5 the ~~Director of Regulation and Licensure~~ Director of Public Health  
6 shall not be liable to any person or persons for accepting the  
7 remains of any deceased person under a will or other written  
8 instrument as set forth in this section.

9           Sec. 884. Section 71-1341, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           71-1341 A written authorization for an autopsy given by  
12 the survivor or survivors, as enumerated in section 71-1339, having  
13 the right to control the disposition of remains may, subject to  
14 section 23-1824 and when not inconsistent with any directions given  
15 by the decedent pursuant to section 71-1340, include authorization  
16 for the removal of any specifically named organ or organs for  
17 therapeutic or scientific purposes. Pursuant to any such written  
18 authorization, any structure or organ may be given to the ~~Director~~  
19 ~~of Regulation and Licensure~~ Director of Public Health or to  
20 any other therapeutic service operated by any nonprofit agency  
21 approved by the ~~Director of Regulation and Licensure~~, director,  
22 including, but not limited to, a teaching institution, university,  
23 college, legally licensed hospital, nonprofit blood bank, nonprofit  
24 artery bank, nonprofit eye bank, or nationally recognized nonprofit  
25 hormone and pituitary program. The person or persons performing any  
26 autopsy shall do so within a reasonable time and without delay and  
27 shall not exceed the removal permission contained in such written

1 authorization, and the remains shall not be significantly altered  
2 in external appearance nor shall any portion thereof be removed for  
3 purposes other than those expressly permitted in this section.

4 Sec. 885. Section 71-1356, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 71-1356 For purposes of the Cremation of Human Remains  
7 Act, unless the context otherwise requires:

8 (1) Alternative container means a container in which  
9 human remains are placed in a cremation chamber for cremation;

10 (2) Authorizing agent means a person vested with the  
11 right to control the disposition of human remains pursuant to  
12 section 71-1339;

13 (3) Casket means a rigid container made of wood, metal,  
14 or other similar material, ornamented and lined with fabric, which  
15 is designed for the encasement of human remains;

16 (4) Cremated remains means the residue of human  
17 remains recovered after cremation and the processing of such  
18 remains by pulverization, leaving only bone fragments reduced to  
19 unidentifiable dimensions, and the unrecoverable residue of any  
20 foreign matter, such as eyeglasses, bridgework, or other similar  
21 material, that was cremated with the human remains;

22 (5) Cremated remains receipt form means a form provided  
23 by a crematory authority to an authorizing agent or his or her  
24 representative that identifies cremated remains and the person  
25 authorized to receive such remains;

26 (6) Cremation means the technical process that uses heat  
27 and evaporation to reduce human remains to bone fragments;

1           (7) Cremation chamber means the enclosed space within  
2 which a cremation takes place;

3           (8) Crematory means a building or portion of a building  
4 which contains a cremation chamber and holding facility;

5           (9) Crematory authority means the legal entity subject  
6 to licensure by the ~~department~~ system to maintain and operate a  
7 crematory and perform cremation;

8           (10) Crematory operator means a person who is responsible  
9 for the operation of a crematory;

10           (11) Delivery receipt form means a form provided by a  
11 funeral establishment to a crematory authority to document the  
12 receipt of human remains by such authority for the purpose of  
13 cremation;

14           ~~(12) Department means the Department of Health and Human  
15 Services Regulation and Licensure;~~

16           ~~(13) Director means the Director of Regulation and  
17 Licensure;~~

18           ~~(14)~~ (12) Funeral director has the same meaning as in  
19 section 71-507;

20           ~~(15)~~ (13) Funeral establishment has the same meaning as  
21 in section 71-1301;

22           ~~(16)~~ (14) Holding facility means the area of a crematory  
23 designated for the retention of human remains prior to cremation  
24 and includes a refrigerated facility;

25           ~~(17)~~ (15) Human remains means the body of a deceased  
26 person, or a human body part, in any stage of decomposition  
27 and includes limbs or other portions of the anatomy that are

1 removed from a person or human remains for medical purposes during  
2 treatment, surgery, biopsy, autopsy, or medical research;

3 ~~(18)~~ (16) Permanent container means a receptacle made of  
4 durable material for the long-term placement of cremated remains;  
5 and

6 ~~(19)~~ (17) Temporary container means a receptacle made of  
7 cardboard, plastic, or other similar material in which cremated  
8 remains are placed prior to the placement of such remains in an urn  
9 or other permanent container; and -

10 (18) System means the Health and Human Services System.

11 Sec. 886. Section 71-1357, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 71-1357 A crematory shall not be established, operated,  
14 or maintained in this state except by a crematory authority  
15 licensed by the ~~department~~ system under the Cremation of Human  
16 Remains Act. The ~~department~~ system shall issue a license to a  
17 crematory authority that satisfies the requirements for licensure  
18 under the act. Human remains shall not be cremated in this state  
19 except at a crematory operated by a crematory authority licensed  
20 under the act. Crematory authorities operating crematories on  
21 August 31, 2003, which apply for licensure within sixty days after  
22 August 31, 2003, shall be presumed to meet requirements for initial  
23 or provisional licensure under the act.

24 Sec. 887. Section 71-1359, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26 71-1359 An applicant for an initial or renewal license  
27 as a crematory authority shall file a written application with

1 the ~~department~~, system. The application shall be accompanied by  
2 the license fee required under section 71-1363 and a certificate  
3 confirming that the crematory operator has attended, prior to  
4 issuance of the license, a training course provided by the  
5 Cremation Association of North America or by the manufacturer  
6 of the cremation chamber maintained and operated by the crematory  
7 authority and shall set forth the full name and address of  
8 the applicant, the address and location of the crematory, the  
9 name of the crematory operator, the name and address of the  
10 owner of the crematory, and additional information as required  
11 by the ~~department~~, system, including affirmative evidence of the  
12 applicant's ability to comply with rules and regulations adopted  
13 and promulgated under the Cremation of Human Remains Act. The  
14 application shall include the applicant's social security number  
15 if the applicant is an individual. The social security number  
16 shall not be public record and may only be used for administrative  
17 purposes.

18           Sec. 888. Section 71-1361, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20           71-1361 (1) A crematory authority desiring to relocate  
21 a crematory shall file a written application with the ~~department~~  
22 system at least thirty days prior to the designated date of such  
23 relocation. The application shall be accompanied by a fee of not  
24 less than fifteen dollars and not more than one hundred fifty  
25 dollars, as determined by the ~~department~~ system in rules and  
26 regulations.

27           (2) A crematory authority desiring to change ownership of

1 a crematory shall file a written application with the ~~department~~  
2 system at least thirty days prior to the designated date of such  
3 change. The application shall be accompanied by a fee of not less  
4 than fifteen dollars and not more than one hundred fifty dollars,  
5 as determined by the ~~department~~ system in rules and regulations.

6 (3) A crematory authority desiring to change its name  
7 shall file a written application with the ~~department~~ system at  
8 least thirty days prior to such change. The application shall be  
9 accompanied by a fee of ten dollars.

10 Sec. 889. Section 71-1363, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 71-1363 (1) The fee for an initial or renewal license as  
13 a crematory authority shall include a fee of three hundred dollars.

14 (2) If the license application is denied, the license  
15 fee shall be returned to the applicant, except that the ~~department~~  
16 system may retain up to twenty-five dollars as an administrative  
17 fee and may retain the entire license fee if an inspection has been  
18 completed prior to such denial.

19 (3) The ~~department~~ system shall collect the same fee as  
20 provided in subsection (1) of this section for reinstatement of  
21 a license that has lapsed or has been suspended. The ~~department~~  
22 system shall collect a fee of ten dollars for a duplicate original  
23 license.

24 (4) The ~~department~~ system shall collect a fee of  
25 twenty-five dollars for a certified statement that a crematory  
26 authority is licensed in this state and a fee of five dollars for  
27 verification that a crematory authority is licensed in this state.



1           (5) The ~~department~~ system shall adopt and promulgate  
2 rules and regulations for the establishment of fees under the  
3 Cremation of Human Remains Act.

4           (6) The ~~department~~ system shall collect fees authorized  
5 under the act and shall remit such fees to the State Treasurer for  
6 credit to the ~~Department of Health and Human Services Regulation~~  
7 ~~and Licensure~~ Health and Human Services System Cash Fund. Such  
8 fees shall only be used for activities related to the licensure of  
9 crematory authorities.

10           Sec. 890. Section 71-1364, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           71-1364 (1) The ~~department~~ system may inspect or provide  
13 for the inspection of any crematory operated by a crematory  
14 authority licensed under the Cremation of Human Remains Act in  
15 such manner and at such times as provided in rules and regulations  
16 adopted and promulgated by the ~~department.~~ system.

17           (2) The ~~department~~ system shall issue an inspection  
18 report and provide a copy of the report to the crematory authority  
19 within ten working days after the completion of an inspection.  
20 The ~~department~~ system shall review any findings of noncompliance  
21 contained in such report within twenty working days after such  
22 inspection.

23           (3) If the ~~department~~ system determines, after such  
24 review, that the evidence supports a finding of noncompliance  
25 by a crematory authority with any applicable provisions of the  
26 Cremation of Human Remains Act or rules and regulations adopted  
27 and promulgated under the act, the ~~department~~ system may send

1 a letter to the crematory authority requesting a statement  
2 of compliance. The letter shall include a description of each  
3 alleged violation, a request that the crematory authority submit  
4 a statement of compliance within ten working days, and a notice  
5 that the ~~department~~ system may take further action if the statement  
6 of compliance is not submitted. The statement of compliance shall  
7 indicate any actions by the crematory authority which have been or  
8 will be taken and the period of time estimated to be necessary to  
9 correct each alleged violation. If the crematory authority fails to  
10 submit such statement of compliance or fails to make a good faith  
11 effort to correct the alleged violations, the ~~department~~ system may  
12 take further action as provided in sections 71-1366 to 71-1369.

13           Sec. 891. Section 71-1365, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15           71-1365 (1) Any person may submit a complaint to the  
16 ~~department~~ system and request investigation of an alleged violation  
17 of the Cremation of Human Remains Act or rules and regulations  
18 adopted and promulgated under the act. The ~~department~~ system  
19 shall review all complaints and determine whether to conduct an  
20 investigation relating to such complaints.

21           (2) A complaint submitted to the ~~department~~ system under  
22 this section shall be confidential. A person submitting such  
23 complaint shall be immune from criminal or civil liability of any  
24 nature, whether direct or derivative, for submitting the complaint  
25 or for disclosure of documents, records, or other information to  
26 the ~~department~~ system relating to such complaint.

27           Sec. 892. Section 71-1366, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           71-1366 (1) If the ~~director~~ system determines that a  
3 crematory authority is operating a crematory so as to create  
4 an imminent danger of death or serious physical harm to persons  
5 employed at or in proximity to such crematory, he or she may order  
6 the temporary suspension or temporary limitation of the license  
7 of the crematory authority and may order the temporary closure of  
8 the crematory pending further action by the ~~department~~ system. A  
9 hearing shall be held by the ~~department~~ system no later than ten  
10 days after the date of such order. The ~~department~~ system shall also  
11 simultaneously institute proceedings for revocation, suspension, or  
12 limitation of the license of the crematory authority.

13           (2) A continuance of the hearing under subsection (1) of  
14 this section shall be granted by the ~~department~~ system upon written  
15 request from the crematory authority. Such continuance shall not  
16 exceed thirty days.

17           (3) A temporary suspension or temporary limitation order  
18 by the ~~director~~ system under this section shall take effect  
19 when served upon the crematory authority and shall not exceed  
20 ninety days. If further action is not taken by the ~~department~~  
21 system within such period, the temporary suspension or temporary  
22 limitation shall expire.

23           Sec. 893. Section 71-1367, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           71-1367 The ~~department~~ system may deny or refuse to  
26 renew a license under the Cremation of Human Remains Act or take  
27 disciplinary action against a crematory authority licensed under

1 the act as provided in section 71-1368 on any of the following  
2 grounds:

3 (1) Violation of the Cremation of Human Remains Act or  
4 rules and regulations adopted and promulgated under the act;

5 (2) Conviction of any crime involving moral turpitude;

6 (3) Conviction of a misdemeanor or felony under state  
7 law, federal law, or the law of another jurisdiction which, if  
8 committed within this state, would have constituted a misdemeanor  
9 or felony and which has a rational connection with the fitness or  
10 capacity of the crematory authority to operate a crematory;

11 (4) Conviction of a violation pursuant to section  
12 71-1371;

13 (5) Obtaining a license as a crematory authority by false  
14 representation or fraud;

15 (6) Misrepresentation or fraud in the operation of a  
16 crematory; or

17 (7) Failure to allow access by an agent or employee of  
18 the ~~Department of Health and Human Services, the Department of~~  
19 ~~Health and Human Services Finance and Support, or the Department~~  
20 ~~of Health and Human Services Regulation and Licensure~~ system to a  
21 crematory operated by the crematory authority for the purposes  
22 of inspection, investigation, or other information collection  
23 activities necessary to carry out the duties of ~~such department.~~  
24 the system.

25 Sec. 894. Section 71-1368, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27 71-1368 (1) The ~~department~~ system may impose any one

1 or more of the following types of disciplinary action against a  
2 crematory authority licensed under the Cremation of Human Remains  
3 Act:

4 (a) A fine not to exceed five hundred dollars per  
5 violation;

6 (b) A limitation on the license and upon the right of the  
7 crematory authority to operate a crematory to the extent, scope, or  
8 type of operation, for such time, and under such conditions as the  
9 director finds necessary and proper;

10 (c) Placement of the license on probation for a period  
11 not to exceed two years during which the crematory may continue to  
12 operate under terms and conditions fixed by the order of probation;

13 (d) Suspension of the license for a period not to exceed  
14 two years during which the crematory may not operate; and

15 (e) Revocation and permanent termination of the license.

16 (2) Any fine imposed and unpaid under the Cremation of  
17 Human Remains Act shall constitute a debt to the State of Nebraska  
18 which may be collected in the manner of a lien foreclosure or  
19 sued for and recovered in any proper form of action in the name  
20 of the State of Nebraska in the district court of the county in  
21 which the crematory is located. The system shall remit fines to the  
22 State Treasurer, within thirty days after receipt, for distribution  
23 in accordance with Article VII, section 5, of the Constitution of  
24 Nebraska. The department shall, within thirty days after receipt,  
25 remit any such fines to the State Treasurer for credit to the  
26 permanent school fund.

27 Sec. 895. Section 71-1369, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           71-1369 Any party to a decision of the ~~department~~ system  
3 under the Cremation of Human Remains Act may appeal such decision.  
4 The appeal shall be in accordance with the Administrative Procedure  
5 Act.

6           Sec. 896. Section 71-1370, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           71-1370 (1) If the license of a crematory authority has  
9 lapsed for nonpayment of fees, such license shall be eligible for  
10 reinstatement at any time upon application to the ~~department~~ system  
11 and payment of the applicable fee as provided in section 71-1363.

12           (2) If the license of a crematory authority has  
13 been placed on probation, such license shall be eligible for  
14 reinstatement at the end of the period of probation upon successful  
15 completion of an inspection if the ~~department~~ system determines an  
16 inspection is warranted.

17           (3) If the license of a crematory authority has been  
18 suspended, such license shall be eligible for reinstatement at the  
19 end of the period of suspension upon successful completion of an  
20 inspection and payment of the applicable fee as provided in section  
21 71-1363.

22           (4) If the license of a crematory authority has been  
23 suspended, such license may be reinstated by the ~~department~~ system  
24 prior to the completion of the term of suspension upon petition  
25 by the licensee. After reviewing such petition and any material  
26 submitted by the licensee with such petition, the department may  
27 order an inspection or investigation of the licensee. Based on such

1 review and such inspection or investigation, if any, the ~~director~~  
2 system shall (a) grant full reinstatement of the license, (b)  
3 modify the suspension, or (c) deny the petition for reinstatement.  
4 The ~~director's~~ system's decision shall become final thirty days  
5 after mailing the decision to the licensee unless the licensee  
6 requests a hearing within such period. Any requested hearing shall  
7 be held according to rules and regulations of the ~~department~~ system  
8 for administrative hearings in contested cases.

9 (5) If the license of a crematory authority has been  
10 revoked, such crematory authority shall not be eligible for  
11 relicensure until five years after the date of such revocation. A  
12 reapplication for an initial license may be made by the crematory  
13 authority at the end of such five-year period.

14 (6) The ~~department~~ system may adopt and promulgate rules  
15 and regulations to carry out this section.

16 Sec. 897. Section 71-1371, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 71-1371 (1) Maintaining or operating a crematory in  
19 violation of the Cremation of Human Remains Act or any rules and  
20 regulations of the ~~department~~ system adopted and promulgated under  
21 the act is a public nuisance and may be abated as a nuisance as  
22 provided by law.

23 (2) It is a Class III misdemeanor to (a) establish,  
24 operate, or maintain a crematory subject to the Cremation of  
25 Human Remains Act without being licensed as a crematory authority  
26 under the act, (b) hold oneself out to the public as a crematory  
27 authority without being licensed under the act, or (c) perform

1 a cremation without a cremation authorization form signed by the  
2 authorizing agent and a completed permit for transit or cremation  
3 as provided by the ~~department~~ system or a cremation permit.

4 (3) Signing a cremation authorization form with actual  
5 knowledge that the form contains false, incorrect, or misleading  
6 information is a Class III misdemeanor.

7 (4) A violation of any other provision of the Cremation  
8 of Human Remains Act is a Class III misdemeanor.

9 Sec. 898. Section 71-1372, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 71-1372 The ~~department~~ system may maintain an action in  
12 the name of the State of Nebraska for an injunction against any  
13 person for establishing, operating, or maintaining a crematory  
14 without first obtaining a license as a crematory authority under  
15 the Cremation of Human Remains Act. In charging any defendant in  
16 a complaint in such action, it shall be sufficient to charge that  
17 such defendant did, upon a certain day and in a certain county,  
18 establish, operate, or maintain a crematory without obtaining a  
19 license as a crematory authority under the act, without alleging  
20 any further or more particular facts concerning the same.

21 Sec. 899. Section 71-1377, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 71-1377 (1) A crematory authority shall not cremate human  
24 remains until it has received:

25 (a) A cremation authorization form as provided in  
26 subsection (2) of this section;

27 (b) A completed and executed permit for transit or



1 cremation as provided by the ~~department~~ system or the appropriate  
2 cremation permit from the state from which the human remains were  
3 delivered, indicating that the human remains are to be cremated;  
4 and

5 (c) A delivery receipt form.

6 (2) A cremation authorization form shall be signed by the  
7 authorizing agent and shall include, but not be limited to, the  
8 following information:

9 (a) The name of the deceased;

10 (b) Date and place of death;

11 (c) The identity of the funeral director involved in the  
12 preparation of the human remains for cremation, if any;

13 (d) Notification that the death did or did not occur  
14 from a disease declared by the ~~department~~ system to be infectious,  
15 contagious, communicable, or dangerous to the public health;

16 (e) The name of the authorizing agent and the  
17 relationship between the authorizing agent and the deceased;

18 (f) Authorization by the authorizing agent for the  
19 crematory authority to cremate the human remains;

20 (g) A representation that the authorizing agent is aware  
21 of no objection to the human remains being cremated by any person  
22 who has a right to control the disposition of the human remains;

23 (h) A representation that the human remains do not  
24 contain any material, implants, or conditions that may be  
25 potentially hazardous to equipment or persons performing the  
26 cremation;

27 (i) The name of the person authorized to claim the

1 cremated remains from the crematory authority; and

2 (j) The intended disposition of the cremated remains.

3 (3) A crematory authority shall retain, for at least  
4 seven years after the cremation, in printed or electronic format,  
5 copies of the cremation authorization form, permit for transit or  
6 cremation as provided by the ~~department~~ system or cremation permit,  
7 cremated remains receipt form, delivery receipt form, and any other  
8 records required under the Cremation of Human Remains Act.

9 Sec. 900. Section 71-1405, Revised Statutes Cumulative  
10 Supplement, 2006, is amended to read:

11 71-1405 (1) Within thirty days after the date of the  
12 birth of any child born in this state with visible congenital  
13 deformities, the physician, certified nurse midwife, or other  
14 person in attendance upon such birth shall prepare and file with  
15 the ~~Department of Health and Human Services Finance and Support~~  
16 Health and Human Services System a statement setting forth such  
17 visible congenital deformity. The form of such statement shall be  
18 prepared by the ~~Director of Finance and Support~~ system and shall be  
19 a part of the birth report furnished by the ~~department.~~ system.

20 (2) For purposes of this section, congenital deformities  
21 include a cleft lip, cleft palate, hernia, congenital cataract,  
22 or disability resulting from congenital or acquired heart disease,  
23 or any congenital abnormality or orthopedic condition that can be  
24 cured or materially improved. The orthopedic condition or deformity  
25 includes any deformity or disease of childhood generally recognized  
26 by the medical profession, and it includes deformities resulting  
27 from burns.

1           Sec. 901. Section 71-1617, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           71-1617 In formulating rules, regulations, or other  
4 orders for the establishment of a health district or the carrying  
5 out of the purpose of sections 71-1601 to 71-1625 or for the  
6 management or control of any property which may come under the  
7 care or management of the board, the board and the ~~director~~ Health  
8 and Human Services System shall conform at least to the minimum  
9 requirements, rules, and regulations of the ~~Department of Health~~  
10 ~~and Human Services,~~ the Department of Health and Human Services  
11 Regulation and Licensure, and the Department of Health and Human  
12 Services Finance and Support system and the principles of public  
13 health and sanitation and the remedial care and treatment of the  
14 indigent sick people recognized by the medical profession.

15           Sec. 902. Section 71-1626, Revised Statutes Cumulative  
16 Supplement, 2006, is amended to read:

17           71-1626 For purposes of sections 71-1626 to 71-1636:

18           (1) Core public health functions means assessment, policy  
19 development, and assurance designed to protect and improve the  
20 health of persons within a geographically defined community by (a)  
21 emphasizing services to prevent illness, disease, and disability,  
22 (b) promoting effective coordination and use of community  
23 resources, and (c) extending health services into the community,  
24 including public health nursing, disease prevention and control,  
25 public health education, and environmental health services;

26           (2) County, district, or city-county health department  
27 means a governmental entity approved by the ~~Department of Health~~

1 ~~and Human Services Regulation and Licensure~~ Health and Human  
2 Services System as a local full-time public health service  
3 which (a) utilizes local, state, federal, and other funds or  
4 any combination thereof, (b) employs qualified public health  
5 medical, nursing, environmental health, health education, and other  
6 essential personnel who work under the direction and supervision of  
7 a full-time qualified medical director or of a full-time qualified  
8 lay administrator and are assisted at least part time by at least  
9 one medical consultant who shall be a licensed physician, and (c)  
10 is operated in conformity with the rules, regulations, and policies  
11 of the ~~Department of Health and Human Services,~~ the Department  
12 of ~~Health and Human Services Regulation and Licensure,~~ and the  
13 ~~Department of Health and Human Services Finance and Support.~~  
14 system. The medical director or lay administrator shall be called  
15 the health director; and

16 (3) Local public health department means a county,  
17 district, or city-county health department.

18 Sec. 903. Section 71-1628, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 71-1628 The county board of any county may (1) make an  
21 agreement with the ~~Department of Health and Human Services,~~ the  
22 ~~Department of Health and Human Services Regulation and Licensure,~~  
23 ~~or the Department of Health and Human Services Finance and Support~~  
24 Health and Human Services System relative to the expenditure of  
25 local, state, federal, and other funds or any combination thereof,  
26 available for public health in such county; (2) after notice and  
27 public hearing, establish and maintain a single full-time local

1 health department for such county and any other counties which  
2 combine for that purpose and, pursuant to such combination or  
3 agreement, such counties may cooperate with one another and the  
4 ~~Department of Health and Human Services Regulation and Licensure~~  
5 system and may contribute to a joint fund in carrying out the  
6 purpose and intent of sections 71-1626 to 71-1636. The duration and  
7 nature of such agreement shall be evidenced by the resolutions of  
8 the county boards of such counties, and such agreement shall be  
9 submitted to and approved by the ~~Department of Health and Human~~  
10 ~~Services Regulation and Licensure; system;~~ or (3) cooperate with  
11 any city in the establishment and maintenance of a city-county  
12 health department as provided in section 71-1630. The duration and  
13 nature of such an agreement shall be evidenced by resolutions of  
14 the city council of the city and the county board participating,  
15 and such agreement shall be submitted to and approved by the  
16 ~~Department of Health and Human Services Regulation and Licensure-~~  
17 system. A city-county health department shall be administered as  
18 provided in the agreement between the county and the city and shall  
19 be considered a state-approved, local, full-time public health  
20 service.

21           Sec. 904. Section 71-1628.05, Revised Statutes Cumulative  
22 Supplement, 2006, is amended to read:

23           71-1628.05 Each local public health department shall  
24 prepare an annual report regarding the core public health functions  
25 carried out by the department in the prior fiscal year. The  
26 report shall be submitted to the ~~Department of Health and~~  
27 ~~Human Services Regulation and Licensure~~ Health and Human Services

1 ~~System~~ by October 1. The ~~Department of Health and Human Services~~  
2 ~~Regulation and Licensure system~~ shall compile the reports and  
3 submit the results to the Health and Human Services Committee of  
4 the Legislature by December 1.

5           Sec. 905. Section 71-1628.06, Revised Statutes Cumulative  
6 Supplement, 2006, is amended to read:

7           71-1628.06 The ~~Department of Health and Human Services~~  
8 ~~Regulation and Licensure~~ Health and Human Services System shall  
9 employ two full-time persons with expertise in the public health  
10 field to provide technical expertise in carrying out core public  
11 health functions and essential elements and coordinate the  
12 dissemination of materials to the local public health departments.

13           Sec. 906. Section 71-1628.07, Revised Statutes Cumulative  
14 Supplement, 2006, is amended to read:

15           71-1628.07 (1) The ~~Department of Health and Human~~  
16 ~~Services Regulation and Licensure~~ Health and Human Services System  
17 shall establish a satellite office of minority health in each  
18 congressional district to coordinate and administer state policy  
19 relating to minority health. Each office shall implement a minority  
20 health initiative in counties with a minority population of at  
21 least five percent of the total population of the county as  
22 determined by the most recent federal decennial census which shall  
23 target, but not be limited to, infant mortality, cardiovascular  
24 disease, obesity, diabetes, and asthma.

25           (2) Each office shall prepare an annual report regarding  
26 minority health initiatives implemented in the immediately  
27 preceding fiscal year. The report shall be submitted to the

1 ~~department system~~ by October 1. The ~~department system~~ shall submit  
2 such reports to the Health and Human Services Committee of the  
3 Legislature by December 1.

4           Sec. 907. Section 71-1630, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6           71-1630 (1) When a health department has been established  
7 by the county board of a county and approved by the ~~Department of~~  
8 ~~Health and Human Services Regulation and Licensure~~ Health and Human  
9 Services System as a county health department, the county board of  
10 such county shall appoint a board of health which shall consist  
11 of the following members: (a) One member of the county board;  
12 (b) one dentist; (c) one physician; and (d) six public-spirited  
13 men or women interested in the health of the community. The  
14 physician and dentist shall each serve an initial term of three  
15 years. Three public-spirited men or women shall each serve an  
16 initial term of three years, and three public-spirited men or  
17 women shall each serve an initial term of two years. After the  
18 initial terms of office expire, each new appointment shall be for  
19 a term of three years. Appointments to fill any vacancies shall be  
20 for the unexpired term of the member whose term is being filled  
21 by such appointment. A county association or society of dentists  
22 or physicians or its managing board may submit each year to the  
23 county board a list of three persons of recognized ability in  
24 such profession. If such a list is submitted, the county board, in  
25 making an appointment for such profession, shall consider the names  
26 on the list and may appoint one of the persons so named.

27           (2) When a district health department has been

1 established by a joint resolution of the county boards of each  
2 county in a district health department, the county boards of such  
3 district shall meet and establish a district board of health with  
4 due consideration for a fair and equitable representation from  
5 the entire area to be served. The district board of health shall  
6 consist of the following members: (a) One member of each county  
7 board in the district, (b) at least one physician, (c) at least  
8 one dentist, and (d) one or more public-spirited men or women  
9 interested in the health of the community from each county in the  
10 district. One-third of the members shall be appointed for terms  
11 of one year, one-third for terms of two years, and one-third for  
12 terms of three years. After their terms of office expire, each  
13 new appointment shall be for a term of three years. Appointments  
14 to fill any vacancies shall be for the unexpired terms. A county  
15 association or society of dentists or physicians or its managing  
16 board may submit each year to the county boards a list of three  
17 persons of recognized ability in such profession. If such a list  
18 is submitted, the county boards, in making an appointment for such  
19 profession, shall consider the names on the list and may appoint  
20 one of the persons so named.

21 (3) Except as provided in subsection (4) of this section,  
22 when the county board of any county and the city council of any  
23 city located in such county have executed an agreement, approved  
24 by the ~~Department of Health and Human Services Regulation and~~  
25 ~~Licensure, Health and Human Services System,~~ for maintaining a  
26 city-county health department, the city and county shall establish  
27 a city-county board of health. It shall consist of the following



1 members selected by a majority vote of the city council and the  
2 county board, with due consideration to be given in an endeavor  
3 to secure a fair and equitable representation from the entire area  
4 to be served: (a) One representative of the county board, (b) one  
5 representative from the city council, (c) one physician, (d) one  
6 dentist, and (e) five public-spirited men or women, not employed  
7 in the health industry or in the health professions, who are  
8 interested in the health of the community. One-third of its members  
9 shall be appointed for terms of one year, one-third for terms of  
10 two years, and one-third for terms of three years. After their  
11 terms of office expire, each new appointment shall be for a period  
12 of three years. A county association or society of dentists or  
13 physicians or its managing board may submit each year to the city  
14 council and the county board a list of three persons of recognized  
15 ability in such profession. If such a list is submitted, the city  
16 council and the county board, in making an appointment for such  
17 profession, shall consider the names on the list and may appoint  
18 one of the persons so named.

19 (4) (a) When the county board of any county having a  
20 population of more than two hundred thousand inhabitants and the  
21 city council of any city located in such county have executed an  
22 agreement, approved by the Department of Health and Human Services  
23 Regulation and Licensure or the Health and Human Services System,  
24 for maintaining a city-county health department on or after January  
25 1, 1997, the city and county shall establish a city-county board  
26 of health. The board shall consist of the following members to  
27 be appointed by the mayor with the consent of the city council

1 and county board: One representative of the county board, one  
2 representative from the city council, one physician, one dentist,  
3 and five public-spirited persons who are interested in the health  
4 of the community. Three of the members shall be appointed for terms  
5 of one year, three for terms of two years, and three for terms  
6 of three years. After the initial terms of office expire, each  
7 successor member shall be appointed for a term of three years.  
8 The physician and dentist members shall be appointed as provided  
9 in this subdivision. The mayor shall invite the local county  
10 association or society of dentists or physicians or its managing  
11 board to timely submit to the mayor a list of three persons of  
12 recognized ability in the profession. A list is timely submitted  
13 if it is submitted within sixty days after the mayor's invitation.  
14 If the list is not timely submitted, the mayor may consider the  
15 list timely submitted at any time prior to making an appointment,  
16 otherwise the mayor shall appoint a person of recognized ability in  
17 the profession. If the list is timely submitted, the mayor shall  
18 consider the names on the list and shall either appoint one of the  
19 persons on the list or invite a list of three new names using the  
20 process provided in this subdivision.

21 (b) The board of health shall, immediately after  
22 appointment, meet and organize by the election of one of its own  
23 members as president and one as vice president. The board members  
24 may elect such other officers as they deem necessary and may adopt  
25 and promulgate rules for the guidance of the board which are not  
26 inconsistent with law or the agreement creating the board. If  
27 any board member resigns or ceases to meet the requirements for

1 eligibility on the board, or if there is any other vacancy on the  
2 board, the mayor shall appoint another representative to serve for  
3 the member's unexpired term subject to consent by a majority vote  
4 of both the city council and the county board. Any appointment to  
5 fill a vacancy on the board shall be for the unexpired term of the  
6 member whose vacancy is being filled.

7 (c) The board of health shall have the following duties:

8 (i) Assessment of community health status and available  
9 resources for health matters, including collecting and analyzing  
10 relevant data and annually reporting and making recommendations on  
11 improving public health matters to the mayor, city council, and  
12 county board;

13 (ii) Policy development for proposals before the board  
14 of health, the city council, and the county board to support and  
15 improve public health, including appointing, with the approval of  
16 the mayor, city council, and county board, advisory committees to  
17 the board of health to facilitate community development functions  
18 and coalition building related to public health and adopting  
19 and approving official health department policies consistent with  
20 applicable law and approved by the affirmative vote of not less  
21 than five board members at a regular meeting of the board in the  
22 following areas:

23 (A) Community health services and health promotion and  
24 outreach, specifically including policies related to the following:

25 (I) Client services and fees;

26 (II) Standing orders, supervision, screening, and  
27 emergency and referral protocols and procedures;

1 (III) Monitoring and reporting; and

2 (IV) Communicable disease investigation, immunization,  
3 vaccination, testing, and prevention measures, including measures  
4 to arrest the progress of communicable diseases;

5 (B) Environmental health, specifically including policies  
6 related to the following:

7 (I) Permitting, inspection, and enforcement;

8 (II) Monitoring, sampling, and reporting;

9 (III) Technical assistance and plan review; and

10 (IV) Prevention measures;

11 (C) Investigating and controlling diseases and injury,  
12 specifically including policies related to the following:

13 (I) Permitting, inspection, and enforcement;

14 (II) Monitoring, sampling, and reporting;

15 (III) Technical assistance and plan review; and

16 (IV) Prevention measures; and

17 (D) Other health matters as may be requested by the city  
18 council or county board; and

19 (iii) Assurance that needed services are available  
20 through public or private sources in the community, including:

21 (A) Acting in an advisory capacity to review and  
22 recommend changes to ordinances, resolutions, and resource  
23 allocations before the city council or county board related to  
24 health matters;

25 (B) Annually reviewing and recommending changes in the  
26 proposed budget for resource allocations related to the health  
27 department as provided in the city-county agreement; and

1           (C) Monitoring and reviewing the enforcement of laws and  
2 regulations of the board of health, city council, and county board  
3 related to public health in the community.

4           (d) The mayor of the city shall appoint, with the  
5 approval of the board of health, city council, and county board,  
6 the health director of the health department. The health director  
7 shall be a member of the unclassified service of the city under  
8 the direction and supervision of the mayor. The health director  
9 shall be well-trained in public health work, but he or she need  
10 not be a graduate of an accredited medical school. If the health  
11 director is not a graduate of an accredited medical school, the  
12 health director shall be assisted at least part time by at least  
13 one medical consultant who is a licensed physician. The mayor shall  
14 submit the health department budget to the city council and county  
15 board. The mayor shall also provide budget information to the board  
16 of health with sufficient time to allow such board to consider  
17 such information. The mayor may enter into contracts and accept  
18 grants on behalf of the health department. The mayor may terminate  
19 the health director with approval of a majority vote of the city  
20 council, the county board, and the board of health. The health  
21 director shall:

22           (i) Provide administrative supervision of the health  
23 department;

24           (ii) Make all necessary sanitary and health  
25 investigations and inspections;

26           (iii) Investigate the existence of any contagious or  
27 infectious disease and adopt measures to arrest the progress of the

1 disease;

2 (iv) Distribute free, as the local needs may require, all  
3 vaccines, drugs, serums, and other preparations obtained from the  
4 ~~Department of Health and Human Services~~ Health and Human Services  
5 System or otherwise provided for public health purposes;

6 (v) Give professional advice and information to school  
7 authorities and other public agencies on all matters pertaining to  
8 sanitation and public health;

9 (vi) Inform the board of health when the city council or  
10 county board is considering proposals related to health matters or  
11 has otherwise requested recommendations from the board of health;

12 (vii) Inform the board of health of developments in the  
13 field of public health and of any need for updating or adding to or  
14 deleting from the programs of the health department; and

15 (viii) Perform duties and functions as otherwise provided  
16 by law.

17 Sec. 908. Section 71-1631, Revised Statutes Cumulative  
18 Supplement, 2006, is amended to read:

19 71-1631 Except as provided in subsection (4) of section  
20 71-1630, the board of health of each county, district, or  
21 city-county health department organized under sections 71-1626  
22 to 71-1636 shall, immediately after appointment, meet and organize  
23 by the election of one of its own members as president, one as  
24 vice president, and another as secretary and, either from its own  
25 members or otherwise, a treasurer and shall have the power set  
26 forth in this section. The board may elect such other officers  
27 as it may deem necessary and may adopt and promulgate such rules

1 and regulations for its own guidance and for the government of  
2 such health department as may be necessary, not inconsistent with  
3 sections 71-1626 to 71-1636. The board of health shall, with the  
4 approval of the county board and the municipality, whenever a city  
5 is a party in such a city-county health department:

6 (1) Select the health director of such department who  
7 shall be (a) well-trained in public health work though he or she  
8 need not be a graduate of an accredited medical school, but if he  
9 or she is not such a graduate, he or she shall be assisted at  
10 least part time by at least one medical consultant who shall be  
11 a licensed physician, (b) qualified in accordance with the state  
12 personnel system, and (c) approved by the ~~Department of Health and~~  
13 ~~Human Services Regulation and Licensure;~~ Health and Human Services  
14 System;

15 (2) Hold an annual meeting each year, at which meeting  
16 officers shall be elected for the ensuing year;

17 (3) Hold meetings quarterly each year;

18 (4) Hold special meetings upon a written request signed  
19 by two of its members and filed with the secretary;

20 (5) Provide suitable offices, facilities, and equipment  
21 for the health director and assistants and their pay and traveling  
22 expenses in the performance of their duties, with mileage to be  
23 computed at the rate provided in section 81-1176;

24 (6) Publish, on or soon after the second Tuesday in July  
25 of each year, in pamphlet form for free distribution, an annual  
26 report showing (a) the condition of its trust for each year, (b)  
27 the sums of money received from all sources, giving the name of any

1 donor, (c) how all money has been expended and for what purpose,  
2 and (d) such other statistics and information with regard to the  
3 work of such health department as may be of general interest;

4 (7) Enact rules and regulations, subsequent to public  
5 hearing held after due public notice of such hearing by publication  
6 at least once in a newspaper having general circulation in the  
7 county or district at least ten days prior to such hearing,  
8 and enforce the same for the protection of public health and  
9 the prevention of communicable diseases within its jurisdiction,  
10 subject to the review and approval of such rules and regulations  
11 by the ~~Department of Health and Human Services Regulation and~~  
12 ~~Licensure~~; Health and Human Services System;

13 (8) Make all necessary sanitary and health investigations  
14 and inspections;

15 (9) In counties having a population of more than  
16 three hundred thousand inhabitants, enact rules and regulations  
17 for the protection of public health and the prevention of  
18 communicable diseases within the district, except that such rules  
19 and regulations shall have no application within the jurisdictional  
20 limits of any city of the metropolitan class and shall not be in  
21 effect until (a) thirty days after the completion of a three-week  
22 publication in a legal newspaper, (b) approved by the county  
23 attorney with his or her written approval attached thereto, and (c)  
24 filed in the office of the county clerk of such county;

25 (10) Investigate the existence of any contagious or  
26 infectious disease and adopt measures, with the approval of the  
27 ~~Department of Health and Human Services Regulation and Licensure~~;



1 Health and Human Services System to arrest the progress of the  
2 same;

3 (11) Distribute free as the local needs may require all  
4 vaccines, drugs, serums, and other preparations obtained from the  
5 ~~Department of Health and Human Services~~ Health and Human Services  
6 System or purchased for public health purposes by the county board;

7 (12) Upon request, give professional advice and  
8 information to all city, village, and school authorities on all  
9 matters pertaining to sanitation and public health;

10 (13) Fix the salaries of all employees, including the  
11 health director. Such city-county health department may also  
12 establish an independent pension plan, retirement plan, or health  
13 insurance plan or, by agreement with any participating city or  
14 county, provide for the coverage of officers and employees of  
15 such city-county health department under such city or county  
16 pension plan, retirement plan, or health insurance plan. Officers  
17 and employees of a county health department shall be eligible  
18 to participate in the county pension plan, retirement plan, or  
19 health insurance plan of such county. Officers and employees of a  
20 district health department formed by two or more counties shall be  
21 eligible to participate in the county retirement plan unless the  
22 district health department establishes an independent pension plan  
23 or retirement plan for its officers or employees;

24 (14) Establish fees for the costs of all services,  
25 including those services for which third-party payment is  
26 available; and

27 (15) In addition to powers conferred elsewhere in the

1 laws of the state and notwithstanding any other law of the state,  
2 implement and enforce an air pollution control program under  
3 subdivision (23) of section 81-1504 or subsection (1) of section  
4 81-1528, which program shall be consistent with the federal Clean  
5 Air Act, as amended, 42 U.S.C. 7401 et seq. Such powers shall  
6 include without limitation those involving injunctive relief, civil  
7 penalties, criminal fines, and burden of proof. Nothing in this  
8 section shall preclude the control of air pollution by resolution,  
9 ordinance, or regulation not in actual conflict with the state air  
10 pollution control regulations.

11           Sec. 909. Section 71-1635, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           71-1635 When the county board of any county or counties  
14 creates a health department as provided by sections 71-1626 to  
15 71-1636, every other local, municipal, or county public health  
16 agency or department, except city or county hospitals, may be  
17 abolished, and such county or district health department may be  
18 given full control over all health matters in the county or  
19 counties, including all municipalities in the county in conformity  
20 with the rules, regulations, and policies of the ~~Department of~~  
21 ~~Health and Human Services,~~ the Department of Health and Human  
22 Services Regulation and Licensure, and the Department of Health and  
23 Human Services Finance and Support. Health and Human Services  
24 System. When a city has joined in the establishment of a  
25 city-county health department, such city-county health department  
26 may be given such control over all health matters in the city  
27 as may be provided by agreement between the county and the city

1 with the approval of the ~~Department of Health and Human Services~~  
2 ~~Regulation and Licensure~~ system. If the health department in  
3 a county or city is changed, any lawful ordinance, resolution,  
4 regulation, policy, or procedure relating to any of the functions  
5 conferred by sections 71-1626 to 71-1636 of the former health  
6 department shall remain in full force and effect until it is  
7 repealed or replaced or until it conflicts with a subsequently  
8 enacted measure.

9           Sec. 910. Section 71-1637, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           71-1637 (1) Any city by its mayor and council or by  
12 its commission, any village by its village board, any county by  
13 its board of supervisors or commissioners, or any township by its  
14 electors shall have power to employ a visiting community nurse,  
15 a home health nurse, or a home health agency defined in section  
16 71-417 and the rules and regulations adopted and promulgated  
17 under the Health Care Facility Licensure Act. Such nurses or  
18 home health agency shall do and perform such duties as the city,  
19 village, county, or township, by their officials and electors,  
20 shall prescribe and direct. The city, village, county, or township  
21 shall have the power to levy a tax, not exceeding three and  
22 five-tenths cents on each one hundred dollars on the taxable  
23 valuation of the taxable property of such city, village, county, or  
24 township, for the purpose of paying the salary and expenses of such  
25 nurses or home health agency. The levy shall be subject to sections  
26 77-3442 and 77-3443. The city, village, county, or township shall  
27 have the power to constitute and empower such nurses or home health

1 agency with police power to carry out the order of such city,  
2 village, county, or township.

3 (2) The governing body of any city, village, county,  
4 or township may contract with any visiting nurses association,  
5 licensed hospital home health agency, or other licensed home health  
6 agency, including those operated by the ~~Department of Health and~~  
7 ~~Human Services, Health and Human Services System,~~ to perform the  
8 duties contemplated in subsection (1) of this section, subject to  
9 the supervision of the governing body, and may pay the expense  
10 of such contract out of the general funds of the city, village,  
11 county, or township.

12 (3) Nothing in this section shall be construed to allow  
13 any city, village, county, township, nurse, or home health agency  
14 to (a) avoid the requirements of individual licensure, (b) perform  
15 any service beyond the scope of practice of licensure or beyond  
16 the limits of licensure prescribed by the Health Care Facility  
17 Licensure Act, or (c) violate any rule or regulation adopted and  
18 promulgated by the ~~Department of Health and Human Services, the~~  
19 ~~Department of Health and Human Services Regulation and Licensure,~~  
20 ~~or the Department of Health and Human Services Finance and Support.~~  
21 Health and Human Services System.

22 Sec. 911. Section 71-1710, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 71-1710 System means the Health and Human Services  
25 System. ~~Department means the Department of Health and Human~~  
26 ~~Services Regulation and Licensure.~~

27 Sec. 912. Section 71-1721.07, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2           71-1721.07    The ~~department~~ system shall, after  
3 consultation with the board, adopt and promulgate rules and  
4 regulations to carry out the Nurse Practitioner Act.

5           Sec. 913. Section 71-1722, Revised Statutes Cumulative  
6 Supplement, 2006, is amended to read:

7           71-1722   Requirements for certification as a nurse  
8 practitioner shall be the following:

9           (1) A license as a registered nurse in the State of  
10 Nebraska or the authority based upon the Nurse Licensure Compact to  
11 practice as a registered nurse in Nebraska;

12           (2) A completed application which includes the  
13 applicant's social security number;

14           (3) A certification fee established and collected as  
15 provided in section 71-162;

16           (4) Evidence of having successfully completed a  
17 graduate-level program in the clinical specialty area of nurse  
18 practitioner practice, which program is accredited by a national  
19 accrediting body;

20           (5) Evidence of having successfully completed thirty  
21 contact hours of education in pharmacotherapeutics;

22           (6) Submission of proof of having passed an examination  
23 pertaining to the specific nurse practitioner role in nursing  
24 adopted or approved by the board with the approval of the  
25 ~~department.~~ system. Such examination may include any recognized  
26 national credentialing examination for nurse practitioners  
27 conducted by an approved certifying body which administers an

1 approved certification program; and

2 (7) If more than five years have elapsed since the  
3 completion of the nurse practitioner program or since the applicant  
4 has practiced in the specific nurse practitioner role, the  
5 applicant shall meet the requirements in subdivisions (1) through  
6 (6) of this section and provide evidence of continuing competency  
7 as required by the board pursuant to section 71-17,135.

8 Sec. 914. Section 71-1723, Revised Statutes Cumulative  
9 Supplement, 2006, is amended to read:

10 71-1723 Anyone fulfilling the requirements listed  
11 in section 71-1722 shall be issued a certificate as a nurse  
12 practitioner by the ~~department~~ system.

13 Sec. 915. Section 71-1723.01, Revised Statutes Cumulative  
14 Supplement, 2006, is amended to read:

15 71-1723.01 A person licensed as an advanced practice  
16 registered nurse in this state on July 1, 2007, shall be issued a  
17 license by the ~~department~~ system as an advanced practice registered  
18 nurse under the Advanced Practice Registered Nurse Licensure Act  
19 and shall be issued a certificate by the ~~department~~ system as a  
20 nurse practitioner under the Nurse Practitioner Act on such date. A  
21 person certified as a nurse practitioner in this state may use the  
22 title nurse practitioner and the abbreviation NP.

23 Sec. 916. Section 71-1723.02, Revised Statutes Cumulative  
24 Supplement, 2006, is amended to read:

25 71-1723.02 (1) A nurse practitioner (a) who has a  
26 master's degree or doctorate degree in nursing and has completed  
27 an approved nurse practitioner program, (b) who can demonstrate

1 separate course work in pharmacotherapeutics, advanced health  
2 assessment, and pathophysiology or psychopathology, and (c) who  
3 has completed a minimum of two thousand hours of practice under  
4 the supervision of a physician shall (i) submit to the ~~department~~  
5 system an integrated practice agreement with a collaborating  
6 physician and (ii) furnish proof of professional liability  
7 insurance required under section 71-1723.04 prior to commencing  
8 practice.

9 (2) A nurse practitioner who needs to obtain the two  
10 thousand hours of supervised practice required under subdivision  
11 (1)(c) of this section shall (a) submit to the ~~department~~ system  
12 one or more integrated practice agreements with a collaborating  
13 physician, (b) furnish proof of jointly approved protocols with a  
14 collaborating physician which shall guide the nurse practitioner's  
15 practice, and (c) furnish proof of professional liability insurance  
16 required under section 71-1723.04.

17 (3) If, after a diligent effort to obtain an integrated  
18 practice agreement, a nurse practitioner is unable to obtain an  
19 integrated practice agreement with one physician, the board may  
20 waive the requirement of an integrated practice agreement upon a  
21 showing that the applicant (a) meets the requirements of subsection  
22 (1) of this section, (b) has made a diligent effort to obtain  
23 an integrated practice agreement, and (c) will practice in a  
24 geographic area where there is a shortage of health care services.

25 Sec. 917. Section 71-1724.01, Revised Statutes Cumulative  
26 Supplement, 2006, is amended to read:

27 71-1724.01 The ~~department~~ system may grant a temporary

1 permit as a nurse practitioner upon application:

2 (1) To graduates of an approved nurse practitioner  
3 program pending results of the first credentialing examination  
4 following graduation;

5 (2) For one hundred twenty days to a nurse practitioner  
6 lawfully authorized to practice in another state pending completion  
7 of the application for a Nebraska certificate; and

8 (3) To applicants for purposes of a reentry program or  
9 supervised practice as part of continuing competency activities  
10 established by the board pursuant to section 71-17,135.

11 Sec. 918. Section 71-1726, Revised Statutes Cumulative  
12 Supplement, 2006, is amended to read:

13 71-1726 Any person practicing as a nurse practitioner  
14 who is not certified as such by the ~~department~~ system and who  
15 possesses a license to engage in any health profession for which a  
16 license is issued by the ~~department~~ system may have such license  
17 denied, refused renewal, suspended, or revoked or have other  
18 disciplinary action taken against such license by the ~~department~~  
19 system pursuant to the provisions of the Nurse Practice Act or the  
20 Uniform Licensing Law relating to such profession, irrespective of  
21 any criminal proceedings for practicing without a certificate.

22 Sec. 919. Section 71-1726.02, Revised Statutes Cumulative  
23 Supplement, 2006, is amended to read:

24 71-1726.02 Any person, corporation, association, or other  
25 entity engaging in any of the following activities is guilty of a  
26 Class IV felony:

27 (1) Practicing as a nurse practitioner without being



1 issued a certificate as such by the ~~department,~~ system;

2 (2) Employing or offering to employ any person as a nurse  
3 practitioner, knowing that such person is not certified as such by  
4 the ~~department,~~ system;

5 (3) Fraudulently seeking, obtaining, or furnishing a  
6 certificate as a nurse practitioner or aiding and abetting such  
7 activities; or

8 (4) Using in connection with his or her name the title  
9 nurse practitioner, the abbreviation NP, or any other designation  
10 tending to imply that he or she is a nurse practitioner certified  
11 by the ~~department~~ system when such person is not certified as a  
12 nurse practitioner.

13 Sec. 920. Section 71-1729, Revised Statutes Cumulative  
14 Supplement, 2006, is amended to read:

15 71-1729 For purposes of the Certified Registered Nurse  
16 Anesthetist Act, unless the context otherwise requires:

17 (1) Board means the Board of Advanced Practice Registered  
18 Nurses;

19 (2) Certified registered nurse anesthetist means a  
20 licensed registered nurse holding a certificate issued under the  
21 act;

22 ~~(3) Department means the Department of Health and Human  
23 Services Regulation and Licensure;~~

24 ~~(4) (3) Licensed practitioner means any physician or  
25 osteopathic physician licensed to prescribe, diagnose, and treat as  
26 prescribed in sections 71-1,102 and 71-1,137; and~~

27 ~~(5) (4) Practice of anesthesia means (a) the performance~~

1 of or the assistance in any act involving the determination,  
2 preparation, administration, or monitoring of any drug used to  
3 render an individual insensible to pain for procedures requiring  
4 the presence of persons educated in the administration of  
5 anesthetics or (b) the performance of any act commonly the  
6 responsibility of educated anesthesia personnel. Practice of  
7 anesthesia includes the use of those techniques which are deemed  
8 necessary for adequacy in performance of anesthesia administration.  
9 Nothing in the Certified Registered Nurse Anesthetist Act prohibits  
10 routine administration of a drug by a duly licensed registered  
11 nurse, licensed practical nurse, or other duly authorized person  
12 for the alleviation of pain or prohibits the practice of anesthesia  
13 by students enrolled in an accredited school of nurse anesthesia  
14 when the services performed are a part of the course of study and  
15 are under the supervision of a licensed practitioner or certified  
16 registered nurse anesthetist; and -

17 (5) System means the Health and Human Services System.

18 Sec. 921. Section 71-1730, Revised Statutes Cumulative  
19 Supplement, 2006, is amended to read:

20 71-1730 In order to obtain a certificate from the  
21 ~~department~~ system as a certified registered nurse anesthetist  
22 an applicant shall:

23 (1) Hold a license as a registered nurse in the State of  
24 Nebraska or have the authority based on the Nurse Licensure Compact  
25 to practice as a registered nurse in Nebraska;

26 (2) Submit a completed application verified by oath which  
27 includes the applicant's social security number;

1           (3) Pay the required fee established and collected as  
2 provided in section 71-162;

3           (4) Submit evidence of successful completion of a course  
4 of study in anesthesia in a school of nurse anesthesia accredited  
5 or approved by or under the auspices of the ~~department~~ system or  
6 the Council on Accreditation of Nurse Anesthesia and Educational  
7 Programs; and

8           (5) Take and successfully pass a certifying examination  
9 approved by the ~~department~~ system after prior approval of such  
10 examination by the board. Such examination may include (a) the  
11 National Qualifying Examination for Certified Registered Nurse  
12 Anesthetists or (b) any other approved recognized national  
13 qualifying examination for nurse anesthetists.

14           If more than five years have elapsed since the applicant  
15 completed the nurse anesthetist program or since the applicant  
16 has practiced as a nurse anesthetist, he or she shall meet the  
17 requirements of subdivisions (1) through (5) of this section and  
18 shall provide evidence of continuing competency as determined by  
19 the board, including, but not limited to, a reentry program,  
20 supervised practice, examination, or one or more of the continuing  
21 competency activities listed in section 71-161.09.

22           Sec. 922. Section 71-1731, Revised Statutes Cumulative  
23 Supplement, 2006, is amended to read:

24           71-1731 The ~~department~~, system, with the prior approval  
25 of the board, may grant a temporary certification in the practice  
26 of anesthesia for a period of not to exceed one year and under  
27 such conditions as the board with the approval of the ~~department~~

1 system determines for graduates of an accredited school of nurse  
2 anesthesia. The permit may be issued upon application by the  
3 graduate for the first certifying examination following his or  
4 her graduation and shall be valid pending the results of such  
5 examination. Temporary certification may also be granted for a  
6 period not to exceed one year to registered nurse anesthetists  
7 currently licensed in another state pending completion of the  
8 application for Nebraska certification. A temporary permit issued  
9 pursuant to this section may be extended at the discretion of the  
10 board with the approval of the ~~department.~~ system.

11           Sec. 923. Section 71-1735, Revised Statutes Cumulative  
12 Supplement, 2006, is amended to read:

13           71-1735 The procedure for biennial certification renewal  
14 as a certified registered nurse anesthetist shall be at the same  
15 time and in the same manner as renewal of a license as a registered  
16 nurse and shall require:

17           (1) A license as a registered nurse in the State of  
18 Nebraska or the authority based on the Nurse Licensure Compact to  
19 practice as a registered nurse in Nebraska;

20           (2) Documentation of continuing competency as required  
21 by the board in rules and regulations approved by the board  
22 and adopted and promulgated by the ~~department.~~ system. Continuing  
23 education is sufficient to meet continuing competency requirements.  
24 The requirements may also include, but not be limited to, one  
25 or more of the continuing competency activities listed in section  
26 71-161.09 which a person may select as an alternative to continuing  
27 education; and

1                   (3) Payment of the required fee established and collected  
2 as provided in section 71-162.

3                   Sec. 924. Section 71-1736.03, Revised Statutes Cumulative  
4 Supplement, 2006, is amended to read:

5                   71-1736.03 Any person practicing as a certified  
6 registered nurse anesthetist who does not hold a certificate as  
7 such issued by the ~~department~~ system and who possesses a license  
8 to engage in any health profession for which a license is issued  
9 by the ~~department~~ system may have such license denied, refused  
10 renewal, suspended, or revoked or have other disciplinary action  
11 taken against such license by the ~~department~~ system pursuant to  
12 the provisions of the Nurse Practice Act or the Uniform Licensing  
13 Law relating to such profession, irrespective of any criminal  
14 proceedings for practicing without a certificate.

15                   Sec. 925. Section 71-1737, Revised Statutes Cumulative  
16 Supplement, 2006, is amended to read:

17                   71-1737 Notwithstanding the provisions of any other  
18 statute, any person, corporation, association, or other entity  
19 who engages in any of the following activities shall be guilty of a  
20 Class IV felony:

21                   (1) Engaging in the practice of anesthesia as a certified  
22 registered nurse anesthetist without being issued a certificate as  
23 such by the ~~department~~, system, with the approval of the board;

24                   (2) Knowingly employing or offering to employ any person  
25 as a certified registered nurse anesthetist when knowing that such  
26 person is not certified as such by the ~~department~~ system with the  
27 approval of the board;

1           (3) Fraudulently seeking, obtaining, or furnishing a  
2 certificate as a certified registered nurse anesthetist or aiding  
3 and abetting such activities; or

4           (4) Using in connection with his or her name the title  
5 certified registered nurse anesthetist, the abbreviation C.R.N.A.,  
6 or any other designation tending to imply that he or she is a  
7 certified registered nurse anesthetist, certified by the ~~department~~  
8 system with the approval of the board pursuant to the Certified  
9 Registered Nurse Anesthetist Act, when such person is not actually  
10 a certified registered nurse anesthetist.

11           Sec. 926. Section 71-1745, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           71-1745 System means the Health and Human Services  
14 System. ~~Department shall mean the Department of Health and Human~~  
15 ~~Services Regulation and Licensure.~~

16           Sec. 927. Section 71-1753, Revised Statutes Cumulative  
17 Supplement, 2006, is amended to read:

18           71-1753 (1) The specific medical functions to be  
19 performed by a certified nurse midwife within the scope of  
20 permitted practice defined by section 71-1752 shall be described  
21 in the practice agreement which shall be reviewed and approved by  
22 the board. A copy of the agreement shall be maintained on file  
23 with the board as a condition of lawful practice under the Nebraska  
24 Certified Nurse Midwifery Practice Act.

25           (2) A certified nurse midwife shall perform the functions  
26 detailed in the practice agreement only under the supervision of  
27 the licensed practitioner responsible for the medical care of the

1 patients described in the practice agreement. If the collaborating  
2 licensed practitioner named in the practice agreement becomes  
3 temporarily unavailable, the certified nurse midwife may perform  
4 the authorized medical functions only under the supervision of  
5 another licensed practitioner designated as a temporary substitute  
6 for that purpose by the collaborating licensed practitioner.

7 (3) A certified nurse midwife may perform authorized  
8 medical functions only in the following settings:

9 (a) In a licensed or certified health care facility as an  
10 employee or as a person granted privileges by the facility;

11 (b) In the primary office of a licensed practitioner  
12 or in any setting authorized by the collaborating licensed  
13 practitioner, except that a certified nurse midwife shall not  
14 attend a home delivery; or

15 (c) Within an organized public health agency.

16 (4) The ~~department~~ system shall, after consultations with  
17 the board, adopt and promulgate rules and regulations to carry out  
18 the Nebraska Certified Nurse Midwifery Practice Act.

19 Sec. 928. Section 71-1755, Revised Statutes Cumulative  
20 Supplement, 2006, is amended to read:

21 71-1755 (1) An applicant for certification as a nurse  
22 midwife shall submit to the board a written application, which  
23 includes the applicant's social security number, and such evidence  
24 as the board shall require showing that the applicant is currently  
25 licensed as a registered nurse by the state or has the authority  
26 based on the Nurse Licensure Compact to practice as a registered  
27 nurse in Nebraska, has successfully completed an approved certified

1 nurse midwifery education program, and has passed a nationally  
2 recognized nurse midwifery examination adopted by the board.

3 (2) The ~~department~~ system may, with the approval of  
4 the board, grant temporary certification as a nurse midwife upon  
5 application (a) to graduates of an approved nurse midwifery program  
6 pending results of the first certifying examination following  
7 graduation and (b) for one hundred twenty days to nurse midwives  
8 currently licensed in another state pending completion of the  
9 application for Nebraska certification. A temporary permit issued  
10 pursuant to this section may be extended for up to one year with  
11 the approval of the board.

12 (3) The board shall adopt an examination to be used  
13 pursuant to subsection (1) of this section.

14 (4) If more than five years have elapsed since the  
15 completion of the nurse midwifery program or since the applicant  
16 has practiced as a nurse midwife, the applicant shall meet the  
17 requirements in subsection (1) of this section and provide evidence  
18 of continuing competency, as may be determined by the board, either  
19 by means of a reentry program, references, supervised practice,  
20 examination, or one or more of the continuing competency activities  
21 listed in section 71-161.09.

22 Sec. 929. Section 71-1757, Revised Statutes Cumulative  
23 Supplement, 2006, is amended to read:

24 71-1757 (1) The certificate of each person certified  
25 under the Nebraska Certified Nurse Midwifery Practice Act shall be  
26 renewed at the same time and in the same manner as renewal of a  
27 license for a registered nurse. Renewal of such a certificate shall



1 require that the applicant have (a) a license as a registered nurse  
2 issued by the state or the authority based on the Nurse Licensure  
3 Compact to practice as a registered nurse in Nebraska and (b)  
4 documentation of continuing competency, either by reference, peer  
5 review, examination, or one or more of the continuing competency  
6 activities listed in section 71-161.09, as established by the board  
7 in rules and regulations approved by the board and adopted and  
8 promulgated by the ~~department~~ system.

9 (2) The ~~department~~ system shall establish and collect  
10 fees for renewal as provided in section 71-162.

11 Sec. 930. Section 71-1762, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 71-1762 Any person practicing as a certified nurse  
14 midwife who is not certified as such by the ~~department~~ system  
15 and who possesses a current license to engage in any health  
16 profession for which a license is issued by the ~~department~~ system  
17 may have such license denied, not renewed, suspended, or revoked  
18 or have other disciplinary action taken against him or her by the  
19 ~~department~~ system pursuant to the provisions of Chapter 71, article  
20 1, relating to such profession, irrespective of any criminal  
21 proceedings for practicing without a certificate.

22 Sec. 931. Section 71-1774, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 71-1774 For purposes of the Licensed Practical  
25 Nurse-Certified Act:

26 (1) Administration includes observing, initiating,  
27 monitoring, discontinuing, maintaining, regulating, adjusting,

1 documenting, assessing, planning, intervening, and evaluating;

2 (2) Approved certification course means a course for  
3 the education and training of a licensed practical nurse-certified  
4 which the board has approved;

5 (3) Board means the Board of Nursing;

6 ~~(4) Department means the Department of Health and Human  
7 Services Regulation and Licensure;~~

8 ~~(5)~~ (4) Direct supervision means that the responsible  
9 licensed practitioner or registered nurse is physically present in  
10 the clinical area and is available to assess, evaluate, and respond  
11 immediately;

12 ~~(6)~~ (5) Initial venipuncture means the initiation  
13 of intravenous therapy based on a new order from a licensed  
14 practitioner for an individual for whom a previous order for  
15 intravenous therapy was not in effect;

16 ~~(7)~~ (6) Intravenous therapy means the therapeutic  
17 infusion or injection of substances through the venous system;

18 ~~(8)~~ (7) Licensed practical nurse-certified means a  
19 licensed practical nurse who meets the standards established  
20 pursuant to section 71-1777 and who holds a valid certificate  
21 issued by the ~~department~~ system pursuant to the act;

22 ~~(9)~~ (8) Licensed practitioner means any person authorized  
23 by state law to prescribe intravenous therapy; ~~and~~

24 ~~(10)~~ (9) Pediatric patient means a patient who is both  
25 younger than eighteen years old and under the weight of thirty-five  
26 kilograms; ~~and~~ -

27 (10) System means the Health and Human Services System.

1                   Sec. 932. Section 71-1777, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   71-1777 In order to obtain a certificate as a licensed  
4 practical nurse-certified, an individual shall meet the following  
5 requirements:

6                   (1) Have a current license to practice as a licensed  
7 practical nurse in Nebraska;

8                   (2) Have successfully completed an approved certification  
9 course within one year before application for certification;

10                   (3) Have satisfactorily passed an examination approved by  
11 the board;

12                   (4) Have filed an application with the ~~department,~~  
13 system; and

14                   (5) Have paid the required fee.

15                   Sec. 933. Section 71-1778, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17                   71-1778 Except as otherwise provided in this section,  
18 a certificate to practice as a licensed practical nurse-certified  
19 shall be issued by the ~~department~~ system to be valid for two  
20 years. An initial certificate shall expire at the same time as the  
21 applicant's license to practice as a licensed practical nurse. The  
22 application for the license shall include the applicant's social  
23 security number.

24                   Sec. 934. Section 71-1780, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26                   71-1780 (1) The board shall adopt and promulgate rules  
27 and regulations defining competencies required for enrollment in an

1 approved certification course and acceptable means for measuring  
2 the competencies. Before enrolling in a course, a licensed  
3 practical nurse shall successfully demonstrate the prerequisite  
4 competencies.

5 (2) The ~~department~~ system with the advice of the board  
6 shall prescribe a curriculum for training licensed practical  
7 nurses-certified, establish an examination, and adopt and  
8 promulgate rules and regulations setting minimum standards for  
9 approved certification courses, including faculty qualifications,  
10 record keeping, faculty-to-student ratios, and other aspects  
11 of conducting such courses. The ~~department~~ system may approve  
12 certification courses developed by associations, educational  
13 institutions, or other entities if such courses meet the  
14 requirements of this section and the criteria prescribed in the  
15 rules and regulations.

16 (3) An approved certification course shall be no less  
17 than forty-eight hours of classroom instruction and shall include a  
18 clinical competency component as defined in rules and regulations  
19 of the board. Classroom instruction shall include the following:

20 (a) State laws governing the administration of intravenous  
21 therapy; (b) anatomy and physiology of the circulatory system; (c)  
22 pharmacology; (d) fluid and electrolyte balance; (e) procedures  
23 and precautions in performing intravenous therapy; (f) types of  
24 equipment for intravenous therapy; (g) actions, interactions, and  
25 effects of medications in intravenous therapy; (h) documentation;  
26 and (i) other subjects relevant to the administration of  
27 intravenous therapy. An approved certification course shall be

1 supervised by a registered nurse with a minimum of three years of  
2 clinical experience immediately prior to supervision of the course.  
3 An educator may be a physician, pharmacist, or other qualified  
4 professional. Nothing in this section shall be deemed to prohibit  
5 any courses from exceeding the minimum requirements.

6 Sec. 935. Section 71-1781, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 71-1781 (1) An applicant for approval to conduct  
9 a certification course shall file an application and shall  
10 present proof satisfactory to the ~~department~~ system that the  
11 proposed course meets the requirements of the Licensed Practical  
12 Nurse-Certified Act and the rules and regulations adopted and  
13 promulgated under the act.

14 (2) The ~~department~~ system may conduct such inspections  
15 or investigations of applicants for approval to conduct a  
16 certification course and of approved certification courses as may  
17 be necessary to ensure compliance with the act and the rules and  
18 regulations.

19 Sec. 936. Section 71-1782, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 71-1782 (1) The ~~department~~ system may deny, refuse  
22 renewal of, revoke, suspend, or otherwise take disciplinary  
23 measures against a certificate to practice as a licensed  
24 practical nurse-certified upon the grounds provided in sections  
25 71-147 to 71-161.19 or for violation of the Licensed Practical  
26 Nurse-Certified Act or the rules and regulations adopted and  
27 promulgated under the act in the manner provided in such sections.

1 The ~~department~~ system with the approval of the board shall adopt  
2 and promulgate rules and regulations governing the procedures for  
3 denial of renewal of the certificate for failure to meet the  
4 continuing competency requirements.

5 (2) Any person practicing as a licensed practical  
6 nurse-certified who is not certified as such by the ~~department~~  
7 system and who possesses a current license to engage in any  
8 health profession for which a license is issued by the ~~department~~  
9 system may have such license denied, refused renewal, suspended, or  
10 revoked or have other disciplinary action taken against him or her  
11 by the ~~department~~ system pursuant to the provisions of the Uniform  
12 Licensing Law relating to such profession.

13 (3) Any person who violates the Licensed Practical  
14 Nurse-Certified Act may have his or her license to practice as  
15 a licensed practical nurse denied, refused renewal, suspended, or  
16 revoked or have other disciplinary action taken against him or her  
17 by the ~~department~~ system pursuant to the provisions of the Uniform  
18 Licensing Law.

19 Sec. 937. Section 71-1783, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 71-1783 The ~~department~~ system may deny, revoke, or  
22 suspend or otherwise take disciplinary measures against an  
23 approved certification course in accordance with section 71-155  
24 for violation of the Licensed Practical Nurse-Certified Act or the  
25 rules and regulations adopted and promulgated under the act.

26 Sec. 938. Section 71-1787, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

1           71-1787 The ~~department~~ system shall establish and collect  
2 the fees to be paid for credentialing activities under the Licensed  
3 Practical Nurse-Certified Act as provided in section 71-162.

4           Sec. 939. Section 71-1788, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6           71-1788 The ~~department~~ system with the approval of the  
7 board shall adopt and promulgate rules and regulations to carry out  
8 the Licensed Practical Nurse-Certified Act. The board shall:

9           (1) Approve an examination;

10          (2) Establish the passing score for the examination;

11          (3) Establish procedures for examination security;

12          (4) Establish the number of times the applicant may fail  
13 the examination before he or she must retake the certification  
14 course; and

15          (5) Establish continuing competency requirements for  
16 persons licensed under the act for adoption and promulgation  
17 by the ~~department~~. system. Continuing education is sufficient to  
18 meet continuing competency requirements. The requirements may also  
19 include, but not be limited to, one or more of the continuing  
20 competency activities listed in section 71-161.09 which a licensed  
21 person may select as an alternative to continuing education.

22          Sec. 940. Section 71-1793, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24          71-1793 Any person practicing as or holding himself  
25 or herself out as a licensed practical nurse-certified who is  
26 not currently certified as such by the ~~department~~ system may be  
27 restrained by temporary and permanent injunctions.

1           Sec. 941. Section 71-1798.01, Revised Statutes Cumulative  
2 Supplement, 2006, is amended to read:

3           71-1798.01 The Board of Nursing shall recommend annually  
4 to the ~~Director of Regulation and Licensure~~ Health and Human  
5 Services System the percentage of all nursing fees collected during  
6 the year that are to be used to cover the cost of the Nebraska  
7 Center for Nursing, except that the percentage shall not be greater  
8 than fifteen percent of the biennial revenue derived from the fees.

9           Sec. 942. Section 71-1799, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           71-1799 (1) The Nebraska Center for Nursing Board is  
12 created. The board shall be a policy-setting board for the Nebraska  
13 Center for Nursing. The board shall be appointed by the Governor as  
14 follows:

15           (a) Ten members, at least three of whom shall be  
16 registered nurses, one of whom shall be a licensed practical nurse,  
17 one of whom shall be a representative of the hospital industry,  
18 and one of whom shall be a representative of the long-term care  
19 industry;

20           (b) One nurse educator recommended by the Board of  
21 Regents of the University of Nebraska;

22           (c) One nurse educator recommended by the Nebraska  
23 Community College Association;

24           (d) One nurse educator recommended by the Nebraska  
25 Association of Independent Colleges and Universities; and

26           (e) Three members recommended by the State Board of  
27 Health.



1                   (2) The initial terms of the members of the Nebraska  
2 Center for Nursing Board shall be:

3                   (a) Five of the ten members appointed under subdivision  
4 (1)(a) of this section shall serve for one year and five shall  
5 serve for two years;

6                   (b) The member recommended by the Board of Regents shall  
7 serve for three years;

8                   (c) The member recommended by the Nebraska Community  
9 College Association shall serve for two years;

10                  (d) The member recommended by the Nebraska Association of  
11 Independent Colleges and Universities shall serve for one year; and

12                  (e) The members recommended by the State Board of Health  
13 shall serve for three years.

14                  The initial appointments shall be made within sixty days  
15 after July 13, 2000. After the initial terms expire, the terms of  
16 all of the members shall be three years with no member serving more  
17 than two consecutive terms.

18                  (3) The Nebraska Center for Nursing Board shall have the  
19 following powers and duties:

20                  (a) To determine operational policy;

21                  (b) To elect a chairperson and officers to serve two-year  
22 terms. The chairperson and officers may not succeed themselves;

23                  (c) To establish committees of the board as needed;

24                  (d) To appoint a multidisciplinary advisory council for  
25 input and advice on policy matters;

26                  (e) To implement the major functions of the Nebraska  
27 Center for Nursing; and

1 (f) To seek and accept nonstate funds for carrying out  
2 center policy.

3 (4) The board members shall be reimbursed for their  
4 actual and necessary expenses as provided in sections 81-1174 to  
5 81-1177.

6 (5) ~~The Department of Health and Human Services~~  
7 ~~Regulation and Licensure Health and Human Services System~~ shall  
8 provide administrative support for the board. The board may  
9 contract for additional support not provided by the ~~department-~~  
10 system.

11 Sec. 943. Section 71-17,102, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 71-17,102 For purposes of the Nursing Student Loan Act:

14 (1) Approved nursing program means a program offered by  
15 a public or private institution in this state (a) which consists  
16 of courses of instruction in regularly scheduled classes leading  
17 to a master of science degree, a bachelor of science degree,  
18 an associate degree, or a diploma in nursing or (b) for the  
19 preparation for licensure as a licensed practical nurse available  
20 to regularly enrolled undergraduate or graduate students;

21 ~~(2) Department means the Department of Health and Human~~  
22 ~~Services Regulation and Licensure;~~

23 ~~(3) (2) Nontraditional student means a student who has~~  
24 not attended classes as a regular full-time student for at least  
25 three years; and

26 ~~(4) (3) Practice of nursing has the definition found in~~  
27 section 71-1,132.05; and -

1                   (4) System means the Health and Human Services System.

2                   Sec. 944. Section 71-17,103, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4                   71-17,103 The ~~department~~ system shall administer a  
5 student loan program under the Nursing Student Loan Act which shall  
6 make loans directly to qualified students enrolled in approved  
7 nursing programs in the State of Nebraska as provided in section  
8 71-17,106. The number of loans made to qualified students at  
9 each institution which has an approved nursing program shall be  
10 in direct proportion to the number of students enrolled in each  
11 nursing program, except that the program shall include at least  
12 one qualified student at each institution in the state which  
13 has an approved nursing program. The funds shall be loaned in a  
14 manner intended to result in the greatest increase in the number  
15 of persons engaged in the study of nursing. Loans shall be made  
16 available for students beginning January 1, 2002, and in each  
17 academic year thereafter. It is the intent of the Legislature  
18 that a portion of the loans allocated be used to enhance the  
19 educational opportunities of nontraditional students and ethnic  
20 minority students.

21                   Sec. 945. Section 71-17,104, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23                   71-17,104 (1) To qualify for a loan under the Nursing  
24 Student Loan Act, a student shall be a resident of Nebraska,  
25 intend to practice in Nebraska, be motivated to practice in  
26 Nebraska, and have substantial financial need. For purposes of  
27 this section, substantial financial need means the difference

1 between the student's financial resources available, including  
2 those available from parents, a parent, a guardian, or a spouse,  
3 and the student's anticipated educational expenses while attending  
4 the approved nursing program, taking into account that:

5 (a) In determining whether a dependent student has  
6 substantial financial need, the following factors shall be  
7 considered: (i) Serious family illness; (ii) the number of  
8 dependent children of the student's parents; (iii) the number of  
9 such dependent children attending institutions of higher education;  
10 and (iv) such other circumstances as may affect the ability of the  
11 student and student's parents to contribute toward the cost of the  
12 student's education; and

13 (b) In determining whether an independent or  
14 self-supporting student has substantial financial need, the  
15 following factors shall be considered: (i) Any serious illness in  
16 the student's family; (ii) the number of dependent children of  
17 the student; (iii) the number of such dependent children attending  
18 institutions of higher education; and (iv) such other circumstances  
19 as may affect the ability of the student or spouse to contribute  
20 toward the cost of the student's education.

21 (2) Each recipient of a loan under the act shall agree to  
22 engage in the practice of nursing in the State of Nebraska for the  
23 equivalent of one year of full-time practice for each year a loan  
24 is received.

25 (3) Each approved nursing program shall forward to the  
26 ~~department~~ system the names of the qualified students recommended  
27 to receive loans under the act, based on the criteria specified in

1 subsections (1) and (2) of this section, and any other information  
2 and documentation the ~~department~~ system deems necessary.

3           Sec. 946. Section 71-17,105, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           71-17,105 (1) Loans received under the Nursing Student  
6 Loan Act shall be used only for educational expenses for an  
7 approved nursing program. The use of such loan funds by a student  
8 is subject to review by the ~~department.~~ system.

9           (2) Each loan shall be for one academic year. Each  
10 student shall not be loaned more than one thousand dollars per  
11 academic year nor a total of more than two thousand dollars.

12           (3) If a student who has received a loan discontinues  
13 the approved nursing program before completing the program, the  
14 student shall repay one hundred percent of the outstanding loan  
15 principal with simple interest at a rate of one point below the  
16 prime interest rate. Such repayment shall commence within six  
17 months after the date of discontinuation of the course of study and  
18 shall be completed within the number of years for which loans were  
19 awarded.

20           (4) After completion of the approved nursing program, a  
21 loan awarded to a student shall be forgiven when the recipient  
22 of the loan has engaged in the full-time practice of nursing in  
23 Nebraska for a period of time which would be the equivalent of  
24 full-time practice for the number of years for which loans were  
25 received.

26           (5) If a recipient of a loan under the act is not engaged  
27 in full-time practice, or the equivalent of full-time practice,

1 as required in subsection (2) of section 71-17,104, the recipient  
2 shall repay one hundred twenty-five percent of the outstanding  
3 loan principal. Such repayment shall be with simple interest at a  
4 rate of one point below the prime interest rate. Interest shall  
5 accrue beginning upon completion of the approved nursing program.  
6 Such repayment shall commence within six months after the date of  
7 discontinuation of the practice of nursing in Nebraska and shall be  
8 completed within the number of years for which loans were awarded.

9           Sec. 947. Section 71-17,106, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           71-17,106 The ~~department,~~ system, in conjunction with  
12 approved nursing programs, shall adopt and promulgate rules and  
13 regulations to carry out the Nursing Student Loan Act. In  
14 conformance with such rules and regulations, institutions with  
15 approved nursing programs may act as agents of the ~~department~~  
16 system for the distribution of the loans to eligible students. The  
17 ~~department~~ system may contract with outside sources to carry out  
18 the act.

19           Sec. 948. Section 71-17,109, Revised Statutes Cumulative  
20 Supplement, 2006, is amended to read:

21           71-17,109 For purposes of the Nursing Faculty Student  
22 Loan Act:

23           (1) Approved nursing program means a program offered by a  
24 public or private postsecondary educational institution in Nebraska  
25 (a) which consists of courses of instruction in regularly scheduled  
26 classes leading to a master of science degree, a bachelor of  
27 science degree, an associate degree, or a diploma in nursing or

1 (b) for the preparation for licensure as a licensed practical nurse  
2 available to regularly enrolled undergraduate or graduate students;

3 ~~(2) Department means the Department of Health and Human~~  
4 ~~Services Regulation and Licensure; and~~

5 ~~(3) (2) Masters or doctoral accredited nursing program~~  
6 means a postgraduate nursing education program that has been  
7 accredited by a nationally recognized accrediting agency and  
8 offered by a public or private postsecondary educational  
9 institution in Nebraska; and -

10 (3) System means the Health and Human Services System.

11 Sec. 949. Section 71-17,111, Revised Statutes Cumulative  
12 Supplement, 2006, is amended to read:

13 71-17,111 Loans may be made by the ~~department~~ system  
14 under the Nursing Faculty Student Loan Act for educational expenses  
15 of a qualified student who agrees in writing to engage in nursing  
16 instruction in an approved nursing program for two years of  
17 full-time nursing instruction for each year a loan is received,  
18 with a maximum of six years of nursing instruction in Nebraska  
19 in return for three years of loans under the act. Loans shall be  
20 subject to the following conditions:

21 (1) Loans shall be used only for educational expenses for  
22 a masters or doctoral accredited nursing program. The use of loan  
23 funds by the recipient is subject to review by the ~~department;~~  
24 system;

25 (2) Each loan shall be for one academic year;

26 (3) A loan recipient shall not receive more than five  
27 thousand dollars per academic year and shall not receive more than

1 fifteen thousand dollars under the act;

2 (4) Loans shall be forgiven at the rate of five thousand  
3 dollars loaned per two years of full-time nursing instruction in  
4 Nebraska;

5 (5) If a loan recipient discontinues enrollment in the  
6 masters or doctoral accredited nursing program before completing  
7 the program, he or she shall repay to the ~~department~~ system one  
8 hundred percent of the outstanding loan principal with simple  
9 interest at a rate of one point below the prime interest rate as  
10 of the date the loan recipient signed the contract. Interest shall  
11 accrue as of the date the loan recipient signed the contract. Such  
12 repayment shall commence within six months after the date he or she  
13 discontinues enrollment and shall be completed within the number of  
14 years for which loans were awarded;

15 (6) If, after the loan recipient completes the masters  
16 or doctoral accredited nursing program and before all of his  
17 or her loans are forgiven under the act, he or she fails to  
18 begin or ceases full-time nursing instruction pursuant to the loan  
19 agreement, he or she shall repay to the ~~department~~ system one  
20 hundred twenty-five percent of the outstanding loan principal with  
21 simple interest at a rate of one point below the prime interest  
22 rate as of the date the loan recipient signed the contract.  
23 Interest shall accrue as of the date the loan recipient signed the  
24 contract. Such repayment shall commence within six months after the  
25 date of completion of the program or the date the loan recipient  
26 ceases full-time nursing instruction, whichever is later, and shall  
27 be completed within the number of years for which loans were



1 awarded; and

2 (7) Institutions which offer a masters or doctoral  
3 accredited nursing program may act as agents of the ~~department~~  
4 system for the distribution of loans to eligible students.

5 Sec. 950. Section 71-17,112, Revised Statutes Cumulative  
6 Supplement, 2006, is amended to read:

7 71-17,112 The Nursing Faculty Student Loan Cash Fund is  
8 created. The fund shall consist of grants, private donations, fees  
9 collected pursuant to section 71-17,113, and loan repayments under  
10 the Nursing Faculty Student Loan Act remitted by the ~~department~~  
11 system to the State Treasurer for credit to the fund. The fund  
12 shall be used to administer the act and for loans to qualified  
13 students pursuant to the act. Any money in the Nursing Faculty  
14 Student Loan Cash Fund available for investment shall be invested  
15 by the state investment officer pursuant to the Nebraska Capital  
16 Expansion Act and the Nebraska State Funds Investment Act.

17 Sec. 951. Section 71-17,113, Revised Statutes Cumulative  
18 Supplement, 2006, is amended to read:

19 71-17,113 Beginning January 1, 2006, through December 31,  
20 2007, the ~~Department of Health and Human Services Regulation and~~  
21 ~~Licensure~~ system shall charge a fee of one dollar, in addition to  
22 any other fee, for each license renewal for a registered nurse or  
23 licensed practical nurse pursuant to section 71-1,132.20. Such fee  
24 shall be collected at the time of renewal and remitted to the State  
25 Treasurer for credit to the Nursing Faculty Student Loan Cash Fund.

26 Sec. 952. Section 71-17,114, Revised Statutes Cumulative  
27 Supplement, 2006, is amended to read:

1           71-17,114 The ~~department~~ system has the administrative  
2 responsibility to track loan recipients and to develop repayment  
3 tracking and collection mechanisms. The ~~department~~ system may  
4 contract for such services. When a loan has been forgiven pursuant  
5 to section 71-17,111, the amount forgiven may be taxable income  
6 to the loan recipient and the ~~department~~ system shall provide  
7 notification of the amount forgiven to the loan recipient, the  
8 Department of Revenue, and the Internal Revenue Service if required  
9 by the Internal Revenue Code as defined in section 49-801.01.

10           Sec. 953. Section 71-17,115, Revised Statutes Cumulative  
11 Supplement, 2006, is amended to read:

12           71-17,115 The ~~department~~ system shall annually provide a  
13 report to the Governor and the Clerk of the Legislature on the  
14 status of the program, the status of the loan recipients, and the  
15 impact of the program on the number of nursing faculty in Nebraska.  
16 Any report which includes information about loan recipients shall  
17 exclude confidential information or any other information which  
18 specifically identifies a loan recipient.

19           Sec. 954. Section 71-17,116, Revised Statutes Cumulative  
20 Supplement, 2006, is amended to read:

21           71-17,116 The ~~department,~~ system, in consultation with  
22 approved nursing programs in Nebraska, shall adopt and promulgate  
23 rules and regulations to carry out the Nursing Faculty Student  
24 Loan Act. The ~~department~~ system may adopt rules that require the  
25 maximum forgiveness amount of fifteen thousand dollars pursuant to  
26 subdivision (3) of section 71-17,111 be present in the Nursing  
27 Faculty Student Loan Cash Fund before each qualified student is

1 chosen.

2           Sec. 955. Section 71-17,118, Revised Statutes Cumulative  
3 Supplement, 2006, is amended to read:

4           71-17,118 For purposes of the Clinical Nurse Specialist  
5 Practice Act:

6           (1) Approved certifying body means a national  
7 certification organization which (a) is approved by the board,  
8 (b) certifies qualified licensed registered nurses for advanced  
9 practice, (c) has eligibility requirements related to education and  
10 practice, and (d) offers an examination in an area of practice  
11 which meets psychometric guidelines and tests approved by the  
12 board;

13           (2) Board means the Board of Advanced Practice Registered  
14 Nurses;

15           (3) Clinical nurse specialist means a registered nurse  
16 who meets the requirements of section 71-17,119 and who holds a  
17 certificate issued under the Clinical Nurse Specialist Practice  
18 Act; and

19           (4) System means the Health and Human Services System.  
20 ~~Department means the Department of Health and Human Services~~  
21 ~~Regulation and Licensure.~~

22           Sec. 956. Section 71-17,119, Revised Statutes Cumulative  
23 Supplement, 2006, is amended to read:

24           71-17,119 An applicant for certification as a clinical  
25 nurse specialist shall be licensed as a registered nurse under  
26 the Nurse Practice Act or have the authority based on the Nurse  
27 Licensure Compact to practice as a registered nurse in Nebraska and

1 shall submit to the ~~department~~ system the following:

2 (1) A completed application, including, but not limited  
3 to, the applicant's social security number and such other  
4 information as the ~~department~~ system requires pursuant to rules and  
5 regulations, accompanied by the fee established pursuant to section  
6 71-17,130;

7 (2) Evidence that the applicant holds a master's degree  
8 or a doctoral degree in a nursing clinical specialty area or has  
9 a master's degree in nursing and has successfully completed a  
10 graduate-level clinical nurse specialist education program; and

11 (3) Except as provided in section 71-17,121, evidence  
12 of passage of a board-approved examination issued by an approved  
13 certifying body or, when such examination is not available, an  
14 alternative method of competency assessment by any means permitted  
15 under section 71-17,124 and approved by the board.

16 Sec. 957. Section 71-17,121, Revised Statutes Cumulative  
17 Supplement, 2006, is amended to read:

18 71-17,121 (1) An applicant who meets the requirements  
19 for certification in section 71-17,119 shall be certified by the  
20 ~~department~~ system as a clinical nurse specialist, except that a  
21 person practicing as a clinical nurse specialist pursuant to the  
22 Nurse Practice Act on July 1, 2007, who applies on or after  
23 such date and before September 1, 2007, shall be certified as a  
24 clinical nurse specialist under this section without complying with  
25 subdivision (3) of section 71-17,119.

26 (2) A person certified as a clinical nurse specialist  
27 has the right to use the title Clinical Nurse Specialist and the

1 abbreviation CNS.

2           Sec. 958. Section 71-17,123, Revised Statutes Cumulative  
3 Supplement, 2006, is amended to read:

4           71-17,123 All certificates issued under the Clinical  
5 Nurse Specialist Practice Act shall expire on October 31 of  
6 each even-numbered year. Biennial certificate renewals shall be  
7 accomplished as the ~~department,~~ system, with the concurrence of the  
8 board, establishes by rule and regulation.

9           Sec. 959. Section 71-17,124, Revised Statutes Cumulative  
10 Supplement, 2006, is amended to read:

11           71-17,124 (1) An applicant for renewal of a certificate  
12 issued under the Clinical Nurse Specialist Practice Act shall  
13 demonstrate continuing competency. Continuing competency may be  
14 demonstrated by methods which include, but are not limited to,  
15 continuing education, course work, continuing practice, national  
16 certification or recertification offered by an approved certifying  
17 body, a reentry program, satisfactory peer review including patient  
18 outcomes, examination, or other continuing competency activities  
19 listed in section 71-161.09.

20           (2) The ~~department,~~ system, with the concurrence of the  
21 board, may waive any continuing competency requirement established  
22 under subsection (1) of this section for any two-year period for  
23 which a certificate holder submits documentation of circumstances  
24 justifying such a waiver. The ~~department~~ system shall define such  
25 justifying circumstances in rules and regulations.

26           Sec. 960. Section 71-17,127, Revised Statutes Cumulative  
27 Supplement, 2006, is amended to read:

1           71-17,127 Any person practicing as a clinical nurse  
2 specialist who is not certified as such by the ~~department~~ system  
3 and who possesses a license to engage in any health profession  
4 for which a license is issued by the ~~department~~ system may have  
5 such license denied, refused renewal, suspended, or revoked or  
6 have other disciplinary action taken against such license by the  
7 ~~department~~ system pursuant to the provisions of the Nurse Practice  
8 Act or the Uniform Licensing Law relating to such profession,  
9 irrespective of any criminal proceedings for practicing without a  
10 certificate.

11           Sec. 961. Section 71-17,130, Revised Statutes Cumulative  
12 Supplement, 2006, is amended to read:

13           71-17,130 The ~~department~~ system shall establish and  
14 collect fees for credentialing activities under the Clinical Nurse  
15 Specialist Practice Act as provided in section 71-162.

16           Sec. 962. Section 71-17,134, Revised Statutes Cumulative  
17 Supplement, 2006, is amended to read:

18           71-17,134 (1) The Board of Advanced Practice Registered  
19 Nurses is established. The purpose of the board is to (a) provide  
20 for the health, safety, and welfare of the citizens, (b) ensure  
21 that licensees serving the public meet minimum standards of  
22 proficiency and competency, and (c) control the profession in  
23 the interest of consumer protection.

24           (2) (a) Until July 1, 2007, the board shall consist of  
25 (i) five advanced practice registered nurses representing different  
26 advanced practice registered nurse specialties for which a license  
27 has been issued, (ii) five physicians licensed under the Uniform

1 Licensing Law to practice medicine in Nebraska, at least three  
2 of whom shall have a current collaborating relationship with an  
3 advanced practice registered nurse, (iii) three consumer members,  
4 and (iv) one licensed pharmacist.

5 (b) On and after July 1, 2007, the board shall consist  
6 of:

7 (i) One nurse practitioner holding a certificate under  
8 the Nurse Practitioner Act, one certified nurse midwife holding  
9 a certificate under the Nebraska Certified Nurse Midwifery  
10 Practice Act, one certified registered nurse anesthetist holding  
11 a certificate under the Certified Registered Nurse Anesthetist  
12 Act, and one clinical nurse specialist holding a certificate  
13 under the Clinical Nurse Specialist Practice Act, except that the  
14 initial clinical nurse specialist appointee may be a clinical nurse  
15 specialist practicing pursuant to the Nurse Practice Act as such  
16 act existed prior to July 1, 2007. Of the initial appointments  
17 under this subdivision, one shall be for a one-year term, one shall  
18 be for a two-year term, one shall be for a three-year term, and one  
19 shall be for a four-year term. All subsequent appointments under  
20 this subdivision shall be for four-year terms;

21 (ii) Three physicians, one of whom shall have a  
22 professional relationship with a nurse practitioner, one of whom  
23 shall have a professional relationship with a certified nurse  
24 midwife, and one of whom shall have a professional relationship  
25 with a certified registered nurse anesthetist. Of the initial  
26 appointments under this subdivision, one shall be for a two-year  
27 term, one shall be for a three-year term, and one shall be for a

1 four-year term. All subsequent appointments under this subdivision  
2 shall be for four-year terms; and

3 (iii) Two public members. Of the initial appointments  
4 under this subdivision, one shall be for a three-year term, and  
5 one shall be for a four-year term. All subsequent appointments  
6 under this subdivision shall be for four-year terms. Public members  
7 of the board shall have the same qualifications as provided in  
8 subsection (1) of section 71-113.

9 (c) Members of the board serving immediately before July  
10 1, 2007, shall serve until members are appointed and qualified  
11 under subdivision (2)(b) of this section.

12 (3) The members of the board shall be appointed by the  
13 State Board of Health. Members shall be appointed for terms of  
14 four years except as otherwise provided in subdivisions (2)(b)  
15 and (c) of this section. At the expiration of the term of any  
16 member, the State Board of Health may consult with appropriate  
17 professional organizations regarding candidates for appointment to  
18 the Board of Advanced Practice Registered Nurses. Upon expiration  
19 of terms, appointments or reappointments shall be made on or  
20 before December 1 of each year. Vacancies on the Board of Advanced  
21 Practice Registered Nurses shall be filled for the unexpired term  
22 by appointments made by the State Board of Health. No member shall  
23 serve more than two consecutive terms on the Board of Advanced  
24 Practice Registered Nurses.

25 (4) The State Board of Health has power to remove from  
26 office any member of the Board of Advanced Practice Registered  
27 Nurses, after a public hearing pursuant to the Administrative



1 Procedure Act, for physical or mental incapacity to carry out  
2 the duties of a board member, for continued neglect of duty, for  
3 incompetence, for acting beyond the individual member's scope of  
4 authority, for malfeasance in office, for any cause for which a  
5 license or certificate in the member's profession involved may be  
6 suspended or revoked, for a lack of licensure or certification in  
7 the member's profession, or for other sufficient cause.

8 (5) Each member of the Board of Advanced Practice  
9 Registered Nurses shall receive a per diem of thirty dollars  
10 per day for each day the member is actually engaged in the  
11 discharge of his or her official duties and shall be reimbursed for  
12 travel, lodging, and other necessary expenses incurred as a member  
13 of the board pursuant to sections 81-1174 to 81-1177.

14 (6) The ~~department~~ system shall adopt and promulgate  
15 rules and regulations which define conflicts of interest for  
16 members of the Board of Advanced Practice Registered Nurses and  
17 which establish procedures in case such a conflict arises.

18 Sec. 963. Section 71-17,135, Revised Statutes Cumulative  
19 Supplement, 2006, is amended to read:

20 71-17,135 The Board of Advanced Practice Registered  
21 Nurses shall:

22 (1) Establish standards for integrated practice  
23 agreements between collaborating physicians and certified nurse  
24 midwives, and nurse practitioners;

25 (2) Monitor the scope of practice by certified nurse  
26 midwives, certified registered nurse anesthetists, clinical nurse  
27 specialists, and nurse practitioners;

1                   (3) Administer and enforce the Advanced Practice  
2 Registered Nurse Licensure Act in order to (a) provide for the  
3 health, safety, and welfare of the citizens, (b) ensure that  
4 advanced practice registered nurses serving the public meet minimum  
5 standards of proficiency and competency, (c) control the profession  
6 in the interest of consumer protection, (d) regulate the scope of  
7 advanced practice nursing, (e) recommend disciplinary actions as  
8 provided in this section, and (f) enforce licensure requirements;

9                   (4) Recommend disciplinary action relating to licenses of  
10 advanced practice registered nurses and certificates of certified  
11 nurse midwives, certified registered nurse anesthetists, clinical  
12 nurse specialists, and nurse practitioners;

13                   (5) Engage in other activities not inconsistent with the  
14 Advanced Practice Registered Nurse Licensure Act, the Certified  
15 Registered Nurse Anesthetist Act, the Clinical Nurse Specialist  
16 Practice Act, the Nebraska Certified Nurse Midwifery Practice Act,  
17 and the Nurse Practitioner Act; and

18                   (6) Approve rules and regulations to implement the  
19 Advanced Practice Registered Nurse Licensure Act, the Certified  
20 Registered Nurse Anesthetist Act, the Clinical Nurse Specialist  
21 Practice Act, the Nebraska Certified Nurse Midwifery Practice Act,  
22 and the Nurse Practitioner Act, for adoption and promulgation by  
23 the ~~department.~~ system. Such rules and regulations shall include:

24                   (a) Approved certification organizations and approved certification  
25 programs; (b) continuing competency requirements. The requirements  
26 may include, but not be limited to, continuing education,  
27 continuing practice, national recertification, a reentry program,

1 peer review including patient outcomes, examination, or other  
2 continuing competency activities listed in section 71-161.09; (c)  
3 grounds for discipline; (d) issuance, renewal, and reinstatement  
4 of licenses and certificates; (e) fees; (f) professional liability  
5 insurance; and (g) conflict of interest for board members.

6 Sec. 964. Section 71-17,136, Revised Statutes Cumulative  
7 Supplement, 2006, is amended to read:

8 71-17,136 The ~~department~~ system shall issue a license  
9 as an advanced practice registered nurse to a registered nurse  
10 who meets the requirements of subsection (1) or (3) of section  
11 71-17,137. The ~~department~~ system may issue a license as an  
12 advanced practice registered nurse to a registered nurse pursuant  
13 to subsection (2) of section 71-17,137.

14 Sec. 965. Section 71-17,137, Revised Statutes Cumulative  
15 Supplement, 2006, is amended to read:

16 71-17,137 (1) An applicant for initial licensure as an  
17 advanced practice registered nurse shall:

18 (a) Be licensed as a registered nurse under the Nurse  
19 Practice Act or have authority based on the Nurse Licensure Compact  
20 to practice as a registered nurse in Nebraska;

21 (b) Be a graduate of or have completed a graduate-level  
22 advanced practice registered nurse program in a clinical specialty  
23 area of certified registered nurse anesthetist, clinical nurse  
24 specialist, certified nurse midwife, or nurse practitioner, which  
25 program is accredited by a national accrediting body;

26 (c) Be certified as a certified registered nurse  
27 anesthetist, a clinical nurse specialist, a certified nurse

1 midwife, or a nurse practitioner, by an approved certifying body  
2 or an alternative method of competency assessment approved by the  
3 board, pursuant to the Certified Registered Nurse Anesthetist Act,  
4 the Clinical Nurse Specialist Practice Act, the Nebraska Certified  
5 Nurse Midwifery Practice Act, or the Nurse Practitioner Act, as  
6 appropriate to the applicant's educational preparation;

7 (d) Submit a completed written application to the  
8 ~~department~~ system which includes the applicant's social security  
9 number and appropriate fees established and collected as provided  
10 in section 71-162;

11 (e) Provide evidence as required by rules and regulations  
12 approved by the board and adopted and promulgated by the  
13 ~~department;~~ system; and

14 (f) Have committed no acts or omissions which are grounds  
15 for disciplinary action in another jurisdiction or, if such acts  
16 have been committed and would be grounds for discipline under the  
17 Nurse Practice Act, the board has found after investigation that  
18 sufficient restitution has been made.

19 (2) (a) Except as provided in subdivisions (b) through (d)  
20 of this subsection, the ~~department~~ system may issue a license by  
21 endorsement under this section to an applicant who holds a license  
22 from another jurisdiction if the licensure requirements of such  
23 other jurisdiction meet or exceed the requirements for licensure as  
24 an advanced practice registered nurse under the Advanced Practice  
25 Registered Nurse Licensure Act.

26 (b) The ~~department~~ system may issue a license as an  
27 advanced practice registered nurse by endorsement to an applicant

1 who holds a credential equivalent to a nurse practitioner issued  
2 by another jurisdiction if such applicant holds a certificate or  
3 degree described in subdivision (3) of section 71-1717.

4 (c) The ~~department~~ system may issue a license as an  
5 advanced practice registered nurse by endorsement to an applicant  
6 who holds a credential equivalent to a certified registered nurse  
7 anesthetist issued by another jurisdiction if such applicant meets  
8 the requirements of subdivision (4) of section 71-1730 as such  
9 subdivision existed on December 31, 1998.

10 (d) The ~~department~~ system may issue a license as  
11 an advanced practice registered nurse by endorsement to an  
12 applicant who holds a credential equivalent to a certified nurse  
13 midwife issued by another jurisdiction if such applicant meets  
14 the requirements of subsection (1) of section 71-1755 as such  
15 subsection existed immediately before July 1, 2007.

16 (e) An applicant under this subsection shall submit a  
17 completed application to the ~~department~~ system which includes the  
18 applicant's social security number, fees established and collected  
19 as provided in section 71-162, and other evidence as required  
20 by rules and regulations approved by the board and adopted and  
21 promulgated by the ~~department.~~ system.

22 (3) A person licensed as an advanced practice registered  
23 nurse or certified as a certified registered nurse anesthetist or  
24 a certified nurse midwife in this state on July 1, 2007, shall be  
25 issued a license by the ~~department~~ system as an advanced practice  
26 registered nurse on such date.

27 (4) A person licensed as an advanced practice registered

1 nurse in this state may use the title advanced practice registered  
2 nurse and the abbreviation APRN.

3 Sec. 966. Section 71-17,138, Revised Statutes Cumulative  
4 Supplement, 2006, is amended to read:

5 71-17,138 (1) The license of each person licensed under  
6 the Advanced Practice Registered Nurse Licensure Act shall be  
7 renewed at the same time and in the same manner as renewal of his  
8 or her certificate described in subdivision (c) of this subsection.  
9 Renewal of such a license shall require that the applicant have  
10 (a) a license as a registered nurse issued by the state or have  
11 the authority based on the Nurse Licensure Compact to practice as  
12 a registered nurse in Nebraska, (b) documentation of continuing  
13 competency, either by reference, peer review, examination, or  
14 one or more of the continuing competency activities listed in  
15 section 71-161.09, as established by the board in rules and  
16 regulations approved by the board and adopted and promulgated by  
17 the ~~department~~, system, and (c) a certificate issued under the  
18 Certified Registered Nurse Anesthetist Act, the Clinical Nurse  
19 Specialist Practice Act, the Nebraska Certified Nurse Midwifery  
20 Practice Act, or the Nurse Practitioner Act.

21 (2) The ~~department~~ system shall establish and collect  
22 fees for renewal as provided in section 71-162.

23 Sec. 967. Section 71-17,141, Revised Statutes Cumulative  
24 Supplement, 2006, is amended to read:

25 71-17,141 Any person practicing as an advanced practice  
26 registered nurse who does not hold a license as such issued  
27 by the ~~department~~ system and who possesses a license to engage

1 in any health profession for which a license is issued by the  
2 ~~department~~ system may have such other license denied, refused  
3 renewal, suspended, or revoked or have other disciplinary action  
4 taken against such license by the ~~department~~ system pursuant to  
5 the provisions of the Nurse Practice Act or the Uniform Licensing  
6 Law relating to such profession, irrespective of any criminal  
7 proceedings for practicing without a license as an advanced  
8 practice registered nurse.

9           Sec. 968. Section 71-1802, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           71-1802 The ~~Director of Regulation and Licensure~~ Health  
12 and Human Services System is hereby authorized to issue permits  
13 for the use of the aforesaid materials pathogenic microorganisms  
14 described in section 71-1801 in the prevention or control of  
15 diseases in humans, if in ~~his or her~~ the opinion of the system  
16 there is sufficient warrant for their utilization for ~~the aforesaid~~  
17 such purpose. The ~~Director of Regulation and Licensure~~ system shall  
18 certify to the State Veterinarian the materials or substances  
19 that ~~he or she~~ considers contain live microorganisms which are  
20 pathogenic to humans. The ~~director~~ system is further authorized to  
21 promulgate rules and regulations to carry out the provisions of  
22 this section.

23           Sec. 969. Section 71-1803, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           71-1803 The State Veterinarian is hereby authorized to  
26 issue permits for the use of the aforesaid materials pathogenic  
27 microorganisms described in section 71-1801 in the prevention or

1 control of diseases of animals, if in ~~his or her~~ the opinion of  
2 the system there is sufficient warrant for their utilization for  
3 the aforesaid purpose. In carrying out the duties of this section  
4 with reference to animals, the State Veterinarian shall take into  
5 consideration the certification made by the ~~Director of Regulation~~  
6 ~~and Licensure~~ Health and Human Services System as provided for in  
7 section 71-1802. The State Veterinarian is further authorized to  
8 promulgate rules and regulations to carry out the provisions of  
9 this section.

10 Sec. 970. Section 71-1804, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 71-1804 The permits, issued under the provisions of  
13 sections 71-1802 and 71-1803, shall be valid for the period of  
14 one year, or part thereof, expiring on December 31 of each year.  
15 However, all such permits must remain subject to abrogation and  
16 renewal, if in the opinion of the ~~Director of Regulation and~~  
17 ~~Licensure~~ Health and Human Services System or State Veterinarian  
18 there is sufficient warrant for such abrogation or renewal.

19 Sec. 971. Section 71-1901, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 71-1901 For purposes of sections 71-1901 to 71-1906.01:

22 (1) Person includes a partnership, limited liability  
23 company, firm, agency, association, or corporation;

24 (2) Child means an unemancipated minor;

25 ~~(3) Department means the Department of Health and Human~~  
26 ~~Services;~~

27 ~~(4)~~ (3) Foster care means engaged in the service of



1 exercising twenty-four-hour daily care, supervision, custody, or  
2 control over children, for compensation or hire, in lieu of  
3 the care or supervision normally exercised by parents in their  
4 own home. Foster care does not include casual care at irregular  
5 intervals or programs as defined in section 71-1910; and

6 ~~(5)~~ (4) Native American means a person who is a member of  
7 an Indian tribe or eligible for membership in an Indian tribe; and

8 -

9 (5) System means the Health and Human Services System.

10 Sec. 972. Section 71-1902, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 71-1902 Except as otherwise provided in this section,  
13 no person shall furnish or offer to furnish foster care for  
14 two or more children from different families without having in  
15 full force and effect a written license issued by the ~~department~~  
16 system upon such terms and conditions as may be prescribed by  
17 general rules and regulations adopted and promulgated by the  
18 ~~department.~~ system. The ~~department~~ system may issue a time-limited,  
19 nonrenewable provisional license to an applicant who is unable to  
20 comply with all licensure requirements and standards, is making  
21 a good faith effort to comply, and is capable of compliance  
22 within the time period stated in the license. The ~~department~~  
23 system may issue a time-limited, nonrenewable probationary license  
24 to a licensee who agrees to establish compliance with rules and  
25 regulations that, when violated, do not present an unreasonable  
26 risk to the health, safety, or well-being of the foster children in  
27 the care of the applicant. No license shall be issued pursuant to

1 this section unless the applicant has completed the required hours  
2 of training in foster care as prescribed by the ~~department.~~ system.

3 All nonprovisional and nonprobationary licenses issued  
4 under sections 71-1901 to 71-1906.01 shall expire two years from  
5 the date of issuance and shall be subject to renewal under the  
6 same terms and conditions as the original license, except that if  
7 a licensee submits a completed renewal application thirty days or  
8 more before the license's expiration date, the license shall remain  
9 in effect until the ~~department~~ system either renews the license  
10 or denies the renewal application. No license issued pursuant to  
11 this section shall be renewed unless the licensee has completed the  
12 required hours of training in foster care in the preceding twelve  
13 months as prescribed by the ~~department.~~ system. For the issuance  
14 or renewal of each nonprovisional and nonprobationary license, the  
15 ~~department~~ system shall charge a fee of fifty dollars for a group  
16 home, fifty dollars for a child-caring agency, and fifty dollars  
17 for a child-placing agency. For the issuance of each provisional  
18 license and each probationary license, the ~~department~~ system shall  
19 charge a fee of twenty-five dollars for a group home, twenty-five  
20 dollars for a child-caring agency, and twenty-five dollars for a  
21 child-placing agency. A license may be revoked for cause, after  
22 notice and hearing, in accordance with rules and regulations  
23 adopted and promulgated by the ~~department.~~ system.

24 For purposes of this section:

25 (1) Foster family home means any home which provides  
26 twenty-four-hour care to children who are not related to the foster  
27 parent by blood or adoption;

1           (2) Group home means a home which is operated under the  
2           auspices of an organization which is responsible for providing  
3           social services, administration, direction, and control for the  
4           home and which is designed to provide twenty-four-hour care for  
5           children and youth in a residential setting;

6           (3) Child-caring agency means an organization which is  
7           incorporated for the purpose of providing care for children in  
8           buildings maintained by the organization for that purpose; and

9           (4) Child-placing agency means an organization which is  
10          authorized by its articles of incorporation and by its license to  
11          place children in foster family homes.

12                 Sec. 973. Section 71-1903, Revised Statutes Cumulative  
13          Supplement, 2006, is amended to read:

14                 71-1903 (1) Before issuance of a license under sections  
15          71-1901 to 71-1906.01, the ~~department~~ system shall cause such  
16          investigation to be made as it deems necessary to determine if  
17          the character of the applicant, any member of the applicant's  
18          household, or the person in charge of the service and the place  
19          where the foster care is to be furnished are such as to ensure  
20          the proper care and treatment of children. The ~~department~~ system  
21          may request the State Fire Marshal to inspect such places for fire  
22          safety pursuant to section 81-502. The State Fire Marshal shall  
23          assess a fee for such inspection pursuant to section 81-505.01,  
24          payable by the licensee or applicant for a license, except that the  
25          ~~department~~ system may pay the fee for inspection for fire safety of  
26          foster family homes as defined in section 71-1902. The ~~department~~  
27          system may ~~request the Department of Health and Human Services~~

1 ~~Regulation and Licensure~~ to conduct sanitation and health standards  
2 investigations pursuant to subsection (2) of this section. The  
3 ~~Department of Health and Human Services~~ system may also, at any  
4 time it sees fit, cause an inspection to be made of the place where  
5 any licensee is furnishing foster care to see that such service is  
6 being properly conducted.

7           (2) ~~The Department of Health and Human Services~~  
8 ~~Regulation and Licensure~~ shall make an investigation and report to  
9 ~~the Department of Health and Human Services,~~ within thirty days  
10 after receipt of the request from the Department of Health and  
11 ~~Human Services,~~ The system shall make an investigation and report  
12 of all facilities and programs of licensed providers of foster care  
13 programs subject to this section or applicants for licenses to  
14 provide such programs to determine if the place or places to be  
15 covered by such licenses meet standards of health and sanitation  
16 set by the ~~Department of Health and Human Services~~ system for the  
17 care and protection of the child or children who may be placed  
18 in such facilities and programs. ~~The Department of Health and~~  
19 ~~Human Services Regulation and Licensure~~ system may delegate the  
20 investigation authority to qualified local environmental health  
21 personnel.

22           (3) Before the foster care placement of any child in  
23 Nebraska by the ~~Department of Health and Human Services~~ ~~on~~  
24 ~~and after July 16, 2004,~~ system, ~~the department~~ system shall  
25 require a national criminal history record information check of  
26 the prospective foster parent of such child and each member of  
27 such prospective foster parent's household who is eighteen years

1 of age or older. The ~~department~~ system shall provide two sets of  
2 legible fingerprints for such persons to the Nebraska State Patrol  
3 for submission to the Federal Bureau of Investigation. The Nebraska  
4 State Patrol shall conduct a criminal history record information  
5 check of such persons and shall submit such fingerprints to the  
6 Federal Bureau of Investigation for a national criminal history  
7 record information check. The criminal history record information  
8 check shall include information from federal repositories of such  
9 information and repositories of such information in other states if  
10 authorized by federal law. The Nebraska State Patrol shall issue a  
11 report of the results of such criminal history record information  
12 check to the ~~department.~~ system. The ~~department~~ system shall pay  
13 a fee to the Nebraska State Patrol for conducting such check.  
14 Information received from the criminal history record information  
15 check required under this subsection shall be used solely for the  
16 purpose of evaluating and confirming information provided by such  
17 persons for providing foster care or for the finalization of an  
18 adoption. A child may be placed in foster care by the ~~department~~  
19 system prior to the completion of a criminal history record  
20 information check under this subsection in emergency situations as  
21 determined by the ~~department.~~ system.

22           Sec. 974. Section 71-1904, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           71-1904 (1) The ~~department~~ system shall adopt and  
25 promulgate rules and regulations pursuant to sections 71-1901 to  
26 71-1906.01 for (a) the proper care and protection of children by  
27 licensees under such sections, (b) the issuance, suspension, and

1 revocation of licenses to provide foster care, (c) the issuance,  
2 suspension, and revocation of probationary licenses to provide  
3 foster care, (d) the issuance, suspension, and revocation of  
4 provisional licenses to provide foster care, (e) the provision of  
5 training in foster care, which training shall be directly related  
6 to the skills necessary to care for children in need of out-of-home  
7 care, including, but not limited to, abused, neglected, dependent,  
8 and delinquent children, and (f) the proper administration of  
9 sections 71-1901 to 71-1906.01.

10 (2) The training required by subdivision (1)(e) of this  
11 section may be waived in whole or in part by the ~~department~~ system  
12 for persons operating foster homes providing care only to relatives  
13 of the foster care provider. Such waivers shall be granted on  
14 a case-by-case basis upon assessment by the ~~department~~ system of  
15 the appropriateness of the relative foster care placement. The  
16 ~~department~~ system shall report annually to the Health and Human  
17 Services Committee of the Legislature the number of waivers granted  
18 under this subsection and the total number of children placed in  
19 relative foster homes.

20 Sec. 975. Section 71-1906.01, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 71-1906.01 The ~~department~~ system may adopt and promulgate  
23 rules and regulations establishing separate licensing standards for  
24 Native American foster homes located outside the boundaries of any  
25 Indian reservation or tribal service area as defined in section  
26 43-1503. The ~~department~~ system shall, in consultation with the  
27 Commission on Indian Affairs, develop appropriate standards for

1 the licensing of such foster homes. Such standards shall comply  
2 with the federal Indian Child Welfare Act of 1978, 25 U.S.C. 1901  
3 et seq., the Nebraska Indian Child Welfare Act, and all other  
4 applicable federal and state laws.

5 Sec. 976. Section 71-1907, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 71-1907 Any person furnishing foster care who is subject  
8 to licensure under section 71-1902, when transporting in a motor  
9 vehicle any children for whom care is being furnished, shall use  
10 an approved child passenger restraint system for each child, except  
11 that an occupant protection system as defined in section 60-6,265  
12 may be used for any child six years of age or older.

13 Any person violating this section shall be guilty of an  
14 infraction as defined in section 29-431 and shall have his or  
15 her license to furnish foster care revoked or suspended by the  
16 ~~Department of Health and Human Services.~~ Health and Human Services  
17 System.

18 For purposes of this section, approved child passenger  
19 restraint system shall mean a restraint system which meets Federal  
20 Motor Vehicle Safety Standard 213 as developed by the National  
21 Highway Traffic Safety Administration, as such standard existed on  
22 July 20, 2002.

23 Sec. 977. Section 71-1909, Revised Statutes Cumulative  
24 Supplement, 2006, is amended to read:

25 71-1909 (1) The purposes of the Child Care Licensing Act  
26 are to provide:

27 (a) Statewide licensure standards for persons providing

1 child care programs; and

2 (b) ~~The Department of Health and Human Services~~  
3 ~~Regulation and Licensure system~~ with authority to coordinate the  
4 enforcement of standards on licensees.

5 (2) It is the intent of the Legislature that the  
6 licensing and regulation of programs under the act exist for  
7 the protection of children and to assist parents in making informed  
8 decisions concerning enrollment and care of their children in such  
9 programs.

10 Sec. 978. Section 71-1910, Revised Statutes Cumulative  
11 Supplement, 2006, is amended to read:

12 71-1910 For purposes of the Child Care Licensing Act,  
13 unless the context otherwise requires:

14 ~~(1) Department means the Department of Health and Human~~  
15 ~~Services Regulation and Licensure;~~

16 ~~(2) Director means the Director of Regulation and~~  
17 ~~Licensure; and~~

18 ~~(3)(a)~~ (1)(a) Program means the provision of services  
19 in lieu of parental supervision for children under thirteen years  
20 of age for compensation, either directly or indirectly, on the  
21 average of less than twelve hours per day, but more than two hours  
22 per week, and includes any employer-sponsored child care, family  
23 child care home, child care center, school-age child care program,  
24 school-age services pursuant to section 79-1104, or preschool or  
25 nursery school.

26 (b) Program does not include casual care at irregular  
27 intervals, a recreation camp as defined in section 71-3101,



1 classes or services provided by a religious organization other  
2 than child care or a preschool or nursery school, a preschool  
3 program conducted in a school approved pursuant to section 79-318,  
4 services provided only to school-age children during the summer and  
5 other extended breaks in the school year, or foster care as defined  
6 in section 71-1901; and -

7 (2) System means the Health and Human Services System.

8 Sec. 979. Section 71-1911, Revised Statutes Cumulative  
9 Supplement, 2006, is amended to read:

10 71-1911 (1) A person may operate child care for three or  
11 fewer children without having a license issued by the ~~department-~~  
12 system. A person who is not required to be licensed may choose to  
13 apply for a license and, upon obtaining a license, shall be subject  
14 to the Child Care Licensing Act. A person who has had a license  
15 issued pursuant to this section and has had such license suspended  
16 or revoked other than for nonpayment of fees shall not operate or  
17 offer to operate a program for or provide care to any number of  
18 children until the person is licensed pursuant to this section.

19 (2) No person shall operate or offer to operate a program  
20 for four or more children under his or her direct supervision,  
21 care, and control at any one time from families other than that  
22 of such person without having in full force and effect a written  
23 license issued by the ~~department~~ system upon such terms as may be  
24 prescribed by the rules and regulations adopted and promulgated by  
25 the ~~department-~~ system. The license may be a provisional license or  
26 an operating license. A city, village, or county which has rules,  
27 regulations, or ordinances in effect on July 10, 1984, which apply

1 to programs operating for two or three children from different  
2 families may continue to license persons providing such programs.  
3 If the license of a person is suspended or revoked other than  
4 for nonpayment of fees, such person shall not be licensed by any  
5 city, village, or county rules, regulations, or ordinances until  
6 the person is licensed pursuant to this section.

7 (3) A provisional license shall be issued to all  
8 applicants following the completion of preservice orientation  
9 training approved or delivered by the ~~department~~ system for the  
10 first year of operation. At the end of one year of operation,  
11 the ~~department~~ system shall either issue an operating license,  
12 extend the provisional license, or deny the operating license.  
13 The provisional license may be extended once for a period of no  
14 more than six months. The decision regarding extension of the  
15 provisional license is not appealable. The provisional license may  
16 be extended if:

17 (a) A licensee is unable to comply with all licensure  
18 requirements and standards, is making a good faith effort to  
19 comply, and is capable of compliance within the next six months;

20 (b) The effect of the current inability to comply with  
21 a rule or regulation does not present an unreasonable risk to the  
22 health, safety, or well-being of children or staff; and

23 (c) The licensee has a written plan of correction that  
24 has been approved by the ~~department~~ system which is to be completed  
25 within the renewal period.

26 (4) The ~~department~~ system may place a provisional or  
27 operating license on corrective action status. Corrective action

1 status is voluntary and may be in effect for up to six months.  
2 The decision regarding placement on corrective action status is  
3 not a disciplinary action and is not appealable. If the written  
4 plan of correction is not approved by the ~~department~~, system,  
5 the ~~department~~ system may discipline the license. A probationary  
6 license may be issued for the licensee to operate under corrective  
7 action status if the ~~department~~ system determines that:

8 (a) The licensee is unable to comply with all licensure  
9 requirements and standards or has had a history of noncompliance;

10 (b) The effect of noncompliance with any rule or  
11 regulation does not present an unreasonable risk to the health,  
12 safety, or well-being of children or staff; and

13 (c) The licensee has a written plan of correction that  
14 has been approved by the ~~department~~, system.

15 (5) Operating licenses issued under the Child Care  
16 Licensing Act shall remain in full force and effect subject to  
17 annual inspections and fees. The ~~department~~ system may amend a  
18 license upon change of ownership or location. Amending a license  
19 requires a site inspection by the ~~department~~ system at the time of  
20 amendment, except that for amendment of a family child care home  
21 I license, an inspection shall occur within sixty days. When a  
22 program is to be permanently closed, the licensee shall return the  
23 license to the ~~department~~ system within one week after the closing.

24 (6) The license, including any applicable status or  
25 amendment, shall be displayed by the licensee in a prominent place  
26 so that it is clearly visible to parents and others. License record  
27 information and inspection reports shall be made available by the

1 licensee for public inspection upon request.

2           Sec. 980. Section 71-1911.01, Revised Statutes Cumulative  
3 Supplement, 2006, is amended to read:

4           71-1911.01 (1) For a license to operate a program for  
5 fewer than thirty children, each applicant for a license and  
6 each licensee shall pay to the ~~department,~~ system, at the time  
7 of initial application and annually thereafter, a license fee of  
8 twenty-five dollars.

9           (2) For a license to operate a program for thirty or more  
10 children, each applicant for a license and each licensee shall pay  
11 to the ~~department,~~ system, at the time of initial application and  
12 annually thereafter, a license fee of fifty dollars.

13           (3) If the ~~department~~ system denies an application for  
14 a license and has not completed an inspection prior to such  
15 denial, the ~~department~~ system shall return the license fee to the  
16 applicant.

17           Sec. 981. Section 71-1911.02, Revised Statutes Cumulative  
18 Supplement, 2006, is amended to read:

19           71-1911.02 (1) An applicant for a license to operate a  
20 program required to be licensed under the Child Care Licensing Act  
21 shall file a written application with the ~~department.~~ system. The  
22 application shall be accompanied by the license fee pursuant to  
23 section 71-1911.01 and shall set forth the full name and address  
24 of the program to be licensed, the full name and address of the  
25 owner of such program, the names of all household members if the  
26 program is located in a residence, the names of all persons in  
27 control of the program, and additional information as required

1 by the ~~department~~, system, including affirmative evidence of the  
2 applicant's ability to comply with rules and regulations adopted  
3 and promulgated under the act. The application shall include  
4 the applicant's social security number if the applicant is an  
5 individual. The social security number shall not be public record  
6 and may only be used for administrative purposes.

7 (2) The application shall be signed by (a) the owner, if  
8 the applicant is an individual, a partnership, or the sole owner  
9 of a limited liability company or a corporation, (b) two of its  
10 members, if the applicant is a limited liability company, or (c)  
11 two of its officers, if the applicant is a corporation.

12 Sec. 982. Section 71-1912, Revised Statutes Cumulative  
13 Supplement, 2006, is amended to read:

14 71-1912 (1) Before issuance of a license, the ~~department~~  
15 system shall investigate or cause an investigation to be made, when  
16 it deems necessary, to determine if the applicant or person in  
17 charge of the program meets or is capable of meeting the physical  
18 well-being, safety, and protection standards and the other rules  
19 and regulations of the ~~department~~ system adopted and promulgated  
20 under the Child Care Licensing Act. The ~~department~~ system may  
21 investigate the character of applicants and licensees, any member  
22 of the applicant's or licensee's household, and the staff and  
23 employees of programs by making a national criminal history record  
24 information check. The ~~department~~ system may at any time inspect  
25 or cause an inspection to be made of any place where a program is  
26 operating to determine if such program is being properly conducted.

27 (2) All inspections by the ~~department~~ system shall be

1 unannounced except for initial licensure visits and consultation  
2 visits. Initial licensure visits are announced visits necessary for  
3 a provisional license to be issued to a family child care home  
4 II, child care center, or preschool program. Consultation visits  
5 are announced visits made at the request of a licensee for the  
6 purpose of consulting with a ~~department~~ system specialist on ways  
7 of improving the program.

8 (3) An unannounced inspection of any place where a  
9 program is operating shall be conducted by the ~~department~~ system or  
10 the city, village, or county pursuant to subsection (2) of section  
11 71-1914 at least annually for a program licensed to provide child  
12 care for fewer than thirty children and at least twice every year  
13 for a program licensed to provide child care for thirty or more  
14 children.

15 (4) Whenever an inspection is made, the findings shall  
16 be recorded in a report designated by the ~~department.~~ system. The  
17 public shall have access to the results of these inspections upon a  
18 written or oral request to the ~~department.~~ system. The request must  
19 include the name and address of the program. Additional unannounced  
20 inspections shall be performed as often as is necessary for the  
21 efficient and effective enforcement of the Child Care Licensing  
22 Act.

23 Sec. 983. Section 71-1913, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 71-1913 (1) The ~~department~~ system may request the State  
26 Fire Marshal to inspect any program for fire safety pursuant to  
27 section 81-502. The State Fire Marshal shall immediately notify the

1 ~~department~~ system whenever he or she delegates authority for such  
2 inspections under such section.

3 (2) The ~~department~~ system may investigate all facilities  
4 and programs of licensed providers of child care programs as  
5 defined in section 71-1910 or applicants for licenses to provide  
6 such programs to determine if the place or places to be covered by  
7 such licenses meet standards of sanitation and physical well-being  
8 set by the ~~department~~ system for the care and protection of  
9 the child or children who may be placed in such facilities and  
10 programs. The ~~department~~ system may delegate this authority to  
11 qualified local environmental health personnel.

12 Sec. 984. Section 71-1913.01, Revised Statutes Cumulative  
13 Supplement, 2006, is amended to read:

14 71-1913.01 (1) Each program shall require the parent or  
15 guardian of each child enrolled in such program to present within  
16 thirty days after enrollment and periodically thereafter (a) proof  
17 that the child is protected by age-appropriate immunization against  
18 measles, mumps, rubella, poliomyelitis, diphtheria, pertussis,  
19 tetanus, and haemophilus influenzae type B and such other diseases  
20 as the ~~Department of Health and Human Services Regulation and~~  
21 ~~Licensure~~ system may from time to time specify based on then  
22 current medical and scientific knowledge, (b) certification by a  
23 physician, an advanced practice registered nurse practicing under  
24 and in accordance with his or her respective certification act,  
25 or a physician assistant that immunization is not appropriate for  
26 a stated medical reason, or (c) a written statement that the  
27 parent or guardian does not wish to have such child so immunized

1 and the reasons therefor. The program shall exclude a child from  
2 attendance until such proof, certification, or written statement is  
3 provided. At the time the parent or guardian is notified that such  
4 information is required, he or she shall be notified in writing of  
5 his or her right to submit a certification or written statement  
6 pursuant to subdivision (b) or (c) of this subsection.

7 (2) Each program shall keep the written record of  
8 immunization, the certification, or the written statement of the  
9 parent or guardian. Such record, certification, or statement shall  
10 be kept by the program as part of the child's file, shall be  
11 available onsite to the Department of Health and Human Services  
12 and the Department of Health and Human Services Regulation and  
13 Licensure, and shall be filed with the Department of Health and  
14 Human Services system for review and inspection. Each program shall  
15 report to the Department of Health and Human Services system by  
16 November 1 of each year the status of immunization for children  
17 enrolled as of September 30 of that year, and children who have  
18 reached kindergarten age and who are enrolled in public or private  
19 school need not be included in the report.

20 Sec. 985. Section 71-1913.02, Revised Statutes Cumulative  
21 Supplement, 2006, is amended to read:

22 71-1913.02 (1) The Department of Health and Human  
23 Services Regulation and Licensure system shall perform annually  
24 a random audit of the reports submitted under section 71-1913.01  
25 to check for compliance with such section on an annual basis and  
26 such other audits and inspections as are necessary to prevent the  
27 introduction or spread of disease. Audit results shall be reported



1 to the ~~Department of Health and Human Services~~ system.

2 (2) If the ~~Department of Health and Human Services~~  
3 ~~or the Department of Health and Human Services Regulation and~~  
4 ~~Licensure system~~ discovers noncompliance with section 71-1913.01,  
5 the ~~Department of Health and Human Services Regulation and~~  
6 ~~Licensure system~~ shall allow a noncomplying program thirty days  
7 to correct deficiencies.

8 (3) The ~~Department of Health and Human Services~~ and the  
9 ~~Department of Health and Human Services Regulation and Licensure~~  
10 ~~system~~ shall develop and provide educational and other materials to  
11 programs and the public as may be necessary to implement section  
12 71-1913.01.

13 Sec. 986. Section 71-1913.03, Revised Statutes Cumulative  
14 Supplement, 2006, is amended to read:

15 71-1913.03 The ~~Department of Health and Human Services~~  
16 ~~Regulation and Licensure system~~ shall adopt and promulgate rules  
17 and regulations relating to the required levels of protection,  
18 using as a guide the recommendations of the American Academy of  
19 Pediatrics and the Advisory Committee on Immunization Practices of  
20 the Centers for Disease Control and Prevention of the United States  
21 Department of Health and Human Services, Public Health Service, and  
22 the methods, manner, and frequency of reporting of each child's  
23 immunization status. The ~~Department of Health and Human Services~~  
24 ~~Regulation and Licensure system~~ shall furnish each program with  
25 copies of such rules and regulations and any other material which  
26 will assist in carrying out section 71-1913.01.

27 Sec. 987. Section 71-1914, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2           71-1914 (1) The ~~department~~ system shall be the state's  
3 coordinating agency for licensure and regulation of programs in  
4 this state in order to (a) provide efficient services pursuant  
5 to the Child Care Licensing Act, (b) avoid duplication of  
6 services, and (c) prevent an unnecessary number of inspections  
7 of any program. The ~~department~~ system may request cooperation and  
8 assistance from local and state agencies and such agencies shall  
9 promptly respond. The extent of an agency's cooperation may be  
10 included in the report to the Legislature pursuant to section  
11 43-3402.

12           (2) A city, village, or county may adopt rules,  
13 regulations, or ordinances establishing physical well-being and  
14 safety standards for programs whether or not the persons providing  
15 such programs are subject to licensure under section 71-1911. Such  
16 rules, regulations, or ordinances shall be as stringent as or more  
17 stringent than the ~~department's~~ system's rules and regulations  
18 for licensees pursuant to the Child Care Licensing Act. The city,  
19 village, or county adopting such rules, regulations, or ordinances  
20 and the ~~department~~ system shall coordinate the inspection and  
21 supervision of licensees to avoid duplication of inspections.  
22 A city, village, or county shall report any violation of such  
23 rules, regulations, or ordinances to the ~~director.~~ system. The  
24 city, village, or county may administer and enforce such rules,  
25 regulations, and ordinances. Enforcement of provisions of the Child  
26 Care Licensing Act or rules or regulations adopted and promulgated  
27 under the act shall be by the ~~department~~ system pursuant to

1 sections 71-1919 to 71-1923.

2           Sec. 988. Section 71-1914.01, Revised Statutes Cumulative  
3 Supplement, 2006, is amended to read:

4           71-1914.01 When the ~~department~~ system receives a  
5 complaint of allegedly improper unlicensed care, the ~~department~~  
6 system shall investigate the claim and shall go to the premises of  
7 the alleged unlicensed program to ascertain if child care is being  
8 provided there which must be licensed according to the Child Care  
9 Licensing Act. If unlicensed child care is occurring in violation  
10 of the act, the person providing the unlicensed care shall have  
11 thirty days to either become licensed or cease providing unlicensed  
12 child care. The ~~department~~ system shall visit the program again  
13 after such thirty-day period. If the person has not initiated  
14 action to become licensed or ceased providing unlicensed child  
15 care, the ~~department~~ system may involve law enforcement and may  
16 proceed under sections 71-1914.02 and 71-1914.03.

17           Sec. 989. Section 71-1914.02, Revised Statutes Cumulative  
18 Supplement, 2006, is amended to read:

19           71-1914.02 The ~~department~~ system may apply for a  
20 restraining order or a temporary or permanent injunction against  
21 any person violating the Child Care Licensing Act by providing  
22 unlicensed child care when a license is required. The district  
23 court of the county where the violation is occurring shall have  
24 jurisdiction to grant such relief upon good cause shown. Relief may  
25 be granted notwithstanding the existence of any other remedy at law  
26 and shall be granted without bond.

27           Sec. 990. Section 71-1914.03, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2           71-1914.03 (1) Any person violating the Child Care  
3 Licensing Act by providing unlicensed child care when a license  
4 is required is guilty of a Class IV misdemeanor. Each day the  
5 violation continues shall be a separate offense.

6           (2) The county attorney of the county in which any  
7 provision of unlicensed child care in violation of the act is  
8 occurring shall, when notified of such violation by the ~~department~~  
9 system or a law enforcement agency, cause appropriate proceedings  
10 under subsection (1) of this section to be instituted and pursued  
11 in a court of competent jurisdiction.

12           Sec. 991. Section 71-1916, Revised Statutes Cumulative  
13 Supplement, 2006, is amended to read:

14           71-1916 (1) The ~~department~~ system shall adopt and  
15 promulgate such rules and regulations, consistent with the Child  
16 Care Licensing Act, as necessary for (a) the proper care and  
17 protection of children in programs regulated under the act, (b)  
18 the issuance and discipline of licenses, and (c) the proper  
19 administration of the act.

20           (2) The ~~department~~ system shall adopt and promulgate  
21 rules and regulations establishing standards for the physical  
22 well-being, safety, and protection of children in programs licensed  
23 under the Child Care Licensing Act. Such standards shall insure  
24 that the program is providing proper care for and treatment of the  
25 children served and that such care and treatment is consistent with  
26 the children's physical well-being, safety, and protection. Such  
27 standards shall not require the use of any specific instructional

1 materials or affect the contents of any course of instruction  
2 which may be offered by a program. The rules and regulations  
3 shall contain provisions which encourage the involvement of parents  
4 in child care for their children and insure the availability,  
5 accessibility, and high quality of services for children.

6 (3) The rules and regulations shall be adopted and  
7 promulgated pursuant to the Administrative Procedure Act, except  
8 that the ~~department~~ system shall hold a public hearing in each  
9 geographic area of the state prior to the adoption, amendment,  
10 or repeal of any rule or regulation. The ~~department~~ system shall  
11 review and provide recommendations to the Governor for updating  
12 such rules and regulations at least every five years.

13 (4) The rules and regulations applicable to programs  
14 required to be licensed under the Child Care Licensing Act do not  
15 apply to any program operated or contracted by a public school  
16 district and subject to the rules and regulations of the State  
17 Department of Education as provided in section 79-1104.

18 (5) Contested cases of the ~~department~~ system under  
19 the Child Care Licensing Act shall be in accordance with the  
20 Administrative Procedure Act.

21 Sec. 992. Section 71-1918, Revised Statutes Cumulative  
22 Supplement, 2006, is amended to read:

23 71-1918 The ~~department~~ system shall maintain a complaint  
24 tracking system for licensees under the Child Care Licensing Act.

25 Sec. 993. Section 71-1919, Revised Statutes Cumulative  
26 Supplement, 2006, is amended to read:

27 71-1919 The ~~department~~ system may deny the issuance of or

1 take disciplinary action against a license issued under the Child  
2 Care Licensing Act on any of the following grounds:

3 (1) Failure to meet or violation of any of the  
4 requirements of the Child Care Licensing Act or the rules and  
5 regulations adopted and promulgated under the act;

6 (2) Violation of an order of the director under the act;

7 (3) Conviction of, or substantial evidence of committing  
8 or permitting, aiding, or abetting another to commit, any unlawful  
9 act, including, but not limited to, unlawful acts committed by an  
10 applicant or licensee under the act, household members who reside  
11 at the place where the program is provided, or employees of the  
12 applicant or licensee that involve:

13 (a) Physical abuse of children or vulnerable adults as  
14 defined in section 28-371;

15 (b) Endangerment or neglect of children or vulnerable  
16 adults;

17 (c) Sexual abuse, sexual assault, or sexual misconduct;

18 (d) Homicide;

19 (e) Use, possession, manufacturing, or distribution of a  
20 controlled substance listed in section 28-405;

21 (f) Property crimes, including, but not limited to,  
22 fraud, embezzlement, and theft by deception; and

23 (g) Use of a weapon in the commission of an unlawful act;

24 (4) Conduct or practices detrimental to the health or  
25 safety of a person served by or employed at the program;

26 (5) Failure to allow an agent or employee of the  
27 ~~Department of Health and Human Services, the Department of Health~~

1 ~~and Human Services Finance and Support, or the Department of Health~~  
2 ~~and Human Services Regulation and Licensure system access to the~~  
3 program for the purposes of inspection, investigation, or other  
4 information collection activities necessary to carry out the duties  
5 of ~~such departments,~~ the system;

6 (6) Failure to allow state or local inspectors,  
7 investigators, or law enforcement officers access to the program  
8 for the purposes of investigation necessary to carry out their  
9 duties;

10 (7) Failure to meet requirements relating to sanitation,  
11 fire safety, and building codes;

12 (8) Failure to comply with or violation of the Medication  
13 Aide Act;

14 (9) Failure to file a report of suspected abuse or  
15 neglect as required by sections 28-372 and 28-711;

16 (10) Violation of any city, village, or county rules,  
17 regulations, or ordinances regulating licensees; or

18 (11) Failure to pay fees required under the Child Care  
19 Licensing Act.

20 Sec. 994. Section 71-1920, Revised Statutes Cumulative  
21 Supplement, 2006, is amended to read:

22 71-1920 (1) The ~~department~~ system may impose any one or a  
23 combination of the following types of disciplinary action against a  
24 license issued under the Child Care Licensing Act:

25 (a) Issue a probationary license;

26 (b) Suspend or revoke a provisional, probationary, or  
27 operating license;

1           (c) Impose a civil penalty of up to five dollars per  
2 child, based upon the number of children for which the program  
3 is authorized to provide child care on the effective date of the  
4 finding of violation, for each day the program is in violation;

5           (d) Establish restrictions on new enrollment in the  
6 program;

7           (e) Establish restrictions or other limitations on the  
8 number of children or the age of the children served in the  
9 program; or

10           (f) Establish other restrictions or limitations on the  
11 type of service provided by the program.

12           (2) A person who has had a license revoked for any cause  
13 other than nonpayment of fees shall not be eligible to reapply for  
14 a license for a period of two years.

15           (3) Any fine imposed and unpaid under the Child Care  
16 Licensing Act shall constitute a debt to the State of Nebraska  
17 which may be collected in the manner of a lien foreclosure or  
18 sued for and recovered in any proper form of action in the name  
19 of the State of Nebraska in the district court of the county in  
20 which the program is located. ~~The department shall, within thirty~~  
21 ~~days after receipt, remit fines to the State Treasurer for credit~~  
22 ~~to the permanent school fund. The system shall remit fines to the~~  
23 ~~State Treasurer, within thirty days after receipt, for distribution~~  
24 ~~in accordance with Article VII, section 5, of the Constitution of~~  
25 ~~Nebraska.~~

26           Sec. 995. Section 71-1921, Revised Statutes Cumulative  
27 Supplement, 2006, is amended to read:



1           71-1921 (1) In determining what type of disciplinary  
2 action to impose, the ~~department~~ system shall consider:

3           (a) The gravity of the violation, including the  
4 probability that death or serious physical or mental harm will  
5 result, the severity of the actual or potential harm, and the  
6 extent to which the provisions of applicable statutes, rules, and  
7 regulations were violated;

8           (b) The diligence exercised by the program in identifying  
9 or correcting the violation;

10           (c) The degree of cooperation exhibited by the licensee  
11 in the identification, disclosure, and correction of the violation;

12           (d) Any previous violations committed by the program; and

13           (e) The financial benefit to the program of committing or  
14 continuing the violation.

15           (2) If the licensee fails to correct a violation or  
16 to comply with a particular type of disciplinary action, the  
17 ~~department~~ system may take additional disciplinary action as  
18 described in section 71-1920.

19           Sec. 996. Section 71-1922, Revised Statutes Cumulative  
20 Supplement, 2006, is amended to read:

21           71-1922 (1) If the ~~department~~ system determines to deny  
22 the issuance of or take disciplinary action against a license under  
23 the Child Care Licensing Act, the ~~department~~ system shall send to  
24 the applicant or licensee, by certified mail to the address of the  
25 applicant or licensee, a notice setting forth the determination,  
26 the particular reasons for the determination, including a specific  
27 description of the nature of the violation and the statute, rule,

1 regulation, or order violated, and the type of disciplinary action  
2 which is pending. A copy of the notice shall also be mailed to the  
3 person in charge of the program if the licensee is not actually  
4 involved in the daily operation of the program. If the licensee  
5 is a corporation, a copy of the notice shall be sent to the  
6 corporation's registered agent.

7 (2) The denial or disciplinary action shall become final  
8 fifteen days after the mailing of the notice unless the applicant  
9 or licensee, within such fifteen-day period, makes a written  
10 request for a hearing. The license shall continue in effect until  
11 the final order of the ~~director~~ system if a hearing is requested.  
12 If the ~~director~~ system does not receive such request within such  
13 fifteen-day period, the action of the ~~department~~ system shall be  
14 final.

15 Sec. 997. Section 71-1923, Revised Statutes Cumulative  
16 Supplement, 2006, is amended to read:

17 71-1923 A licensee may voluntarily surrender the license  
18 issued under the Child Care Licensing Act at any time, except that  
19 the ~~department~~ system may refuse to accept a voluntary surrender  
20 of a license if the licensee is under investigation or if the  
21 ~~department~~ system has initiated disciplinary action against the  
22 licensee.

23 Sec. 998. Section 71-2002, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 71-2002 For purposes of the State Hospital Survey and  
26 Construction Act: As used in sections 71-2001 to 71-2016, unless  
27 the context otherwise requires:

1           ~~(1) Director shall mean the Director of Regulation and~~  
2 ~~Licensure;~~

3           ~~(2)~~ (1) The federal act shall mean, but is not restricted  
4 to, Public Law 88-156, Public Law 88-164, Public Law 88-581, Public  
5 Law 88-443, and other measures of similar intent which have been,  
6 or may in the future be, passed by the Congress of the United  
7 States;

8           ~~(3)~~ (2) The Surgeon General shall mean the Surgeon  
9 General of the Public Health Service of the United States or such  
10 other federal office or agency responsible for the administration  
11 of the federal Hospital Survey and Construction Act, 42 U.S.C. 291  
12 and amendments thereto;

13           ~~(4)~~ (3) Hospital includes, but is not restricted to,  
14 facilities or parts of facilities, which provide space for public  
15 health centers, mental health clinics, and general, tuberculosis,  
16 mental, long-term care, and other types of hospitals, and related  
17 facilities, such as homes for the aged or infirm, laboratories,  
18 out-patient departments, nurses' home and educational facilities,  
19 and central service facilities operated in connection with  
20 hospitals;

21           ~~(5)~~ (4) Public health center shall mean a publicly owned  
22 facility for providing public health services, including related  
23 facilities such as laboratories, clinics, and administrative  
24 offices operated in connection with public health centers; and

25           ~~(6)~~ (5) Nonprofit hospital shall mean any hospital owned  
26 and operated by a corporation or association, no part of the net  
27 earnings of which inures, or may lawfully inure, to the benefit of

1 any private shareholder or individual; and -

2 (6) System shall mean the Health and Human Services  
3 System.

4 Sec. 999. Section 71-2003, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 71-2003 The ~~Department of Health and Human Services~~  
7 ~~Regulation and Licensure~~ system shall constitute the sole agency of  
8 the state for the purpose of (1) making an inventory of existing  
9 hospitals, surveying the need for construction of hospitals, and  
10 developing a program of hospital construction as provided in  
11 section 71-2007, and (2) developing and administering a state plan  
12 for the construction of public and other nonprofit hospitals as  
13 provided in ~~sections 71-2008 to 71-2016.~~ the State Hospital Survey  
14 and Construction Act.

15 Sec. 1000. Section 71-2004, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 71-2004 In carrying out the purposes of ~~sections 71-2001~~  
18 ~~to 71-2016,~~ the State Hospital Survey and Construction Act, the  
19 ~~director~~ system is authorized and directed:

20 (1) To require such reports, make such inspections and  
21 investigations and prescribe such regulations as ~~he or she~~ it deems  
22 necessary;

23 (2) To provide such methods of administration, appoint  
24 an assistant director and other personnel of the division and  
25 take such other action as may be necessary to comply with the  
26 requirements of the federal act and the regulations thereunder;

27 (3) To procure ~~in his or her discretion~~ the temporary or

1 intermittent services of experts or consultants or organizations  
2 thereof, by contract, when such services are to be performed  
3 on a part-time or fee-for-service basis and do not involve the  
4 performance of administrative duties;

5 (4) To the extent that he or she considers desirable to  
6 effectuate the purposes of ~~sections 71-2001 to 71-2016,~~ the act,  
7 to enter into agreements for the utilization of the facilities and  
8 services of other departments, agencies and institutions, public or  
9 private;

10 (5) To accept on behalf of the state and to deposit  
11 with the State Treasurer any grant, gift, or contribution made to  
12 assist in meeting the cost of carrying out the purposes of ~~sections~~  
13 ~~71-2001 to 71-2016,~~ the act, and to expend the same for such  
14 purpose; and

15 (6) To match funds with federal grants when required  
16 in order to obtain such funds in carrying out the ~~provisions of~~  
17 ~~sections 71-2001 to 71-2016.~~ act.

18 Sec. 1001. Section 71-2006, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 71-2006 Such money as may be appropriated by the  
21 Legislature for the administration of ~~sections 71-2001 to 71-2016~~  
22 the State Hospital Survey and Construction Act shall be expended  
23 upon proper certification by the ~~director~~ system as provided by  
24 law.

25 Sec. 1002. Section 71-2007, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27 71-2007 The ~~director~~ system is authorized and directed

1 to make an inventory of existing hospitals and medical facilities,  
2 including, but not restricted to, public, nonprofit and proprietary  
3 hospitals and other medical facilities, to accumulate pertinent  
4 comparable statistical data from existing hospitals and medical  
5 facilities, to survey the need for construction or expansion of  
6 hospitals and, on the basis of such statistical data, inventory and  
7 survey, to develop a program for the construction or expansion of  
8 such public and other nonprofit hospitals and medical facilities  
9 as will, in conjunction with existing facilities, afford the  
10 necessary physical facilities for furnishing adequate hospital,  
11 clinic and other essential health services without duplication or  
12 fragmentation of such facilities or services to all the people of  
13 the state.

14           Sec. 1003. Section 71-2009, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           71-2009 The ~~directer~~ system is authorized to make  
17 application to the Surgeon General for federal funds to assist  
18 in carrying out the activities herein provided. Such funds shall  
19 be deposited in the state treasury and shall be available when  
20 appropriated, ~~to the directer~~ for expenditure for carrying out the  
21 purposes of ~~sections 71-2008 to 71-2016.~~ the State Hospital Survey  
22 and Construction Act. Any such funds received and not expended for  
23 such purposes shall be repaid to the Treasury of the United States.

24           Sec. 1004. Section 71-2010, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26           71-2010 The ~~directer~~ system shall prepare and submit  
27 to the Surgeon General a state plan which shall include the

1 hospital construction program developed under ~~sections 71-2008~~  
2 ~~to 71-2016,~~ the State Hospital Survey and Construction Act, and  
3 which shall provide for the establishment, administration, and  
4 operation of hospital and medical facility construction activities  
5 in accordance with the requirements of the federal act and  
6 regulations thereunder. The ~~director~~ system shall, prior to the  
7 submission of such plan to the Surgeon General, give adequate  
8 publicity to a general description of all the provisions proposed  
9 to be included therein, and hold a public hearing at which all  
10 persons or organizations with a legitimate interest in such plan  
11 may be given an opportunity to express their views. After approval  
12 of the plan by the Surgeon General, the ~~director~~ system shall make  
13 the plan, or plans, or a copy thereof, available upon request to  
14 all interested persons or organizations. The ~~director~~ system shall  
15 from time to time review the hospital construction program and  
16 submit to the Surgeon General any modifications ~~thereof which he~~  
17 ~~may find~~ necessary, and may submit to the Surgeon General such  
18 modifications of the state plan, or plans, not inconsistent with  
19 the requirements of the federal act. ~~as he may deem advisable.~~

20           Sec. 1005. Section 71-2011, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           71-2011 The ~~director~~ system shall by regulation prescribe  
23 minimum standards for the maintenance and operation of hospitals  
24 and other medical facilities which receive federal aid for  
25 construction under the state plan.

26           Sec. 1006. Section 71-2013, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

1           71-2013 Applications for hospital construction projects  
2 for which federal funds are requested shall be submitted to the  
3 ~~director~~ system and may be submitted by the state or any political  
4 subdivision thereof or by any public or nonprofit agency authorized  
5 to construct and operate a hospital. Each such application shall  
6 conform to federal and state requirements.

7           Sec. 1007. Section 71-2014, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           71-2014 The ~~director~~ system shall afford to every  
10 applicant for a construction project an opportunity for a fair  
11 hearing. If the ~~director~~, system, after affording reasonable  
12 opportunity for development and presentation of applications in the  
13 order of relative need, finds that a project application complies  
14 with the requirements of section 71-2013 and is otherwise in  
15 conformity with the state plan, ~~he shall approve~~ such application  
16 shall be approved and shall recommend and forward it be recommended  
17 and forwarded to the Surgeon General.

18           Sec. 1008. Section 71-2015, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20           71-2015 From time to time the ~~director~~ system shall  
21 inspect each construction project approved by the Surgeon General  
22 and, if the inspection so warrants, the ~~director~~ system shall  
23 certify to the Surgeon General that work has been performed upon  
24 the project, or purchases have been made, in accordance with  
25 the approved plans and specifications, and that payment of an  
26 installment of federal funds is due to the applicant.

27           Sec. 1009. Section 71-2016, Reissue Revised Statutes of



1 Nebraska, is amended to read:

2           71-2016 The State Treasurer is hereby authorized to  
3 receive federal funds and transmit them to such applicants or to  
4 the ~~department,~~ system, if to carry out any survey, administration,  
5 or other authorized function. There is hereby established, separate  
6 and apart from all public money and funds of this state, a Hospital  
7 and Medical Facilities Fund. Money from the federal government  
8 for any authorized purpose of survey, planning, administration, or  
9 construction of approved projects, shall be received by the State  
10 Treasurer for credit to the fund. Warrants for all payments from  
11 the fund shall be drawn and paid in the manner provided by law. Any  
12 money in the fund available for investment shall be invested by the  
13 state investment officer pursuant to the Nebraska Capital Expansion  
14 Act and the Nebraska State Funds Investment Act.

15           Sec. 1010. Section 71-2049, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17           71-2049 Except for state hospitals administered by the  
18 ~~Department of Health and Human Services,~~ Health and Human Services  
19 System, each ambulatory surgical center and each hospital, as  
20 such terms are defined in sections 71-405 and 71-419, shall, upon  
21 written request of a patient or third-party payor on behalf of  
22 a patient, include in such patient's or payor's bill an itemized  
23 list of all expenses such patient incurred during his or her  
24 stay at such ambulatory surgical center or hospital. Such expenses  
25 shall include, but not be limited to, the cost of (1) X-rays,  
26 (2) laboratory fees, (3) respiratory therapy services, (4) oxygen,  
27 (5) pharmaceuticals, (6) take-home drugs, (7) chargeable medical

1 supplies, (8) central service supplies, (9) medical equipment, (10)  
2 room and board, and (11) all additional charges incurred by the  
3 patient. The right to request such information shall be clearly and  
4 conspicuously stated in each patient's or payor's bill. The patient  
5 or payor shall receive a copy of the itemized bill within fourteen  
6 days after the ambulatory surgical center or hospital receives the  
7 request. Such request shall be made by the patient or payor within  
8 twenty-eight days after the date of discharge.

9           Upon receipt of an itemized list, a patient or payor  
10 may request and the ambulatory surgical center or hospital shall  
11 provide an explanation of any or all expenses or services included  
12 on the itemized list. The patient or payor shall make a request for  
13 such explanation within twenty-eight days of receipt of an itemized  
14 list. The patient or payor shall receive the explanation within  
15 fourteen days after the ambulatory surgical center or hospital  
16 receives the request.

17           Any person who violates this section shall be guilty of  
18 a Class IV misdemeanor.

19           Sec. 1011. Section 71-2081, Revised Statutes Cumulative  
20 Supplement, 2006, is amended to read:

21           71-2081 For each hospital uniform billing form on which  
22 a diagnosis code for the external cause of an injury, poisoning,  
23 or adverse effect is entered pursuant to section 71-2080, each  
24 hospital in this state may submit data to the ~~Department of Health~~  
25 ~~and Human Services Regulation and Licensure beginning January 1,~~  
26 ~~1994, and shall submit data to the department beginning January~~  
27 ~~1, 1995.~~ Health and Human Services System. Such data shall be

1 submitted quarterly and shall include, but not be limited to, the  
2 diagnosis code for the external cause of an injury, poisoning,  
3 or adverse effect, other diagnosis codes, the procedure codes,  
4 admission date, discharge date, disposition code, and demographic  
5 data to include, but not be limited to, the birthdate, sex, city  
6 and county of residence, and zip code of residence for every  
7 patient discharged from a hospital, receiving outpatient services,  
8 or released from observation for whom a diagnosis code for the  
9 external cause of an injury, poisoning, or adverse effect is  
10 recorded pursuant to section 71-2080. This data shall be submitted  
11 to the ~~department~~ system in written or computer form. The data  
12 provided to the ~~department~~ system under this section shall be  
13 classified for release as determined by the ~~department~~ system only  
14 in aggregate data reports created by the ~~department.~~ system. Such  
15 aggregate data reports shall be considered public documents.

16           Sec. 1012. Section 71-2082, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           71-2082 The Department of Health and Human Services  
19 Regulation and Licensure Health and Human Services System  
20 shall adopt and promulgate rules and regulations governing the  
21 recordation, acquisition, compilation, and dissemination of all  
22 data collected pursuant to sections 71-2078 to 71-2082.

23           Sec. 1013. Section 71-2084, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           71-2084 For purposes of sections 71-2084 to 71-2096:

26           ~~(1) Department means the Department of Health and Human~~  
27 ~~Services Regulation and Licensure;~~

1           ~~(2) Director means the Director of Regulation and~~  
2 ~~Licensure; and~~

3           ~~(3) (1) Health care facility means a health care facility~~  
4 ~~subject to licensing under the Health Care Facility Licensure Act;~~  
5 ~~and -~~

6           (2) System means the Health and Human Services System.

7           Sec. 1014. Section 71-2085, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           71-2085 The ~~department~~ system may petition the district  
10 court for appointment of a receiver for a health care facility when  
11 any of the following conditions exist:

12           (1) If the ~~department~~ system determines that the health,  
13 safety, or welfare of the residents or patients is in immediate  
14 danger;

15           (2) The health care facility is operating without a  
16 license;

17           (3) The ~~department~~ system has suspended, revoked, or  
18 refused to renew the existing license of the health care facility;

19           (4) The health care facility is closing, or has informed  
20 the ~~department~~ system that it intends to close, and adequate  
21 arrangements for the relocation of the residents or patients of  
22 such health care facility have not been made at least thirty days  
23 prior to closure; or

24           (5) The ~~department~~ system determines that an emergency  
25 exists, whether or not it has initiated revocation or nonrenewal  
26 procedures, and because of the unwillingness or inability of  
27 the licensee, owner, or operator to remedy the emergency, the

1 ~~department~~ system believes a receiver is necessary.

2           Sec. 1015. Section 71-2086, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           71-2086 (1) The ~~department~~ system shall file the petition  
5 for the appointment of a receiver provided for in section 71-2085  
6 in the district court of the county where the health care facility  
7 is located and shall request that a receiver be appointed for the  
8 health care facility.

9           (2) The court shall expeditiously hold a hearing on the  
10 petition within seven days after the filing of the petition. The  
11 ~~director~~ system shall present evidence at the hearing in support  
12 of the petition. The licensee, owner, or operator may also present  
13 evidence, and both parties may subpoena witnesses. The court may  
14 appoint a temporary receiver for the health care facility ex  
15 parte if the director, by affidavit, states that an emergency  
16 exists which presents an imminent danger of death or physical  
17 harm to the residents or patients of the health care facility.  
18 If a temporary receiver is appointed, notice of the petition  
19 and order shall be served on the licensee, owner, operator, or  
20 administrator of the health care facility within seventy-two hours  
21 after the entry of the order. The petition and order may be served  
22 by any method specified in section 25-505.01 or the court may  
23 permit substitute or constructive service as provided in section  
24 25-517.02 when service cannot be made with reasonable diligence by  
25 any of the methods specified in section 25-505.01. A hearing on  
26 the petition and temporary order shall be held within seventy-two  
27 hours after notice has been served unless the licensee, owner, or

1 operator consents to a later date. After the hearing the court  
2 may terminate, continue, or modify the temporary order. If the  
3 court determines that the ~~department~~ system did not have probable  
4 cause to submit the affidavit in support of the appointment of  
5 the temporary receiver, the court shall have the jurisdiction to  
6 determine and award compensatory damages against the state to the  
7 owner or operator. If the licensee, owner, or operator informs the  
8 court at or before the time set for hearing that he or she does not  
9 object to the petition, the court shall waive the hearing and at  
10 once appoint a receiver for the health care facility.

11 (3) The purpose of a receivership created under this  
12 section is to safeguard the health, safety, and continuity of  
13 care of residents and patients and to protect them from adverse  
14 health effects. A receiver shall not take any actions or assume any  
15 responsibilities inconsistent with this purpose. No person shall  
16 impede the operation of a receivership created under this section.  
17 After the appointment of a receiver, there shall be an automatic  
18 stay of any action that would interfere with the functioning of the  
19 health care facility, including, but not limited to, cancellation  
20 of insurance policies executed by the licensee, owner, or operator,  
21 termination of utility services, attachments or setoffs of resident  
22 trust funds or working capital accounts, and repossession of  
23 equipment used in the health care facility. The stay shall not  
24 apply to any licensure, certification, or injunctive action taken  
25 by the ~~department.~~ system.

26 Sec. 1016. Section 71-2087, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

1           71-2087 When a receiver is appointed under section  
2 71-2086, the licensee, owner, or operator shall be divested of  
3 possession and control of the health care facility in favor of  
4 the receiver. The appointment of the receiver shall not affect  
5 the rights of the owner or operator to defend against any claim,  
6 suit, or action against such owner or operator or the health  
7 care facility, including, but not limited to, any licensure,  
8 certification, or injunctive action taken by the ~~department~~.  
9 system. A receiver shall:

10           (1) Take such action as is reasonably necessary to  
11 protect and conserve the assets or property of which the receiver  
12 takes possession or the proceeds of any transfer of the assets or  
13 property and may use them only in the performance of the powers and  
14 duties set forth in this section and section 71-2088 or by order of  
15 the court;

16           (2) Apply the current revenue and current assets of  
17 the health care facility to current operating expenses and to  
18 debts incurred by the licensee, owner, or operator prior to the  
19 appointment of the receiver. The receiver may apply to the court  
20 for approval for payment of debts incurred prior to appointment  
21 if the debts appear extraordinary, of questionable validity, or  
22 unrelated to the normal and expected maintenance and operation of  
23 the health care facility or if the payment of the debts will  
24 interfere with the purposes of the receivership. The receiver shall  
25 give priority to expenditures for current, direct resident care,  
26 including nursing care, social services, dietary services, and  
27 housekeeping;

1           (3) Be responsible for the payment of taxes against the  
2 health care facility which become due during the receivership,  
3 including property taxes, sales and use taxes, withholding, taxes  
4 imposed pursuant to the Federal Insurance Contributions Act, and  
5 other payroll taxes, but not including state and federal taxes  
6 which are the liability of the owner or operator;

7           (4) Be entitled to and take possession of all property  
8 or assets of residents or patients which are in the possession  
9 of the licensee, owner, operator, or administrator of the health  
10 care facility. The receiver shall preserve all property, assets,  
11 and records of residents or patients of which the receiver takes  
12 possession and shall provide for the prompt transfer of the  
13 property, assets, and necessary and appropriate records to the  
14 alternative placement of any transferred or discharged resident;

15           (5) Upon order of the court, provide for the orderly  
16 transfer of all residents or patients in the health care facility  
17 to other suitable facilities if correction of violations of federal  
18 and state laws and regulations is not possible or cannot be  
19 completed in a timely manner or there are reasonable grounds to  
20 believe the health care facility cannot be operated on a sound  
21 financial basis and in compliance with all applicable federal  
22 or state laws and regulations or make other provisions for the  
23 continued health, safety, and welfare of the residents or patients;

24           (6) Perform regular accountings; and

25           (7) Make periodic reports to the court and the  
26 ~~department.~~ system.

27           Sec. 1017. Section 71-2089, Reissue Revised Statutes of



1 Nebraska, is amended to read:

2           71-2089 The receiver in its discretion may, but shall  
3 not be required to, defend any claim, suit, or action against the  
4 receiver or the health care facility arising out of conditions,  
5 actions, or circumstances occurring or continuing at the health  
6 care facility after the appointment of the receiver. The receiver  
7 in its discretion may, but shall not be required to, defend any  
8 licensure, certification, or injunctive action initiated by the  
9 ~~department~~ system after its appointment. The receiver shall not  
10 appeal or continue the appeal of any licensure or certification  
11 action initiated by the ~~department~~ system against the health care  
12 facility before the appointment of the receiver. The receiver shall  
13 cooperate with the owner or operator in any defense undertaken by  
14 the owner or operator against any claim, suit, or action against  
15 him or her or the health care facility, including, but not limited  
16 to, any licensure, certification, or injunctive action taken by the  
17 ~~department.~~ system.

18           Sec. 1018. Section 71-2090, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20           71-2090 The ~~department~~ system may inspect the health care  
21 facility at any time during the receivership, and the receiver  
22 shall cooperate with the ~~department~~ system in any such inspection.  
23 All records required by federal or state statutes and regulations  
24 shall be kept on the premises of the health care facility and shall  
25 be available for inspection and copying by any authorized employee  
26 of the ~~department.~~ system.

27           Sec. 1019. Section 71-2091, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           71-2091 The receiver is responsible for the conduct of  
3 the health care facility during the receivership. The ~~department~~  
4 system may apply to the court for an order terminating the  
5 appointment of a receiver and appointing a successor receiver when  
6 violations of federal or state laws or regulations occur during the  
7 receivership or for other appropriate reasons.

8           Sec. 1020. Section 71-2092, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           71-2092 (1) A receivership established under section  
11 71-2086 may be terminated by the district court which established  
12 it after a hearing upon an application for termination. The  
13 application may be filed:

14           (a) Jointly by the receiver and the current licensee of  
15 the health care facility which is in receivership, stating that the  
16 deficiencies in the operation, maintenance, or other circumstances  
17 which were the grounds for establishment of the receivership have  
18 been corrected and that there are reasonable grounds to believe  
19 that the health care facility will be operated in compliance with  
20 all applicable statutes and the rules and regulations adopted and  
21 promulgated pursuant thereto;

22           (b) By the current licensee of the health care facility,  
23 alleging that termination of the receivership is merited for the  
24 reasons set forth in subdivision (a) of this subsection, but that  
25 the receiver has declined to join in the petition for termination  
26 of the receivership;

27           (c) By the receiver, stating that all residents or

1 patients of the health care facility have been relocated elsewhere  
2 and that there are reasonable grounds to believe it will not be  
3 feasible to again operate the health care facility on a sound  
4 financial basis and in compliance with federal and state laws and  
5 regulations and asking that the court approve the surrender of the  
6 license of the health care facility to the ~~department~~ system and  
7 the subsequent return of the control of the premises of the health  
8 care facility to the owner of the premises; or

9 (d) By the ~~department~~ system (i) stating that the  
10 deficiencies in the operation, maintenance, or other circumstances  
11 which were the grounds for establishment of the receivership have  
12 been corrected and that there are reasonable grounds to believe  
13 that the health care facility will be operated in compliance with  
14 all applicable statutes and the rules and regulations adopted  
15 and promulgated pursuant thereto or (ii) stating that there are  
16 reasonable grounds to believe that the health care facility cannot  
17 be operated in compliance with federal or state law and regulations  
18 and asking that the court order the removal of the residents or  
19 patients to appropriate alternative placements, the closure of the  
20 facility, and the license, if any, surrendered to the ~~department~~  
21 system or that the health care facility be sold under reasonable  
22 terms approved by the court to a new owner approved for licensure  
23 by the ~~department.~~ system.

24 (2) If the receivership has not been terminated within  
25 twelve months after the appointment of the receiver, the court  
26 shall, after hearing, order either that the health care facility be  
27 closed after an orderly transfer of the residents or patients to

1 appropriate alternative placements or that the health care facility  
2 be sold under reasonable terms approved by the court to a new owner  
3 approved for licensure by the ~~department~~ system. The receivership  
4 period may be extended as necessary to protect the health, safety,  
5 and welfare of the residents or patients.

6 Sec. 1021. Section 71-2096, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 71-2096 (1) Any person who prevents or interferes with or  
9 attempts to impede in any way any duly authorized representative of  
10 the ~~department~~ system in the lawful enforcement of sections 71-2084  
11 to 71-2096 shall be guilty of a Class IV misdemeanor. For purposes  
12 of this subsection, lawful enforcement includes, but is not limited  
13 to, (a) contacting or interviewing any resident or patient of a  
14 health care facility in private at any reasonable hour and without  
15 advance notice, (b) examining any relevant books or records of a  
16 health care facility, or (c) preserving evidence of any violations  
17 of sections 71-2084 to 71-2096.

18 (2) The county attorney of the county in which the health  
19 care facility is located or the Attorney General may be requested  
20 by the ~~director~~ system to initiate prosecution.

21 Sec. 1022. Section 71-2097, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 71-2097 For purposes of sections 71-2097 to 71-20,101:

24 (1) Civil penalties include any remedies required under  
25 federal law and include the imposition of monetary penalties;

26 (2) Federal regulations for participation in the medicaid  
27 program means the regulations found in 42 C.F.R. parts 442 and 483,

1 as amended, for participation in the medicaid program under Title  
2 XIX of the federal Social Security Act, as amended; ~~and~~

3 (3) Nursing facility means any intermediate care facility  
4 or nursing facility, as defined in sections 71-420 and 71-424,  
5 which receives federal and state funds under Title XIX of the  
6 federal Social Security Act, as amended; and -

7 (4) System means the Health and Human Services System.

8 Sec. 1023. Section 71-2098, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 71-2098 (1) ~~The Department of Health and Human Services~~  
11 ~~Finance and Support~~ system may assess, enforce, and collect civil  
12 penalties against a nursing facility which the ~~Department of Health~~  
13 ~~and Human Services Regulation and Licensure~~ system has found in  
14 violation of federal regulations for participation in the medicaid  
15 program pursuant to the authority granted to the ~~Department of~~  
16 ~~Health and Human Services Regulation and Licensure~~ system under  
17 section 81-604.03.

18 (2) If the ~~Department of Health and Human Services~~  
19 ~~Regulation and Licensure~~ system finds that a violation is life  
20 threatening to one or more residents or creates a direct threat  
21 of serious adverse harm to one or more residents, a civil penalty  
22 shall be imposed for each day the deficiencies which constitute  
23 the violation exist. ~~The Department of Health and Human Services~~  
24 ~~Finance and Support~~ system may assess an appropriate civil penalty  
25 for other violations based on the nature of the violation. Any  
26 monetary penalty assessed shall not be less than fifty dollars nor  
27 more than ten thousand dollars for each day the facility is found

1 to be in violation of such federal regulations. Monetary penalties  
2 assessed shall include interest at the rate specified in section  
3 45-104.02, as such rate may from time to time be adjusted.

4 Sec. 1024. Section 71-2099, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 71-2099 The ~~Department of Health and Human Services~~  
7 ~~Finance and Support~~ system shall adopt criteria for determining  
8 the type and amount of the civil penalty assessed under section  
9 71-2098. Such criteria shall include, but need not be limited to,  
10 consideration of the following factors:

11 (1) The period of time over which the violation occurred;

12 (2) The frequency of the violation;

13 (3) The nursing facility's history concerning the type of  
14 violation for which the civil penalty is assessed;

15 (4) The nursing facility's intent or reason for the  
16 violation;

17 (5) The effect, if any, of the violation on the health,  
18 safety, security, or welfare of the residents;

19 (6) The existence of other violations, in combination  
20 with the violation for which the civil penalty is assessed, which  
21 increase the threat to the health, safety, security, rights, or  
22 welfare of the residents;

23 (7) The accuracy, thoroughness, and availability of  
24 records regarding the violation, which the nursing facility is  
25 required to maintain; and

26 (8) The number of additional related violations occurring  
27 within the same time span as the violation in question.

1           Sec. 1025. Section 71-20,100, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           71-20,100 (1) The Nursing Facility Penalty Cash Fund is  
4 created. Monetary penalties collected by the ~~Department of Health~~  
5 ~~and Human Services Finance and Support~~ system pursuant to section  
6 71-2098 shall be remitted to the State Treasurer for credit to  
7 such fund. The state investment officer shall invest any money in  
8 the fund available for investment pursuant to the Nebraska Capital  
9 Expansion Act and the Nebraska State Funds Investment Act.

10           (2) The ~~Department of Health and Human Services Finance~~  
11 ~~and Support~~ system shall adopt and promulgate rules and regulations  
12 which establish circumstances under which the ~~department~~ system  
13 may distribute funds from the Nursing Facility Penalty Cash  
14 Fund to protect the health or property of individuals residing  
15 in nursing facilities which the ~~Department of Health and Human~~  
16 ~~Services Regulation and Licensure~~ system has found in violation  
17 of federal regulations for participation in the medicaid program.  
18 Circumstances considered as a basis for distribution from the fund  
19 include paying costs to:

- 20           (a) Relocate residents to other facilities;  
21           (b) Maintain the operation of a nursing facility pending  
22 correction of violations;  
23           (c) Close a nursing facility; and  
24           (d) Reimburse residents for personal funds lost.

25           Sec. 1026. Section 71-20,101, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27           71-20,101 The ~~Department of Health and Human Services~~

1 ~~Finance and Support~~ system shall adopt and promulgate rules and  
2 regulations to carry out sections 71-2097 to 71-20,101, including  
3 rules and regulations for notice and appeal procedures.

4           Sec. 1027. Section 71-20,103, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6           71-20,103 For purposes of the Nonprofit Hospital Sale  
7 Act:

8           ~~(1) Department means the Department of Health and Human  
9 Services Regulation and Licensure;~~

10           (1) System means the Health and Human Services System;

11           (2) Hospital has the meaning found in section 71-419;

12           (3) Acquisition means any acquisition by a person or  
13 persons of an ownership or controlling interest in a hospital,  
14 whether by purchase, merger, lease, gift, or otherwise, which  
15 results in a change of ownership or control of twenty percent or  
16 greater or which results in the acquiring person or persons holding  
17 a fifty percent or greater interest in the ownership or control  
18 of a hospital, but acquisition does not include the acquisition  
19 of an ownership or controlling interest in a hospital owned by  
20 a nonprofit corporation if the transferee (a) is a nonprofit  
21 corporation having a substantially similar charitable health care  
22 purpose as the transferor or is a governmental entity, (b) is  
23 exempt from federal income tax under section 501(c)(3) of the  
24 Internal Revenue Code or as a governmental entity, and (c) will  
25 maintain representation from the affected community on the local  
26 board; and

27           (4) Person has the meaning found in section 71-5803.12.



1           Sec. 1028. Section 71-20,104, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           71-20,104 No person shall engage in the acquisition of  
4 a hospital owned by a nonprofit corporation without first having  
5 applied for and received the approval of the ~~department~~ system  
6 and without first having notified the Attorney General and, if  
7 applicable, received approval from the Attorney General pursuant  
8 to the Nonprofit Hospital Sale Act. No person shall engage in the  
9 acquisition of a hospital not owned by a nonprofit corporation  
10 without first having applied for and received the approval of the  
11 ~~department~~ system pursuant to the act unless such acquiring person  
12 is a nonprofit corporation exempt from federal income tax under  
13 section 501(c)(3) of the Internal Revenue Code or is a governmental  
14 entity. For purposes of the act, approval of the ~~department~~ system  
15 and the Attorney General shall not be required for the acquisition  
16 of a hospital not owned by a nonprofit corporation as follows: (1)  
17 The lease of a county hospital approved under section 23-3504; or  
18 (2) the dissolution of a hospital district approved under sections  
19 23-3544 to 23-3546 or the merger of hospital districts approved  
20 under sections 23-3573 to 23-3578.

21           Any person not required to obtain the approval of the  
22 ~~department~~ system under the provisions of the Nonprofit Hospital  
23 Sale Act shall give the Attorney General at least thirty days'  
24 notice of an impending acquisition, during which time the Attorney  
25 General may take any necessary and appropriate action consistent  
26 with his or her general duties of oversight with regard to  
27 the conduct of charities. The notice shall briefly describe

1 the impending acquisition, including any change in ownership of  
2 tangible or intangible assets.

3 The application shall be submitted to the ~~department~~  
4 system and the Attorney General on forms provided by the ~~department~~  
5 system and shall include the name of the seller, the name of  
6 the purchaser or other parties to an acquisition, the terms of  
7 the proposed agreement, the sale price, a copy of the acquisition  
8 agreement, a financial and economic analysis and report from an  
9 independent expert or consultant of the effect of the acquisition  
10 under the criteria set forth in section 71-20,108, and all  
11 other related documents. A copy of the application and copies  
12 of all additional related materials shall be submitted to the  
13 ~~department~~ system and to the Attorney General at the same time. The  
14 applications and all related documents shall be considered public  
15 records for purposes of sections 84-712 to 84-712.09.

16 Sec. 1029. Section 71-20,105, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 71-20,105 (1) Within five working days after receipt  
19 of an application under section 71-20,104, the ~~department~~ system  
20 shall publish notice of the application in a newspaper of general  
21 circulation in the county or counties where the hospital is located  
22 and shall notify by first-class United States mail any person  
23 who has requested notice of the filing of such applications. The  
24 notice shall state that an application has been received, state the  
25 names of the parties to the agreement, describe the contents of  
26 the application, and state the date by which a person may submit  
27 written comments about the application to the ~~department.~~ system.

1           (2) Within sixty days after receiving an application, the  
2 ~~department~~ system shall review the application in accordance with  
3 the standards set forth in the Nonprofit Hospital Sale Act and  
4 approve or disapprove the acquisition pursuant to the act.

5           Within twenty days after receiving an application, the  
6 Attorney General shall determine whether to review the application  
7 in accordance with section 71-20,108 and shall so notify the  
8 applicant. If the Attorney General determines to review the  
9 application in accordance with the act, the Attorney General  
10 shall, within sixty days after receiving the application, review  
11 the application in accordance with the standards set forth in  
12 section 71-20,108 and approve or disapprove the acquisition. If  
13 the Attorney General determines not to review the application in  
14 accordance with the act, then none of the other provisions of the  
15 act applicable to review by the Attorney General shall apply.

16           (3) For acquisitions which require approval from the  
17 ~~department~~ system under the Nonprofit Hospital Sale Act and a  
18 certificate of need under the Nebraska Health Care Certificate  
19 of Need Act, the applicant shall submit a single application  
20 for both purposes and such application shall be reviewed under a  
21 single unified review process by the ~~department.~~ system. Following  
22 the single unified review process, the ~~department~~ system shall  
23 simultaneously issue (a) its decision for purposes of the Nebraska  
24 Health Care Certificate of Need Act and (b) its decision for  
25 purposes of the Nonprofit Hospital Sale Act.

26           Sec. 1030. Section 71-20,106, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

1                   71-20,106 The ~~department,~~ system, and the Attorney  
2 General if he or she determines to review the acquisition, shall  
3 during the course of review under section 71-20,105 or 71-20,107  
4 hold a public hearing in which any person may file written comments  
5 and exhibits or appear and make a statement. The ~~department~~ system  
6 or the Attorney General may subpoena additional information or  
7 witnesses, require and administer oaths, require sworn statements,  
8 take depositions, and use related discovery procedures for purposes  
9 of the hearing and at any time prior to making a decision on the  
10 application.

11                   The hearing shall be held not later than thirty days  
12 after receipt of an application. The hearing shall be held upon ten  
13 working days' notice, not including days the application is deemed  
14 to be incomplete.

15                   Sec. 1031. Section 71-20,107, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17                   71-20,107 (1) If the Attorney General determines to  
18 review the application, he or she shall review the application  
19 in accordance with the standards enumerated in section 71-20,108.  
20 Within sixty days after receipt of an application, the Attorney  
21 General shall approve or disapprove the acquisition.

22                   If the Attorney General does not act within sixty days  
23 after receipt of an application, the application shall be deemed  
24 approved. If the Attorney General approves or disapproves the  
25 acquisition, the applicant, or any person who has submitted  
26 comments under section 71-20,106, if the person has a legal  
27 interest in the hospital being acquired or in another hospital

1 that has contracted with the acquired hospital for the provision of  
2 essential health services, may bring an action for declaratory  
3 judgment under the Uniform Declaratory Judgments Act for a  
4 determination that the acquisition is or is not in the public  
5 interest as provided in section 71-20,108.

6 (2) The ~~department~~ system shall review the completed  
7 application in accordance with the standards enumerated in  
8 section 71-20,109. Within sixty days after receipt of a completed  
9 application, the ~~department~~ system shall:

10 (a) Approve the acquisition, with or without any specific  
11 modifications; or

12 (b) Disapprove the acquisition.

13 The ~~department~~ system shall not make its decision subject  
14 to any condition not directly related to criteria enumerated in  
15 section 71-20,109, and any condition or modification shall bear a  
16 direct and rational relationship to the application under review.

17 The applicant or any affected person may contest a  
18 denial in the manner provided in the Administrative Procedure Act  
19 for contested cases. The findings, conclusions, and decisions of  
20 the ~~department~~ system shall constitute the determination of the  
21 ~~department,~~ system, except that the applicant, or any affected  
22 person who has intervened in the contested case before the  
23 ~~department,~~ system, may seek judicial review as provided in  
24 sections 84-917 to 84-919.

25 Sec. 1032. Section 71-20,109, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27 71-20,109 In making a decision whether to approve or

1 disapprove an application, the ~~department~~ system shall consider:

2 (1) Whether sufficient safeguards are included to assure  
3 the affected community continued access to affordable care;

4 (2) Whether the purchaser and parties to the acquisition  
5 have made a commitment to provide health care to the disadvantaged,  
6 the uninsured, and the underinsured and to provide benefits to  
7 the affected community to promote improved health care. Activities  
8 and funding provided by the seller or its successor nonprofit  
9 corporation or foundation to provide such health care may be  
10 considered in evaluating compliance with this commitment; and

11 (3) If health care providers will be offered the  
12 opportunity to invest or own an interest in the purchaser or  
13 a related entity to the purchaser, whether procedures or safeguards  
14 are in place to avoid conflict of interest in patient referral and  
15 the nature of such procedures or safeguards.

16 This section does not apply higher standards to hospitals  
17 covered by the Nonprofit Hospital Sale Act than those applicable to  
18 hospitals not covered by the act.

19 Sec. 1033. Section 71-20,110, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 71-20,110 If the ~~department~~ system receives information  
22 indicating that the acquiring person is not fulfilling the  
23 commitment to the affected community under section 71-20,109,  
24 the ~~department~~ system shall hold a hearing upon ten days' notice  
25 to the affected parties. If after such hearing the ~~department~~  
26 system determines that the information is true, it may institute  
27 proceedings to revoke the license issued to the purchaser.

1           Sec. 1034. Section 71-20,112, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           71-20,112 No license to operate a hospital may be issued  
4 or renewed by the ~~department~~ system pursuant to the Health Care  
5 Facility Licensure Act or any other state statute, and a license  
6 which has been issued shall be subject to revocation or suspension,  
7 if:

8           (1) There is an acquisition of a hospital without first  
9 having received the approval of the ~~department~~ system under the  
10 Nonprofit Hospital Sale Act;

11           (2) There is an acquisition of a hospital without  
12 the approval of the Attorney General, if the Attorney General  
13 determines to review the application under the act;

14           (3) There is an acquisition of a hospital and the  
15 Attorney General disapproves the acquisition and there is a  
16 judicial determination under the Uniform Declaratory Judgments  
17 Act that the acquisition is not in the public interest; or

18           (4) The hospital is not fulfilling its commitment under  
19 section 71-20,109 or is not following procedures of safeguards  
20 committed to under subdivision (3) of such section.

21           This section does not limit the right to a hearing under  
22 section 71-454 or the right of appeal for a hospital from such  
23 decision as provided in section 71-455.

24           Sec. 1035. Section 71-20,113, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26           71-20,113 Any acquisition of a hospital before April 16,  
27 1996, and any acquisition in which an application for a certificate

1 of need under the Nebraska Health Care Certificate of Need Act  
2 has been granted by the ~~department~~ Department of Health and Human  
3 Services Regulation and Licensure before April 16, 1996, is not  
4 subject to the Nonprofit Hospital Sale Act.

5 Sec. 1036. Section 71-2103, Revised Statutes Cumulative  
6 Supplement, 2006, is amended to read:

7 71-2103 Every hospital, birth center, or other medical  
8 facility that discharges a newborn child shall request that each  
9 maternity patient and father of a newborn child, if available,  
10 view a video presentation and read printed materials, approved  
11 by the ~~Department of Health and Human Services,~~ Health and Human  
12 Services System, on the dangers of shaking infants and children,  
13 the symptoms of shaken baby syndrome, the dangers associated with  
14 rough handling or the striking of an infant, safety measures which  
15 can be taken to prevent sudden infant death, and the dangers  
16 associated with infants sleeping in the same bed with other  
17 children or adults. After viewing the presentation and reading the  
18 materials or upon a refusal to do so, the hospital, birth center,  
19 or other medical facility shall request that the mother and father,  
20 if available, sign a form stating that he or she has viewed and  
21 read or refused to view and read the presentation and materials.  
22 Such presentation, materials, and forms may be provided by the  
23 ~~department.~~ system.

24 Sec. 1037. Section 71-2104, Revised Statutes Cumulative  
25 Supplement, 2006, is amended to read:

26 71-2104 The ~~Department of Health and Human Services~~  
27 Health and Human Services System shall conduct public awareness



1 activities designed to promote the prevention of sudden infant  
2 death syndrome and shaken baby syndrome. The public awareness  
3 activities may include, but not be limited to, public service  
4 announcements, information kits and brochures, and the promotion of  
5 preventive telephone hotlines.

6           Sec. 1038. Section 71-2201, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           71-2201 There is created a Maternal and Child Health and  
9 Public Health Work Fund in the treasury of the State of Nebraska,  
10 to be administered by the ~~Director of Health and Human Services~~  
11 Health and Human Services System for maternal and child health and  
12 for public health work, as provided by law. Any money in the fund  
13 available for investment shall be invested by the state investment  
14 officer pursuant to the Nebraska Capital Expansion Act and the  
15 Nebraska State Funds Investment Act.

16           Sec. 1039. Section 71-2202, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           71-2202 The ~~Director of Health and Human Services~~ Health  
19 and Human Services System shall administer the fund for maternal  
20 and child health and public health services throughout the State  
21 of Nebraska. Seventy-five percent of the fund shall be used for  
22 maternal and child health activities in this state, and twenty-five  
23 percent shall be used for public health work, if such amounts are  
24 needed therefor.

25           Sec. 1040. Section 71-2203, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27           71-2203 Disbursements from the fund referred to in

1 section 71-2201 shall be made upon vouchers signed by ~~the Director~~  
2 ~~of Health and Human Services~~ an authorized representative of the  
3 Health and Human Services System and warrants approved by the  
4 Director of Administrative Services.

5 Sec. 1041. Section 71-2207, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 71-2207 The funds allocated for maternal and child  
8 health in this state shall be used and distributed subject to  
9 the supervision of the ~~Director of Health and Human Services~~  
10 Health and Human Services System: (1) For promoting the health of  
11 mothers and children, especially in rural areas, suffering from  
12 some economic distress; (2) for the establishment, extension, and  
13 improvement of local maternal and child health services to be  
14 administered by local child health units; and (3) for demonstration  
15 services in needy areas and among groups in special need. The  
16 ~~director~~ system shall also cooperate with licensed physicians and  
17 surgeons and with nursing and welfare groups and organizations for  
18 the purposes herein expressed.

19 Sec. 1042. Section 71-2208, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 71-2208 The ~~Director of Health and Human Services~~ Health  
22 and Human Services System shall make quarterly or more frequent  
23 reports of the administration of sections 71-2205 to 71-2208, and  
24 all expenditures thereunder, to the Chief of the Children's Bureau  
25 of the United States Department of Labor, and shall comply with  
26 requests for information from the Secretary of Labor of the United  
27 States or his or her agencies, if federal funds are granted to this

1 state for the purposes mentioned in such sections.

2           Sec. 1043. Section 71-2226, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           71-2226 The ~~Department of Health and Human Services~~  
5 Health and Human Services System is authorized to have a state  
6 CSF program to protect the health and welfare of the citizens of  
7 Nebraska by providing nutritious foods donated for such program by  
8 the United States Department of Agriculture, nutrition education,  
9 and such other benefits as are available to women, infants,  
10 children, and elderly persons in Nebraska who are low income and  
11 vulnerable to malnutrition as long as federal funds are available  
12 from the CSF program and are granted to the ~~department-~~ system.

13           To the extent consistent with state law, the ~~Department~~  
14 ~~of Health and Human Services~~ system may establish, operate, and  
15 maintain the program in a way that will qualify it to receive  
16 federal funds and that is uniform with United States Department  
17 of Agriculture's standards, enter into agreements with the federal  
18 government to establish a CSF program, adopt and promulgate rules  
19 and regulations to implement a CSF program which are consistent  
20 with federal regulations and such other rules and regulations as  
21 may be necessary to implement the CSF program, and enter into  
22 such other agreements as may be necessary to implement the program  
23 within this state.

24           Sec. 1044. Section 71-2227, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26           71-2227 The ~~Department of Health and Human Services~~  
27 Health and Human Services System is authorized to have a state WIC

1 program to protect the health and welfare of citizens of Nebraska  
2 by providing nutritional supplemental foods and nutrition education  
3 to women, infants, and children who are low income and determined  
4 to be at nutritional risk as long as federal funds are available  
5 from the WIC program and are granted to the ~~department~~ system.

6 To the extent consistent with state law, the ~~department~~  
7 system may establish, operate, and maintain the program in a way  
8 that will qualify it to receive federal funds and that is uniform  
9 with United States Department of Agriculture's standards, enter  
10 into agreements with the federal government to establish a WIC  
11 program, adopt and promulgate rules and regulations to implement  
12 a WIC program which are consistent with federal regulations and  
13 such other rules and regulations as may be necessary to implement  
14 the WIC program, and enter into such other agreements as may be  
15 necessary to implement the program within this state.

16 Sec. 1045. Section 71-2228, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 71-2228 Any person who by means of a willfully false  
19 statement or representation, by impersonation, or by other device  
20 obtains or attempts to obtain or aids or abets any person to  
21 obtain or to attempt to obtain (1) a food instrument to which he,  
22 she, or it is not entitled, (2) any supplemental foods to which  
23 such person is not entitled, or (3) any other benefit administered  
24 by the ~~Department of Health and Human Services~~ Health and Human  
25 Services System under sections 71-2226 and 71-2227 commits an  
26 offense and shall, upon conviction, be punished as follows: (a)  
27 If the aggregate value of all funds or other benefits obtained or

1 attempted to be obtained is less than five hundred dollars, the  
2 person so convicted shall be guilty of a Class III misdemeanor; or  
3 (b) if the aggregate value of all funds and other benefits obtained  
4 or attempted to be obtained is five hundred dollars or more, the  
5 person so convicted shall be guilty of a Class IV felony.

6 Sec. 1046. Section 71-2304, Revised Statutes Cumulative  
7 Supplement, 2006, is amended to read:

8 71-2304 (1) The Legislature shall appropriate funds  
9 to create a coordinated program of education and treatment for  
10 individuals that participate in prostitution-related activities as  
11 described in section 28-801.

12 (2) ~~The Department of Health and Human Services Finance~~  
13 ~~and Support, Health and Human Services System,~~ in consultation with  
14 the regional behavioral health authorities, shall distribute funds  
15 to regional behavioral health authorities that can demonstrate to  
16 the ~~department system~~ a high incidence of prostitution within the  
17 behavioral health region. The ~~department system~~ may consider the  
18 following criteria for regional behavioral health funding under  
19 this section:

20 (a) The number of criminal convictions for  
21 prostitution-related activities within the counties that comprise  
22 the regional behavioral health authority;

23 (b) Evidence that prostitution-related activities are  
24 impacting residential areas and businesses and the quality of life  
25 of residents in such areas and businesses is negatively impacted;

26 (c) The amount of local law enforcement resources devoted  
27 specifically to curtailing prostitution-related activity;

1           (d) Evidence that the regional behavioral health  
2 authorities consulted with recognized neighborhood and business  
3 associations within geographic proximity to concentrated areas of  
4 prostitution; and

5           (e) The amount of local subdivision treatment funding.

6           Each regional behavioral health authority may contract  
7 with qualifying public, private, or nonprofit entities for the  
8 provision of such education and treatment. Such qualifying entities  
9 may obtain additional funding from cities and counties to provide a  
10 coordinated program of treatment and education for individuals that  
11 participate in prostitution-related activities.

12           Sec. 1047. Section 71-2305, Revised Statutes Cumulative  
13 Supplement, 2006, is amended to read:

14           71-2305 ~~The Department of Health and Human Services~~  
15 ~~Finance and Support~~ Health and Human Services System shall adopt  
16 and promulgate rules and regulations to carry out the Nebraska  
17 Prostitution Intervention and Treatment Act.

18           Sec. 1048. Section 71-2407, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20           71-2407 (1) Any person operating a mail service pharmacy  
21 outside of the State of Nebraska shall obtain a mail service  
22 pharmacy license prior to shipping, mailing, or in any manner  
23 delivering dispensed prescription drugs as defined in section  
24 71-1,142 into the State of Nebraska.

25           (2) To be qualified to hold a mail service pharmacy  
26 license, a person shall:

27           (a) Hold a pharmacy license or permit issued by and valid

1 in the state in which the person is located and from which such  
2 prescription drugs will be shipped, mailed, or otherwise delivered;

3 (b) Be located and operating in a state in which the  
4 requirements and qualifications for obtaining and maintaining a  
5 pharmacy license or permit are considered by the ~~Department of~~  
6 ~~Health and Human Services Regulation and Licensure,~~ Health and  
7 Human Services System, with the approval of the Board of Pharmacy,  
8 to be substantially equivalent to the requirements of the Health  
9 Care Facility Licensure Act;

10 (c) Designate the Secretary of State as his, her, or its  
11 agent for service of process in this state; and

12 (d) Employ on a full-time basis at least one pharmacist  
13 who holds a current unrestricted pharmacist license issued  
14 under the Uniform Licensing Law who shall be responsible for  
15 compliance by the mail service pharmacy with the Mail Service  
16 Pharmacy Licensure Act. The mail service pharmacy shall notify the  
17 ~~department~~ Health and Human Services System when such pharmacist is  
18 no longer employed by such pharmacy.

19 (3) To obtain a mail service pharmacy license, a person  
20 shall:

21 (a) File an application on a form developed by the  
22 ~~department,~~ Health and Human Services System; and

23 (b) Pay a fee equivalent to the fee for a pharmacy  
24 license in the State of Nebraska pursuant to section 71-434.

25 (4) This section does not apply to prescription drugs  
26 mailed, shipped, or otherwise delivered by a pharmaceutical company  
27 to a laboratory for the purpose of conducting clinical research.

1           Sec. 1049. Section 71-2408, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           71-2408 (1) The ~~Department of Health and Human Services~~  
4 ~~Regulation and Licensure,~~ Health and Human Services System, after  
5 notice and an opportunity for a hearing, may deny, refuse renewal  
6 of, revoke, or otherwise discipline or restrict the license of  
7 a mail service pharmacy for (a) any discipline of the pharmacy  
8 license held by such pharmacy in another state pursuant to  
9 subdivision (2)(a) of section 71-2407, (b) any violation of the  
10 Mail Service Pharmacy Licensure Act or rules and regulations  
11 adopted and promulgated under the act, or (c) conduct by such  
12 pharmacy which in this state presents a threat to the public health  
13 and safety or a danger of death or physical harm.

14           (2) The ~~department,~~ system, upon the recommendation of  
15 the Board of Pharmacy, shall notify the Attorney General of any  
16 possible violations of the Mail Service Pharmacy Licensure Act. If  
17 the Attorney General has reason to believe that an out-of-state  
18 person is operating in violation of the act, he or she shall  
19 commence an action in the district court of Lancaster County to  
20 enjoin any such person from further mailing, shipping, or otherwise  
21 delivering prescription drugs into the State of Nebraska.

22           Sec. 1050. Section 71-2409, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           71-2409 The ~~Department of Health and Human Services~~  
25 ~~Regulation and Licensure~~ Health and Human Services System shall,  
26 upon the recommendation of the Board of Pharmacy, adopt and  
27 promulgate rules and regulations necessary to carry out the Mail



1 Service Pharmacy Licensure Act.

2 Sec. 1051. Section 71-2411, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4 71-2411 For purposes of the Emergency Box Drug Act:

5 (1) Authorized personnel shall mean any medical doctor,  
6 doctor of osteopathy, registered nurse, licensed practical nurse,  
7 pharmacist, or physician's assistant;

8 ~~(2) Department shall mean the Department of Health and~~  
9 ~~Human Services Regulation and Licensure;~~

10 ~~(3)~~ (2) Drug shall mean any prescription drug or  
11 device or legend drug or device defined under section 71-1,142,  
12 any nonprescription drug as defined under section 71-1,142, any  
13 controlled substance as defined under section 28-405, or any device  
14 as defined under section 71-1,142;

15 ~~(4)~~ (3) Emergency box drugs shall mean drugs required to  
16 meet the immediate therapeutic needs of patients when the drugs  
17 are not available from any other authorized source in time to  
18 sufficiently prevent risk of harm to such patients by the delay  
19 resulting from obtaining such drugs from such other authorized  
20 source;

21 ~~(5)~~ (4) Institution shall mean an intermediate care  
22 facility, an intermediate care facility for the mentally retarded,  
23 a mental health center, a nursing facility, and a skilled nursing  
24 facility, as such terms are defined in sections 71-420, 71-421,  
25 71-423, 71-424, and 71-429;

26 ~~(6)~~ (5) Institutional pharmacy shall mean the physical  
27 portion of an institution engaged in the compounding, dispensing,

1 and labeling of drugs which is operating pursuant to a pharmacy  
2 license issued by the ~~department~~ system under the Health Care  
3 Facility Licensure Act;

4 ~~(7)~~ (6) Multiple dose vial shall mean any bottle in which  
5 more than one dose of a liquid drug is stored or contained; ~~and~~

6 ~~(8)~~ (7) Supplying pharmacist shall mean the pharmacist in  
7 charge of an institutional pharmacy or a pharmacist who provides  
8 emergency box drugs to an institution pursuant to the Emergency  
9 Box Drug Act. Supplying pharmacist shall not include any agent or  
10 employee of the supplying pharmacist who is not a pharmacist; ~~and -~~

11 (8) System means the Health and Human Services System.

12 Sec. 1052. Section 71-2413, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 71-2413 (1) The supplying pharmacist and the medical  
15 director and quality assurance committee of the institution shall  
16 jointly determine the drugs, by identity and quantity, to be  
17 included in the emergency boxes. Such drugs shall then be approved  
18 in advance of placement in emergency boxes by the Board of  
19 Pharmacy, unless such drugs are included on a general list of  
20 drugs previously approved by the board for use in emergency boxes.  
21 The board may adopt a general list of drugs to be included in  
22 emergency boxes. The supplying pharmacist shall maintain a list of  
23 emergency box drugs in the pharmacy of the supplying pharmacist  
24 which is identical to the list on the exterior of the emergency  
25 box and shall make such list available to the ~~department~~ system  
26 upon request. The supplying pharmacist shall obtain a receipt upon  
27 delivery of the emergency box to the institution signed by the

1 director of nursing of the institution which acknowledges that the  
2 drugs initially placed in the emergency box are identical to the  
3 initial list on the exterior of the emergency box. The receipt  
4 shall be retained by the supplying pharmacist for a period of two  
5 years.

6 (2) Except for the removal of expired drugs as provided  
7 in subsection (4) of this section, drugs shall be removed from  
8 emergency boxes only pursuant to a prescription. Whenever access to  
9 the emergency box occurs, the prescription and proof of use shall  
10 be provided to the supplying pharmacist and shall be recorded  
11 on the resident's medical record by authorized personnel of  
12 the institution. Removal of any drug from an emergency box by  
13 authorized personnel of the institution shall be recorded on a form  
14 showing the name of the resident who received the drug, his or her  
15 room number, the name of the drug, the strength of the drug, the  
16 quantity used, the dose administered, the route of administration,  
17 the date the drug was used, the time of usage, the disposal of  
18 waste, if any, and the signature of the authorized personnel.  
19 The form shall be maintained at the institution for a period of  
20 twenty-four months from the date of removal with a copy of the form  
21 to be provided to the supplying pharmacist.

22 (3) Whenever an emergency box is opened, the supplying  
23 pharmacist shall be notified by the charge nurse or the director  
24 of nursing of the institution within twenty-four hours and the  
25 supplying pharmacist or another pharmacist designated by the  
26 supplying pharmacist shall restock and refill the box, reseal  
27 the box, and update the drug listing on the exterior of the box

1 within seventy-two hours.

2 (4) Upon the expiration of any drug in the emergency box,  
3 the supplying pharmacist or another pharmacist designated by the  
4 supplying pharmacist shall replace the expired drug, reseal the  
5 box, and update the drug listing on the exterior of the box. The  
6 expired drug shall be immediately destroyed within the institution  
7 by a pharmacist, and such destruction shall be witnessed and  
8 documented by such pharmacist. If the expired drug is a controlled  
9 substance listed in Schedule II, III, IV, or V of section 28-405,  
10 it shall be destroyed pursuant to subdivision (3)(f)(iv) of section  
11 28-414. Records pertaining to the documentation of expired drugs  
12 which are destroyed shall be maintained at the institution for  
13 a period of five years from the date of destruction with a  
14 copy of such records to be provided to the supplying pharmacist.  
15 Emergency drugs shall be considered inventory of the pharmacy of  
16 the supplying pharmacist until such time as they are removed for  
17 administration or destruction.

18 (5) Authorized personnel of the institution shall  
19 examine the emergency boxes once every twenty-four hours and  
20 shall immediately notify the supplying pharmacist upon discovering  
21 evidence of tampering with any emergency box. Proof of examination  
22 by authorized personnel of the institution shall be recorded and  
23 maintained at the institution for a period of twenty-four months  
24 from the date of examination.

25 (6) The supplying pharmacist and the medical director  
26 and quality assurance committee of the institution shall  
27 jointly establish written procedures for the safe and efficient

1 distribution of emergency box drugs.

2           Sec. 1053. Section 71-2414, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           71-2414 The ~~department~~ system shall have (1) the  
5 authority to inspect any emergency box and (2) access to the  
6 records of the supplying pharmacist and the institution for  
7 inspection. Refusal to allow the ~~department~~ system to inspect an  
8 emergency box or to have access to records shall be grounds for a  
9 disciplinary action against the supplying pharmacist or the license  
10 of the institution.

11           Sec. 1054. Section 71-2416, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           71-2416 (1) The ~~department~~ system may limit, suspend,  
14 or revoke the authority of a supplying pharmacist to maintain  
15 emergency boxes in an institution for any violation of the  
16 Emergency Box Drug Act. The ~~department~~ system may limit, suspend,  
17 or revoke the authority of an institution to maintain an emergency  
18 box for any violation of the act. The taking of such action  
19 against the supplying pharmacist or institution or both shall  
20 not prohibit the ~~department~~ system from taking other disciplinary  
21 actions against the supplying pharmacist or the institution.

22           (2) If the ~~department~~ system determines to limit,  
23 suspend, or revoke the authority of a supplying pharmacist to  
24 maintain emergency boxes in an institution or to limit, suspend,  
25 or revoke the authority of an institution to maintain an emergency  
26 box, it shall send to the supplying pharmacist or institution a  
27 notice of such determination. The notice may be served by any

1 method specified in section 25-505.01, or the ~~department~~ system  
2 may permit substitute or constructive service as provided in  
3 section 25-517.02 when service cannot be made with reasonable  
4 diligence by any of the methods specified in section 25-505.01.  
5 The limitation, suspension, or revocation shall become final thirty  
6 days after receipt of the notice unless the supplying pharmacist  
7 or institution, within such thirty-day period, requests a hearing  
8 in writing. The supplying pharmacist or institution shall be given  
9 a fair hearing before the ~~department~~ system and may present such  
10 evidence as may be proper. On the basis of such evidence, the  
11 determination involved shall be affirmed, set aside, or modified,  
12 and a copy of such decision setting forth the findings of facts  
13 and the particular reasons on which it is based shall be sent to  
14 the supplying pharmacist or institution. The parties may appeal the  
15 final decision in accordance with the Administrative Procedure Act.  
16 Witnesses may be subpoenaed by either party and shall be allowed a  
17 fee at the statutory rate.

18 (3) The procedure governing hearings authorized by the  
19 Emergency Box Drug Act shall be in accordance with rules and  
20 regulations adopted and promulgated by the ~~department.~~ system.

21 (4) The supplying pharmacist or institution shall not  
22 maintain an emergency box after his, her, or its authority to  
23 maintain such box has been revoked or during the time such  
24 authority has been suspended. If the authority is suspended, the  
25 suspension shall be for a definite period of time. Such authority  
26 shall be automatically reinstated on the expiration of such period.  
27 If such authority has been revoked, such revocation shall be

1 permanent, except that at any time after the expiration of two  
2 years, application for reinstatement of authority may be made to  
3 the ~~department~~. system. Any such application for reinstatement by a  
4 supplying pharmacist may not be received by the ~~department~~ system  
5 unless accompanied by a written recommendation of reinstatement by  
6 the Board of Pharmacy.

7 (5) Any person who commits any of the acts prohibited by  
8 the act shall be guilty of a Class II misdemeanor. The ~~department~~  
9 system may maintain an action in the name of the state against  
10 any person for maintaining an emergency box in violation of the  
11 act. Each day a violation continues shall constitute a separate  
12 violation.

13 Sec. 1055. Section 71-2423, Revised Statutes Cumulative  
14 Supplement, 2006, is amended to read:

15 71-2423 For purposes of the Cancer Drug Repository  
16 Program Act:

17 (1) Cancer drug means a prescription drug used to treat  
18 (a) cancer or its side effects or (b) the side effects of a  
19 prescription drug used to treat cancer or its side effects;

20 ~~(2) Department means the Department of Health and Human~~  
21 ~~Services Regulation and Licensure;~~

22 ~~(3) (2) Health care facility has the definition found in~~  
23 ~~section 71-413;~~

24 ~~(4) (3) Health clinic has the definition found in section~~  
25 ~~71-416;~~

26 ~~(5) (4) Hospital has the definition found in section~~  
27 ~~71-419;~~

1           ~~(6)~~ (5) Participant means a physician's office, pharmacy,  
2 hospital, or health clinic that has elected to voluntarily  
3 participate in the program and that accepts donated cancer drugs  
4 under the rules and regulations adopted and promulgated by the  
5 ~~department~~ system for the program;

6           ~~(7)~~ (6) Pharmacy has the definition found in section  
7 71-425;

8           ~~(8)~~ (7) Physician's office means the office of a person  
9 licensed to practice medicine and surgery or osteopathic medicine  
10 and surgery;

11           ~~(9)~~ (8) Prescribing practitioner means a health care  
12 practitioner licensed under the Uniform Licensing Law who is  
13 authorized to prescribe cancer drugs;

14           ~~(10)~~ (9) Prescription drug has the definition found in  
15 section 71-1,142; and

16           ~~(11)~~ (10) Program means the cancer drug repository  
17 program established pursuant to section 71-2424; and -

18           (11) System means the Health and Human Services System.

19           Sec. 1056. Section 71-2424, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21           71-2424 The ~~department~~ system shall establish a cancer  
22 drug repository program for accepting donated cancer drugs and  
23 dispensing such drugs to Nebraska residents. Participation in the  
24 program shall be voluntary.

25           Sec. 1057. Section 71-2427, Revised Statutes Cumulative  
26 Supplement, 2006, is amended to read:

27           71-2427 (1) A participant shall comply with all



1 applicable provisions of state and federal law relating to the  
2 storage, distribution, and dispensing of donated cancer drugs and  
3 shall inspect all such drugs prior to dispensing to determine if  
4 they are adulterated or misbranded as described in section 71-2401  
5 or 71-2402. Such drugs shall only be dispensed pursuant to a  
6 prescription issued by a prescribing practitioner. Such drugs may  
7 be distributed to another participant for dispensing.

8 (2) A participant may charge a handling fee for  
9 distributing or dispensing cancer drugs under the program. Such  
10 fee shall be established in rules and regulations adopted and  
11 promulgated by the ~~department~~, system. Cancer drugs donated under  
12 the program shall not be resold.

13 Sec. 1058. Section 71-2429, Revised Statutes Cumulative  
14 Supplement, 2006, is amended to read:

15 71-2429 The ~~department~~, system, upon the recommendation  
16 of the Board of Pharmacy, shall adopt and promulgate rules and  
17 regulations to carry out the Cancer Drug Repository Program Act.  
18 Such rules and regulations shall include, but not be limited to:

19 (1) Eligibility criteria and other standards and  
20 procedures for participants that accept and distribute or dispense  
21 donated cancer drugs;

22 (2) Necessary forms for administration of the program,  
23 including, but not limited to, forms for use by persons or entities  
24 that donate, accept, distribute, or dispense cancer drugs under the  
25 program. The forms shall include the name of the person to whom the  
26 drug was originally prescribed;

27 (3) The maximum handling fee that may be charged by

1 participants that accept and distribute or dispense donated cancer  
2 drugs;

3 (4) (a) Categories of cancer drugs that the program will  
4 accept for dispensing and (b) categories of cancer drugs that the  
5 program will not accept for dispensing and the reason that such  
6 drugs will not be accepted; and

7 (5) Maintenance and distribution of the participant  
8 registry established in section 71-2430.

9 Sec. 1059. Section 71-2430, Revised Statutes Cumulative  
10 Supplement, 2006, is amended to read:

11 71-2430 The ~~department~~ system shall establish and  
12 maintain a participant registry for the program. The participant  
13 registry shall include the participant's name, address, and  
14 telephone number and shall identify whether the participant is a  
15 physician's office, a pharmacy, a hospital, or a health clinic. The  
16 ~~department~~ system shall make the participant registry available to  
17 any person or entity wishing to donate cancer drugs to the program.

18 Sec. 1060. Section 71-2431, Revised Statutes Cumulative  
19 Supplement, 2006, is amended to read:

20 71-2431 (1) Prescription drugs or devices which have been  
21 delivered to a community health center for dispensing to a patient  
22 of such health center pursuant to a valid prescription, but which  
23 are not dispensed or administered to such patient, may be delivered  
24 to a pharmacist or pharmacy under contract with the community  
25 health center for relabeling and redispensing to another patient of  
26 such health center pursuant to a valid prescription, ~~except that:~~  
27 if:

1 (a) The decision to accept delivery of the drug or device  
2 for relabeling and redispensing ~~shall rest~~ rests solely with the  
3 contracting pharmacist or pharmacy;

4 (b) The drug or device ~~shall have~~ has been in the control  
5 of the community health center at all times;

6 (c) The drug or device ~~shall be~~ is in the original and  
7 unopened labeled container with a tamper-evident seal intact. Such  
8 container shall bear the expiration date or calculated expiration  
9 date and lot number; and

10 (d) The relabeling and redispensing is not otherwise  
11 prohibited by law.

12 (2) For purposes of this section:

13 (a) Administer has the definition found in section  
14 71-1,142;

15 (b) Calculated expiration date has the definition found  
16 in section 71-1,147.53;

17 (c) Community health center means a community health  
18 center established pursuant to the Health Centers Consolidation Act  
19 of 1996, 42 U.S.C. 201 et seq., as such act existed on May 7, 2005;

20 (d) Deliver or delivery has the definition found in  
21 section 71-1,142;

22 (e) Dispense or dispensing has the definition found in  
23 section 71-1,142;

24 (f) Prescription has the definition found in section  
25 71-1,142; and

26 (g) Prescription drug or device has the definition found  
27 in section 71-1,142.

1                   (3) The Department of Health and Human Services  
2 ~~Regulation and Licensure, Health and Human Services System,~~ in  
3 consultation with the Board of Pharmacy, may adopt and promulgate  
4 rules and regulations to carry out this section.

5                   Sec. 1061. Section 71-2432, Revised Statutes Cumulative  
6 Supplement, 2006, is amended to read:

7                   71-2432 For purposes of sections 71-2432 to 71-2435:

8                   (1) Clandestine drug lab means any area where glassware,  
9 heating devices, or other equipment or precursors, solvents, or  
10 related articles or reagents are used to unlawfully manufacture  
11 methamphetamine;

12                   (2) Contaminated property means an enclosed area of  
13 any property or portion thereof intended for human habitation or  
14 use which has been contaminated by chemicals, chemical residue,  
15 methamphetamine, methamphetamine residue, or other substances from  
16 a clandestine drug lab;

17                   ~~(3) Department means the Department of Health and Human~~  
18 ~~Services Regulation and Licensure;~~

19                   ~~(4)~~ (3) Law enforcement agency has the meaning found in  
20 section 81-1401;

21                   ~~(5)~~ (4) Local public health department has the meaning  
22 found in section 71-1626;

23                   ~~(6)~~ (5) Methamphetamine means methamphetamine, its salts,  
24 optical isomers, and salts of its isomers; and

25                   ~~(7)~~ (6) Rehabilitate or rehabilitation means all actions  
26 necessary to ensure that contaminated property is safe for human  
27 habitation or use; and -

1                   (7) System means the Health and Human Services System.

2                   Sec. 1062. Section 71-2433, Revised Statutes Cumulative  
3 Supplement, 2006, is amended to read:

4                   71-2433 A property owner with knowledge of a clandestine  
5 drug lab on his or her property shall report such knowledge and  
6 location as soon as practicable to the local law enforcement  
7 agency or to the Nebraska State Patrol. A law enforcement agency  
8 that discovers a clandestine drug lab in the State of Nebraska  
9 shall report the location of such lab to the Nebraska State  
10 Patrol within thirty days after making such discovery. Such report  
11 shall include the date of discovery of such lab, the county  
12 where the property containing such lab is located, and a legal  
13 description of the property or other description or address of such  
14 property sufficient to clearly establish its location. As soon as  
15 practicable after such discovery, the appropriate law enforcement  
16 agency shall provide the Nebraska State Patrol with a complete  
17 list of the chemicals, including methamphetamine, its precursors,  
18 solvents, and related reagents, found at or removed from the  
19 location of such lab. Upon receipt, the Nebraska State Patrol shall  
20 promptly forward a copy of such report and list to the ~~department,~~  
21 system, the Department of Environmental Quality, the municipality  
22 or county where the lab is located, the director of the local  
23 public health department serving such municipality or county, and  
24 the property owner or owners.

25                   Sec. 1063. Section 71-2434, Revised Statutes Cumulative  
26 Supplement, 2006, is amended to read:

27                   71-2434 (1) The local public health department serving

1 the municipality or county where a clandestine drug lab has been  
2 discovered shall monitor the rehabilitation of any contaminated  
3 property at such location in accordance with standards and  
4 procedures established or approved by the ~~department~~ system. The  
5 ~~department~~ system shall adopt and promulgate rules and regulations  
6 to establish such standards and procedures no later than July 15,  
7 2007. Such procedures shall include deadlines for completion of  
8 the various stages of rehabilitation and proper disposal of the  
9 contaminated property.

10 (2) A local public health department may charge and  
11 collect fees from the owner or owners of contaminated property  
12 to cover the costs directly associated with monitoring the  
13 rehabilitation of such property under this section as provided  
14 in rules and regulations of the ~~department~~ system. A local  
15 public health department may contract with other local public  
16 health departments or other appropriate entities to assist in the  
17 monitoring of such rehabilitation. Upon the completion of such  
18 rehabilitation, the local public health department shall release  
19 the property for human habitation and commercial or other use in a  
20 timely manner.

21 (3) The owner or owners of contaminated property shall  
22 not permit the human habitation or use of such property until the  
23 rehabilitation of such property has been completed and the property  
24 has been released for such habitation or use under this section.  
25 An owner who knowingly violates this subsection may be subject to  
26 a civil penalty not to exceed one thousand dollars. The ~~department~~  
27 system shall enforce this subsection.

1           Sec. 1064. Section 71-2437, Revised Statutes Cumulative  
2 Supplement, 2006, is amended to read:

3           71-2437 For purposes of the Immunosuppressant Drug  
4 Repository Program Act:

5           ~~(1) Department means the Department of Health and Human~~  
6 ~~Services Regulation and Licensure;~~

7           ~~(2)~~ (1) Immunosuppressant drug means anti-rejection drugs  
8 that are used to reduce the body's immune system response to  
9 foreign material and inhibit a transplant recipient's immune system  
10 from rejecting a transplanted organ. Immunosuppressant drugs are  
11 available only as prescription drugs and come in tablet, capsule,  
12 and liquid forms. The recommended dosage depends on the type  
13 and form of immunosuppressant drug and the purpose for which  
14 it is being used. Immunosuppressant drug does not include drugs  
15 prescribed for inpatient use;

16           ~~(3)~~ (2) Participant means a transplant center that has  
17 elected to voluntarily participate in the program, that has  
18 submitted written notification to the ~~department~~ system of its  
19 intent to participate in the program, and that accepts donated  
20 immunosuppressant drugs under the rules and regulations adopted and  
21 promulgated by the ~~department~~ system for the program;

22           ~~(4)~~ (3) Prescribing practitioner means a health care  
23 practitioner licensed under the Uniform Licensing Law who is  
24 authorized to prescribe immunosuppressant drugs;

25           ~~(5)~~ (4) Prescription drug has the definition found in  
26 section 71-1,142;

27           ~~(6)~~ (5) Program means the immunosuppressant drug

1 repository program established pursuant to section 71-2438;

2 ~~(7)~~ (6) Transplant center means a hospital that operates  
3 an organ transplant program, including qualifying patients for  
4 transplant, registering patients on the national waiting list,  
5 performing transplant surgery, and providing care before and after  
6 transplant; ~~and~~

7 ~~(8)~~ (7) Transplant program means the organ-specific  
8 facility within a transplant center. A transplant center may  
9 have transplant programs for the transplantation of hearts, lungs,  
10 livers, kidneys, pancreata, or intestines; ~~and -~~

11 (8) System means the Health and Human Services System.

12 Sec. 1065. Section 71-2438, Revised Statutes Cumulative  
13 Supplement, 2006, is amended to read:

14 71-2438 The ~~department~~ system shall establish an  
15 immunosuppressant drug repository program for accepting donated  
16 immunosuppressant drugs and dispensing such drugs. Participation in  
17 the program shall be voluntary.

18 Sec. 1066. Section 71-2442, Revised Statutes Cumulative  
19 Supplement, 2006, is amended to read:

20 71-2442 The ~~department,~~ system, upon the recommendation  
21 of the Board of Pharmacy, shall adopt and promulgate rules and  
22 regulations to carry out the Immunosuppressant Drug Repository  
23 Program Act. Such rules and regulations shall include, but not be  
24 limited to:

25 (1) Eligibility criteria and other standards and  
26 procedures for participants that accept and distribute or dispense  
27 donated immunosuppressant drugs;



1           (2) Necessary forms for administration of the program,  
2 including, but not limited to, forms for use by persons or entities  
3 that donate, accept, distribute, or dispense immunosuppressant  
4 drugs under the program. The forms shall include the name of the  
5 person to whom the drug was originally prescribed; and

6           (3) (a) Categories of immunosuppressant drugs that may  
7 be donated or returned under the program and (b) categories of  
8 immunosuppressant drugs that cannot be donated or returned under  
9 the program and the reason that such drugs cannot be donated or  
10 returned.

11           Sec. 1067. Section 71-2503, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           71-2503 Every person who disposes of or sells at retail  
14 or furnishes any of the poisons in section 71-2501 or any  
15 other poisons which the ~~Department of Health and Human Services~~  
16 ~~Regulation and Licensure~~ Health and Human Services System may from  
17 time to time designate, as provided in section 71-2506, shall,  
18 before delivery, enter in a book kept for that purpose, to be known  
19 as the Poison Register, the date of sale, the name and address of  
20 the purchaser, the name and quantity of the poison, the purpose  
21 for which it is purchased, and the name of the dispenser, and  
22 such record shall be signed by the person to whom the poison is  
23 delivered. Such record shall be kept in the form prescribed by  
24 the ~~department,~~ system, and the book containing the same must be  
25 always open for inspection by the proper authorities, and must be  
26 preserved for at least two years after the last entry.

27           Sec. 1068. Section 71-2506, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           71-2506 Whenever, in the judgment of the ~~Director of~~  
3 ~~Regulation and Licensure,~~ Health and Human Services System, it  
4 shall become necessary for the protection of the public, to add  
5 any poison, not specifically enumerated in section 71-2501, the  
6 ~~Department of Health and Human Services Regulation and Licensure~~  
7 system shall have printed a revised schedule of all poisons coming  
8 under section 71-2501. The ~~department~~ system shall forward by mail  
9 one copy to each person registered upon its books and to every  
10 person applying for same, and the revised schedule shall carry  
11 an effective date for the new poisons added. No poison shall be  
12 added by the ~~director~~ system under this section unless the same  
13 shall be as toxic in its effect as any of the poisons enumerated  
14 under section 71-2501. Whenever the ~~director~~ system shall propose  
15 to bring any additional poisons under such section, the proposal  
16 shall be set down for hearing. At least ten days' notice of such  
17 hearing shall be given by the ~~director,~~ system. The notice shall  
18 designate the poison to be added and shall state the time and  
19 place of the hearing. Such notice shall be given by such means as  
20 the ~~director~~ system shall determine to be reasonably calculated to  
21 notify the various interested parties. The ~~director~~ system shall  
22 have the power to adopt and promulgate such rules and regulations  
23 with respect to the conduct of such hearings as may be necessary.  
24 Any person aggrieved by any order of the ~~director~~ system passed  
25 pursuant to this section may appeal such order, and the appeal  
26 shall be in accordance with the Administrative Procedure Act.

27           Sec. 1069. Section 71-2509, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           71-2509 ~~The Director of Regulation and Licensure Health~~  
3 ~~and Human Services System~~ may, by regulation, whenever ~~in his~~  
4 ~~or her opinion~~ such action becomes necessary for the protection  
5 of the public, prohibit the sale of any poison, subject to the  
6 provisions of this section, except upon the original written order  
7 or prescription of those practitioners of the healing arts, named  
8 in section 71-102, who are duly authorized by law to administer  
9 or professionally use those poisons specifically named in section  
10 71-2501. Whenever in the opinion of the ~~director~~ system it is  
11 in the interest of the public health, ~~he or she~~ the system is  
12 empowered to adopt rules and regulations, not inconsistent with  
13 the provisions of sections 71-2501 to 71-2511, further restricting  
14 or prohibiting the retail sale of any poison. The rules and  
15 regulations must be applicable to all persons alike, and it shall  
16 be the duty of the ~~director,~~ system, upon request, to furnish  
17 any person, authorized by sections 71-2501 to 71-2511 to sell or  
18 dispense any poisons, with a list of all articles, preparations,  
19 and compounds the sale of which is prohibited or regulated by ~~said~~  
20 such sections.

21           Sec. 1070. Section 71-2511, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23           71-2511 Any person, partnership, limited liability  
24 company, association, or corporation violating any of the  
25 provisions of sections 71-2502 to 71-2511 or any of the rules  
26 or regulations ~~passed~~ adopted and promulgated by the ~~Director of~~  
27 Regulation and Licensure Health and Human Services System pursuant

1 to the sections shall be deemed guilty of a Class V misdemeanor.

2 Sec. 1071. Section 71-2516, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4 71-2516 The ~~Department of Health and Human Services~~  
5 Health and Human Services System may participate in national  
6 efforts and may develop a statewide environmental lead hazard  
7 awareness action plan which is comprehensive in scope and reflects  
8 contributions from a broad base of providers and consumers.  
9 In order to implement the statewide environmental lead hazard  
10 awareness action plan, the ~~department~~ system may:

11 (1) Actively seek the participation and commitment of the  
12 public, health care professionals and facilities, the educational  
13 community, and community organizations in a comprehensive program  
14 to ensure that the state's children are appropriately protected  
15 from environmental lead hazards;

16 (2) Apply for and receive public and private awards to  
17 develop and administer a statewide comprehensive environmental lead  
18 hazard awareness action plan program;

19 (3) Provide environmental lead hazard information and  
20 education to the public, parents, health care providers, and  
21 educators to establish and maintain a high level of awareness;

22 (4) Assist parents, health care providers, and  
23 communities in developing systems, including demonstration and  
24 pilot projects, which emphasize the protection of children from  
25 environmental lead poisoning and the use of private practitioners;  
26 and

27 (5) Evaluate the effectiveness of these statewide

1 efforts, identify children at special risk for environmental lead  
2 hazard exposure, and report on the activities of the statewide  
3 program annually to the Legislature and the citizens of Nebraska.

4 Sec. 1072. Section 71-2517, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 71-2517 The Childhood Lead Poisoning Prevention Act is  
7 not intended to create an entitlement to any activities described  
8 in the act, and the ~~Department of Health and Human Services~~ Health  
9 and Human Services System may perform the activities described in  
10 the act to the extent funds are available.

11 Sec. 1073. Section 71-2610, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 71-2610 ~~(1)~~ The State Board of Health shall advise the  
14 ~~Department of Health and Human Services~~ Regulation and Licensure  
15 Department of Public Health regarding:

16 ~~(a)~~ (1) Rules and regulations for the government of the  
17 department;

18 ~~(b)~~ (2) The policies of the department as they relate to  
19 support provided to the board;

20 ~~(c)~~ (3) The policies of the department concerning the  
21 professions and occupations described in section 71-2610.01;

22 ~~(d)~~ (4) Communication and cooperation among the  
23 professional boards; and

24 ~~(e)~~ (5) Plans of organization or reorganization of the  
25 department.

26 ~~(2) Upon request of the Policy Cabinet, the board shall~~  
27 ~~advise them on matters pertaining to public health.~~

1           Sec. 1074. Section 71-2610.01, Revised Statutes  
2 Cumulative Supplement, 2006, is amended to read:

3           71-2610.01 The State Board of Health shall:

4           (1) Adopt and promulgate rules and regulations for the  
5 government of the professions and occupations licensed, certified,  
6 registered, or issued permits by the ~~Department of Health and~~  
7 ~~Human Services Regulation and Licensure~~, Department of Public  
8 Health, including rules and regulations necessary to implement laws  
9 enforced by the department. These professions and occupations  
10 are those subject to the Advanced Practice Registered Nurse  
11 Licensure Act, the Asbestos Control Act, the Certified Registered  
12 Nurse Anesthetist Act, the Clinical Nurse Specialist Practice  
13 Act, the Licensed Practical Nurse-Certified Act, the Nebraska  
14 Certified Nurse Midwifery Practice Act, the Nebraska Cosmetology  
15 Act, the Nurse Practice Act, the Nurse Practitioner Act, the  
16 Occupational Therapy Practice Act, the Radiation Control Act,  
17 the Residential Lead-Based Paint Professions Certification Act,  
18 the Uniform Controlled Substances Act, the Uniform Licensing Law,  
19 the Wholesale Drug Distributor Licensing Act, or sections 71-102,  
20 71-3702 to 71-3715, 71-4701 to 71-4719, and 71-6053 to 71-6068;

21           (2) Serve in an advisory capacity for other rules and  
22 regulations adopted and promulgated by the department, including  
23 those for health care facilities and environmental health services;

24           (3) Carry out its powers and duties under the Nebraska  
25 Regulation of Health Professions Act;

26           (4) Appoint and remove for cause members of  
27 health-related professional boards as provided in sections

1 71-111, 71-112, and 71-118;

2 (5) At the discretion of the board, help mediate issues  
3 related to the regulation of health care professions except issues  
4 related to the discipline of health care professionals; and

5 (6) Have the authority to participate in the periodic  
6 review of the regulation of health care professions.

7 All funds rendered available by law may be used by the  
8 board in administering and effecting such purposes.

9 Sec. 1075. Section 71-2617, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 71-2617 There is hereby created in the Department of  
12 ~~Health and Human Services Regulation and Licensure~~ Health and Human  
13 Services System a cash fund to be known as the Health and Human  
14 Services System Reimbursement Fund. Any money in the Department of  
15 Health and Human Services Regulation and Licensure Reimbursement  
16 Fund on the operative date of this act shall be transferred to the  
17 Health and Human Services System Reimbursement Fund. The fund shall  
18 be used for payment of services performed for the Department of  
19 ~~Health and Human Services Finance and Support~~ system for inspection  
20 and licensing of hospitals and nursing homes under Title XIX of the  
21 federal Social Security Act. ~~Any money in the Department of Health~~  
22 ~~Reimbursement Fund on January 1, 1997,~~ shall be transferred to the  
23 ~~Department of Health and Human Services Regulation and Licensure~~  
24 ~~Reimbursement Fund.~~ Any money in the fund available for investment  
25 shall be invested by the state investment officer pursuant to  
26 the Nebraska Capital Expansion Act and the Nebraska State Funds  
27 Investment Act.

1           Sec. 1076. Section 71-2619, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           71-2619 (1) ~~The Department of Health and Human Services~~  
4 ~~Regulation and Licensure~~ Health and Human Services System may by  
5 regulation establish fees to defray the costs of providing specimen  
6 containers, shipping outfits, and related supplies and fees to  
7 defray the costs of certain laboratory examinations as requested  
8 by individuals, firms, corporations, or governmental agencies in  
9 the state. Fees for the provision of certain classes of shipping  
10 outfits or specimen containers shall be no more than the actual  
11 cost of materials, labor, and delivery. Fees for the provision of  
12 shipping outfits may be made when no charge is made for service.

13           (2) Fees may be established by regulation for chemical  
14 or microbiological examinations of various categories of water  
15 samples. Fees established for examination of water to ascertain  
16 qualities for domestic, culinary, and associated uses shall be  
17 set to defray no more than the actual cost of the tests  
18 in the following categories: (a) Inorganic chemical assays; (b)  
19 organic pollutants; and (c) bacteriological examination to indicate  
20 sanitary quality as coliform density by membrane filter test or  
21 equivalent test.

22           (3) Fees for examinations of water from lakes, streams,  
23 impoundments, or similar sources, from wastewaters, or from ground  
24 water for industrial or agricultural purposes may be charged  
25 in amounts established by regulation but shall not exceed one  
26 and one-half times the limits set by ~~department~~ regulation for  
27 examination of domestic waters.



1           (4) Fees may be established by regulation for chemical  
2 or microbiological examinations of various categories of samples to  
3 defray no more than the actual cost of testing. Such fees may be  
4 charged for:

5           (a) Any specimen submitted for radiochemical analysis or  
6 characterization;

7           (b) Any material submitted for chemical characterization  
8 or quantitation; and

9           (c) Any material submitted for microbiological  
10 characterization.

11           (5) Fees may be established by regulation for the  
12 examinations of certain categories of biological and clinical  
13 specimens to defray no more than the actual costs of testing.  
14 Such fees may be charged for examinations pursuant to law or  
15 ~~departmental~~ regulation of:

16           (a) Any specimen submitted for chemical examination for  
17 assessment of health status or functional impairment;

18           (b) Any specimen submitted for microbiological  
19 examination which is not related to direct human contact with the  
20 microbiological agent; and

21           (c) A specimen submitted for microbiological examination  
22 or procedure by an individual, firm, corporation, or governmental  
23 unit other than the ~~Department of Health and Human Services~~  
24 ~~Regulation and Licensure.~~ Health and Human Services System.

25           (6) The ~~department~~ system shall not charge fees for tests  
26 that include microbiological isolation, identification examination,  
27 or other laboratory examination for the following:

1           (a) A contagious disease when the ~~Department of Health~~  
2 ~~and Human Services Regulation and Licensure system~~ is authorized by  
3 law or ~~regulations~~ regulation to directly supervise the prevention,  
4 control, or surveillance of such contagious disease;

5           (b) Any emergency when the health of the people of any  
6 part of the state is menaced or exposed pursuant to section 71-502;  
7 and

8           (c) When adopting or enforcing special quarantine and  
9 sanitary regulations authorized by the ~~department~~ system.

10           (7) Combinations of different tests or groups of tests  
11 submitted together may be offered at rates less than those set for  
12 individual tests as allowed in this section and shall defray the  
13 actual costs.

14           (8) Fees may be established by regulation to defray no  
15 more than the actual costs of conducting qualifying inspections  
16 in order to make laboratory agreements between the ~~department~~  
17 Health and Human Services System and laboratories other than the  
18 ~~Department of Health and Human Services Regulation and Licensure~~  
19 Health and Human Services System Laboratory for the purpose of  
20 conducting analyses of drinking water as prescribed in section  
21 71-5306. The inspection fees shall be collected on an annual  
22 schedule from those laboratories which enter into an agreement  
23 with the ~~department~~ system for the purpose of conducting laboratory  
24 analyses of water. Such fees shall not exceed the amount in the  
25 following categories: (a) Bacteriological examination agreement,  
26 one hundred and fifty dollars; (b) inorganic chemical analyses  
27 agreement, one hundred dollars; (c) heavy metal analyses agreement,

1 two hundred dollars; (d) organic chemical analyses agreement, two  
2 hundred dollars; and (e) radiochemical analyses agreement, two  
3 hundred dollars.

4 (9) All fees collected pursuant to this section shall be  
5 deposited in the state treasury and credited to the ~~Department of~~  
6 ~~Health and Human Services Regulation and Licensure~~ Health and Human  
7 Services System Cash Fund.

8 Sec. 1077. Section 71-2620, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 71-2620 The ~~Department of Health and Human Services~~  
11 ~~Regulation and Licensure~~ Health and Human Services System may enter  
12 into agreements, not exceeding one year in duration, with any other  
13 governmental agency relative to the provision of certain laboratory  
14 tests and services to the agency. Such services shall be provided  
15 as stipulated in the agreement and for such fee, either lump  
16 sum or by the item, as is mutually agreed upon and as complies  
17 with the provisions of section 71-2619. All laboratories performing  
18 human genetic testing for clinical diagnosis and treatment purposes  
19 shall be accredited by the College of American Pathologists or  
20 by any other national accrediting body or public agency which  
21 has requirements that are substantially equivalent to or more  
22 comprehensive than those of the college.

23 Sec. 1078. Section 71-2621, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 71-2621 All fees collected for laboratory tests and  
26 services pursuant to sections 71-2619 and 71-2620 shall be paid  
27 into the state treasury and by the State Treasurer credited to the

1 ~~Department of Health and Human Services Regulation and Licensure~~  
2 Health and Human Services System Cash Fund, which shall be used  
3 to partially defray the costs of labor, operations, supplies,  
4 and materials in the operations of the ~~Department of Health and~~  
5 ~~Human Services Regulation and Licensure.~~ Health and Human Services  
6 System.

7           Sec. 1079. Section 71-2622, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           71-2622 The ~~Department of Health and Human Services~~  
10 ~~Regulation and Licensure~~ Health and Human Services System shall  
11 collect a fee of not less than sixty nor more than one hundred  
12 dollars, as determined by ~~departmental~~ regulation, for each  
13 inspection of private water supply or private sewage disposal  
14 facilities requested of and made by the ~~department~~ system in order  
15 for the person requesting the inspection to qualify for any type  
16 of commercial loan, guarantee, or other type of payment or benefit  
17 from any commercial agency or enterprise to the person applying  
18 for or receiving the same or to meet the requirements of any  
19 federal governmental agency, including, but not limited to, the  
20 Farmers Home Administration, the Federal Housing Administration,  
21 and the United States Department of Veterans Affairs, that such an  
22 inspection be conducted as a condition of applying for or receiving  
23 any type of grant, loan, guarantee, or other type of payment or  
24 benefit from such agency to the person applying for or receiving  
25 the same. All fees so collected shall be paid into the state  
26 treasury and by the State Treasurer credited to the ~~Department of~~  
27 ~~Health and Human Services Regulation and Licensure~~ Health and Human

1 Services System Cash Fund.

2           Sec. 1080. Section 71-3101, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           71-3101 As used in sections 71-3101 to 71-3107, unless  
5 the context otherwise requires:

6           (1) Recreation camp shall mean one or more temporary or  
7 permanent tents, buildings, structures, or site pads, together with  
8 the tract of land appertaining thereto, established or maintained  
9 for more than a forty-eight-hour period as living quarters or sites  
10 used for purposes of sleeping or the preparation and the serving of  
11 food extending beyond the limits of a family group for children or  
12 adults, or both, for recreation, education, or vacation purposes,  
13 and including facilities located on either privately or publicly  
14 owned lands except hotels or inns;

15           (2) Person shall mean any individual or group of  
16 individuals, association, partnership, limited liability company,  
17 or corporation; and

18           (3) System means the Health and Human Services System.  
19 ~~Department shall mean the Department of Health and Human Services~~  
20 ~~Regulation and Licensure.~~

21           Sec. 1081. Section 71-3102, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23           71-3102 Before any person shall directly or indirectly  
24 operate a recreation camp he or she shall make an application to  
25 the ~~department~~ system and receive a valid permit for the operation  
26 of such camp. Application for such a permit shall be made at least  
27 thirty days prior to the proposed operation of the camp and shall

1 be on forms supplied by the ~~department~~ system upon request. The  
2 application shall be in such form and contain such information  
3 as the ~~department~~ system may deem necessary to its determination  
4 that the recreation camp will be operated and maintained in such  
5 a manner as to protect and preserve the health and safety of the  
6 persons using the camp and shall be accompanied by an annual fee.  
7 The ~~department~~ system may establish fees by regulation to defray  
8 the actual costs of issuing the permit, conducting inspections, and  
9 other expenses incurred by the ~~department~~ system in carrying out  
10 this section. If the applicant is an individual, the application  
11 shall include the applicant's social security number. Where a  
12 person operates or is seeking to operate more than one recreation  
13 camp, a separate application shall be made for each camp. Such a  
14 permit shall not be transferable or assignable. It shall expire one  
15 year from the date of its issuance, upon a change of operator of  
16 the camp, or upon revocation. If the ~~department~~ system finds, after  
17 investigation, that the camp or the proposed operation thereof  
18 conforms, or will conform, to the minimum standards for recreation  
19 camps, a permit on a form prescribed by the ~~department~~ system shall  
20 be issued for operation of the camp. All fees shall be remitted  
21 to the State Treasurer for credit to the ~~Department of Health and~~  
22 ~~Human Services Regulation and Licensure~~ Health and Human Services  
23 System Cash Fund.

24           Sec. 1082. Section 71-3103, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26           71-3103 It shall be the duty of the ~~department~~ system to  
27 make at least one annual inspection of each recreation camp. The

1 duly authorized representatives of the ~~department~~ system shall have  
2 the right of entry and access to any such camp at any reasonable  
3 time.

4 Where, upon inspection it is found that there is failure  
5 to protect the health and safety of the persons using the camp,  
6 or a failure to comply with the camp regulations prescribed by the  
7 ~~department,~~ system, the ~~department~~ system shall give notice to the  
8 camp operator of such failure, which notice shall set forth the  
9 reason or reasons for such failure.

10 Sec. 1083. Section 71-3104, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 71-3104 (1) A permit may be temporarily suspended by the  
13 ~~Director of Regulation and Licensure~~ system for failure to protect  
14 the health and safety of the occupants of the camp, or a failure  
15 to comply with the camp regulations prescribed by the ~~department.~~  
16 system.

17 (2) A permit may be revoked at any time, after notice and  
18 opportunity for a fair hearing held by the ~~Director of Regulation~~  
19 ~~and Licensure,~~ system, if the ~~director finds~~ it is found that  
20 the camp for which the permit is issued is maintained or operated  
21 in violation of law or of any regulations applicable to a camp  
22 or in violation of the conditions stated in the permit. A new  
23 permit shall not be issued until the ~~department~~ system is satisfied  
24 that the camp will be operated in compliance with the law and  
25 regulations.

26 Sec. 1084. Section 71-3105, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

1           71-3105 The ~~department~~ system is authorized to and shall  
2 formulate, adopt, publish, promulgate, and enforce such reasonable  
3 rules and regulations as it deems necessary to enforce the  
4 provisions of sections 71-3101 to 71-3107 and to protect the  
5 health and welfare of persons in attendance at recreation camps.

6           Sec. 1085. Section 71-3106, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           71-3106 Properly prepared plans for all recreation camps  
9 which are hereafter constructed, reconstructed, or extensively  
10 altered shall be submitted to the ~~department~~ system before  
11 such work is begun. Signed approval shall be obtained from the  
12 ~~department.~~ system.

13          Sec. 1086. Section 71-3305, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15          71-3305 (1) Except as provided in subsection (2) of  
16 this section, any political subdivision as defined in section  
17 13-702, that provides the water supply of any city or village for  
18 human consumption shall add fluoride to such water supply in the  
19 amount and manner prescribed by the rules and regulations of the  
20 ~~Department of Health and Human Services Regulation and Licensure.~~  
21 Health and Human Services System.

22          (2) Fluoride shall not be added to the water supply of  
23 any city or village in which the voters have, after September 2,  
24 1973, adopted an ordinance by initiative prohibiting the adding of  
25 fluoride to its water supply. The procedure for the adoption of  
26 any such ordinance shall be that provided in sections 18-2501 to  
27 18-2536. No such ordinance may be adopted in a city or village



1 receiving, or which has contracted to receive, its water supply,  
2 or any part thereof, from another political subdivision, or public  
3 or private entity, which adds fluoride to its water supply in  
4 compliance with subsection (1) of this section, or section 71-3306,  
5 or which has available only purchased fluoridated water with which  
6 to supply such city or village.

7           Sec. 1087. Section 71-3306, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           71-3306 Any public or private entity not included in  
10 section 71-3305 which provides a water supply for human consumption  
11 and which is not required to add fluoride to such water supply  
12 may add fluoride to such water supply in the amount and manner  
13 prescribed by the rules and regulations of the ~~Department of Health~~  
14 ~~and Human Services Regulation and Licensure.~~ Health and Human  
15 Services System.

16           Sec. 1088. Section 71-3401, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           71-3401 Any person, hospital, sanitarium, nursing  
19 home, rest home, or other organization may provide information,  
20 interviews, reports, statements, memoranda, or other data relating  
21 to the condition and treatment of any person to the ~~Department~~  
22 ~~of Health and Human Services Regulation and Licensure,~~ Health and  
23 Human Services System, the Nebraska Medical Association or any of  
24 its allied medical societies, the Nebraska Association of Hospitals  
25 and Health Systems, any inhospital staff committee, or any joint  
26 venture of such entities to be used in the course of any study for  
27 the purpose of reducing morbidity or mortality, and no liability of

1 any kind or character for damages or other relief shall arise or  
2 be enforced against any person or organization by reason of having  
3 provided such information or material, by reason of having released  
4 or published the findings and conclusions of such groups to advance  
5 medical research and medical education, or by reason of having  
6 released or published generally a summary of such studies.

7           Sec. 1089. Section 71-3402, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           71-3402 ~~The Department of Health and Human Services~~  
10 ~~Regulation and Licensure, Health and Human Services System,~~  
11 the Nebraska Medical Association or any of its allied medical  
12 societies, the Nebraska Association of Hospitals and Health  
13 Systems, any inhospital staff committee, or any joint venture  
14 of such entities shall use or publish the material specified in  
15 section 71-3401 only for the purpose of advancing medical research  
16 or medical education in the interest of reducing morbidity or  
17 mortality, except that a summary of such studies may be released by  
18 any such group for general publication. In all events the identity  
19 of any person whose condition or treatment has been studied shall  
20 be confidential and shall not be revealed under any circumstances.

21           Sec. 1090. Section 71-3406, Revised Statutes Cumulative  
22 Supplement, 2006, is amended to read:

23           71-3406 (1) ~~The Director of Health and Human Services~~  
24 ~~chief executive officer of the Health and Human Services System~~  
25 shall appoint a minimum of eight and a maximum of twelve members  
26 to the State Child Death Review Team. The core members shall be  
27 (a) a physician employed by the ~~Nebraska Health and Human Services~~

1 ~~System~~, as referred to in section 81-3006, Health and Human  
2 Services System, who shall be a permanent member and shall serve  
3 as the chairperson of the team, (b) a senior staff member with  
4 child protective services of the ~~Department of Health and Human~~  
5 ~~Services~~, system, (c) a forensic pathologist, (d) a law enforcement  
6 representative, and (e) an attorney. The remaining members  
7 appointed may be, but shall not be limited to, the following:  
8 A county attorney; a Federal Bureau of Investigation agent  
9 responsible for investigations on Native American reservations;  
10 a social worker; and members of organizations which represent  
11 hospitals or physicians.

12 (2) Members shall serve four-year terms with the  
13 exception of the chairperson. In the absence of the chairperson,  
14 the ~~Director of Health and Human Services~~ chief executive  
15 officer may appoint another member of the core team to serve as  
16 chairperson.

17 (3) The team shall not be considered a public body for  
18 purposes of the Open Meetings Act. The team shall meet a minimum  
19 of four times a year. Members of the team shall be reimbursed for  
20 their actual and necessary expenses as provided in sections 81-1174  
21 to 81-1177.

22 Sec. 1091. Section 71-3409, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 71-3409 (1) The team shall review all child deaths  
25 occurring on or after January 1, 1993. The review process shall be  
26 conducted in three phases.

27 (2) Phase one shall be conducted by the core members. The

1 core members shall review the death certificate, birth certificate,  
2 coroner's report or autopsy report if done, and indicators of  
3 child or family involvement with the ~~Department of Health and Human~~  
4 ~~Services.~~ Health and Human Services System. The core members  
5 shall classify the nature of the death, whether accidental,  
6 homicide, suicide, undetermined, or natural causes, determine the  
7 completeness of the death certificate, and identify discrepancies  
8 and inconsistencies. The core members may select cases from phase  
9 one for review in phase two.

10 (3) Phase two shall be completed by the core members  
11 and shall not be conducted on any child death under active  
12 investigation by a law enforcement agency or under criminal  
13 prosecution. The core members may seek additional records  
14 described in section 71-3410. The core members shall identify the  
15 preventability of death, the possibility of child abuse or neglect,  
16 the medical care issues of access and adequacy, and the nature and  
17 extent of interagency communication. The core members may select  
18 cases from phase two for review by the team in phase three.

19 (4) Phase three shall be a review by the team of those  
20 cases selected by the core members for further discussion, review,  
21 and analysis.

22 Sec. 1092. Section 71-3410, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 71-3410 Upon request the team shall be immediately  
25 provided:

26 (1) Information and records maintained by a provider  
27 of medical, dental, prenatal, and mental health care, including

1 medical reports, autopsy reports, and emergency and paramedic  
2 records; and

3 (2) All information and records maintained by any state,  
4 county, or local government agency, including, but not limited to,  
5 birth and death certificates, law enforcement investigative data  
6 and reports, coroner investigative data and reports, parole and  
7 probation information and records, and information and records of  
8 any social services agency that provided services to the child or  
9 the child's family.

10 The Director of Health and Human Services Health  
11 and Human Services System shall have the authority to issue  
12 subpoenas to compel production of any of the records and  
13 information specified in subdivisions (1) and (2) of this section,  
14 except records and information on any child death under active  
15 investigation by a law enforcement agency or which is at the time  
16 the subject of a criminal prosecution, and shall provide such  
17 records and information to the team.

18 Sec. 1093. Section 71-3502.01, Reissue Revised Statutes  
19 of Nebraska, is amended to read:

20 71-3502.01 The ~~Department of Health and Human Services~~  
21 ~~Regulation and Licensure~~ Health and Human Services System may  
22 establish an alternative maximum contaminant level for radon  
23 in drinking water by establishing a multimedia radon mitigation  
24 program as provided under federal law which may include public  
25 education, testing, training, technical assistance, remediation  
26 grants, and loan or incentive programs. The purpose of the radon  
27 mitigation program shall be to achieve health risk reduction

1 benefits equal to or greater than the health risk reduction  
2 benefits that would be achieved if each public water system in the  
3 state complied with the maximum contaminant level of three hundred  
4 picocuries per liter.

5 Sec. 1094. Section 71-3503, Revised Statutes Cumulative  
6 Supplement, 2006, is amended to read:

7 71-3503 For purposes of the Radiation Control Act, unless  
8 the context otherwise requires:

9 (1) Radiation means ionizing radiation and nonionizing  
10 radiation as follows:

11 (a) Ionizing radiation means gamma rays, X-rays, alpha  
12 and beta particles, high-speed electrons, neutrons, protons, and  
13 other atomic or nuclear particles or rays but does not include  
14 sound or radio waves or visible, infrared, or ultraviolet light;  
15 and

16 (b) Nonionizing radiation means (i) any electromagnetic  
17 radiation which can be generated during the operations of  
18 electronic products to such energy density levels as to present  
19 a biological hazard to occupational and public health and safety  
20 and the environment, other than ionizing electromagnetic radiation,  
21 and (ii) any sonic, ultrasonic, or infrasonic waves which are  
22 emitted from an electronic product as a result of the operation of  
23 an electronic circuit in such product and to such energy density  
24 levels as to present a biological hazard to occupational and public  
25 health and safety and the environment;

26 (2) Radioactive material means any material, whether  
27 solid, liquid, or gas, which emits ionizing radiation

1 spontaneously. Radioactive material includes, but is not  
2 limited to, accelerator-produced material, byproduct material,  
3 naturally occurring material, source material, and special nuclear  
4 material;

5 (3) Radiation-generating equipment means any manufactured  
6 product or device, component part of such a product or device,  
7 or machine or system which during operation can generate or emit  
8 radiation except devices which emit radiation only from radioactive  
9 material;

10 (4) Sources of radiation means any radioactive material,  
11 any radiation-generating equipment, or any device or equipment  
12 emitting or capable of emitting radiation or radioactive material;

13 (5) Undesirable radiation means radiation in such  
14 quantity and under such circumstances as determined from time  
15 to time by rules and regulations adopted and promulgated by the  
16 ~~department;~~ system;

17 (6) Person means any individual, corporation,  
18 partnership, limited liability company, firm, association,  
19 trust, estate, public or private institution, group, agency,  
20 political subdivision of this state, any other state or  
21 political subdivision or agency thereof, and any legal successor,  
22 representative, agent, or agency of the foregoing;

23 (7) Registration means registration with the ~~department~~  
24 system pursuant to the Radiation Control Act;

25 (8) System means the Health and Human Services System;

26 ~~(8) Department means the Department of Health and Human~~  
27 ~~Services Regulation and Licensure;~~

1           ~~(9) Coordinator means the Director of Regulation and~~  
2 ~~Licensure;~~

3           ~~(10)~~ (9) Electronic product means any manufactured  
4 product, device, assembly, or assemblies of such products or  
5 devices which, during operation in an electronic circuit, can  
6 generate or emit a physical field of radiation;

7           ~~(11)~~ (10) License means:

8           (a) A general license issued pursuant to rules and  
9 regulations adopted and promulgated by the ~~department~~ system  
10 without the filing of an application with the ~~department~~ system  
11 or the issuance of licensing documents to particular persons to  
12 transfer, acquire, own, possess, or use quantities of or devices or  
13 equipment utilizing radioactive materials;

14           (b) A specific license, issued to a named person upon  
15 application filed with the ~~department~~ system pursuant to the  
16 Radiation Control Act and rules and regulations adopted and  
17 promulgated pursuant to the act, to use, manufacture, produce,  
18 transfer, receive, acquire, own, or possess quantities of or  
19 devices or equipment utilizing radioactive materials;

20           (c) A license issued to a radon measurement specialist,  
21 radon measurement technician, radon mitigation specialist, radon  
22 mitigation technician, radon measurement business, or radon  
23 mitigation business; or

24           (d) A license issued to a medical radiographer or limited  
25 radiographer;

26           ~~(12)~~ (11) Byproduct material means:

27           (a) Any radioactive material, except special nuclear



1 material, yielded in or made radioactive by exposure to the  
2 radiation incident to the process of producing or utilizing special  
3 nuclear material; and

4 (b) The tailings or wastes produced by the extraction  
5 or concentration of uranium or thorium from any ore processed  
6 primarily for its source material content, including discrete  
7 surface wastes resulting from uranium or thorium solution  
8 extraction processes. Underground ore bodies depleted by such  
9 solution extraction operations do not constitute byproduct  
10 material;

11 ~~(13)~~ (12) Source material means:

12 (a) Uranium or thorium or any combination thereof in any  
13 physical or chemical form; or

14 (b) Ores which contain by weight one-twentieth of one  
15 percent or more of uranium, thorium, or any combination thereof.

16 Source material does not include special nuclear material;

17 ~~(14)~~ (13) Special nuclear material means:

18 (a) Plutonium, uranium 233, or uranium enriched in the  
19 isotope 233 or in the isotope 235 and any other material that  
20 the United States Nuclear Regulatory Commission pursuant to the  
21 provisions of section 51 of the federal Atomic Energy Act of 1954,  
22 as amended, determines to be special nuclear material but does not  
23 include source material; or

24 (b) Any material artificially enriched by any material  
25 listed in subdivision ~~(14)(a)~~ (13)(a) of this section but does not  
26 include source material;

27 ~~(15)~~ (14) Users of sources of radiation means:

1           (a)   Physicians    using   radioactive   material    or  
2 radiation-generating equipment for human use;

3           (b)   Natural   persons    using   radioactive   material    or  
4 radiation-generating equipment for education, research, or  
5 development purposes;

6           (c)   Natural   persons    using   radioactive   material    or  
7 radiation-generating equipment for manufacture or distribution  
8 purposes;

9           (d)   Natural   persons    using   radioactive   material    or  
10 radiation-generating equipment for industrial purposes; and

11          (e)   Natural   persons    using   radioactive   material    or  
12 radiation-generating equipment for any other similar purpose;

13          ~~(16)~~ (15) Civil penalty means any monetary penalty levied  
14 on a licensee or registrant because of violations of statutes,  
15 rules, regulations, licenses, or registration certificates but does  
16 not include criminal penalties;

17          ~~(17)~~ (16) Closure means all activities performed at a  
18 waste handling, processing, management, or disposal site, such as  
19 stabilization and contouring, to assure that the site is in a  
20 stable condition so that only minor custodial care, surveillance,  
21 and monitoring are necessary at the site following termination of  
22 licensed operation;

23          ~~(18)~~ (17) Decommissioning means final operational  
24 activities at a facility to dismantle site structures, to  
25 decontaminate site surfaces and remaining structures, to stabilize  
26 and contain residual radioactive material, and to carry out any  
27 other activities to prepare the site for postoperational care;

1           ~~(19)~~ (18) Disposal means the permanent isolation of  
2 low-level radioactive waste pursuant to the Radiation Control Act  
3 and rules and regulations adopted and promulgated pursuant to such  
4 act;

5           ~~(20)~~ (19) Generate means to produce low-level radioactive  
6 waste when used in relation to low-level radioactive waste;

7           ~~(21)~~ (20) High-level radioactive waste means:

8           (a) Irradiated reactor fuel;

9           (b) Liquid wastes resulting from the operation of the  
10 first cycle solvent extraction system or equivalent and the  
11 concentrated wastes from subsequent extraction cycles or the  
12 equivalent in a facility for reprocessing irradiated reactor fuel;  
13 and

14           (c) Solids into which such liquid wastes have been  
15 converted;

16           ~~(22)~~ (21) Low-level radioactive waste means radioactive  
17 waste not defined as high-level radioactive waste, spent nuclear  
18 fuel, or byproduct material as defined in subdivision ~~(12)~~~~(b)~~  
19 (11)(b) of this section;

20           ~~(23)~~ (22) Management of low-level radioactive waste means  
21 the handling, processing, storage, reduction in volume, disposal,  
22 or isolation of such waste from the biosphere in any manner;

23           ~~(24)~~ (23) Source material mill tailings or mill tailings  
24 means the tailings or wastes produced by the extraction or  
25 concentration of uranium or thorium from any ore processed  
26 primarily for its source material content, including discrete  
27 surface wastes resulting from underground solution extraction

1 processes, but not including underground ore bodies depleted by  
2 such solution extraction processes;

3 ~~(25)~~ (24) Source material milling means any processing  
4 of ore, including underground solution extraction of unmined ore,  
5 primarily for the purpose of extracting or concentrating uranium  
6 or thorium therefrom and which results in the production of source  
7 material and source material mill tailings;

8 ~~(26)~~ (25) Spent nuclear fuel means irradiated nuclear  
9 fuel that has undergone at least one year of decay since being  
10 used as a source of energy in a power reactor. Spent nuclear  
11 fuel includes the special nuclear material, byproduct material,  
12 source material, and other radioactive material associated with  
13 fuel assemblies;

14 ~~(27)~~ (26) Transuranic waste means radioactive waste  
15 material containing alpha-emitting radioactive elements, with  
16 radioactive half-lives greater than five years, having an atomic  
17 number greater than 92 in concentrations in excess of one hundred  
18 nanocuries per gram;

19 ~~(28)~~ (27) Licensed practitioner means a person  
20 licensed to practice medicine, dentistry, podiatry, chiropractic,  
21 osteopathic medicine and surgery, or as an osteopathic physician;

22 ~~(29)~~ (28) X-ray system means an assemblage of components  
23 for the controlled production of X-rays, including, but not  
24 limited to, an X-ray high-voltage generator, an X-ray control,  
25 a tube housing assembly, a beam-limiting device, and the necessary  
26 supporting structures. Additional components which function with  
27 the system are considered integral parts of the system;

1           ~~(30)~~ (29) Limited radiographer means a person licensed  
2 to practice medical radiography pursuant to subsection (2) of  
3 section 71-3515.01. Limited radiographer does not include a person  
4 certified under section 71-176.01;

5           ~~(31)~~ (30) Medical radiographer means a person licensed to  
6 practice medical radiography pursuant to subsection (1) of section  
7 71-3515.01;

8           ~~(32)~~ (31) Medical radiography means the application of  
9 radiation to humans for diagnostic purposes, including, but not  
10 limited to, adjustment or manipulation of X-ray systems and  
11 accessories including image receptors, positioning of patients,  
12 processing of films, and any other action that materially affects  
13 the radiation dose to patients;

14           ~~(33)~~ (32) Licensed facility operator means any person or  
15 entity who has obtained a license under the Low-Level Radioactive  
16 Waste Disposal Act to operate a facility, including any person  
17 or entity to whom an assignment of a license is approved by the  
18 Department of Environmental Quality; and

19           ~~(34)~~ (33) Deliberate misconduct means an intentional act  
20 or omission by a person that (a) would intentionally cause a  
21 licensee, registrant, or applicant for a license or registration  
22 to be in violation of any rule, regulation, or order of or any  
23 term, condition, or limitation of any license or registration  
24 issued by the ~~department~~ system under the Radiation Control Act  
25 or (b) constitutes an intentional violation of a requirement,  
26 procedure, instruction, contract, purchase order, or policy under  
27 the Radiation Control Act by a licensee, a registrant, an applicant

1 for a license or registration, or a contractor or subcontractor of  
2 a licensee, registrant, or applicant for a license or registration.

3 Sec. 1095. Section 71-3504, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 71-3504 (1) ~~The Director of Regulation and Licensure~~  
6 ~~shall be the coordinator of~~ Health and Human Services System  
7 shall coordinate radiation control activities and may designate  
8 ~~a Director of Radiation Control.~~ an administrator of radiation  
9 control. ~~The Director of Regulation and Licensure system~~  
10 administrator shall:

11 (a) Advise the Governor and agencies of the state on  
12 matters relating to radiation; and

13 (b) Coordinate regulatory activities of the state  
14 relating to radiation, including cooperation with other states and  
15 the federal government.

16 (2) ~~The Director of Regulation and Licensure~~  
17 administrator shall:

18 (a) Review before and after the holding of any public  
19 hearing required under the Administrative Procedure Act, prior to  
20 promulgation, the proposed rules and regulations of all agencies  
21 of the state relating to use and control of radiation to assure  
22 that such rules and regulations are consistent with rules and  
23 regulations of other agencies of the state;

24 (b) When he or she determines that proposed rules or  
25 regulations or parts thereof are inconsistent with rules and  
26 regulations of other agencies of the state, make an effort  
27 to resolve such inconsistencies. Upon notification that such

1 inconsistencies have not been resolved, the Governor may, after  
2 consultation with the ~~Director of Regulation and Licensure~~, system,  
3 find that the proposed rules and regulations or parts thereof  
4 are inconsistent with rules and regulations of other agencies of  
5 the state or the federal government and may issue an order to  
6 that effect, in which event the proposed rules and regulations  
7 or parts thereof shall not become effective. The Governor may,  
8 in the alternative, upon a similar determination, direct the  
9 appropriate agency or agencies to amend or repeal existing rules  
10 and regulations to achieve consistency with the proposed rules and  
11 regulations;

12 (c) Advise, consult, and cooperate with other agencies  
13 of the state, the federal government, other states, interstate  
14 agencies, political subdivisions, and other organizations concerned  
15 with control of sources of radiation; and

16 (d) Collect and disseminate information relating to the  
17 control of sources of radiation and maintain (i) a file of all  
18 registrants, license applications, issuances, denials, amendments,  
19 transfers, renewals, modifications, inspections, recommendations  
20 pertaining to radiation, suspensions, and revocations, (ii) a file  
21 of registrants possessing or using sources of radiation requiring  
22 registration under the Radiation Control Act and any administrative  
23 or judicial action pertaining to such registration, and (iii) a  
24 file of all rules and regulations relating to the regulation of  
25 sources of radiation, pending or promulgated, and proceedings on  
26 such rules and regulations thereon.

27 (3) The several agencies of the state and political

1 subdivisions shall keep the ~~coordinator~~ administrator of radiation  
2 control fully and currently informed as to their activities  
3 relating to development of new uses and regulation of sources  
4 of radiation.

5 Sec. 1096. Section 71-3505, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 71-3505 Matters relative to radiation as they relate  
8 to occupational and public health and safety and the environment  
9 shall be a responsibility of the ~~department~~ system. The ~~department~~  
10 system shall:

11 (1) Develop comprehensive policies and programs for the  
12 evaluation and determination of undesirable radiation associated  
13 with the production, use, storage, or disposal of radiation sources  
14 and formulate, adopt, promulgate, and repeal rules and regulations  
15 which may provide (a) for registration or licensure under section  
16 71-3507 or 71-3509 and (b) for registration or licensure of (i)  
17 any other source of radiation, (ii) persons providing services  
18 for collection, detection, measurement, or monitoring of sources  
19 of radiation, including, but not limited to, radon and its decay  
20 products, (iii) persons providing services to reduce the effects of  
21 sources of radiation, (iv) persons practicing medical radiography,  
22 and (v) persons practicing industrial radiography, as specified  
23 by rule or regulation so as to reasonably protect occupational  
24 and public health and safety and the environment in a manner  
25 compatible with regulatory programs of the federal government.  
26 The ~~department~~ system for identical purposes may also adopt and  
27 promulgate rules and regulations for the issuance of licenses,



1 either general or specific, to persons for the purpose of using,  
2 manufacturing, producing, transporting, transferring, receiving,  
3 acquiring, owning, or possessing any radioactive material. Such  
4 rules and regulations may prohibit the use of radiation for uses  
5 found by the ~~department~~ system to be detrimental to occupational  
6 and public health or safety or the environment and shall carry  
7 out the purposes and policies set out in sections 71-3501  
8 and 71-3502. Such rules and regulations shall not prohibit  
9 or limit the kind or amount of radiation purposely prescribed  
10 for or administered to a patient by doctors of medicine and  
11 surgery, dentistry, osteopathic medicine, chiropractic, podiatry,  
12 and veterinary medicine, while engaged in the lawful practice of  
13 such profession, or administered by other professional personnel,  
14 such as allied health personnel, medical radiographers, limited  
15 radiographers, nurses, and laboratory workers, acting under the  
16 supervision of a licensed practitioner. Violation of rules and  
17 regulations adopted and promulgated by the ~~department~~ system  
18 pursuant to the Radiation Control Act shall be due cause for  
19 the suspension, revocation, or limitation of a license issued  
20 by the ~~department~~, system. Any licensee may request a hearing  
21 before the ~~department~~ system on the issue of such suspension,  
22 revocation, or limitation. Procedures for notice and opportunity  
23 for a hearing before the ~~department~~ system shall be pursuant to the  
24 Administrative Procedure Act. The decision of the ~~department~~ system  
25 may be appealed, and the appeal shall be in accordance with the  
26 Administrative Procedure Act;

27 (2) Have the authority to accept and administer loans,

1 grants, or other funds or gifts, conditional or otherwise, in  
2 furtherance of its functions, from the federal government and from  
3 other sources, public or private;

4 (3) Encourage, participate in, or conduct studies,  
5 investigations, training, research, and demonstrations relating to  
6 the control of sources of radiation;

7 (4) Collect and disseminate health education information  
8 relating to radiation protection;

9 (5) Make its facilities available so that any person or  
10 any agency may request the ~~department~~ system to review and comment  
11 on plans and specifications of installations submitted by the  
12 person or agency with respect to matters of protection and safety  
13 for the control of undesirable radiation;

14 (6) Be empowered to inspect radiation sources and their  
15 shieldings and surroundings for the determination of any possible  
16 undesirable radiation or violations of rules and regulations  
17 adopted and promulgated by the ~~department~~ system and provide the  
18 owner, user, or operator with a report of any known or suspected  
19 deficiencies; and

20 (7) Collect a fee for emergency response or environmental  
21 surveillance, or both, offsite from each nuclear power plant equal  
22 to the cost of completing the emergency response or environmental  
23 surveillance and any associated report. In no event shall the  
24 fee for any nuclear power plant exceed the lesser of the  
25 actual costs of such activities or fifty-three thousand dollars  
26 per annum. Commencing July 1, 1997, the accounting division  
27 of the Department of Administrative Services shall recommend an

1 inflationary adjustment equivalent which shall be based upon the  
2 Consumer Price Index for All Urban Consumers of the United States  
3 Department of Labor, Bureau of Labor Statistics, and shall not  
4 exceed five percent per annum. Such adjustment shall be applied to  
5 the annual fee for nuclear power plants. The fee collected shall be  
6 credited to the ~~Department of Health and Human Services Regulation~~  
7 ~~and Licensure~~ Health and Human Services System Cash Fund. This  
8 fee shall be used solely for the purpose of defraying the direct  
9 costs of the emergency response and environmental surveillance at  
10 Cooper Nuclear Station and Fort Calhoun Station conducted by the  
11 department. The ~~department~~ system may charge additional fees when  
12 mutually agreed upon for services, training, or equipment that are  
13 a part of or in addition to matters in this section.

14           Sec. 1097. Section 71-3507, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           71-3507 (1) The ~~department~~ system shall adopt and  
17 promulgate rules and regulations for the issuance, amendment,  
18 suspension, and revocation of general and specific licenses. Such  
19 licenses shall be for byproduct material, source material, special  
20 nuclear material, and radioactive material not under the authority  
21 of the federal Nuclear Regulatory Commission and for devices or  
22 equipment utilizing such materials. The rules and regulations shall  
23 provide:

24           (a) For written applications for a specific license  
25 which include the technical, financial, and other qualifications  
26 determined by the ~~department~~ system to be reasonable and necessary  
27 to protect occupational and public health and safety and the

1 environment;

2 (b) For additional written statements and inspections, as  
3 required by the ~~department,~~ system, at any time after filing an  
4 application for a specific license and before the expiration of the  
5 license to determine whether the license should be issued, amended,  
6 suspended, or revoked;

7 (c) That all applications and statements be signed by the  
8 applicant or licensee;

9 (d) The form, terms, and conditions of general and  
10 specific licenses;

11 (e) That no license or right to possess or utilize  
12 sources of radiation granted by a license shall be assigned or  
13 in any manner disposed of without the written consent of the  
14 ~~department;~~ system; and

15 (f) That the terms and conditions of all licenses are  
16 subject to amendment by rules, regulations, or orders issued by the  
17 ~~department.~~ system.

18 (2) The ~~department~~ system may require registration or  
19 licensing of radioactive material not enumerated in subsection  
20 (1) of this section in order to maintain compatibility and  
21 equivalency with the standards and regulatory programs of the  
22 federal government or to protect the occupational and public health  
23 and safety and the environment.

24 (3) The ~~department~~ system shall require licensure of  
25 persons providing measurement and mitigation services of radon or  
26 its decay products in order to protect the occupational and public  
27 health and safety and the environment. The ~~department~~ system shall

1 adopt and promulgate rules and regulations establishing education,  
2 experience, training, examination, and continuing competency  
3 requirements for radon measurement specialists, radon measurement  
4 technicians, radon mitigation specialists, and radon mitigation  
5 technicians. Continuing competency requirements may include, but  
6 not be limited to, one or more of the continuing competency  
7 activities listed in section 71-161.09. The ~~department~~ system shall  
8 adopt and promulgate rules and regulations establishing staffing,  
9 proficiency, quality control, reporting, worker health and safety,  
10 equipment, and record-keeping requirements for radon measurement  
11 businesses and radon mitigation businesses and mitigation system  
12 installation requirements for radon mitigation businesses.

13 (4) The ~~department~~ system shall license persons  
14 practicing medical radiography, including medical radiographers  
15 and limited radiographers, in order to protect the occupational  
16 and public health and safety and the environment. The licenses  
17 shall be renewed biennially. For medical radiographers and limited  
18 radiographers, the ~~department~~ system shall adopt and promulgate  
19 rules and regulations establishing examination requirements for  
20 licensure, continuing competency requirements for renewal of a  
21 license, and approval requirements for examinations. Continuing  
22 education is sufficient to meet continuing competency requirements.  
23 Continuing competency requirements may also include, but not be  
24 limited to, one or more of the continuing competency activities  
25 listed in section 71-161.09 which a licensed person may select as  
26 an alternative to continuing education. For medical radiographers,  
27 the ~~department~~ system shall adopt and promulgate rules and

1 regulations establishing requirements for education and training  
2 and for approval of courses of training. Persons authorized under  
3 sections 71-193.15 and 71-193.17 to practice as dental hygienists  
4 and dental assistants who meet the requirements of section  
5 71-193.13 shall not be required to be licensed under this section.

6 (5) The ~~department~~ system may exempt certain sources of  
7 radiation or kinds of uses or users from licensing or registration  
8 requirements established under the Radiation Control Act when the  
9 ~~department~~ system finds that the exemption will not constitute a  
10 significant risk to occupational and public health and safety and  
11 the environment.

12 (6) The ~~department~~ system may provide by rule and  
13 regulation for the recognition of other state or federal licenses  
14 compatible and equivalent with the standards established by the  
15 ~~department~~ system for Nebraska licensees.

16 (7) The ~~department~~ system may accept accreditation for an  
17 industrial radiographer by a recognized independent accreditation  
18 body, a public agency, or the federal Nuclear Regulatory  
19 Commission, which has standards that are at least as stringent as  
20 those of the State of Nebraska, as evidence that the industrial  
21 radiographer complies with the rules and regulations adopted and  
22 promulgated pursuant to the act. The ~~department~~ system may adopt  
23 and promulgate rules and regulations which list accreditation  
24 bodies, public agencies, and federal programs that meet this  
25 standard.

26 (8) The ~~department~~ system may enter at all reasonable  
27 times upon any private or public property for the purpose of

1 determining whether or not there is compliance with the act and  
2 rules and regulations adopted and promulgated pursuant to the act,  
3 except that entry into areas under the jurisdiction of the federal  
4 government shall be effected only with the concurrence of the  
5 federal government or its duly designated representative.

6 (9) The ~~department~~ system shall cause to be registered  
7 with the ~~department~~ system such sources of radiation as the  
8 ~~department~~ system determines to be reasonably necessary to protect  
9 occupational and public health and safety and the environment as  
10 follows:

11 (a) The ~~department~~ system shall, by public notice,  
12 establish a date on or before which date such sources of radiation  
13 shall be registered with the ~~department~~, system, and the ~~department~~  
14 system shall provide appropriate forms for such registration.  
15 Each application for registration shall be in writing and shall  
16 state such information as the ~~department~~ system by rules or  
17 regulations may determine to be necessary and reasonable to protect  
18 occupational and public health and safety and the environment;

19 (b) Registration of sources of radiation shall be  
20 an initial registration with appropriate notification to the  
21 ~~department~~ system in the case of alteration of equipment,  
22 acquisition of new sources of radiation, or the transfer, loss,  
23 or destruction of sources of radiation and shall include the  
24 registration of persons installing or servicing sources of  
25 radiation;

26 (c) Failure to register or reregister sources of  
27 radiation in accordance with rules and regulations adopted and

1 promulgated by the ~~department~~ system shall be subject to a fine of  
2 not less than fifty dollars nor more than two hundred dollars; and

3 (d) The ~~department~~ system may provide by rule and  
4 regulation for reregistration of sources of radiation.

5 (10) The results of any surveys or inspections of sources  
6 of radiation conducted by the ~~department~~ system shall be public  
7 records subject to sections 84-712 to 84-712.09. In addition, the  
8 following information shall be deemed confidential:

9 (a) The names of individuals in dosimetry reports;

10 (b) Emergency response procedures which would present a  
11 clear threat to security or disclose names of individuals; and

12 (c) Any other information that is likely to present  
13 a clear threat to the security of radioactive material. The  
14 ~~department~~ system shall make such reports of results of surveys  
15 or inspections available to the owner or operator of the source  
16 of radiation together with any recommendations of the ~~department~~  
17 system regarding deficiencies noted.

18 (11) The ~~department~~ system shall have the right to  
19 survey or inspect again any source of radiation previously  
20 surveyed without limitation of the number of surveys or inspections  
21 conducted on a given source of radiation.

22 (12) The ~~department~~ system may enter into contracts  
23 with persons or corporations to perform the inspection of X-ray  
24 radiation-generating equipment or devices which emit radiation from  
25 radioactive materials and to aid the ~~department~~ system in the  
26 administration of the act.

27 Sec. 1098. Section 71-3508, Reissue Revised Statutes of



1 Nebraska, is amended to read:

2           71-3508 (1) The ~~department~~ system shall require each  
3 person who possesses or uses a source of radiation to maintain  
4 records relating to its receipt, storage, transfer, or disposal and  
5 such other records as the ~~department~~ system may require subject to  
6 such exemptions as may be provided by rules or regulations. These  
7 records shall be made available for inspection by or copies shall  
8 be submitted to the ~~department~~ system on request.

9           (2) The ~~department~~ system shall require each person who  
10 possesses or uses a source of radiation to maintain appropriate  
11 records showing the radiation exposure of all individuals for whom  
12 personnel monitoring is required by rules and regulations of the  
13 ~~department~~. system. Copies of these records and those required to  
14 be kept by subsection (1) of this section shall be submitted to  
15 the ~~department~~ system on request. Any person possessing or using  
16 a source of radiation shall furnish to each employee for whom  
17 personnel monitoring is required a copy of each employee's personal  
18 exposure record at any time such employee has received exposure  
19 in excess of the amount specified in the rules and regulations of  
20 the ~~department~~ system and upon termination of employment. A copy  
21 of the annual exposure record shall be furnished to the employee  
22 as required under rules and regulations adopted under the Radiation  
23 Control Act.

24           (3) The ~~department~~ system may adopt and promulgate  
25 rules and regulations establishing qualifications pertaining  
26 to the education, knowledge of radiation safety procedures,  
27 training, experience, utilization, facilities, equipment, and

1 radiation protection program that an individual user of sources  
2 of radiation shall possess prior to using any source of radiation  
3 or radiation-generating equipment. Individuals who are currently  
4 licensed in the State of Nebraska as podiatrists, chiropractors,  
5 dentists, physicians and surgeons, osteopathic physicians,  
6 physician assistants, and veterinarians shall be exempt from the  
7 rules and regulations of the ~~department~~ system pertaining to the  
8 qualifications of persons for the use of X-ray radiation-generating  
9 equipment operated for diagnostic purposes.

10           Sec. 1099. Section 71-3508.01, Reissue Revised Statutes  
11 of Nebraska, is amended to read:

12           71-3508.01 (1) Any radioactive materials license issued  
13 or renewed after August 30, 1987, for any activity which results  
14 in the production of byproduct material as defined in subdivision  
15 ~~(12)(b)~~ (11)(b) of section 71-3503 shall contain such terms and  
16 conditions as the ~~department~~ system determines to be necessary to  
17 assure that prior to termination of such license:

18           (a) The licensee shall comply with decontamination,  
19 decommissioning, and reclamation standards prescribed by the  
20 ~~department~~ system which shall be equivalent, to the extent  
21 practicable, or more stringent than those of the federal Nuclear  
22 Regulatory Commission for sites (i) at which ores are processed  
23 primarily for their source material content and (ii) at which such  
24 byproduct material or mill tailings are deposited; and

25           (b) Ownership of any disposal site and such byproduct  
26 material or mill tailings which resulted from the licensed activity  
27 will, subject to subsection (2) of this section, be transferred to

1 (i) the United States or (ii) this state if the state exercises  
2 the option to acquire land used for the disposal of such byproduct  
3 material or mill tailings. Any license which is in effect on August  
4 30, 1987, and which is subsequently terminated without renewal  
5 shall comply with subdivisions (1)(a) and (b) of this section upon  
6 termination.

7 (2)(a) The ~~department~~ system shall require by rule,  
8 regulation, or order that prior to the termination of any license  
9 which is issued after August 30, 1987, title to the land, including  
10 any interests therein, other than land held in trust by the United  
11 States for any Indian tribe or owned by an Indian tribe subject  
12 to a restriction against alienation imposed by the United States  
13 or land already owned by the United States or by the state, which  
14 is used pursuant to such license for the disposal of byproduct  
15 material or source material mill tailings will be transferred to  
16 (i) the United States or (ii) this state, unless the federal  
17 Nuclear Regulatory Commission determines prior to such termination  
18 that transfer of title to such land and such byproduct material  
19 or mill tailings is not necessary or desirable to protect the  
20 occupational and public health and safety and the environment or to  
21 minimize danger to life or property.

22 (b) If transfer to the state of title to such byproduct  
23 material or mill tailings and land is required, the state may  
24 assume title, following the federal Nuclear Regulatory Commission's  
25 determination that the licensee has complied with applicable  
26 standards and requirements under the license, and the ~~department~~  
27 system shall maintain the byproduct material or mill tailings and

1 land in such manner as will protect the occupational and public  
2 health and safety and the environment.

3 (c) The ~~department~~ system may undertake such monitoring,  
4 maintenance, and emergency measures as are necessary to protect the  
5 occupational and public health and safety and the environment for  
6 those materials and property to which the state has assumed title  
7 pursuant to this section.

8 (d) The transfer of title to the United States or  
9 this state shall not relieve any licensee of liability for any  
10 fraudulent or negligent acts done prior to such transfer.

11 (e) Title transferred pursuant to this section shall be  
12 transferred without cost to the United States or this state other  
13 than the administrative and legal costs incurred in carrying out  
14 such transfer.

15 (3) In the licensing and regulation of byproduct material  
16 and source material mill tailings or of any activity which  
17 results in the production of byproduct material or mill tailings,  
18 the ~~department~~ system shall require compliance with applicable  
19 standards adopted and promulgated by the ~~department~~ system which  
20 are equivalent, to the extent practicable, or more stringent  
21 than standards adopted and enforced by the federal Nuclear  
22 Regulatory Commission for the same purpose, including requirements  
23 and standards promulgated by the federal Environmental Protection  
24 Agency.

25 Sec. 1100. Section 71-3508.02, Reissue Revised Statutes  
26 of Nebraska, is amended to read:

27 71-3508.02 (1) Lands and appurtenances which are used for

1 the management of low-level radioactive waste shall be acquired and  
2 held in fee simple absolute by the licensed facility operator so  
3 long as such ownership does not preclude licensure or operation  
4 of the facility under federal law and until title to the land and  
5 appurtenances is transferred to the state pursuant to subsection  
6 (1) of section 81-15,102. Such lands and appurtenances shall be  
7 used exclusively for the disposal of low-level radioactive waste  
8 until the ~~department~~ system determines that such exclusive use is  
9 not required to protect the occupational and public health and  
10 safety or the environment. Before such site is leased for other  
11 use, the radioactive waste history of the site shall be recorded in  
12 the permanent land records of the site.

13 (2) The ~~department~~ system may contract with third parties  
14 for management of a low-level radioactive waste site. A contractor  
15 shall be subject to the surety and long-term care funding  
16 provisions of section 71-3508.04 and to appropriate licensing  
17 by the federal Nuclear Regulatory Commission or by the ~~department~~.  
18 system.

19 Sec. 1101. Section 71-3508.03, Reissue Revised Statutes  
20 of Nebraska, is amended to read:

21 71-3508.03 (1) The ~~department~~ system shall establish  
22 by rule and regulation annual fees for the radioactive materials  
23 licenses, for inspections of radioactive materials, for the  
24 registration and inspection of radiation-generating equipment  
25 and other sources of radiation, and for radon measurement and  
26 mitigation business licenses and inspections of radon mitigation  
27 systems installations under the Radiation Control Act. The annual

1 fee for registration and inspection of X-ray radiation generating  
2 equipment used to diagnose conditions in humans or animals shall  
3 not exceed seventy dollars per X-ray machine. The ~~department~~ system  
4 shall also establish by rule and regulation additional fees for  
5 environmental surveillance activities performed by the ~~department~~  
6 system to assess the radiological impact of activities conducted  
7 by licensees and registrants. Such activities shall not duplicate  
8 surveillance programs approved by the federal Nuclear Regulatory  
9 Commission and conducted by entities licensed by such commission.  
10 No fee shall exceed the actual cost to the ~~department~~ system for  
11 administering the act. The fees collected shall be remitted to the  
12 State Treasurer for credit to the ~~Department of Health and Human~~  
13 ~~Services Regulation and Licensure~~ Health and Human Services System  
14 Cash Fund and shall be used solely for the purpose of defraying the  
15 direct and indirect costs of administering the act. The ~~department~~  
16 system shall collect such fees.

17 (2) The ~~department~~ system may, upon application by an  
18 interested person or on its own initiative, grant such exemptions  
19 from the requirements of this section as it determines are in the  
20 public interest. Applications for exemption under this subsection  
21 may include, but shall not be limited to, the use of licensed  
22 materials for educational or noncommercial displays or scientific  
23 collections.

24 (3) When a registrant or licensee fails to pay the  
25 applicable fee, the ~~department~~ system may suspend or revoke the  
26 registration or license or may issue an appropriate order.

27 (4) The ~~department~~ system shall establish and collect

1 fees for licenses for individuals engaged in radon detection,  
2 measurement, and mitigation as provided in section 71-162.

3 Sec. 1102. Section 71-3508.04, Reissue Revised Statutes  
4 of Nebraska, is amended to read:

5 71-3508.04 (1) For licensed activities involving source  
6 material milling, source material mill tailings, and management  
7 of low-level radioactive waste, the ~~department~~ system shall,  
8 and for other classes of licensed activities the ~~department~~  
9 system may, adopt and promulgate rules and regulations which  
10 establish standards and procedures to ensure that the licensee  
11 will provide an adequate surety or other financial arrangement  
12 to permit the completion of all requirements established by the  
13 ~~department~~ system for the licensure, regulation, decontamination,  
14 closure, decommissioning, and reclamation of sites, structures,  
15 and equipment used in conjunction with such licensed activity in  
16 case the licensee should default for any reason in performing  
17 such requirements. All sureties required which are forfeited shall  
18 be paid to the ~~department~~ system and remitted to the State  
19 Treasurer for credit to the ~~Department of Health and Human Services~~  
20 ~~Regulation and Licensure~~ Health and Human Services System Cash  
21 Fund. Money in such fund remitted pursuant to this subsection shall  
22 be expended by the ~~department~~ system as necessary to complete the  
23 closure and reclamation requirements and shall not be used for  
24 normal operating expenses of the ~~department.~~ system.

25 (2) For licensed activities involving the disposal  
26 of source material mill tailings and management of low-level  
27 radioactive waste, the ~~department~~ system shall, and for other

1 classes of licensed activities when radioactive material which will  
2 require surveillance or care is likely to remain at the site after  
3 the licensed activities cease the ~~department~~ system may, adopt  
4 and promulgate rules and regulations which establish standards  
5 and procedures to ensure that the licensee, before termination  
6 of the license, will make available such funding arrangements as  
7 may be necessary to provide for long-term site surveillance and  
8 care. All such funds collected from licensees shall be paid to the  
9 ~~department~~ system and remitted to the State Treasurer for credit to  
10 the fund. All funds accrued as interest on money credited to the  
11 fund pursuant to this subsection may be expended by the ~~department~~  
12 system for the continuing long-term surveillance, maintenance, and  
13 other care of facilities from which such funds are collected as  
14 necessary for protection of the occupational and public health  
15 and safety and the environment. If title to and custody of any  
16 radioactive material and its disposal site are transferred to the  
17 United States upon termination of any license for which funds have  
18 been collected for such long-term care, the collected funds and  
19 interest accrued thereon shall be transferred to the United States.

20 (3) The sureties or other financial arrangements  
21 and funds required by this section shall be established in  
22 amounts sufficient to ensure compliance with standards, if any,  
23 established by the ~~department~~ system pertaining to licensure,  
24 regulation, closure, decommissioning, reclamation, and long-term  
25 site surveillance and care of such facilities and sites.

26 (4) To provide for the proper care and surveillance of  
27 sites subject to subsection (2) of this section which are not



1 subject to section 71-3508.01 or 71-3508.02, the state may acquire  
2 by gift or transfer from another governmental agency or private  
3 person any land and appurtenances necessary to fulfill the purposes  
4 of this section. Any such gift or transfer shall be subject to  
5 approval and acceptance by the Legislature.

6 (5) The ~~department~~ system may by contract, agreement,  
7 lease, or license with any person, including another state  
8 agency, provide for the decontamination, closure, decommissioning,  
9 reclamation, surveillance, or other care of a site subject to this  
10 section as needed to carry out the purposes of this section.

11 (6) If a person licensed by any governmental agency other  
12 than the ~~department~~ system desires to transfer a site to the  
13 state for the purpose of administering or providing long-term care,  
14 a lump-sum deposit shall be made to the ~~department~~ system and  
15 remitted to the State Treasurer for credit to the ~~Department of~~  
16 ~~Health and Human Services Regulation and Licensure~~ Health and Human  
17 Services System Cash Fund. The amount of such deposit shall be  
18 determined by the ~~department~~ system taking into account the factors  
19 stated in subsections (1) and (2) of this section.

20 Sec. 1103. Section 71-3509, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 71-3509 (1) The Governor, on behalf of this state,  
23 may enter into agreements with the federal Nuclear Regulatory  
24 Commission pursuant to the federal Atomic Energy Act of 1954,  
25 section 274b, as amended, providing for discontinuance of certain  
26 of such commission's licensing and related regulatory authority  
27 with respect to byproduct material, source material, and special

1 nuclear material and the assumption of regulatory authority for  
2 such materials by this state.

3 (2) The ~~department~~ system may, upon discontinuance of  
4 certain of such commission's licensing and related regulatory  
5 authority with respect to byproduct material, source material, and  
6 special nuclear material and the assumption of regulatory authority  
7 for such materials by the state, cause to be licensed by the  
8 ~~department~~ system such materials over which the state has assumed  
9 licensing and related regulatory authority under the terms of the  
10 agreement authorized in subsection (1) of this section.

11 (3) Any person who, on the effective date of an agreement  
12 under subsection (1) of this section, possesses a license issued by  
13 the federal Nuclear Regulatory Commission for radioactive material  
14 subject to the agreement shall be deemed to possess a license like  
15 those issued under the Radiation Control Act. Such license shall  
16 expire either ninety days after receipt from the ~~department~~ system  
17 of a notice of expiration of such license, or on the date of  
18 expiration specified in the federal Nuclear Regulatory Commission  
19 license, whichever is the earlier.

20 Sec. 1104. Section 71-3510, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 71-3510 (1) The ~~department~~ system may enter into an  
23 agreement or agreements with the federal Nuclear Regulatory  
24 Commission pursuant to the federal Atomic Energy Act of 1954,  
25 section 274i, as amended, other federal governmental agencies as  
26 authorized by law, other states, or interstate agencies whereby  
27 this state will perform on a cooperative basis with the federal

1 Nuclear Regulatory Commission, other federal governmental agencies,  
2 other states, or interstate agencies inspections or other functions  
3 relating to control of sources of radiation.

4 (2) The ~~department~~ system may institute training programs  
5 for the purpose of qualifying personnel to carry out the Radiation  
6 Control Act and may make such personnel available for participation  
7 in any program or programs of the federal government, other states,  
8 or interstate agencies in furtherance of the purposes of such act.

9 Sec. 1105. Section 71-3512, Revised Statutes Cumulative  
10 Supplement, 2006, is amended to read:

11 71-3512 (1) The Medical Radiographer Advisory Committee  
12 is created. The advisory committee shall consist of the head of the  
13 division of the ~~department~~ system responsible for credentialing,  
14 who shall chair the meetings of the advisory committee, and  
15 four medical radiographers licensed by the ~~department~~ system and  
16 appointed by the State Board of Health. Of the first four medical  
17 radiographers appointed, two shall be appointed for terms of  
18 two years and two shall be appointed for terms of four years.  
19 Thereafter each appointment shall be for a term of four years. The  
20 advisory committee shall meet at the call of the chairperson but  
21 not less than two times per calendar year. The members shall serve  
22 without compensation for such service other than reimbursement for  
23 the actual and necessary expenses of attending the meetings of the  
24 advisory committee as provided in sections 81-1174 to 81-1177.

25 (2) The advisory committee shall advise the ~~department~~  
26 system on all matters pertaining to the licensure and regulation  
27 of medical radiographers, including, but not limited to, the

1 practice of medical radiography, the assurance of continuing  
2 competency, and the disciplining of medical radiographers found  
3 to have violated rules and regulations relating to the practice  
4 of medical radiography adopted and promulgated pursuant to the  
5 Radiation Control Act.

6 Sec. 1106. Section 71-3513, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 71-3513 (1) In any proceeding for the issuance or  
9 modification of rules or regulations relating to control of sources  
10 of radiation, the ~~department~~ system shall provide an opportunity  
11 for public participation through written comments and a public  
12 hearing.

13 (2) In any proceeding for the denial of an application  
14 for a license or for the amendment, suspension, or revocation of  
15 a license, the ~~department~~ system shall provide the applicant or  
16 licensee an opportunity for a hearing on the record.

17 (3) In any proceeding for licensing ores processed  
18 primarily for their source material content and management of  
19 byproduct material and source material mill tailings, or for  
20 licensing management of low-level radioactive waste, the ~~department~~  
21 system shall provide:

22 (a) An opportunity, after public notice, for written  
23 comments and a public hearing with a transcript;

24 (b) An opportunity for cross-examination; and

25 (c) A written determination of the action to be taken  
26 which is based upon findings included in the determination and upon  
27 evidence presented during the public comment period.

1           (4) In any proceeding for licensing ores processed  
2 primarily for their source material content and disposal of  
3 byproduct material and source material mill tailings, or for  
4 licensing management of low-level radioactive waste, the ~~department~~  
5 system shall prepare, for each licensed activity which has a  
6 significant impact on the occupational or public health and safety  
7 or the environment, a written analysis of the impact of such  
8 licensed activity. The analysis shall be available to the public  
9 before the commencement of the hearing and shall include:

10           (a) An assessment of the radiological and nonradiological  
11 impacts to the public health;

12           (b) An assessment of any impact on any waterway and  
13 ground water;

14           (c) Consideration of alternatives, including alternative  
15 sites and engineering methods, to the activities to be conducted;  
16 and

17           (d) Consideration of the long-term impacts, including  
18 decommissioning, decontamination, and reclamation of facilities and  
19 sites associated with the licensed activities and management of  
20 any radioactive materials which will remain on the site after such  
21 decommissioning, decontamination, and reclamation.

22           (5) The ~~department~~ system shall prohibit any major  
23 construction with respect to any activity for which an  
24 environmental impact analysis is required by this section prior to  
25 completion of such analysis.

26           (6) Whenever the ~~department~~ system finds that an  
27 emergency exists with respect to radiation requiring immediate

1 action to protect occupational or public health and safety or the  
2 environment, the ~~department~~ system may, without notice, hearing,  
3 or submission to the system coordinator, issue a regulation or  
4 order reciting the existence of such emergency and requiring that  
5 such action be taken as is necessary to meet the emergency.  
6 Notwithstanding any provisions of the Radiation Control Act, such  
7 regulation or order shall be effective immediately. Any person to  
8 whom such regulation or order is directed shall comply immediately,  
9 but on application to the ~~department~~ system shall be afforded a  
10 hearing not less than fifteen days and not more than thirty days  
11 after filing of the application. On the basis of such hearing,  
12 the emergency regulation or order shall be continued, modified, or  
13 revoked within thirty days after such hearing, and the ~~department~~  
14 system shall mail the applicant a copy of its findings of fact and  
15 determination.

16 (7) Any final ~~department~~ system action or order entered  
17 pursuant to subsection (1), (2), (3), or (6) of this section  
18 may be appealed, and the appeal shall be in accordance with the  
19 Administrative Procedure Act.

20 Sec. 1107. Section 71-3514, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 71-3514 Whenever, in the judgment of the ~~department,~~  
23 system, any person has engaged in or is about to engage in any acts  
24 or practices which constitute or will constitute a violation of any  
25 provision of the Radiation Control Act or any rule, regulation,  
26 or order issued pursuant to the act, the Attorney General or any  
27 county attorney may make application to the district court for an

1 order enjoining such acts or practices or for an order directing  
2 compliance, and upon a showing by the ~~department~~ system that such  
3 person has engaged or is about to engage in any such acts or  
4 practices, a permanent or temporary injunction, restraining order,  
5 or other order may be granted.

6 Sec. 1108. Section 71-3514.01, Reissue Revised Statutes  
7 of Nebraska, is amended to read:

8 71-3514.01 (1) Any licensee, registrant, applicant for  
9 a license or registration, employee of a licensee or registrant,  
10 contractor or subcontractor of a licensee, registrant, or applicant  
11 for a license or registration, or employee of any contractor  
12 or subcontractor of a licensee, registrant, or applicant for a  
13 license or registration, who knowingly provides to any licensee,  
14 registrant, applicant, contractor, or subcontractor any components,  
15 equipment, materials, or other goods or services that relate to  
16 a licensee's, registrant's, or applicant's activities covered by  
17 the Radiation Control Act, shall not (a) engage in deliberate  
18 misconduct that causes or would have caused, if not detected,  
19 a licensee, registrant, or applicant to be in violation of any  
20 rule, regulation, or order or any term, condition, or limitation  
21 of any license or registration issued by the ~~department~~ system or  
22 (b) intentionally submit to the ~~department,~~ system, a licensee,  
23 a registrant, an applicant, or a licensee's, registrant's, or  
24 applicant's contractor or subcontractor, information that the  
25 person submitting the information knows to be incomplete or  
26 inaccurate in some respect material to the ~~department.~~ system.

27 (2) Any person who violates this section is subject to

1 section 71-3517.

2           Sec. 1109. Section 71-3515, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           71-3515 It shall be unlawful for any person to use,  
5 manufacture, produce, distribute, sell, transport, transfer,  
6 install, repair, receive, acquire, own, or possess any source of  
7 radiation unless registered with or licensed by the ~~department~~  
8 system as required by section 71-3505, 71-3507, or 71-3509.

9           Sec. 1110. Section 71-3515.01, Revised Statutes  
10 Cumulative Supplement, 2006, is amended to read:

11           71-3515.01 (1) A person licensed by the ~~department~~ system  
12 as a medical radiographer may practice medical radiography on  
13 any part of the human anatomy for interpretation by and under  
14 the direction of a licensed practitioner, excluding interpretative  
15 fluoroscopic procedures. Such person shall:

16           (a) Prior to issuance of a license as a medical  
17 radiographer, (i) complete an educational program in radiography  
18 incorporating the course material as provided in the rules and  
19 regulations of the ~~department~~ system pursuant to subsection (1) of  
20 section 71-3515.02 and (ii) complete an application which includes  
21 such person's social security number and successfully complete  
22 an examination approved by the ~~department~~ system on the course  
23 material. Presentation of proof of registration in radiography  
24 with the American Registry of Radiologic Technologists is proof  
25 of meeting the requirements of this subdivision (a) of this  
26 subsection; and

27           (b) Prior to renewal of licensure as a medical



1 radiographer, have an average of twelve units of continuing  
2 education per year as approved by the ~~department~~ system or complete  
3 continuing competency activities as required by the ~~department~~  
4 system pursuant to section 71-3507.

5 Presentation of proof of current registration in  
6 radiography with the American Registry of Radiologic Technologists  
7 is proof of meeting the requirements of subdivisions (a) and (b)  
8 of this subsection.

9 (2) A person licensed by the ~~department~~ system as a  
10 limited radiographer may practice medical radiography on limited  
11 regions of the human anatomy, using only routine radiographic  
12 procedures, for the interpretation by and under the direction of  
13 a licensed practitioner, excluding computed tomography, the use  
14 of contrast media, and the use of fluoroscopic or mammographic  
15 equipment. Such person shall:

16 (a) Prior to issuance of a license as a limited  
17 radiographer, complete an application which includes the  
18 applicant's social security number and successfully complete an  
19 examination approved by the ~~department~~, system, as described in  
20 subdivision (2)(a) of section 71-3515.02 and at least one of the  
21 anatomical regions listed in subdivision (2)(b) of such section or  
22 successfully complete an examination approved by the ~~department~~,  
23 system, as described in subsection (3) of section 71-3515.02.  
24 The license issued shall be specific to the anatomical region or  
25 regions for which the applicant has passed an approved examination,  
26 except that an applicant may be licensed in the anatomical region  
27 of Abdomen upon successful passage of the examinations described

1 in subdivisions (2)(a) and (2)(b)(iv) of section 71-3515.02 and  
2 upon a finding by the ~~department~~ system that continued provision of  
3 service for a community would be in jeopardy; and

4 (b) Prior to renewal of licensure as a limited  
5 radiographer, have an average of twelve units of continuing  
6 education per year as approved by the ~~department~~ system or complete  
7 continuing competency activities as required by the ~~department~~  
8 system pursuant to section 71-3507.

9 (3) The requirements of this section do not apply to  
10 a student while enrolled and participating in an educational  
11 program in medical radiography who, as a part of an educational  
12 program, applies X-rays to humans while under the supervision  
13 of the licensed practitioners or medical radiographers associated  
14 with the educational program. Students who have completed at least  
15 twelve months of the training course described in subsection (1) of  
16 section 71-3515.02 may apply for licensure as a temporary medical  
17 radiographer. Temporary medical radiographer licenses shall expire  
18 eighteen months after issuance and shall not be renewed. Persons  
19 licensed as temporary medical radiographers shall be permitted  
20 to perform the duties of a limited radiographer licensed in all  
21 anatomical regions of subdivision (2)(b) of such section and  
22 Abdomen.

23 Sec. 1111. Section 71-3515.02, Revised Statutes  
24 Cumulative Supplement, 2006, is amended to read:

25 71-3515.02 (1) The educational program for medical  
26 radiographers shall consist of twenty-four months of instruction  
27 in radiography approved by the ~~department~~ system which includes,

1 but is not limited to, radiographic procedures, imaging equipment,  
2 image production and evaluation, film processing, radiation  
3 physics, radiation protection, radiation biology, radiographic  
4 pathology, and quality assurance activities. The ~~department~~ system  
5 shall recognize equivalent courses of instruction successfully  
6 completed by individuals who are applying for licensure as medical  
7 radiographers by the ~~department~~ system when determining if the  
8 requirements of section 71-3515.01 have been met.

9 (2) The examination for limited radiographers shall  
10 include, but not be limited to:

11 (a) Radiation protection, equipment maintenance and  
12 operation, image production and evaluation, and patient care and  
13 management; and

14 (b) The anatomy of, and positioning for, specific regions  
15 of the human anatomy. The anatomical regions shall include at least  
16 one of the following:

17 (i) Chest;

18 (ii) Extremities;

19 (iii) Skull and sinus;

20 (iv) Spine; or

21 (v) Ankle and foot.

22 (3) The examination for limited radiographers in bone  
23 density shall include, but not be limited to, basic concepts  
24 of bone densitometry, equipment operation and quality control,  
25 radiation safety, and dual X-ray absorptiometry (DXA) scanning of  
26 the finger, heel, forearm, lumbar spine, and proximal femur.

27 (4) The ~~department~~ system shall adopt and promulgate

1 rules and regulations regarding the examinations required in  
2 subdivisions (1)(a)(ii) and (2)(a) of section 71-3515.01. Such  
3 rules and regulations shall provide for (a) the administration  
4 of examinations based upon national standards, such as the  
5 Examination in Radiography from the American Registry of Radiologic  
6 Technologists for medical radiographers, the Examination for the  
7 Limited Scope of Practice in Radiography or the Bone Densitometry  
8 Equipment Operator Examination from the American Registry of  
9 Radiologic Technologists for limited radiographers, or equivalent  
10 examinations that, as determined by the ~~department~~, system,  
11 meet the standards for educational and psychological testing  
12 as recommended by the American Psychological Association, the  
13 American Educational Research Association, and the National Council  
14 on Measurement in Education, (b) procedures to be followed for  
15 examinations, (c) the method of grading and the passing grades  
16 for such examinations, (d) security protection for questions  
17 and answers, and (e) for medical radiographers, the contents of  
18 such examination based on the course requirements for medical  
19 radiographers prescribed in subsection (1) of this section. Any  
20 costs incurred in determining the extent to which examinations meet  
21 the examining standards of this subsection shall be paid by the  
22 individual or organization proposing the use of such examination.

23 (5) Any person employed in medical radiography before  
24 and on June 2, 1995, who is not otherwise licensed may apply for  
25 a license as a provisional limited radiographer before January  
26 1, 1996. A person licensed as a provisional limited radiographer  
27 may perform the duties of a limited radiographer licensed in all

1 anatomical regions listed in subdivision (2)(b) of this section  
2 and the anatomical region of Abdomen. A provisional limited  
3 radiographer shall not radiograph children under the age of  
4 six months, except (a) upon a finding by the ~~department~~ system  
5 that continued provision of service for a community would be in  
6 jeopardy if this provision is enforced, (b) for an employee of  
7 a hospital licensed and in good standing under the Health Care  
8 Facility Licensure Act and located in a rural area as defined  
9 in section 71-5653, or (c) in a bona fide emergency situation.  
10 No examination shall be required of individuals applying for a  
11 license as a provisional limited radiographer. All provisional  
12 limited radiographer licenses expire January 1, 2005. A license  
13 as a provisional limited radiographer is subject to discipline for  
14 violations of the Radiation Control Act and rules and regulations  
15 adopted pursuant to the act, including, but not limited to,  
16 revocation for nonpayment of fees or failure to meet continuing  
17 competency requirements as required by the ~~department~~ system  
18 pursuant to section 71-3507.

19 (6) No applicant for a license as a limited radiographer  
20 may take the examination for licensure, or for licensure for any  
21 specific anatomical region, more than three times without first  
22 waiting a period of one year after the last unsuccessful attempt  
23 of the examination and submitting proof to the ~~department~~ system of  
24 completion of continuing competency activities as required by the  
25 department pursuant to section 71-3507 for each subsequent attempt.

26 (7) The ~~department~~ system shall establish and collect  
27 fees as provided in section 71-162 for the implementation of

1 this section and section 71-3515.01, including an examination fee,  
2 initial and renewal fees for licenses for persons performing  
3 medical radiography, and a fee for approval of courses of  
4 instruction.

5 Sec. 1112. Section 71-3516, Revised Statutes Cumulative  
6 Supplement, 2006, is amended to read:

7 71-3516 (1) The ~~department~~ system shall have the  
8 authority in the event of an emergency affecting occupational or  
9 public health and safety or the environment to impound or order the  
10 impounding of sources of radiation in the possession of any person  
11 who is not equipped to observe or fails to observe the provisions  
12 of the Radiation Control Act or any rules or regulations issued  
13 pursuant to such act.

14 (2) Any source of radiation impounded by the ~~department~~  
15 system is declared to be a common nuisance and cannot be subject to  
16 a replevin action.

17 (3) Possession of an impounded source of radiation shall  
18 be determined by section 71-3516.01.

19 Sec. 1113. Section 71-3516.01, Revised Statutes  
20 Cumulative Supplement, 2006, is amended to read:

21 71-3516.01 (1) The ~~department~~ system shall keep any  
22 source of radiation impounded under section 71-3516 for as long as  
23 it is needed as evidence for any hearing.

24 (2) Prior to the issuance of an order of disposition  
25 for an impounded source of radiation, the ~~department~~ system shall  
26 notify in writing any person, known by the ~~department~~ system to  
27 claim an interest in the source of radiation, that the ~~department~~

1 system intends to dispose of the source of radiation. Notice shall  
2 be served by personal service, by certified or registered mail to  
3 the last-known address of the person, or by publication. Notice by  
4 publication shall only be made if personal service or service by  
5 mail cannot be effectuated.

6 (3) Within fifteen days after service of the notice  
7 under subsection (2) of this section, any person claiming an  
8 interest in the impounded source of radiation may request, in  
9 writing, a hearing before the ~~department~~ system to determine  
10 possession of the source of radiation. The hearing shall be held  
11 in accordance with rules and regulations adopted and promulgated by  
12 the ~~department~~, system. If the ~~department~~ system determines that  
13 the person claiming an interest in the source of radiation has  
14 proven by a preponderance of the evidence that such person (a) had  
15 not used or intended to use the source of radiation in violation  
16 of the Radiation Control Act, (b) has an interest in the source  
17 of radiation acquired in good faith as an owner, a lien holder,  
18 or otherwise, and (c) has the authority under the act to possess  
19 such source of radiation, the ~~department~~ system shall order that  
20 possession of the source of radiation be given to such person.  
21 If possession of the impounded source of radiation is not given  
22 to the person requesting the hearing, such person may appeal the  
23 decision of the ~~department~~, system, and the appeal shall be in  
24 accordance with the Administrative Procedure Act. If possession  
25 of the impounded source of radiation is not given to the person  
26 so appealing, the ~~department~~ system shall order such person to  
27 pay for the costs of the hearing, storage fees, and any other

1 reasonable and necessary expenses related to the impounded source  
2 of radiation.

3 (4) If possession of the impounded source of radiation  
4 is not given to the person requesting the hearing under subsection  
5 (3) of this section, the ~~department~~ system shall issue an order of  
6 disposition for the source of radiation and shall dispose of the  
7 source of radiation as directed in the order. Disposition methods  
8 are at the discretion of the ~~department~~ system and may include,  
9 but are not limited to, (a) sale of the source of radiation to a  
10 person authorized to possess the source of radiation under the act,  
11 (b) transfer to the manufacturer of the source of radiation, or (c)  
12 destruction of the source of radiation. The order of disposition  
13 shall be considered a transfer of title of the source of radiation.

14 (5) If expenses related to the impounded source of  
15 radiation are not paid under subsection (3) of this section, the  
16 ~~department~~ system shall pay such expenses from:

17 (a) Proceeds from the sale of the source of radiation, if  
18 sold; or

19 (b) Available funds in the ~~Department of Health and Human~~  
20 ~~Services Regulation and Licensure~~ Health and Human Services System  
21 Cash Fund.

22 Sec. 1114. Section 71-3517, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 71-3517 (1) Any person who violates any of the provisions  
25 of the Radiation Control Act shall be guilty of a Class IV  
26 misdemeanor.

27 (2) In addition to the penalty provided in subsection



1 (1) of this section, any person who violates any provision of the  
2 Radiation Control Act or any rule, regulation, or order issued  
3 pursuant to such act or any term, condition, or limitation of any  
4 license or registration certificate issued pursuant to such act  
5 shall be subject to:

6 (a) License revocation, suspension, modification,  
7 condition, or limitation;

8 (b) The imposition of a civil penalty; or

9 (c) The terms of any appropriate order issued by the  
10 ~~department.~~ system.

11 (3) Whenever the ~~department~~ system proposes to subject  
12 a person to the provisions of subsection (2) of this section,  
13 the ~~department~~ system shall notify the person in writing (a)  
14 setting forth the date, facts, and nature of each act or omission  
15 with which the person is charged, (b) specifically identifying  
16 the particular provision or provisions of the section, rule,  
17 regulation, order, license, or registration certificate involved in  
18 the violation, and (c) of the sanction or order to be imposed. If  
19 a civil penalty is imposed, the notice shall include a statement  
20 that it can be collected by civil action. The notice shall  
21 be delivered to each alleged violator by personal service, by  
22 certified or registered mail to his or her last-known address,  
23 or by publication. Notice by publication shall only be made if  
24 personal service or service by mail cannot be effectuated. The  
25 sanction or order in the notice shall become final thirty days  
26 after the mailing of the notice unless the applicant, registrant,  
27 or licensee, within the thirty-day period, requests, in writing, a

1 hearing before the ~~department~~ system. If the notice is served by  
2 personal service or publication, the sanction or order shall become  
3 final thirty days after completion of such service unless the  
4 applicant, registrant, or licensee, within the thirty-day period,  
5 requests, in writing, a hearing before the ~~department~~ system.

6 (4) Hearings held pursuant to subsection (3) of this  
7 section shall be held in accordance with rules and regulations  
8 adopted and promulgated by the ~~department~~ system and shall provide  
9 for the alleged violator to present such evidence as may be proper.  
10 Witnesses may be subpoenaed by either party and shall be allowed  
11 fees at a rate prescribed by the rules and regulations of the  
12 ~~department~~ system. A full and complete record shall be kept of the  
13 proceedings.

14 (5) Following the hearing, the ~~director~~ system shall  
15 determine whether the charges are true or not, and if true, the  
16 ~~director~~ system may (a) issue a declaratory order finding the  
17 charges to be true, (b) revoke, suspend, modify, condition, or  
18 limit the license, (c) impose a civil penalty in an amount not to  
19 exceed ten thousand dollars for each violation, or (d) enter an  
20 appropriate order. If any violation is a continuing one, each day  
21 of such violation shall constitute a separate violation for the  
22 purpose of computing the applicable civil penalty and the amount  
23 of the penalty shall be based on the severity of the violation. A  
24 copy of such decision setting forth the finding of facts and the  
25 particular reasons upon which it is based shall be sent by either  
26 certified or registered mail to the alleged violator. The decision  
27 may be appealed, and the appeal shall be in accordance with the

1 Administrative Procedure Act.

2 (6) Any civil penalty assessed and unpaid under  
3 subsection (5) of this section shall constitute a debt to the  
4 State of Nebraska which may be collected in the manner of a lien  
5 foreclosure or sued for and recovered in any proper form of action  
6 in the name of the State of Nebraska in the district court of the  
7 county in which the violator resides or owns property. The system  
8 shall remit any collected civil penalty to the State Treasurer,  
9 within thirty days after receipt, for distribution in accordance  
10 with Article VII, section 5, of the Constitution of Nebraska. The  
11 department shall, within thirty days from receipt, transmit any  
12 collected civil penalty to the State Treasurer for deposit in the  
13 permanent school fund.

14 Sec. 1115. Section 71-3520, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 71-3520 Nothing in the Radiation Control Act shall be  
17 construed to allow the ~~department~~ Health and Human Services System  
18 to duplicate regulation by the federal government.

19 Sec. 1116. Section 71-3524, Revised Statutes Cumulative  
20 Supplement, 2006, is amended to read:

21 71-3524 For purposes of sections 71-3523 to 71-3528:

22 ~~(1) Department means the Department of Health and Human~~  
23 ~~Services Regulation and Licensure;~~

24 ~~(2) (1) High-level radioactive waste has the definition~~  
25 ~~found in section 81-1589; and~~

26 ~~(3) (2) Transuranic waste means radioactive waste~~  
27 ~~material containing alpha-emitting radioactive elements, with~~

1 radioactive half-lives greater than five years, having an atomic  
2 number greater than 92 in concentrations in excess of one hundred  
3 nanocuries per gram; and -

4 (3) System means the Health and Human Services System.

5 Sec. 1117. Section 71-3525, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 71-3525 Until January 1, 2005, a fee of two thousand  
8 dollars shall be assessed on each cask of high-level radioactive  
9 waste or transuranic waste shipped in or through the state, whether  
10 shipped by motor carrier or rail. On and after January 1, 2005,  
11 the ~~department~~ system shall establish and assess fees on all  
12 high-level radioactive waste and transuranic waste shipped by any  
13 means in or through the state. Such fees shall be equitable  
14 and shall be used for purposes related to (1) shipping of  
15 high-level radioactive waste and transuranic waste, including,  
16 but not limited to, inspections, escorts, and security for waste  
17 shipment, planning, and maintenance, (2) coordination of emergency  
18 response capability, (3) education and training, (4) purchase of  
19 necessary equipment, and (5) administrative costs attributable to  
20 the state agencies which are incurred as related to the shipping of  
21 high-level radioactive waste and transuranic waste. Fees assessed  
22 pursuant to this section shall be paid in advance of shipment by  
23 the shipper. Fees collected by the ~~department~~ system under this  
24 section shall be remitted to the State Treasurer for credit to the  
25 Radiation Transportation Emergency Response Cash Fund.

26 Sec. 1118. Section 71-3526, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

1                   71-3526 The Radiation Transportation Emergency Response  
2 Cash Fund is created. The fund shall consist of fees credited  
3 pursuant to section 71-3525. The fund shall be used for the  
4 purposes stated in such section. The Director-State Engineer, the  
5 Superintendent of Law Enforcement and Public Safety, the ~~Director~~  
6 ~~of Regulation and Licensure,~~ chief executive officer of the system  
7 or his or her designee, the Adjutant General as director of the  
8 Nebraska Emergency Management Agency, and the executive director  
9 of the Public Service Commission, or their designees, shall meet  
10 at least annually to recommend changes in the fees charged and  
11 allocation of the fees collected among participating agencies based  
12 upon their respective costs in carrying out such section. Any money  
13 in the fund available for investment shall be invested by the state  
14 investment officer pursuant to the Nebraska Capital Expansion Act  
15 and the Nebraska State Funds Investment Act.

16                   Sec. 1119. Section 71-3527, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18                   71-3527 The ~~department~~ system may adopt and promulgate  
19 rules and regulations to carry out sections 71-3523 to 71-3526.

20                   Sec. 1120. Section 71-3601, Revised Statutes Cumulative  
21 Supplement, 2006, is amended to read:

22                   71-3601 For purposes of the Tuberculosis Detection and  
23 Prevention Act:

24                   (1) Communicable tuberculosis means tuberculosis  
25 manifested by a laboratory report of sputum or other body fluid  
26 or excretion found to contain tubercle bacilli or by chest X-ray  
27 findings interpreted as active tuberculosis by competent medical

1 authority;

2 ~~(2) Department means the Department of Health and Human~~  
3 ~~Services Regulation and Licensure;~~

4 ~~(3) (2) Facility~~ means a structure in which suitable  
5 isolation for tuberculosis can be given and which is approved  
6 by the ~~department~~ system for the detention of recalcitrant  
7 tuberculosis persons;

8 ~~(4) (3) Local health officer~~ means (a) the health  
9 director of a local public health department as defined in section  
10 71-1626 or (b) the medical advisor to the board of health of a  
11 county, city, or village;

12 ~~(5) (4) Recalcitrant tuberculous person~~ means a person  
13 affected with tuberculosis in an active stage who by his or her  
14 conduct or mode of living endangers the health and well-being of  
15 other persons, by exposing them to tuberculosis, and who refuses to  
16 accept adequate treatment; and

17 ~~(6) (5) State health officer~~ means ~~the Director of~~  
18 ~~Regulation and Licensure or~~ the chief medical officer as described  
19 in section ~~81-3201. 6~~ of this act; and

20 (6) System means the Health and Human Services System.

21 Sec. 1121. Section 71-3602, Revised Statutes Cumulative  
22 Supplement, 2006, is amended to read:

23 71-3602 When a person with communicable tuberculosis  
24 violates the rules, regulations, or orders adopted and promulgated  
25 by the ~~department~~ system and is thereby conducting himself or  
26 herself in such a way as to expose others to danger of infection,  
27 after having been ordered by the state health officer or a local

1 health officer to comply, the state health officer or local health  
2 officer shall institute proceedings for commitment, returnable to  
3 the county court of the county in which the person resides or, if  
4 the person is a nonresident or has no permanent residence, in the  
5 county in which the person is found. Strictness of pleading is not  
6 required, and a general allegation that the public health requires  
7 commitment of the person is sufficient.

8           Sec. 1122. Section 71-3603, Revised Statutes Cumulative  
9 Supplement, 2006, is amended to read:

10           71-3603 The county attorney of the county in which the  
11 proceedings are to be held as provided in section 71-3602 shall  
12 act for the ~~department~~ system or local board of health. Either  
13 the state health officer or local health officer shall advise the  
14 county attorney in writing of the violation. Within three days of  
15 such notification, the county attorney shall file a petition with  
16 the county court.

17           Upon filing of the petition, the court shall set the  
18 matter for a hearing, which time shall be not less than five days  
19 nor more than ten days subsequent to filing. A copy of the petition  
20 together with a summons stating the time and place of hearing shall  
21 be served upon the person three days or more prior to the time set  
22 for the hearing.

23           Summons shall be served by the sheriff of the county in  
24 which the hearing is to be held, and return thereof shall be made  
25 as in other civil cases.

26           The court costs incurred in proceedings under the  
27 Tuberculosis Detection and Prevention Act, including medical

1 examinations required by order of the court but excluding  
2 examinations procured by the person named in the petition, shall be  
3 borne by the county in which the proceedings are held.

4           Sec. 1123. Section 71-3608, Revised Statutes Cumulative  
5 Supplement, 2006, is amended to read:

6           71-3608 No person having communicable tuberculosis who in  
7 his or her home or elsewhere obeys the rules, regulations, and  
8 orders of the ~~department~~ system for the control of tuberculosis or  
9 who voluntarily accepts hospitalization or treatment in a health  
10 care facility which is licensed and approved for such use under  
11 the Health Care Facility Licensure Act by the ~~department~~ system and  
12 obeys the rules, regulations, and orders of the ~~department~~ system  
13 for the control of communicable tuberculosis shall be committed  
14 under the Tuberculosis Detection and Prevention Act.

15           Sec. 1124. Section 71-3610, Revised Statutes Cumulative  
16 Supplement, 2006, is amended to read:

17           71-3610 The expenses incurred in the care, maintenance,  
18 and treatment of patients committed under the Tuberculosis  
19 Detection and Prevention Act shall be paid from state funds  
20 appropriated to the ~~Department of Health and Human Services Finance~~  
21 ~~and Support~~ system for the purpose of entering into agreements  
22 with qualified health care facilities so as to provide for the  
23 care, maintenance, and treatment of such patients and those other  
24 persons having communicable tuberculosis who voluntarily agree to  
25 and accept care and treatment.

26           Sec. 1125. Section 71-3611, Revised Statutes Cumulative  
27 Supplement, 2006, is amended to read:



1           71-3611 Any person committed under the Tuberculosis  
2 Detection and Prevention Act who leaves the facility without  
3 having been discharged by the attending physician or by court order  
4 shall be taken into custody and returned to the facility by the  
5 sheriff of any county where such person is found, upon an affidavit  
6 being filed with the sheriff by the administrator of the facility  
7 or duly authorized officer in charge thereof acting as the duly  
8 appointed agent and representative of the ~~department~~ system in the  
9 matter. The costs of such transportation shall be paid from county  
10 general funds of the patient's county of residence. If the person  
11 is a nonresident of Nebraska or has no permanent residence, the  
12 costs shall be paid from county general funds of the county of  
13 commitment.

14           Sec. 1126. Section 71-3612, Revised Statutes Cumulative  
15 Supplement, 2006, is amended to read:

16           71-3612 The state health officer and each local health  
17 officer shall use all available means to detect persons with  
18 communicable tuberculosis in his or her jurisdiction. If he or she  
19 has reasonable grounds based upon medical science for believing  
20 that a person has communicable tuberculosis and if this person  
21 refuses to submit to the examination necessary for determining the  
22 existence of communicable tuberculosis, the state health officer  
23 or local health officer shall issue an order to the person to  
24 obtain the appropriate examination. Thereafter, if the person does  
25 not comply within seven days, the state health officer or local  
26 health officer may institute commitment procedures as described  
27 in sections 71-3601 to 71-3604, the purpose of commitment under

1 this section being to determine whether or not the person has  
2 communicable tuberculosis.

3           The costs of voluntary examination made upon request of  
4 the state health officer or local health officer and the cost of  
5 examination made upon order of the state health officer or local  
6 health officer shall be paid from county general funds of the  
7 person's county of residence. If the person is a nonresident or has  
8 no permanent residence, the costs shall be paid from the county  
9 general funds of the county of commitment. The costs of examination  
10 and maintenance while under commitment shall be paid from state  
11 funds appropriated to the ~~department~~ system therefor. The costs  
12 of transportation under the commitment procedure for examination  
13 shall be paid from county general funds of the county of residence.  
14 If the person is not a resident of Nebraska or has no permanent  
15 residence, they shall be paid from the county general funds of the  
16 county of commitment.

17           Sec. 1127. Section 71-3613, Revised Statutes Cumulative  
18 Supplement, 2006, is amended to read:

19           71-3613 The ~~department~~ system shall have and may exercise  
20 the following powers and duties in its administration of the  
21 Tuberculosis Detection and Prevention Act:

22           (1) To contract with qualified hospitals or other health  
23 care facilities which are licensed and approved for such use under  
24 the Health Care Facility Licensure Act by the ~~department~~ system  
25 for the purpose of caring for, maintaining, and treating patients  
26 committed under the Tuberculosis Detection and Prevention Act,  
27 and for those other persons having communicable tuberculosis who

1 voluntarily agree to and accept care and treatment in such a health  
2 care facility on either an inpatient or an outpatient basis;

3 (2) To inspect and supervise to the extent necessary the  
4 facilities, operations, and administration of those health care  
5 facilities under contract to or otherwise receiving support from  
6 the ~~department~~ system for the purpose of providing care, treatment,  
7 or maintenance for persons infected with communicable tuberculosis;

8 (3) To provide visiting nursing services to those persons  
9 having communicable tuberculosis who are being treated on an  
10 outpatient basis;

11 (4) To adopt rules and regulations, and issue orders  
12 based thereon, relative to reports and statistics on tuberculosis  
13 from counties and the care, treatment, and maintenance of persons  
14 having tuberculosis, especially of those in the communicable or  
15 contagious stage thereof; and

16 (5) To set standards by rule and regulation for the types  
17 and level of medical care and treatment to be used by those health  
18 care facilities caring for tuberculous persons and to set standards  
19 by rule and regulation governing contracts mentioned in subdivision  
20 (1) of this section dealing with such matters as program standards,  
21 maximum and minimum costs and rates, administrative procedures to  
22 be followed and reports to be made, and arbitration by third  
23 parties.

24 Rules, regulations, and orders in effect under this  
25 section prior to July 16, 2004, shall continue to be effective  
26 until revised, amended, repealed, or nullified pursuant to law.

27 Sec. 1128. Section 71-3614, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2           71-3614 (1) When any person who has communicable or  
3 contagious tuberculosis and who has relatives, friends, or a  
4 private or public agency or organization willing to undertake the  
5 obligation to support him or her or to aid in supporting him or her  
6 in any other state or country, the ~~department~~ system may furnish  
7 him or her with the cost of transportation to such other state or  
8 country if it finds that the interest of the State of Nebraska and  
9 the welfare of such person will be promoted thereby. The expense  
10 of such transportation shall be paid by the ~~department~~ system out  
11 of funds appropriated to it for the purpose of carrying out the  
12 Tuberculosis Detection and Prevention Act.

13           (2) No funds appropriated to the ~~department~~ system for  
14 the purpose of carrying out the act shall be used for meeting the  
15 cost of the care, maintenance, or treatment of any person who has  
16 communicable or contagious tuberculosis in a health care facility  
17 on either an inpatient or an outpatient basis, or otherwise, or  
18 for transportation to another state or country, to the extent that  
19 such cost is covered by an insurer or other third-party payor  
20 or any other entity under obligation to such person by contract,  
21 policy, certificate, or any other means whatsoever. The ~~department~~  
22 system in no case shall expend any such funds to the extent  
23 that any such person is able to bear the cost of such care,  
24 maintenance, treatment, or transportation. The ~~department~~ system  
25 shall determine the ability of a person to pay by consideration  
26 of the following factors: (a) The person's age, (b) the number  
27 of his or her dependents and their ages and physical condition,

1 (c) the person's length of care, maintenance, or treatment, (d)  
2 his or her liabilities, and (e) his or her assets. Pursuant to  
3 the Administrative Procedure Act, the ~~department~~ system shall adopt  
4 and promulgate rules and regulations for making the determinations  
5 required by this subsection.

6 Rules, regulations, and orders in effect under this  
7 section prior to July 16, 2004, shall continue to be effective  
8 until revised, amended, repealed, or nullified pursuant to law.

9 Sec. 1129. Section 71-3702, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 71-3702 For purposes of sections 71-3702 to 71-3715,  
12 unless the context otherwise requires:

13 (1) Board ~~shall mean~~ means the Board of Registration for  
14 Environmental Health Specialists;

15 (2) Environmental health specialist ~~shall mean~~ means a  
16 person who by education and experience in the physical, biological,  
17 and sanitary sciences is qualified to carry out educational,  
18 investigational, and technical duties in the field of environmental  
19 sanitation;

20 (3) Registered environmental health specialist ~~shall mean~~  
21 means a person who has the educational requirements and has had  
22 experience in the field of environmental sanitation required by  
23 section 71-3703 and is registered in accordance with sections  
24 71-3702 to 71-3715;

25 (4) Trainee ~~shall mean~~ means a person who is qualified by  
26 education but does not have at least one full year of experience  
27 in the field of environmental sanitation and is registered in

1 accordance with sections 71-3702 to 71-3715;

2           (5) Certificate of registration ~~shall mean~~ means a  
3 document issued as evidence of registration and qualification  
4 to practice as an environmental health specialist or trainee under  
5 sections 71-3702 to 71-3715, bearing the designation Registered  
6 Environmental Health Specialist or Trainee, and showing the name of  
7 the person, date of issue, serial number, seal, and signatures of  
8 the members of the board authorized to grant such certificates; and

9           (6) ~~Department shall mean the Department of Health and~~  
10 ~~Human Services Regulation and Licensure.~~ System means the Health  
11 and Human Services System.

12           Sec. 1130. Section 71-3705, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           71-3705 (1) Only a person who meets the educational  
15 and experience requirements in section 71-3703 shall be eligible  
16 for admission to examination for registration as an environmental  
17 health specialist.

18           (2) Examinations for registration as an environmental  
19 health specialist under sections 71-3702 to 71-3715 shall be  
20 administered not less than once each calendar year and at such  
21 times and places in this state as may be specified from time to  
22 time by the board. Such examinations may be written, oral, or both  
23 and shall include applicable subjects in the field of sanitary  
24 science and such other subjects pertinent to the qualifications of  
25 environmental health specialists as the board may prescribe. The  
26 examination papers shall not disclose the name of the applicant  
27 but shall be identified by a number assigned by the secretary

1 of the board. The preparation of the examination shall be the  
2 responsibility of the board, but the board may use material  
3 prepared by recognized examination agencies.

4 (3) The ~~department~~ system may adopt and promulgate rules  
5 and regulations to provide for the review of procedures for the  
6 development and administration of examinations and to protect the  
7 security of the content of examination questions and answers.  
8 The ~~department~~ system shall not enter into an agreement to adopt  
9 an examination from a national testing service without first  
10 obtaining from that service detailed documentation of the process  
11 of examination development and maintenance.

12 (4) A person shall not be registered if he or she fails  
13 to meet the minimum grade requirements for examination specified  
14 by the board. If an applicant fails to meet such minimum grade  
15 requirements in his or her first examination, he or she may be  
16 reexamined after a lapse of not less than sixty days at such  
17 a place as designated by the board by resubmitting his or her  
18 application along with the required examination fee.

19 (5) The examination papers and records pertaining thereto  
20 shall be filed with the secretary of the board and retained for at  
21 least one year.

22 Sec. 1131. Section 71-3706, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 71-3706 The Board of Registration for Environmental  
25 Health Specialists shall consist of six members appointed by  
26 the State Board of Health. One member shall be a layperson who  
27 is at least the age of majority, who has been a resident of the

1 state for at least five years immediately preceding appointment,  
2 and who is a representative of consumer viewpoints. Each of the  
3 other members shall have been engaged in environmental health for  
4 at least ten years, shall have had responsible charge of work for  
5 at least five years at the time of his or her appointment, and  
6 shall be a registered environmental health specialist. Each member  
7 of the Board of Registration for Environmental Health Specialists  
8 shall receive as compensation not more than twenty-five dollars  
9 per day for each day actually spent in traveling to and from and  
10 while attending sessions of the board and its committees, and each  
11 member shall also receive the necessary expenses incident to the  
12 performance of his or her duties as provided by sections 81-1174 to  
13 81-1177 and subject to section 71-3708.01.

14           The Department of Health and Human Services Regulation  
15 and Licensure system shall adopt and promulgate rules and  
16 regulations which establish definitions of conflicts of interest  
17 for members of the board and which establish procedures in the case  
18 such a conflict arises.

19           Sec. 1132. Section 71-3710, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21           71-3710 (1) The board shall prescribe and provide an  
22 application form for the use of all applicants. Applicants  
23 for registration as environmental health specialists and for  
24 registration as trainees shall submit fees for credentialing  
25 activities as provided in section 71-162.

26           A registered environmental health specialist may renew  
27 his or her registration by paying the renewal fee as provided



1 in section 71-162. Such fee shall be due and payable on or  
2 before January 1 of each odd-numbered year for which a renewal  
3 registration is issued. All registrations shall expire on December  
4 31 of each even-numbered year. Procedures for renewal shall be in  
5 accordance with section 71-110.

6 In no case shall registration for a trainee exceed a  
7 two-year period.

8 (2) Each registered environmental health specialist or  
9 trainee in active practice in the state shall, on or before  
10 December 31 of each even-numbered year, complete continuing  
11 competency activities as required by the board and adopted and  
12 promulgated by the ~~department~~ system in rules and regulations  
13 as a prerequisite for the registrant's next subsequent biennial  
14 registration renewal. Continuing education is sufficient to meet  
15 continuing competency requirements. The requirements may also  
16 include, but not be limited to, one or more of the continuing  
17 competency activities listed in section 71-161.09 which a  
18 registrant may select as an alternative to continuing education.

19 Each registered environmental health specialist and  
20 trainee in active practice within the State of Nebraska shall,  
21 on or before December 31 of each even-numbered year, certify  
22 to the ~~department~~ system that he or she has complied with this  
23 subsection during the preceding two-year period. Any registrant  
24 who has not complied with such requirements shall not be issued  
25 a renewal registration except if he or she is exempt as provided  
26 in subsection (3) of this section. Procedures for nonrenewal of  
27 the registration of such registrants shall be identical to those

1 for nonpayment of renewal fees as provided in sections 71-110 and  
2 71-149. In cases other than nonrenewal, the procedures in sections  
3 71-149 and 71-150 for refusal to renew shall apply.

4 (3) A registrant shall be exempt from the requirements of  
5 subsection (2) of this section if he or she:

6 (a) Holds a Nebraska certificate of registration but is  
7 not practicing as a registered environmental health specialist or  
8 registered trainee in Nebraska;

9 (b) Serves in the regular armed forces of the United  
10 States during any part of the twenty-four months immediately  
11 preceding the biennial certificate of registration renewal date;

12 (c) Attends a college, university, or other institution  
13 of higher education for a residence period of time in excess of  
14 eight months during any part of the twenty-four months immediately  
15 preceding the biennial certificate of registration renewal date;

16 (d) Submits proof that he or she was suffering from a  
17 serious or disabling illness or physical disability during the  
18 twenty-four months immediately preceding the biennial certificate  
19 of registration renewal date which prevented his or her completion  
20 of continuing competency requirements established by the board;

21 (e) Had first registered within the twenty-four months  
22 immediately preceding the biennial certificate of registration  
23 renewal date; or

24 (f) Is a registered environmental health specialist in  
25 good standing with the board who has completely retired from the  
26 active practice of environmental sanitation.

27 Sec. 1133. Section 71-4302, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           71-4302 ~~The Department of Health and Human Services~~  
3 ~~Regulation and Licensure~~ Health and Human Services System  
4 shall prepare, adopt, and have printed minimum sanitary and  
5 safety requirements in the form of regulations for the design,  
6 construction, equipment, and operation of swimming pools and bather  
7 preparation facilities. Such requirements shall include, but not be  
8 limited to, provisions for waiver or variance of design standards  
9 and the circumstances under which such waiver or variance may be  
10 granted.

11           Sec. 1134. Section 71-4303, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           71-4303 No swimming pool shall be constructed after  
14 January 1, 1970, unless and until plans, specifications, and any  
15 additional information relative to such pool as may be requested  
16 by the ~~Department of Health and Human Services Regulation and~~  
17 ~~Licensure~~ Health and Human Services System shall have been  
18 submitted to such ~~department~~ system and after review by such  
19 ~~department~~ system found to comply with the minimum sanitary and  
20 safety requirements provided in section 71-4302 and a permit for  
21 the construction of the pool issued by such ~~department.~~ system.

22           Sec. 1135. Section 71-4304, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           71-4304 After January 1, 1970, swimming pools shall have  
25 equipment and shall be operated so as to comply with the minimum  
26 sanitary and safety requirements provided in section 71-4302. After  
27 such date no swimming pool shall operate until it has received a

1 permit from the ~~Department of Health and Human Services Regulation~~  
2 ~~and Licensure.~~ Health and Human Services System. Application for  
3 a permit to operate shall be submitted on forms provided by such  
4 ~~department.~~ system. Swimming pools constructed prior to January  
5 1, 1970, which do not fully comply with the minimum sanitary  
6 and safety requirements as regards design and construction may be  
7 continued in use for such period as the ~~Department of Health and~~  
8 ~~Human Services Regulation and Licensure~~ system may authorize if  
9 the equipment and operation of such swimming pool comply with the  
10 minimum sanitary and safety requirements.

11           Sec. 1136. Section 71-4305, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           71-4305 (1) The ~~Department of Health and Human Services~~  
14 ~~Regulation and Licensure~~ Health and Human Services System shall  
15 make at least one inspection every year of each swimming pool  
16 to determine that such swimming pool complies with the minimum  
17 sanitary and safety requirements.

18           (2) The owner and operator of any swimming pool shall  
19 submit such operation and analytical records as may be requested  
20 at any time by the ~~department~~ Health and Human Services System to  
21 determine the sanitary and safety condition of the swimming pool.

22           (3) The ~~department~~ Health and Human Services System  
23 shall adopt and promulgate rules and regulations which classify  
24 swimming pools on the basis of criteria deemed appropriate by the  
25 ~~department.~~ system. The ~~department~~ system shall charge engineering  
26 firms, swimming pool owners, and other appropriate parties fees  
27 established by rules and regulations for the review of plans and

1 specifications of a swimming pool, the issuance of a license or  
2 permit, the inspection of a swimming pool, and any other services  
3 rendered at a rate which defrays no more than the actual cost  
4 of the services provided. All fees shall be paid as a condition  
5 of annual renewal of licensure or of continuance of licensure.  
6 All fees collected under this subsection shall be remitted to the  
7 State Treasurer for credit to the ~~Department of Health and Human~~  
8 ~~Services Regulation and Licensure~~ Health and Human Services System  
9 Cash Fund. The ~~department~~ system shall not charge a municipal  
10 corporation an inspection fee for an inspection of a swimming pool  
11 owned by such municipal corporation.

12 (4) The ~~department~~ Health and Human Services System shall  
13 establish and collect fees for certificates of competency for  
14 swimming pool operators as provided in section 71-162.

15 Sec. 1137. Section 71-4306, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 71-4306 Whenever any duly authorized representative of  
18 the ~~Department of Health and Human Services Regulation and~~  
19 ~~Licensure~~ Health and Human Services System shall find that a  
20 swimming pool is being constructed, equipped, or operated in  
21 violation of any of the provisions of sections 71-4301 to 71-4307,  
22 the ~~department~~ system may grant such time as in its opinion  
23 may reasonably be necessary for changing the construction or  
24 providing for the proper operation of the swimming pool to meet the  
25 provisions of sections 71-4301 to 71-4307. If and when the duly  
26 authorized representative of the ~~department~~ system upon inspection  
27 and investigation of a swimming pool considers that the conditions

1 are such as to warrant prompt closing of such swimming pool until  
2 the provisions of sections 71-4301 to 71-4307 are complied with,  
3 he or she shall notify the owner or operator of the swimming pool  
4 to prohibit any person from using the swimming pool and upon such  
5 notification to the sheriff and the county attorney of the county  
6 in which such pool is located, it shall be the duty of such county  
7 attorney and sheriff to see that the notice of the representative  
8 of the ~~department~~ system shall be enforced. If and when the owner  
9 or operator of the pool has, in the opinion of the ~~department,~~  
10 system, met the provisions of sections 71-4301 to 71-4307 the  
11 ~~department~~ system may in writing authorize the use again of such  
12 swimming pool.

13           Sec. 1138. Section 71-4401, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15           71-4401 For purposes of sections 71-4401 to 71-4412,  
16 unless the context otherwise requires:

17           (1) Domestic animal shall mean any dog or cat, and cat  
18 shall mean a cat which is a household pet;

19           (2) Vaccination against rabies shall mean the inoculation  
20 of a domestic animal with a rabies vaccine as approved by the  
21 rules and regulations adopted and promulgated by the ~~Department of~~  
22 ~~Health and Human Services Regulation and Licensure.~~ system. Such  
23 vaccination shall be performed by a veterinarian duly licensed to  
24 practice veterinary medicine in the State of Nebraska;

25           (3) Compendium shall mean the compendium of animal rabies  
26 vaccine as provided by the National Association of State Public  
27 Health Veterinarians;

1           ~~(4) Department shall mean the Department of Health and~~  
2 ~~Human Services Regulation and Licensure;~~

3           ~~(5)~~ (4) Own, unless otherwise specified, shall mean to  
4 possess, keep, harbor, or have control of, charge of, or custody of  
5 a domestic animal. This term shall not apply to domestic animals  
6 owned by other persons which are temporarily maintained on the  
7 premises of a veterinarian or kennel operator for a period of not  
8 more than thirty days;

9           ~~(6)~~ (5) Owner shall mean any person possessing, keeping,  
10 harboring, or having charge or control of any domestic animal or  
11 permitting any domestic animal to habitually be or remain on or  
12 be lodged or fed within such person's house, yard, or premises.  
13 This term shall not apply to veterinarians or kennel operators  
14 temporarily maintaining on their premises domestic animals owned by  
15 other persons for a period of not more than thirty days; ~~and~~

16           ~~(7)~~ (6) Rabies control authority shall mean county,  
17 township, city, or village health and law enforcement officials  
18 who shall enforce sections 71-4401 to 71-4412 relating to the  
19 vaccination and impoundment of domestic animals. Such public  
20 officials shall not be responsible for any accident or disease  
21 of a domestic animal resulting from the enforcement of such  
22 sections; ~~and~~ -

23           (7) System means the Health and Human Services System.

24           Sec. 1139. Section 71-4402, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26           71-4402 (1) Every domestic animal in the State of  
27 Nebraska shall be vaccinated against rabies with a licensed vaccine

1 and shall be revaccinated at intervals specified by rules and  
2 regulations adopted and promulgated by the ~~department~~ system.  
3 Young domestic animals shall be initially vaccinated at the age  
4 specified in such rules and regulations. Unvaccinated domestic  
5 animals acquired or moved into the State of Nebraska shall be  
6 vaccinated within thirty days after purchase or arrival unless  
7 under the age for initial vaccination.

8 (2) The rabies vaccine used to vaccinate domestic  
9 animals pursuant to this section shall be sold only to licensed  
10 veterinarians.

11 (3) The ~~department~~ system shall adopt and promulgate  
12 rules and regulations for the control and prevention of rabies.  
13 Such rules and regulations shall generally comply with the  
14 compendium and the recommendations of the United States Public  
15 Health Service. The ~~department~~ system may consider changes in the  
16 compendium and recommendations of the United States Public Health  
17 Service when adopting and promulgating such rules and regulations.

18 Sec. 1140. Section 71-4402.01, Reissue Revised Statutes  
19 of Nebraska, is amended to read:

20 71-4402.01 The ~~department~~ system shall adopt and  
21 promulgate rules and regulations to:

22 (1) Determine rabid species of animals;

23 (2) Determine rabid species of animals amenable to rabies  
24 protection by immunization; and

25 (3) Determine tests for identifying animals afflicted  
26 with rabies.

27 When adopting and promulgating such rules and



1 regulations, the ~~department~~ system shall consider the general  
2 knowledge of the medical profession and related scientific fields,  
3 the compendium, and the recommendations of the United States Public  
4 Health Service.

5           Sec. 1141. Section 71-4406, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           71-4406 (1) Any animal which is owned by a person and has  
8 bitten any person or caused an abrasion of the skin of any person  
9 shall be seized by the rabies control authority for a period of not  
10 less than ten days if:

11           (a) The animal is suspected of having rabies, regardless  
12 of the species and whether or not the animal has been vaccinated;

13           (b) The animal is not vaccinated and is of a species  
14 determined by the ~~department~~ system to be a rabid species; or

15           (c) The animal is of a species which has been determined  
16 by the ~~department~~ system to be a rabid species not amenable to  
17 rabies protection by immunization, whether or not such animal has  
18 been vaccinated.

19           If, after observation and examination by a veterinarian,  
20 at the end of the ten-day period the animal shows no clinical signs  
21 of rabies, the animal may be released to its owner.

22           (2) (a) Except as provided in subdivision (b) of this  
23 subsection, whenever any person has been bitten or has an abrasion  
24 of the skin caused by an animal owned by another person, which  
25 animal has been vaccinated in accordance with section 71-4402, or  
26 if such injury to a person is caused by an owned animal determined  
27 by the ~~department~~ system to be a rabid species amenable to rabies

1 protection by immunization which has been vaccinated, such animal  
2 shall be confined by the owner or other responsible person as  
3 required by the rabies control authority for a period of at least  
4 ten days and shall be observed and examined by a veterinarian at  
5 the end of such ten-day period. If no clinical signs of rabies  
6 are found by the veterinarian, such animal may be released from  
7 confinement.

8 (b) A vaccinated animal owned by a law enforcement or  
9 governmental military agency which bites or causes an abrasion of  
10 the skin of any person during training or the performance of the  
11 animal's duties may be confined as provided in subdivision (a) of  
12 this subsection. Such agency shall maintain ownership of and shall  
13 control and supervise the actions of such animal for a period of  
14 fifteen days following such injury. If during such period the death  
15 of the animal occurs for any reason, a veterinarian shall within  
16 twenty-four hours of the death examine the tissues of the animal  
17 for clinical signs of rabies.

18 (3) Any animal of a rabid species which has bitten a  
19 person or caused an abrasion of the skin of a person and which  
20 is unowned or the ownership of which cannot be determined within  
21 seventy-two hours of the time of the bite or abrasion shall  
22 be immediately subject to any tests which the ~~department~~ system  
23 believes are necessary to determine whether the animal is afflicted  
24 with rabies. The seventy-two-hour period shall include holidays  
25 and weekends and shall not be extended for any reason. The tests  
26 required by this subsection may include tests which require the  
27 animal to be destroyed.

1           Sec. 1142. Section 71-4409, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           71-4409 The rabies control authority shall enforce  
4 sections 71-4401 to 71-4412.

5           In the event that the health and law enforcement  
6 officials of a county, township, city, or village fail to act with  
7 sufficient promptness in enforcing sections 71-4401 to 71-4412,  
8 the ~~department~~ system may take all actions necessary for the  
9 proper administration and enforcement of such sections relating to  
10 vaccination and impoundment of domestic animals. In such a case  
11 no authorized representatives of the ~~department~~ system or any law  
12 enforcement officials enforcing such sections shall be responsible  
13 for any accident or disease of a domestic animal resulting from the  
14 enforcement of such sections.

15           Sec. 1143. Section 71-4621, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17           71-4621 As used in the Uniform Standard Code for Mobile  
18 Home Parks, unless the context otherwise requires:

19           (1) Mobile home ~~shall mean~~ means a movable or portable  
20 dwelling constructed to be towed on its own chassis, connected to  
21 utilities, and designed with or without a permanent foundation for  
22 year-round living. It may consist of one or more units that can be  
23 telescoped when towed and expanded later for additional capacity,  
24 or of two or more units, separately towable but designed to be  
25 joined into one integral unit, and shall include a manufactured  
26 home as defined in section 71-4603;

27           (2) Mobile home lot ~~shall mean~~ means a designated portion

1 of a mobile home park designed for the accommodation of one mobile  
2 home and its accessory buildings or structures for the exclusive  
3 use of the occupants;

4 (3) Mobile home park ~~shall mean~~ means a parcel or  
5 contiguous parcels of land which have been so designated and  
6 improved that it contains two or more mobile home lots available  
7 to the general public for the placement thereon of mobile homes  
8 for occupancy. The term mobile home park shall not be construed  
9 to include mobile homes, buildings, tents, or other structures  
10 temporarily maintained by any individual, corporation, limited  
11 liability company, company, or other entity on its own premises and  
12 used exclusively to house its own labor force;

13 ~~(4) Department shall mean the Department of Health and~~  
14 ~~Human Services Regulation and Licensure; and~~

15 ~~(5) (4) Person shall mean~~ means any individual, firm,  
16 partnership, limited liability company, corporation, company,  
17 association, joint-stock company or association, political  
18 subdivision, governmental agency, or other legal entity, and  
19 shall include any trustee, receiver, assignee, or other legal  
20 representative thereof; and -

21 (5) System means the Health and Human Services System.

22 Sec. 1144. Section 71-4622, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 71-4622 No person shall establish, conduct, operate or  
25 maintain a mobile home park within this state without first  
26 obtaining an annual license therefor from the ~~department,~~ system.  
27 Such license shall be issued for the calendar year applied for and

1 shall expire at midnight on December 31 of such year.

2           Sec. 1145. Section 71-4623, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           71-4623 The application for such annual license to  
5 conduct, operate, and maintain a mobile home park shall be in  
6 writing and upon such form as the ~~department~~ system shall provide  
7 and shall include the full name and address of the applicant  
8 or applicants, the names and addresses of the partner if the  
9 applicant is a partnership, the names and addresses of the members  
10 if the applicant is a limited liability company, or the names and  
11 addresses of the officers if the applicant is a corporation, and  
12 the current or most recent occupation of the applicant at the time  
13 of the filing of the application, and such other pertinent data as  
14 the ~~department~~ system may require by regulation. If the applicant  
15 is an individual, the application shall include the applicant's  
16 social security number.

17           Sec. 1146. Section 71-4624, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           71-4624 (1) The application for the first or initial  
20 annual license shall be submitted with the requirements mentioned  
21 in section 71-4623 accompanied by the appropriate fees. The  
22 ~~Department of Health and Human Services Regulation and Licensure~~  
23 system by regulation shall charge engineering firms, mobile  
24 home park owners and operators, and other appropriate parties  
25 fees established by regulation for the review of plans and  
26 specifications of a mobile home park, the issuance of a license  
27 or permit, the inspection of a mobile home park, and any other

1 services rendered at a rate which defrays no more than the actual  
2 costs of the services provided. All fees shall be paid as a  
3 condition of annual renewal of licensure or of continuance of  
4 licensure.

5 (2) All fees collected by the ~~department~~ system shall be  
6 remitted to the State Treasurer for credit to the ~~Department of~~  
7 ~~Health and Human Services Regulation and Licensure~~ Health and Human  
8 Services System Cash Fund. Money credited to the fund pursuant to  
9 this section shall be used by the ~~department~~ system for the purpose  
10 of administering the Uniform Standard Code for Mobile Home Parks.

11 (3) When any application is received, the ~~department~~  
12 system shall cause the mobile home park and appurtenances to be  
13 inspected by representatives of the ~~department~~ system. When such  
14 inspection has been made and the ~~department~~ system finds that all  
15 of the provisions of the Uniform Standard Code for Mobile Home  
16 Parks and the rules, regulations, and standards of the ~~department~~  
17 system have been met by the applicant, the ~~department~~ system shall  
18 issue an annual license. Inspection by the ~~department~~ system or its  
19 authorized representatives at any time of a mobile home park shall  
20 be a condition of continued licensure.

21 Sec. 1147. Section 71-4625, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 71-4625 No person shall construct, expand, remodel or  
24 make alterations to the sanitary facilities in a mobile home  
25 park within this state without first obtaining a permit therefor  
26 from the ~~department~~ system, except that no such permit shall  
27 be required in the making of minor repairs or in matters of

1 general maintenance. The application for such permit shall be made  
2 to the ~~department~~ system in such manner as may be prescribed  
3 by regulations of the ~~department,~~ system, which shall require  
4 the applicant to supply plans and specifications and otherwise  
5 provide a description of the nature, type, location and extent  
6 of the sanitary facilities contemplated. When the application has  
7 been approved, the ~~department~~ system shall issue a permit to the  
8 applicant to construct, expand, remodel or make alterations to  
9 sanitary facilities, including water and sewage disposal, upon a  
10 mobile home park and the appurtenances thereto according to the  
11 plans and specifications and other data submitted with the approved  
12 application. No approval of plans and specifications and issuance  
13 of a permit to construct, expand, remodel or make alterations  
14 upon a mobile home park and the appurtenances thereto by the  
15 ~~department~~ system shall be made unless such park is in compliance  
16 with the provisions of sections 71-4621 to 71-4634 and the rules,  
17 regulations, and standards of the ~~department,~~ system. Such a permit  
18 does not relieve the applicant from obtaining building permits when  
19 located within a municipality or county having a building code  
20 or from complying with any other municipal or county resolution,  
21 ordinance, or regulation applicable thereto, and not in conflict  
22 with sections 71-4621 to 71-4634.

23           Sec. 1148. Section 71-4626, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           71-4626 If the application for a permit to construct,  
26 expand, remodel, or make alterations upon a mobile home park  
27 and the appurtenances thereto, pursuant to section 71-4625, is

1 denied by the ~~department,~~ system, it shall so state in writing,  
2 giving the reasons for denying the application. If the objection  
3 can be corrected, the applicant may amend his or her application  
4 and resubmit it for approval. No such permit shall be denied  
5 except after due notice and opportunity for a hearing before the  
6 ~~department~~ system pursuant to the Administrative Procedure Act. Any  
7 denial of such permit may be appealed, and the appeal shall be in  
8 accordance with the Administrative Procedure Act.

9           Sec. 1149. Section 71-4627, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           71-4627 When the ~~department~~ system has approved an  
12 application for a permit to construct, expand, remodel or make  
13 alterations upon a mobile home park or appurtenances thereto,  
14 pursuant to section 71-4625, or a license to establish, conduct,  
15 operate or maintain a mobile home park, it shall retain the  
16 original and keep a file thereof. One copy shall be returned to the  
17 applicant or his agent.

18           Sec. 1150. Section 71-4628, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20           71-4628 The ~~department~~ system shall furnish all necessary  
21 forms to be completed in making application for all licenses or  
22 permits issued pursuant to sections 71-4621 to 71-4634.

23           Sec. 1151. Section 71-4629, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           71-4629 The ~~department~~ system shall adopt, promulgate,  
26 and enforce by rules and regulations standards governing utility  
27 systems and sanitary conditions for mobile home parks. The



1 ~~department~~ system shall not adopt or enforce by rules and  
2 regulations any design, construction, or land-use standards for  
3 any mobile home park.

4           Sec. 1152. Section 71-4630, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6           71-4630 (1) The Uniform Standard Code for Mobile Home  
7 Parks shall not apply to any mobile home park located within the  
8 jurisdiction of any city, village, or county which provides for  
9 the regulation of mobile home parks by resolution, ordinance, or  
10 regulation which at a minimum is not less stringent than the then  
11 current standards and specifications, and all subsequent revisions  
12 and amendments thereto, approved, adopted, and promulgated by the  
13 ~~department,~~ system, as such standards and specifications apply to  
14 mobile home parks. No such resolution, ordinance, or regulation  
15 shall become effective until a certificate of exemption has been  
16 issued by the ~~department.~~ system. Such certificate of exemption  
17 shall be available for inspection in the office of the city or  
18 county clerk as the case may be.

19           (2) If the ~~department~~ system shall determine at any time  
20 after the issuance of such a certificate of exemption that such  
21 a resolution, ordinance, or regulation is being enforced in a  
22 manner contrary to or inconsistent with the standards mentioned in  
23 subsection (1) of this section or is otherwise being improperly  
24 enforced in any city, village, or county holding a certificate  
25 of exemption, the ~~department~~ system may revoke the certificate of  
26 exemption and the Uniform Standard Code for Mobile Home Parks shall  
27 apply in such city, village, or county until such standards are met

1 and enforced and a new certificate is issued.

2 (3) Any city, village, or county desiring a certificate  
3 of exemption shall make application for such certificate by filing  
4 a petition for a certificate of exemption with the ~~department~~  
5 system. The ~~department~~ system shall promptly investigate such  
6 petition. If the recommendation of the ~~department~~ system is against  
7 the granting of a certificate of exemption and the applicant  
8 requests that a formal hearing be held, a formal hearing shall be  
9 held on the questions of whether (a) the resolution, ordinance,  
10 or regulation is at a minimum as stringent as the standards  
11 mentioned in subsection (1) of this section, (b) the resolution,  
12 ordinance, or regulation is being enforced in a manner contrary  
13 to or inconsistent with such standards or is otherwise being  
14 improperly enforced, and (c) adequate provisions have been made  
15 for enforcement. The burden of proof thereof shall be upon the  
16 applicant. A like formal hearing shall be held upon any proposed  
17 revocation of a certificate of exemption upon the request of the  
18 holder thereof. The procedure governing hearings authorized by this  
19 subsection shall be in accordance with the Administrative Procedure  
20 Act. The decision to deny or revoke a certificate of exemption  
21 may be appealed, and the appeal shall be in accordance with the  
22 Administrative Procedure Act.

23 Sec. 1153. Section 71-4631, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 71-4631 The ~~department~~ system shall issue licenses for  
26 the establishment, operation, and maintenance of mobile home parks  
27 which are found to comply with the Uniform Standard Code for

1 Mobile Home Parks and such rules, regulations, and standards as are  
2 lawfully adopted and promulgated by the ~~department~~ system pursuant  
3 thereto. The ~~department~~ system shall deny, refuse renewal of,  
4 suspend, or revoke licenses on any of the following grounds:

5 (1) Violation of any of the provisions of the code or the  
6 rules, regulations, and standards lawfully adopted and promulgated  
7 pursuant thereto;

8 (2) Permitting, aiding, or abetting the commission of any  
9 unlawful act; or

10 (3) Conduct or utility or sanitation practices  
11 detrimental to the health or safety of residents of a mobile  
12 home park. Should the ~~department~~ system determine to deny, refuse  
13 renewal of, suspend, or revoke a license, it shall send to the  
14 applicant or licensee, by either certified or registered mail, a  
15 notice setting forth the specific reasons for the determination.  
16 The denial, refusal of renewal, suspension, or revocation shall  
17 become final thirty days after the mailing of the notice in all  
18 cases of failure to pay the required licensure fee if not paid  
19 by the end of such period, and in all other instances unless  
20 the applicant or licensee, within such thirty-day period, shall  
21 give written notice of a desire for a hearing. Thereupon the  
22 applicant or licensee shall be given opportunity for a formal  
23 hearing before the ~~department~~ system and shall have the right to  
24 present evidence on his or her own behalf. The procedure governing  
25 hearings authorized by this section shall be in accordance with  
26 the Administrative Procedure Act. On the basis of the evidence  
27 presented, the determination involved shall be affirmed or set

1 aside, and a copy of such decision setting forth the findings of  
2 facts and the specific reasons upon which it is based shall be  
3 sent by either certified or registered mail to the applicant or  
4 licensee. The applicant or licensee may appeal such decision, and  
5 the appeal shall be in accordance with the Administrative Procedure  
6 Act.

7           Sec. 1154. Section 71-4632, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           71-4632 Any person who establishes, conducts, operates,  
10 or maintains a mobile home park without first obtaining a license  
11 therefor from the ~~department~~ system as provided in sections 71-4621  
12 to 71-4634 shall be guilty of a Class IV misdemeanor and each day  
13 such mobile home park shall operate without a license after a first  
14 conviction shall be considered a separate offense. Such person  
15 shall also be guilty of maintaining a nuisance pursuant to section  
16 28-1321, and upon conviction thereof, in addition to payment of the  
17 fine, such nuisance shall be removed.

18           Sec. 1155. Section 71-4633, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20           71-4633 The ~~department~~ system may, in accordance with the  
21 laws governing injunctions and other process, maintain an action  
22 in the name of the state against any person for establishing,  
23 conducting, operating, or maintaining any mobile home park without  
24 first having a license therefor from the ~~department~~ system as  
25 provided in sections 71-4621 to 71-4634. In charging any defendant  
26 in a complaint in such action, it shall be sufficient to charge  
27 that such defendant did, upon a certain day and in a certain

1 county, establish, conduct, operate, or maintain a mobile home park  
2 without having a license to do so without averring any further or  
3 more particular facts concerning the same.

4 Sec. 1156. Section 71-4635, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 71-4635 The Department of Health and Human Services  
7 ~~Regulation and Licensure~~ Health and Human Services System may  
8 request the State Fire Marshal to inspect for fire safety any  
9 mobile home park for which a license or renewal of a license is  
10 sought, pursuant to section 81-502. The State Fire Marshal shall  
11 assess a fee for such inspection pursuant to section 81-505.01 and  
12 payable by the licensee or applicant for a license. The authority  
13 to make such investigations may be delegated to qualified local  
14 fire prevention personnel pursuant to section 81-502.

15 Sec. 1157. Section 71-4701, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 71-4701 As used in sections 71-4701 to 71-4719, unless  
18 the context otherwise requires:

19 (1) ~~Department shall mean the Department of Health and~~  
20 ~~Human Services Regulation and Licensure;~~ System shall mean the  
21 Health and Human Services System;

22 (2) License shall mean a license issued by the state  
23 under such sections to hearing aid instrument dispensers and  
24 fitters;

25 (3) Temporary license shall mean a license issued while  
26 the applicant is in training to become a licensed hearing aid  
27 instrument dispenser and fitter;

1                   (4) Board shall mean the Board of Hearing Aid Instrument  
2     Dispensers and Fitters;

3                   (5) Hearing aid shall mean any wearable instrument or  
4     device designed for or offered for the purpose of aiding or  
5     compensating for impaired human hearing and any parts, attachments,  
6     or accessories, including earmold, but excluding batteries and  
7     cords. A hearing aid shall also be known as a hearing instrument;

8                   (6) Practice of fitting hearing aids shall mean the  
9     measurement of human hearing by means of an audiometer or by  
10    other means approved by the board solely for the purpose of making  
11    selections, adaptations, or sale of hearing aids. The term also  
12    includes the making of impressions for earmolds. A dispenser, at  
13    the request of a physician or a member of related professions, may  
14    make audiograms for the professional's use in consultation with the  
15    hard-of-hearing; and

16                   (7) Sell, sale, or dispense shall mean any transfer of  
17    title or of the right to use by lease, bailment, or any other  
18    contract, excluding (a) wholesale transactions with distributors  
19    or dispensers and (b) distribution of hearing aids by nonprofit  
20    service organizations at no cost to the recipient for the hearing  
21    aid.

22                   Sec. 1158. Section 71-4702, Reissue Revised Statutes of  
23    Nebraska, is amended to read:

24                   71-4702 (1) No person shall engage in the sale of or  
25    practice of fitting hearing aids or display a sign or in any other  
26    way advertise or represent himself or herself as a person who  
27    practices the fitting and sale or dispensing of hearing aids unless

1 he or she holds an unsuspended, unrevoked license issued by the  
2 ~~department~~ system as provided in sections 71-4701 to 71-4719. The  
3 license shall be conspicuously posted in his or her office or place  
4 of business. A license shall confer upon the holder the right to  
5 select, fit, and sell hearing aids.

6 (2) Nothing in such sections shall prohibit a  
7 corporation, partnership, limited liability company, trust,  
8 association, or other like organization maintaining an established  
9 business address from engaging in the business of selling or  
10 offering for sale hearing aids at retail without a license if  
11 it employs only properly licensed natural persons in the direct  
12 sale and fitting of such products. Such corporation, partnership,  
13 limited liability company, trust, association, or like organization  
14 shall file annually with the board a list of all licensed hearing  
15 aid instrument dispensers and fitters directly or indirectly  
16 employed by it. Such corporation, partnership, limited liability  
17 company, trust, association, or like organization shall also file  
18 with the board a statement on a form approved by the board that  
19 it submits itself to the rules and regulations of the ~~department~~  
20 system and the provisions of such sections which the ~~department~~  
21 system deems applicable.

22 (3) Nothing in such sections shall prohibit the holder  
23 of a license from the fitting and sale of wearable instruments or  
24 devices designed for or offered for the purpose of conservation or  
25 protection of hearing.

26 Sec. 1159. Section 71-4706, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

1           71-4706 (1) Application for a license under sections  
2 71-4701 to 71-4719 shall be made to the ~~department~~ system on  
3 forms prescribed by the ~~department~~ system and shall be accompanied  
4 by the fee established as provided in section 71-162. If the  
5 applicant is an individual, the application shall include the  
6 applicant's social security number. The ~~department~~ system shall,  
7 without discrimination, issue a license to any person who passes an  
8 examination provided for in section 71-4707. The license shall be  
9 effective until December 31 of the next even-numbered year.

10           (2) Whenever the board determines that another state  
11 or jurisdiction has requirements equivalent to those in effect  
12 pursuant to sections 71-4701 to 71-4719 and that such state  
13 or jurisdiction has a program equivalent to the program for  
14 determining whether applicants pursuant to such sections are  
15 qualified to fit and sell hearing aids, the ~~department~~ system  
16 may issue licenses to applicants who hold current, unsuspended, and  
17 unrevoked certificates or licenses to fit and sell hearing aids in  
18 such other state or jurisdiction. No such applicants for licensure  
19 shall be required to submit to or undergo a qualifying examination  
20 if his or her certificate or license is based upon a written  
21 examination equivalent to the Nebraska examination.

22           Sec. 1160. Section 71-4707, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           71-4707 (1) Any person may obtain a license by  
25 successfully passing a qualifying examination if the applicant:

- 26           (a) Is at least twenty-one years of age;  
27           (b) Is of good moral character;



1 (c) Has an education equivalent to a four-year course in  
2 an accredited high school; and

3 (d) Is free of contagious or infectious disease.

4 (2) Each applicant for license by examination shall  
5 appear at a time and place and before such persons as the  
6 ~~department~~ system may designate to be examined by means of written  
7 and practical tests in order to demonstrate that he or she is  
8 qualified to practice the fitting and sale of hearing aids. The  
9 examination shall not be conducted in such a manner that college  
10 training is required in order to pass. Nothing in this examination  
11 shall imply that the applicant is required to possess the degree of  
12 medical competence normally expected of physicians.

13 (3) The ~~department~~ system shall give examinations as  
14 determined by the board, except that a minimum of two examinations  
15 shall be offered each calendar year.

16 Sec. 1161. Section 71-4708, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 71-4708 (1) The ~~department~~ system upon recommendation of  
19 the board shall issue a temporary license to any person who has  
20 met the requirements for licensure pursuant to subsection (1) of  
21 section 71-4707. Previous experience or a waiting period shall not  
22 be required to obtain a temporary license.

23 (2) Any person who desires a temporary license shall  
24 make application to the ~~department~~ system. Such application  
25 shall include the applicant's social security number and shall  
26 be accompanied by the required fee. The temporary license shall  
27 be issued for a period of one year. A person holding a valid

1 license shall be responsible for the supervision and training of  
2 such applicant and shall maintain adequate personal contact with  
3 him or her.

4 (3) If a person who holds a temporary license under  
5 this section has not successfully passed the licensing examination  
6 within twelve months of the date of issuance of the temporary  
7 license, the temporary license may be renewed or reissued for a  
8 twelve-month period upon payment of the required fee. In no case  
9 may a temporary license be renewed or reissued more than once. A  
10 renewal or reissuance may take place any time after the expiration  
11 of the first twelve-month period.

12 (4) The ~~department~~ system shall have the power to deny,  
13 revoke, limit, suspend, or otherwise discipline a temporary license  
14 upon the grounds and in accordance with the Uniform Licensing Law.

15 Sec. 1162. Section 71-4709.01, Reissue Revised Statutes  
16 of Nebraska, is amended to read:

17 71-4709.01 The ~~department~~ system may adopt and promulgate  
18 rules and regulations to provide for the review of procedures  
19 for the development and administration of examinations and to  
20 protect the security of the content of examination questions and  
21 answers. The ~~department~~ system shall not enter into an agreement to  
22 adopt an examination from a national testing service without first  
23 obtaining from that service detailed documentation of the process  
24 of examination development and maintenance.

25 Sec. 1163. Section 71-4710, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27 71-4710 (1) A person who holds a license under sections

1 71-4701 to 71-4719 shall notify the ~~department~~ system in writing of  
2 the regular address of the place or places where he or she engages  
3 or intends to engage in the fitting or the sale of hearing aids.

4 (2) The ~~department~~ system shall keep a record of the  
5 place of business of licensees.

6 (3) Any notice required to be given by the ~~department~~  
7 system to a person who holds a license shall be mailed to him or  
8 her by certified mail at the address of the last place of business  
9 of which he or she has notified the ~~department~~ system.

10 Sec. 1164. Section 71-4712, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 71-4712 (1) The ~~department~~ system may deny, revoke,  
13 or suspend any license to practice as a hearing aid instrument  
14 dispenser and fitter issued by the ~~department~~ system or applied for  
15 pursuant to section 71-4707 or otherwise discipline any applicant  
16 or licensee when the applicant or licensee commits or is convicted  
17 of any of the acts or offenses set out in sections 71-147 and  
18 71-148 or the following acts or offenses:

19 (a) Fitting and selling a hearing aid to a child under  
20 the age of sixteen who has not been examined and cleared for  
21 hearing aid use within a six-month period by an otolaryngologist  
22 without a signed waiver by the legal guardian. This subdivision  
23 shall not apply to the replacement with an identical model of any  
24 hearing aid within one year of its purchase;

25 (b) Any other condition or acts which violate the Trade  
26 Practice Rules for the Hearing Aid Industry of the Federal Trade  
27 Commission or the Food and Drug Administration;

1 (c) Conducting business while suffering from a contagious  
2 or infectious disease; or

3 (d) Violating any provision of sections 71-4701 to  
4 71-4719.

5 (2) The ~~department~~ system shall deny, revoke, suspend,  
6 or otherwise discipline a license in accordance with the Uniform  
7 Licensing Law.

8 Sec. 1165. Section 71-4714, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 71-4714 The powers and duties of the ~~department~~ system  
11 are as follows:

12 (1) To authorize all disbursements necessary to carry out  
13 sections 71-4701 to 71-4719;

14 (2) To supervise issuance of licenses based on experience  
15 and administer qualifying examinations to test the knowledge and  
16 proficiency of applicants seeking to be licensed by examination;

17 (3) To license persons who apply to the ~~department~~ system  
18 and who are qualified to engage in the fitting and selling of  
19 hearing aids;

20 (4) To issue and renew licenses;

21 (5) To suspend or revoke licenses;

22 (6) To designate the time and place for examining  
23 applicants;

24 (7) To appoint representatives to conduct or supervise  
25 the examination;

26 (8) To adopt and promulgate rules and regulations  
27 which shall set the passing score for examinations upon the

1 recommendation of the board;

2 (9) To adopt and promulgate rules and regulations not  
3 inconsistent with the laws of this state which are necessary to  
4 carry out such sections; and

5 (10) To appoint or employ subordinate employees.

6 Sec. 1166. Section 71-4715, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 71-4715 (1) There is hereby established a Board of  
9 Hearing Aid Instrument Dispensers and Fitters which shall guide,  
10 advise, and make recommendations to the ~~department.~~ system.

11 (2) Members of the board shall be residents of the state.  
12 The board shall consist of three hearing aid instrument dispensers  
13 and fitters, one otolaryngologist, one audiologist, and one public  
14 member. Each hearing aid instrument dispenser and fitter on the  
15 board shall have not less than five years of experience and shall  
16 hold a valid license. The public member shall be at least the age  
17 of majority, a resident of this state at least five years preceding  
18 appointment, and a representative of consumer viewpoints.

19 (3) All members of the board shall be appointed by the  
20 State Board of Health. The term of office of each member shall be  
21 for four years, except that of the first members appointed under  
22 sections 71-4701 to 71-4719, two shall be appointed for two years,  
23 two shall be appointed for three years, and one shall be appointed  
24 for four years. The State Board of Health shall appoint the public  
25 member as of December 1, 1994, for a term of four years. Before a  
26 member's term expires, the State Board of Health shall appoint a  
27 successor to take office on the expiration of such term. A vacancy

1 in the office of a member shall be filled by appointment for the  
2 unexpired term. The members shall annually designate one member to  
3 serve as chairperson and another to serve as secretary-treasurer.  
4 No member who has served two or more full terms may be reappointed  
5 to the Board of Hearing Aid Instrument Dispensers and Fitters until  
6 at least one year after the expiration of his or her most recent  
7 full term of office.

8 (4) Members of the board shall receive for each day  
9 actually engaged in the duties of the office a per diem amount  
10 of twenty-five dollars and reimbursement for actual and necessary  
11 travel and other expenses as provided in sections 81-1174 to  
12 81-1177. Such remuneration and reimbursement shall be paid from  
13 appropriations made for this purpose.

14 (5) The State Board of Health shall have power to remove  
15 from office at any time any member of the Board of Hearing  
16 Aid Instrument Dispensers and Fitters, after a public hearing  
17 pursuant to the Administrative Procedure Act, for physical or  
18 mental incapacity to carry out the duties of a board member, for  
19 continued neglect of duty, for incompetency, for acting beyond the  
20 individual member's scope of authority, for malfeasance in office,  
21 for any cause for which a license in the member's profession may  
22 be suspended or revoked, for a lack of licensure in the member's  
23 profession, or for other sufficient cause.

24 Sec. 1167. Section 71-4715.01, Reissue Revised Statutes  
25 of Nebraska, is amended to read:

26 71-4715.01 The ~~department~~ system shall adopt and  
27 promulgate rules and regulations which establish definitions of

1 conflicts of interest for members of the board and which establish  
2 procedures in the case such a conflict arises.

3 Sec. 1168. Section 71-4716, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 71-4716 (1) The board shall advise the ~~department~~ system  
6 in all matters relating to sections 71-4701 to 71-4719, shall  
7 prepare the examinations required by such sections for the  
8 ~~department~~, system, shall by a vote of four-fifths recommend  
9 licensure, and shall assist the ~~department~~ system in carrying out  
10 the provisions of such sections.

11 (2) The ~~department~~ system shall be guided by the  
12 recommendations of the board in all matters relating to such  
13 sections.

14 (3) The board shall establish continuing competency  
15 requirements for persons licensed under such sections. Continuing  
16 education is sufficient to meet continuing competency requirements.  
17 The requirements may also include, but not be limited to, one  
18 or more of the continuing competency activities listed in section  
19 71-161.09 which a licensed person may select as an alternative to  
20 continuing education. The requirements shall be approved by the  
21 board and adopted and promulgated by the ~~department~~ system in rules  
22 and regulations.

23 Sec. 1169. Section 71-4717, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 71-4717 The board shall meet not less than once each year  
26 at a place, day and hour determined by the board. The board shall  
27 also meet at such other times and places as may be requested by the

1 ~~department.~~ system.

2           Sec. 1170. Section 71-4728.03, Reissue Revised Statutes  
3 of Nebraska, is amended to read:

4           71-4728.03 The commission shall implement section  
5 71-4728.02 with the advice of a special advisory committee  
6 appointed by the commission. The committee shall consist of five  
7 members as follows: Three counselors familiar with mental health,  
8 alcoholism, and drug abuse disorders in deaf or hard of hearing  
9 persons and two human services professionals. The ~~Department of~~  
10 ~~Health and Human Services~~ Health and Human Services System and  
11 the commission shall each have a representative who serves on the  
12 committee in a nonvoting technical capacity.

13           Sec. 1171. Section 71-4728.05, Revised Statutes  
14 Cumulative Supplement, 2006, is amended to read:

15           71-4728.05 (1) The commission shall appoint the  
16 Interpreter Review Board as required in section 20-156.

17           (2) Until July 14, 2006, the board shall consist of the  
18 following members, of whom the majority shall have knowledge of  
19 sign language:

20           (a) The ~~Director of Health and Human Services or his~~  
21 ~~or her designee,~~ chief executive officer of the Health and Human  
22 Services System or his or her designee;

23           (b) The executive director of the commission or his or  
24 her designee;

25           (c) Two deaf or hard of hearing persons;

26           (d) Two licensed interpreters; and

27           (e) Two members representing local government.



1           (3) Members of the Interpreter Review Board serving on  
2 July 14, 2006, shall have their terms extended to June 30, 2007.  
3 After that date, membership on the board shall be as follows:

4           (a) ~~The Director of Health and Human Services or his~~  
5 ~~or her designee~~ A representative of the Health and Human Services  
6 System and the executive director of the commission or his or  
7 her designee, both of whom shall serve continuously and without  
8 limitation;

9           (b) One qualified interpreter, appointed for a term to  
10 expire on June 30, 2008;

11           (c) One representative of local government, appointed for  
12 a term to expire on June 30, 2008;

13           (d) One deaf or hard of hearing person, appointed for a  
14 term to expire on June 30, 2009;

15           (e) One qualified interpreter, appointed for a term to  
16 expire on June 30, 2009;

17           (f) One deaf or hard of hearing person, appointed for a  
18 term to expire on June 30, 2010; and

19           (g) One representative of local government, appointed for  
20 a term to expire on June 30, 2010.

21           (4) Upon the expiration of the terms described in  
22 subsection (3) of this section, members other than those identified  
23 in subdivision (3)(a) of this section shall be appointed for terms  
24 of three years. No such member may serve more than two consecutive  
25 three-year terms beginning June 30, 2007, except that members whose  
26 terms have expired shall continue to serve until their successors  
27 have been appointed and qualified.

1           (5) The commission may remove a member of the board  
2 for inefficiency, neglect of duty, or misconduct in office after  
3 delivering to such member a copy of the charges and a public  
4 hearing in accordance with the Administrative Procedure Act. If a  
5 vacancy occurs on the board, the commission shall appoint another  
6 member with the same qualifications as the vacating member to  
7 serve the remainder of the term. The members of the board shall  
8 receive no compensation but shall be reimbursed for their actual  
9 and necessary expenses, as provided in sections 81-1174 to 81-1177,  
10 in attending meetings of the commission and in carrying out their  
11 official duties as provided in this section and section 20-156.

12           (6) The board shall establish policies, standards, and  
13 procedures for evaluating and licensing interpreters, including,  
14 but not limited to, testing, training, issuance, renewal, and  
15 denial of licenses, continuing education and continuing competency  
16 assessment, investigation of complaints, and disciplinary actions  
17 against a license pursuant to section 20-156.

18           Sec. 1172. Section 71-4737, Revised Statutes Cumulative  
19 Supplement, 2006, is amended to read:

20           71-4737 The Legislature recognizes that it is necessary  
21 to track newborns and infants identified with a potential hearing  
22 loss or who have been evaluated and have been found to have a  
23 hearing loss for a period of time in order to render appropriate  
24 followup care. The Department of Health and Human Services  
25 ~~Regulation and Licensure~~ Health and Human Services System shall  
26 determine and implement the most appropriate system for this state  
27 which is available to track newborns and infants identified with

1 a hearing loss. It is the intent of the Legislature that the  
2 tracking system provide the ~~department~~ system and Legislature with  
3 the information necessary to effectively plan and establish a  
4 comprehensive system of developmentally appropriate services for  
5 newborns and infants who have a potential hearing loss or who have  
6 been found to have a hearing loss and shall reduce the likelihood  
7 of associated disabling conditions for such newborns and infants.

8 Sec. 1173. Section 71-4738, Revised Statutes Cumulative  
9 Supplement, 2006, is amended to read:

10 71-4738 The ~~Department of Health and Human Services~~  
11 ~~Regulation and Licensure~~ Health and Human Services System shall  
12 apply for all available federal funding to implement the Infant  
13 Hearing Act.

14 Sec. 1174. Section 71-4739, Revised Statutes Cumulative  
15 Supplement, 2006, is amended to read:

16 71-4739 (1) Every birthing facility shall annually report  
17 to the ~~Department of Health and Human Services Regulation and~~  
18 ~~Licensure~~ Health and Human Services System the number of:

19 (a) Newborns born;

20 (b) Newborns and infants recommended for a hearing  
21 screening test;

22 (c) Newborns who received a hearing screening test during  
23 birth admission;

24 (d) Newborns who passed a hearing screening test during  
25 birth admission if administered;

26 (e) Newborns who did not pass a hearing screening test  
27 during birth admission if administered; and

1           (f) Newborns recommended for monitoring, intervention,  
2 and followup care.

3           (2) Every confirmatory testing facility shall annually  
4 report to the ~~Department of Health and Human Services Regulation~~  
5 ~~and Licensure~~ Health and Human Services System the number of:

6           (a) Newborns and infants who return for a followup  
7 hearing test;

8           (b) Newborns and infants who do not have a hearing loss  
9 based upon the followup hearing test; and

10          (c) Newborns and infants who are shown to have a hearing  
11 loss based upon the followup hearing test.

12          Sec. 1175. Section 71-4740, Revised Statutes Cumulative  
13 Supplement, 2006, is amended to read:

14           71-4740 (1) Every birthing facility shall educate the  
15 parents of newborns born in such facilities of the importance  
16 of receiving a hearing screening test and any necessary followup  
17 care. This educational information shall explain, in lay terms,  
18 the hearing screening test, the likelihood of the newborn having  
19 a hearing loss, followup procedures, and community resources,  
20 including referral for early intervention services under the  
21 Early Intervention Act. The educational information shall also  
22 include a description of the normal auditory, speech, and  
23 language developmental process in children. Education shall not be  
24 considered a substitute for the hearing screening test.

25           (2) If a newborn is not born in a birthing facility, the  
26 ~~Department of Health and Human Services Regulation and Licensure~~  
27 Health and Human Services System shall educate the parents of such

1 newborns of the importance of receiving a hearing screening test  
2 and any necessary ~~followup~~ follow-up care. The ~~department~~ system  
3 shall also give parents information to assist them in having the  
4 test performed within three months after the date of the child's  
5 birth.

6           Sec. 1176. Section 71-4741, Revised Statutes Cumulative  
7 Supplement, 2006, is amended to read:

8           71-4741 (1) The ~~Department of Health and Human Services~~  
9 ~~Regulation and Licensure~~ Health and Human Services System shall  
10 determine which birthing facilities are administering hearing  
11 screening tests to newborns and infants on a voluntary basis  
12 and the number of newborns and infants screened. The ~~department~~  
13 system shall annually report to the Legislature the number of:

14           (a) Birthing facilities administering voluntary hearing  
15 screening tests during birth admission;

16           (b) Newborns screened as compared to the total number of  
17 newborns born in such facilities;

18           (c) Newborns who passed a hearing screening test during  
19 birth admission if administered;

20           (d) Newborns who did not pass a hearing screening test  
21 during birth admission if administered; and

22           (e) Newborns recommended for ~~followup~~ follow-up care.

23           (2) The ~~department,~~ Health and Human Services System,  
24 in consultation with the State Department of Education, birthing  
25 facilities, and other providers, shall develop approved screening  
26 methods and protocol for statewide hearing screening tests of  
27 substantially all newborns and infants.

1           (3) Subject to available appropriations, the ~~Department~~  
2 ~~of Health and Human Services Regulation and Licensure~~ Health and  
3 Human Services System shall make the report described in this  
4 section available.

5           Sec. 1177. Section 71-4742, Revised Statutes Cumulative  
6 Supplement, 2006, is amended to read:

7           71-4742 (1) Each birthing facility shall include a  
8 hearing screening test as part of its standard of care for newborns  
9 and shall establish a mechanism for compliance review. A hearing  
10 screening test shall be conducted on no fewer than ninety-five  
11 percent of the newborns born in this state.

12           (2) If the number of newborns receiving a hearing  
13 screening test does not equal or exceed ninety-five percent of  
14 the total number of newborns born in this state on or before  
15 December 1, 2003, or falls below ninety-five percent at any time  
16 thereafter, the ~~Department of Health and Human Services Regulation~~  
17 ~~and Licensure~~ Health and Human Services System shall immediately  
18 adopt and promulgate rules and regulations implementing a hearing  
19 screening program. The hearing screening program shall provide for  
20 a hearing screening test that every newborn born in this state  
21 shall undergo and shall provide that the hearing screening test be  
22 completed during birth admission or, if that is not possible, no  
23 later than three months after birth. Notwithstanding this section,  
24 it is the goal of this state to achieve a one-hundred-percent  
25 screening rate.

26           Sec. 1178. Section 71-4743, Revised Statutes Cumulative  
27 Supplement, 2006, is amended to read:

1           71-4743 ~~The Department of Health and Human Services~~  
2 ~~Regulation and Licensure~~ Health and Human Services System and the  
3 State Department of Education shall establish guidelines for when  
4 a referral shall be made for early intervention services under the  
5 Early Intervention Act. The guidelines shall include a request for  
6 an individual evaluation of a child suspected of being deaf or hard  
7 of hearing as defined in section 79-1118.01.

8           Sec. 1179. Section 71-4744, Revised Statutes Cumulative  
9 Supplement, 2006, is amended to read:

10           71-4744 ~~The Department of Health and Human Services~~  
11 ~~Regulation and Licensure~~ Health and Human Services System shall  
12 adopt and promulgate rules and regulations necessary to implement  
13 the Infant Hearing Act.

14           Sec. 1180. Section 71-4813, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           71-4813 When an autopsy is performed by the physician  
17 authorized by the county coroner to perform such autopsy, the  
18 physician or an appropriately qualified designee with training  
19 in ophthalmologic techniques, as provided for in subsection (2)  
20 of section 71-4807, may remove eye tissue of the decedent for  
21 the purpose of transplantation. The physician may also remove  
22 the pituitary gland for the purpose of research and treatment of  
23 hypopituitary dwarfism and of other growth disorders. Removal of  
24 the eye tissue or the pituitary gland shall only take place if the:

25           (1) Autopsy was authorized by the county coroner;

26           (2) County coroner receives permission from the person  
27 having control of the disposition of the decedent's remains

1 pursuant to section 71-1339; and

2 (3) Removal of eye tissue or of the pituitary gland will  
3 not interfere with the course of any subsequent investigation or  
4 alter the decedent's post mortem facial appearance.

5 The removed eye tissue or pituitary gland shall be  
6 transported to the ~~Director of Regulation and Licensure~~ Health and  
7 Human Services System or any desired institution or health facility  
8 as prescribed by section 71-1341.

9 Sec. 1181. Section 71-4816, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 71-4816 (1) On or after July 1, 1989, the physician  
12 responsible for the completion and signing of the portion of the  
13 certificate of death entitled medical certificate of death or, if  
14 there is no such physician, the person responsible for signing the  
15 certificate of death shall attest on the death certificate whether  
16 organ or tissue donation was considered and whether consent was  
17 granted.

18 (2) ~~After July 1, 1988, the Department of Health and~~  
19 ~~Human Services Regulation and Licensure~~ The Health and Human  
20 Services System shall make available the number of organ and tissue  
21 donors in Nebraska for statistical purposes.

22 Sec. 1182. Section 71-4819, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 71-4819 (1) ~~The Director of Health and Human Services~~  
25 Health and Human Services System shall educate residents of the  
26 state about:

27 (a) The need for bone marrow donors;



1           (b) The procedures required to become registered as  
2 a potential bone marrow donor, including the procedures for  
3 determining tissue type; and

4           (c) The medical procedures a donor must undergo to donate  
5 bone marrow and the attendant risks of the procedures.

6           (2) The ~~director~~ Health and Human Services System shall  
7 make special efforts to educate and recruit persons of racial and  
8 ethnic minorities to volunteer as potential bone marrow donors.

9           (3) The ~~director~~ Health and Human Services System may  
10 use the press, radio, and television and may place educational  
11 materials in appropriate health care facilities, blood banks,  
12 and state and local agencies. The ~~Director of Health and Human~~  
13 ~~Services,~~ system, in conjunction with the Director of Motor  
14 Vehicles, shall make educational materials available at all places  
15 where motor vehicle operators' licenses are issued or renewed.

16           Sec. 1183. Section 71-4901, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           71-4901 The ~~Department of Health and Human Services~~  
19 Health and Human Services System shall establish a program for  
20 the care and treatment of persons suffering from chronic renal  
21 diseases. This program shall assist persons suffering from chronic  
22 renal diseases who require life-saving care and treatment for such  
23 renal disease, but who are unable to pay for such services on a  
24 continuing basis. For the purposes of sections 71-4901 to 71-4905,  
25 chronic renal disease is defined as that stage of renal function  
26 in which the kidney is no longer able to maintain the integrity of  
27 the internal environment of the organism which condition is of a

1 permanent and deteriorating state. Such condition shall include but  
2 not be limited to the following: (1) Chronic glomerulonephritis;  
3 (2) chronic pyelonephritis; (3) nephrotic syndrome; (4) polycystic  
4 kidney disease; (5) Kimmelstiel-Wilson disease; or (6) progressive  
5 focal glomemlites such as lupus nephritis. For the purposes of  
6 sections 71-4901 to 71-4905, life-saving care and treatment is that  
7 care and treatment which requires constant medical attention and  
8 frequent hospitalization capable of restoring life or extending  
9 life beyond that normal for a person suffering from chronic renal  
10 disease.

11           Sec. 1184. Section 71-4903, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           71-4903 The Department of Health and Human Services  
14 Health and Human Services System shall:

15           (1) Develop standards for determining eligibility for  
16 care and treatment under this program and establish standards and  
17 qualifications of those patients unable to pay for treatment of  
18 chronic renal disease on a continuing basis. Such standards shall  
19 require that an individual:

20           (a) Shall be a bona fide resident of the State of  
21 Nebraska;

22           (b) Shall not be able to pay the total cost of such  
23 needed care and treatment without depriving himself or herself or  
24 those legally dependent upon him or her for their necessities of  
25 life;

26           (c) Shall not have deprived himself or herself, directly  
27 or indirectly, of any property for the purpose of qualifying for

1 assistance under the provisions of sections 71-4901 to 71-4905;

2 (d) Shall not have relatives legally responsible to  
3 provide such care and treatment who refuse or neglect to provide  
4 such care and treatment in whole or in part without good cause; and

5 (e) Shall be a proper candidate for such care and  
6 treatment, including willingness of that person to receive such  
7 care and treatment;

8 (2) Assist in the development and expansion of programs  
9 for the care and treatment of persons suffering from chronic  
10 renal diseases, including dialysis, transplant, and other medical  
11 procedures and techniques which will have a life-saving effect in  
12 the care and treatment of persons suffering from these diseases;

13 (3) Assist in the development of programs for the  
14 prevention of chronic renal diseases;

15 (4) Extend financial assistance to persons suffering  
16 from chronic renal diseases in obtaining the medical, nursing,  
17 pharmaceutical, and technical services necessary in caring for  
18 such diseases, including the renting of home dialysis equipment,  
19 and extend financial assistance to donors to persons suffering  
20 from chronic renal diseases in obtaining the medical, nursing,  
21 pharmaceutical, and technical services necessary in caring for such  
22 donors;

23 (5) Assist in equipping dialysis centers and the planning  
24 of such on the basis of consultation with the comprehensive health  
25 planning office; and

26 (6) Institute and carry on an educational program among  
27 physicians, hospitals, public health departments, and the public

1 concerning chronic renal diseases, including the dissemination of  
2 information and the conducting of educational programs concerning  
3 the prevention of chronic renal diseases and the methods for the  
4 care and treatment of persons suffering from these diseases.

5           Sec. 1185. Section 71-4904, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           71-4904 There is hereby created in the ~~Department of~~  
8 ~~Health and Human Services~~ Health and Human Services System the  
9 Chronic Renal Disease Cash Fund. The fund shall be used for payment  
10 of services, granting of financial assistance, and participation  
11 in other state and federal programs for the purpose of caring for  
12 persons suffering from chronic renal disease.

13           Sec. 1186. Section 71-5175, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15           71-5175 For purposes of the Emergency Medical Services  
16 Act:

17           (1) Ambulance means any privately or publicly owned motor  
18 vehicle or aircraft that is especially designed, constructed or  
19 modified, and equipped and is intended to be used and is maintained  
20 or operated for the overland or air transportation of patients  
21 upon the streets, roads, highways, airspace, or public ways in this  
22 state, including funeral coaches or hearses, or any other motor  
23 vehicles or aircraft used for such purposes;

24           (2) Board means the Board of Emergency Medical Services;

25           ~~(3) Department means the Department of Health and Human~~  
26 ~~Services Regulation and Licensure;~~

27           ~~(4)~~ (3) Emergency medical service means the organization

1 responding to a perceived individual need for immediate medical  
2 care in order to prevent loss of life or aggravation of  
3 physiological or psychological illness or injury;

4 ~~(5)~~ (4) Out-of-hospital emergency care provider includes  
5 all certification classifications of emergency care providers  
6 established pursuant to the act;

7 ~~(6)~~ (5) Patient means an individual who either identifies  
8 himself or herself as being in need of medical attention or upon  
9 assessment by an out-of-hospital emergency care provider has an  
10 injury or illness requiring treatment;

11 ~~(7)~~ (6) Person means an individual, firm, partnership,  
12 limited liability company, corporation, company, association, or  
13 joint-stock company or association or group of individuals acting  
14 together for a common purpose and includes the State of Nebraska  
15 and any agency or political subdivision of the state;

16 ~~(8)~~ (7) Physician medical director means a qualified  
17 physician who is responsible for the medical supervision of  
18 out-of-hospital emergency care providers and verification of skill  
19 proficiency of out-of-hospital emergency care providers pursuant to  
20 section 71-5178;

21 ~~(9)~~ (8) Protocol means a set of written policies,  
22 procedures, and directions from a physician medical director to  
23 an out-of-hospital emergency care provider concerning the medical  
24 procedures to be performed in specific situations;

25 ~~(10)~~ (9) Qualified physician means an individual who is  
26 licensed to practice medicine and surgery pursuant to sections  
27 71-1,102 to 71-1,107.14 or osteopathic medicine and surgery

1 pursuant to sections 71-1,137 to 71-1,141 and meets any other  
2 requirements established by rule and regulation;

3 ~~(11)~~ (10) Qualified physician surrogate means a  
4 qualified, trained medical person designated by a qualified  
5 physician in writing to act as an agent for the physician  
6 in directing the actions or recertification of out-of-hospital  
7 emergency care providers; and

8 ~~(12)~~ (11) Standing order means a direct order from the  
9 physician medical director to perform certain tasks for a patient  
10 under a specific set of circumstances; and -

11 (12) System means the Health and Human Services System.

12 Sec. 1187. Section 71-5176, Revised Statutes Cumulative  
13 Supplement, 2006, is amended to read:

14 71-5176 (1) The Board of Emergency Medical Services is  
15 established. The board shall have seventeen members appointed by  
16 the Governor with the approval of a majority of the Legislature.  
17 The appointees may begin to serve immediately following appointment  
18 and prior to approval by the Legislature.

19 (2) (a) Seven members of the Board of Emergency Medical  
20 Services shall be active out-of-hospital emergency care providers  
21 at the time of and for the duration of their appointment, and  
22 each shall have at least five years of experience in his or her  
23 level of certification at the time of his or her appointment or  
24 reappointment. Two of the seven members who are out-of-hospital  
25 emergency care providers shall be first responders, two shall  
26 be emergency medical technicians, one shall be an emergency  
27 medical technician-intermediate, and two shall be emergency medical

1 technicians-paramedic.

2 (b) Three of the members shall be qualified physicians  
3 actively involved in emergency medical care. At least one of the  
4 physician members shall be a board-certified surgeon, and at least  
5 one of the physician members shall be a board-certified emergency  
6 physician.

7 (c) Five members shall be appointed to include one  
8 member who is a representative of an approved training agency,  
9 one member who is a physician assistant with at least five years  
10 of experience and active in out-of-hospital emergency medical care  
11 education, one member who is a registered nurse with at least  
12 five years of experience and active in out-of-hospital emergency  
13 medical care education, and two members who are consumers who have  
14 been residents of the State of Nebraska for five years with an  
15 expressed interest in the provision of out-of-hospital emergency  
16 medical care.

17 (d) The remaining two members shall have any of the  
18 qualifications listed in subdivision (a), (b), or (c) of this  
19 subsection.

20 (e) In addition to any other criteria for appointment,  
21 among the members of the board there shall be at least one member  
22 who is a volunteer emergency medical care provider, at least one  
23 member who is a paid emergency medical care provider, at least  
24 one member who is a firefighter, at least one member who is a  
25 law enforcement officer, and at least one member who is active  
26 in the Critical Incident Stress Management Program. If a person  
27 appointed to the board is qualified to serve as a member in more

1 than one capacity, all qualifications of such person shall be taken  
2 into consideration to determine whether or not the diversity in  
3 qualifications required in this subsection has been met.

4 (f) At least five members of the board shall be appointed  
5 from each congressional district. No more than one physician member  
6 shall reside in any single congressional district.

7 (3) The Governor shall make the initial appointments to  
8 the board within ninety days after September 13, 1997. Five of  
9 the initial members shall be appointed for terms of one year as  
10 determined by the Governor. Six of the initial members shall be  
11 appointed for terms of two years as determined by the Governor. Six  
12 of the initial members shall be appointed for terms of three years  
13 as determined by the Governor. After the initial appointments, all  
14 members shall serve three-year terms. Each member shall hold office  
15 until the expiration of his or her term. Any vacancy in membership,  
16 other than by expiration of a term, shall be filled within ninety  
17 days by the Governor by appointment as provided in subsection (2)  
18 of this section.

19 (4) Members of the board shall be reimbursed for their  
20 actual and necessary expenses as provided in sections 81-1174 to  
21 81-1177.

22 (5) The board shall meet within ninety days after the  
23 appointment of the initial members and shall meet at least once  
24 each year thereafter. Special meetings of the board may be called  
25 by the ~~department~~ system or upon the written request of any six  
26 members of the board explaining the reason for such meeting. The  
27 place of the meetings shall be set by the ~~department.~~ system.



1 At the first meeting of the board, such officers as the board  
2 deems necessary shall be elected. A majority of the members shall  
3 constitute a quorum for the transaction of business. Every act of  
4 the majority of the members of the board present at a meeting of  
5 the board shall be deemed to be the act of the board. The board  
6 shall comply with the Open Meetings Act.

7 (6) The ~~department~~ system shall adopt and promulgate  
8 rules and regulations which establish definitions of conflicts of  
9 interest for members of the board and which establish procedures  
10 for resolution of conflicts of interest.

11 (7) The Governor upon recommendation of the ~~department~~  
12 system shall have power to remove from office at any time any  
13 member of the board for physical or mental incapacity to carry  
14 out the duties of a board member, for continued neglect of duty,  
15 for incompetency, for acting beyond the individual member's scope  
16 of authority, for malfeasance in office, for any cause for which  
17 a professional license or certificate may be suspended or revoked  
18 pursuant to the Uniform Licensing Law, or for a lack of license or  
19 certificate required by the Emergency Medical Services Act.

20 (8) Except as provided in subsection (7) of this section  
21 and notwithstanding subsection (2) of this section, a member of  
22 the board who changes his or her certification classification  
23 after appointment when such certification classification was a  
24 qualification for appointment shall be permitted to continue to  
25 serve as a member of the board until the expiration of his or her  
26 term.

27 Sec. 1188. Section 71-5178, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           71-5178 The ~~department,~~ system, with the approval of the  
3 board, shall adopt and promulgate rules and regulations necessary  
4 to:

5           (1) Implement the Emergency Medical Services Act;

6           (2) Create the following certification classifications  
7 of out-of-hospital emergency care providers: (a) First  
8 responder; (b) emergency medical technician; (c) emergency  
9 medical technician-intermediate; and (d) emergency medical  
10 technician-paramedic. The rules and regulations creating the  
11 classifications shall include the practices and procedures  
12 authorized for each classification, training and testing  
13 requirements, recertification requirements, and other criteria and  
14 qualifications for each classification determined to be necessary  
15 for protection of public health and safety;

16           (3) Provide for curricula which will allow  
17 out-of-hospital emergency care providers and users of automated  
18 external defibrillators as defined in section 71-51,102 to be  
19 trained for the delivery of practices and procedures in units of  
20 limited subject matter which will encourage continued development  
21 of abilities and use of such abilities through additional  
22 authorized practices and procedures;

23           (4) Establish procedures and requirements for  
24 applications for examination, certification, or recertification in  
25 any of the certification classifications created pursuant to the  
26 Emergency Medical Services Act;

27           (5) Provide for the licensure of basic life support

1 services and advanced life support services. The rules and  
2 regulations providing for licensure shall include standards and  
3 requirements for: Vehicles, equipment, maintenance, sanitation,  
4 inspections, personnel, training, medical direction, records  
5 maintenance, practices and procedures to be provided by employees  
6 or members of each classification of service, and other criteria  
7 for licensure established by the ~~department~~ system with the  
8 approval of the board;

9 (6) Authorize emergency medical services to provide  
10 differing practices and procedures depending upon the  
11 qualifications of out-of-hospital emergency care providers  
12 available at the time of service delivery. No emergency medical  
13 service shall be licensed to provide practices or procedures  
14 without the use of personnel certified to provide the practices or  
15 procedures;

16 (7) Authorize out-of-hospital emergency care providers to  
17 perform any practice or procedure which they are authorized to  
18 perform with an emergency medical service other than the service  
19 with which they are affiliated when requested by the other service  
20 and when the patient for whom they are to render services is in  
21 danger of loss of life;

22 (8) Provide for the approval, inspection, review, and  
23 termination of approval of training agencies and establish minimum  
24 standards for services provided by training agencies. All training  
25 for certification shall be provided through an approved or  
26 accredited training agency;

27 (9) Provide for the minimum qualifications of a physician

1 medical director in addition to the licensure required by  
2 subdivision (10) of section 71-5175;

3 (10) Provide for the use of physician medical directors,  
4 qualified physician surrogates, model protocols, standing orders,  
5 operating procedures, and guidelines which may be necessary or  
6 appropriate to carry out the purposes of the act. The model  
7 protocols, standing orders, operating procedures, and guidelines  
8 may be modified by the physician medical director for use by  
9 any out-of-hospital emergency care provider or emergency medical  
10 service before or after adoption;

11 (11) Establish criteria for approval of organizations  
12 issuing cardiopulmonary resuscitation certification which shall  
13 include criteria for instructors, establishment of certification  
14 periods and minimum curricula, and other aspects of training and  
15 certification;

16 (12) Establish recertification and renewal requirements  
17 for out-of-hospital emergency care providers and emergency medical  
18 services and adopt and promulgate rules and regulations to  
19 establish continuing competency requirements as approved by the  
20 board. Continuing education is sufficient to meet continuing  
21 competency requirements. The requirements may also include, but  
22 not be limited to, one or more of the continuing competency  
23 activities listed in section 71-161.09 which a certified person  
24 may select as an alternative to continuing education. The  
25 recertification requirements for out-of-hospital emergency care  
26 providers shall allow recertification at the same or any lower  
27 level of certification for which the out-of-hospital emergency care

1 provider is determined to be qualified;

2 (13) Establish criteria for deployment and use of  
3 automated external defibrillators as necessary for the protection  
4 of the public health and safety;

5 (14) Create certification, recertification, and renewal  
6 requirements for emergency medical service instructors. The rules  
7 and regulations shall include the practices and procedures for  
8 certification, recertification, and renewal; and

9 (15) Establish criteria for emergency  
10 medical technicians-intermediate and emergency medical  
11 technicians-paramedic performing activities within their scope of  
12 practice at a hospital or health clinic under subsection (3) of  
13 section 71-5184. Such criteria shall include, but not be limited  
14 to: (a) Requirements for the orientation of registered nurses,  
15 physician assistants, and physicians involved in the supervision of  
16 such personnel; (b) supervisory and training requirements for the  
17 physician medical director or other person in charge of the medical  
18 staff at such hospital or health clinic; and (c) a requirement  
19 that such activities shall only be performed at the discretion of,  
20 and with the approval of, the governing authority of such hospital  
21 or health clinic. For purposes of this subdivision, health clinic  
22 has the definition found in section 71-416 and hospital has the  
23 definition found in section 71-419.

24 All certificates and licenses issued under the act shall  
25 expire at midnight on December 31 the third year after issuance.

26 Sec. 1189. Section 71-5179, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

1           71-5179 (1) The Legislature adopts all parts of the  
2 United States Department of Transportation curricula, including  
3 appendices, and skills as the training requirements and permitted  
4 practices and procedures for the certification classifications  
5 listed in subdivision (2) of section 71-5178 until modified by rule  
6 and regulation.

7           (2) The ~~department~~ system and the board shall consider  
8 the following factors, in addition to other factors required or  
9 permitted by the Emergency Medical Services Act, when adopting  
10 rules and regulations for a certification classification:

11           (a) Whether the initial training required for  
12 certification in the classification is sufficient to enable the  
13 out-of-hospital emergency care provider to perform the practices  
14 and procedures authorized for the classification in a manner which  
15 is beneficial to the patient and protects public health and safety;

16           (b) Whether the practices and procedures to be authorized  
17 are necessary to the efficient and effective delivery of  
18 out-of-hospital emergency medical care;

19           (c) Whether morbidity can be reduced or recovery enhanced  
20 by the use of the practices and procedures to be authorized for the  
21 classification; and

22           (d) Whether continuing competency requirements  
23 are sufficient to maintain the skills authorized for the  
24 classification.

25           Sec. 1190. Section 71-5181, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27           71-5181 The ~~department~~ system shall issue licenses for

1 the operation of emergency medical services which are found to  
2 comply with the requirements of the rules and regulations and the  
3 Emergency Medical Services Act. The ~~department~~ system shall issue  
4 certificates for out-of-hospital emergency care providers who are  
5 found to comply with the requirements of the rules and regulations  
6 and the act.

7 Sec. 1191. Section 71-5181.01, Reissue Revised Statutes  
8 of Nebraska, is amended to read:

9 71-5181.01 The ~~department~~ system shall establish and  
10 collect fees for credentialing activities under the Emergency  
11 Medical Services Act as provided in section 71-162.

12 Sec. 1192. Section 71-5182, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 71-5182 The ~~department~~ system may deny, refuse renewal  
15 of, suspend, or revoke a license or certificate and otherwise  
16 discipline a licensee or certificate holder in accordance with  
17 the Uniform Licensing Law. The ~~department~~ system may initiate  
18 proceedings under the Emergency Medical Services Act on its own  
19 motion or on the written complaint of any person.

20 Sec. 1193. Section 71-5184, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 71-5184 (1) An out-of-hospital emergency care provider  
23 other than a first responder as classified under section 71-5178  
24 may not assume the duties incident to the title or practice the  
25 skills of an out-of-hospital emergency care provider unless he or  
26 she is employed by or serving as a volunteer member of an emergency  
27 medical service licensed by the ~~department.~~ system.

1           (2) An out-of-hospital emergency care provider may only  
2 practice the skills he or she is authorized to employ and which  
3 are covered by the certificate issued to such provider pursuant to  
4 section 71-5181.

5           (3) An emergency medical technician-intermediate or an  
6 emergency medical technician-paramedic may volunteer or be employed  
7 at a hospital as defined in section 71-419 or a health clinic  
8 as defined in section 71-416 to perform activities within his  
9 or her scope of practice within such hospital or health clinic  
10 under the supervision of a registered nurse, a physician assistant,  
11 or a physician. Such activities shall be performed in a manner  
12 established in rules and regulations adopted and promulgated by the  
13 ~~department~~ system with approval of the board.

14           Sec. 1194. Section 71-5185, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           71-5185 (1) No patient data received or recorded by an  
17 emergency medical service or an out-of-hospital emergency care  
18 provider shall be divulged, made public, or released by an  
19 emergency medical service or an out-of-hospital emergency care  
20 provider, except that patient data may be released to the receiving  
21 health care facility, to the ~~department~~ system for public health  
22 purposes, upon the written authorization of the patient who is  
23 the subject of the record, or as otherwise permitted by law. For  
24 purposes of this section, patient data means any data received or  
25 recorded as part of the records maintenance requirements of the  
26 Emergency Medical Services Act.

27           (2) Patient data received by the ~~department~~ system



1 shall be confidential with release only (a) in aggregate data  
2 reports created by the ~~department~~ system on a periodic basis  
3 or at the request of an individual or (b) as case-specific  
4 data to approved researchers for specific research projects.  
5 Approved researchers shall maintain the confidentiality of the  
6 data, and researchers shall be approved in the same manner  
7 as described in section 81-666. Aggregate reports shall be  
8 public documents. Emergency-medical-service-specific data and  
9 out-of-hospital-emergency-care-provider-specific data shall be  
10 released only upon the written authorization of the service or the  
11 provider who is the subject of the record.

12 (3) No civil or criminal liability of any kind or  
13 character for damages or other relief or penalty shall arise or  
14 be enforced against any person or organization by reason of having  
15 provided patient data pursuant to this section.

16 Sec. 1195. Section 71-5189, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 71-5189 The ~~department~~ system may issue a certificate  
19 for out-of-hospital emergency care providers without examination  
20 to any person who holds a current certificate or license as an  
21 out-of-hospital emergency care provider, or its equivalent, from  
22 another jurisdiction if the ~~department,~~ system, with the approval  
23 of the board, finds that the standards for certification or  
24 licensure in such other jurisdiction are at least the substantial  
25 equivalent of those prevailing in this state. The ~~department,~~  
26 system, with the approval of the board, may issue a certificate  
27 to any individual who has a current certificate from the National

1 Registry of Emergency Medical Technicians. The level of such  
2 certification shall be determined by the ~~department~~ system with the  
3 approval of the board.

4 Sec. 1196. Section 71-5192, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 71-5192 An out-of-hospital emergency care provider or  
7 emergency medical service holding a valid certificate or license  
8 issued by the ~~department~~ Department of Health and Human Services  
9 Regulation and Licensure prior to July 1, 1998, may perform any  
10 practice or procedure authorized for a holder of that type of  
11 certificate or license in accordance with rules and regulations  
12 in effect immediately prior to July 1, 1998, and until the  
13 rules and regulations are amended or repealed pursuant to the  
14 Emergency Medical Services Act. A certificate or license may  
15 be issued or renewed and will expire in accordance with the  
16 rules and regulations adopted pursuant to the Emergency Medical  
17 Technician-Paramedic Act, the First Responders Emergency Rescue  
18 Act, and sections 71-5101 to 71-5165 until those rules and  
19 regulations are amended or repealed pursuant to the Emergency  
20 Medical Services Act.

21 Sec. 1197. Section 71-5197, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 71-5197 The ~~department~~ system may accept from any person,  
24 in the name of and for the state, services, equipment, supplies,  
25 materials, or funds by way of bequest, gift, or grant for the  
26 purposes of promoting emergency medical care. Any such funds  
27 received shall be remitted to the state treasury and shall be

1 credited by the State Treasurer to the ~~Department of Health and~~  
2 ~~Human Services Regulation and Licensure~~ Health and Human Services  
3 System Cash Fund.

4 Sec. 1198. Section 71-51,100, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 71-51,100 Whenever a person has engaged in an act or  
7 practice which violates the Emergency Medical Services Act or  
8 the rules and regulations adopted and promulgated pursuant to the  
9 act, the ~~department~~ system may make application to the appropriate  
10 court for an order enjoining the violation. Upon a showing by the  
11 ~~department~~ system that the person has engaged in an illegal act  
12 or practice, the court shall grant, without bond, an injunction, a  
13 restraining order, or another appropriate order.

14 Sec. 1199. Section 71-51,102, Revised Statutes Cumulative  
15 Supplement, 2006, is amended to read:

16 71-51,102 (1) For purposes of this section:

17 (a) Automated external defibrillator means a device that:

18 (i) Is capable of recognizing the presence or absence  
19 of ventricular fibrillation or rapid ventricular tachycardia and  
20 is capable of determining, without intervention of an operator,  
21 whether defibrillation should be performed; and

22 (ii) Automatically charges and requests delivery of an  
23 electrical impulse to an individual's heart when it has identified  
24 a condition for which defibrillation should be performed;

25 (b) Emergency medical service means an emergency medical  
26 service as defined in section 71-5175;

27 (c) Health care facility means a health care facility as

1 defined in section 71-413;

2 (d) Health care practitioner facility means a health care  
3 practitioner facility as defined in section 71-414; and

4 (e) Health care professional means any person who is  
5 licensed, certified, or registered by the ~~Department of Health and~~  
6 ~~Human Services Regulation and Licensure~~ Health and Human Services  
7 System and who is authorized within his or her scope of practice to  
8 use an automated external defibrillator.

9 (2) Except for the action or omission of a health  
10 care professional acting in such capacity or in a health care  
11 facility, no person who delivers emergency care or treatment  
12 using an automated external defibrillator shall be liable in any  
13 civil action to respond in damages as a result of his or her  
14 acts of commission or omission arising out of and in the course  
15 of rendering such care or treatment in good faith. Nothing in  
16 this subsection shall be construed to (a) grant immunity for  
17 any willful, wanton, or grossly negligent acts of commission or  
18 omission or (b) limit the immunity provisions for certain health  
19 care professionals as provided in section 71-5194.

20 (3) A person acquiring an automated external  
21 defibrillator shall notify the local emergency medical service  
22 of the existence, location, and type of the defibrillator and  
23 of any change in the location of such defibrillator unless the  
24 defibrillator was acquired for use in a private residence, a health  
25 care facility, or a health care practitioner facility.

26 Sec. 1200. Section 71-51,103, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

1           71-51,103 There is hereby created the Nebraska Emergency  
2 Medical System Operations Fund. The fund may receive gifts,  
3 bequests, grants, fees, or other contributions or donations from  
4 public or private entities. The fund shall be used to carry  
5 out the purposes of the Statewide Trauma System Act and the  
6 Emergency Medical Services Act, including activities related to  
7 the design, maintenance, or enhancement of the statewide trauma  
8 system, support of emergency medical services programs, and support  
9 for the emergency medical services programs for children. The  
10 ~~Director of Regulation and Licensure~~ Health and Human Services  
11 System shall annually, on or before January 1, submit a report to  
12 the Legislature which includes a general accounting of the income  
13 and expenditures of the fund. Any money in the fund available  
14 for investment shall be invested by the state investment officer  
15 pursuant to the Nebraska Capital Expansion Act and the Nebraska  
16 State Funds Investment Act.

17           Sec. 1201. Section 71-5205, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           71-5205 The family practice residency program may be  
20 funded in part by grants provided by the ~~Department of Health~~  
21 ~~and Human Services Finance and Support~~ or other Health and Human  
22 Services System or agencies of the federal government. If such  
23 grants are provided, the Legislature shall not provide funding for  
24 such program.

25           Sec. 1202. Section 71-5301, Revised Statutes Cumulative  
26 Supplement, 2006, is amended to read:

27           71-5301 For purposes of the Nebraska Safe Drinking Water

1 Act, unless the context otherwise requires:

2 (1) Council means the Advisory Council on Public Water  
3 Supply;

4 (2) Department means the Department of Public Health;

5 ~~(2)~~ (3) Director means the Director of Public Health  
6 ~~Regulation and Licensure~~ or his or her authorized representative;

7 ~~(3)~~ (4) Designated agent means any political subdivision  
8 or corporate entity having the demonstrated capability and  
9 authority to carry out in whole or in part the Nebraska Safe  
10 Drinking Water Act and with which the ~~Director of Regulation and~~  
11 ~~Licensure~~ director has consummated a legal and binding contract  
12 covering specifically delegated responsibilities;

13 ~~(4)~~ (5) Major construction, extension, or alteration  
14 means those structural changes that affect the source of supply,  
15 treatment processes, or transmission of water to service areas but  
16 does not include the extension of service mains within established  
17 service areas;

18 ~~(5)~~ (6) Operator means the individual or individuals  
19 responsible for the continued performance of the water supply  
20 system or any part of such system during assigned duty hours;

21 ~~(6)~~ (7) Owner means any person owning or operating a  
22 public water system;

23 ~~(7)~~ (8) Person means any individual, firm, partnership,  
24 limited liability company, association, company, corporation,  
25 political subdivision, or other entity;

26 ~~(8)~~ (9) Water supply system means all sources of water  
27 and their surroundings under the control of one owner and includes

1 all structures, conduits, and appurtenances by means of which such  
2 water is collected, treated, stored, or delivered except service  
3 pipes between street mains and buildings and the plumbing within or  
4 in connection with the buildings served;

5 ~~(9)(a)~~ (10)(a) Public water system means a system for  
6 providing the public with water for human consumption through pipes  
7 or, after August 5, 1998, other constructed conveyances, if such  
8 system has at least fifteen service connections or regularly serves  
9 an average of at least twenty-five individuals daily at least sixty  
10 days per year. Public water system includes (i) any collection,  
11 treatment, storage, and distribution facilities under control of  
12 the operator of such system and used primarily in connection  
13 with such system and (ii) any collection or pretreatment storage  
14 facilities not under such control which are used primarily in  
15 connection with such system. Public water system does not include  
16 a special irrigation district. A public water system is either a  
17 community water system or a noncommunity water system.

18 (b) Service connection does not include a connection to  
19 a system that delivers water by a constructed conveyance other  
20 than a pipe if (i) the water is used exclusively for purposes  
21 other than residential uses, consisting of drinking, bathing,  
22 cooking, and other similar uses, (ii) the department determines  
23 that alternative water to achieve the equivalent level of public  
24 health protection provided by the Nebraska Safe Drinking Water Act  
25 and rules and regulations under the act is provided for residential  
26 or similar uses for drinking and cooking, or (iii) the department  
27 determines that the water provided for residential or similar uses

1 for drinking, cooking, and bathing is centrally treated or treated  
2 at the point of entry by the provider, a pass-through entity, or  
3 the user to achieve the equivalent level of protection provided by  
4 the Nebraska Safe Drinking Water Act and the rules and regulations  
5 under the act.

6 (c) Special irrigation district means an irrigation  
7 district in existence prior to May 18, 1994, that provides  
8 primarily agricultural service through a piped water system with  
9 only incidental residential or similar use if the system or the  
10 residential or similar users of the system comply with exclusion  
11 provisions of subdivision (b) (ii) or (iii) of this subdivision;

12 ~~(10)~~ (11) Drinking water standards means rules and  
13 regulations adopted and promulgated pursuant to section 71-5302  
14 which (a) establish maximum levels for harmful materials which, in  
15 the judgment of the ~~Director of Regulation and Licensure,~~ director,  
16 may have an adverse effect on the health of persons and (b) apply  
17 only to public water systems;

18 ~~(11)~~ (12) Lead free (a) when used with respect to solders  
19 and flux means solders and flux containing not more than two-tenths  
20 percent lead, (b) when used with respect to pipes and pipe fittings  
21 means pipes and pipe fittings containing not more than eight  
22 percent lead, and (c) when used with respect to plumbing fittings  
23 and fixtures intended by the manufacturer to dispense water for  
24 human ingestion means fittings and fixtures that are in compliance  
25 with standards established in accordance with 42 U.S.C. 300g-6(e)  
26 as such section existed on July 16, 2004;

27 ~~(12)~~ (13) Community water system means a public water



1 system that (a) serves at least fifteen service connections used  
2 by year-round residents of the area served by the system or (b)  
3 regularly serves at least twenty-five year-round residents;

4 ~~(13)~~ (14) Noncommunity water system means a public water  
5 system that is not a community water system;

6 ~~(14)~~ (15) Nontransient noncommunity water system means a  
7 public water system that is not a community water system and that  
8 regularly serves at least twenty-five of the same individuals over  
9 six months per year;

10 ~~(15)~~ (16) Small system means a public water system that  
11 regularly serves less than ten thousand individuals; and

12 ~~(16)~~ (17) Probation means a disciplinary action not to  
13 exceed two years in length during which a certificate holder may  
14 continue to operate under terms and conditions fixed by the order  
15 of probation.

16 Sec. 1203. Section 71-5302, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 71-5302 (1) The ~~Director of Regulation and Licensure~~  
19 director shall adopt and promulgate necessary minimum drinking  
20 water standards, in the form of rules and regulations, to insure  
21 that drinking water supplied to consumers through all public  
22 water systems shall not contain amounts of chemical, radiological,  
23 physical, or bacteriological material determined by the ~~Director of~~  
24 ~~Regulation and Licensure~~ director to be harmful to human health.

25 (2) The ~~Director of Regulation and Licensure~~ director  
26 may adopt and promulgate rules and regulations to require the  
27 monitoring of drinking water supplied to consumers through

1 public water systems for chemical, radiological, physical, or  
2 bacteriological material determined by the ~~Director of Regulation~~  
3 ~~and Licensure~~ director to be potentially harmful to human health.

4 (3) In determining what materials are harmful or  
5 potentially harmful to human health and in setting maximum  
6 levels for such harmful materials, the ~~Director of Regulation and~~  
7 ~~Licensure~~ director shall be guided by:

8 (a) General knowledge of the medical profession and  
9 related scientific fields as to materials and substances which are  
10 harmful to humans if ingested through drinking water; and

11 (b) General knowledge of the medical profession and  
12 related scientific fields as to the maximum amounts of such harmful  
13 materials which may be ingested by human beings, over varying  
14 lengths of time, without resultant adverse effects on health.

15 (4) Subject to section 71-5310, state drinking water  
16 standards shall apply to each public water system in the state,  
17 except that such standards shall not apply to a public water  
18 system:

19 (a) Which consists only of distribution and storage  
20 facilities and does not have any collection and treatment  
21 facilities;

22 (b) Which obtains all of its water from, but is not  
23 owned or operated by, a public water system to which such standards  
24 apply;

25 (c) Which does not sell water to any person; and

26 (d) Which is not a carrier which conveys passengers in  
27 interstate commerce.

1           (5) The ~~Director of Regulation and Licensure~~ director may  
2 adopt alternative monitoring requirements for public water systems  
3 in accordance with section 1418 of the federal Safe Drinking Water  
4 Act, as such section existed on May 22, 2001.

5           (6) The ~~Director of Regulation and Licensure~~ director may  
6 adopt a system for the ranking of safe drinking water projects  
7 with known needs or for which loan applications have been received  
8 by the ~~Department of Health and Human Services Regulation and~~  
9 ~~Licensure~~ director or the Department of Environmental Quality. In  
10 establishing the ranking system the ~~Director of Regulation and~~  
11 ~~Licensure~~ director shall consider, among other things, the risk to  
12 human health, compliance with the federal Safe Drinking Water Act,  
13 as the act existed on May 22, 2001, and assistance to systems most  
14 in need based upon affordability criteria adopted by the ~~Director~~  
15 ~~of Regulation and Licensure.~~ director. This priority system shall  
16 be reviewed annually by the ~~Director of Regulation and Licensure.~~  
17 director.

18           Sec. 1204. Section 71-5303, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20           71-5303 (1) No person shall operate or maintain a public  
21 water system without first obtaining a permit to operate such  
22 system from the director. No fee shall be charged for the issuance  
23 of such permit.

24           (2) The director shall inspect public water systems and  
25 report findings to the owner, publish a list of those systems  
26 not in compliance, and promote the training of and certify  
27 the competence of operators. The director may deny, revoke,

1 suspend, or refuse renewal of a permit or certification, place  
2 a certificate holder on probation, issue administrative orders  
3 scheduling action to be taken, take emergency action as provided  
4 in section 71-5304.01, and seek a temporary or permanent injunction  
5 or such other legal process as is deemed necessary to obtain  
6 compliance with the Nebraska Safe Drinking Water Act.

7 (3) The Department of Health and Human Services  
8 Regulation and Licensure department may deny, revoke, suspend, or  
9 refuse to renew a permit or certification or place a certificate  
10 holder on probation for noncompliance with the act, the rules and  
11 regulations adopted and promulgated under the act, or the terms of  
12 a variance or exemption issued pursuant to section 71-5310.

13 (4) Any person shall be granted, upon request, an  
14 opportunity for a hearing before the department under the  
15 Administrative Procedure Act prior to the denial or revocation of  
16 a permit or certification or the placement of a certificate holder  
17 on probation. The denial, revocation, or the placement on probation  
18 by the department may be appealed, and the appeal shall be in  
19 accordance with the Administrative Procedure Act.

20 Sec. 1205. Section 71-5304.01, Reissue Revised Statutes  
21 of Nebraska, is amended to read:

22 71-5304.01 (1) Whenever the ~~Director of Regulation and~~  
23 ~~Licensure~~ director has reason to believe that a violation of any  
24 provision of the Nebraska Safe Drinking Water Act, any rule or  
25 regulation adopted and promulgated under such act, or any term  
26 of a variance or exemption issued pursuant to section 71-5310  
27 has occurred, he or she may cause an administrative order to be

1 served upon the permittee or permittees alleged to be in violation.  
2 Such order shall specify the violation and the facts alleged to  
3 constitute a violation and shall order that necessary corrective  
4 action be taken within a reasonable time to be prescribed in such  
5 order. Any such order shall become final unless the permittee  
6 or permittees named in the order request in writing a hearing  
7 before the ~~Director of Regulation and Licensure~~ director no later  
8 than thirty days after the date such order is served. In lieu of  
9 such order, the ~~Director of Regulation and Licensure~~ director may  
10 require that the permittee or permittees appear before the ~~Director~~  
11 ~~of Regulation and Licensure~~ director at a time and place specified  
12 in the notice and answer the charges. The notice shall be served  
13 on the permittee or permittees alleged to be in violation not less  
14 than thirty days before the time set for the hearing.

15 (2) Whenever the ~~Director of Regulation and Licensure~~  
16 director finds that an emergency exists requiring immediate action  
17 to protect the public health and welfare concerning a material  
18 which is determined by the ~~Director of Regulation and Licensure~~  
19 director to be harmful or potentially harmful to human health,  
20 the ~~Director of Regulation and Licensure~~ director may, without  
21 notice or hearing, issue an order reciting the existence of such an  
22 emergency and requiring that such action be taken as the ~~Director~~  
23 ~~of Regulation and Licensure~~ director deems necessary to meet the  
24 emergency. Such order shall be effective immediately. Any person  
25 to whom such order is directed shall comply immediately and, on  
26 written application to the ~~Director of Regulation and Licensure,~~  
27 director, shall be afforded a hearing as soon as possible and

1 not later than ten days after receipt of such application by such  
2 affected person. On the basis of such hearing, the ~~Director of~~  
3 ~~Regulation and Licensure~~ director shall continue such order in  
4 effect, revoke it, or modify it.

5 (3) The ~~Director of Regulation and Licensure~~ director  
6 shall afford to the alleged violator an opportunity for a fair  
7 hearing before the ~~Department of Health and Human Services~~  
8 ~~Regulation and Licensure~~ director under the Administrative  
9 Procedure Act.

10 (4) In addition to any other remedy provided by law, the  
11 ~~Director of Regulation and Licensure~~ director may issue an order  
12 assessing an administrative penalty upon a violator.

13 (5) The range of administrative penalties assessed under  
14 this section for a public water system serving ten thousand or  
15 more persons shall be not less than one thousand dollars per day  
16 or part thereof for each violation, not to exceed twenty-five  
17 thousand dollars in the aggregate. Administrative penalties for  
18 a small system shall be not more than five hundred dollars  
19 per day or part thereof for each violation, not to exceed  
20 five thousand dollars in the aggregate. In determining the  
21 amount of the administrative penalty, the department shall take  
22 into consideration all relevant circumstances, including, but not  
23 limited to, the harm or potential harm which the violation causes  
24 or may cause, the violator's previous compliance record, the  
25 nature and persistence of the violation, any corrective actions  
26 taken, and any other factors which the department may reasonably  
27 deem relevant. The administrative penalty assessment shall state

1 specific amounts to be paid for each violation identified in the  
2 order.

3 (6) An administrative penalty shall be paid within sixty  
4 days after the date of issuance of the order assessing the penalty.  
5 Any person who fails to pay an administrative penalty by the  
6 final due date shall be liable to the state for the penalty  
7 amount plus any statutory interest rate applicable to judgments.  
8 An order under this section imposing an administrative penalty may  
9 be appealed to the ~~Director of Regulation and Licensure~~ director  
10 in the manner provided for in subsection (1) of this section.  
11 Any administrative penalty paid pursuant to this section shall be  
12 remitted to the State Treasurer for ~~credit to the permanent school~~  
13 ~~fund-~~ distribution in accordance with Article VII, section 5, of  
14 the Constitution of Nebraska. An action may be brought in the  
15 appropriate court to collect any unpaid administrative penalty and  
16 for attorney's fees and costs incurred directly in the collection  
17 of the penalty.

18 Sec. 1206. Section 71-5304.02, Reissue Revised Statutes  
19 of Nebraska, is amended to read:

20 71-5304.02 (1) The director may require a public water  
21 system to give notice to the persons served by the system and  
22 to the ~~Department of Health and Human Services~~ Regulation and  
23 Licensure department whenever the system:

24 (a) Is not in compliance with an applicable maximum  
25 contaminant level or treatment technique requirement of or a  
26 testing procedure prescribed by rules and regulations adopted and  
27 promulgated under the Nebraska Safe Drinking Water Act;

1           (b) Fails to perform monitoring, testing, analyzing, or  
2 sampling as required;

3           (c) Is subject to a variance or exemption; or

4           (d) Is not in compliance with the requirements prescribed  
5 by a variance or exemption.

6           (2) The director may require a public water system to  
7 give notice to the persons served by the public water system of  
8 potential sources of contamination as identified by the director  
9 under subsection (2) of section 71-5302, of possible health effects  
10 of such contamination, and of possible mitigation measures.

11           (3) The director shall by rule and regulation prescribe  
12 the form and manner for giving such notice.

13           Sec. 1207. Section 71-5305, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15           71-5305 (1) No major construction, extension, or  
16 alteration of a public water system shall be commenced without  
17 written authorization from the director. No such authorization  
18 shall be needed in the case of minor repairs and matters of  
19 maintenance. No such authorization shall be granted unless plans  
20 and specifications, prepared by a professional engineer, and  
21 any additional information required by the department have been  
22 submitted to the department or its designated agent for review.

23           (2) Upon a finding that there has been compliance with  
24 the minimum sanitary requirements adopted pursuant to section  
25 71-5304, authorization to proceed with construction shall be  
26 granted by the director or his or her designated agent. In  
27 issuing authorization for the development of new public water



1 supply sources, consideration shall be given to the location and  
2 effects of other water supply systems and the location of points of  
3 discharge or disposal for solid and liquid wastes.

4 Sec. 1208. Section 71-5305.01, Reissue Revised Statutes  
5 of Nebraska, is amended to read:

6 71-5305.01 All new community water systems and new  
7 nontransient noncommunity water systems commencing operation after  
8 October 1, 1999, shall demonstrate technical, managerial, and  
9 financial capacity to operate under the Nebraska Safe Drinking  
10 Water Act.

11 The ~~Director of Regulation and Licensure~~ director  
12 may adopt and promulgate rules and regulations to determine  
13 demonstration requirements for technical, managerial, and financial  
14 capacity of community water systems and nontransient noncommunity  
15 water systems.

16 Sec. 1209. Section 71-5305.02, Reissue Revised Statutes  
17 of Nebraska, is amended to read:

18 71-5305.02 The ~~Department of Health and Human Services~~  
19 ~~Regulation and Licensure~~ department shall develop a capacity  
20 development strategy to assist public water systems in acquiring  
21 and maintaining technical, managerial, and financial capacity  
22 pursuant to section 71-5305.01. The department shall consider  
23 and solicit public comment on:

24 (1) The methods or criteria the department will use to  
25 identify and prioritize the public water systems most in need of  
26 improving technical, managerial, and financial capacity;

27 (2) A description of the institutional, regulatory,

1 financial, tax, or legal factors at the federal, state, or local  
2 level that encourage or impair capacity development;

3 (3) A description of how the department will:

4 (a) Assist public water systems in complying with the  
5 Nebraska Safe Drinking Water Act;

6 (b) Encourage the development of partnerships between  
7 public water systems to enhance the technical, managerial, and  
8 financial capacity of the systems; and

9 (c) Assist public water systems in the training and  
10 certification of operators; and

11 (4) A description of how the department will establish a  
12 baseline and measure improvements in capacity with respect to the  
13 act.

14 Sec. 1210. Section 71-5306, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 71-5306 (1) To carry out the provisions and purposes of  
17 the Nebraska Safe Drinking Water Act, the director may:

18 (a) Enter into agreements, contracts, or cooperative  
19 arrangements, under such terms as are deemed appropriate,  
20 with other state, federal, or interstate agencies or with  
21 municipalities, educational institutions, local health departments,  
22 or other organizations, entities, or individuals;

23 (b) Require all laboratory analyses to be performed  
24 at the ~~Department of Health and Human Services Regulation and~~  
25 ~~Licensure~~ Health and Human Services System Laboratory, or at any  
26 other certified laboratory which has entered into an agreement  
27 with the ~~Department of Health and Human Services Regulation and~~

1 ~~License~~ department therefor, and establish and collect fees for  
2 making laboratory analyses of water samples pursuant to sections  
3 71-2619 to 71-2621, except that subsection (6) of section 71-2619  
4 shall not apply for purposes of the Nebraska Safe Drinking Water  
5 Act. Inspection fees for making other laboratory agreements shall  
6 be established and collected pursuant to sections 71-2619 to  
7 71-2621;

8           (c) Certify laboratories performing tests on water that  
9 is intended for human consumption. The director may establish,  
10 through rules and regulations, standards for certification.  
11 Such standards may include requirements for staffing, equipment,  
12 procedures, and methodology for conducting laboratory tests,  
13 quality assurance and quality control procedures, and communication  
14 of test results. Such standards shall be consistent with  
15 requirements for performing laboratory tests established by  
16 the federal Environmental Protection Agency to the extent such  
17 requirements are consistent with state law. The director may accept  
18 accreditation by a recognized independent accreditation body,  
19 public agency, or federal program which has standards that are at  
20 least as stringent as those established pursuant to this section.  
21 The director may adopt and promulgate rules and regulations which  
22 list accreditation bodies, public agencies, and federal programs  
23 that may be accepted as evidence that a laboratory meets the  
24 standards for certification. Inspection fees for certifying other  
25 laboratories shall be established and collected to defray the cost  
26 of the inspections;

27           (d) Receive financial and technical assistance from an

1 agency of the federal government or from any other public or  
2 private agency;

3 (e) Enter the premises of a public water system at any  
4 time for the purpose of conducting monitoring, making inspections,  
5 or collecting water samples for analysis;

6 (f) Delegate those responsibilities and duties as deemed  
7 appropriate for the purpose of administering the requirements of  
8 the Nebraska Safe Drinking Water Act, including entering into  
9 agreements with designated agents which shall perform specifically  
10 delegated responsibilities and possess specifically delegated  
11 powers;

12 (g) Require the owner and operator of a public water  
13 system to establish and maintain records, make reports, and  
14 provide information as the ~~Department of Health and Human Services~~  
15 ~~Regulation and Licensure~~ department may reasonably require by  
16 regulation to enable it to determine whether such owner or operator  
17 has acted or is acting in compliance with the Nebraska Safe  
18 Drinking Water Act and rules and regulations adopted pursuant  
19 thereto. The department or its designated agent shall have access  
20 at all times to such records and reports; and

21 (h) Assess by regulation a fee for any review of plans  
22 and specifications pertaining to a public water system governed by  
23 section 71-5305 in order to defray no more than the actual cost of  
24 the services provided.

25 (2) All such fees collected by the ~~Department of Health~~  
26 ~~and Human Services Regulation and Licensure~~ department shall be  
27 remitted to the State Treasurer for credit to the Safe Drinking

1 Water Act Cash Fund, which is hereby created. Such fund shall  
2 be used by the department for the purpose of administering the  
3 Nebraska Safe Drinking Water Act. Any money in the fund available  
4 for investment shall be invested by the state investment officer  
5 pursuant to the Nebraska Capital Expansion Act and the Nebraska  
6 State Funds Investment Act.

7 Sec. 1211. Section 71-5310, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 71-5310 (1) The director, with the approval of the  
10 council, may authorize variances or exemptions from the drinking  
11 water standards issued pursuant to section 71-5302 under conditions  
12 and in such manner as they deem necessary and desirable. Such  
13 variances or exemptions shall be permitted under conditions and in  
14 a manner which are not less stringent than the conditions under,  
15 and the manner in which, variances and exemptions may be granted  
16 under the federal Safe Drinking Water Act as the act existed on  
17 July 20, 2002.

18 (2) Prior to granting a variance or an exemption,  
19 the director shall provide notice, in a newspaper of general  
20 circulation serving the area served by the public water system, of  
21 the proposed exemption or variance and that interested persons may  
22 request a public hearing on the proposed exemption or variance. The  
23 director may require the system to provide other appropriate notice  
24 as he or she deems necessary to provide adequate notice to persons  
25 served by the system.

26 If a public hearing is requested, the director shall  
27 set a time and place for the hearing and such hearing shall

1 be held before the ~~Department of Health and Human Services~~  
2 ~~Regulation and Licensure~~ department prior to the variance or  
3 exemption being issued. Frivolous and insubstantial requests for a  
4 hearing may be denied by the director. An exemption or variance  
5 shall be conditioned on monitoring, testing, analyzing, or other  
6 requirements to insure the protection of the public health. A  
7 variance or an exemption granted shall include a schedule of  
8 compliance under which the public water system is required to meet  
9 each contaminant level or treatment technique requirement for which  
10 a variance or an exemption is granted within a reasonable time as  
11 specified by the director with the approval of the council.

12           Sec. 1212. Section 71-5310.01, Reissue Revised Statutes  
13 of Nebraska, is amended to read:

14           71-5310.01 Except as otherwise expressly provided, any  
15 notice, order, or other instrument issued by or under authority  
16 of the director under the Nebraska Safe Drinking Water Act may  
17 be served on any person affected by such notice, order, or other  
18 instrument, personally or by publication, and proof of such service  
19 may be made in like manner as in case of service of a summons  
20 in a civil action, such proof to be filed in the office of the  
21 ~~Department of Health and Human Services Regulation and Licensure,~~  
22 department, or such service may be made by mailing a copy of the  
23 notice, order, or other instrument by certified or registered mail  
24 directed to the person affected at his or her last-known post  
25 office address as shown by the files or records of the department,  
26 and proof of service may be made by the affidavit of the person who  
27 did the mailing and filed in the office of the department.

1           Every certificate or affidavit of service made and filed  
2 as provided in this section shall be prima facie evidence of the  
3 facts stated in such certificate or affidavit, and a certified copy  
4 shall have like force and effect.

5           Sec. 1213. Section 71-5311, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           71-5311 (1) There is hereby established the Advisory  
8 Council on Public Water Supply which shall advise and assist the  
9 department in administering the Nebraska Safe Drinking Water Act.

10           (2) The council shall be composed of seven members  
11 appointed by the Governor, (a) one of whom shall be a professional  
12 engineer, (b) one of whom shall be a licensed physician, (c) two  
13 of whom shall be consumers of a public water system, (d) two of  
14 whom shall be operators of a public water system who possess a  
15 certificate of competency issued by the ~~Department of Health and~~  
16 ~~Human Services Regulation and Licensure~~ department to operate a  
17 public water system. One such operator shall represent a system  
18 serving a population of five thousand or less, and one such  
19 operator shall represent a system serving a population of more  
20 than five thousand, and (e) one of whom shall be, at the time of  
21 appointment, (i) an individual who owns a public water system, (ii)  
22 a member of the governing board of a public or private corporation  
23 which owns a public water system, or (iii) in the case of a  
24 political subdivision which owns a public water system, a member  
25 of the subdivision's governing board or board of public works  
26 or similar board which oversees the operation of a public water  
27 system.

1           Any owner or operator of a public water system serving  
2 on the council on March 2, 1989, shall continue to serve until the  
3 term of such member expires. As his or her term expires, such owner  
4 or operator shall be replaced by a person qualified as prescribed  
5 in subdivisions (d) and (e) of this subsection respectively.

6           (3) All members shall be appointed for three-year terms.  
7 No member shall serve more than three consecutive three-year terms.  
8 Each member shall hold office until the expiration of his or her  
9 term or until a successor has been appointed. Any vacancy occurring  
10 in council membership, other than by expiration of term, shall be  
11 filled within sixty days by the Governor by appointment from the  
12 appropriate category for the unexpired term.

13           (4) The council shall meet not less than once each year.  
14 Special meetings of the council may be called by the director  
15 or upon the written request of any two members of the council  
16 explaining the reason for such meeting. The place of the meeting  
17 shall be set by the director. Such officers as the council deems  
18 necessary shall be elected every three years beginning with the  
19 first meeting in the year 1990. A majority of the members of the  
20 council shall constitute a quorum for the transaction of business.  
21 Representatives of the department shall attend each meeting. Every  
22 act of the majority of the members of the council shall be deemed  
23 to be the act of the council.

24           (5) No member of the council shall receive any  
25 compensation, but each member shall be entitled, while serving on  
26 the business of the council, to receive his or her travel and other  
27 necessary expenses while so serving away from his or her place of



1 residence as provided in sections 81-1174 to 81-1177.

2           Sec. 1214. Section 71-5311.02, Reissue Revised Statutes  
3 of Nebraska, is amended to read:

4           71-5311.02 ~~The Director of Regulation and Licensure~~  
5 director shall make every effort to obtain voluntary compliance  
6 through warning, conference, or any other appropriate means prior  
7 to initiating enforcement proceedings, except that such requirement  
8 shall not be construed to alter enforcement duties or requirements  
9 of the ~~Director of Regulation and Licensure~~ director and the  
10 department.

11           Sec. 1215. Section 71-5318, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           71-5318 (1) The Drinking Water Facilities Loan Fund is  
14 created. The fund shall be held as a trust fund for the purposes  
15 and uses described in the Drinking Water State Revolving Fund Act.

16           The fund shall consist of federal capitalization grants,  
17 state matching appropriations, proceeds of state match bond issues  
18 credited to the fund, repayments of principal and interest on  
19 loans, and other money designated for the fund. The director  
20 may make loans from the fund pursuant to the Drinking Water  
21 State Revolving Fund Act and may conduct activities related to  
22 financial administration of the fund, administration or provision  
23 of technical assistance through public water system source water  
24 assessment programs, and implementation of a source water petition  
25 program under the Safe Drinking Water Act. The state investment  
26 officer shall invest any money in the fund available for investment  
27 pursuant to the Nebraska Capital Expansion Act and the Nebraska

1 State Funds Investment Act, except that any bond proceeds in  
2 the fund shall be invested in accordance with the terms of the  
3 documents under which the bonds are issued. The state investment  
4 officer may direct that the bond proceeds shall be deposited with  
5 the bond trustee for investment. Investment earnings shall be  
6 credited to the fund.

7 The department may create or direct the creation of  
8 accounts within the fund as the department determines to be  
9 appropriate and useful in administering the fund and in providing  
10 for the security, investment, and repayment of bonds.

11 The fund and the assets thereof may be used, to the  
12 extent permitted by the Safe Drinking Water Act and the regulations  
13 adopted and promulgated pursuant to such act, to pay or to secure  
14 the payment of bonds and the interest thereon, except that amounts  
15 deposited into the fund from state appropriations and the earnings  
16 on such appropriations may not be used to pay or to secure the  
17 payment of bonds or the interest thereon.

18 (2) The Land Acquisition and Source Water Loan Fund is  
19 created. The fund shall be held as a trust for the purposes and  
20 uses described in the Drinking Water State Revolving Fund Act.

21 The fund shall consist of federal capitalization grants,  
22 state matching appropriations, proceeds of state match bond issues  
23 credited to the fund, repayments of principal and interest on  
24 loans, and other money designated for the fund. The director may  
25 make loans from the fund pursuant to the Drinking Water State  
26 Revolving Fund Act and may, in consultation with the Director  
27 of ~~Regulation and Licensure~~, Public Health, conduct activities

1 other than the making of loans permitted under section 1452(k) of  
2 the Safe Drinking Water Act. The state investment officer shall  
3 invest any money in the fund available for investment pursuant to  
4 the Nebraska Capital Expansion Act and the Nebraska State Funds  
5 Investment Act, except that any bond proceeds in the fund shall  
6 be invested in accordance with the terms of the documents under  
7 which the bonds are issued. The state investment officer may direct  
8 that the bond proceeds shall be deposited with the bond trustee for  
9 investment. Investment earnings shall be credited to the fund.

10           The department may create or direct the creation of  
11 accounts within the fund as the department determines to be  
12 appropriate and useful in administering the fund and in providing  
13 for security, investment, and repayment of bonds.

14           The fund and assets thereof may be used, to the extent  
15 permitted by the Safe Drinking Water Act and the regulations  
16 adopted and promulgated pursuant to such act, to pay or secure  
17 the payment of bonds and the interest thereon, except that amounts  
18 credited to the fund from state appropriations and the earnings on  
19 such appropriations may not be used to pay or to secure the payment  
20 of bonds or the interest thereon.

21           The director may transfer any money in the Land  
22 Acquisition and Source Water Loan Fund to the Drinking Water  
23 Facilities Loan Fund.

24           (3) There is hereby created the Drinking Water  
25 Administration Fund. Any funds available for administering loans  
26 or fees collected pursuant to the Drinking Water State Revolving  
27 Fund Act shall be remitted to the State Treasurer for credit to

1 such fund. The fund shall be administered by the ~~department~~ system  
2 for the purposes of the act. The state investment officer shall  
3 invest any money in the fund available for investment pursuant to  
4 the Nebraska Capital Expansion Act and the Nebraska State Funds  
5 Investment Act. Investment earnings shall be credited to the fund.

6 Sec. 1216. Section 71-5322, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 71-5322 The department shall have the following powers  
9 and duties:

10 (1) The power to establish a program to make loans  
11 to owners of public water systems, individually or jointly, for  
12 construction or modification of safe drinking water projects in  
13 accordance with the Drinking Water State Revolving Fund Act and  
14 the rules and regulations of the council adopted and promulgated  
15 pursuant to such act;

16 (2) The power, if so authorized by the council pursuant  
17 to section 71-5321, to execute and deliver documents obligating  
18 the Drinking Water Facilities Loan Fund or the Land Acquisition  
19 and Source Water Loan Fund and the assets thereof to the extent  
20 permitted by section 71-5318 to repay, with interest, loans to  
21 or credits into such funds and to execute and deliver documents  
22 pledging to the extent permitted by section 71-5318 all or part of  
23 such funds and assets to secure, directly or indirectly, the loans  
24 or credits;

25 (3) The duty to prepare an annual report for the Governor  
26 and the Legislature;

27 (4) The duty to establish fiscal controls and accounting

1 procedures sufficient to assure proper accounting during  
2 appropriate accounting periods, including the following:

3 (a) Accounting from the Nebraska Investment Finance  
4 Authority for the costs associated with the issuance of bonds  
5 pursuant to the act;

6 (b) Accounting for payments or deposits received by the  
7 funds;

8 (c) Accounting for disbursements made by the funds; and

9 (d) Balancing the funds at the beginning and end of the  
10 accounting period;

11 (5) The duty to establish financial capability  
12 requirements that assure sufficient revenue to operate and maintain  
13 a facility for its useful life and to repay the loan for such  
14 facility;

15 (6) The power to determine the rate of interest to be  
16 charged on a loan in accordance with the rules and regulations  
17 adopted and promulgated by the council;

18 (7) The power to develop an intended use plan, in  
19 consultation with the Director of ~~Regulation and Licensure~~, Public  
20 Health, for adoption by the council;

21 (8) The power to enter into required agreements with the  
22 United States Environmental Protection Agency pursuant to the Safe  
23 Drinking Water Act; and

24 (9) Such other powers as may be necessary and appropriate  
25 for the exercise of the duties created under the Drinking Water  
26 State Revolving Fund Act.

27 Sec. 1217. Section 71-5402, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2           71-5402 For purposes of the Nebraska Drug Product  
3 Selection Act, unless the context otherwise requires:

4           (1) Bioequivalent means drug products: (a) That are  
5 legally marketed under regulations promulgated by the federal  
6 Food and Drug Administration; (b) that are the same dosage form  
7 of the identical active ingredients in the identical amounts  
8 as the drug product prescribed; (c) that comply with compendial  
9 standards and are consistent from lot to lot with respect to (i)  
10 purity of ingredients, (ii) weight variation, (iii) uniformity of  
11 content, and (iv) stability; and (d) for which the federal Food and  
12 Drug Administration has established bioequivalent standards or has  
13 determined that no bioequivalence problems exist;

14           (2) Board means the Board of Pharmacy;

15           (3) Brand name means the proprietary or trade name  
16 selected by the manufacturer, distributor, or packager for a drug  
17 product and placed upon the labeling of such product at the time  
18 of packaging;

19           (4) Chemically equivalent means drug products that  
20 contain amounts of the identical therapeutically active ingredients  
21 in the identical strength, quantity, and dosage form and that meet  
22 present compendial standards;

23           ~~(5) Department means the Department of Health and Human~~  
24 ~~Services Regulation and Licensure;~~

25           ~~(6)~~ (5) Drug product means any drug or device as defined  
26 in section 71-1,142;

27           ~~(7)~~ (6) Drug product select means to dispense, without

1 the practitioner's express authorization, an equivalent drug  
2 product in place of the brand-name drug product contained in a  
3 medical order of such practitioner;

4 ~~(8)~~ (7) Equivalent means drug products that are both  
5 chemically equivalent and bioequivalent;

6 ~~(9)~~ (8) Generic name means the official title of a  
7 drug or drug combination as determined by the United States  
8 Adopted Names Council and accepted by the federal Food and Drug  
9 Administration of those drug products having the same active  
10 chemical ingredients in the same strength and quantity;

11 ~~(10)~~ (9) Medical order has the definition found in  
12 section 71-1,142;

13 ~~(11)~~ (10) Pharmacist means a pharmacist licensed under  
14 the Uniform Licensing Law; and

15 ~~(12)~~ (11) Practitioner has the definition found in  
16 section 71-1,142; and -

17 (12) System means the Health and Human Services System.

18 Sec. 1218. Section 71-5406, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 71-5406 The manufacturer, packager, or distributor of  
21 any legend drug sold, delivered, or offered for sale for human  
22 use in the State of Nebraska shall have the name and address of  
23 the manufacturer of the finished dosage form of the drug printed  
24 on the label on the container of such drug. Whenever a duly  
25 authorized agent of the ~~department~~ system has probable cause to  
26 believe that any drug is without such labeling, the agent shall  
27 embargo such drug and shall affix an appropriate marking thereto.

1 Such marking shall contain: (1) Adequate notice that the drug (a)  
2 is or is suspected of being sold, delivered, or offered for sale  
3 in violation of the Nebraska Drug Product Selection Act and (b)  
4 has been embargoed; and (2) a warning that it is unlawful for  
5 any person to remove or dispose of the embargoed drug by sale  
6 or otherwise without the permission of the agent or a court of  
7 competent jurisdiction.

8 Sec. 1219. Section 71-5409, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 71-5409 The ~~department~~ system may adopt and promulgate  
11 rules and regulations necessary to implement the Nebraska Drug  
12 Product Selection Act upon the joint recommendation of the Board of  
13 Medicine and Surgery and the Board of Pharmacy.

14 Sec. 1220. Section 71-5647, Revised Statutes Cumulative  
15 Supplement, 2006, is amended to read:

16 71-5647 The Office of Rural Health is hereby created  
17 within the ~~Department of Health and Human Services Regulation and~~  
18 ~~Licensure.~~ Health and Human Services System. The office shall have  
19 the following powers and duties:

20 (1) To assist rural residents in obtaining high quality  
21 health care which includes the following:

22 (a) Assist in the recruitment and retention of health  
23 care professionals to rural areas, including specifically  
24 physicians and nurses;

25 (b) Assist rural communities in maintaining the viability  
26 of hospital services whenever feasible or, for communities in  
27 transition, in developing alternative systems to provide equivalent



1 quality care to their residents;

2 (c) Assist rural communities in planning to meet changes  
3 needed due to the changing rural economy and demographics or new  
4 technology;

5 (d) Assist in the development of health care networks  
6 or cooperative ventures among rural communities or health care  
7 providers;

8 (e) Assist in promoting or developing demonstration  
9 projects to identify and establish alternative health care systems;  
10 and

11 (f) Assist rural communities in developing and  
12 identifying leaders and leadership skills among their residents  
13 to enable such communities to work toward appropriate and  
14 cost-effective solutions to the health care issues that confront  
15 them;

16 (2) To develop a comprehensive rural health policy  
17 to serve as a guide for the development of programs of the  
18 ~~department~~ Health and Human Services System aimed at improving  
19 health care in rural Nebraska and a rural health action plan to  
20 guide implementation of the policy;

21 (3) To establish liaison with other state agency efforts  
22 in the area of rural development and human services delivery  
23 to ensure that the programs of the office are appropriately  
24 coordinated with these efforts and to encourage use of the  
25 comprehensive rural health policy by other agencies as a guide  
26 to their plans and programs affecting rural health;

27 (4) To develop and maintain an appropriate data system to

1 identify present and potential rural health issues and to evaluate  
2 the effectiveness of programs and demonstration projects;

3 (5) To encourage and facilitate increased public  
4 awareness of issues affecting rural health care;

5 (6) To carry out its duties under the Rural Health  
6 Systems and Professional Incentive Act;

7 (7) To carry out the duties required by section  
8 71-5206.01; and

9 (8) To carry out related duties as directed by the  
10 ~~Director of Regulation and Licensure,~~ Health and Human Services  
11 System.

12 Sec. 1221. Section 71-5649, Revised Statutes Cumulative  
13 Supplement, 2006, is amended to read:

14 71-5649 The Legislature shall appropriate sufficient  
15 funds to the ~~Department of Health and Human Services Regulation and~~  
16 ~~Licensure~~ Health and Human Services System to enable the Office of  
17 Rural Health to carry out its duties pursuant to section 71-5647.

18 Sec. 1222. Section 71-5653, Revised Statutes Cumulative  
19 Supplement, 2006, is amended to read:

20 71-5653 For purposes of the Rural Health Systems and  
21 Professional Incentive Act:

22 (1) Approved medical specialty means family practice,  
23 general practice, general internal medicine, general pediatrics,  
24 general surgery, obstetrics/gynecology, and psychiatry;

25 (2) Approved dental specialty means general practice,  
26 pediatric dentistry, and oral surgery;

27 (3) Approved mental health practice program means an

1 approved educational program consisting of a master's or doctorate  
2 degree with the focus being primarily therapeutic mental health and  
3 meeting the educational requirements for licensure in mental health  
4 practice or psychology by the department;

5 (4) Commission means the Nebraska Rural Health Advisory  
6 Commission;

7 (5) Department means the Department of Public Health;  
8 ~~Health and Human Services Regulation and Licensure~~;

9 (6) Doctorate-level mental health student means a  
10 graduate student enrolled in or accepted for enrollment in an  
11 approved mental health practice program leading to a doctorate  
12 degree and meeting the educational requirements for licensure in  
13 psychology by the department;

14 (7) Full-time practice means a minimum of forty hours per  
15 week;

16 (8) Health care means both somatic and mental health care  
17 services;

18 (9) Master's level mental health student means a graduate  
19 student enrolled in or accepted for enrollment in an approved  
20 mental health practice program leading to a master's degree and  
21 meeting the educational requirements for licensure in mental health  
22 practice by the department;

23 (10) Office means the Office of Rural Health;

24 (11) Qualified educational debts means government and  
25 commercial loans obtained by students for postsecondary education  
26 tuition, other educational expenses, and reasonable living  
27 expenses, as determined by the department, but does not include

1 loans received under the act or the Nebraska Medical Student  
2 Assistance Act; and

3 (12) Rural means located within any county in Nebraska  
4 having a population of less than fifteen thousand inhabitants and  
5 not included within a metropolitan statistical area as defined by  
6 the United States Department of Commerce, Bureau of the Census.

7 Sec. 1223. Section 71-5654, Revised Statutes Cumulative  
8 Supplement, 2006, is amended to read:

9 71-5654 The Nebraska Rural Health Advisory Commission is  
10 hereby created as the direct and only successor to the Commission  
11 on Rural Health Manpower. The Nebraska Rural Health Advisory  
12 Commission shall consist of thirteen members as follows:

13 (1) ~~The Director of Regulation and Licensure or his or~~  
14 ~~her designee and the Director of Health and Human Services or~~  
15 ~~his or her designee;~~ The Director of Public Health or his or  
16 her designee and another representative of the Health and Human  
17 Services System; and

18 (2) Eleven members to be appointed by the Governor with  
19 the advice and consent of the Legislature as follows:

20 (a) One representative of each medical school located in  
21 the state involved in training family physicians and one physician  
22 in family practice residency training; and

23 (b) From rural areas one physician, one consumer  
24 representative, one hospital administrator, one nursing home  
25 administrator, one nurse, one physician assistant, one mental  
26 health practitioner or psychologist licensed under the requirements  
27 of section 71-1,206.15 or the equivalent thereof, and one dentist.

1           Members shall serve for terms of three years. When a  
2 vacancy occurs, appointment to fill the vacancy shall be made  
3 for the balance of the term. All appointed members shall be  
4 citizens and residents of Nebraska. The appointed membership of  
5 the commission shall, to the extent possible, represent the three  
6 congressional districts equally.

7           Sec. 1224. Section 71-5655, Revised Statutes Cumulative  
8 Supplement, 2006, is amended to read:

9           71-5655 The purpose of the commission shall be to  
10 advise the ~~Department of Health and Human Services Regulation~~  
11 ~~and Licensure~~, department, the Legislature, the Governor, the  
12 University of Nebraska, and the citizens of Nebraska regarding all  
13 aspects of rural health care and to advise the office regarding  
14 the administration of the Rural Health Systems and Professional  
15 Incentive Act.

16           Sec. 1225. Section 71-5681, Revised Statutes Cumulative  
17 Supplement, 2006, is amended to read:

18           71-5681 The Legislature hereby finds and declares that:

19           (1) Eighty-eight of Nebraska's ninety-three counties are  
20 classified as mental and behavioral health profession shortage  
21 areas by the federal Health Resources and Services Administration  
22 and the ~~Nebraska Department of Health and Human Services~~, Health  
23 and Human Services System;

24           (2) The ~~Department of Health and Human Services~~  
25 ~~Regulation and Licensure~~ Health and Human Services System  
26 reports that seventy-four percent of the state's psychiatrists,  
27 psychologists, and licensed mental health practitioners live and

1 practice in the urban areas of Omaha and Lincoln, which leaves  
2 the remaining seventy-two thousand square miles of Nebraska to be  
3 covered by approximately one-fourth of the professionals licensed  
4 to practice behavioral health in Nebraska;

5 (3) Thirty-eight Nebraska counties have one or no  
6 licensed behavioral health professional; and

7 (4) Reductions in federal funding will result in the  
8 elimination of over five thousand five hundred behavioral health  
9 patient visits in rural Nebraska.

10 Sec. 1226. Section 71-5707, Revised Statutes Cumulative  
11 Supplement, 2006, is amended to read:

12 71-5707 (1) No person shall smoke in a public place  
13 or at a public meeting except in designated smoking areas. This  
14 subsection does not apply in cases in which an entire room or hall  
15 is used for a private social function and seating arrangements are  
16 under the control of the sponsor of the function and not of the  
17 proprietor or person in charge of such room or hall.

18 (2) With respect to factories, warehouses, and similar  
19 places of work not usually frequented by the general public, the  
20 ~~Department of Health and Human Services Regulation and Licensure~~  
21 Health and Human Services System shall, in consultation with  
22 the Department of Labor, establish rules to restrict or prohibit  
23 smoking in those places of work where the close proximity of  
24 workers or the inadequacy of ventilation causes smoke pollution  
25 detrimental to the health and comfort of nonsmoking employees.

26 (3) No person shall smoke at a site where child care  
27 programs required to be licensed under section 71-1911 are

1 provided. This subsection applies to a child care program located  
2 in the home of the provider only during times one or more client's  
3 children are present in any part of the home.

4 (4) Smoking is prohibited in all vehicles owned or leased  
5 by the state and in all buildings, and the area within ten feet  
6 of any entrance of such buildings, which are owned, leased, or  
7 occupied by the state except as provided in subsections (5), (6),  
8 and (7) of this section.

9 (5) The following buildings or areas within buildings in  
10 which persons reside or lodge may be exempt from this section:

- 11 (a) Nebraska veterans homes established pursuant to section 80-315;  
12 (b) private residences; (c) facilities and institutions under the  
13 control of the ~~Department of Health and Human Services~~, Health and  
14 Human Services System; and (d) overnight lodging facilities and  
15 buildings managed by the Game and Parks Commission, but no more  
16 than twenty-five percent of the overnight lodging facilities at  
17 each park location shall permit smoking.

18 (6) Designated smoking areas not to exceed fifty percent  
19 of the space used by the public may be established in state-owned  
20 buildings at the Nebraska State Fairgrounds that possess a Class C,  
21 I, or M license for the sale of alcoholic liquor for consumption on  
22 the premises under the Nebraska Liquor Control Act.

23 (7) Smoking may be permitted in no more than forty  
24 percent of the residential housing rooms or units owned or leased  
25 on each campus under the control of the Board of Regents of the  
26 University of Nebraska or the Board of Trustees of the Nebraska  
27 State Colleges.

1           Sec. 1227. Section 71-5710, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           71-5710 ~~The Department of Health and Human Services~~  
4 ~~Regulation and Licensure shall, not later than January 1, 1980,~~  
5 Health and Human Services System shall adopt and promulgate  
6 rules and regulations necessary and reasonable to implement the  
7 provisions of sections 71-5701 to 71-5713. ~~The Department of~~  
8 ~~Health and Human Services Regulation and Licensure system shall~~  
9 consult with interested persons and professional organizations  
10 before promulgating such rules and regulations.

11           Sec. 1228. Section 71-5711, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           71-5711 ~~The Department of Health and Human Services~~  
14 ~~Regulation and Licensure~~ Health and Human Services System may, upon  
15 request, waive the provisions of sections 71-5701 to 71-5713 if it  
16 determines there are compelling reasons to do so and a waiver will  
17 not significantly affect the health and comfort of nonsmokers.

18           Sec. 1229. Section 71-5713, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20           71-5713 ~~The Department of Health and Human Services~~  
21 ~~Regulation and Licensure~~ Health and Human Services System or a  
22 local public health department as defined in section 71-1626  
23 may institute an action in any court with jurisdiction to  
24 enjoin any violation of the Nebraska Clean Indoor Air Act. Any  
25 interested party may report possible violations of the act to ~~such~~  
26 ~~departments.~~ such system or department.

27           Sec. 1230. Section 71-5714, Revised Statutes Cumulative



1 Supplement, 2006, is amended to read:

2           71-5714 The Tobacco Prevention and Control Cash Fund  
3 is created. The fund shall be used for a comprehensive statewide  
4 tobacco-related public health program administered by the  
5 ~~Department of Health and Human Services Regulation and Licensure~~  
6 Health and Human Services System which includes, but is not limited  
7 to (1) community programs to reduce tobacco use, (2) chronic  
8 disease programs, (3) school programs, (4) statewide programs,  
9 (5) enforcement, (6) counter marketing, (7) cessation programs,  
10 (8) surveillance and evaluation, and (9) administration. Any  
11 money in the Tobacco Prevention and Control Cash Fund available  
12 for investment shall be invested by the state investment officer  
13 pursuant to the Nebraska Capital Expansion Act and the Nebraska  
14 State Funds Investment Act.

15           Sec. 1231. Section 71-5715, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17           71-5715 (1) The Teen Tobacco Education and Prevention  
18 Project is created. The purpose of the project is to provide  
19 scholarships for high school students who design creative project  
20 proposals to aid in the prevention, reduction, and cessation of  
21 teen smoking and to provide award money for the sponsors of such  
22 proposals.

23           (2) The Teen Tobacco Education and Prevention Project  
24 Committee is created. The committee shall develop criteria for the  
25 submission of project proposals and shall select winning project  
26 proposals pursuant to subsection (4) of this section and rules  
27 and regulations adopted and promulgated under this section. The

1 committee shall be appointed by the Governor and shall have no  
2 more than fifteen members. Committee members shall include (a) high  
3 school teachers or advisors, (b) one high school student from each  
4 category of school listed in subsection (4) of this section, (c) a  
5 physician, (d) persons with advertising or broadcasting expertise,  
6 (e) tobacco control advocates, (f) public health representatives,  
7 and (g) business persons. Any vacancy on the committee shall  
8 be filled in the same manner as the initial appointment. The  
9 ~~Department of Health and Human Services~~ Health and Human Services  
10 System shall provide staff support for the committee. Committee  
11 members shall be reimbursed for their actual and necessary expenses  
12 as provided in sections 81-1174 to 81-1177.

13 (3) On or before December 31 of each year prior to 2003,  
14 high school students who reside or attend school in Nebraska may  
15 submit project proposals to the committee. Each project proposal  
16 shall be designed and developed, by no more than four high school  
17 students, to be implemented statewide or in the school, community,  
18 or geographic area where such students reside or attend school.  
19 Project proposals may include programs, advertisement campaigns,  
20 small group projects, conferences, seminars, billboards, pamphlets,  
21 productions, television advertisements, radio advertisements,  
22 promotional ideas, or any other innovative concept the purpose of  
23 which is to help reduce, prevent, or stop teen smoking. The budget  
24 for each project proposal shall not exceed one hundred thousand  
25 dollars. The ~~Department of Health and Human Services~~ system shall  
26 use all reasonable efforts to promote the program and shall provide  
27 at least one application to each high school in the state.

1                   (4) By March 1 of each year prior to 2004, the committee  
2 shall select four winning project proposals from among those  
3 submitted: (a) One from a school with a membership of less than  
4 one hundred twenty-five students in grades nine through twelve, (b)  
5 one from a school with a membership of less than three hundred  
6 twenty but at least one hundred twenty-five students in grades  
7 nine through twelve, (c) one from a school with a membership of  
8 less than one thousand fifty but at least three hundred twenty  
9 students in grades nine through twelve, and (d) one from a school  
10 with a membership of one thousand fifty or more students in grades  
11 nine through twelve. The designers of the winning project proposals  
12 shall each be awarded a five-thousand-dollar scholarship and shall  
13 oversee the implementation of such project proposals statewide or  
14 in their school, community, or geographic area. The sponsor of  
15 each winning project proposal shall also be awarded five thousand  
16 dollars. The ~~Department of Health and Human Services~~ system shall  
17 oversee and administer the sponsorship awards provided in this  
18 section.

19                   (5) The ~~Department of Health and Human Services~~ system  
20 shall adopt and promulgate rules and regulations as necessary to  
21 carry out the duties set forth in subsections (1) through (4) of  
22 this section.

23                   (6) The Coordinating Commission for Postsecondary  
24 Education shall oversee and administer the scholarships provided in  
25 this section. Scholarships may only be used by an eligible student  
26 for educational expenses at an eligible postsecondary educational  
27 institution as defined under the Nebraska Scholarship Act. The

1 commission shall adopt and promulgate rules and regulations as  
2 necessary to carry out the duties set forth in this subsection.

3 (7) The ~~Department of Health and Human Services~~ system  
4 shall annually review the Teen Tobacco Education and Prevention  
5 Project and submit a report of such review to the Governor and  
6 Legislature on or before December 31 of each year prior to 2004.

7 Sec. 1232. Section 71-5803.03, Reissue Revised Statutes  
8 of Nebraska, is amended to read:

9 71-5803.03 Certificate of need means a written  
10 authorization by the ~~department~~ system for a person to implement  
11 the project under review.

12 Sec. 1233. Section 71-5803.04, Reissue Revised Statutes  
13 of Nebraska, is amended to read:

14 71-5803.04 System means the Health and Human Services  
15 System. ~~Department means the Department of Health and Human~~  
16 ~~Services Regulation and Licensure.~~

17 Sec. 1234. Section 71-5829.04, Reissue Revised Statutes  
18 of Nebraska, is amended to read:

19 71-5829.04 (1) All long-term care beds which require a  
20 certificate of need under section 71-5829.03 are subject to a  
21 moratorium unless one of the following exceptions applies:

22 (a) An exception to the moratorium may be granted if  
23 the ~~department~~ system establishes that the needs of individuals  
24 whose medical and nursing needs are complex or intensive and are  
25 above the level of capabilities of staff and above the services  
26 ordinarily provided in a long-term care bed are not currently being  
27 met by the long-term care beds licensed in the health planning

1 region; or

2 (b) If the average occupancy for all licensed long-term  
3 care beds located in a twenty-five mile radius of the proposed  
4 site have exceeded ninety percent occupancy during the most recent  
5 three consecutive calendar quarters as reported at the time of  
6 the application filing and there is a long-term care bed need as  
7 determined by the formula in this section, the ~~department~~ system  
8 may grant an exception to the moratorium and issue a certificate of  
9 need. If the ~~department~~ system determines average occupancy for all  
10 licensed long-term care beds located in a twenty-five mile radius  
11 of the proposed site has not exceeded ninety percent occupancy  
12 during the most recent three consecutive calendar quarters as  
13 reported at the time of the application filing, the ~~department~~  
14 system shall deny the application.

15 (2) The ~~department~~ system shall review applications  
16 which require a certificate of need under section 71-5829.03  
17 and determine if there is a need for additional long-term care  
18 beds based on the following formula: Long-term care bed need is  
19 equal to the population, multiplied by the utilization rate goal,  
20 and the result divided by the minimum occupancy rate goal. No such  
21 application shall be approved if the current supply of licensed  
22 long-term care beds in the health planning region of the proposed  
23 site exceeds the long-term care bed need for that health planning  
24 region, determined by aggregating the long-term care bed need  
25 established for each sex and age group using the formula.

26 In reaching this determination:

27 (a) The population includes the total population of the

1 health planning region of the proposed site, disaggregated into  
2 the following age categories: Birth through sixty-four years of  
3 age, sixty-five years of age through seventy-four years of age,  
4 seventy-five years of age through eighty-four years of age, and  
5 eighty-five years of age and over. Each listed age category shall  
6 be further categorized by gender. The most recent population  
7 projections available from the ~~department~~ system for the year which  
8 is closest to the fifth year following the date of the application  
9 shall be used to determine the population used in the formula;

10 (b) The utilization rate goal is the number of people  
11 using long-term care beds per one thousand persons living in the  
12 health planning region in which the proposed project is located.  
13 Such utilization rate shall be computed for each of the population  
14 categories listed in subdivision (2)(a) of this section and based  
15 on the most current utilization data available from the ~~department~~;  
16 system; and

17 (c) The minimum occupancy rate goal is ninety-five  
18 percent for health planning regions which are part of or contain  
19 a Metropolitan Statistical Area as defined by the United States  
20 Bureau of the Census. For all other health planning regions in the  
21 state, the minimum occupancy rate goal is ninety percent.

22 Sec. 1235. Section 71-5829.05, Reissue Revised Statutes  
23 of Nebraska, is amended to read:

24 71-5829.05 If two or more applications are submitted  
25 within thirty days after the receipt of the first application  
26 for the same health planning region and the approval of all  
27 the applications would result in long-term care beds in the

1 health planning region in excess of the long-term care bed need  
2 established in section 71-5829.04, the ~~department~~ system shall  
3 grant the application and issue a certificate of need, subject  
4 to any reduction in beds required by section 71-5846 to the  
5 applicant which is better able to: (1) Provide quality care; (2)  
6 operate a long-term care facility in a cost-effective manner based  
7 on annual cost reports submitted to the ~~Department of Health~~  
8 ~~and Human Services Finance and Support;~~ system; (3) accumulate  
9 financial resources to complete the project; and (4) serve  
10 medicare, medicaid, and medically indigent long-term care patients  
11 in the area. The ~~department~~ system shall show a preference to  
12 an application filed by an applicant with facilities in Nebraska.  
13 Information to make these determinations shall be limited to the  
14 application and data currently collected by the state. If the  
15 applicant does not have a facility in Nebraska, the ~~department~~  
16 system may request information from other states in which the  
17 applicant is offering services to make its determination.

18           Sec. 1236. Section 71-5829.06, Reissue Revised Statutes  
19 of Nebraska, is amended to read:

20           71-5829.06 All rehabilitation beds which require a  
21 certificate of need are subject to a moratorium, except under  
22 the following condition: If the average occupancy for all  
23 rehabilitation beds located in Nebraska has exceeded ninety  
24 percent occupancy during the most recent three consecutive calendar  
25 quarters as reported at the time of the filing of the application,  
26 the ~~department~~ system may grant an exception to the moratorium and  
27 issue a certificate of need. If the ~~department~~ system determines

1 the average occupancy for all rehabilitation beds located in  
2 Nebraska does not exceed ninety percent occupancy during the most  
3 recent three consecutive calendar quarters as reported at the time  
4 of the filing of the application, the ~~department~~ system shall deny  
5 the application.

6 Sec. 1237. Section 71-5836, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 71-5836 The ~~department~~, system, after consulting with  
9 appropriate governmental agencies and affected persons, shall:

10 (1) Prescribe the form to be used in applying for  
11 certificates of need and for applying for renewal of such  
12 certificates. The application shall contain (a) the name and  
13 address of the sponsor, (b) the anticipated date for placing the  
14 beds in service, (c) the location, (d) the number of new beds, (e)  
15 a concise, narrative description of the project showing the type  
16 and description of proposed acute care beds, rehabilitation beds,  
17 or long-term care beds, and (f) the certification and telephone  
18 number of a responsible officer; and

19 (2) By rule and regulation describe and clarify the  
20 procedures to be followed in the review of an application. Such  
21 procedures shall be issued with each application form.

22 Sec. 1238. Section 71-5837, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 71-5837 An application for a certificate of need shall  
25 be filed with the ~~department~~, system. All applications for a  
26 certificate of need shall be accompanied by a one-thousand-dollar  
27 nonrefundable fee. Such fee shall be remitted to the State



1 Treasurer for credit to the General Fund.

2           Sec. 1239. Section 71-5846, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           71-5846 The ~~department~~ system shall make a decision in  
5 writing to (1) approve the application and issue a certificate  
6 of need, (2) disapprove the application and deny a certificate of  
7 need, or (3) if the application is for more long-term care beds  
8 than allowed under section 71-5829.04, approve the application but  
9 issue a certificate of need only for the reduced number of beds  
10 that section 71-5829.04 allows. The ~~department~~ system shall make  
11 its decision within sixty days after the date the application was  
12 received.

13           Sec. 1240. Section 71-5848, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15           71-5848 The ~~department~~ system shall, when it approves or  
16 rejects an application, provide in writing to the applicant the  
17 decision and the findings and conclusions on which it based the  
18 decision.

19           Sec. 1241. Section 71-5848.01, Reissue Revised Statutes  
20 of Nebraska, is amended to read:

21           71-5848.01 A new or modified certificate of need shall be  
22 valid for a period of one year from the date of issuance and may  
23 be renewed at the expiration of such period for up to one year  
24 if the holder of the certificate establishes that the holder is  
25 meeting the timetable or making a good faith effort to meet it.  
26 The ~~department~~ system shall give written notice to an applicant  
27 for a renewal certificate of its decision within thirty days after

1 receipt of an application. Such decision shall be considered a  
2 final decision of the ~~department~~ system for purposes of appeal. If  
3 the decision is not appealed, it shall be final as of the date  
4 issued.

5           Sec. 1242. Section 71-5859, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           71-5859 The ~~department~~ system shall adopt and promulgate  
8 rules and regulations establishing procedures in accordance with  
9 the Administrative Procedure Act by which the applicant may appeal  
10 a decision by the ~~department~~ to the Director of Regulation and  
11 ~~Licensure-~~ system. The applicant may appeal a final decision of  
12 the ~~director~~ system to the district court in accordance with the  
13 Administrative Procedure Act.

14           Sec. 1243. Section 71-5868, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           71-5868 The ~~department~~ system may, in accordance with the  
17 laws of the state governing injunctions and other process, maintain  
18 an action in the name of the state against any person who is  
19 engaging in an activity identified as requiring a certificate of  
20 need under the Nebraska Health Care Certificate of Need Act without  
21 first having a valid certificate of need or who is engaging in an  
22 activity prohibited under the act.

23           Sec. 1244. Section 71-5869, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           71-5869 (1) A license or permit which has been issued  
26 by the ~~department~~ system under the Health Care Facility Licensure  
27 Act or any other state statute to a health care facility which

1 engaged in an activity identified as requiring a certificate of  
2 need under the Nebraska Health Care Certificate of Need Act without  
3 having first obtained a certificate of need or which engaged in  
4 an activity prohibited under the act is subject to revocation  
5 or suspension. Nothing contained in this section shall limit the  
6 rights of appeal of a health care facility from such decision as  
7 provided in the Health Care Facility Licensure Act.

8 (2) No license or permit may be issued or renewed by the  
9 ~~department~~ system under the Health Care Facility Licensure Act or  
10 any other state statute, nor may any type of approval be granted  
11 to any health care facility which engaged in an activity identified  
12 as requiring a certificate of need under the Nebraska Health Care  
13 Certificate of Need Act without having first obtained a certificate  
14 of need or which engaged in an activity prohibited under the act.

15 Sec. 1245. Section 71-5903, Revised Statutes Cumulative  
16 Supplement, 2006, is amended to read:

17 71-5903 For purposes of the Assisted-Living Facility Act:

18 (1) Activities of daily living means transfer,  
19 ambulation, exercise, toileting, eating, self-administration of  
20 medication, and similar activities;

21 (2) Administrator means the operating officer of an  
22 assisted-living facility and includes a person with a title such  
23 as administrator, chief executive officer, manager, superintendent,  
24 director, or other similar designation;

25 (3) Assisted-living facility has the same meaning as in  
26 section 71-406;

27 (4) Authorized representative means (a) a person holding

1 a durable power of attorney for health care, (b) a guardian, or (c)  
2 a person appointed by a court to manage the personal affairs of a  
3 resident of an assisted-living facility other than the facility;

4 (5) Chemical restraint means a psychopharmacologic drug  
5 that is used for discipline or convenience and is not required to  
6 treat medical symptoms;

7 (6) Complex nursing interventions means interventions  
8 which require nursing judgment to safely alter standard procedures  
9 in accordance with the needs of the resident, which require nursing  
10 judgment to determine how to proceed from one step to the next,  
11 or which require a multidimensional application of the nursing  
12 process. Complex nursing interventions does not include a nursing  
13 assessment;

14 ~~(7) Department means the Department of Health and Human~~  
15 ~~Services Regulation and Licensure;~~

16 ~~(8)~~ (7) Health maintenance activities means noncomplex  
17 interventions which can safely be performed according to exact  
18 directions, which do not require alteration of the standard  
19 procedure, and for which the results and resident responses are  
20 predictable;

21 ~~(9)~~ (8) Personal care means bathing, hair care, nail  
22 care, shaving, dressing, oral care, and similar activities;

23 ~~(10)~~ (9) Physical restraint means any manual method or  
24 physical or mechanical device, material, or equipment attached or  
25 adjacent to the resident's body that he or she cannot remove easily  
26 and that restricts freedom of movement or normal access to his or  
27 her own body; ~~and~~

1           ~~(11)~~ (10) Stable or predictable means that a resident's  
2 clinical and behavioral status and nursing care needs are  
3 determined to be (a) nonfluctuating and consistent or (b)  
4 fluctuating in an expected manner with planned interventions,  
5 including an expected deteriorating condition; and -

6           (11) System means the Health and Human Services System.

7           Sec. 1246. Section 71-5906, Revised Statutes Cumulative  
8 Supplement, 2006, is amended to read:

9           71-5906 (1) On and after January 1, 2005, every person  
10 seeking admission to an assisted-living facility or the authorized  
11 representative of such person shall, upon admission and annually  
12 thereafter, provide the facility with a list of drugs, devices,  
13 biologicals, and supplements being taken or being used by the  
14 person, including dosage, instructions for use, and reported use.

15           (2) Every person residing in an assisted-living facility  
16 on January 1, 2005, or the authorized representative of such  
17 person shall, within sixty days after January 1, 2005, and annually  
18 thereafter, provide the facility with a list of drugs, devices,  
19 biologicals, and supplements being taken or being used by such  
20 person, including dosage, instructions for use, and reported use.

21           (3) An assisted-living facility shall not be subject to  
22 disciplinary action by the ~~department~~ system for the failure of any  
23 person seeking admission to or residing at such facility or the  
24 authorized representative of such person to comply with subsections  
25 (1) and (2) of this section.

26           (4) Each assisted-living facility shall provide for a  
27 registered nurse to review medication administration policies and

1 procedures and to be responsible for the training of medication  
2 aides at such facility.

3           Sec. 1247. Section 71-5908, Revised Statutes Cumulative  
4 Supplement, 2006, is amended to read:

5           71-5908 The ~~department~~ system shall adopt and promulgate  
6 rules and regulations necessary to carry out the Assisted-Living  
7 Facility Act, including, but not limited to, rules and regulations  
8 which:

9           (1) Prohibit the use of chemical or physical restraints  
10 at an assisted-living facility;

11           (2) Require that a criminal background check be conducted  
12 on all persons employed as direct care staff at an assisted-living  
13 facility;

14           (3) Establish initial and ongoing training requirements  
15 for administrators and approved curriculum for such training. Such  
16 requirements shall consist of thirty hours of initial training,  
17 including, but not limited to, training in resident care and  
18 services, social services, financial management, administration,  
19 gerontology, and rules, regulations, and standards relating to  
20 the operation of an assisted-living facility. The ~~department~~  
21 system may waive initial training requirements established under  
22 this subdivision for persons employed as administrators of  
23 assisted-living facilities on January 1, 2005, upon application  
24 to the ~~department~~ system and documentation of equivalent training  
25 or experience satisfactory to the ~~department.~~ system. Training  
26 requirements established under this subdivision shall not apply to  
27 an administrator who is also a nursing home administrator or a

1 hospital administrator; and

2 (4) Provide for acceptance of accreditation by a  
3 recognized independent accreditation body or public agency, which  
4 has standards that are at least as stringent as those of the  
5 State of Nebraska, as evidence that the assisted-living facility  
6 complies with rules and regulations adopted and promulgated under  
7 the Assisted-Living Facility Act.

8 Sec. 1248. Section 71-6010, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 71-6010 System means the Health and Human Services  
11 System. Department shall mean the Department of Health and Human  
12 Services Regulation and Licensure.

13 Sec. 1249. Section 71-6018.01, Reissue Revised Statutes  
14 of Nebraska, is amended to read:

15 71-6018.01 (1) Unless a waiver is granted pursuant to  
16 subsection (2) of this section, a nursing facility shall use the  
17 services of (a) a licensed registered nurse for at least eight  
18 consecutive hours per day, seven days per week and (b) a licensed  
19 registered nurse or licensed practical nurse on a twenty-four-hour  
20 basis seven days per week. Except when waived under subsection  
21 (2) of this section, a nursing facility shall designate a licensed  
22 registered nurse or licensed practical nurse to serve as a charge  
23 nurse on each tour of duty. The Director of Nursing Services shall  
24 be a licensed registered nurse, and this requirement shall not be  
25 waived. The Director of Nursing Services may serve as a charge  
26 nurse only when the nursing facility has an average daily occupancy  
27 of sixty or fewer residents.

1           (2) The ~~department~~ system may waive either the  
2 requirement that a nursing facility or long-term care hospital  
3 certified under Title XIX of the federal Social Security Act, as  
4 amended, use the services of a licensed registered nurse for at  
5 least eight consecutive hours per day, seven days per week, or  
6 the requirement that a nursing facility or long-term care hospital  
7 certified under Title XIX of the federal Social Security Act,  
8 as amended, use the services of a licensed registered nurse or  
9 licensed practical nurse on a twenty-four-hour basis seven days per  
10 week, including the requirement for a charge nurse on each tour  
11 of duty, if:

12           (a)(i) The facility or hospital demonstrates to the  
13 satisfaction of the ~~department~~ system that it has been unable,  
14 despite diligent efforts, including offering wages at the community  
15 prevailing rate for the facilities or hospitals, to recruit  
16 appropriate personnel;

17           (ii) The ~~department~~ system determines that a waiver  
18 of the requirement will not endanger the health or safety of  
19 individuals staying in the facility or hospital; and

20           (iii) The ~~department~~ system finds that, for any periods  
21 in which licensed nursing services are not available, a licensed  
22 registered nurse or physician is obligated to respond immediately  
23 to telephone calls from the facility or hospital; or

24           (b) The ~~Department of Health and Human Services Finance~~  
25 ~~and Support~~ system has been granted any waiver by the federal  
26 government of staffing standards for certification under Title  
27 XIX of the federal Social Security Act, as amended, and the



1 requirements of subdivisions (a)(ii) and (iii) of this subsection  
2 have been met.

3 (3) The ~~Department of Health and Human Services Finance~~  
4 ~~and Support~~ system shall apply for such a waiver from the federal  
5 government to carry out subdivision (1)(b) of this section.

6 (4) A waiver granted under this section shall be subject  
7 to annual review by the ~~department-~~ system. As a condition of  
8 granting or renewing a waiver, a facility or hospital may  
9 be required to employ other qualified licensed personnel. The  
10 ~~department~~ system may grant a waiver under this section if it  
11 determines that the waiver will not cause the State of Nebraska to  
12 fail to comply with any of the applicable requirements of medicaid  
13 so as to make the state ineligible for the receipt of all funds to  
14 which it might otherwise be entitled.

15 (5) The ~~department~~ system shall provide notice of the  
16 granting of a waiver to the office of the state long-term care  
17 ombudsman and to the Nebraska Advocacy Services or any successor  
18 designated for the protection of and advocacy for persons with  
19 mental illness or mental retardation. A nursing facility granted a  
20 waiver shall provide written notification to each resident of the  
21 facility or, if appropriate, to the guardian, legal representative,  
22 or immediate family of the resident.

23 Sec. 1250. Section 71-6018.02, Reissue Revised Statutes  
24 of Nebraska, is amended to read:

25 71-6018.02 (1) Unless a waiver is granted pursuant to  
26 subsection (2) of this section, a skilled nursing facility shall  
27 use the services of (a) a licensed registered nurse for at least

1 eight consecutive hours per day, seven days per week and (b)  
2 a licensed registered nurse or licensed practical nurse on a  
3 twenty-four-hour basis seven days per week. Except when waived  
4 under subsection (2) of this section, a skilled nursing facility  
5 shall designate a licensed registered nurse or licensed practical  
6 nurse to serve as a charge nurse on each tour of duty. The Director  
7 of Nursing Services shall be a licensed registered nurse, and this  
8 requirement shall not be waived. The Director of Nursing Services  
9 may serve as a charge nurse only when the skilled nursing facility  
10 has an average daily occupancy of sixty or fewer residents.

11 (2) The ~~department~~ system may waive the evening and  
12 night staffing requirements for skilled nursing facilities or for  
13 long-term care hospitals certified under Title XVIII of the federal  
14 Social Security Act, as amended, except the requirement that the  
15 Director of Nursing Services be a licensed registered nurse, if:

16 (a) The facility or hospital demonstrates to the  
17 satisfaction of the ~~department~~ system that it has been unable,  
18 despite diligent efforts, to hire enough licensed registered nurses  
19 and licensed practical nurses to fulfill such requirements. For  
20 purposes of this subdivision, diligent efforts include, but are not  
21 limited to, offering wages equal to or greater than the community  
22 prevailing wage rate being paid such nurses at nursing facilities;

23 (b) The ~~department~~ system determines that a waiver of the  
24 requirement will not endanger the health or safety of residents of  
25 the facility or hospital; and

26 (c) The ~~department~~ system finds that, for any period in  
27 which staffing requirements cannot be met, a licensed registered

1 nurse or a physician is obligated to respond immediately to  
2 telephone calls from the facility or hospital.

3 A waiver granted under this subsection shall be subject  
4 to annual review by the ~~department~~ system. As a condition of  
5 granting or renewing a waiver, a facility or hospital may be  
6 required to employ other qualified licensed personnel.

7 (3) The ~~department~~ system may waive the requirement that  
8 a skilled nursing facility or long-term care hospital certified  
9 under Title XVIII of the federal Social Security Act, as amended,  
10 provide a licensed registered nurse on duty at the facility or  
11 hospital for more than forty hours per week if:

12 (a) The facility or hospital is located in a nonurban  
13 area where the supply of skilled nursing facility services is not  
14 sufficient to meet the needs of individuals residing in the area;

15 (b) The facility or hospital has one full-time licensed  
16 registered nurse who is regularly on duty at the facility or  
17 hospital forty hours per week; and

18 (c) The facility or hospital (i) has only patients whose  
19 physicians have indicated through orders or admission or progress  
20 notes that the patients do not require the services of a licensed  
21 registered nurse or a physician for more than forty hours per week  
22 or (ii) has made arrangements for a licensed registered nurse or a  
23 physician to spend time at the facility or hospital, as determined  
24 necessary by the physician, to provide the necessary services on  
25 days when the regular, full-time licensed registered nurse is not  
26 on duty.

27 A waiver may be granted under this subsection for a

1 period of up to one year by the ~~department,~~ system.

2           Sec. 1251. Section 71-6019, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           71-6019 Any employee, representative, or agent of the  
5 ~~Department of Health and Human Services,~~ system, the office of  
6 the state long-term care ombudsman, a law enforcement agency, or  
7 the local county attorney shall be permitted access at any hour  
8 to any resident of any nursing home. Friends and relatives of  
9 a resident shall have access during normal visiting and business  
10 hours of the facility. Representatives of community legal services  
11 programs, volunteers, and members of community organizations shall  
12 have access, after making arrangements with proper personnel of the  
13 home, during regular visiting and business hours if the purpose of  
14 such access is to:

15           (1) Visit, talk with, and make personal, social, and  
16 legal services available to all residents;

17           (2) Inform residents of their rights and entitlements and  
18 their corresponding obligations under federal and state laws by  
19 means of educational materials and discussions in groups and with  
20 individual residents;

21           (3) Assist residents in asserting their legal rights  
22 regarding claims for public assistance, medical assistance, and  
23 social security benefits, as well as in all other matters in which  
24 residents are aggrieved. Assistance may include counseling and  
25 litigation; or

26           (4) Engage in other methods of asserting, advising, and  
27 representing residents so as to extend to them full enjoyment of

1 their rights.

2           Sec. 1252. Section 71-6021, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           71-6021 (1) Notwithstanding the provisions of sections  
5 71-6019 and 71-6020, the administrator of a nursing home may refuse  
6 access to the nursing home to any person if the presence of such  
7 person in the nursing home would be injurious to the health and  
8 safety of a resident or would threaten the security of the property  
9 of a resident or the nursing home or if the person seeks access  
10 to the nursing home for commercial purposes. Any person refused  
11 access to a nursing home may, within thirty days of such refusal,  
12 request a hearing by the ~~department,~~ system. The wrongful refusal  
13 of a nursing home to grant access to any person as required in  
14 sections 71-6019 and 71-6020 shall constitute a violation of the  
15 Nebraska Nursing Home Act. A nursing home may appeal any citation  
16 issued pursuant to this section in the manner provided in sections  
17 71-452 to 71-455.

18           (2) Nothing in sections 71-6019 to 71-6021 shall be  
19 construed to prevent (a) an employee of the ~~Department of~~  
20 ~~Health and Human Services,~~ the Department of Health and Human  
21 ~~Services Regulation and Licensure,~~ or the Department of Health  
22 ~~and Human Services Finance and Support,~~ system, acting in his  
23 or her official capacity, from entering a nursing home for  
24 any inspection authorized by the act or any rule or regulation  
25 adopted and promulgated pursuant thereto or (b) a state long-term  
26 care ombudsman or an ombudsman advocate, acting in his or her  
27 official capacity, from entering a nursing home to conduct an

1 investigation authorized by any rules and regulations promulgated  
2 by the ~~Department of Health and Human Services~~, system.

3           Sec. 1253. Section 71-6023.01, Reissue Revised Statutes  
4 of Nebraska, is amended to read:

5           71-6023.01 A nursing home seeking or renewing a license  
6 shall be required to retain a resident whose economic status  
7 changes so that such resident receives medicaid or becomes eligible  
8 for medicaid if such resident has resided in the nursing home for  
9 a period of at least one year after July 17, 1986, unless ten  
10 percent of such nursing home's residents are receiving medicaid  
11 or are eligible for medicaid. Such requirement shall constitute  
12 a condition of licensure. The ~~department~~ system shall notify the  
13 nursing home of such requirement ninety days prior to the renewal  
14 of a license or upon application for a license. For purposes of  
15 this section, nursing homes shall include long-term care hospitals,  
16 including long-term care units of a hospital. This section shall  
17 not apply to the Nebraska veterans homes established pursuant to  
18 Chapter 80, article 3.

19           Sec. 1254. Section 71-6038, Revised Statutes Cumulative  
20 Supplement, 2006, is amended to read:

21           71-6038 For purposes of sections 71-6038 to 71-6042:

22           (1) Complicated feeding problems include, but are not  
23 limited to, difficulty swallowing, recurrent lung aspirations, and  
24 tube or parenteral or intravenous feedings;

25           ~~(2) Department means the Department of Health and Human~~  
26 ~~Services Regulation and Licensure;~~

27           ~~(3)~~ (2) Nursing assistant means any person employed by

1 a nursing home for the purpose of aiding a licensed registered  
2 or practical nurse through the performance of nonspecialized tasks  
3 related to the personal care and comfort of residents other than a  
4 paid dining assistant or a licensed registered or practical nurse;

5 ~~(4)~~ (3) Nursing home means any facility or a distinct  
6 part of any facility that provides care as defined in sections  
7 71-420, 71-421, 71-422, 71-424, and 71-429; ~~and~~

8 ~~(5)~~ (4) Paid dining assistant means any person employed  
9 by a nursing home for the purpose of aiding a licensed registered  
10 or practical nurse through the feeding of residents other than a  
11 nursing assistant or a licensed registered or practical nurse; and

12 -

13 (5) System means the Health and Human Services System.

14 Sec. 1255. Section 71-6039, Revised Statutes Cumulative  
15 Supplement, 2006, is amended to read:

16 71-6039 (1) No person shall act as a nursing assistant in  
17 a nursing home unless such person:

18 (a) Is at least sixteen years of age and has not been  
19 convicted of a crime involving moral turpitude;

20 (b) Is able to speak and understand the English language  
21 or a language understood by a substantial portion of the nursing  
22 home residents; and

23 (c) Has successfully completed a basic course of training  
24 approved by the ~~department~~ system for nursing assistants within  
25 one hundred twenty days of initial employment in the capacity of  
26 a nursing assistant at any nursing home if employment begins after  
27 January 1, 1984.

1                   (2) The ~~department~~ system may prescribe a curriculum  
2 for training nursing assistants and may adopt and promulgate  
3 rules and regulations for such courses of training. The content  
4 of the courses of training and competency evaluation programs  
5 shall be consistent with federal requirements unless exempted.  
6 The ~~department~~ system may approve courses of training if such  
7 courses of training meet the requirements of this section. Such  
8 courses of training shall include instruction on the responsibility  
9 of each nursing assistant to report suspected abuse or neglect  
10 pursuant to sections 28-372 and 28-711. Nursing homes may carry  
11 out approved courses of training within the nursing home, except  
12 that nursing homes may not conduct the competency evaluation part  
13 of the program. The prescribed training shall be administered by a  
14 licensed registered nurse.

15                   (3) For nursing assistants at intermediate care  
16 facilities for the mentally retarded, such courses of training  
17 shall be no less than twenty hours in duration and shall include  
18 at least fifteen hours of basic personal care training and five  
19 hours of basic therapeutic and emergency procedure training, and  
20 for nursing assistants at all nursing homes other than intermediate  
21 care facilities for the mentally retarded, such courses shall be no  
22 less than seventy-five hours in duration.

23                   (4) This section shall not prohibit any facility from  
24 exceeding the minimum hourly or training requirements.

25                   Sec. 1256. Section 71-6039.01, Revised Statutes  
26 Cumulative Supplement, 2006, is amended to read:

27                   71-6039.01 No person shall act as a paid dining assistant



1 in a nursing home unless such person:

2 (1) Is at least sixteen years of age;

3 (2) Is able to speak and understand the English language  
4 or a language understood by the nursing home resident being fed by  
5 such person;

6 (3) Has successfully completed at least eight hours of  
7 training as prescribed by the ~~department~~ system for paid dining  
8 assistants;

9 (4) Has no adverse findings on the Nurse Aide Registry or  
10 the Adult Protective Services Central Registry; and

11 (5) Has no adverse findings on the central register  
12 created in section 28-718 if the nursing home which employs such  
13 person as a paid dining assistant has at any one time more than one  
14 resident under the age of nineteen years.

15 Sec. 1257. Section 71-6039.03, Revised Statutes  
16 Cumulative Supplement, 2006, is amended to read:

17 71-6039.03 (1) The ~~department~~ system may prescribe a  
18 curriculum for training paid dining assistants and may adopt and  
19 promulgate rules and regulations for such courses of training.  
20 Such courses shall be no less than eight hours in duration. The  
21 ~~department~~ system may approve courses of training for paid dining  
22 assistants that meet the requirements of this section. Nursing  
23 homes may carry out approved courses of training and competency  
24 evaluation programs at the nursing home. Training of paid dining  
25 assistants shall be administered by a licensed registered nurse.

26 (2) Courses of training and competency evaluation  
27 programs for paid dining assistants shall include:

- 1 (a) Feeding techniques;
- 2 (b) Assistance with feeding and hydration;
- 3 (c) Communication and interpersonal skills;
- 4 (d) Appropriate responses to resident behavior;
- 5 (e) Safety and emergency procedures, including the
- 6 abdominal thrust maneuver;
- 7 (f) Infection control;
- 8 (g) Resident rights;
- 9 (h) Recognizing changes in residents that are
- 10 inconsistent with their normal behavior and the importance of
- 11 reporting those changes to the supervisory nurse;
- 12 (i) Special needs; and
- 13 (j) Abuse and neglect, including the responsibility to
- 14 report suspected abuse or neglect pursuant to sections 28-372 and
- 15 28-711.

16 (3) This section shall not prohibit any facility from

17 exceeding the minimum hourly or training requirements.

18 Sec. 1258. Section 71-6039.04, Revised Statutes

19 Cumulative Supplement, 2006, is amended to read:

20 71-6039.04 The ~~department~~ system shall maintain a paid

21 dining assistant registry and shall include in the registry

22 individuals who have successfully completed a paid dining assistant

23 course of training and a competency evaluation program.

24 Sec. 1259. Section 71-6040, Revised Statutes Cumulative

25 Supplement, 2006, is amended to read:

26 71-6040 The ~~department~~ system shall approve all courses,

27 lectures, seminars, course materials, or other instructional

1 programs used to meet the requirements of sections 71-6038 to  
2 71-6042.

3 Sec. 1260. Section 71-6041, Revised Statutes Cumulative  
4 Supplement, 2006, is amended to read:

5 71-6041 To protect the health, safety, and welfare of  
6 nursing home residents and the public, the ~~department~~ system  
7 shall adopt and promulgate such rules and regulations as are  
8 necessary for the effective administration of sections 71-6038  
9 to 71-6042. Such rules and regulations shall be consistent with  
10 federal requirements developed by the United States Department of  
11 Health and Human Services.

12 Sec. 1261. Section 71-6042, Revised Statutes Cumulative  
13 Supplement, 2006, is amended to read:

14 71-6042 The ~~department~~ chief medical officer as  
15 designated in section 6 of this act shall have the authority to  
16 enforce sections 71-6038 to 71-6042 and rules and regulations  
17 adopted under section 71-6041 by any of the following means:  
18 Denial, suspension, restriction, or revocation of a nursing  
19 home's license, refusal of the renewal of a nursing home's  
20 license, restriction of a nursing home's admissions, or any other  
21 enforcement provision granted to the ~~department.~~ system.

22 Sec. 1262. Section 71-6043, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 71-6043 As used in sections 71-6043 to 71-6052, unless  
25 the context otherwise requires:

26 (1) Council ~~shall mean~~ means the Nursing Home Advisory  
27 Council as established by sections 71-6043 to 71-6052;

1           (2) Department ~~shall mean the Department of Health and~~  
2 ~~Human Services Regulation and Licensure;~~ means the Department of  
3 Public Health; and

4           (3) Nursing home ~~shall mean~~ means a nursing facility or a  
5 skilled nursing facility as defined in section 71-424 or 71-429.

6           Sec. 1263. Section 71-6045, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           71-6045 The council shall consist of sixteen members  
9 appointed by the Governor as follows:

10           (1) One member shall be a licensed registered nurse in  
11 the State of Nebraska;

12           (2) One member shall be a licensed physician and surgeon  
13 in the State of Nebraska;

14           (3) One member shall be a licensed dentist in the State  
15 of Nebraska;

16           (4) One member shall be a licensed pharmacist in the  
17 State of Nebraska;

18           (5) ~~One member~~ Three members shall be a representative  
19 of the Department of Health and Human Services representatives  
20 of the Health and Human Services System with interest in or  
21 responsibilities for aging, medicaid, and regulation and licensure  
22 of nursing homes programs;

23           ~~(6) One member shall be a representative of the~~  
24 ~~Department of Health and Human Services Regulation and Licensure;~~

25           ~~(7) One member shall be a representative of the~~  
26 ~~Department of Health and Human Services Finance and Support;~~

27           ~~(8)~~ (6) One member shall be a representative of an

1 agency of state or local government, other than the ~~Department~~  
2 ~~of Health and Human Services Regulation and Licensure~~, department,  
3 with interests in or responsibilities for nursing homes or programs  
4 related thereto;

5 ~~(9)~~ (7) Four members shall be laypersons representative  
6 of the public;

7 ~~(10)~~ (8) Two members shall be administrators or owners of  
8 proprietary nursing homes; and

9 ~~(11)~~ (9) Two members shall be administrators or owners of  
10 voluntary nursing homes.

11 Members serving on the operative date of this act may  
12 serve until a replacement is appointed.

13 Sec. 1264. Section 71-6048, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 71-6048 The council shall meet at least once during each  
16 calendar year and upon call of its chairperson or at the written  
17 request of a majority of its members. The council shall annually  
18 elect one of its members as chairperson and one of its members as  
19 secretary. The Director of ~~Regulation and Licensure~~ Public Health  
20 or his or her designee shall represent the department at all  
21 meetings.

22 Sec. 1265. Section 71-6053, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 71-6053 For the purpose of sections 71-6053 to 71-6068,  
25 unless the context otherwise requires:

26 (1) Accredited institution means a postsecondary  
27 educational institution approved by the board;

1           (2) Active license means a license issued by the board to  
2 an administrator who meets the continuing competency requirements  
3 and who submits the required fee;

4           (3) Administrator or nursing home administrator means  
5 any individual who meets the education and training requirements  
6 of section 71-6054 and is responsible for planning, organizing,  
7 directing, and controlling the operation of a home for the aged  
8 or infirm, a nursing home, or an integrated system or who in  
9 fact performs such functions, whether or not such functions  
10 are shared by one or more other persons. Notwithstanding this  
11 subdivision or any other provision of law, the administrator of  
12 an intermediate care facility for the mentally retarded may be  
13 either a licensed nursing home administrator or a qualified mental  
14 retardation professional;

15           (4) Administrator-in-training means a person who is  
16 undergoing training to become a nursing home administrator and  
17 is directly supervised in a home for the aged or infirm or nursing  
18 home by a certified preceptor;

19           (5) Board means the Board of Examiners in Nursing Home  
20 Administration;

21           (6) Certified preceptor means a person who is currently  
22 licensed by the State of Nebraska as a nursing home administrator,  
23 has three years of experience as a nursing home administrator, has  
24 practiced within the last two years in a home for the aged or  
25 infirm or a nursing home, and is approved by the board to supervise  
26 an administrator-in-training or a person in a mentoring program;

27           (7) Core educational requirements means courses necessary

1 for licensure as a nursing home administrator and includes  
2 courses in patient care and services, social services, financial  
3 management, administration, and rules, regulations, and standards  
4 relating to the operation of a health care facility;

5 (8) Degree or advanced degree means a baccalaureate,  
6 master's, or doctorate degree from an accredited institution and  
7 which includes studies in the core educational requirements;

8 (9) Degree or advanced degree in health care means a  
9 baccalaureate, master's, or doctorate degree from an accredited  
10 institution in health care, health care administration, or  
11 services;

12 ~~(10) Department means the Department of Health and Human~~  
13 ~~Services Regulation and Licensure;~~

14 ~~(11)~~ (10) Home for the aged or infirm or nursing home  
15 means any institution or facility licensed as a nursing facility  
16 or a skilled nursing facility by the ~~department~~ system pursuant  
17 to the Health Care Facility Licensure Act, whether proprietary or  
18 nonprofit, including, but not limited to, homes for the aged or  
19 infirm owned or administered by the federal or state government or  
20 an agency or political subdivision thereof;

21 ~~(12)~~ (11) Integrated system means a health and human  
22 services organization offering different levels of licensed care or  
23 treatment on the same premises;

24 ~~(13)~~ (12) Internship means that aspect of the educational  
25 program of the associate degree in long-term care administration  
26 which allows for practical experience in a home for the aged  
27 or infirm or nursing home and occurs under the supervision of a

1 certified preceptor;

2 ~~(14)~~ (13) License means permission to engage in nursing  
3 home administration which would otherwise be unlawful in this  
4 state in the absence of such permission and which is granted to  
5 individuals who meet prerequisites and qualifications that allow  
6 them to perform nursing home administration tasks and use the title  
7 nursing home administrator;

8 ~~(15)~~ (14) Nursing degree means a degree or diploma in  
9 nursing from an accredited program of nursing approved by the Board  
10 of Nursing;

11 ~~(16)~~ (15) Previous work experience means at least two  
12 years working full time in a nursing home or home for the aged or  
13 infirm or previous work experience in health care administration;  
14 and

15 ~~(17)~~ (16) Previous work experience in health care  
16 administration means at least two years working full time as an  
17 administrator or director of nursing of a hospital with a long-term  
18 care unit or assisted-living facility or director of nursing in a  
19 nursing home or home for the aged or infirm; and -

20 (17) System means the Health and Human Services System.

21 Sec. 1266. Section 71-6054, Revised Statutes Cumulative  
22 Supplement, 2006, is amended to read:

23 71-6054 (1)(a) The board shall issue a license to an  
24 applicant who submits (i) satisfactory evidence of completion  
25 of (A) an associate degree which includes the core educational  
26 requirements and an administrator-in-training program under a  
27 certified preceptor, (B) a degree or an advanced degree and a



1 mentoring program under a certified preceptor, (C) a nursing  
2 degree, previous work experience in health care administration,  
3 and a mentoring program under a certified preceptor, (D) a  
4 degree or an advanced degree in health care and previous work  
5 experience in health care administration, or (E) an associate  
6 degree which includes the core educational requirements, previous  
7 work experience, and a mentoring program under a certified  
8 preceptor, (ii) evidence of successful passage of the National  
9 Association of Boards of Examiners for Nursing Home Administration  
10 written examination, and (iii) his or her social security number.  
11 The board shall license administrators in accordance with sections  
12 71-6053 to 71-6068 and standards, rules, and regulations adopted  
13 and promulgated by the board pursuant to such sections. The license  
14 shall not be transferable or assignable. Each administrator shall  
15 be responsible for and oversee the operation of only one licensed  
16 facility or one integrated system, except that an administrator  
17 may make application to the board for approval to be responsible  
18 for and oversee the operations of a maximum of three licensed  
19 facilities if such facilities are located within two hours' travel  
20 time of each other or to act in the dual role of administrator  
21 and department head but not in the dual role of administrator  
22 and director of nursing. In reviewing the application, the board  
23 may consider the proximity of the facilities and the number  
24 of licensed beds in each facility. An administrator responsible  
25 for and overseeing the operations of any integrated system is  
26 subject to disciplinary action against his or her license for any  
27 regulatory violations within each system.

1                   (b) Notwithstanding the provisions of sections 71-6053  
2 to 71-6068, the board shall issue a license as a nursing  
3 home administrator to an applicant who will function as the  
4 administrator of a facility caring primarily for persons with head  
5 injuries and associated disorders who submits satisfactory evidence  
6 that he or she (i) has at least two years of experience working  
7 with persons with head injuries or severe physical disabilities,  
8 at least one of which was spent in an administrative capacity,  
9 (ii) is (A) a psychologist with at least a master's degree  
10 in psychology from an accredited college or university and has  
11 specialized training or one year of experience working with persons  
12 with traumatic head injury or severe physical disability, (B) a  
13 physician licensed under the Uniform Licensing Law to practice  
14 medicine and surgery or psychiatry and has specialized training or  
15 one year of experience working with persons with traumatic head  
16 injury or severe physical disability, (C) an educator with at  
17 least a master's degree in education from an accredited college or  
18 university and has specialized training or one year of experience  
19 working with persons with traumatic head injury or severe physical  
20 disability, or (D) a certified social worker, a certified master  
21 social worker, or a licensed mental health practitioner certified  
22 or licensed under the Uniform Licensing Law and has at least three  
23 years of social work or mental health practice experience and  
24 specialized training or one or more years of experience working  
25 with persons who have experienced traumatic head injury or are  
26 severely physically disabled, and (iii) is of good moral character.  
27 The applicant shall also provide his or her social security number.

1           A license issued pursuant to this subdivision shall  
2 be issued without examination and without the requirement of  
3 completion of an administrator-in-training or mentoring program.  
4 Such license may be renewed without the completion of any  
5 continuing competency requirements.

6           (2) Licenses may be denied, suspended, limited, refused  
7 renewal, or revoked by the ~~department~~ system for due cause which  
8 shall include: (a) Fraud in procuring a license; (b) immoral,  
9 unprofessional, or dishonorable conduct; (c) habitual intoxication  
10 or addiction to the use of drugs; (d) distribution of intoxicating  
11 liquors or drugs for other than lawful purposes; (e) conviction  
12 of a felony; (f) physical or mental incapacity to perform  
13 professional duties; (g) violation of any provision of sections  
14 71-6053 to 71-6068 or standards, rules, and regulations adopted  
15 and promulgated thereunder or of any law or standards, rules,  
16 and regulations adopted and promulgated by the ~~department~~ system  
17 relating to the proper administration and management of a home for  
18 the aged or infirm or nursing home; (h) commission of any of the  
19 acts or offenses set forth in sections 71-147 and 71-148; and (i)  
20 failure to pay the required fees. Except in cases of failure to pay  
21 the required fees, no license shall be denied, suspended, limited,  
22 refused renewal, or revoked except after due notice and opportunity  
23 for a hearing. Disciplinary actions and proceedings shall be  
24 conducted as specified in the Uniform Licensing Law. Any denial,  
25 suspension, limitation, refusal of renewal, or revocation of such  
26 license may be appealed, and the appeal shall be in accordance  
27 with the Administrative Procedure Act. A person whose license

1 has been revoked, suspended, or limited may petition the board  
2 for reinstatement in the manner provided by sections 71-161.04 to  
3 71-161.06.

4 Sec. 1267. Section 71-6055, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 71-6055 (1) Except as provided in subdivisions  
7 (1)(a)(i)(D) and (1)(b) of section 71-6054, in order for a person  
8 to become licensed as a nursing home administrator, he or she  
9 shall complete an administrator-in-training program or a mentoring  
10 program. The administrator-in-training program shall occur in a  
11 home for the aged or infirm or nursing home under the direct  
12 supervision of a certified preceptor, and it may be gained as  
13 an internship which is part of an approved associate degree. A  
14 mentoring program shall occur in a home for the aged or infirm  
15 or nursing home under the supervision of a certified preceptor.  
16 The certified preceptor in a mentoring program need not be at  
17 such facility during the period of such supervision but shall  
18 be available to assist with questions or problems as needed. A  
19 mentoring program may be gained as an internship which is part of  
20 a degree or advanced degree. A person in a mentoring program may  
21 apply for a provisional license as provided in section 71-6063.

22 (2) An applicant may begin his or her  
23 administrator-in-training or mentoring program upon application  
24 to the board with the required fee, evidence that he or she  
25 has completed at least fifty percent of the core educational  
26 requirements, and evidence of an agreement between the certified  
27 preceptor and the applicant for at least six hundred forty hours of

1 training and experience, to be gained in not less than four months.  
2 Such training shall occur in a Nebraska-licensed home for the aged  
3 or infirm or nursing home under a certified preceptor.

4 (3) The certified preceptor shall submit a report to  
5 the ~~department~~ system by the fifth day of each month for the  
6 duration of the administrator-in-training or mentoring program,  
7 describing the nature and extent of training completed to date. At  
8 the conclusion of the program, the certified preceptor shall report  
9 to the ~~department~~ system whether the applicant has successfully  
10 completed the board's approved course for such program. With the  
11 concurrence of the certified preceptor, the applicant may remain in  
12 such program until successfully completed or may reapply to enter  
13 another administrator-in-training or mentoring program.

14 (4) (a) The administrator-in-training or mentoring program  
15 shall occur under the supervision of a certified preceptor. An  
16 applicant to become a certified preceptor shall (i) be currently  
17 licensed as a nursing home administrator in the State of Nebraska,  
18 (ii) have three years of experience as a nursing home administrator  
19 in the five years immediately preceding certification, and (iii)  
20 complete a preceptor training course approved by the board.

21 (b) (i) All preceptor certificates shall expire on  
22 December 31 of every fourth year beginning December 31, 2000. The  
23 procedures for renewal shall be in the same manner as section  
24 71-6061. Each certified preceptor shall, in the period since his  
25 or her certificate was issued or last renewed, complete at least  
26 twelve hours of preceptor training approved by the board. Each  
27 certified preceptor shall submit evidence, on forms provided by the

1 ~~department,~~ system, that he or she has satisfied the requirements  
2 of this subsection before his or her certificate is renewed. Such  
3 evidence shall be submitted at the time application for renewal  
4 of a certificate is made. Before acting on the application for  
5 renewal the board shall review the performance of the applicant.  
6 Such review may include consideration of survey and complaint  
7 information, student evaluations, and any other related information  
8 deemed relevant by the board. The board may deny the application  
9 for renewal upon a finding that the applicant's performance has  
10 been unsatisfactory based on such review.

11 (ii) When any certificate holder fails, within thirty  
12 days of the expiration of a certificate, to submit the twelve hours  
13 of preceptor training, the ~~department~~ system shall revoke such  
14 certificate after notice and opportunity for hearing. In order for  
15 a preceptor certification to be reinstated, the applicant must meet  
16 the requirements of this subsection.

17 Sec. 1268. Section 71-6057, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 71-6057 The examination for a license shall consist of  
20 a national standardized examination. The passing score on the  
21 examination shall be determined by the board. The ~~department~~ system  
22 shall give notice of the time and place of the examination in  
23 ample time to allow all candidates to comply with the requirements  
24 of sections 71-6053 to 71-6068. Prior to each examination the  
25 ~~department~~ system may prepare a list of applicants who are eligible  
26 to take the examination as determined by the board.

27 The board may adopt and promulgate rules and

1 regulations regarding identification and grading of machine-scored  
2 examinations. Every examination shall be passed upon in accordance  
3 with the established rules and regulations of the board, and  
4 in cases of dispute, a majority of the members of the board  
5 shall decide. After each administration of an examination, the  
6 board shall certify the grades of the applicants in the manner  
7 prescribed by the board. The board shall then issue the proper  
8 license and make the required entry in the registry record. All  
9 question and answer papers or sheets or photostatic or other  
10 copies of such questions and answer papers or sheets connected  
11 with any examination for licensure shall be available from the  
12 testing service for a period of two years during which time  
13 such answer papers or sheets shall be open to inspection by  
14 an applicant, by the dean of his or her college, or by any  
15 other proper representative of such college as determined by  
16 rules and regulations. Any national standardized machine-graded  
17 or computer-scored examination questions or answers which are  
18 protected by security agreements, copyright provisions, or  
19 ~~departmental~~ system or state contractual agreements for use shall  
20 be available for a period of two years upon demand, from any  
21 testing service utilized, at the discretion of the ~~department~~  
22 system or upon order of a court of competent jurisdiction. The  
23 board may adopt and promulgate rules and regulations to provide  
24 for the review of procedures for development and administration  
25 of examinations and to protect the security of the content of  
26 examination questions and answers. The board shall not enter  
27 into an agreement to adopt an examination from a national

1 testing service without first obtaining from that service detailed  
2 documentation of the process of examination development and  
3 maintenance.

4 Sec. 1269. Section 71-6058, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 71-6058 Any person desiring to take the examination for  
7 a license shall apply to the board at least thirty days prior to  
8 examination on a form provided by the ~~department~~ system and sworn  
9 to by the applicant. Such application shall be accompanied by the  
10 examination fee and such documents and affidavits as are necessary  
11 to show the eligibility of the candidates to take such examination.  
12 An applicant may request to take the next regularly scheduled  
13 examination any time after receiving notification of registration  
14 as an administrator-in-training or a person in a mentoring program,  
15 but the license shall not be issued until the board receives  
16 documentation of completion of the administrator-in-training or  
17 mentoring program and completion of all licensure requirements.

18 Sec. 1270. Section 71-6059, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 71-6059 Every license shall be in the form of a  
21 certificate under the name and seal of the ~~department~~ system  
22 and signed by the chairperson, the vice-chairperson, the secretary  
23 of the board, and ~~the Director of Regulation and Licensure or his~~  
24 ~~or her designee.~~ a representative of the system. A copy of all  
25 licenses shall be retained in the ~~department~~ system and shall be  
26 given the same number as has been assigned to the licensee in the  
27 other records of the ~~department.~~ system. Every licensed nursing



1 home administrator shall keep such license displayed in the office  
2 or in the place where he or she practices.

3 Sec. 1271. Section 71-6060, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 71-6060 (1) Except as provided in subdivision (1)(b)  
6 of section 71-6054, each administrator holding an active license  
7 shall, on or before December 31 of each even-numbered year,  
8 complete continuing competency activities as required by the board  
9 pursuant to section 71-6067 as a prerequisite for the Nebraska  
10 licensee's next subsequent biennial license renewal. Each licensee  
11 shall document as required by the ~~department~~ system that he or she  
12 has complied with the requirements set forth in this section during  
13 the preceding two-year period. Each licensee shall be responsible  
14 for maintaining in his or her personal files records of compliance  
15 with the continuing competency requirements. Licensees who have  
16 not complied with such requirements shall not be issued a renewal  
17 license unless exempt for any of the following reasons:

18 (a) The licensee served in the regular armed forces  
19 of the United States during any part of the twenty-four months  
20 immediately preceding the Nebraska license renewal date;

21 (b) The licensee submits proof that he or she was  
22 suffering from a serious or disabling illness or physical  
23 disability which prevented his or her compliance with the  
24 continuing competency requirements preceding the Nebraska license  
25 renewal date;

26 (c) The licensee was first licensed within the  
27 twenty-four months immediately preceding the Nebraska license

1 renewal date; or

2 (d) The licensee did not reside in Nebraska during  
3 the twenty-four months immediately preceding the Nebraska license  
4 renewal date.

5 (2) An individual licensed pursuant to sections 71-6053  
6 to 71-6068 may request to have his or her license placed on  
7 inactive status upon its expiration. The request shall be submitted  
8 to the ~~department~~ system in writing, along with payment of the  
9 inactive status fee. The ~~department~~ system shall notify the  
10 licensee in writing of the acceptance or denial of such request. If  
11 placed on inactive status, the license may remain in such status  
12 for an indefinite period of time. An inactive license may be placed  
13 on active status upon completion by the licensee of all continuing  
14 competency requirements in effect at the time of such request and  
15 payment of the license renewal fee then due.

16 (3) Providers of continuing competency activities or  
17 licensees may submit courses for review and approval by the board.  
18 Each provider or licensee applying for approval of continuing  
19 competency activities shall pay an application fee established and  
20 collected as provided in section 71-162 for each program, seminar,  
21 or course submitted for review.

22 Sec. 1272. Section 71-6065, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 71-6065 (1) The Board of Examiners in Nursing Home  
25 Administration is created. The board shall be under the supervision  
26 of the ~~department~~ system and shall consist of a designated  
27 representative of the ~~Policy Cabinet described in section 81-3009~~

1 system and the following members appointed by the State Board of  
2 Health: (a) Two members who hold active licenses and are currently  
3 employed in the management, operation, or ownership of proprietary  
4 homes for the aged or infirm or nursing homes that serve the aged  
5 or infirm in Nebraska; (b) two members who hold active licenses  
6 and are currently employed in the management or operation of a  
7 nonprofit home for the aged or infirm or nursing home or hospital  
8 caring for chronically ill or infirm, aged patients; (c) one  
9 member who is a member of the faculty of a college or university  
10 located in the state who is actively engaged in a teaching program  
11 relating to business administration, social work, gerontology, or  
12 some other aspect of the administration of health care facilities;  
13 (d) one member who is a licensed physician and surgeon with a  
14 demonstrated interest in long-term care; (e) one member who is a  
15 licensed registered nurse; and (f) two members who are laypersons,  
16 at least the age of majority, residents of this state for at least  
17 five years preceding appointment, and representative of consumer  
18 viewpoints. The members of the board shall serve as members of such  
19 board until the expiration of their respective terms or until their  
20 successors have been appointed and qualified. Each appointed member  
21 who is an administrator shall be licensed pursuant to sections  
22 71-6053 to 71-6068.

23 (2) The appointed members shall be appointed for terms of  
24 three years, and the terms shall be staggered so that the terms of  
25 three appointed members of the board expire each year. The term of  
26 each member shall commence on the first day of December following  
27 the expiration of the term of the member whom such person succeeds.

1 A vacancy in any appointive position on the board shall be filled  
2 for the unexpired portion of the term by appointment by the State  
3 Board of Health in the same manner as original appointments are  
4 made. Appointed members shall serve until their successors are  
5 appointed and qualified.

6 (3) The State Board of Health shall have power to remove  
7 from office at any time any member of the board after a public  
8 hearing pursuant to the Administrative Procedure Act for physical  
9 or mental incapacity to carry out the duties of a board member, for  
10 continued neglect of duty, for incompetency, for acting beyond the  
11 individual member's scope of authority, for malfeasance in office,  
12 for any cause for which a license may be suspended or revoked, or  
13 for a lack of licensure.

14 (4) The ~~department~~ system shall adopt and promulgate  
15 rules and regulations which establish definitions of conflicts of  
16 interest for members of the board and which establish procedures in  
17 the case such a conflict arises.

18 Sec. 1273. Section 71-6066, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 71-6066 The board shall elect from its appointed members  
21 a chairperson, a vice-chairperson, and such other officers as it  
22 deems necessary. The members of the board who are not officers  
23 or employees of the State of Nebraska shall, in addition to  
24 necessary travel and lodging expenses, receive a per diem for each  
25 day actually engaged in the discharge of their duties. Traveling  
26 and lodging expenses shall be reimbursed as provided in sections  
27 81-1174 to 81-1177. The compensation per day shall not exceed

1 thirty dollars and shall be determined by the board. Expenses of  
2 members who are in the employ of the state shall be paid from the  
3 appropriation to their respective ~~departments~~ agencies.

4 Sec. 1274. Section 71-6068, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 71-6068 Whenever the ~~Department of Health and Human~~  
7 ~~Services Regulation and Licensure~~ system conducts an investigation  
8 or hearing regarding loss of medicaid or medicare certification of  
9 a nursing home or suspension or revocation of the license of a  
10 nursing home, the board may hold a hearing to determine whether  
11 there is cause to suspend, limit, revoke, or deny the license of a  
12 nursing home administrator.

13 Sec. 1275. Section 71-6103, Revised Statutes Cumulative  
14 Supplement, 2006, is amended to read:

15 71-6103 For purposes of the Occupational Therapy Practice  
16 Act, unless the context otherwise requires:

17 (1) Active license means the license of a person who is  
18 acting, practicing, functioning, and working in compliance with the  
19 requirements of a license;

20 (2) Association means a recognized national or state  
21 association for occupational therapy;

22 (3) Board means the Board of Occupational Therapy  
23 Practice established by section 71-6115;

24 (4) Credentialing means the process of obtaining state  
25 approval to provide health care services or human services or to  
26 change aspects of a current approval and includes, but is not  
27 limited to, granting permission to use a protected title that

1 signifies that a person is qualified to provide the services within  
2 the scope of practice of a profession;

3 (5) Deep thermal agent modalities means therapeutic  
4 ultrasound and phonophoresis. Deep thermal agent modalities does  
5 not include the use of diathermy or lasers;

6 ~~(6) Department means the Department of Health and Human~~  
7 ~~Services Regulation and Licensure;~~

8 ~~(7)~~ (6) Electrotherapeutic agent modalities means  
9 neuromuscular electrical stimulation, transcutaneous electrical  
10 nerve stimulation, and iontophoresis. Electrotherapeutic agent  
11 modalities does not include the use of ultraviolet light;

12 ~~(8)~~ (7) Mechanical devices means intermittent compression  
13 devices. Mechanical devices does not include devices to perform  
14 spinal traction;

15 ~~(9)~~ (8) Occupational therapist means a person holding an  
16 active license to practice occupational therapy;

17 ~~(10)(a)~~ (9)(a) Occupational therapy means the use of  
18 purposeful activity with individuals who are limited by physical  
19 injury or illness, psychosocial dysfunction, developmental or  
20 learning disabilities, or the aging process in order to maximize  
21 independent function, prevent further disability, and achieve and  
22 maintain health and productivity.

23 (b) Occupational therapy encompasses evaluation,  
24 treatment, and consultation and may include (i) remediation  
25 or restoration of performance abilities that are limited due  
26 to impairment in biological, physiological, psychological, or  
27 neurological processes, (ii) adaptation of task, process, or the

1 environment, or the teaching of compensatory techniques, in order  
2 to enhance performance, (iii) disability prevention methods and  
3 techniques which facilitate the development or safe application  
4 of performance skills, and (iv) health promotion strategies and  
5 practices which enhance performance abilities;

6 ~~(11)~~ (10) Occupational therapy aide means a person who is  
7 not licensed by the board and who provides supportive services to  
8 occupational therapists and occupational therapy assistants;

9 ~~(12)~~ (11) Occupational therapy assistant means a person  
10 holding an active license to assist in the practice of occupational  
11 therapy;

12 ~~(13)~~ (12) Physical agent modalities means modalities that  
13 produce a biophysiological response through the use of water,  
14 temperature, sound, electricity, or mechanical devices; and

15 ~~(14)~~ (13) Superficial thermal agent modalities means  
16 hot packs, cold packs, ice, fluidotherapy, paraffin, water, and  
17 other commercially available superficial heating and cooling  
18 technologies; and -

19 (14) System means the Health and Human Services System.

20 Sec. 1276. Section 71-6105, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 71-6105 Any person who has applied to take the  
23 examination under section 71-6106 or 71-6107 and who has completed  
24 the education and experience requirements of the Occupational  
25 Therapy Practice Act may be granted a temporary permit to practice  
26 as an occupational therapist or an occupational therapy assistant.  
27 A temporary permit shall allow the person to practice only in

1 association with a licensed occupational therapist and shall be  
2 valid until the date on which the results of the next licensure  
3 examination are available to the ~~department~~, system. The temporary  
4 permit shall not be renewed if the applicant has failed the  
5 examination. The permit may be extended at the discretion of the  
6 board with the approval of the ~~department~~, system. In no case may a  
7 temporary permit be extended beyond one year.

8           Sec. 1277. Section 71-6106, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           71-6106 (1) An applicant applying for a license as an  
11 occupational therapist shall file a written application, which  
12 shall include the applicant's social security number, in the manner  
13 and on forms provided by the ~~department~~, system, showing to the  
14 satisfaction of the ~~department~~ system that he or she:

15           (a) Has successfully completed the academic requirements  
16 of an educational program in occupational therapy recognized by  
17 the ~~department~~ system and accredited by a nationally recognized  
18 medical association or nationally recognized occupational therapy  
19 association;

20           (b) Has successfully completed a period of supervised  
21 fieldwork experience at an educational institution approved by  
22 the ~~department~~ system and where the applicant's academic work was  
23 completed or which is part of a training program approved by such  
24 educational institution. A minimum of six months of supervised  
25 fieldwork experience shall be required for an occupational  
26 therapist; and

27           (c) Has passed an examination as provided in section



1 71-6108.

2 (2) Residency in this state shall not be a requirement of  
3 licensure. A corporation, partnership, limited liability company,  
4 or association shall not be licensed as an occupational therapist  
5 pursuant to the Occupational Therapy Practice Act.

6 Sec. 1278. Section 71-6107, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 71-6107 (1) An applicant applying for a license as an  
9 occupational therapy assistant shall file a written application in  
10 the manner and on forms provided by the ~~department~~, system, showing  
11 to the satisfaction of the ~~department~~ system that he or she:

12 (a) Has successfully completed the academic requirements  
13 of an educational program in occupational therapy recognized by  
14 the ~~department~~ system and accredited by a nationally recognized  
15 medical association or nationally recognized occupational therapy  
16 association;

17 (b) Has successfully completed a period of supervised  
18 fieldwork experience at an educational institution approved by  
19 the ~~department~~ system and where the applicant's academic work was  
20 completed or which is part of a training program approved by such  
21 educational institution. A minimum of two months of supervised  
22 fieldwork experience shall be required for an occupational therapy  
23 assistant; and

24 (c) Has passed an examination as provided in section  
25 71-6108.

26 (2) Residency in this state shall not be a requirement  
27 of licensure as an occupational therapy assistant. A corporation,

1 partnership, limited liability company, or association shall not be  
2 licensed pursuant to the Occupational Therapy Practice Act.

3 Sec. 1279. Section 71-6108, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 71-6108 (1) Each applicant for licensure pursuant to  
6 the Occupational Therapy Practice Act shall be examined by a  
7 written examination which tests his or her knowledge of the  
8 basic and clinical sciences relating to occupational therapy  
9 and occupational therapy theory and practice including, but not  
10 limited to, professional skills and judgment in the utilization of  
11 occupational therapy techniques and methods and such other subjects  
12 as the board may deem useful to determine the applicant's fitness  
13 to practice. The board shall approve the examination and establish  
14 standards for acceptable performance. The board may choose a  
15 nationally standardized occupational therapist and occupational  
16 therapy assistant entry-level examination.

17 (2) Applicants for licensure shall be examined at a time  
18 and place and under such supervision as the board may determine.  
19 The board shall notify all applicants by mail of the time and place  
20 of the examination.

21 (3) The ~~department~~ system may adopt and promulgate rules  
22 and regulations to provide for the review of procedures for the  
23 development and administration of examinations and to protect the  
24 security of the content of examination questions and answers.  
25 The ~~department~~ system shall not enter into an agreement to adopt  
26 an examination from a national testing service without first  
27 obtaining from that service detailed documentation of the process

1 of examination development and maintenance.

2           Sec. 1280. Section 71-6109, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           71-6109 (1) The ~~department~~ system shall grant a license  
5 as an occupational therapist or occupational therapy assistant to  
6 any applicant who has actively practiced in the respective field  
7 for at least one of the five years immediately prior to July 10,  
8 1984, and who is certified as a registered occupational therapist  
9 or who is a certified occupational therapy assistant in accordance  
10 with guidelines established by a national association.

11           (2) The ~~department~~ system may waive the examination  
12 requirements in the Occupational Therapy Practice Act and grant a  
13 license to any applicant who presents proof of current licensure  
14 as an occupational therapist or occupational therapy assistant  
15 in another state, the District of Columbia, or territory of the  
16 United States which requires standards for licensure considered  
17 by the ~~department~~ system to be substantially equivalent to the  
18 requirements for licensure of the Occupational Therapy Practice  
19 Act.

20           Sec. 1281. Section 71-6110, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           71-6110 The ~~department~~ system shall issue a license to  
23 any person who meets the requirements of the Occupational Therapy  
24 Practice Act.

25           Sec. 1282. Section 71-6111, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27           71-6111 The ~~department~~ system shall have the power to

1 enforce the Occupational Therapy Practice Act and to deny, revoke,  
2 or suspend any license to practice as an occupational therapist  
3 or occupational therapy assistant issued by the ~~department~~ system  
4 or applied for in accordance with section 71-6108 or to otherwise  
5 discipline a licensee on the grounds as specified in sections  
6 71-147 and 71-148 and in the manner provided in the Uniform  
7 Licensing Law.

8           Sec. 1283. Section 71-6112, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           71-6112 Any person who violates any provision of the  
11 Occupational Therapy Practice Act shall be guilty of a Class III  
12 misdemeanor and such violation by a person licensed under such  
13 act shall be cause for disciplinary action prescribed in section  
14 71-6111. The ~~department~~ system may appoint investigators pursuant  
15 to section 71-124.01 to assist in enforcing the provisions of the  
16 Occupational Therapy Practice Act.

17           Sec. 1284. Section 71-6113, Revised Statutes Cumulative  
18 Supplement, 2006, is amended to read:

19           71-6113 (1)(a) Licenses issued under the Occupational  
20 Therapy Practice Act shall be subject to biennial renewal and shall  
21 expire August 1 of each even-numbered year unless renewed in the  
22 manner provided by section 71-110 upon completion of the continuing  
23 competency activities as required under subsection (2) of this  
24 section and upon payment of the renewal fee established as provided  
25 in section 71-162.

26           (b) A licensee whose license is revoked for nonpayment  
27 of the biennial renewal fee as provided in section 71-110 may be

1 reinstated upon the recommendation of the board and the payment of  
2 the required fees established as provided in section 71-162, except  
3 that no reinstatement of a license may be granted more than five  
4 years after its expiration.

5 (2) (a) Each Nebraska-licensed occupational therapist in  
6 active practice within the State of Nebraska shall, on or before  
7 August 1 of each even-numbered year, complete continuing competency  
8 activities as required by the board as a prerequisite to renewal of  
9 his or her license.

10 (b) Each Nebraska-licensed occupational therapy assistant  
11 in active practice within the State of Nebraska shall, on or before  
12 August 1 of each even-numbered year, complete continuing competency  
13 activities as required by the board as a prerequisite to renewal of  
14 his or her license.

15 (3) Every occupational therapist and occupational therapy  
16 assistant shall provide documentation of completing such continuing  
17 competency activities as required by the board.

18 The board shall biennially select, in a random manner, a  
19 representative sample of the license renewal applications for audit  
20 of compliance with continuing competency requirements.

21 (4) The ~~department,~~ system, on the recommendation of  
22 the board, may waive continuing competency requirements, in part  
23 or in total, for any two-year licensing period when a licensee  
24 submits documentation that circumstances beyond his or her control  
25 prevented completion of such requirements. Such circumstances shall  
26 include situations in which:

27 (a) The licensee holds a Nebraska license but does not

1 reside or practice in Nebraska;

2 (b) The licensee has served in the regular armed forces  
3 of the United States during part of the twenty-four months  
4 immediately preceding the license renewal date;

5 (c) The licensee has submitted proof that he or she  
6 was suffering from a serious or disabling illness or physical  
7 disability which prevented completion of the required continuing  
8 competency activities during the twenty-four months preceding the  
9 license renewal date;

10 (d) The licensee has been initially licensed by the board  
11 within the twenty-four months immediately preceding the license  
12 renewal date; and

13 (e) The licensee has successfully completed two or more  
14 semester hours of formal credit instruction biennially offered  
15 by an accredited school or college which contributes to meeting  
16 the requirements of an advanced degree in a postgraduate program  
17 relating to occupational therapy.

18 Sec. 1285. Section 71-6114, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 71-6114 The ~~department~~ system shall establish and collect  
21 fees for credentialing activities under the Occupational Therapy  
22 Practice Act as provided in section 71-162.

23 Sec. 1286. Section 71-6115, Revised Statutes Cumulative  
24 Supplement, 2006, is amended to read:

25 71-6115 The Board of Occupational Therapy Practice is  
26 established. The board shall consist of at least four members  
27 appointed by the State Board of Health, all of whom shall be

1 residents of this state. Any statewide association of occupational  
2 therapists may submit a list of names of qualified persons from  
3 which the State Board of Health may choose members of the Board  
4 of Occupational Therapy Practice. Three of the persons appointed  
5 shall have been engaged in rendering services to the public,  
6 teaching, or research in occupational therapy for at least five  
7 years immediately preceding their appointments. Two of the persons  
8 appointed shall be occupational therapists and one shall be either  
9 an occupational therapist or an occupational therapy assistant  
10 and all shall be holders of active licenses issued under the  
11 Occupational Therapy Practice Act during their terms. The fourth  
12 member shall be a member of the public with an interest in the  
13 rights of the consumers of health services. The members of the  
14 board shall serve five-year terms, except that the initial members  
15 of the board shall serve as follows: The member of the public shall  
16 serve one year and the remaining members shall serve terms of two,  
17 three, and four years as the State Board of Health shall designate.  
18 The term of each member shall commence on December 1 following the  
19 expiration of the preceding term. No person shall serve more than  
20 two full consecutive terms on the board. The State Board of Health  
21 shall fill any vacancy for an unexpired term in the same manner as  
22 the initial appointment. The members shall not receive compensation  
23 but shall be reimbursed for their actual expenses incurred while  
24 in the performance of their duties in the same manner as state  
25 employees pursuant to sections 81-1174 to 81-1177. The board shall  
26 annually elect a chairperson and such other officers as it deems  
27 necessary and shall meet at least once per year or more as the

1 ~~department~~ system and board shall determine. Members of the board  
2 may be removed from office on the grounds and in the manner  
3 provided by section 71-118.

4 Sec. 1287. Section 71-6122, Revised Statutes Cumulative  
5 Supplement, 2006, is amended to read:

6 71-6122 (1) In order to apply physical agent modalities,  
7 an occupational therapist shall be certified pursuant to this  
8 section. The ~~department~~ system shall issue a certificate to an  
9 occupational therapist to administer a physical agent modality if  
10 the occupational therapist:

11 (a) Has successfully completed a training course approved  
12 by the board and passed an examination approved by the board on the  
13 physical agent modality;

14 (b) Is certified as a hand therapist by the Hand Therapy  
15 Certification Commission or other equivalent entity recognized by  
16 the board;

17 (c) Has a minimum of five years of experience in the  
18 use of the physical agent modality and has passed an examination  
19 approved by the board on the physical agent modality; or

20 (d) Has completed education during a basic educational  
21 program which included demonstration of competencies for  
22 application of the physical agent modality.

23 (2) The ~~department~~ system shall issue a certificate  
24 to authorize an occupational therapy assistant to set up and  
25 implement treatment using superficial thermal agent modalities if  
26 the occupational therapy assistant has successfully completed a  
27 training course approved by the board and passed an examination



1 approved by the board. Such set up and implementation shall only  
2 be done under the onsite supervision of an occupational therapist  
3 certified to administer superficial thermal agent modalities.

4 (3) An occupational therapist shall not delegate  
5 evaluation, reevaluation, treatment planning, and treatment goals  
6 for physical agent modalities to an occupational therapy assistant.

7 Sec. 1288. Section 71-6123, Revised Statutes Cumulative  
8 Supplement, 2006, is amended to read:

9 71-6123 (1) The ~~department,~~ system, with the approval  
10 of the board, shall adopt and promulgate rules and regulations  
11 necessary to administer the Occupational Therapy Practice Act to  
12 protect the public health, safety, and welfare and to insure, to  
13 the greatest extent possible, the efficient, adequate, and safe  
14 practice of occupational therapy.

15 (2) The rules and regulations shall include (a)  
16 definitions of unprofessional conduct, (b) definitions of conflicts  
17 of interest for members of the board and procedures in the case  
18 such a conflict arises, (c) role delineation for occupational  
19 therapy assistants, and (d) continuing competency requirements.  
20 Continuing education is sufficient to meet continuing competency  
21 requirements. Such requirements may also include, but not be  
22 limited to, one or more of the continuing competency activities  
23 listed in section 71-161.09 which a licensed person may select as  
24 an alternative to continuing education.

25 (3) Except as provided in subsection (4) of this section,  
26 the ~~department,~~ system, with the approval of the board, shall  
27 adopt and promulgate rules and regulations to implement Laws 2004,

1 LB 1005, and shall provide for the changes regarding scope of  
2 practice to be implemented for licensees as soon as the rules and  
3 regulations become effective.

4 (4) The board may adopt and promulgate rules and  
5 regulations governing the training courses for an occupational  
6 therapist to be certified to administer a physical agent modality.  
7 The board may adopt and promulgate rules and regulations governing  
8 the training course for an occupational therapy assistant to  
9 be certified to set up and implement superficial thermal agent  
10 modalities. In adopting such rules and regulations, the board  
11 shall give consideration to the levels of training and experience  
12 which are required, in the opinion of the board, to protect the  
13 public health, safety, and welfare and to insure, to the greatest  
14 extent possible, the efficient, adequate, and safe practice of  
15 occupational therapy. Such rules and regulations shall include  
16 the approval of examinations and the passing score for such  
17 examinations for certification. Any person who was practicing as  
18 (a) an occupational therapist and administering physical agent  
19 modalities or (b) an occupational therapy assistant setting up and  
20 implementing superficial thermal agent modalities prior to July  
21 16, 2004, may continue to administer such modalities until July  
22 1, 2006. After July 1, 2006, any person who wishes to administer  
23 such modalities shall obtain certification as provided by section  
24 71-6122.

25 (5) Rules and regulations adopted and promulgated  
26 pursuant to the Occupational Therapy Practice Act prior to July 16,  
27 2004, shall continue in effect until revised, amended, repealed, or

1 nullified pursuant to law.

2           Sec. 1289. Section 71-6208, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           71-6208 System means the Health and Human Services  
5 System. Director shall mean the Director of Regulation and  
6 Licensure.

7           Sec. 1290. Section 71-6221, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           71-6221 (1) After January 1, 1985, a health profession  
10 shall be regulated by the state only when:

11           (a) Unregulated practice can clearly harm or endanger the  
12 health, safety, or welfare of the public and the potential for  
13 the harm is easily recognizable and not remote or dependent upon  
14 tenuous argument;

15           (b) Regulation of the profession does not impose  
16 significant new economic hardship on the public, significantly  
17 diminish the supply of qualified practitioners, or otherwise create  
18 barriers to service that are not consistent with the public welfare  
19 and interest;

20           (c) The public needs, and can reasonably be expected  
21 to benefit from, assurance of initial and continuing professional  
22 ability by the state; and

23           (d) The public cannot be effectively protected by other  
24 means in a more cost-effective manner.

25           (2) If it is determined that practitioners of a health  
26 profession not currently regulated are prohibited from the full  
27 practice of their profession in Nebraska, then the following

1 criteria shall be used to determine whether regulation is  
2 necessary:

3 (a) Absence of a separate regulated profession creates a  
4 situation of harm or danger to the health, safety, or welfare of  
5 the public and the potential for the harm is easily recognizable  
6 and not remote or dependent upon tenuous argument;

7 (b) Creation of a separate regulated profession would not  
8 create a significant new danger to the health, safety, or welfare  
9 of the public;

10 (c) Creation of a separate regulated profession would  
11 benefit the health, safety, or welfare of the public; and

12 (d) The public cannot be effectively protected by other  
13 means in a more cost-effective manner.

14 (3) After March 18, 1988, the scope of practice of a  
15 regulated health profession shall be changed only when:

16 (a) The present scope of practice or limitations on the  
17 scope of practice create a situation of harm or danger to the  
18 health, safety, or welfare of the public and the potential for  
19 the harm is easily recognizable and not remote or dependent upon  
20 tenuous argument;

21 (b) The proposed change in scope of practice does not  
22 create a significant new danger to the health, safety, or welfare  
23 of the public;

24 (c) Enactment of the proposed change in scope of practice  
25 would benefit the health, safety, or welfare of the public; and

26 (d) The public cannot be effectively protected by other  
27 means in a more cost-effective manner.

1           (4) The Department of Health and Human Services  
2 ~~Regulation and Licensure~~ system shall, by rule and regulation,  
3 establish standards for the application of each criterion which  
4 shall be used by the review bodies in recommending whether  
5 proposals for credentialing or change in scope of practice meet the  
6 criteria.

7           Sec. 1291. Section 71-6226, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           71-6226 (1) After receiving and considering reports from  
10 the committee or the board, the ~~director~~ system shall prepare a  
11 final report for the Legislature. The final report shall include  
12 copies of the committee report and the board report, if any,  
13 but the ~~director~~ system shall not be bound by the findings and  
14 recommendations of such reports. The ~~director~~ system in compiling  
15 ~~his or her~~ the report shall apply the criteria established in  
16 sections 71-6221 to 71-6223 and may consult with the board or  
17 the committee. The recommendation of the ~~director~~ system shall be  
18 developed in a manner consistent with subsection (3) of section  
19 71-6224. The final report shall be submitted to the Speaker of  
20 the Legislature, the Chairperson of the Executive Board of the  
21 Legislature, and the Chairperson of the Health and Human Services  
22 Committee of the Legislature no later than nine months after the  
23 application is submitted to the ~~director~~ system and shall be made  
24 available to all other members of the Legislature upon request.

25           (2) The ~~director~~ system may recommend that no legislative  
26 action be taken on an application. If the ~~director~~ system  
27 recommends that an application of an applicant group be approved,

1 the ~~director~~ system shall recommend an agency to be responsible for  
2 the regulation and the level of regulation to be assigned to such  
3 applicant group.

4 (3) An application which is resubmitted shall be  
5 considered the same as a new application.

6 Sec. 1292. Section 71-6301, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 71-6301 For purposes of the Asbestos Control Act, unless  
9 the context otherwise requires:

10 (1) Asbestos means asbestiform varieties of chrysotile,  
11 crocidolite, amosite, anthophyllite, tremolite, and actinolite;

12 (2) Asbestos encapsulation project means activities which  
13 include the coating of asbestos-containing surface material with a  
14 bridging or penetrating type of sealing material for the intended  
15 purpose of preventing the continued release of asbestos fibers  
16 from the material into the air. Such project does not include the  
17 repainting of a previously painted nonfriable asbestos-containing  
18 surface which is not damaged primarily for improving the appearance  
19 of such surface;

20 (3) Asbestos enclosure project means activities which  
21 physically isolate friable asbestos and which control and contain  
22 fibers released from asbestos-containing material by constructing a  
23 permanent airtight barrier between the asbestos-containing material  
24 and the occupied building space;

25 (4) Asbestos occupation means an inspector, management  
26 planner, project designer, project monitor, supervisor, or worker;

27 (5) Asbestos project means an asbestos enclosure project,

1 an asbestos encapsulation project, an asbestos removal project,  
2 an asbestos-related demolition project, or an asbestos-related  
3 dismantling project but does not include (a) any activities which  
4 affect three square feet or less or three linear feet or less  
5 of asbestos-containing material on or in a structure or equipment  
6 or any appurtenances thereto or (b) any activities physically  
7 performed by a homeowner, a member of the homeowner's family, or an  
8 unpaid volunteer on or in the homeowner's residential property of  
9 four units or less;

10 (6) Asbestos removal project means activities which  
11 include the physical removal of friable asbestos-containing  
12 material from the surface of a structure or from equipment which  
13 is intended to remain in place after the removal. Such project  
14 also includes the physical removal of asbestos from a structure or  
15 equipment after such structure or equipment has been removed as  
16 part of an asbestos-related dismantling project;

17 (7) Asbestos-related demolition project means activities  
18 which include the razing of all or a portion of a structure  
19 which contains friable asbestos-containing materials or other  
20 asbestos-containing materials which may become friable when such  
21 materials are cut, crushed, ground, abraded, or pulverized;

22 (8) Asbestos-related dismantling project means activities  
23 which include the disassembly, handling, and moving of the  
24 components of any structure or equipment which has been coated with  
25 asbestos-containing material without first removing such material  
26 from the structure or from the equipment;

27 (9) Business entity means a partnership, limited

1 liability company, firm, association, corporation, sole  
2 proprietorship, public entity, or other public or private  
3 business concern involved in an asbestos project except an entity  
4 solely involved as a management planner or project designer;

5 (10) Certificate means an authorization issued by the  
6 ~~department~~ system permitting an individual person to work in an  
7 asbestos occupation;

8 (11) Demolition means the wrecking, razing, or removal of  
9 any structure or load-supporting structural item of any structure,  
10 including any related material handling operations, and includes  
11 the intentional burning of any structure;

12 ~~(12) Department means the Department of Health and Human~~  
13 ~~Services Regulation and Licensure;~~

14 ~~(13) Director means the Director of Regulation and~~  
15 ~~Licensure or his or her designee;~~

16 ~~(14)~~ (12) Enclosure means the construction of an  
17 airtight, impermeable, permanent barrier around asbestos-containing  
18 material to control the release of asbestos fibers into the air;

19 ~~(15)~~ (13) Friable asbestos means asbestos in a form which  
20 can be crumbled, pulverized, or reduced to powder by hand pressure;

21 ~~(16)~~ (14) Inspector means an individual who is certified  
22 by the ~~department~~ system to identify and assess the condition of  
23 asbestos-containing material;

24 ~~(17)~~ (15) Instructor means an individual who is approved  
25 by the ~~department~~ system to teach an asbestos-related training  
26 course;

27 ~~(18)~~ (16) License means an authorization issued by the



1 ~~department system~~ permitting a business entity to engage in an  
2 asbestos project;

3 ~~(19)~~ (17) Management planner means an individual who  
4 is certified by the ~~department~~ system to assess the hazard  
5 of materials containing asbestos, to determine the appropriate  
6 response actions, and to write management plans;

7 ~~(20)~~ (18) Project designer means an individual who is  
8 certified by the ~~department~~ system to formulate plans and write  
9 specifications for conducting asbestos projects;

10 ~~(21)~~ (19) Project monitor means an individual who is  
11 certified by the ~~department~~ system to observe abatement activities  
12 performed by contractors, to represent the building owner to ensure  
13 work is completed according to specifications and in compliance  
14 with statutes and regulations, and to perform air monitoring to  
15 determine final clearance;

16 ~~(22)~~ (20) Project review means review of a licensed  
17 business entity's proposed asbestos project;

18 ~~(23)~~ (21) Renovation means the altering of a structure,  
19 one or more structural items, or one or more equipment items in  
20 any way, including any asbestos project performed on a structure,  
21 structural item, or equipment item;

22 ~~(24)~~ (22) Supervisor means an individual who is certified  
23 by the ~~department~~ system to supervise and direct an asbestos  
24 project in accordance with the Asbestos Control Act and the rules  
25 and regulations adopted and promulgated pursuant to such act; ~~and~~

26 (23) System means the Health and Human Services System;  
27 and

1           ~~(25)~~ (24) Worker means an individual who is certified  
2 by the ~~department~~ system to clean, handle, repair, remove,  
3 encapsulate, haul, dispose of, or otherwise work with asbestos  
4 material in a nonsupervisory capacity.

5           Sec. 1293. Section 71-6302, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           71-6302 Except as otherwise provided in this section  
8 or section 71-6309, a business entity shall not engage in an  
9 asbestos project unless the business entity holds a license for  
10 that purpose. A business entity which (1) only performs asbestos  
11 projects which are less than two hundred sixty linear feet or which  
12 are less than one hundred sixty square feet and linear feet in any  
13 combination or (2) uses its own employees for an asbestos project  
14 for the purpose of renovating, maintaining, or repairing its own  
15 facilities shall not be required to hold a license. Business  
16 entities not required to hold a license shall provide a training  
17 course to inform the employees of the health and safety aspects  
18 of the asbestos project, including the applicable state standards.  
19 The training course shall meet the standards for such course as  
20 prescribed in section 71-6310.01 and the rules and regulations  
21 adopted and promulgated pursuant to such section. The training  
22 course shall be available for review and approval upon inspection  
23 by the ~~department.~~ system.

24           Sec. 1294. Section 71-6303, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26           71-6303 (1) The ~~department~~ system shall administer the  
27 Asbestos Control Act.

1           (2) The ~~department~~ system shall adopt and promulgate  
2 rules and regulations necessary to carry out the act. The  
3 ~~department~~ system shall adopt state standards governing asbestos  
4 projects and may adopt or incorporate part or all of any federal  
5 standards in the state standards so long as state standards are no  
6 less stringent than federal standards.

7           (3) The ~~department~~ system shall prescribe fees based upon  
8 the following schedule:

9           (a) For a business entity license or license renewal, not  
10 less than two thousand dollars or more than five thousand dollars;

11           (b) For waiver on an emergency basis of a business entity  
12 license, not less than two thousand dollars or more than five  
13 thousand dollars;

14           (c) For waiver of a license for a business entity not  
15 primarily engaged in asbestos projects, not less than two thousand  
16 dollars or more than five thousand dollars;

17           (d) For approval of an initial training course, not less  
18 than one thousand dollars or more than two thousand five hundred  
19 dollars, which fee shall include one onsite inspection if the  
20 inspection is required by the ~~department;~~ system;

21           (e) For approval of a review course or a four-hour  
22 course on Nebraska law, rules, and regulations, not less than five  
23 hundred dollars or more than one thousand dollars, which fee shall  
24 include one onsite inspection if the inspection is required by the  
25 ~~department;~~ system;

26           (f) For an onsite inspection of an asbestos project other  
27 than an initial inspection, not less than one hundred fifty dollars

1 or more than two hundred fifty dollars. Such fees shall not be  
2 assessed for more than three onsite inspections per year during the  
3 period an actual asbestos project is in progress; and

4 (g) For a project review of each asbestos project of a  
5 licensed business entity which is equal to or greater than two  
6 hundred sixty linear feet or any combination which is equal to  
7 or greater than one hundred sixty square feet and linear feet,  
8 including any initial onsite inspection, not less than two hundred  
9 dollars or more than five hundred dollars.

10 Any such applicant whose application is rejected shall  
11 be allowed the return of the application fee, except that an  
12 administrative charge of three hundred dollars for a license and  
13 one hundred dollars for approval of a training course shall be  
14 retained by the ~~department~~ system.

15 All fees shall be based on the costs of administering the  
16 Asbestos Control Act. In addition to the fees prescribed in this  
17 section, the ~~department~~ system may charge and receive the actual  
18 costs for board, room, and travel by employees in excess of three  
19 hundred dollars, which costs shall not exceed the amounts allowable  
20 in sections 81-1174 to 81-1177. All such fees collected by the  
21 ~~department~~ system shall be remitted to the State Treasurer for  
22 credit to the ~~Department of Health and Human Services Regulation~~  
23 ~~and Licensure~~ Health and Human Services System Cash Fund. Money  
24 credited to the fund pursuant to this section shall be used by the  
25 ~~department~~ system for the purpose of administering the act.

26 (4) At least once a year during the continuation of  
27 an asbestos project, the ~~department~~ system shall conduct an

1 onsite inspection of each licensed business entity's procedures  
2 for performing asbestos projects.

3 (5) The ~~department~~ system may enter into agreements or  
4 contracts with public agencies to conduct any inspections required  
5 under the act.

6 (6) The ~~department~~ system shall adopt and promulgate  
7 rules and regulations defining work practices for asbestos  
8 projects. The ~~department~~ system may provide for alternatives to  
9 specific work practices when the health, safety, and welfare of  
10 all classes of asbestos occupations and the general public are  
11 adequately protected.

12 (7) The ~~department~~ system may apply for and receive funds  
13 from the federal government and any other public or private entity  
14 for the purposes of administering the act.

15 (8) The ~~department~~ system shall establish and collect  
16 fees for issuance and renewal of certificates as provided in  
17 section 71-162 for persons certified under section 71-6310. The  
18 ~~department~~ system shall adopt and promulgate rules and regulations  
19 to establish continuing competency requirements for persons  
20 certified under the act. Continuing education is sufficient to  
21 meet continuing competency requirements. The requirements may also  
22 include, but not be limited to, one or more of the continuing  
23 competency activities listed in section 71-161.09 which a certified  
24 person may select as an alternative to continuing education.

25 Sec. 1295. Section 71-6304, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27 71-6304 To qualify for a license, a business entity

1 shall:

2 (1) Own or demonstrate immediate and continuing access to  
3 and maintain in operable condition modern and effective equipment,  
4 as prescribed by the ~~department~~, system, which is designed for use  
5 in asbestos projects;

6 (2) Ensure that each employee or agent of the business  
7 entity who will come into contact with asbestos or who will be  
8 present on an asbestos project is certified as required by the  
9 Asbestos Control Act;

10 (3) Demonstrate to the satisfaction of the ~~department~~  
11 system that the business entity is capable of complying with all  
12 applicable requirements, procedures, and standards pertaining to  
13 the asbestos project;

14 (4) Have access to at least one approved asbestos  
15 disposal site for deposit of all asbestos waste that the business  
16 entity will generate during the term of the license; and

17 (5) Meet any other standards which the ~~department~~ system  
18 may deem necessary to protect the health, safety, and welfare of  
19 all classes of asbestos occupations and the general public.

20 Sec. 1296. Section 71-6305, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 71-6305 (1) To apply for a license, a business entity  
23 shall submit an application to the ~~department~~ system in the form  
24 required by the ~~department~~ system and shall pay the fee prescribed  
25 by the ~~department~~. system.

26 (2) The application shall include, but not be limited to:

27 (a) The name, address, and nature of the business entity;

1           (b) A statement that all persons who will engage in any  
2 asbestos project for the licensee will be certified as required by  
3 the Asbestos Control Act;

4           (c) A description of the protective clothing and  
5 respirators that the business entity will use;

6           (d) The name and address of each asbestos disposal site  
7 that the business entity will use;

8           (e) A description of the site decontamination procedures  
9 that the business entity will use;

10          (f) A description of the removal, enclosure,  
11 encapsulation, demolition, dismantling, and maintenance methods  
12 that the business entity will use;

13          (g) A description of the procedures that the business  
14 entity will use for handling waste containing asbestos;

15          (h) A description of the air monitoring procedures that  
16 the business entity will use;

17          (i) A description of the procedures that the business  
18 entity will use in cleaning up the asbestos project;

19          (j) The signature of the chief executive officer of the  
20 business entity or his or her designee; and

21          (k) Such other information as may be necessary for the  
22 efficient administration and enforcement of the act and for the  
23 protection of the health, safety, and welfare of the general public  
24 and all classes of asbestos occupations.

25                 Sec. 1297. Section 71-6306, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27                 71-6306 (1) A license or certificate shall expire on the

1 first anniversary of its effective date unless it is renewed for  
2 one year as provided in this section.

3 (2) At least thirty days before the license or  
4 certificate expires, the ~~department~~ system shall send to the  
5 licensee or certificate holder at his or her last-known address a  
6 renewal notice which states:

7 (a) The date on which the current license or certificate  
8 expires;

9 (b) The date by which the renewal application must be  
10 received by the ~~department~~ system for the renewal to be issued and  
11 mailed before the license or certificate expires; and

12 (c) The amount of the renewal fee.

13 (3) Before the license or certificate expires, the  
14 licensee or certificate holder may renew it for an additional  
15 one-year period if the licensee or certificate holder:

16 (a) Is otherwise entitled to be licensed or certificated;

17 (b) Submits a renewal application to the ~~department~~  
18 system in the form required by the ~~department~~; system; and

19 (c) Pays the renewal fee prescribed by the ~~department~~.  
20 system.

21 Sec. 1298. Section 71-6307, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 71-6307 The licensee or a business entity, whether  
24 excepted from the requirements for licensure by section 71-6302  
25 or whether operating under a waiver, shall keep a record of  
26 each asbestos project and shall make the record available to the  
27 ~~department~~ system at any reasonable time. All such records shall be



1 kept for at least thirty years. Each record shall include:

2 (1) The name, address, and certificate number of the  
3 individual who supervised the asbestos project and of each employee  
4 or agent who worked on the project;

5 (2) The location and description of the project and the  
6 amount of asbestos material that was removed;

7 (3) The starting and completion dates of each instance  
8 of asbestos encapsulation, demolition, dismantling, maintenance, or  
9 removal;

10 (4) A summary of the procedures that were used to comply  
11 with all applicable standards;

12 (5) The name and address of each asbestos disposal site  
13 where the waste containing asbestos was deposited; and

14 (6) Such other information as the ~~department~~ system may  
15 deem necessary for the efficient administration and enforcement of  
16 the Asbestos Control Act and for the protection of the health,  
17 safety, and welfare of all classes of asbestos occupations and the  
18 general public.

19 Sec. 1299. Section 71-6309, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 71-6309 (1) In the event of an emergency in which, in the  
22 opinion of the ~~director~~, system, there is created a situation of  
23 present and severe danger which poses an immediate threat to the  
24 public health, safety, and welfare, the ~~director~~ system may waive  
25 the requirement for licensure or certification upon application  
26 and payment of the fee prescribed by the ~~department~~. system. Such  
27 emergency waiver shall be limited to the time required to take

1 protective measures.

2 (2) The ~~department~~ system may, on a case-by-case basis,  
3 approve an alternative to a specific worker protection requirement  
4 for an asbestos project if the business entity submits a written  
5 description of the alternative procedure and demonstrates to the  
6 ~~department's~~ system's satisfaction that the proposed alternative  
7 procedure provides equivalent protection to the health, safety, and  
8 welfare of all classes of asbestos occupations and the general  
9 public.

10 (3) If the business entity is not primarily engaged in  
11 asbestos projects, the ~~department~~ system may waive the requirement  
12 for a license upon application and payment of the fee prescribed  
13 by the ~~department~~ system if worker protection requirements are met  
14 or an alternative procedure is approved pursuant to subsection (2)  
15 of this section and the health, safety, and welfare of the general  
16 public is protected.

17 Sec. 1300. Section 71-6310, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 71-6310 (1) An individual person shall not be eligible to  
20 work on an asbestos project unless the person holds a certificate  
21 issued by the ~~department.~~ system.

22 (2) The ~~department~~ system shall issue the following  
23 classes of certificates: Worker; supervisor; inspector; management  
24 planner; project monitor; and project designer. To qualify for  
25 a certificate of a particular class, a person shall have (a)  
26 successfully completed a training course approved or administered  
27 by the ~~department,~~ system, (b) been examined by a physician within

1 the preceding year and declared by the physician to be physically  
2 capable of working while wearing a respirator, and (c) passed an  
3 examination approved or administered by the ~~department~~ system with  
4 at least the minimum score prescribed by the ~~department~~ system.

5 (3) A certificate or renewal certificate shall be valid  
6 for one year from the date of issuance. To qualify for a renewal  
7 certificate, the applicant shall meet the requirements of section  
8 71-6310.02.

9 (4) An application for a certificate, a renewal  
10 certificate, or approval shall be submitted to the ~~department~~  
11 system on a form prescribed by the ~~department~~, system, shall  
12 include the applicant's social security number, and shall be  
13 accompanied by the prescribed fee.

14 (5) As an alternative to the qualifications in  
15 subdivision (2)(a) of this section, a person shall have completed  
16 a fully accredited United States Environmental Protection Agency  
17 Asbestos Hazard Emergency Response Act of 1976 training program  
18 or the person shall be currently accredited by a United States  
19 Environmental Protection Agency fully accredited state asbestos  
20 model accreditation plan adopted pursuant to 40 C.F.R. 763. In  
21 addition to the alternative qualifications, the person shall  
22 successfully complete a four-hour course approved by the ~~department~~  
23 system on Nebraska law, rules, and regulations and shall pass an  
24 examination thereon which shall be approved and may be administered  
25 by the ~~department~~ system.

26 (6) The ~~department~~ system may issue a limited certificate  
27 to a project designer or management planner who does not intend to

1 enter any management plan, project design, or asbestos project  
2 worksite. An applicant for a limited certificate under this  
3 subsection shall not be required to comply with the requirements  
4 of subdivision (2)(b) of this section. A holder of a limited  
5 certificate shall not enter any management plan, project design, or  
6 asbestos project worksite. The limitation shall be endorsed upon  
7 the certificate. Violation of the limitation shall be grounds for  
8 disciplinary action against the certificate pursuant to section  
9 71-6314.

10 (7) The ~~department~~ system shall approve instructors of  
11 training courses. To qualify for approval an individual shall have  
12 (a) graduated from high school or obtained a general educational  
13 development certificate or equivalent document as determined by  
14 the ~~department~~, system, (b) successfully completed an approved  
15 four-hour course on Nebraska law, rules, and regulations, and  
16 (c) at least one year of actual work experience in the asbestos  
17 industry.

18 Sec. 1301. Section 71-6310.01, Reissue Revised Statutes  
19 of Nebraska, is amended to read:

20 71-6310.01 (1) The ~~department~~ system shall approve  
21 training courses for each classification of asbestos occupation.  
22 Applicants for course approval shall meet the requirements for  
23 each course and shall submit an application on forms provided by  
24 the ~~department~~ system together with the prescribed fee. Approved  
25 course providers shall use only approved instructors to teach  
26 each training course. The ~~department~~ system shall conduct onsite  
27 inspections of the training courses offered by course providers.

1           (2) In order to be approved by the ~~department,~~ system,  
2 an initial inspector training course shall meet the following  
3 requirements: A three-day training course including lectures,  
4 demonstrations, a field trip, at least four hours of hands-on  
5 training, individual respirator-fit testing, and a written  
6 examination; background information on asbestos and potential  
7 health effects related to exposure to asbestos; functions,  
8 qualifications, and the role of inspectors; legal liabilities and  
9 defenses; understanding building systems; public, employee, and  
10 occupant relations; preinspection planning and review of previous  
11 inspection records and inspecting for friable and nonfriable  
12 asbestos-containing material and assessing the condition of  
13 asbestos-containing material; bulk sampling and documentation of  
14 asbestos; inspector respiratory protection and personal protective  
15 equipment; and record keeping and inspection report writing,  
16 regulatory review, and course review. The written examination shall  
17 be approved and may be administered by the ~~department~~ system and  
18 shall be composed of questions covering subjects dealing with  
19 the course content. The passing score shall be determined by the  
20 ~~department.~~ system.

21           (3) In order to be approved by the ~~department,~~ system,  
22 an initial management planner training course shall meet the  
23 following requirements: A three-day inspector training course as  
24 outlined in subsection (2) of this section and a two-day management  
25 planner training course including lectures, demonstrations, and a  
26 written examination; course overview; evaluation and interpretation  
27 of survey results, hazard assessment, and legal implications;

1 evaluation and selection of control options; role of other  
2 professionals; developing an operations and maintenance plan; and  
3 regulatory review, record keeping for the management planner,  
4 assembling and submitting the management plan, financing abatement  
5 actions, and course review. The written examination shall be  
6 approved and may be administered by the ~~department~~ system and shall  
7 be composed of questions covering subjects dealing with the course  
8 content. The passing score shall be determined by the ~~department-~~  
9 system.

10 (4) In order to be approved by the ~~department,~~ system, an  
11 initial project designer training course shall meet the following  
12 requirements: A three-day training course including lectures,  
13 demonstrations, a field trip, and a written examination; background  
14 information on asbestos and potential health effects related to  
15 asbestos exposure; overview of abatement construction projects;  
16 safety system design specifications, employee personal protective  
17 equipment, and additional safety hazards; fiber aerodynamics and  
18 control, designing abatement solutions, final clearance process,  
19 and budgeting and cost estimation; writing abatement specifications  
20 and preparing abatement drawings; contract preparation and  
21 administration and legal liabilities and defenses; replacement of  
22 asbestos with asbestos-free substitutes; role of other consultants;  
23 occupied buildings; and relevant federal, state, and local  
24 regulatory requirements and course review. The written examination  
25 shall be approved and may be administered by the ~~department~~ system  
26 and shall be composed of questions covering subjects dealing with  
27 the course content. The passing score shall be determined by the

1 ~~department.~~ system.

2           (5) In order to be approved by the ~~department,~~  
3 system, an initial project monitor training course shall  
4 meet the following requirements: A five-day asbestos training  
5 course including lectures, demonstrations, at least six hours  
6 of hands-on training, and a written examination; roles and  
7 responsibilities of the project monitor; characteristics of  
8 asbestos and asbestos-containing materials; federal and state  
9 asbestos regulation overview; understanding building construction  
10 and building systems; asbestos abatement contracts, specifications,  
11 and drawings; response actions and abatement practices; asbestos  
12 abatement equipment; personal protective equipment; air monitoring  
13 strategies; safety and health issues other than asbestos;  
14 conducting visual inspections; final clearance process; legal  
15 responsibilities and liabilities of project monitors; record  
16 keeping and report writing; and course review. The written  
17 examination shall be approved and may be administered by the  
18 ~~department~~ system and shall be composed of questions covering  
19 subjects dealing with the course content. The passing score shall  
20 be determined by the ~~department.~~ system.

21           (6) In order to be approved by the ~~department,~~  
22 system, an initial supervisor training course shall meet the  
23 following requirements: A five-day asbestos training course  
24 including lectures, demonstrations, at least fourteen hours  
25 of hands-on training, individual respirator-fit testing, and a  
26 written examination; the physical characteristics of asbestos and  
27 asbestos-containing materials and potential health effects related

1 to asbestos exposure; employee personal protective equipment,  
2 state-of-the-art work practices, personal hygiene, additional  
3 safety hazards, medical monitoring, and air monitoring; relevant  
4 federal, state, and local regulatory requirements; respiratory  
5 protection programs, medical surveillance programs, and insurance  
6 and liability issues; record keeping for asbestos abatement  
7 projects and supervisory techniques for asbestos abatement  
8 activity; contract specifications; and course review. The written  
9 examination shall be approved and may be administered by the  
10 ~~department~~ system and shall be composed of questions covering  
11 subjects dealing with the course content. The passing score shall  
12 be determined by the ~~department.~~ system.

13 (7) In order to be approved by the ~~department,~~ system,  
14 an initial worker training course shall meet the following  
15 requirements: A four-day training course including lectures,  
16 demonstrations, at least fourteen hours of hands-on training,  
17 individual respirator-fit testing, and a written examination;  
18 physical characteristics of asbestos, potential health effects  
19 related to asbestos exposure, employee personal protective  
20 equipment, state-of-the-art work practices, personal hygiene,  
21 additional safety hazards, medical monitoring, and air monitoring;  
22 relevant federal, state, and local regulatory requirements,  
23 procedures, and standards; establishment of respiratory protection  
24 programs; and course review. The written examination shall be  
25 approved and may be administered by the ~~department~~ system and shall  
26 be composed of questions covering subjects dealing with the course  
27 content. The passing score shall be determined by the ~~department.~~



1 system.

2 (8) In order to be approved by the ~~department,~~ system,  
3 a course on Nebraska law, rules, and regulations required by  
4 subsection (5) of section 71-6310 shall consist of at least four  
5 hours of training on Nebraska law, rules, and regulations relating  
6 to asbestos. The written examination shall be approved and may be  
7 administered by the ~~department,~~ system. The passing score shall be  
8 determined by the ~~department,~~ system.

9 Sec. 1302. Section 71-6310.02, Reissue Revised Statutes  
10 of Nebraska, is amended to read:

11 71-6310.02 Any person certified in any of the asbestos  
12 occupations prescribed in section 71-6310, as a condition  
13 for certificate renewal, shall complete continuing competency  
14 activities as required by the ~~department~~ system pursuant to  
15 section 71-6303 and shall be examined and approved by a physician  
16 as prescribed for initial applicants in section 71-6310. The  
17 certificate holder shall submit evidence as required by the  
18 ~~department~~ system of satisfaction of the requirements of this  
19 section.

20 Sec. 1303. Section 71-6311, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 71-6311 No state agency, county, city, village, school  
23 district, or other political subdivision shall accept a bid in  
24 connection with any asbestos project which is two hundred sixty  
25 or more linear feet or one hundred sixty or more square feet and  
26 linear feet in any combination from a business entity which does  
27 not hold a license from the ~~department~~ system at the time the bid

1 is submitted.

2           Sec. 1304. Section 71-6314, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           71-6314 (1) When the ~~department~~ system determines that  
5 a licensee has violated the Asbestos Control Act or any rule  
6 and regulation adopted and promulgated pursuant to the act,  
7 the ~~department~~ system may, rather than initially instituting  
8 disciplinary proceedings pursuant to subsection (2) of this  
9 section, within seven working days after a finding of a violation  
10 is made, issue a citation to the licensee. The citation shall be  
11 served upon the licensee personally or by certified mail. Each  
12 citation shall specifically describe the nature of the violation  
13 and identify the statute, rule, or regulation violated. When a  
14 citation is served upon the licensee, the licensee shall have seven  
15 working days to remedy the violation. If such violation has not  
16 been remedied at the end of such time, the ~~department~~ system may  
17 take such other action as is deemed appropriate pursuant to the  
18 Asbestos Control Act and the Administrative Procedure Act.

19           (2) Independent of the provisions of subsection (1) of  
20 this section, a license, certificate, or approval issued pursuant  
21 to the Asbestos Control Act may be denied, refused renewal,  
22 suspended, or revoked when the applicant, licensee, or certificate  
23 holder violates any of the provisions of the act, fraudulently or  
24 deceptively obtains or attempts to obtain a license, certificate,  
25 or approval, fails at any time to meet the qualifications for  
26 a license, certificate, or approval, fails to comply with rules  
27 and regulations adopted and promulgated pursuant to the act, fails

1 to meet any applicable state standard for asbestos projects, or  
2 employs or permits an uncertified person to work in an asbestos  
3 occupation.

4 (3) In addition to the disciplinary actions provided for  
5 in subsection (2) of this section, the ~~department~~ system may assess  
6 a civil penalty of not less than one thousand dollars nor more  
7 than twenty-five thousand dollars for each offense committed by any  
8 business entity licensed under the act or not less than one hundred  
9 dollars nor more than five thousand dollars for each offense  
10 committed by a person certified under the act for violation of  
11 the act or any rule or regulation adopted and promulgated pursuant  
12 thereto. Each day a violation continues shall constitute a separate  
13 offense.

14 (4) Whenever the ~~department~~ system determines to deny,  
15 refuse to renew, suspend, or revoke a license, certificate, or  
16 approval or assess a civil penalty, it shall send to the applicant,  
17 licensee, or certificate holder a notice setting forth the  
18 particular reasons for the determination. The denial, suspension,  
19 refusal to renew, revocation, or assessment of a civil penalty  
20 shall become final thirty days after the mailing of the notice  
21 unless the applicant, certificate holder, or licensee gives written  
22 notice to the ~~department~~ system of a desire for a hearing. If  
23 a hearing is requested, the applicant, certificate holder, or  
24 licensee shall be given a hearing before the ~~department~~ system  
25 and shall have the right to present such evidence as may be  
26 proper. On the basis of such evidence, the determination shall  
27 be affirmed, modified, or set aside, and a copy of such decision

1 setting forth the findings of fact and the particular reasons upon  
2 which such decision was based shall be sent by certified mail  
3 to the applicant, certificate holder, or licensee. The decision  
4 shall become a final decision of the ~~department~~ system and may  
5 be appealed, and the appeal shall be in accordance with the  
6 Administrative Procedure Act.

7 (5) Hearings held pursuant to this section shall be held  
8 in accordance with the Administrative Procedure Act and the rules  
9 and regulations adopted and promulgated by the ~~department~~ system  
10 under such act.

11 (6) Any civil penalty assessed and unpaid under the  
12 Asbestos Control Act shall constitute a debt to the State of  
13 Nebraska which may be collected in the manner of a lien foreclosure  
14 or sued for and recovered in any proper form of action in the name  
15 of the State of Nebraska in the district court of the county in  
16 which the violator resides or owns property. ~~The department shall,~~  
17 ~~within thirty days of receipt, transmit any collected civil penalty~~  
18 ~~to the State Treasurer for deposit in the permanent school fund.~~  
19 The system shall remit any collected civil penalty to the State  
20 Treasurer, within thirty days after receipt, for distribution in  
21 accordance with Article VII, section 5, of the Constitution of  
22 Nebraska.

23 Sec. 1305. Section 71-6319.02, Reissue Revised Statutes  
24 of Nebraska, is amended to read:

25 71-6319.02 Abatement or abatement project means any  
26 measure or set of measures designed to permanently eliminate  
27 lead-based paint hazards. Abatement includes, but is not limited

1 to:

2 (1) The removal of lead-based paint and lead-contaminated  
3 dust, the permanent enclosure or encapsulation of lead-based paint,  
4 the replacement of lead-painted surfaces or fixtures, and the  
5 removal or covering of lead-contaminated soil;

6 (2) All preparation, cleanup, disposal, and  
7 post-abatement clearance testing activities associated with such  
8 measures; and

9 (3) (a) Projects for which there is a written contract or  
10 other documentation which provides that a firm or an individual  
11 will be conducting activities in or to a residential dwelling  
12 or child-occupied facility that (i) will result in the permanent  
13 elimination of lead-based paint hazards or (ii) are designed to  
14 permanently eliminate lead-based paint hazards and are described in  
15 subdivision (1) or (2) of this section;

16 (b) Projects resulting in the permanent elimination  
17 of lead-based paint hazards conducted by firms or individuals  
18 certified in accordance with the ~~department~~ system unless such  
19 projects are excluded from the definition of abatement or abatement  
20 project under this section;

21 (c) Projects resulting in the permanent elimination of  
22 lead-based paint hazards conducted by firms or individuals who  
23 or which, through company name or promotional literature, hold  
24 themselves out to be in the business of performing lead-based paint  
25 activities unless such projects are excluded from the definition of  
26 abatement or abatement project under this section; or

27 (d) Projects resulting in the permanent elimination of

1 lead-based paint hazards that are conducted in response to state or  
2 local abatement orders.

3 Abatement does not include renovation, remodeling,  
4 landscaping, or other activities when such activities are not  
5 designed to permanently eliminate lead-based paint hazards but  
6 instead are designed to repair, restore, or remodel a structure  
7 or dwelling even if such activities may incidentally result in  
8 a reduction or elimination of lead-based paint hazards. Abatement  
9 does not include interim controls, operations, and maintenance  
10 activities or other measures and activities designed to temporarily  
11 but not permanently reduce lead-based paint hazards.

12 Sec. 1306. Section 71-6319.03, Reissue Revised Statutes  
13 of Nebraska, is amended to read:

14 71-6319.03 Accredited training program means a training  
15 program that has been accredited by the ~~department~~ system to  
16 provide training for individuals engaged in lead-based paint  
17 activities.

18 Sec. 1307. Section 71-6319.04, Reissue Revised Statutes  
19 of Nebraska, is amended to read:

20 71-6319.04 Certified abatement worker means an individual  
21 who has been trained by an accredited training program and  
22 certified by the ~~department~~ system to perform abatement projects.

23 Sec. 1308. Section 71-6319.05, Reissue Revised Statutes  
24 of Nebraska, is amended to read:

25 71-6319.05 Certified firm means a firm to which the  
26 ~~department~~ system has issued a certificate of approval.

27 Sec. 1309. Section 71-6319.06, Reissue Revised Statutes

1 of Nebraska, is amended to read:

2           71-6319.06 Certified inspector means an individual who  
3 has been trained by an accredited training program and certified  
4 by the ~~department~~ system to conduct inspections and sample for the  
5 presence of lead in dust and soil for the purposes of abatement  
6 clearance testing.

7           Sec. 1310. Section 71-6319.07, Reissue Revised Statutes  
8 of Nebraska, is amended to read:

9           71-6319.07 Certified project designer means an individual  
10 who has been trained by an accredited training program and  
11 certified by the ~~department~~ system to prepare abatement project  
12 designs, occupant protection plans, and abatement reports.

13           Sec. 1311. Section 71-6319.08, Reissue Revised Statutes  
14 of Nebraska, is amended to read:

15           71-6319.08 Certified risk assessor means an individual  
16 who has been trained by an accredited training program and  
17 certified by the ~~department~~ system to conduct risk assessments  
18 and to sample for the presence of lead in dust and soil for the  
19 purposes of abatement clearance testing.

20           Sec. 1312. Section 71-6319.09, Reissue Revised Statutes  
21 of Nebraska, is amended to read:

22           71-6319.09 Certified supervisor means an individual who  
23 has been trained by an accredited training program and certified by  
24 the ~~department~~ system to supervise and conduct abatement projects  
25 and to prepare occupant protection plans and abatement reports.

26           Sec. 1313. Section 71-6319.10, Reissue Revised Statutes  
27 of Nebraska, is amended to read:

1                   71-6319.10 Certified visual lead-hazard advisor means  
2 an individual who has been trained by an accredited training  
3 program and certified by the ~~department~~ system to conduct a visual  
4 lead-hazard screen.

5                   Sec. 1314. Section 71-6319.15, Reissue Revised Statutes  
6 of Nebraska, is amended to read:

7                   71-6319.15 System means the Health and Human Services  
8 System. Department means the Department of Health and Human  
9 Services Regulation and Licensure.

10                   Sec. 1315. Section 71-6319.29, Reissue Revised Statutes  
11 of Nebraska, is amended to read:

12                   71-6319.29 Lead-based paint profession means one of  
13 the specific types or categories of lead-based paint activities  
14 identified in the Residential Lead-Based Paint Professions  
15 Certification Act for which individuals may receive training  
16 from an accredited training program and become certified by the  
17 ~~department.~~ system.

18                   Sec. 1316. Section 71-6321, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20                   71-6321 (1) The ~~department~~ system shall administer the  
21 Residential Lead-Based Paint Professions Certification Act.

22                   (2) The ~~department~~ system shall adopt and promulgate  
23 rules and regulations necessary to carry out such act. The  
24 ~~department~~ system shall adopt state standards governing abatement  
25 projects and may adopt or incorporate part or all of any federal  
26 standards in such state standards so long as state standards are no  
27 less stringent than federal standards.



1           (3) The ~~department~~ system shall prescribe fees based upon  
2 the following schedule:

3           (a) For an annual firm certificate or certificate  
4 renewal, not less than two hundred dollars or more than five  
5 hundred dollars;

6           (b) For accreditation of a training program, not less  
7 than one thousand dollars or more than two thousand five hundred  
8 dollars, which fee shall include one onsite inspection if such  
9 inspection is required by the ~~department;~~ system;

10          (c) For accreditation of a review course or a course on  
11 Nebraska law, rules, and regulations, not less than five hundred  
12 dollars or more than one thousand dollars, which fee shall include  
13 one onsite inspection if such inspection is required by the  
14 ~~department;~~ system;

15          (d) For onsite inspections other than initial  
16 inspections, not less than one hundred fifty dollars or more than  
17 two hundred fifty dollars. Such fees shall not be assessed for more  
18 than three onsite inspections per year during the period an actual  
19 abatement project is in progress; and

20          (e) For a project review of each abatement project of a  
21 certified firm, not less than two hundred dollars or more than five  
22 hundred dollars.

23           Any such applicant whose application is rejected shall  
24 be allowed the return of the application fee, except that an  
25 administrative charge of one hundred dollars for a firm certificate  
26 and for accreditation of a training program shall be retained by  
27 the ~~department.~~ system.

1           All fees shall be based on the costs of administering  
2 the act. In addition to the fees prescribed in this section,  
3 the ~~department~~ system may charge and receive the actual costs  
4 for board, room, and travel by employees in excess of three  
5 hundred dollars, which costs shall not exceed the amounts allowable  
6 in sections 81-1174 to 81-1177. All such fees collected by the  
7 ~~department~~ system shall be remitted to the State Treasurer for  
8 credit to the ~~Department of Health and Human Services Regulation~~  
9 ~~and Licensure~~ Health and Human Services System Cash Fund. Money  
10 credited to the fund pursuant to this section shall be used by the  
11 ~~department~~ system for the purpose of administering the act.

12           (4) At least once a year during the continuation of an  
13 abatement project the ~~department~~ system shall conduct an onsite  
14 inspection of each certified firm's procedures for performing  
15 abatement projects.

16           (5) The ~~department~~ system may enter into agreements or  
17 contracts with public agencies to conduct any inspections required  
18 under the act if such agencies have the appropriate certification  
19 or accreditation as described in the act.

20           (6) The ~~department~~ system shall adopt and promulgate  
21 rules and regulations defining work practices for abatement  
22 projects, for the certification of lead-based paint professions,  
23 for the accreditation of training programs, for the accreditation  
24 of training program providers, for the dissemination of  
25 prerenovation information to homeowners and occupants, for the  
26 facilitation of compliance with federal lead-based paint hazard  
27 control grant programs, and for the implementation of lead-based

1 paint compliance monitoring and enforcement activities. The  
2 ~~department~~ system may provide for alternatives to specific work  
3 practices when the health, safety, and welfare of all classes of  
4 lead-based paint professions and the general public are adequately  
5 protected.

6 (7) The ~~department~~ system may apply for and receive  
7 funds from the federal government and any other public or private  
8 entity for the purposes of administering the act. Any funds applied  
9 for, received, or used by the ~~department~~ system or any political  
10 subdivision from the federal government or any public entity  
11 may be used only to abate lead-based paint hazards and for the  
12 administration of lead-based paint programs which address health  
13 and environmental hazards caused by lead-based paint.

14 (8) The ~~department~~ system shall establish and collect  
15 certification fees and recertification fees as provided in section  
16 71-162 for individuals certified under section 71-6326. The  
17 ~~department~~ system shall adopt and promulgate rules and regulations  
18 to establish continuing competency requirements for persons  
19 certified under the act. Continuing education is sufficient to  
20 meet continuing competency requirements. The requirements may also  
21 include, but not be limited to, one or more of the continuing  
22 competency activities listed in section 71-161.09 which a certified  
23 person may select as an alternative to continuing education.

24 Sec. 1317. Section 71-6322, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26 71-6322 To qualify for a certificate, a firm shall:

27 (1) Own or demonstrate immediate and continuing access to

1 and maintain in operable condition modern and effective equipment,  
2 as prescribed by the ~~department,~~ system, which is designed for use  
3 in abatement projects;

4 (2) Ensure that each employee or agent of the firm who  
5 will participate in an abatement project is certified as required  
6 by the Residential Lead-Based Paint Professions Certification Act;

7 (3) Demonstrate to the satisfaction of the ~~department~~  
8 system that the firm is capable of complying with all applicable  
9 requirements, procedures, and standards pertaining to abatement  
10 projects; and

11 (4) Meet any other standards which the ~~department~~ system  
12 may deem necessary to protect the health, safety, and welfare of  
13 all classes of lead-based paint professions and the general public.

14 Sec. 1318. Section 71-6323, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 71-6323 (1) To apply for a certificate, a firm shall  
17 submit an application to the ~~department~~ system in the form required  
18 by the ~~department~~ system and shall pay the fee prescribed by the  
19 ~~department.~~ system.

20 (2) The application shall include, but not be limited to:

21 (a) The name, address, and nature of the firm;

22 (b) A statement that all individuals who will engage in  
23 any abatement project for the certificate holder will be certified  
24 as required by the Residential Lead-Based Paint Professions  
25 Certification Act;

26 (c) A description of the removal, enclosure,  
27 encapsulation, demolition, dismantling, and maintenance methods

1 that the firm will use;

2 (d) A description of the procedures that the firm will  
3 use for handling lead-containing waste;

4 (e) A description of the procedures that the firm will  
5 use in cleaning up the abatement project;

6 (f) The signature of the chief executive officer of the  
7 firm or his or her designee; and

8 (g) Such other information as may be necessary for the  
9 efficient administration and enforcement of the act and for the  
10 protection of the health, safety, and welfare of all classes of  
11 lead-based paint professions and the general public.

12 Sec. 1319. Section 71-6326, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 71-6326 (1) An individual shall not be eligible to work  
15 on an abatement project unless the individual holds a certificate  
16 issued by the ~~department.~~ system.

17 (2) The ~~department~~ system shall issue the following  
18 classes of certificates: Worker, supervisor, inspector, risk  
19 assessor, visual lead-hazard advisor, elevated blood-lead level  
20 inspector, and project designer. To qualify for a certificate of  
21 a particular class, an individual shall have (a) successfully  
22 completed a training course approved or administered by the  
23 ~~department,~~ system, (b) passed an examination approved or  
24 administered by the ~~department~~ system with at least the minimum  
25 score prescribed by the ~~department,~~ system, and (c) for the classes  
26 of worker and supervisor, been examined by a physician within the  
27 preceding year and declared by the physician to be physically

1 capable of working while wearing a respirator.

2 (3) A certificate or renewal certificate shall be valid  
3 for three years from the date of issuance. To qualify for a renewal  
4 certificate, the applicant shall meet the requirements of section  
5 71-6327.

6 (4) Applications for certificates and renewal  
7 certificates shall be submitted to the ~~department~~ system on  
8 forms prescribed by the ~~department~~ system and shall be accompanied  
9 by the prescribed fee.

10 Sec. 1320. Section 71-6327, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 71-6327 Any individual certified in any of the lead-based  
13 paint professions prescribed in the Residential Lead-Based Paint  
14 Professions Certification Act, as a condition for certificate  
15 renewal, shall complete continuing competency activities as  
16 required by the ~~department~~ system pursuant to section 71-6321.

17 Sec. 1321. Section 71-6328, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 71-6328 No state agency, county, city, village, school  
20 district, or other political subdivision shall accept a bid in  
21 connection with any abatement project from a firm which does not  
22 hold a certificate from the ~~department~~ system at the time the bid  
23 is submitted.

24 Sec. 1322. Section 71-6328.01, Reissue Revised Statutes  
25 of Nebraska, is amended to read:

26 71-6328.01 Any individual or firm who or which has been  
27 issued a certificate or accreditation for training in another state

1 which (1) has a certification or accreditation program approved by  
2 the federal Environmental Protection Agency, (2) has accreditation,  
3 certification, education, and experience requirements substantially  
4 equal to or greater than those adopted by this state, and  
5 (3) grants equal certification and accreditation privileges to  
6 individuals and firms certified or accredited and residing in this  
7 state may be issued an equivalent certificate or accreditation in  
8 Nebraska upon terms and conditions determined by the ~~department.~~  
9 system. The terms and conditions may reduce the time period  
10 established under subsection (3) of section 71-6326 and the fee  
11 requirements.

12           Sec. 1323. Section 71-6329, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           71-6329 (1) A firm which engages in an abatement  
15 project without a valid certificate as provided in the Residential  
16 Lead-Based Paint Professions Certification Act shall be assessed  
17 a civil penalty of not less than five thousand dollars nor more  
18 than twenty-five thousand dollars for the first offense and not  
19 less than twenty-five thousand dollars nor more than one hundred  
20 thousand dollars for a second or subsequent offense. Each day a  
21 violation continues shall constitute a separate offense.

22           (2) An individual who engages in a lead-based paint  
23 profession without a valid certificate shall be assessed a civil  
24 penalty of not less than five hundred dollars nor more than five  
25 thousand dollars for the first offense and not less than one  
26 thousand dollars nor more than fifteen thousand dollars for the  
27 second or subsequent offense. Each day a violation continues shall

1 constitute a separate offense.

2 (3) Any firm which knowingly engages in an abatement  
3 project but which uses employees who do not hold certificates shall  
4 be assessed a civil penalty of not less than five thousand dollars  
5 nor more than twenty-five thousand dollars for the first offense  
6 and not less than twenty-five thousand dollars nor more than one  
7 hundred thousand dollars for a second or subsequent offense. Each  
8 day a violation continues shall constitute a separate offense.

9 (4) Any firm conducting an accredited training program  
10 which knowingly engages in issuing fraudulent certificates or  
11 fails to conduct its training program in accordance with its  
12 accreditation shall, in addition to having its accreditation  
13 revoked, pay a civil penalty of not less than five thousand  
14 dollars nor more than twenty-five thousand dollars.

15 (5) The civil penalties prescribed in subsections (1),  
16 (2), (3), and (4) of this section shall be assessed in a civil  
17 action brought for such purpose by the Attorney General or the  
18 county attorney in the district court of the county in which the  
19 violation occurred.

20 (6) An individual or firm which has been assessed a  
21 civil penalty under this section and subsequently engages in an  
22 abatement project or a lead-based paint profession without a valid  
23 certificate or using employees who do not hold certificates,  
24 conducts training programs without being accredited by the  
25 ~~department,~~ system, or issues fraudulent certificates, except as  
26 otherwise provided in the act:

27 (a) For a first offense, shall be guilty of a Class I



1 misdemeanor; and

2 (b) For a second or subsequent offense, shall be guilty  
3 of a Class IV felony.

4 Sec. 1324. Section 71-6330, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 71-6330 Upon the request of the ~~department~~, system, the  
7 Attorney General or appropriate county attorney shall institute  
8 without delay an action in the name of the state for proceedings  
9 appropriate against any individual or firm to restrain or prevent  
10 any violation of the Residential Lead-Based Paint Professions  
11 Certification Act or of any rules and regulations adopted and  
12 promulgated pursuant to the act.

13 Sec. 1325. Section 71-6331, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 71-6331 (1) An application or a certificate under the  
16 Residential Lead-Based Paint Professions Certification Act may be  
17 denied, refused renewal, suspended, or revoked if the applicant  
18 or certificate holder violates any of the provisions of the  
19 act, fraudulently or deceptively obtains or attempts to obtain a  
20 certificate, fails at any time to meet the qualifications for a  
21 certificate, fails to comply with rules and regulations adopted  
22 and promulgated pursuant to the act, fails to meet any applicable  
23 state standard for abatement projects, or employs or permits an  
24 uncertified individual to work in a lead-based paint profession.

25 (2) In addition to the disciplinary actions provided for  
26 in subsection (1) of this section, the ~~department~~ system may assess  
27 a civil penalty of not less than one thousand dollars nor more

1 than three thousand dollars for each offense committed by any firm  
2 certified under the act or not less than one hundred dollars nor  
3 more than five thousand dollars for each offense committed by an  
4 individual certified under the act for violation of the act or any  
5 rule or regulation adopted and promulgated pursuant thereto. Each  
6 day a violation continues shall constitute a separate offense.

7 (3) Whenever the ~~department~~ system determines to deny,  
8 refuse to renew, suspend, or revoke a certificate or assess a civil  
9 penalty, it shall send to the applicant or certificate holder a  
10 notice setting forth the particular reasons for the determination.  
11 The denial, suspension, refusal to renew, revocation, or assessment  
12 of a civil penalty shall become final thirty days after the mailing  
13 of the notice unless the applicant or certificate holder gives  
14 written notice to the ~~department~~ system of a desire for a hearing.  
15 If a hearing is requested, the applicant or certificate holder  
16 shall be given a hearing before the ~~department~~ system and shall  
17 have the right to present such evidence as may be proper. On  
18 the basis of such evidence, the determination shall be affirmed,  
19 modified, or set aside, and a copy of such decision setting forth  
20 the findings of fact and the particular reasons upon which such  
21 decision was based shall be sent by certified mail to the applicant  
22 or certificate holder. The decision shall become a final decision  
23 of the ~~department~~ system and may be appealed. The appeal shall be  
24 in accordance with the Administrative Procedure Act.

25 (4) Hearings held pursuant to this section shall be held  
26 in accordance with the Administrative Procedure Act.

27 (5) Any civil penalty assessed and unpaid under the

1 Residential Lead-Based Paint Professions Certification Act shall  
2 constitute a debt to the State of Nebraska which may be collected  
3 in the manner of a lien foreclosure or sued for and recovered in  
4 any proper form of action in the name of the State of Nebraska  
5 in the district court of the county in which the violator resides  
6 or owns property. The system shall remit any collected civil  
7 penalty to the State Treasurer, within thirty days after receipt,  
8 for distribution in accordance with Article VII, section 5, of  
9 the Constitution of Nebraska. The department shall, within thirty  
10 days of receipt, remit any collected civil penalty to the State  
11 Treasurer for credit to the permanent school fund.

12           Sec. 1326. Section 71-6602, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           71-6602 As used in sections 71-6601 to 71-6615, unless  
15 the context otherwise requires:

16           (1) Activities of daily living shall mean means  
17 assistance with ambulation, toileting, feeding, and similar  
18 activities;

19           (2) Basic therapeutic care shall mean means basic health  
20 care procedures, including, but not limited to, measuring vital  
21 signs, applying hot and cold applications and nonsterile dressings,  
22 and assisting with, but not administering, internal and external  
23 medications which are normally self-administered. Basic therapeutic  
24 care shall does not include health care procedures which require  
25 the exercise of nursing or medical judgment;

26           (3) ~~Department shall mean the Department of Health and~~  
27 ~~Human Services Regulation and Licensure;~~

1           ~~(4)~~ (3) Home health agency ~~shall mean~~ means a home health  
2 agency as defined in section 71-417;

3           ~~(5)~~ (4) Home health aide ~~shall mean~~ means a person  
4 who is employed by a home health agency to provide personal  
5 care, assistance with the activities of daily living, and basic  
6 therapeutic care to patients of the home health agency;

7           ~~(6)~~ (5) Personal care ~~shall mean~~ means bathing, hair  
8 care, nail care, shaving, dressing, oral care, and similar  
9 activities;

10          ~~(7)~~ (6) Supervised practical training ~~shall mean~~ means  
11 training in a laboratory or other setting in which the trainee  
12 demonstrates knowledge while performing tasks on an individual  
13 under the direct supervision of a registered nurse or licensed  
14 practical nurse; ~~and~~

15          (7) System means the Health and Human Services System;  
16 and

17          (8) Vital signs ~~shall mean~~ means temperature, pulse,  
18 respiration, and blood pressure.

19          Sec. 1327. Section 71-6603, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21          71-6603 On and after September 6, 1991, no person shall  
22 act as a home health aide unless such person:

- 23           (1) Is at least eighteen years of age;  
24           (2) Is of good moral character;  
25           (3) Has not been convicted of a crime under the laws  
26 of this state or another jurisdiction, the penalty for which is  
27 imprisonment for a period of more than one year and which is

1 rationally related to the person's fitness or capacity to act as a  
2 home health aide;

3 (4) Is able to speak and understand the English language  
4 or the language of the home health agency patient and the home  
5 health agency staff member who acts as the home health aide's  
6 supervisor;

7 (5) Meets one of the following qualifications:

8 (a) Has successfully completed a home health aide  
9 training course which meets the standards described in section  
10 71-6608.01;

11 (b) Is a graduate of a school of nursing;

12 (c) Has been employed by a licensed home health agency as  
13 a home health aide II prior to September 6, 1991;

14 (d) Has successfully completed a course in a school of  
15 nursing which included practical clinical experience in fundamental  
16 nursing skills and has completed a competency evaluation as  
17 described in section 71-6608.02;

18 (e) Has successfully completed a basic course of training  
19 approved by the ~~department~~ system for nursing assistants as  
20 required by section 71-6039 and has completed a competency  
21 evaluation as described in section 71-6608.02;

22 (f) Has been employed by a licensed home health agency as  
23 a home health aide I prior to September 6, 1991, and has completed  
24 a competency evaluation as described in section 71-6608.02; or

25 (g) Has met the qualifications equal to one of those  
26 contained in subdivisions (a) through (f) of this subdivision in  
27 another state or territory of the United States; and

1           (6) Has provided to the employing licensed home health  
2 agency proof of meeting the requirements of this section.

3           Sec. 1328. Section 71-6606, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           71-6606 After January 1, 1989, home health agencies shall  
6 employ only home health aides qualified to provide home health  
7 care pursuant to sections 71-6601 to 71-6615. The ~~department~~ system  
8 shall prescribe procedures for verification by home health agencies  
9 of successful completion of the requirements of section 71-6603.  
10 Home health agencies shall provide direction and supervision of  
11 home health aides. Home health agencies shall provide or make  
12 available to their home health aides four one-hour inservice  
13 programs per year on subjects relevant to home health care and  
14 shall verify such programs in a manner and method prescribed by the  
15 ~~department.~~ system.

16           Sec. 1329. Section 71-6608, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           71-6608 After January 1, 1989, any home health aide not  
19 acting as such for a period of three years shall demonstrate  
20 competency in the tasks and duties which are the subject of  
21 home health aide training courses. The home health agency shall  
22 determine and verify competency of the home health aide in the  
23 manner and method prescribed by the ~~department.~~ system.

24           Sec. 1330. Section 71-6612, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26           71-6612 Each home health agency shall be responsible for  
27 verifying in a manner and method prescribed by the ~~department~~

1 system that a home health aide is competent to provide personal  
2 care, assistance with the activities of daily living, and basic  
3 therapeutic care to patients of the agency.

4           Sec. 1331. Section 71-6721, Revised Statutes Cumulative  
5 Supplement, 2006, is amended to read:

6           71-6721 For purposes of the Medication Aide Act:

7           (1) Ability to take medications independently means the  
8 individual is physically capable of (a) the act of taking or  
9 applying a dose of a medication, (b) taking or applying the  
10 medication according to a specific prescription or recommended  
11 protocol, and (c) observing and monitoring himself or herself for  
12 desired effect, side effects, interactions, and contraindications  
13 of the medication and taking appropriate actions based upon those  
14 observations;

15           (2) Administration of medication includes, but is not  
16 limited to (a) providing medications for another person according  
17 to the five rights, (b) recording medication provision, and (c)  
18 observing, monitoring, reporting, and otherwise taking appropriate  
19 actions regarding desired effects, side effects, interactions, and  
20 contraindications associated with the medication;

21           (3) Caretaker means a parent, foster parent, family  
22 member, friend, or legal guardian who provides care for an  
23 individual;

24           (4) Child care facility means an entity or a person  
25 licensed under the Child Care Licensing Act;

26           (5) Competent individual means an adult who is the  
27 ultimate recipient of medication and who has the capability and

1 capacity to make an informed decision about taking medications;

2 ~~(6) Department means the Department of Health and Human~~  
3 ~~Services Regulation and Licensure;~~

4 ~~(7) (6) Direction and monitoring means the acceptance~~  
5 of responsibility for observing and taking appropriate action  
6 regarding any desired effects, side effects, interactions, and  
7 contraindications associated with the medication by a (a) competent  
8 individual for himself or herself, (b) caretaker, or (c) licensed  
9 health care professional;

10 ~~(8) (7) Facility means a health care facility or health~~  
11 care service as defined in section 71-413 or 71-415 or an  
12 entity or person certified by the ~~Department of Health and Human~~  
13 ~~Services Regulation and Licensure or the Department of Health and~~  
14 ~~Human Services Finance and Support~~ system to provide home and  
15 community-based services;

16 ~~(9) (8) Five rights means getting the right drug to the~~  
17 right recipient in the right dosage by the right route at the right  
18 time;

19 ~~(10) (9) Health care professional means an individual~~  
20 for whom administration of medication is included in the scope of  
21 practice;

22 ~~(11) (10) Home means the residence of an individual but~~  
23 does not include any facility or school;

24 ~~(12) (11) Intermediate care facility for the mentally~~  
25 retarded has the definition found in section 71-421;

26 ~~(13) (12) Informed decision means a decision made~~  
27 knowingly, based upon capacity to process information about choices



1 and consequences, and made voluntarily;

2 ~~(14)~~ (13) Medication means any prescription or  
3 nonprescription drug intended for treatment or prevention of  
4 disease or to affect body function in humans;

5 ~~(15)~~ (14) Medication aide means an individual who is  
6 listed on the medication aide registry operated by the ~~Department~~  
7 ~~of Health and Human Services Regulation and Licensure;~~ system;

8 ~~(16)~~ (15) Nonprescription drug has the definition found  
9 in section 71-1,142;

10 ~~(17)~~ (16) Nursing home means any facility or a distinct  
11 part of any facility that provides care as defined in sections  
12 71-420, 71-422, 71-424, and 71-429;

13 ~~(18)~~ (17) Prescription drug has the definition of  
14 prescription drug or device as found in section 71-1,142;

15 ~~(19)~~ (18) Provision of medication means the component of  
16 the administration of medication that includes giving or applying  
17 a dose of a medication to an individual and includes helping an  
18 individual in giving or applying such medication to himself or  
19 herself;

20 ~~(20)~~ (19) PRN means an administration scheme in which  
21 a medication is not routine, is taken as needed, and requires  
22 assessment for need and effectiveness;

23 ~~(21)~~ (20) Recipient means a person who is receiving  
24 medication;

25 ~~(22)~~ (21) Routine, with reference to medication, means  
26 the frequency of administration, amount, strength, and method are  
27 specifically fixed; ~~and~~

1           ~~(23)~~ (20) School means an entity or person meeting the  
2 requirements for a school set by Chapter 79; and -

3           (23) System means the Health and Human Services System.

4           Sec. 1332. Section 71-6724, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6           71-6724 A medication aide, a facility using a medication  
7 aide, a child care facility using the services of a person licensed  
8 to operate a child care facility or a staff member of a child care  
9 facility, or a school using the services of a staff member of the  
10 school shall keep and maintain accurate medication administration  
11 records. The medication administration records shall be available  
12 to the ~~Department of Health and Human Services Regulation and~~  
13 ~~Licensure,~~ the Department of Health and Human Services, system  
14 and the State Department of Education for inspection and copying.  
15 The medication administration records shall include information and  
16 data the ~~departments~~ system and department require by rules and  
17 regulations adopted under the Medication Aide Act.

18           Sec. 1333. Section 71-6725, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20           71-6725 (1) The minimum competencies for a medication  
21 aide, a person licensed to operate a child care facility or a staff  
22 member of a child care facility, or a staff member of a school  
23 shall include (a) maintaining confidentiality, (b) complying with  
24 a recipient's right to refuse to take medication, (c) maintaining  
25 hygiene and current accepted standards for infection control, (d)  
26 documenting accurately and completely, (e) providing medications  
27 according to the five rights, (f) having the ability to understand

1 and follow instructions, (g) practicing safety in application  
2 of medication procedures, (h) complying with limitations and  
3 conditions under which a medication aide may provide medications,  
4 and (i) having an awareness of abuse and neglect reporting  
5 requirements and any other areas as shall be determined by rules or  
6 regulations.

7 (2) ~~The Department of Health and Human Services~~  
8 ~~Regulation and Licensure system~~ shall adopt and promulgate rules  
9 and regulations setting minimum standards for competencies listed  
10 in subsection (1) of this section and methods for competency  
11 assessment of medication aides. ~~The Department of Health and Human~~  
12 ~~Services system~~ shall adopt and promulgate rules and regulations  
13 setting methods for competency assessment of the person licensed to  
14 operate a child care facility or staff of child care facilities.  
15 The State Department of Education shall adopt and promulgate rules  
16 and regulations setting methods for competency assessment of the  
17 school staff member.

18 (3) A medication aide (except one who is employed by  
19 a nursing home, an intermediate care facility for the mentally  
20 retarded, or an assisted-living facility), a person licensed to  
21 operate a child care facility or a staff member of a child care  
22 facility, or a staff member of a school shall not be required to  
23 take a course. The medication aide shall be assessed to determine  
24 that the medication aide has the competencies listed in subsection  
25 (1) of this section.

26 (4) A medication aide providing services in an  
27 assisted-living facility as defined in section 71-406, a nursing

1 home, or an intermediate care facility for the mentally retarded  
2 shall be required to have completed a forty-hour course on  
3 the competencies listed in subsection (1) of this section and  
4 competency standards established through rules and regulations  
5 as provided for in subsection (2) of this section, except that  
6 a medication aide who has, prior to January 1, 2003, completed  
7 a twenty-hour course and passed an examination developed and  
8 administered by the Department of Health and Human Services  
9 Regulation and Licensure may complete a second twenty-hour  
10 course supplemental to the first twenty-hour course in lieu  
11 of completing the forty-hour course. The ~~department~~ system  
12 shall adopt and promulgate rules and regulations regarding the  
13 procedures and criteria for curriculum. Competency assessment shall  
14 include passing an examination developed and administered by the  
15 ~~department.~~ system. Criteria for establishing a passing standard  
16 for the examination shall be established in rules and regulations.

17 (5) Medication aides providing services in nursing homes  
18 or intermediate care facilities for the mentally retarded shall  
19 also meet the requirements set forth in section 71-6039.

20 Sec. 1334. Section 71-6726, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 71-6726 (1) To register as a medication aide, an  
23 individual shall (a) have successfully completed the requirements  
24 in section 71-6725, (b) be at least eighteen years of age, (c)  
25 be of good moral character, (d) file an application with the  
26 ~~department,~~ system, and (e) pay the applicable fee.

27 (2) An applicant or medication aide shall report to the

1 ~~department,~~ system in writing, any conviction for a felony or  
2 misdemeanor. A conviction is not a disqualification for placement  
3 on the registry unless it relates to the standards identified in  
4 such section.

5 (3) An applicant or medication aide may report any pardon  
6 or setting aside of a conviction to the ~~department,~~ system. If a  
7 pardon or setting aside has been obtained, the conviction for which  
8 it was obtained shall not be maintained on the Medication Aide  
9 Registry.

10 Sec. 1335. Section 71-6727, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 71-6727 (1) The ~~department~~ system shall list  
13 each medication aide registration in the Medication Aide  
14 Registry as a Medication Aide-Nursing Home, Medication  
15 Aide-Intermediate Care Facility for the Mentally Retarded,  
16 Medication Aide-Assisted-Living, or Medication Aide. A listing in  
17 the registry shall be valid for the term of the registration and  
18 upon renewal unless such listing is refused renewal or is removed  
19 as provided in section 71-6730.

20 (2) The registry shall contain the following information  
21 on each individual who meets the conditions in section 71-6726: (a)  
22 The individual's full name; (b) information necessary to identify  
23 individuals, including those qualified to provide medications  
24 in nursing homes, intermediate care facilities for the mentally  
25 retarded, or assisted-living facilities; (c) any conviction of a  
26 felony or misdemeanor reported to the ~~department,~~ system; and (d)  
27 other information as the ~~department~~ system may require by rule and

1 regulation.

2           Sec. 1336. Section 71-6728, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           71-6728 Registration as a medication aide shall be  
5 renewed triennially based upon competency. The ~~department~~ system  
6 may prescribe by rule and regulation how a medication aide can show  
7 competency for purposes of renewal. Payment of the applicable fee  
8 shall be a condition of renewal.

9           Sec. 1337. Section 71-6729, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           71-6729 The ~~department~~ system may conduct periodic and  
12 random screening or review of entities conducting competency  
13 assessments or courses and of the activities of applicants and  
14 medication aides as may be necessary to ensure compliance with the  
15 Medication Aide Act and the rules and regulations.

16           Sec. 1338. Section 71-6730, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           71-6730 (1) The ~~department~~ system may deny registration  
19 or refuse renewal of or remove a registration from the Medication  
20 Aide Registry for failure to meet the standards in section 71-6725  
21 or for violation of the Medication Aide Act or the rules and  
22 regulations.

23           (2) If the ~~department~~ system proposes to deny, refuse  
24 renewal of, or remove a registration, it shall send the applicant  
25 or registrant a notice setting forth the action to be taken and  
26 the reasons for the determination. The denial, refusal to renew,  
27 or removal shall become final thirty days after mailing the notice

1 unless the applicant or registrant gives written notice to the  
2 ~~department~~ system of his or her desire for an informal conference  
3 or for a formal hearing.

4 (3) Notice may be served by any method specified in  
5 section 25-505.01, or the ~~department~~ system may permit substitute  
6 or constructive service as provided in section 25-517.02 when  
7 service cannot be made with reasonable diligence by any of the  
8 methods specified in section 25-505.01.

9 Sec. 1339. Section 71-6731, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 71-6731 If an informal conference is requested, the  
12 ~~department~~ system shall assign a representative of the ~~department~~  
13 system to hold an informal conference with the applicant or  
14 registrant within fifteen working days after receipt of a  
15 request. Within seven working days after the conclusion of  
16 such conference, the representative shall affirm, modify, or  
17 dismiss the action. The representative shall state in writing  
18 the specific reasons for affirming, modifying, or dismissing the  
19 action and shall immediately transmit copies of the statement to  
20 the ~~department~~ system and to the applicant or the registrant. If  
21 the representative affirms or modifies the action, it shall become  
22 final unless the applicant or registrant, within ten working days  
23 after receipt of the written notice, requests in writing a formal  
24 hearing to contest the action.

25 Sec. 1340. Section 71-6732, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27 71-6732 Except as provided by section 71-6731, an

1 applicant or registrant who desires to contest an action or to  
2 further contest an affirmed or modified action shall do so in the  
3 manner provided in the Administrative Procedure Act for contested  
4 cases. The chief medical officer as designated in section 6 of  
5 this act shall be the decisionmaker in a contested case under this  
6 section. The hearings on a petition for judicial review of any  
7 final decision regarding an action for an alleged violation shall  
8 be set for hearing at the earliest possible date. The times for  
9 pleadings and hearings in such action shall be set by the judge of  
10 the court with the object of securing a decision at the earliest  
11 possible time.

12           Sec. 1341. Section 71-6734, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           71-6734 The ~~department~~ system shall establish and collect  
15 fees for credentialing activities under the Medication Aide Act as  
16 provided in section 71-162.

17           Sec. 1342. Section 71-6736, Revised Statutes Cumulative  
18 Supplement, 2006, is amended to read:

19           71-6736 (1) Any facility or person using the services of  
20 a medication aide shall report to the ~~department,~~ system, in the  
21 manner specified by the ~~department~~ system by rule and regulation,  
22 any facts known to him, her, or it, including, but not limited  
23 to, the identity of the medication aide and the recipient, when it  
24 takes action adversely affecting a medication aide due to alleged  
25 incompetence. The report shall be made within thirty days after the  
26 date of the action or event.

27           (2) Any person may report to the ~~department~~ system any



1 facts known to him or her concerning any alleged incompetence of a  
2 medication aide.

3 (3) A report made to the ~~department~~ system under  
4 this section shall be confidential. The facility, organization,  
5 association, or person making such report shall be immune from  
6 criminal or civil liability of any nature, whether direct or  
7 derivative, for filing a report or for disclosure of documents,  
8 records, or other information to the ~~department~~ system under  
9 this section. The reports and information shall be subject to  
10 the investigatory and enforcement provisions of the regulatory  
11 provisions listed in the Medication Aide Act. This subsection does  
12 not require production of records protected by section 25-12,123  
13 or 71-2048 or patient safety work product under the Patient Safety  
14 Improvement Act except as otherwise provided in either of such  
15 sections or such act.

16 Sec. 1343. Section 71-6737, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 71-6737 Complaints, investigational records, reports, and  
19 investigational files of any kind of the ~~department~~ system shall  
20 not be public record, shall not be subject to subpoena or  
21 discovery, and shall be inadmissible in evidence in any legal  
22 proceeding of any kind or character except an informal conference  
23 or formal hearing before the ~~department.~~ system. Such complaints,  
24 investigational records, reports, and investigational files shall  
25 be a public record if made part of the record of a formal  
26 hearing before the ~~department.~~ system. No person, including, but  
27 not limited to, ~~department~~ system employees, having access to

1 complaints, investigational records, reports, or investigational  
2 files, shall disclose such records or information except as  
3 required for investigation of the alleged violation or for purposes  
4 of a hearing before the ~~department~~ system. Such information,  
5 files, and records may be disclosed to other law enforcement  
6 agencies by the ~~department~~, system, and such disclosure shall not  
7 make the information, files, or records public records.

8           Sec. 1344. Section 71-6738, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           71-6738 On and after July 1, 1999, the clerk of any  
11 county court or district court in this state shall report to the  
12 ~~department~~ system the conviction in such court of any medication  
13 aide of any felony or any misdemeanor. The Attorney General or the  
14 city prosecutor or county attorney prosecuting any such criminal  
15 action shall provide the court with information concerning the  
16 registration of the defendant. Notice to the ~~department~~ system  
17 shall be filed within thirty days after the conviction in a  
18 manner agreed to by the ~~department~~ system and the State Court  
19 Administrator.

20           Sec. 1345. Section 71-6740, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           71-6740 The ~~department~~ system may maintain an action  
23 for an injunction in the name of the state for violation of the  
24 Medication Aide Act or the rules and regulations.

25           Sec. 1346. Section 71-6742, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27           71-6742 Any person who, on July 1, 1999, is approved by

1 the ~~department~~ system to act as a care staff member or medication  
2 assistant shall automatically and without payment of any fee be  
3 registered as a medication aide.

4 Sec. 1347. Section 71-6743, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 71-6743 The ~~Department of Health and Human Services~~  
7 ~~Regulation and Licensure~~ Health and Human Services System may adopt  
8 and promulgate rules and regulations which shall ensure proper  
9 storage, handling, and disposal of medication in facilities and  
10 schools as defined in section 71-6721.

11 Sec. 1348. Section 71-7001, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 71-7001 For purposes of sections 71-7001 to 71-7013:

14 (1) System means the Health and Human Services System;  
15 ~~Department means the Department of Health and Human Services;~~

16 (2) Mammogram means the X-ray resulting from mammography;

17 (3) Mammography means radiological examination of the  
18 breast for the purpose of obtaining a mammogram which enables a  
19 physician to assess the presence, size, location, and extent of  
20 cancerous or potentially cancerous tissue;

21 (4) Mammogram supplier means a public, private,  
22 for-profit, or not-for-profit agency or health care facility that  
23 provides mammography;

24 (5) Screening mammogram means the X-ray resulting from  
25 screening mammography;

26 (6) Screening mammography means radiological examination  
27 of the breast of asymptomatic women for the early detection of

1 breast cancer, which examination includes (a) a cranio-caudal and  
2 a medial lateral oblique view of each breast and (b) a licensed  
3 radiologist's interpretation of the results of the procedure.  
4 Screening mammography does not include diagnostic mammography,  
5 additional projections required for lesion definition, breast  
6 ultrasound, or any breast interventional procedure;

7 (7) Medical radiographer means a person licensed  
8 pursuant to subsection (1) of section 71-3515.01, other than  
9 a licensed practitioner or a licensed physician assistant, who  
10 practices medical radiography under the supervision of a licensed  
11 practitioner;

12 (8) False negative result means a mammogram which  
13 indicates no possible cancer when a cancer exists;

14 (9) False positive result means a mammogram which  
15 indicates a possible cancer when none exists;

16 (10) Professional component means the interpretation  
17 of a screening mammogram and a written report regarding the  
18 interpretation provided by a mammogram supplier; and

19 (11) Technical component means a screening mammogram and  
20 all other services provided by a mammogram supplier.

21 Sec. 1349. Section 71-7001.01, Reissue Revised Statutes  
22 of Nebraska, is amended to read:

23 71-7001.01 The Legislature finds that private citizens  
24 and charitable organizations have donated and granted funds to the  
25 ~~department~~ system to pay for definitive diagnostic procedures for  
26 women whose abnormal test results have been discovered through the  
27 ~~department's~~ system's program for early detection of breast and

1 cervical cancer. The Legislature recognizes the generosity of its  
2 citizens and charitable organizations who donate their time and  
3 money to provide funds to their fellow citizens.

4           It is the intent of the Legislature to permit the  
5 ~~department~~ system to obtain and expend such funds to pay for  
6 definitive diagnostic procedures for women enrolled in the program.

7           Sec. 1350. Section 71-7002, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           71-7002 For purposes of early screening for and detection  
10 of breast cancer and cervical cancer, the ~~department~~ system may  
11 establish a statewide program providing mammography screening  
12 and definitive diagnostic procedures as provided in sections  
13 71-7001.01 and 71-7003 to 71-7011. The ~~department~~ system may  
14 provide information about the program to potentially eligible women  
15 and mammography suppliers under its auspices through public and  
16 private health and community-based organizations.

17           Sec. 1351. Section 71-7003, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           71-7003 (1) The ~~department~~ system may offer screening  
20 mammography, for citizens of Nebraska who are able to supply  
21 the name of a physician for followup consultation or treatment,  
22 pursuant to sections 71-7001.01 and 71-7003 to 71-7011 as follows:

23           (a) For asymptomatic women over thirty years of age  
24 but under fifty years of age, one screening mammogram will be  
25 reimbursed after at least eleven months have passed following the  
26 month in which the last screening mammogram was performed if the  
27 woman has a personal history of breast cancer or has a mother or

1 sister who has or had pre-menopausal breast cancer;

2 (b) For asymptomatic women over thirty-four years of age  
3 but under forty years of age, one screening mammogram will be  
4 reimbursed;

5 (c) For asymptomatic women over thirty-nine years of  
6 age but under fifty years of age, reimbursement may be made  
7 for a screening mammogram performed after at least twenty-three  
8 months have passed following the month in which the last screening  
9 mammogram was performed if the woman has no personal history of  
10 breast cancer; and

11 (d) For asymptomatic women over forty-nine years of age  
12 but under sixty-five years of age, reimbursement may be made for  
13 a screening mammogram performed after at least eleven months have  
14 passed following the month in which the last screening mammogram  
15 was performed.

16 (2) The ~~department~~ system may reimburse any mammogram  
17 supplier for providing mammography pursuant to the program  
18 established under section 71-7002.

19 (3) Reimbursement for each mammogram provided under the  
20 program established pursuant to section 71-7002 shall be in an  
21 amount equal to the medicare reimbursement rate for screening  
22 mammography.

23 (4) The ~~department~~ system shall have all powers necessary  
24 to implement the purpose and intent of sections 71-7001 to 71-7013,  
25 including, but not limited to, the authority to:

26 (a) Approve screening mammogram suppliers and  
27 participants in the program;

1           (b) Apply for, receive, and administer federal and other  
2 public and private funds deposited in the Breast and Cervical  
3 Cancer Cash Fund to carry out the purposes of such sections;

4           (c) Adopt and promulgate rules and regulations necessary  
5 to carry out the purposes and intent of such sections; and

6           (d) With the advice of the Breast and Cervical Cancer  
7 Advisory Committee: (i) Establish income guidelines based on  
8 multipliers of the federal poverty guidelines for eligibility  
9 of participants and for waiver or partial waiver of participant  
10 fees; (ii) set fees for participants; (iii) establish reimbursement  
11 rates for screening mammogram suppliers; and (iv) plan and provide  
12 outreach and educational programs relating to breast cancer and the  
13 program established pursuant to section 71-7002 to Nebraska women.

14           Sec. 1352. Section 71-7003.01, Reissue Revised Statutes  
15 of Nebraska, is amended to read:

16           71-7003.01 The ~~department~~ system may apply for, receive,  
17 and administer funds received from private sources to pay for  
18 definitive diagnostic procedures for women enrolled in the  
19 screening mammography program authorized under sections 71-7001 to  
20 71-7013 and in the early detection of breast and cervical cancer  
21 program funded through a grant from the United States Department of  
22 Health and Human Services.

23           This section does not create an entitlement for enrollees  
24 in the programs. Payments may be made to the extent funds are  
25 available in the order requests are received by the ~~department~~.  
26 system.

27           The funds obtained for definitive diagnostic procedures

1 shall be remitted to the State Treasurer for credit to the Breast  
2 and Cervical Cancer Cash Fund. Money credited to the fund for  
3 purposes of this section shall be used to reimburse the costs of  
4 definitive diagnostic procedures as provided in this section.

5 Sec. 1353. Section 71-7004, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 71-7004 A mammogram supplier shall be eligible for  
8 reimbursement pursuant to section 71-7003 only if:

9 (1) The mammogram supplier is certified by the ~~department~~  
10 system as meeting the standards of the United States Department of  
11 Health and Human Services to provide screening mammography provided  
12 in the federal Mammography Quality Standards Act of 1992;

13 (2) The mammogram supplier provides screening  
14 mammography, including a physician's interpretation of the  
15 images or films produced by the radiologic procedure;

16 (3) The mammogram supplier agrees to accept as payment  
17 in full the current reimbursement rate for the technical and  
18 professional components of screening mammography established  
19 pursuant to section 71-7003;

20 (4) The mammogram supplier agrees to provide mammography  
21 screening under sections 71-7001 to 71-7013 in conformance with the  
22 conditions of its federal certification for screening mammography;

23 (5) The mammogram supplier agrees to provide to the  
24 ~~department~~ system a written report on the interpretation of the  
25 results of the screening mammogram procedure; and

26 (6) The mammogram supplier agrees to comply with federal  
27 grant management requirements as applicable to the supplier in the



1 event that federal grant funds are part of the program.

2           Sec. 1354. Section 71-7005, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           71-7005 The ~~department~~ system may deny, suspend, or  
5 revoke the certification of a mammogram supplier for violations  
6 of subdivisions (1) through (6) of section 71-7004 or the rules  
7 and regulations adopted and promulgated under such subdivisions.  
8 Whenever the ~~department~~ system determines to deny, suspend, or  
9 revoke a certification, it shall send to the mammogram supplier, by  
10 certified mail, a notice setting forth the particular reasons  
11 for the determination. The denial, suspension, or revocation  
12 shall become final thirty days after the mailing of the notice  
13 unless the mammogram supplier, within such thirty-day period,  
14 requests a hearing in writing. The mammogram supplier shall be  
15 given a hearing before the ~~department~~ system according to the  
16 Administrative Procedure Act and the rules and regulations adopted  
17 and promulgated by the ~~department~~ system under such act.

18           Sec. 1355. Section 71-7006, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20           71-7006 (1) A mammogram supplier whose certification has  
21 been suspended may apply for reinstatement of such certification at  
22 any time.

23           (2) A mammogram supplier whose certification has been  
24 revoked may apply for reinstatement of such certification after a  
25 period of not less than two years has elapsed from the date of  
26 revocation.

27           (3) The application for reinstatement as prescribed in

1 subsection (1) or (2) of this section shall state such pertinent  
2 facts as may be required by the ~~department~~ system and shall  
3 be accompanied by at least two verified recommendations of the  
4 activities of the applicant since the date of the suspension or  
5 revocation.

6 (4) The ~~department~~ system shall prescribe forms for  
7 the application for reinstatement pursuant to subsections (1) and  
8 (2) of this section and shall adopt and promulgate rules and  
9 regulations prescribing pertinent facts to be included on such  
10 applications.

11 Sec. 1356. Section 71-7009, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 71-7009 (1) The ~~department,~~ system, with the advice and  
14 assistance of the Breast and Cervical Cancer Advisory Committee,  
15 shall adopt a schedule of fees to be charged for screening  
16 mammography performed pursuant to the program established under  
17 section 71-7002 based upon the ability to pay. The fees shall be  
18 such as to make screening mammography available to the greatest  
19 possible number of asymptomatic women. The fee may be waived by  
20 the ~~department~~ system based on income guidelines established under  
21 subsection (2) of this section. The maximum fee shall be equal to  
22 the amount reimbursed to the mammogram supplier. All fees received  
23 under this section shall be collected by the ~~department~~ system  
24 and remitted to the State Treasurer for credit to the Breast and  
25 Cervical Cancer Cash Fund. The program established under section  
26 71-7002 shall not pay for screening mammography for women who  
27 have public or private insurance that covers screening mammography,

1 whose personal family income exceeds the maximum income in the  
2 guidelines adopted by the ~~department~~, system or who are eligible  
3 for mammography screening under any federal or state health benefit  
4 program. Any person aggrieved by a decision of the ~~department~~  
5 system made pursuant to this section may appeal. The appeal shall  
6 be in accordance with the Administrative Procedure Act.

7 (2) The ~~department~~ system shall, with the advice and  
8 assistance of the committee, establish income guidelines based on a  
9 multiplier of the federal poverty guidelines which shall serve as  
10 a basis for a partial or complete waiver of the fee provided by  
11 subsection (1) of this section as follows:

12 (a) Women with household incomes of one hundred percent  
13 of the federal poverty level or below will be eligible for the  
14 program with no fees charged;

15 (b) Women with household incomes at a point in the range  
16 of two hundred percent of the federal poverty level or above will  
17 pay the full mammogram reimbursement rate established; and

18 (c) Women with household incomes at a point in the  
19 range between one hundred and two hundred percent of the federal  
20 poverty level will pay one-half of the mammogram reimbursement rate  
21 established.

22 After each three months of program operation, the  
23 ~~department~~, system, with the advice and assistance of the  
24 committee, shall evaluate participation levels of the program to  
25 determine if the fee schedule is facilitating participation at  
26 an appropriate level compared to program funding and shall make  
27 adjustments in the fee schedule or multipliers used, as necessary.

1           (3) Application for participation in the program shall  
2 be distributed statewide through a variety of media, including,  
3 but not limited to, mail and news media. Promotional information  
4 and the application for participation may be distributed through  
5 community organizations and health care facilities. After the  
6 determination of eligibility is complete for women who apply, the  
7 applicant shall be notified in writing and may be notified by  
8 first-class mail of her eligibility for participation.

9           (4) The ~~department~~ system may issue a certificate of  
10 eligibility to each woman who applies to the ~~department~~ system for  
11 screening mammography upon determination of eligibility pursuant to  
12 section 71-7003 and payment or waiver of the fee as provided by  
13 this section. The certificate of eligibility shall be valid for one  
14 mammogram and shall not be transferable to another person.

15           (5) A woman eligible to receive screening mammography  
16 under the program established pursuant to section 71-7002 shall  
17 present the certificate of eligibility to a mammogram supplier  
18 within ninety days of issuance, who shall conduct screening  
19 mammography and present the certificate to the ~~department~~ system  
20 for reimbursement within sixty days of the date of the mammogram.

21           Sec. 1357. Section 71-7010, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23           71-7010 The Breast and Cervical Cancer Cash Fund is  
24 created. The fund shall consist of any money appropriated to it by  
25 the Legislature, any money received by the ~~department~~ system for  
26 the program, including federal and other public and private funds,  
27 funds credited under section 71-7003.01, and all fees received

1 pursuant to section 71-7009. Money in the fund shall be used to  
2 reimburse mammogram suppliers pursuant to section 71-7003 and may  
3 be used to reimburse expenses of members of the Breast and Cervical  
4 Cancer Advisory Committee, expenses of the program for early  
5 detection of breast and cervical cancer funded through a grant  
6 from the United States Department of Health and Human Services,  
7 and funds received under section 71-7003.01. Any money in the fund  
8 available for investment shall be invested by the state investment  
9 officer pursuant to the Nebraska Capital Expansion Act and the  
10 Nebraska State Funds Investment Act. Any money in the Mammography  
11 Screening Cash Fund on September 9, 1995, shall be transferred to  
12 the Breast and Cervical Cancer Cash Fund on such date.

13           Sec. 1358. Section 71-7011, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15           71-7011 The mammogram supplier and the ~~department~~ system  
16 shall maintain confidential records containing all information  
17 pertaining to screening mammography provided by the program  
18 established under section 71-7002. The ~~department~~ system may  
19 publish analyses of such reports and information for scientific  
20 and public health purposes in such a manner as to ensure that  
21 the identity of an individual or mammogram supplier cannot be  
22 ascertained and may make such reports to private or public funding  
23 sources as are deemed necessary in such a manner that the identity  
24 of an individual or mammogram supplier cannot be ascertained.

25           Sec. 1359. Section 71-7012, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27           71-7012 The Breast and Cervical Cancer Advisory Committee

1 is established. The committee consists of the members of the  
2 Mammography Screening Committee serving immediately prior to  
3 September 9, 1995, and eight additional members appointed by the  
4 ~~Director of Health and Human Services~~ chief executive officer of  
5 the system or his or her designee who have expertise or a personal  
6 interest in cervical cancer. The committee shall consist of not  
7 more than twenty-four volunteer members, at least eight of whom are  
8 women, appointed by the ~~director~~ chief executive officer or his or  
9 her designee. Members of the committee shall be persons interested  
10 in health care, the promotion of breast cancer screening, and  
11 cervical cancer and shall be drawn from both the private sector and  
12 the public sector. At least one member shall be a person who has or  
13 who has had breast cancer, one member shall be a radiologist, and  
14 one member shall be a medical radiographer.

15           Of the initial members of the committee, four shall be  
16 appointed for terms of one year and four shall be appointed for  
17 terms of two years. Thereafter all appointments shall be for terms  
18 of two years. All members shall serve until their successors are  
19 appointed. No member shall serve more than two successive two-year  
20 terms. Vacancies in the membership of the committee for any cause  
21 shall be filled by appointment by the ~~director~~ chief executive  
22 officer or his or her designee for the unexpired term.

23           Duties of the committee shall include, but not be  
24 limited to, recommending guidelines for the program established  
25 under section 71-7002, developing and monitoring the schedule  
26 of fees established pursuant to section 71-7009, encouraging  
27 payment of public and private funds to the Breast and Cervical

1 Cancer Cash Fund, researching and recommending to the ~~department~~  
2 system reimbursement limits, planning and implementing outreach and  
3 educational programs to Nebraska women, advising the ~~department~~  
4 system on its operation of the early detection of breast and  
5 cervical cancer grant from the United States Department of Health  
6 and Human Services, encouraging payment of public and private funds  
7 to the fund, and researching and recommending to the ~~department~~  
8 system appropriate definitive diagnostic procedures which may be  
9 reimbursed. Members of the committee shall be reimbursed for their  
10 actual and necessary expenses as provided in sections 81-1174 to  
11 81-1177.

12           Sec. 1360. Section 71-7013, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           71-7013 The State of Nebraska, the ~~department~~ system and  
15 its employees, members of the Mammography Screening Committee, and  
16 members of the Breast and Cervical Cancer Advisory Committee shall  
17 not be liable for any damage or injury resulting from: (1) Failure  
18 to issue a certificate of eligibility under section 71-7009; (2)  
19 failure to certify a mammogram supplier under section 71-7004; (3)  
20 failure to waive the fee pursuant to section 71-7009; (4) a false  
21 negative result or a false positive result interpretation or any  
22 other act or omission of an interpreting physician with respect  
23 to any screening mammogram performed under the program established  
24 pursuant to section 71-7002; or (5) any act or omission of a  
25 mammogram supplier or person acting on behalf of such supplier with  
26 respect to the provisions of sections 71-7001.01 to 71-7011.

27           Sec. 1361. Section 71-7102, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           71-7102 For purposes of the Critical Incident Stress  
3 Management Act:

4           (1) Committee means the Interagency Management Committee;

5           (2) Council means the Critical Incident Stress Management  
6 Council;

7           (3) Critical incident means a traumatic or crisis  
8 situation;

9           (4) Critical incident stress means a strong emotional,  
10 cognitive, or physical reaction which has the potential to  
11 interfere with normal functioning, including physical and emotional  
12 illness, loss of interest in the job, personality changes, marital  
13 discord, and loss of ability to function;

14           (5) Emergency service agency means any law enforcement  
15 agency, fire department, emergency medical service, dispatcher,  
16 rescue service, hospital as defined in section 71-419, or other  
17 entity which provides emergency response services;

18           (6) Emergency service personnel includes law enforcement  
19 personnel, firefighters, emergency medical services personnel, and  
20 hospital personnel; and

21           (7) Program means the Critical Incident Stress Management  
22 Program; and -

23           (8) System means the Health and Human Services System.

24           Sec. 1362. Section 71-7105, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26           71-7105 There is hereby created the Critical Incident  
27 Stress Management Council. The council shall be composed of ~~the~~



1 ~~Director of Regulation and Licensure,~~ ~~the Director of Health~~  
2 ~~and Human Services,~~ two representatives of the Health and Human  
3 Services System, the State Fire Marshal, the Superintendent of Law  
4 Enforcement and Public Safety, and the Adjutant General as director  
5 of the Nebraska Emergency Management Agency. The council shall  
6 specify the organizational and operational goals for the program  
7 and shall provide overall policy direction for the program.

8           Sec. 1363. Section 71-7107, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           71-7107 The ~~Department of Health and Human Services~~  
11 ~~Regulation and Licensure~~ system shall be the lead agency for the  
12 program. The ~~department~~ system shall:

- 13           (1) Provide office support to program activities;
- 14           (2) Provide necessary equipment for the program and  
15 participants;
- 16           (3) Provide staff support to the council;
- 17           (4) Adopt and promulgate rules and regulations to  
18 implement the program;
- 19           (5) Recruit hospital personnel and emergency medical  
20 workers to be trained as critical incident stress management peers;
- 21           (6) Participate in the training and continuing education  
22 of such peers and mental health professionals; and
- 23           (7) Appoint a director for the program who shall be an  
24 employee of the ~~department~~ system and shall be the chairperson of  
25 the committee.

26           Sec. 1364. Section 71-7108, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

1                   71-7108 (1) The ~~Department of Health and Human Services~~  
2 system shall participate in the council and committee, recruit  
3 mental health workers for each critical incident stress management  
4 region, and participate in the training and continuing education  
5 activities of critical incident stress management peers and mental  
6 health professionals.

7                   (2) The Nebraska State Patrol shall participate in the  
8 council and committee, receive all initial requests for stress  
9 management sessions, coordinate transportation requirements for  
10 critical incident stress management team members, recruit members  
11 of the law enforcement profession in each region to be trained  
12 as critical incident stress management peers, participate in  
13 the training and continuing education activities of critical  
14 incident stress management peers and mental health professionals,  
15 and appoint a member of the patrol to each regional management  
16 committee.

17                   (3) The State Fire Marshal shall participate in the  
18 council and committee, cooperate in providing transportation for  
19 critical incident stress management teams, recruit firefighters  
20 to be trained as critical incident stress management peers in  
21 each critical incident stress management region, participate in  
22 the training and continuing education activities of critical  
23 incident stress management peers and mental health professionals,  
24 and appoint an individual who is employed by the State Fire Marshal  
25 to be on each regional management committee.

26                   (4) The Nebraska Emergency Management Agency shall  
27 participate in the council and committee, promote stress management

1 planning as part of emergency management preparedness, promote  
2 preincident education programs to acquaint emergency service  
3 personnel with stress management techniques, and participate in the  
4 training and continuing education activities of critical incident  
5 stress management peers and mental health professionals.

6 Sec. 1365. Section 71-7110, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 71-7110 Each critical incident stress management  
9 region shall have a regional management committee composed of  
10 representatives of the Department of Health and Human Services  
11 Regulation and Licensure, system, the State Fire Marshal, and  
12 the Nebraska State Patrol and a regional clinical director. The  
13 regional clinical director shall have a graduate degree in a  
14 mental health discipline. The regional management committee shall  
15 be responsible for the implementation and coordination of the  
16 program in the region according to the specifications developed  
17 by the council and Interagency Management Committee. The regional  
18 management committee shall develop critical incident stress  
19 management teams to facilitate the stress management process.

20 Sec. 1366. Section 71-7434, Revised Statutes Cumulative  
21 Supplement, 2006, is amended to read:

22 71-7434 System means the Health and Human Services  
23 System. ~~Department means the Department of Health and Human~~  
24 ~~Services Regulation and Licensure.~~

25 Sec. 1367. Section 71-7439, Revised Statutes Cumulative  
26 Supplement, 2006, is amended to read:

27 71-7439 (1) Normal distribution chain means the transfer

1 of a prescription drug or the co-licensed product of the original  
2 manufacturer of the finished form of a prescription drug along a  
3 chain of custody directly from the manufacturer or co-licensee of  
4 such drug to a patient or ultimate consumer of such drug.

5 (2) Normal distribution chain includes transfers of a  
6 prescription drug or co-licensed product:

7 (a) From a manufacturer or co-licensee to a wholesale  
8 drug distributor, to a pharmacy, and then to a patient or a  
9 patient's agent;

10 (b) From a manufacturer or co-licensee to a wholesale  
11 drug distributor, to a pharmacy, to a health care practitioner,  
12 health care practitioner facility, or hospital, and then to a  
13 patient or a patient's agent;

14 (c) From a manufacturer or co-licensee to a wholesale  
15 drug distributor, to a chain pharmacy warehouse, to a pharmacy  
16 affiliated with the chain pharmacy warehouse, and then to a patient  
17 or a patient's agent;

18 (d) From a manufacturer or co-licensee to a chain  
19 pharmacy warehouse, to a pharmacy affiliated with the chain  
20 pharmacy warehouse, and then to a patient or a patient's agent; or

21 (e) Recognized in rules and regulations adopted and  
22 promulgated by the ~~department.~~ system.

23 (3) For purposes of this section, co-licensed products  
24 means prescription drugs that have been approved by the federal  
25 Food and Drug Administration and are the subject of an arrangement  
26 by which two or more parties have the right to engage in a business  
27 activity or occupation concerning such drugs.

1           Sec. 1368. Section 71-7447, Revised Statutes Cumulative  
2 Supplement, 2006, is amended to read:

3           71-7447 (1) No person or entity may act as a wholesale  
4 drug distributor in this state without first obtaining a  
5 wholesale drug distributor license from the ~~department.~~ system.  
6 The ~~department~~ system shall issue a license to any applicant  
7 that satisfies the requirements for licensure under the Wholesale  
8 Drug Distributor Licensing Act. Manufacturers are exempt from any  
9 licensing and other requirements of the act to the extent not  
10 required by federal law or regulation except for those requirements  
11 deemed necessary and appropriate under rules and regulations  
12 adopted and promulgated by the ~~department.~~ system.

13           (2) Wholesale medical gas distributors shall be exempt  
14 from any licensing and other requirements of the Wholesale Drug  
15 Distributor Licensing Act to the extent not required under federal  
16 law but shall be licensed as wholesale drug distributors by the  
17 ~~department~~ system for the limited purpose of engaging in the  
18 wholesale distribution of medical gases upon application to the  
19 ~~department,~~ system, payment of a licensure fee, and inspection of  
20 the applicant's facility by the ~~department,~~ system, except that  
21 the applicant may submit and the ~~department~~ system may accept an  
22 inspection accepted in another state or an inspection conducted  
23 by a nationally recognized accreditation program approved by the  
24 board. For purposes of such licensure, wholesale medical gas  
25 distributors shall only be required to provide information required  
26 under subdivisions (1)(a) through (1)(c) of section 71-7448.

27           (3) The Wholesale Drug Distributor Licensing Act does not

1 apply to:

2 (a) An agent or employee of a licensed wholesale drug  
3 distributor who possesses drug samples when such agent or employee  
4 is acting in the usual course of his or her business or employment;  
5 or

6 (b) Any person who (i) engages in a wholesale transaction  
7 relating to the manufacture, distribution, sale, transfer, or  
8 delivery of medical gases the gross dollar value of which does not  
9 exceed five percent of the total retail sales of medical gases by  
10 such person during the immediately preceding calendar year and (ii)  
11 has either a pharmacy permit or license or a drug dispensing permit  
12 or delegated dispensing permit.

13 Sec. 1369. Section 71-7448, Revised Statutes Cumulative  
14 Supplement, 2006, is amended to read:

15 71-7448 (1) Every applicant for an initial or renewal  
16 license as a wholesale drug distributor shall file a written  
17 application with the ~~department~~ system. The application shall be  
18 accompanied by the fee established by the ~~department~~ system under  
19 section 71-7450 and proof of bond or other security required under  
20 section 71-7452 and shall include the following information:

21 (a) The applicant's name, business address, type of  
22 business entity, and telephone number. If the applicant is a  
23 partnership, the application shall include the name of each partner  
24 and the name of the partnership. If the applicant is a corporation,  
25 the application shall include the name and title of each corporate  
26 officer and director, all corporate names of the applicant, and  
27 the applicant's state of incorporation. If the applicant is a sole

1 proprietorship, the application shall include the name of the sole  
2 proprietor and name of the proprietorship;

3 (b) All trade or business names used by the applicant;

4 (c) The addresses and telephone numbers of all facilities  
5 used by the applicant for the storage, handling, and wholesale  
6 distribution of prescription drugs and the names of persons in  
7 charge of such facilities. A separate license shall be obtained for  
8 each such facility;

9 (d) A listing of all licenses, permits, or other  
10 similar documentation issued to the applicant in any other state  
11 authorizing the applicant to purchase or possess prescription  
12 drugs;

13 (e) The names and addresses of the owner and manager  
14 of the applicant's wholesale drug distribution facilities, a  
15 designated representative at each such facility, and all managerial  
16 employees at each such facility; and

17 (f) Other information as required by the ~~department,~~  
18 system, including affirmative evidence of the applicant's ability  
19 to comply with the Wholesale Drug Distributor Licensing Act and  
20 rules and regulations adopted and promulgated under the act.

21 (2) The ~~department~~ system may require persons listed  
22 on the application to pass an examination approved by the  
23 ~~department~~ system on laws pertaining to the wholesale distribution  
24 of prescription drugs.

25 (3) The application shall include the applicant's social  
26 security number if the applicant is an individual. The social  
27 security number shall not be a public record and may only be used

1 by the ~~department~~ system for administrative purposes.

2 (4) The application shall be signed by (a) the owner, if  
3 the applicant is an individual or partnership, (b) the member, if  
4 the applicant is a limited liability company with only one member,  
5 or two of its members, if the applicant is a limited liability  
6 company with two or more members, or (c) two of its officers, if  
7 the applicant is a corporation.

8 (5) The designated representative and the supervisor  
9 of the designated representative of a wholesale drug distributor  
10 and each owner with greater than a ten percent interest in the  
11 wholesale drug distributor, if the wholesale drug distributor is a  
12 nonpublicly held company, shall be subject to a criminal history  
13 record information check and shall provide the ~~department~~ system  
14 or the designated agent of the ~~department~~ system with a complete  
15 set of fingerprints for such purpose if his or her fingerprints  
16 are not already on file for such purpose. The ~~department~~ system or  
17 the designated agent of the ~~department~~ system shall forward such  
18 fingerprints to the Nebraska State Patrol to be submitted to the  
19 Federal Bureau of Investigation for a national criminal history  
20 record information check. Such persons shall authorize the release  
21 of the results of such criminal history record information check to  
22 the ~~department~~, system, and the applicant shall pay the actual cost  
23 of such fingerprinting and such criminal history record information  
24 check.

25 (6) The ~~department~~ system may waive certain requirements  
26 under this section upon proof satisfactory to the ~~department~~ system  
27 that such requirements are duplicative of other requirements of



1 law or regulation and that the granting of such exemption will not  
2 endanger the public safety.

3 Sec. 1370. Section 71-7450, Revised Statutes Cumulative  
4 Supplement, 2006, is amended to read:

5 71-7450 (1) Licensure activities under the Wholesale Drug  
6 Distributor Licensing Act shall be funded by license fees. An  
7 applicant for an initial or renewal license under the act shall pay  
8 a license fee as provided in this section.

9 (2) License fees shall include (a) a base fee of fifty  
10 dollars and (b) an additional fee of not more than five hundred  
11 dollars based on variable costs to the ~~department~~ system of  
12 inspections and of receiving and investigating complaints, other  
13 similar direct and indirect costs, and other relevant factors as  
14 determined by the ~~department~~ system.

15 (3) If the licensure application is denied, the license  
16 fee shall be returned to the applicant, except that the ~~department~~  
17 system may retain up to twenty-five dollars as an administrative  
18 fee and may retain the entire license fee if an inspection has been  
19 completed prior to such denial.

20 (4) The ~~department~~ system shall also collect a fee for  
21 reinstatement of a license that has lapsed or has been suspended or  
22 revoked. The ~~department~~ system shall collect a fee of ten dollars  
23 for a duplicate original license.

24 (5) The ~~department~~ system shall remit all license fees  
25 collected under this section to the State Treasurer for credit  
26 to the ~~Department of Health and Human Services Regulation and~~  
27 ~~Licensure~~ Health and Human Services System Cash Fund. License fees

1 collected under this section shall only be used for activities  
2 related to the licensure of wholesale drug distributors.

3 Sec. 1371. Section 71-7451, Revised Statutes Cumulative  
4 Supplement, 2006, is amended to read:

5 71-7451 A wholesale drug distributor license shall expire  
6 on July 1 of each year and may be renewed. The license shall not be  
7 transferable. The ~~department~~ system shall mail an application for  
8 renewal to each licensee not later than June 1 of each year. If an  
9 application for renewal is received from the licensee after July  
10 1, the ~~department~~ system may impose a late fee and shall refuse to  
11 issue the license until such late fee and renewal fee are paid.  
12 Failure to receive an application for renewal shall not relieve the  
13 licensee from the late fee imposed by this section.

14 Sec. 1372. Section 71-7452, Revised Statutes Cumulative  
15 Supplement, 2006, is amended to read:

16 71-7452 An applicant for an initial or renewal license as  
17 a wholesale drug distributor shall submit to the ~~department~~ system  
18 proof of a bond of not less than one hundred thousand dollars or  
19 other equivalent means of security acceptable to the ~~department~~.  
20 system. The bond or other security shall be given for the purpose  
21 of securing payment of any fines or other penalties imposed by the  
22 ~~department~~ system and any fees or costs incurred by the ~~department~~  
23 system relating to such applicant as authorized under the Wholesale  
24 Drug Distributor Licensing Act or rules and regulations adopted  
25 and promulgated under the act which remain unpaid by the applicant  
26 within thirty days after such fines, penalties, and costs become  
27 final. The ~~department~~ system may make a claim against such bond or

1 security until one year after the expiration of the license issued  
2 to the applicant under the act.

3 Sec. 1373. Section 71-7453, Revised Statutes Cumulative  
4 Supplement, 2006, is amended to read:

5 71-7453 (1) Each wholesale drug distributor doing  
6 business in this state shall be inspected by the ~~department~~ system  
7 or a nationally recognized accreditation program that is approved  
8 by the board and that is acting on behalf of the ~~department~~ system  
9 prior to the issuance of an initial or renewal license by the  
10 ~~department~~ system under section 71-7448.

11 (2) The ~~department~~ system or such nationally recognized  
12 accreditation program may provide for the inspection of any  
13 wholesale drug distributor licensed to engage in wholesale drug  
14 distribution in this state in such manner and at such times as  
15 provided in rules and regulations adopted and promulgated by the  
16 ~~department~~. system. As part of any such inspection, the ~~department~~  
17 system may require an analysis of suspected prescription drugs to  
18 determine authenticity.

19 (3) The ~~department~~ system may accept an inspection  
20 accepted in another state in lieu of an inspection by the  
21 ~~department~~ system or a nationally recognized accreditation program  
22 under this section.

23 (4) The ~~department~~ system or such nationally recognized  
24 accreditation program may charge and collect fees for inspection  
25 activities conducted under this section.

26 (5) In addition to or in lieu of the authority to inspect  
27 for purposes of licensure and renewal, the ~~department~~ system may

1 adopt and promulgate rules and regulations which permit the use  
2 of alternative methods for assessing the compliance by a wholesale  
3 drug distributor with the Wholesale Drug Distributor Licensing Act  
4 and the rules and regulations adopted and promulgated under the  
5 act.

6           Sec. 1374. Section 71-7454, Revised Statutes Cumulative  
7 Supplement, 2006, is amended to read:

8           71-7454 (1) No wholesale drug distributor, manufacturer,  
9 or pharmacy shall knowingly purchase or receive any prescription  
10 drug from any source other than a person or entity licensed under  
11 the Wholesale Drug Distributor Licensing Act except transfers for  
12 emergency medical reasons, the gross dollar value of which shall  
13 not exceed five percent of the total prescription drug sales  
14 revenue of the transferor or transferee holder of a pharmacy  
15 license or practitioner as defined in section 71-1,142 during  
16 the immediately preceding calendar year, and except as otherwise  
17 provided in the act.

18           (2) A wholesale drug distributor may receive returns or  
19 exchanges of prescription drugs from a pharmacy, chain pharmacy  
20 warehouse, health care practitioner facility as defined in section  
21 71-414, or hospital as defined in section 71-419 pursuant to  
22 the terms and conditions agreed upon between such wholesale  
23 drug distributor and such pharmacy, chain pharmacy warehouse,  
24 health care practitioner facility, or hospital. Such returns and  
25 exchanges shall not be subject to sections 71-7455 to 71-7457. A  
26 wholesale drug distributor shall not receive from a pharmacy, chain  
27 pharmacy warehouse, health care practitioner facility, or hospital

1 an amount or quantity of a prescription drug greater than the  
2 amount or quantity that was originally sold by the wholesale drug  
3 distributor to such pharmacy, chain pharmacy warehouse, health care  
4 practitioner facility, or hospital.

5 (3) A manufacturer or wholesale drug distributor shall  
6 furnish prescription drugs only to persons licensed by the  
7 ~~department~~ system and shall verify such licensure before furnishing  
8 prescription drugs to a person not known to the manufacturer or  
9 wholesale drug distributor.

10 (4) Prescription drugs furnished by a manufacturer or  
11 wholesale drug distributor shall be delivered only to the premises  
12 listed on the license, except that a manufacturer or wholesale drug  
13 distributor may furnish prescription drugs to a person licensed by  
14 the ~~department~~ system or his or her agent at the premises of the  
15 manufacturer or wholesale drug distributor if:

16 (a) The identity and authorization of the recipient is  
17 properly established; and

18 (b) This method of receipt is employed only to meet  
19 the prescription drug needs of a particular patient of the person  
20 licensed by the ~~department.~~ system.

21 (5) Prescription drugs may be furnished to a hospital  
22 pharmacy receiving area. Receipt of such drugs shall be  
23 acknowledged by written receipt signed by a pharmacist or other  
24 authorized personnel. The receipt shall contain the time of  
25 delivery and the type and quantity of the prescription drug  
26 received. Any discrepancy between the signed receipt and the type  
27 and quantity of prescription drug actually received shall be

1 reported by the receiving authorized pharmacy personnel to the  
2 delivering manufacturer or wholesale drug distributor by the next  
3 business day after the delivery to the pharmacy receiving area.

4 (6) A manufacturer or wholesale drug distributor shall  
5 only accept payment or allow the use of credit to establish an  
6 account for the purchase of prescription drugs from the owner  
7 or owners of record, the chief executive officer, or the chief  
8 financial officer listed on the license of a person or entity  
9 legally authorized to receive prescription drugs. Any account  
10 established for the purchase of prescription drugs shall bear the  
11 name of such licensee.

12 Sec. 1375. Section 71-7455, Revised Statutes Cumulative  
13 Supplement, 2006, is amended to read:

14 71-7455 (1) A wholesale drug distributor engaged in  
15 the wholesale distribution of prescription drugs in this state  
16 shall establish and maintain accurate records of all transactions  
17 regarding the receipt and distribution or other disposition of  
18 prescription drugs as provided in this section.

19 (2) The ~~department~~ system shall adopt and promulgate  
20 rules and regulations to require that all prescription drugs that  
21 leave the normal distribution chain be accompanied by a paper or  
22 electronic pedigree as provided in section 71-7456. Such rules and  
23 regulations shall be adopted and promulgated no later than July 1,  
24 2007.

25 (3) The ~~department~~ system shall develop standards and  
26 requirements for electronic pedigrees in order to effectively  
27 authenticate, track, and trace prescription drugs. Prior to the

1 development of such standards and requirements, the ~~department~~  
2 system shall consult with the federal Food and Drug Administration,  
3 manufacturers, wholesale drug distributors, pharmacies, and other  
4 interested parties regarding the feasibility and the ways,  
5 means, and practicality of requiring that all prescription drugs  
6 that leave the normal distribution chain be accompanied by an  
7 electronic pedigree. The standards and requirements may prescribe  
8 the information required to be included as part of the electronic  
9 pedigree. Such standards and requirements shall be developed no  
10 later than July 1, 2008. All prescription drugs that leave the  
11 normal distribution chain shall not be required to be accompanied  
12 solely by an electronic pedigree prior to such date.

13 (4) A retail pharmacy or chain pharmacy warehouse shall  
14 comply with the requirements of this section only if the pharmacy  
15 or chain pharmacy warehouse engages in the wholesale distribution  
16 of prescription drugs in this state.

17 (5) A wholesale drug distributor, other than the original  
18 manufacturer of the finished form of the prescription drug, shall  
19 verify all transactions listed on the pedigree before attempting to  
20 further distribute such drug.

21 Sec. 1376. Section 71-7456, Revised Statutes Cumulative  
22 Supplement, 2006, is amended to read:

23 71-7456 (1) The pedigree required under section 71-7455  
24 shall include all necessary identifying information concerning  
25 each sale or other transfer in the chain of distribution of the  
26 prescription drug from the manufacturer, through acquisition and  
27 sale by any wholesale drug distributor or repackager, until final

1 sale to a pharmacy or other person dispensing or administering such  
2 drug, including, but not limited to:

- 3 (a) Name of the prescription drug;
- 4 (b) Dosage form and strength of the prescription drug;
- 5 (c) Size of the container;
- 6 (d) Number of containers;
- 7 (e) Lot number of the prescription drug;
- 8 (f) Name of the original manufacturer of the finished  
9 dosage form of the prescription drug;

10 (g) Name, address, telephone number, and if available,  
11 the email address of each owner of the prescription drug and  
12 each wholesale drug distributor who does not take title to the  
13 prescription drug;

14 (h) Name and address of each location from which the  
15 prescription drug was shipped if different from the owner's;

16 (i) Transaction dates;

17 (j) Certification that each recipient has authenticated  
18 the pedigree;

19 (k) Name of any repackager, if applicable; and

20 (l) Name and address of person certifying the delivery.

21 (2) Each paper or electronic pedigree shall be maintained  
22 by the purchaser and the wholesale drug distributor for three years  
23 from the date of sale or transfer and available for inspection or  
24 use upon request of law enforcement or an authorized agent of the  
25 ~~department.~~ system.

26 Sec. 1377. Section 71-7457, Revised Statutes Cumulative  
27 Supplement, 2006, is amended to read:



1           71-7457 (1) A wholesale drug distributor license may be  
2 denied, refused renewal, suspended, limited, or revoked by the  
3 ~~Director of Regulation and Licensure~~ system when the ~~director~~  
4 system finds that the applicant or licensee has violated any  
5 provisions of the Wholesale Drug Distributor Licensing Act or of  
6 the rules and regulations adopted and promulgated under the act or  
7 has committed any acts or offenses set forth in section 71-147,  
8 71-148, or 71-7459. All actions and proceedings shall be carried  
9 out as specified in sections 71-147 to 71-161.19.

10           (2) For purposes of this section, applicant or licensee  
11 includes, but is not limited to, the board of directors, chief  
12 executive officer, and other officers of the applicant or the  
13 entity to which the license is issued and the manager of each site  
14 if more than one site is located in this state.

15           Sec. 1378. Section 71-7458, Revised Statutes Cumulative  
16 Supplement, 2006, is amended to read:

17           71-7458 The ~~department,~~ system, the Attorney General, or  
18 any county attorney may institute an action in the name of the  
19 state for an injunction or other process against any person to  
20 restrain or prevent any violation of the Wholesale Drug Distributor  
21 Licensing Act or any rules and regulations adopted and promulgated  
22 under the act.

23           Sec. 1379. Section 71-7459, Revised Statutes Cumulative  
24 Supplement, 2006, is amended to read:

25           71-7459 (1) The ~~department,~~ system, upon issuance of  
26 a final disciplinary action against a person who violates any  
27 provision of section 71-7454, shall assess a fine of one thousand

1 dollars against such person. For each subsequent final disciplinary  
2 action for violation of such section issued by the ~~department~~  
3 system against such person, the ~~department~~ system shall assess a  
4 fine of one thousand dollars plus one thousand dollars for each  
5 final disciplinary action for violation of such section previously  
6 issued against such person, not to exceed ten thousand dollars.

7 (2) The ~~department~~, system, upon issuance of a final  
8 disciplinary action against a person who fails to provide an  
9 authorized person the right of entry provided in section 71-7453,  
10 shall assess a fine of five hundred dollars against such person.  
11 For each subsequent final disciplinary action for such failure  
12 issued against such person, the ~~department~~ system shall assess  
13 a fine equal to one thousand dollars times the number of such  
14 disciplinary actions, not to exceed ten thousand dollars. All  
15 fines collected under this section shall be remitted to the State  
16 Treasurer for distribution in accordance with Article VII, section  
17 5, of the Constitution of Nebraska.

18 Sec. 1380. Section 71-7460, Revised Statutes Cumulative  
19 Supplement, 2006, is amended to read:

20 71-7460 (1) If the ~~department~~ system finds there is  
21 a reasonable probability that (a) a wholesale drug distributor  
22 has falsified a pedigree or has sold, distributed, transferred,  
23 manufactured, repackaged, handled, or held a counterfeit  
24 prescription drug intended for human use and (b) such drug could  
25 cause serious, adverse health consequences or death, the ~~department~~  
26 system shall issue an order to immediately cease distribution of  
27 such drug.

1           (2) Persons subjected to any order issued by the  
2 ~~department~~ system under this section shall be provided with  
3 notice and an opportunity for an informal hearing to be held  
4 not later than ten days after the date the order was issued. If the  
5 ~~department~~ system determines, after such hearing, that inadequate  
6 grounds exist to support the actions required by the order, the  
7 ~~department~~ system shall vacate the order.

8           Sec. 1381. Section 71-7461, Revised Statutes Cumulative  
9 Supplement, 2006, is amended to read:

10           71-7461 It is unlawful for any person to commit or to  
11 permit, cause, aid, or abet the commission of any of the following  
12 acts in this state:

13           (1) Any violation of the Wholesale Drug Distributor  
14 Licensing Act or rules and regulations adopted and promulgated  
15 under the act;

16           (2) Providing the ~~department,~~ system, any of its  
17 representatives, or any federal official with false or fraudulent  
18 records or making false or fraudulent statements regarding any  
19 matter under the act;

20           (3) Obtaining or attempting to obtain a prescription  
21 drug by fraud, deceit, or misrepresentation or engaging in  
22 misrepresentation or fraud in the distribution of a prescription  
23 drug;

24           (4) Except for the wholesale distribution by  
25 manufacturers of a prescription drug that has been delivered into  
26 commerce pursuant to an application approved under federal law  
27 by the federal Food and Drug Administration, the manufacture,

1 repackaging, sale, transfer, delivery, holding, or offering for  
2 sale of any prescription drug that is adulterated, misbranded,  
3 counterfeit, suspected of being counterfeit, or otherwise rendered  
4 unfit for distribution;

5 (5) Except for the wholesale distribution by  
6 manufacturers of a prescription drug that has been delivered into  
7 commerce pursuant to an application approved under federal law  
8 by the federal Food and Drug Administration, the adulteration,  
9 misbranding, or counterfeiting of any prescription drug;

10 (6) The receipt of any prescription drug that is  
11 adulterated, misbranded, stolen, obtained by fraud or deceit,  
12 counterfeit, or suspected of being counterfeit, and the delivery or  
13 proffered delivery of such drug for pay or otherwise; and

14 (7) The alteration, mutilation, destruction,  
15 obliteration, or removal of the whole or any part of the labeling  
16 of a prescription drug or the commission of any other act with  
17 respect to a prescription drug that results in the prescription  
18 drug being misbranded.

19 Sec. 1382. Section 71-7463, Revised Statutes Cumulative  
20 Supplement, 2006, is amended to read:

21 71-7463 The ~~department,~~ system, upon the recommendation  
22 of the board, shall adopt and promulgate rules and regulations to  
23 carry out the Wholesale Drug Distributor Licensing Act.

24 Sec. 1383. Section 71-7603, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26 71-7603 The ~~Director of Health and Human Services,~~ the  
27 ~~Director of Regulation and Licensure,~~ and the ~~Director of Finance~~

1 ~~and Support~~ Health and Human Services System shall annually report  
2 to the Governor and the Legislature on the status of health  
3 care expenditures in Nebraska. Such report shall also address the  
4 access of Nebraskans to health care services, issues related to  
5 quality assurance, differences in the health care status of persons  
6 in different parts of Nebraska, changes needed in the education  
7 of health care personnel in Nebraska, and recommendations for  
8 improvements in the health care delivery system generally.

9           Sec. 1384. Section 71-7606, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           71-7606 (1) The purpose of the Nebraska Health Care  
12 Funding Act is to provide for the use of dedicated revenue for  
13 health-care-related expenditures.

14           (2) Any funds appropriated or distributed under the act  
15 shall not be considered ongoing entitlements or obligations on the  
16 part of the State of Nebraska and shall not be used to replace  
17 existing funding for existing programs.

18           (3) No funds appropriated or distributed under the act  
19 shall be used for abortion, abortion counseling, referral for  
20 abortion, school-based health clinics, or research or activity of  
21 any kind involving the use of human fetal tissue obtained in  
22 connection with the performance of an induced abortion or involving  
23 the use of human embryonic stem cells or for the purpose of  
24 obtaining other funding for such use.

25           (4) ~~The Department of Health and Human Services and the~~  
26 ~~Department of Health and Human Services Finance and Support~~ Health  
27 and Human Services System shall report annually to the Legislature

1 and the Governor regarding the use of funds appropriated under the  
2 act and the outcomes achieved from such use.

3           Sec. 1385. Section 71-7607, Revised Statutes Cumulative  
4 Supplement, 2006, is amended to read:

5           71-7607 (1) The Nebraska Medicaid Intergovernmental Trust  
6 Fund is created. The fund shall include revenue received from  
7 governmental nursing facilities receiving payments for nursing  
8 facility services under the medical assistance program established  
9 pursuant to the Medical Assistance Act. ~~The Department of Health~~  
10 ~~and Human Services Finance and Support~~ Health and Human Services  
11 System shall remit such revenue to the State Treasurer for credit  
12 to the fund. ~~The department~~ system shall adopt and promulgate  
13 rules and regulations to establish procedures for participation  
14 by governmental nursing facilities and for the receipt of such  
15 revenue under this section. Money from the Nebraska Medicaid  
16 Intergovernmental Trust Fund shall be transferred to the Nebraska  
17 Health Care Cash Fund as provided in section 71-7611.

18           (2) ~~The department~~ Health and Human Services System may  
19 use revenue in the Nebraska Medicaid Intergovernmental Trust Fund  
20 to offset any unanticipated reductions in medicaid funds received  
21 under this section.

22           (3) Any money in the Nebraska Medicaid Intergovernmental  
23 Trust Fund available for investment shall be invested by the state  
24 investment officer pursuant to the Nebraska Capital Expansion Act  
25 and the Nebraska State Funds Investment Act.

26           Sec. 1386. Section 71-7608, Revised Statutes Cumulative  
27 Supplement, 2006, is amended to read:

1           71-7608 The Nebraska Tobacco Settlement Trust Fund is  
2 created. The fund shall include any settlement payments or other  
3 revenue received by the State of Nebraska in connection with any  
4 tobacco-related litigation to which the State of Nebraska is a  
5 party. ~~The Department of Health and Human Services Finance and~~  
6 ~~Support Health and Human Services System~~ shall remit such revenue  
7 to the State Treasurer for credit to the fund, except that of  
8 such revenue received on or after April 1, 2005, two million  
9 five hundred thousand dollars shall be credited annually to the  
10 Tobacco Prevention and Control Cash Fund. Subject to the terms  
11 and conditions of such litigation, money from the Nebraska Tobacco  
12 Settlement Trust Fund shall be transferred to the Nebraska Health  
13 Care Cash Fund as provided in section 71-7611. Any money in the  
14 Nebraska Tobacco Settlement Trust Fund available for investment  
15 shall be invested by the state investment officer pursuant to  
16 the Nebraska Capital Expansion Act and the Nebraska State Funds  
17 Investment Act.

18           Sec. 1387. Section 71-7614, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20           71-7614 (1) The Nebraska Health Care Council is created.  
21 The council shall consist of a chairperson and eight additional  
22 members appointed by the Governor with the approval of a majority  
23 of the Legislature. The members shall be appointed for staggered  
24 three-year terms. The council shall include at least one consumer,  
25 one health care provider, and one member of a racial or ethnic  
26 minority. ~~The Director of Finance and Support or his or her~~  
27 ~~designee~~ The chief executive officer of the Health and Human

1 Services System or his or her designee shall be a nonvoting, ex  
2 officio member of the council. Any vacancy shall be filled in the  
3 same manner as the original appointment for the unexpired term.  
4 Members of the council shall be reimbursed for their actual and  
5 necessary expenses as provided in sections 81-1174 to 81-1177. The  
6 ~~Department of Health and Human Services Finance and Support~~Health  
7 and Human Services System shall provide staff support for the  
8 council. ~~The Department of Health and Human Services and the~~  
9 ~~Department of Health and Human Services Regulation and Licensure~~  
10 ~~shall also assist the Department of Health and Human Services~~  
11 ~~Finance and Support and shall assist~~ the council as may be  
12 necessary.

13 (2) Funds as appropriated by the Legislature from the  
14 Nebraska Health Care Cash Fund shall be used for grants awarded by  
15 the council for public health purposes as defined by the council  
16 and adopted in rules and regulations of the ~~Department of Health~~  
17 ~~and Human Services Finance and Support.~~ Health and Human Services  
18 System. At least fifteen percent of the funds appropriated for such  
19 grants shall be awarded by the council to improve racial and ethnic  
20 minority health. Grants awarded under this section shall not exceed  
21 three years in duration, except that extensions of up to one year  
22 may be granted by the council for good cause. The council shall  
23 report all such extensions to the ~~Department of Health and Human~~  
24 ~~Services Finance and Support~~ system and to the Health and Human  
25 Services Committee of the Legislature.

26 (3) The ~~Department of Health and Human Services Finance~~  
27 ~~and Support~~ Health and Human Services System shall:



1 (a) In consultation with the council, develop criteria  
2 for the awarding of grants from the fund pursuant to this section;

3 (b) Approve or disapprove decisions by the council  
4 regarding the selection of projects to be funded and the  
5 distribution of project funding;

6 (c) In consultation with the council, establish  
7 standards, formats, procedures, and timelines for the successful  
8 implementation of approved projects;

9 (d) In consultation with the council, assist grant  
10 recipients in determining the effectiveness of the project and  
11 measure the accomplishment of the grant objectives;

12 (e) Provide annual reports to the Governor and the  
13 Legislature concerning the projects. Each report shall include  
14 a listing of priorities established by the council for grants  
15 awarded under this section, the number of applicants and approved  
16 applicants for such grants, an overview of the various funded  
17 projects, and detailed reports of the cost of such projects;

18 (f) In consultation with the council, adopt and  
19 promulgate rules and regulations establishing criteria, standards,  
20 and procedures regarding the selection and administration of funded  
21 projects; and

22 (g) Require recipients of grants under this section to  
23 provide such data relating to the funded projects as the ~~department~~  
24 system deems necessary.

25 Sec. 1388. Section 71-7617, Revised Statutes Cumulative  
26 Supplement, 2006, is amended to read:

27 71-7617 The ~~Department of Health and Human Services~~

1 ~~Regulation and Licensure~~ Health and Human Services System shall  
2 contract with the health clinics of Nebraska's federally recognized  
3 Native American tribes, Indian health organizations, or other  
4 public health organizations that have a substantial Native American  
5 clientele to provide educational and public health services  
6 targeted to Native American populations. The following educational  
7 and public health services may be considered by the ~~department~~  
8 system for such contracts:

9           (1) Identification and enrollment of children in state  
10 and federal programs providing access to health insurance or health  
11 care;

12           (2) Efforts to educate children and adults about the  
13 health risks associated with smoking and tobacco use, alcohol  
14 abuse, and other substances that threaten health and well-being and  
15 other activities designed to reduce the rate of substance abuse;

16           (3) Prenatal care education for women and notification of  
17 programs that improve prenatal care;

18           (4) Education focusing on proper diet and the importance  
19 of physical activity to good health;

20           (5) Blood pressure and cholesterol screenings;

21           (6) Support of efforts to identify children and adults at  
22 risk for depression and other mental health conditions and provide  
23 mental health counseling to prevent suicide;

24           (7) Parenting classes and the promotion of such programs;

25           (8) Efforts to discourage drinking and driving and to  
26 encourage the use of seat belts;

27           (9) Tests and education for acquired immunodeficiency

1 syndrome and other sexually transmitted diseases;

2 (10) Tests for pregnancy and referrals to prenatal care  
3 when directed;

4 (11) Educational efforts aimed at reducing teen  
5 pregnancies and other unintended pregnancies;

6 (12) Case management for pregnant women, children, or  
7 adults with special health care needs;

8 (13) Efforts to make health care prevention services more  
9 affordable or accessible;

10 (14) Matching funds for state and federal programs  
11 designed to address public health needs;

12 (15) Staffing needs for public health services or  
13 education including the recruitment and training of Native American  
14 providers;

15 (16) Cervical and breast cancer detection services  
16 and other prevention components of comprehensive women's health  
17 services;

18 (17) Education to prevent and reduce the occurrence of  
19 diabetes; and

20 (18) Other prevention or educational activities or  
21 programs that address the health, safety, or self-sufficiency of  
22 Native American persons.

23 Sec. 1389. Section 71-7618, Revised Statutes Cumulative  
24 Supplement, 2006, is amended to read:

25 71-7618 During each fiscal year, the ~~Director of~~  
26 Regulation and Licensure Health and Human Services System shall  
27 contract with the health clinics of Nebraska's federally recognized

1 Native American tribes as approved by the tribal councils, Indian  
2 health organizations, or other public health organizations that  
3 have a substantial Native American clientele to provide educational  
4 and public health services pursuant to section 71-7617. The  
5 ~~director~~ system shall fund all eligible contracts until the  
6 appropriation to this program is depleted, but shall give priority  
7 to contracts which meet the following criteria:

8 (1) Programs or activities that directly impact the  
9 health and well-being of children;

10 (2) Programs or activities which serve the greater number  
11 of people over the longest period of time;

12 (3) Programs or activities that are part of a larger plan  
13 for strategic public health planning and implementation;

14 (4) Current programs or activities that have demonstrated  
15 success in improving public health or new programs or activities  
16 modeled on successful programs and activities; and

17 (5) Programs or activities that focus on primary  
18 prevention and show promise in reducing future health care  
19 expenditures.

20 Sec. 1390. Section 71-7619, Revised Statutes Cumulative  
21 Supplement, 2006, is amended to read:

22 71-7619 ~~The Department of Health and Human Services~~  
23 ~~Regulation and Licensure~~ Health and Human Services System shall  
24 provide technical assistance and assessment of needs evaluations  
25 upon request to aid tribal councils in the development of contract  
26 proposals.

27 Sec. 1391. Section 71-7620, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2           71-7620 The recipients of funds under the Native American  
3 Public Health Act shall submit a report on the activities funded  
4 each fiscal year. The report shall provide information as required  
5 by the ~~Director of Regulation and Licensure~~ Health and Human  
6 Services System to determine the effectiveness of the contract in  
7 meeting the goals of the Native American Public Health Act.

8           Sec. 1392. Section 71-7621, Revised Statutes Cumulative  
9 Supplement, 2006, is amended to read:

10           71-7621 If the ~~Director of Regulation and Licensure~~  
11 Health and Human Services System determines that services are  
12 not being delivered in accordance with the contract, the ~~director~~  
13 system may seek to recapture all or a portion of funds expended.

14           Sec. 1393. Section 71-7622, Revised Statutes Cumulative  
15 Supplement, 2006, is amended to read:

16           71-7622 The ~~Department of Health and Human Services~~  
17 Regulation and Licensure Health and Human Services System shall  
18 adopt and promulgate rules and regulations to carry out the Native  
19 American Public Health Act and shall adhere to already established  
20 or adopted and promulgated rules and regulations for contracted  
21 services under the act.

22           Sec. 1394. Section 71-7702, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           71-7702 For purposes of the Health Care Facility-Provider  
25 Cooperation Act:

26           (1) Community planning ~~shall mean~~ means a plan which  
27 identifies (a) health-care-related resources, facilities, and

1 services within the community, (b) the health care needs of the  
2 community, (c) gaps in services, (d) duplication of services, and  
3 (e) ways to meet health care needs;

4 (2) Cooperative agreement ~~shall mean~~ means an agreement  
5 among two or more health care facilities or other providers  
6 for the sharing, allocation, or referral of patients, personnel,  
7 instructional programs, equipment, support services and facilities,  
8 or medical, diagnostic, or laboratory facilities or procedures or  
9 other services traditionally offered or purchased by health care  
10 facilities or other providers;

11 ~~(3) Department shall mean the Department of Health and~~  
12 ~~Human Services Regulation and Licensure;~~

13 ~~(4) (3) Health care facility shall mean:~~ means:

14 (a) Any facility required to be licensed under the Health  
15 Care Facility Licensure Act or, if in another state, licensed in  
16 such state; and

17 (b) Any parent of a health care facility, health  
18 care facility subsidiary, or health care facility affiliate that  
19 provides medical or medically related diagnostic and laboratory  
20 services or engages in ancillary activities supporting those  
21 services; ~~and~~

22 ~~(5) (4) Provider shall mean~~ means any person licensed to  
23 provide health care services under Chapter 71 and engaged in the  
24 practice of medicine and surgery, osteopathic medicine, pharmacy,  
25 optometry, podiatry, physical therapy, or nursing; ~~and~~ -

26 (5) System means the Health and Human Services System.

27 Sec. 1395. Section 71-7703, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           71-7703 Parties to a cooperative agreement may apply  
3 to the ~~department~~ system for a certificate of public advantage  
4 governing the cooperative agreement. The application shall include  
5 an executed letter of intent signed by the parties indicating  
6 the parties' intent to proceed with a cooperative agreement if  
7 the ~~department~~ system issues a certificate of public advantage  
8 and shall also include a narrative description of the proposed  
9 agreement, the nature and scope of the cooperation in the proposed  
10 agreement, and any consideration passing to any party under the  
11 proposed agreement. A copy of the application and copies of all  
12 additional related materials shall be submitted to the Attorney  
13 General and to the ~~department~~ system at the same time.

14           Sec. 1396. Section 71-7704, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           71-7704 (1) Within five working days after receipt of an  
17 application for a certificate of public advantage, the ~~department~~  
18 system shall publish notice of the application through public  
19 channels and shall notify health care facilities providing similar  
20 services in the area affected by the proposal and any person  
21 who has requested such notice. The notice shall state that an  
22 application has been received, describe the proposal, and state  
23 the date by which a person may submit written comments about the  
24 application to the ~~department.~~ system.

25           (2) The ~~department~~ system shall, within fifteen days  
26 after the date an application is received, determine if the  
27 application is complete for the purposes of review. The ~~department~~

1 system may find that an application is incomplete when a question  
2 on the application form has not been answered in whole or in  
3 part or has been answered in a manner that does not fairly meet  
4 the question addressed or when the application does not include  
5 attachments of supporting documents necessary to complete the  
6 answer. If the ~~department~~ system determines that an application is  
7 incomplete, it shall notify the applicant within fifteen days after  
8 the date the application was received, stating the reasons for its  
9 determination of incompleteness with reference to the particular  
10 questions for which a deficiency is noted.

11 (3) The ~~department~~ system may, during the course of its  
12 review, hold a public meeting at which any person may introduce  
13 testimony and exhibits in connection with an application. The  
14 ~~department~~ system decision to hold a public meeting shall be made  
15 within fifteen days after the ~~department's~~ system's dissemination  
16 of notice pursuant to subsection (1) of this section. The meeting  
17 shall be held no later than thirty days after the ~~department's~~  
18 system's decision to hold a public meeting and upon five days'  
19 notice, not including days the application is deemed to be  
20 incomplete.

21 (4) The ~~department~~ system shall review the application in  
22 accordance with the standards set forth in section 71-7706 and may  
23 hold a public hearing in accordance with rules and regulations of  
24 the ~~department~~. system. Persons may intervene if any legal rights,  
25 duties, privileges, or other legal interests may be substantially  
26 affected by the application. The ~~department~~ system may adopt  
27 and promulgate rules and regulations for such intervention. The



1 ~~department~~ system shall consult with the Attorney General regarding  
2 his or her evaluation of any potential reduction in competition  
3 resulting from a cooperative agreement.

4           Sec. 1397. Section 71-7705, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6           71-7705 (1) The ~~department~~ system shall grant or deny  
7 an application for a certificate of public advantage within ninety  
8 days after the date of filing of the application, not including  
9 days the application is deemed to be incomplete. The decision  
10 shall be in writing and set forth the basis for the decision.  
11 The ~~department~~ system shall furnish a copy of the decision to the  
12 applicants, the Attorney General, and any intervenor.

13           (2) If the ~~department~~ system grants the application, the  
14 parties shall have forty-five days after the date of receipt of  
15 the ~~department's~~ system's decision to submit an executed written  
16 copy of the cooperative agreement which shall be in accordance  
17 with the terms and conditions set out in the letter of intent and  
18 the application. The ~~department~~ system shall review the executed  
19 written copy of the cooperative agreement and, if it is in  
20 accordance with the terms and conditions set out in the letter of  
21 intent and the application, the ~~department~~ system shall issue a  
22 certificate of public advantage for the cooperative agreement.

23           (3) If the applicants desire to contest the denial or  
24 the intervenors desire to contest the granting of an application,  
25 they shall, within ten days after receipt of the notice of denial  
26 or within ten days after the granting of an application, send  
27 a written request to the ~~department~~ system for a hearing under

1 sections 84-913 and 84-915.

2 (4) A denial or granting by the ~~department~~ system of an  
3 application or a termination of a certificate of public advantage  
4 under section 71-7707 may be appealed. The appeal shall be in  
5 accordance with the Administrative Procedure Act.

6 Sec. 1398. Section 71-7706, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 71-7706 (1) The ~~department~~ system shall issue a  
9 certificate of public advantage for a cooperative agreement if  
10 it determines that the applicants have demonstrated by clear and  
11 convincing evidence that the likely benefits resulting from the  
12 agreement outweigh any disadvantages attributable to a reduction in  
13 competition that may result from the agreement.

14 (2) In evaluating the potential benefits of a cooperative  
15 agreement, the ~~department~~ system shall consider whether one or  
16 more of the following benefits may result from the cooperative  
17 agreement:

18 (a) Enhancement of the quality of health care facility  
19 care and provider care provided to Nebraska citizens;

20 (b) Preservation of health care facilities, including  
21 those in other states, in geographical proximity to the communities  
22 traditionally served by such facilities;

23 (c) Gains in the cost efficiency of services provided by  
24 the health care facilities or providers involved or by other health  
25 care facilities or providers in this state;

26 (d) Improvements in the utilization of health care  
27 facility resources and equipment;

1           (e) Avoidance of duplication of health care facility  
2 resources;

3           (f) Enhancement, maintenance, or preservation of  
4 competition for the services or goods involved; and

5           (g) Mitigation of adverse environmental impact or  
6 enhancement of positive environmental impact.

7           (3) The ~~department's~~ system's evaluation of any  
8 disadvantages attributable to any reduction in competition likely  
9 to result from the agreement may include, but need not be limited  
10 to, the following factors:

11           (a) The extent of any likely adverse impact on the  
12 ability of health maintenance organizations, preferred provider  
13 organizations, managed health care service agents, or other  
14 health care payors to negotiate advantageous payment and service  
15 arrangements with health care facilities or providers;

16           (b) The extent of any reduction in competition among  
17 health care facilities or providers or other persons furnishing  
18 goods or services to or in competition with health care facilities  
19 that is likely to result directly or indirectly from the  
20 cooperative agreement;

21           (c) The extent of any likely adverse impact on patients  
22 in the quality, availability, and price of health care services;  
23 and

24           (d) The availability of arrangements that are less  
25 restrictive to competition and achieve the same benefits or a more  
26 favorable balance of benefits over disadvantages attributable to  
27 any reduction in competition likely to result from the agreement.

1           Sec. 1399. Section 71-7707, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           71-7707 If the ~~department~~ system determines at any time  
4 that the likely benefits resulting from a certified cooperative  
5 agreement no longer outweigh any disadvantages attributable to any  
6 potential reduction in competition resulting from the agreement,  
7 the ~~department~~ system shall initiate proceedings to terminate  
8 the certificate of public advantage in accordance with the  
9 Administrative Procedure Act.

10          Sec. 1400. Section 71-7708, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12          71-7708 (1) The ~~department~~ system shall require the  
13 parties to a cooperative agreement for which a certificate of  
14 public advantage has been issued to report annually on the  
15 functioning of the cooperative agreement for the preceding year.  
16 The report shall be in such form and contain such information as  
17 the ~~department~~ system in its discretion deems necessary to make the  
18 determination required by section 71-7707.

19          (2) Any interested person may petition the ~~department~~  
20 system to determine that the likely benefits resulting  
21 from a certified cooperative agreement no longer outweigh  
22 any disadvantages attributable to any potential reduction  
23 in competition resulting from the agreement. In such case,  
24 the ~~department~~ system may initiate proceedings to terminate  
25 the certificate of public advantage in accordance with the  
26 Administrative Procedure Act.

27          (3) It shall be unlawful for an employer to take any

1 adverse job action against any employee because such employee has  
2 petitioned, testified, assisted, or participated in any manner in  
3 any investigation, proceeding, or hearing under the Health Care  
4 Facility-Provider Cooperation Act.

5           Sec. 1401. Section 71-7709, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           71-7709 (1) Any party to a cooperative agreement which  
8 has been approved in whole or in part by the ~~department~~ system  
9 pursuant to the Health Care Facility-Provider Cooperation Act shall  
10 be immune from any civil or criminal antitrust action if such  
11 action is based upon the cooperative agreement or arises from  
12 conduct or activity reasonably necessary and reasonably foreseeable  
13 to implement such agreement or any decision or order issued by the  
14 ~~department.~~ system.

15           (2) Any part to a cooperative agreement that has been  
16 filed with the ~~department~~ system pursuant to the act shall be  
17 immune from any civil or criminal antitrust action if such action  
18 is based upon or arises from the negotiation of or entering into  
19 the cooperative agreement.

20           (3) All persons who participate in community planning,  
21 discussions, or negotiations intended in good faith to culminate  
22 in a cooperative agreement to be filed with the ~~department~~ system  
23 pursuant to the provisions of the act shall be immune from any  
24 civil or criminal antitrust action if such action is based upon or  
25 arises from such conduct.

26           (4)(a) The immunity provided in this section shall  
27 apply only to community planning, discussions, and negotiations

1 that occur after notice of such activities has been sent to  
2 the ~~department~~ system in accordance with the requirements of  
3 subdivision (b) of this subsection.

4 (b) The notice to the ~~department~~ system required by  
5 subdivision (a) of this subsection shall include a description  
6 of the proposed purpose of the agreement, the potential parties,  
7 and the potential nature and scope of the cooperation and joint  
8 activities contemplated. The persons filing such notice shall also  
9 notify the ~~department~~ system if negotiations have terminated, or  
10 if negotiations are continuing they shall notify the ~~department~~  
11 system of progress of negotiation at least once every six months.  
12 The ~~department~~ system may request additional information from the  
13 potential parties and may communicate with and monitor the parties  
14 in any manner the ~~department~~ system deems necessary but shall not  
15 hinder or interfere with negotiations.

16 (5) The submission of a cooperative agreement for  
17 ~~department~~ system approval pursuant to the act shall be voluntary,  
18 and the failure of the parties to any such agreement to seek  
19 approval shall not be admissible in any civil or criminal antitrust  
20 action if such action is based upon the cooperative agreement or  
21 arises from conduct or activity reasonably necessary and reasonably  
22 foreseeable to implement the cooperative agreement.

23 (6) Nothing in the act shall be construed to limit  
24 the application of any other statute concerning the licensure of  
25 facilities, services, or professions, and any activities undertaken  
26 pursuant to a cooperative agreement shall comply with applicable  
27 law.

1           Sec. 1402. Section 71-7710, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           71-7710 Nothing in the Health Care Facility-Provider  
4 Cooperation Act shall be construed to prohibit:

5           (1) The formation of a cooperative agreement that has  
6 been approved in whole or in part in accordance with the act;

7           (2) Community planning, discussions, or negotiations  
8 intended in good faith to cumulate in a cooperative agreement  
9 to be filed with the ~~department,~~ system;

10           (3) Any conduct or activity reasonably necessary and  
11 reasonably foreseeable to implement an approved cooperative  
12 agreement or a decision or order issued by the ~~department,~~ system;  
13 or

14           (4) The negotiation of or entering into a cooperative  
15 agreement which is filed with the ~~department,~~ system. Such  
16 agreements, conduct, or activities shall not be held or construed  
17 to be illegal combinations or conspiracies in restraint of trade  
18 under the act. Directors, trustees, or their representatives of a  
19 health care facility or provider who participate in the discussion  
20 or negotiation shall be immune from civil actions or criminal  
21 prosecutions for a violation of state or federal antitrust laws  
22 unless the discussion or negotiation exceeds the scope authorized  
23 by the Health Care Facility-Provider Cooperation Act.

24           Sec. 1403. Section 71-7711, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26           71-7711 The ~~department~~ system shall maintain on file a  
27 copy of all cooperative agreements for which certificates of public

1 advantage remain in effect. Any party to a cooperative agreement  
2 who terminates the agreement shall file a notice of termination  
3 with the ~~department~~ system within thirty days after termination.

4 Sec. 1404. Section 71-8008, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 71-8008 The ~~Department of Health and Human Services~~  
7 ~~Regulation and Licensure~~ Health and Human Services System may adopt  
8 and promulgate rules and regulations to implement the Certified  
9 Industrial Hygienist Title Protection Act and to further regulate  
10 the use of the term certified industrial hygienist.

11 Sec. 1405. Section 71-8211, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 71-8211 Department means the Department of ~~Health and~~  
14 ~~Human Services Regulation and Licensure-~~ Public Health.

15 Sec. 1406. Section 71-8214, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 71-8214 Designation means a formal determination by the  
18 department that a hospital or health care facility is capable  
19 of providing designated trauma care or rehabilitative services as  
20 authorized in the Statewide Trauma System Act.

21 Sec. 1407. Section 71-8228, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 71-8228 Regional medical director means a physician  
24 licensed under the Uniform Licensing Law who shall report to  
25 the ~~Director of Regulation and Licensure~~ Director of Public Health  
26 and carry out the regional plan for his or her region.

27 Sec. 1408. Section 71-8231, Reissue Revised Statutes of



1 Nebraska, is amended to read:

2           71-8231 State trauma medical director means a physician  
3 licensed under the Uniform Licensing Law who reports to the  
4 ~~Director of Regulation and Licensure~~ Director of Public Health and  
5 carries out duties under the Statewide Trauma System Act.

6           Sec. 1409. Section 71-8236, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           71-8236 The State Trauma Advisory Board is created.  
9 The board shall be composed of representatives knowledgeable in  
10 emergency medical services and trauma care, including emergency  
11 medical providers such as physicians, nurses, hospital personnel,  
12 prehospital or out-of-hospital providers, local government  
13 officials, state officials, consumers, and persons affiliated  
14 professionally with health science schools. The ~~Director of~~  
15 ~~Regulation and Licensure~~ Director of Public Health or his or her  
16 designee shall appoint the members of the board for staggered  
17 terms of three years each. The ~~department~~ system shall provide  
18 administrative support to the board. All members of the board may  
19 be reimbursed for their actual and necessary expenses incurred in  
20 the performance of their duties as such members as provided in  
21 sections 81-1174 to 81-1177. The terms of members representing the  
22 same field shall not expire at the same time.

23           The board shall elect a chairperson and a  
24 vice-chairperson whose terms of office shall be for two years. The  
25 board shall meet at least twice per year by written request of  
26 the director or the chairperson.

27           Sec. 1410. Section 71-8239, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           71-8239 (1) The department, in consultation with and  
3 having solicited the advice of the State Trauma Advisory Board,  
4 shall establish the statewide trauma system.

5           (2) The department, with the advice of the board, shall  
6 adopt and promulgate rules and regulations to carry out the  
7 Statewide Trauma System Act.

8           (3) ~~The Director of Regulation and Licensure~~ Director of  
9 Public Health or his or her designee shall appoint the state trauma  
10 medical director and the regional medical directors.

11           Sec. 1411. Section 71-8312, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           71-8312 ~~The Department of Health and Human Services~~  
14 ~~Regulation and Licensure~~ Health and Human Services System shall  
15 periodically examine and reexamine the regulations, processes, and  
16 results of the facility regulation system. Changes in the facility  
17 regulation system should occur whenever the ~~department~~ system finds  
18 that:

19           (1) A program or procedure is not needed to ensure the  
20 protection of the public health, safety, or welfare or a program  
21 or procedure is not providing adequate protection of the public  
22 health, safety, or welfare;

23           (2) A program or procedure has been more detrimental  
24 than beneficial to the fulfillment of the ~~department's~~ system's  
25 regulatory responsibilities as defined by law or has diminished  
26 the supply of qualified providers or the public's access to needed  
27 services; or

1           (3) There are alternatives to a program or procedure  
2 that would more cost effectively fulfill the ~~department's~~ system's  
3 duties and responsibilities.

4           Sec. 1412. Section 71-8313, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6           71-8313 The ~~Department of Health and Human Services~~  
7 Regulation and Licensure Health and Human Services System shall  
8 review the regulation or proposed regulation of categories of  
9 facilities based on the criteria in sections 71-8301 to 71-8314.  
10 On or before November 1 of each year, the ~~department~~ system shall  
11 provide the Legislature with recommendations for credentialing  
12 of categories of facilities not previously regulated and changes  
13 in the statutes governing the credentialing of categories of  
14 facilities.

15           Sec. 1413. Section 71-8503, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17           71-8503 For purposes of the Nebraska Telehealth Act:

18           ~~(1) Department means the Department of Health and Human~~  
19 ~~Services Finance and Support;~~

20           ~~(2) (1) Health care practitioner means a Nebraska~~  
21 ~~medicaid-enrolled provider who is licensed, registered, or~~  
22 ~~certified to practice in this state by the Department of Health and~~  
23 ~~Human Services Regulation and Licensure;~~ system;

24           ~~(3) (2) Telehealth means the use of telecommunications~~  
25 ~~technology by a health care practitioner to deliver health care~~  
26 ~~services within his or her scope of practice at a site other than~~  
27 ~~the site where the patient is located; and~~

1           ~~(4)~~ (3) Telehealth consultation means any contact between  
2 a patient and a health care practitioner relating to the health  
3 care diagnosis or treatment of such patient through telehealth but  
4 does not include a telephone conversation, electronic mail message,  
5 or facsimile transmission between a health care practitioner and a  
6 patient or a consultation between two health care practitioners;  
7 and -

8           (4) System means the Health and Human Services System.

9           Sec. 1414. Section 71-8506, Revised Statutes Cumulative  
10 Supplement, 2006, is amended to read:

11           71-8506 (1) On or after July 1, 2000, in-person contact  
12 between a health care practitioner and a patient shall not be  
13 required under the medical assistance program established pursuant  
14 to the Medical Assistance Act and Title XXI of the federal Social  
15 Security Act, as amended, for health care services delivered  
16 through telehealth that are otherwise eligible for reimbursement  
17 under such program and federal act. Such services shall be subject  
18 to reimbursement policies developed pursuant to such program and  
19 federal act. This section also applies to managed care plans  
20 which contract with the ~~department~~ system pursuant to the Medical  
21 Assistance Act only to the extent that:

22           (a) Health care services delivered through telehealth  
23 are covered by and reimbursed under the medicaid fee-for-service  
24 program; and

25           (b) Managed care contracts with managed care plans are  
26 amended to add coverage of health care services delivered through  
27 telehealth and any appropriate capitation rate adjustments are

1 incorporated.

2 (2) The reimbursement rate for a telehealth consultation  
3 shall, as a minimum, be set at the same rate as the medical  
4 assistance program rate for a comparable in-person consultation.

5 (3) The ~~department~~ system shall establish rates for  
6 transmission cost reimbursement for telehealth consultations,  
7 considering, to the extent applicable, reductions in travel costs  
8 by health care practitioners and patients to deliver or to access  
9 health care services and such other factors as the ~~department~~  
10 system deems relevant.

11 Sec. 1415. Section 71-8508, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 71-8508 ~~By July 1, 2000, the department~~ The system  
14 shall adopt and promulgate rules and regulations to carry out  
15 the Nebraska Telehealth Act, including, but not limited to, rules  
16 and regulations to: (1) Ensure the provision of appropriate care  
17 to patients; (2) prevent fraud and abuse; and (3) establish  
18 methods and procedures necessary to safeguard against unnecessary  
19 utilization of telehealth consultations.

20 Sec. 1416. Section 72-249, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 72-249 The Governor of the state is empowered and  
23 directed to receive from the United States all money that may  
24 be due or may become due to the state, and it shall be his or  
25 her duty to deposit the same without delay in the treasury of the  
26 state, taking the State Treasurer's receipts therefor. All money  
27 received from the United States, for the particular benefit of

1 any institution, department, or activity under the jurisdiction of  
2 the ~~Department of Health and Human Services,~~ the Health and Human  
3 Services System or Department of Correctional Services, ~~or the~~  
4 ~~Department of Health and Human Services Finance and Support,~~ shall  
5 be paid to the particular institution, department, or activity for  
6 the benefit of which it was received, as directed by the ~~proper~~  
7 system or department, and by such institution, system, department,  
8 or activity deposited with the State Treasurer not later than the  
9 first day of the month following that in which received.

10           Sec. 1417. Section 72-1302, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           72-1302 All departments, boards, and commissions of the  
13 State of Nebraska, except the Board of Educational Lands and Funds,  
14 the Department of Correctional Services, the ~~Department of Health~~  
15 ~~and Human Services,~~ Health and Human Services System, and the  
16 University of Nebraska shall cease operating any farm lands except  
17 as landlords under written leases by March 1, 1968, as provided in  
18 sections 72-1304 and 72-1305.

19           Sec. 1418. Section 72-1303, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21           72-1303 No capital improvements shall be made to any  
22 farm land owned by the State of Nebraska, its departments, boards  
23 or commissions, except that this provision shall not apply to  
24 the Board of Educational Lands and Funds, the Department of  
25 Correctional Services, the ~~Department of Health and Human Services,~~  
26 Health and Human Services System, or the University of Nebraska or  
27 projects where the only purpose of the capital improvement would be

1 soil and water conservation.

2           Sec. 1419. Section 72-1304, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           72-1304 All publicly owned farm lands not classified as  
5 school or saline lands, or lands of the ~~Department of Health and~~  
6 ~~Human Services, Health and Human Services System,~~ the Department  
7 of Correctional Services, or the University of Nebraska shall be  
8 subject to lease at a fixed annual cash rental for a term of not  
9 more than ten years. The department, commission, or board shall  
10 have authority to adopt such rules and regulations as it shall  
11 deem necessary in the leasing of such lands and to prescribe such  
12 terms and conditions of the lease as it shall deem necessary to  
13 protect the interests of the state. All departments, boards, or  
14 commissions, the ~~Department of Health and Human Services, Health~~  
15 ~~and Human Services System,~~ the Department of Correctional Services,  
16 and the University of Nebraska shall adopt and enforce a soil  
17 conservation program based on a conservation plan as developed by  
18 the local natural resources district. Failure of the lessee to  
19 utilize the land for the purpose for which the land was leased or  
20 to observe and carry out soil conservation requirements as provided  
21 in the rules and regulations of the department, commission, or  
22 board shall be cause for cancellation of the lease.

23           Sec. 1420. Section 75-303, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           75-303 Sections 75-301 to 75-322 shall apply to  
26 transportation by a motor carrier or the transportation of  
27 passengers and household goods by a regulated motor carrier for

1 hire in intrastate commerce except for the following:

2 (1) A motor carrier for hire in the transportation of  
3 school children and teachers to and from school;

4 (2) A motor carrier for hire operated in connection with  
5 a part of a streetcar system;

6 (3) An ambulance, ambulance owner, hearse, or automobile  
7 used exclusively as an incident to conducting a funeral;

8 (4) A motor carrier exempt by subdivision (1) of this  
9 section which hauls for hire (a) persons of a religious, fraternal,  
10 educational, or charitable organization, (b) pupils of a school to  
11 athletic events, (c) players of American Legion baseball teams when  
12 the point of origin or termination is within five miles of the  
13 domicile of the carrier, and (d) the elderly as defined in section  
14 13-1203 and their spouses and dependents under a contract with a  
15 municipality or county authorized in section 13-1208;

16 (5) A motor carrier operated by a city and engaged in the  
17 transportation of passengers, and such exempt operations shall be  
18 no broader than those authorized in intrastate commerce at the time  
19 the city or other political subdivision assumed ownership of the  
20 operation;

21 (6) A motor vehicle owned and operated by a nonprofit  
22 organization which is exempt from payment of federal income  
23 taxes, as provided by section 501(c)(4), Internal Revenue Code,  
24 transporting solely persons over age sixty, persons who are spouses  
25 and dependents of persons over age sixty, and handicapped persons;

26 (7) A motor carrier engaged in the transportation of  
27 passengers operated by a transit authority created under and acting



1 pursuant to the laws of the State of Nebraska;

2 (8) A motor carrier operated by a municipality or county,  
3 as authorized in section 13-1208, in the transportation of elderly  
4 persons;

5 (9) A motor vehicle having a seating capacity of twenty  
6 or less which is operated by a governmental subdivision or a  
7 qualified public-purpose organization as defined in section 13-1203  
8 engaged in the transportation of passengers in the state;

9 (10) A motor vehicle owned and operated by a nonprofit  
10 entity organized for the purpose of furnishing electric service;  
11 and

12 (11) A motor carrier engaged in escort services and under  
13 contract with the ~~Department of Health and Human Services~~ Health  
14 and Human Services System or with any agency organized under the  
15 Nebraska Community Aging Services Act.

16 Sec. 1421. Section 75-303.01, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 75-303.01 The ~~Department of Health and Human Services~~  
19 ~~Finance and Support~~ Health and Human Services System or any agency  
20 organized under the Nebraska Community Aging Services Act may  
21 contract for transportation for its clients with a contractor which  
22 does not hold a certificate or which is not otherwise exempt under  
23 section 75-303 only if:

24 (1) The proposed contractor is the individual who will  
25 personally drive the vehicle in question;

26 (2) The only compensation to the contractor for the  
27 transportation is paid by the ~~department~~ Health and Human Services

1 System at a rate no greater than that provided for reimbursement of  
2 state employees pursuant to section 81-1176 for the costs incurred  
3 in the transportation; and

4 (3) (a) There is no regulated motor carrier serving the  
5 area in which the client needs transportation, (b) the regulated  
6 motor carrier serving the area is incapable of providing the  
7 specific service in question by its own written statement or as  
8 determined by the commission upon application of the regulated  
9 motor carrier or the ~~department~~, Health and Human Services System,  
10 or (c) the regulated carrier cannot or will not provide such  
11 service at the rate specified in subsection (2) of section  
12 75-303.02.

13 Sec. 1422. Section 75-303.02, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 75-303.02 (1) The commission, in consultation with the  
16 ~~Department of Health and Human Services Finance and Support~~, Health  
17 and Human Services System, shall adopt and promulgate rules and  
18 regulations governing minimum liability insurance requirements,  
19 equipment standards, driver qualification requirements, and the  
20 issuance and filing of notice for any contractor utilized by  
21 the ~~department system~~ or any agency organized under the Nebraska  
22 Community Aging Services Act pursuant to section 75-303.01.

23 (2) The ~~Department of Health and Human Services~~ Health  
24 and Human Services System or any agency organized under the  
25 Nebraska Community Aging Services Act shall reimburse common and  
26 contract carriers for transportation of passengers at a rate not  
27 to exceed the rate of reimbursement pursuant to section 81-1176

1 multiplied by three. The maximum reimbursement rate provided for  
2 in this subsection shall not apply when the carrier (a) transports  
3 such person wholly within the corporate limits of the city or  
4 village where the transportation of the person originated or (b)  
5 transports a disabled person as defined by the federal Americans  
6 with Disabilities Act of 1990 in a vehicle that is compliant with  
7 the regulations providing for the transportation of such disabled  
8 person.

9           Sec. 1423. Section 75-303.03, Revised Statutes Cumulative  
10 Supplement, 2006, is amended to read:

11           75-303.03 (1) ~~The Department of Health and Human Services~~  
12 ~~Finance and Support~~ Health and Human Services System may reimburse  
13 an individual for the costs incurred by such individual in the  
14 transportation of a person eligible to receive transportation  
15 services through the ~~Nebraska Health and Human Services System~~  
16 system if:

17           (a) The individual is under contract with the ~~Nebraska~~  
18 ~~Health and Human Services System~~ system and provides transportation  
19 to the eligible person; and

20           (b) The eligible person has chosen the individual to  
21 provide the transportation.

22           (2) ~~The department~~ Health and Human Services System shall  
23 reimburse for the costs incurred in the transportation at a rate  
24 no greater than that provided for reimbursement of state employees  
25 pursuant to section 81-1176.

26           (3) Transportation provided to an eligible person by  
27 an individual pursuant to this section does not constitute

1 transportation for hire.

2 (4) The ~~department~~ Health and Human Services System  
3 may adopt and promulgate rules and regulations to implement this  
4 section.

5 Sec. 1424. Section 76-1304, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 76-1304 Unless the method of disposition is adopted for  
8 the purpose of evasion of the provisions of sections 76-1301 to  
9 76-1315, such provisions shall not apply to offers or dispositions  
10 of any lot or unit in a retirement subdivision or community by  
11 a purchaser for his or her own account in a single or isolated  
12 transaction, nor shall such provisions apply to the following:

13 (1) Offers or dispositions of evidences of indebtedness  
14 secured by a mortgage or deed of trust of real estate;

15 (2) Offers or dispositions of securities or units of  
16 interest issued by a real estate investment trust regulated under  
17 any state or federal statute;

18 (3) The sale or lease of real estate under or pursuant to  
19 court order;

20 (4) The disposition in any manner whatsoever of any unit  
21 of public housing under the administrative jurisdiction of a local  
22 public housing authority;

23 (5) Offers or dispositions of securities currently  
24 registered with the Director of Banking and Finance and under the  
25 provisions of the Securities Act of Nebraska; and

26 (6) Health care facilities licensed by the ~~Department of~~  
27 Health and Human Services Regulation and Licensure Health and Human

1 Services System under the Health Care Facility Licensure Act.

2           Sec. 1425. Section 76-14,102, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           76-14,102 If there is noncompliance by a tenant with  
5 section 76-1493 materially affecting health and safety or any  
6 condition which is ordered to be changed by the State Fire  
7 Marshal, the State Electrical Board, the ~~Department of Health and~~  
8 ~~Human Services Regulation and Licensure,~~ Health and Human Services  
9 System, or any other regulatory body with jurisdiction over either  
10 the park or the mobile home space that can be remedied by repair,  
11 replacement of a damaged item, or cleaning, and the tenant fails  
12 to comply as promptly as conditions require in case of emergency  
13 or within fourteen days after written notice by the landlord  
14 specifying the breach and requesting that the tenant remedy the  
15 breach or take reasonable steps to remedy it within that period of  
16 time, the landlord may enter the mobile home space, cause the work  
17 to be done in a skillful manner, and submit an itemized bill for  
18 the actual and reasonable cost or the fair and reasonable value as  
19 additional rent on the next date when periodic rent is due or, if  
20 the rental agreement has been terminated, for immediate payment. If  
21 the landlord is assessed any fine, cost, or charge as a result of  
22 the tenant's failure to comply with an order issued by the State  
23 Fire Marshal, the State Electrical Board, the ~~Department of Health~~  
24 ~~and Human Services Regulation and Licensure,~~ Health and Human  
25 Services System, or any other regulatory body with jurisdiction  
26 over either the park or the mobile home space, the landlord may  
27 require the tenant to pay such fine, cost, or charge.

1           Sec. 1426. Section 77-912, Revised Statutes Cumulative  
2 Supplement, 2006, is amended to read:

3           77-912 The Director of Insurance shall transmit fifty  
4 percent of the taxes paid in conformity with Chapter 44, article 1,  
5 and Chapter 77, article 9, to the State Treasurer, forty percent of  
6 such taxes paid to the General Fund, and ten percent of such taxes  
7 paid to the Mutual Finance Assistance Fund promptly upon completion  
8 of his or her audit and examination and in no event later than May  
9 1 of each year, except that:

10           (1) All fire insurance taxes paid pursuant to sections  
11 44-150 and 81-523 shall be remitted to the State Treasurer for  
12 credit to the General Fund;

13           (2) All workers' compensation insurance taxes paid  
14 pursuant to section 44-150 shall be remitted to the State Treasurer  
15 for credit to the Compensation Court Cash Fund;

16           (3) Commencing with the premium and related retaliatory  
17 taxes for the taxable year ending December 31, 2001, and for each  
18 taxable year thereafter, all premium and related retaliatory taxes  
19 imposed by section 44-150 or 77-908 paid by insurers writing health  
20 insurance in this state shall be remitted to the Comprehensive  
21 Health Insurance Pool Distributive Fund; and

22           (4) All taxes paid pursuant to section 77-908 for  
23 capitation payments made in accordance with the Medical Assistance  
24 Act shall be remitted to the ~~Department of Health and Human~~  
25 ~~Services Finance and Support~~ Health and Human Services System Cash  
26 Fund.

27           Sec. 1427. Section 77-2602, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2           77-2602 (1) Every person engaged in distributing or  
3 selling cigarettes at wholesale in this state shall pay to the  
4 Tax Commissioner of this state a special privilege tax. This shall  
5 be in addition to all other taxes. It shall be paid prior to  
6 or at the time of the sale, gift, or delivery to the retail  
7 dealer in the several amounts as follows: On each package of  
8 cigarettes containing not more than twenty cigarettes, sixty-four  
9 cents per package; and on packages containing more than twenty  
10 cigarettes, the same tax as provided on packages containing not  
11 more than twenty cigarettes for the first twenty cigarettes in each  
12 package and a tax of one-twentieth of the tax on the first twenty  
13 cigarettes on each cigarette in excess of twenty cigarettes in each  
14 package.

15           (2) Commencing July 1, 1994, and continuing until October  
16 1, 2004, the State Treasurer shall place the equivalent of  
17 twenty-one cents of such tax in the General Fund. Commencing  
18 October 1, 2004, the State Treasurer shall place the equivalent  
19 of forty-nine cents of such tax in the General Fund. The State  
20 Treasurer shall reduce the amount placed in the General Fund under  
21 this subsection by the amount prescribed in subdivision (3)(d) of  
22 this section. For purposes of this section, the equivalent of a  
23 specified number of cents of the tax shall mean that portion of the  
24 proceeds of the tax equal to the specified number divided by the  
25 tax rate per package of cigarettes containing not more than twenty  
26 cigarettes.

27           (3) The State Treasurer shall distribute the remaining

1 proceeds of such tax in the following order:

2 (a) First, beginning July 1, 1980, the State Treasurer  
3 shall place the equivalent of one cent of such tax in the  
4 Nebraska Outdoor Recreation Development Cash Fund. For fiscal year  
5 distributions occurring after FY1998-99, the distribution under  
6 this subdivision shall not be less than the amount distributed  
7 under this subdivision for FY1997-98. Any money needed to increase  
8 the amount distributed under this subdivision to the FY1997-98  
9 amount shall reduce the distribution to the General Fund;

10 (b) Second, beginning July 1, 1993, the State Treasurer  
11 shall place the equivalent of three cents of such tax in the  
12 ~~Department of Health and Human Services Finance and Support~~ Health  
13 and Human Services System Cash Fund to carry out sections 81-637  
14 to 81-640. For fiscal year distributions occurring after FY1998-99,  
15 the distribution under this subdivision shall not be less than the  
16 amount distributed under this subdivision for FY1997-98. Any money  
17 needed to increase the amount distributed under this subdivision to  
18 the FY1997-98 amount shall reduce the distribution to the General  
19 Fund;

20 (c) Third, beginning July 1, 2001, and continuing until  
21 October 1, 2002, the State Treasurer shall place the equivalent of  
22 five cents of such tax in the Building Renewal Allocation Fund.  
23 Beginning October 1, 2002, and continuing until all the purposes of  
24 the Deferred Building Renewal Act have been fulfilled, the State  
25 Treasurer shall place the equivalent of seven cents of such tax  
26 in the Building Renewal Allocation Fund. The Legislature shall  
27 appropriate each fiscal year all sums inuring to the fund, plus



1 interest earnings, for the Task Force for Building Renewal to be  
2 used to carry out its duties and to fulfill the purposes of the  
3 Deferred Building Renewal Act. Unexpended balances existing at the  
4 end of each fiscal year shall be, and are hereby, reappropriated.  
5 The distribution under this subdivision shall not be less than the  
6 amount distributed under this subdivision for FY1997-98. Any money  
7 needed to increase the amount distributed under this subdivision to  
8 the FY1997-98 amount shall reduce the distribution to the General  
9 Fund;

10 (d) Fourth, until July 1, 2009, the State Treasurer  
11 shall place in the Municipal Infrastructure Redevelopment Fund  
12 the sum of five hundred twenty thousand dollars each fiscal year  
13 to carry out the Municipal Infrastructure Redevelopment Fund Act.  
14 The Legislature shall appropriate the sum of five hundred twenty  
15 thousand dollars each year for fiscal year 2003-04 through fiscal  
16 year 2008-09;

17 (e) Fifth, beginning July 1, 2001, the State Treasurer  
18 shall place the equivalent of two cents of such tax in the  
19 Information Technology Infrastructure Fund;

20 (f) Sixth, beginning July 1, 2001, and continuing until  
21 June 30, 2016, the State Treasurer shall place one million dollars  
22 each fiscal year in the City of the Primary Class Development Fund.  
23 If necessary, the State Treasurer shall reduce the distribution of  
24 tax proceeds to the General Fund pursuant to subsection (2) of this  
25 section by such amount required to fulfill the one million dollars  
26 to be distributed pursuant to this subdivision;

27 (g) Seventh, beginning July 1, 2001, and continuing

1 until June 30, 2016, the State Treasurer shall place one million  
2 five hundred thousand dollars each fiscal year in the City of  
3 the Metropolitan Class Development Fund. If necessary, the State  
4 Treasurer shall reduce the distribution of tax proceeds to the  
5 General Fund pursuant to subsection (2) of this section by such  
6 amount required to fulfill the one million five hundred thousand  
7 dollars to be distributed pursuant to this subdivision; and

8 (h) Eighth, beginning October 1, 2002, and continuing  
9 until October 1, 2004, the State Treasurer shall place the  
10 equivalent of twenty-eight cents of such tax in the Cash Reserve  
11 Fund.

12 (4) If, after distributing the proceeds of such tax  
13 pursuant to subsections (2) and (3) of this section, any proceeds  
14 of such tax remain, the State Treasurer shall place such remainder  
15 in the Nebraska Capital Construction Fund.

16 (5) The Legislature hereby finds and determines that the  
17 projects funded from the Municipal Infrastructure Redevelopment  
18 Fund and the Building Renewal Allocation Fund are of critical  
19 importance to the State of Nebraska. It is the intent of the  
20 Legislature that the allocations and appropriations made by the  
21 Legislature to such funds or, in the case of allocations for  
22 the Municipal Infrastructure Redevelopment Fund, to the particular  
23 municipality's account not be reduced until all contracts and  
24 securities relating to the construction and financing of the  
25 projects or portions of the projects funded from such funds or  
26 accounts of such funds are completed or paid or, in the case  
27 of the Municipal Infrastructure Redevelopment Fund, the earlier

1 of such date or July 1, 2009, and that until such time any  
2 reductions in the cigarette tax rate made by the Legislature  
3 shall be simultaneously accompanied by equivalent reductions in the  
4 amount dedicated to the General Fund from cigarette tax revenue.  
5 Any provision made by the Legislature for distribution of the  
6 proceeds of the cigarette tax for projects or programs other than  
7 those to (a) the General Fund, (b) the Nebraska Outdoor Recreation  
8 Development Cash Fund, (c) the ~~Department of Health and Human~~  
9 ~~Services Finance and Support~~ Health and Human Services System Cash  
10 Fund, (d) the Municipal Infrastructure Redevelopment Fund, (e) the  
11 Building Renewal Allocation Fund, (f) the Information Technology  
12 Infrastructure Fund, (g) the City of the Primary Class Development  
13 Fund, (h) the City of the Metropolitan Class Development Fund, and  
14 (i) the Cash Reserve Fund shall not be made a higher priority than  
15 or an equal priority to any of the programs or projects specified  
16 in subdivisions (a) through (i) of this subsection.

17           Sec. 1428. Section 77-2704.12, Revised Statutes  
18 Cumulative Supplement, 2006, is amended to read:

19           77-2704.12 (1) Sales and use taxes shall not be imposed  
20 on the gross receipts from the sale, lease, or rental of and the  
21 storage, use, or other consumption in this state of purchases by  
22 any organization created exclusively for religious purposes, any  
23 nonprofit organization providing services exclusively to the blind,  
24 any private educational institution established under sections  
25 79-1601 to 79-1607, any private college or university established  
26 under sections 85-1101 to 85-1111, any hospital, health clinic when  
27 two or more hospitals or the parent corporations of the hospitals

1 own or control the health clinic for the purpose of reducing  
2 the cost of health services or when the health clinic receives  
3 federal funds through the United States Public Health Service for  
4 the purpose of serving populations that are medically underserved,  
5 skilled nursing facility, intermediate care facility, intermediate  
6 care facility for the mentally retarded, nursing facility, home  
7 health agency, hospice or hospice service, or respite care service  
8 licensed under the Health Care Facility Licensure Act and organized  
9 not for profit, any licensed child-caring agency, any licensed  
10 child placement agency, or any nonprofit organization certified  
11 by the ~~Department of Health and Human Services~~ Health and Human  
12 Services System to provide community-based services for persons  
13 with developmental disabilities.

14 (2) Any organization listed in subsection (1) of this  
15 section shall apply for an exemption on forms provided by the  
16 Tax Commissioner. The application shall be approved and a numbered  
17 certificate of exemption received by the applicant organization in  
18 order to be exempt from the sales and use tax.

19 (3) The appointment of purchasing agents shall be  
20 recognized for the purpose of altering the status of the  
21 construction contractor as the ultimate consumer of building  
22 materials which are physically annexed to the structure and  
23 which subsequently belong to the owner of the organization or  
24 institution. The appointment of purchasing agents shall be in  
25 writing and occur prior to having any building materials annexed  
26 to real estate in the construction, improvement, or repair. The  
27 contractor who has been appointed as a purchasing agent may apply

1 for a refund of or use as a credit against a future use tax  
2 liability the tax paid on inventory items annexed to real estate  
3 in the construction, improvement, or repair of a project for a  
4 licensed not-for-profit institution.

5 (4) Any organization listed in subsection (1) of this  
6 section which enters into a contract of construction, improvement,  
7 or repair upon property annexed to real estate without first  
8 issuing a purchasing agent authorization to a contractor or  
9 repairperson prior to the building materials being annexed to  
10 real estate in the project may apply to the Tax Commissioner for  
11 a refund of any sales and use tax paid by the contractor or  
12 repairperson on the building materials physically annexed to real  
13 estate in the construction, improvement, or repair.

14 (5) Any person purchasing, storing, using, or  
15 otherwise consuming building materials in the performance of any  
16 construction, improvement, or repair by or for any institution  
17 enumerated in subsection (1) of this section which is licensed upon  
18 completion although not licensed at the time of construction or  
19 improvement, which building materials are annexed to real estate  
20 and which subsequently belong to the owner of the institution,  
21 shall pay any applicable sales or use tax thereon. Upon becoming  
22 licensed and receiving a numbered certificate of exemption,  
23 the institution organized not for profit shall be entitled to  
24 a refund of the amount of taxes so paid in the performance  
25 of such construction, improvement, or repair and shall submit  
26 whatever evidence is required by the Tax Commissioner sufficient  
27 to establish the total sales and use tax paid upon the building

1 materials physically annexed to real estate in the construction,  
2 improvement, or repair.

3           Sec. 1429. Section 77-2704.21, Reissue Revised Statutes  
4 of Nebraska, is amended to read:

5           77-2704.21 Sales and use taxes shall not be imposed on  
6 the gross receipts from the sale, lease, or rental of and the  
7 storage, use, or other consumption in this state of the entire  
8 purchase price of a motor vehicle purchased when the maximum amount  
9 allowed by law is contributed by the United States Department of  
10 Veterans Affairs or the ~~Department of Health and Human Services~~  
11 ~~Finance and Support~~ Health and Human Services System for a disabled  
12 person. If the amount contributed is less than the maximum amount,  
13 the exemption shall be based on the portion of the purchase price  
14 contributed.

15           Sec. 1430. Section 77-27,119, Revised Statutes Cumulative  
16 Supplement, 2006, is amended to read:

17           77-27,119 (1) The Tax Commissioner shall administer and  
18 enforce the income tax imposed by sections 77-2714 to 77-27,135,  
19 and he or she is authorized to conduct hearings, to adopt and  
20 promulgate such rules and regulations, and to require such facts  
21 and information to be reported as he or she may deem necessary to  
22 enforce the income tax provisions of such sections, except that  
23 such rules, regulations, and reports shall not be inconsistent with  
24 the laws of this state or the laws of the United States. The Tax  
25 Commissioner may for enforcement and administrative purposes divide  
26 the state into a reasonable number of districts in which branch  
27 offices may be maintained.

1           (2) (a) The Tax Commissioner may prescribe the form and  
2 contents of any return or other document required to be filed under  
3 the income tax provisions. Such return or other document shall  
4 be compatible as to form and content with the return or document  
5 required by the laws of the United States. The form shall have a  
6 place where the taxpayer shall designate the high school district  
7 in which he or she lives and the county in which the high school  
8 district is headquartered. The Tax Commissioner shall adopt and  
9 promulgate such rules and regulations as may be necessary to insure  
10 compliance with this requirement.

11           (b) The State Department of Education, with the  
12 assistance and cooperation of the Department of Revenue, shall  
13 develop a uniform system for numbering all school districts in the  
14 state. Such system shall be consistent with the data processing  
15 needs of the Department of Revenue and shall be used for the  
16 school district identification required by subdivision (a) of this  
17 subsection.

18           (c) The proper filing of an income tax return shall  
19 consist of the submission of such form as prescribed by the  
20 Tax Commissioner or an exact facsimile thereof with sufficient  
21 information provided by the taxpayer on the face of the form from  
22 which to compute the actual tax liability. Each taxpayer shall  
23 include such taxpayer's correct social security number or state  
24 identification number and the school district identification number  
25 of the school district in which the taxpayer resides on the face of  
26 the form. A filing is deemed to occur when the required information  
27 is provided.

1           (3) The Tax Commissioner, for the purpose of ascertaining  
2 the correctness of any return or other document required to  
3 be filed under the income tax provisions, for the purpose of  
4 determining corporate income, individual income, and withholding  
5 tax due, or for the purpose of making an estimate of taxable income  
6 of any person, shall have the power to examine or to cause to have  
7 examined, by any agent or representative designated by him or her  
8 for that purpose, any books, papers, records, or memoranda bearing  
9 upon such matters and may by summons require the attendance of  
10 the person responsible for rendering such return or other document  
11 or remitting any tax, or any officer or employee of such person,  
12 or the attendance of any other person having knowledge in the  
13 premises, and may take testimony and require proof material for his  
14 or her information, with power to administer oaths or affirmations  
15 to such person or persons.

16           (4) The time and place of examination pursuant to this  
17 section shall be such time and place as may be fixed by the Tax  
18 Commissioner and as are reasonable under the circumstances. In the  
19 case of a summons, the date fixed for appearance before the Tax  
20 Commissioner shall not be less than twenty days from the time of  
21 service of the summons.

22           (5) No taxpayer shall be subjected to unreasonable or  
23 unnecessary examinations or investigations.

24           (6) Except in accordance with proper judicial order or  
25 as otherwise provided by law, it shall be unlawful for the Tax  
26 Commissioner, any officer or employee of the Tax Commissioner,  
27 any person engaged or retained by the Tax Commissioner on an



1 independent contract basis, any person who pursuant to this section  
2 is permitted to inspect any report or return or to whom a copy, an  
3 abstract, or a portion of any report or return is furnished, any  
4 employee of the State Treasurer or the Department of Administrative  
5 Services, or any other person to divulge, make known, or use in  
6 any manner the amount of income or any particulars set forth or  
7 disclosed in any report or return required except for the purpose  
8 of enforcing sections 77-2714 to 77-27,135. The officers charged  
9 with the custody of such reports and returns shall not be required  
10 to produce any of them or evidence of anything contained in them  
11 in any action or proceeding in any court, except on behalf of the  
12 Tax Commissioner in an action or proceeding under the provisions  
13 of the tax law to which he or she is a party or on behalf of  
14 any party to any action or proceeding under such sections when the  
15 reports or facts shown thereby are directly involved in such action  
16 or proceeding, in either of which events the court may require the  
17 production of, and may admit in evidence, so much of such reports  
18 or of the facts shown thereby as are pertinent to the action or  
19 proceeding and no more. Nothing in this section shall be construed  
20 (a) to prohibit the delivery to a taxpayer, his or her duly  
21 authorized representative, or his or her successors, receivers,  
22 trustees, personal representatives, administrators, assignees, or  
23 guarantors, if directly interested, of a certified copy of any  
24 return or report in connection with his or her tax, (b) to  
25 prohibit the publication of statistics so classified as to prevent  
26 the identification of particular reports or returns and the items  
27 thereof, (c) to prohibit the inspection by the Attorney General,

1 other legal representatives of the state, or a county attorney  
2 of the report or return of any taxpayer who brings an action to  
3 review the tax based thereon, against whom an action or proceeding  
4 for collection of tax has been instituted, or against whom an  
5 action, proceeding, or prosecution for failure to comply with the  
6 Nebraska Revenue Act of 1967 is being considered or has been  
7 commenced, (d) to prohibit furnishing to the Nebraska Workers'  
8 Compensation Court the names, addresses, and identification numbers  
9 of employers, and such information shall be furnished on request  
10 of the court, (e) to prohibit the disclosure of information  
11 and records to a collection agency contracting with the Tax  
12 Commissioner pursuant to sections 77-377.01 to 77-377.04, (f)  
13 to prohibit the disclosure of information pursuant to section  
14 77-27,195, 77-4110, or 77-5731, (g) to prohibit the disclosure  
15 to the Public Employees Retirement Board of the addresses of  
16 individuals who are members of the retirement systems administered  
17 by the board, and such information shall be furnished to the  
18 board solely for purposes of its administration of the retirement  
19 systems upon written request, which request shall include the name  
20 and social security number of each individual for whom an address  
21 is requested, (h) to prohibit the disclosure to the Department  
22 of Labor of tax return information pertaining to individuals,  
23 corporations, and businesses determined by the Department of Labor  
24 to be delinquent in the payment of combined tax or in the repayment  
25 of benefit overpayments, and such disclosure shall be strictly  
26 limited to information necessary for the administration of the  
27 Employment Security Law, (i) to prohibit the disclosure to the

1 Department of Motor Vehicles of tax return information pertaining  
2 to individuals, corporations, and businesses determined by the  
3 Department of Motor Vehicles to be delinquent in the payment of  
4 amounts due under agreements pursuant to the International Fuel  
5 Tax Agreement Act, and such disclosure shall be strictly limited  
6 to information necessary for the administration of the act, or  
7 (j) to prohibit the disclosure under section 42-358.08 to any  
8 court-appointed individuals, the county attorney, any authorized  
9 attorney, or the ~~Department of Health and Human Services~~ Health  
10 and Human Services System of an absent parent's address, social  
11 security number, amount of income, health insurance information,  
12 and employer's name and address for the exclusive purpose of  
13 establishing and collecting child or spousal support. Information  
14 so obtained shall be used for no other purpose. Any person who  
15 violates this subsection shall be guilty of a felony and shall upon  
16 conviction thereof be fined not less than one hundred dollars nor  
17 more than five hundred dollars, or be imprisoned not more than five  
18 years, or be both so fined and imprisoned, in the discretion of  
19 the court and shall be assessed the costs of prosecution. If the  
20 offender is an officer or employee of the state, he or she shall be  
21 dismissed from office and be ineligible to hold any public office  
22 in this state for a period of two years thereafter.

23 (7) Reports and returns required to be filed under income  
24 tax provisions of sections 77-2714 to 77-27,135 shall be preserved  
25 until the Tax Commissioner orders them to be destroyed.

26 (8) Notwithstanding the provisions of subsection (6) of  
27 this section, the Tax Commissioner may permit the Secretary of the

1 Treasury of the United States or his or her delegates or the proper  
2 officer of any state imposing an income tax, or the authorized  
3 representative of either such officer, to inspect the income tax  
4 returns of any taxpayer or may furnish to such officer or his or  
5 her authorized representative an abstract of the return of income  
6 of any taxpayer or supply him or her with information concerning an  
7 item of income contained in any return or disclosed by the report  
8 of any investigation of the income or return of income of any  
9 taxpayer, but such permission shall be granted only if the statutes  
10 of the United States or of such other state, as the case may be,  
11 grant substantially similar privileges to the Tax Commissioner of  
12 this state as the officer charged with the administration of the  
13 income tax imposed by sections 77-2714 to 77-27,135.

14 (9) Notwithstanding the provisions of subsection (6) of  
15 this section, the Tax Commissioner may permit the Postal Inspector  
16 of the United States Postal Service or his or her delegates to  
17 inspect the reports or returns of any person filed pursuant to the  
18 Nebraska Revenue Act of 1967 when information on the reports or  
19 returns is relevant to any action or proceeding instituted or being  
20 considered by the United States Postal Service against such person  
21 for the fraudulent use of the mails to carry and deliver false and  
22 fraudulent tax returns to the Tax Commissioner with the intent to  
23 defraud the State of Nebraska or to evade the payment of Nebraska  
24 state taxes.

25 (10) (a) Notwithstanding the provisions of subsection (6)  
26 of this section, the Tax Commissioner shall, upon written request  
27 by the Auditor of Public Accounts or the Legislative Performance

1 Audit Committee, make tax returns and tax return information  
2 open to inspection by or disclosure to officers and employees  
3 of the Auditor of Public Accounts or Legislative Performance  
4 Audit Section employees for the purpose of and to the extent  
5 necessary in making an audit of the Department of Revenue pursuant  
6 to section 50-1205 or 84-304. The Auditor of Public Accounts  
7 or Legislative Performance Audit Section shall statistically and  
8 randomly select the tax returns and tax return information to  
9 be audited based upon a computer tape provided by the Department  
10 of Revenue which contains only total population documents without  
11 specific identification of taxpayers. The Tax Commissioner shall  
12 have the authority to approve the statistical sampling method used  
13 by the Auditor of Public Accounts or Legislative Performance Audit  
14 Section. Confidential tax returns and tax return information shall  
15 be audited only upon the premises of the Department of Revenue.  
16 All audit workpapers pertaining to the audit of the Department of  
17 Revenue shall be stored in a secure place in the Department of  
18 Revenue.

19 (b) No officer or employee of the Auditor of Public  
20 Accounts or Legislative Performance Audit Section employee shall  
21 disclose to any person, other than another officer or employee of  
22 the Auditor of Public Accounts or Legislative Performance Audit  
23 Section employee whose official duties require such disclosure or  
24 as provided in subsections (2) and (3) of section 50-1213, any  
25 return or return information described in the Nebraska Revenue  
26 Act of 1967 in a form which can be associated with or otherwise  
27 identify, directly or indirectly, a particular taxpayer.

1           (c) Any person who violates the provisions of this  
2 subsection shall be guilty of a Class IV felony and, in the  
3 discretion of the court, may be assessed the costs of prosecution.  
4 The guilty officer or employee shall be dismissed from employment  
5 and be ineligible to hold any position of employment with the State  
6 of Nebraska for a period of two years thereafter. For purposes of  
7 this subsection, officer or employee shall include a former officer  
8 or employee of the Auditor of Public Accounts or former Legislative  
9 Performance Audit Section employee.

10           (11) For purposes of subsections (10) through (13) of  
11 this section:

12           (a) Tax returns shall mean any tax or information return  
13 or claim for refund required by, provided for, or permitted  
14 under sections 77-2714 to 77-27,135 which is filed with the Tax  
15 Commissioner by, on behalf of, or with respect to any person  
16 and any amendment or supplement thereto, including supporting  
17 schedules, attachments, or lists which are supplemental to or part  
18 of the filed return;

19           (b) Return information shall mean:

20           (i) A taxpayer's identification number and (A) the  
21 nature, source, or amount of his or her income, payments, receipts,  
22 deductions, exemptions, credits, assets, liabilities, net worth,  
23 tax liability, tax withheld, deficiencies, overassessments, or tax  
24 payments, whether the taxpayer's return was, is being, or will be  
25 examined or subject to other investigation or processing or (B) any  
26 other data received by, recorded by, prepared by, furnished to, or  
27 collected by the Tax Commissioner with respect to a return or the

1 determination of the existence or possible existence of liability  
2 or the amount of liability of any person for any tax, penalty,  
3 interest, fine, forfeiture, or other imposition or offense; and

4 (ii) Any part of any written determination or any  
5 background file document relating to such written determination;  
6 and

7 (c) Disclosures shall mean the making known to any person  
8 in any manner a return or return information.

9 (12) The Auditor of Public Accounts or the Legislative  
10 Auditor of the Legislative Performance Audit Section shall (a)  
11 notify the Tax Commissioner in writing thirty days prior to the  
12 beginning of an audit of his or her intent to conduct an audit, (b)  
13 provide an audit plan, and (c) provide a list of the tax returns  
14 and tax return information identified for inspection during the  
15 audit.

16 (13) The Auditor of Public Accounts or the Legislative  
17 Performance Audit Section shall, as a condition for receiving tax  
18 returns and tax return information: (a) Subject employees involved  
19 in the audit to the same confidential information safeguards  
20 and disclosure procedures as required of Department of Revenue  
21 employees; (b) establish and maintain a permanent system of  
22 standardized records with respect to any request for tax returns  
23 or tax return information, the reason for such request, and the  
24 date of such request and any disclosure of the tax return or  
25 tax return information; (c) establish and maintain a secure area  
26 or place in the Department of Revenue in which the tax returns,  
27 tax return information, or audit workpapers shall be stored; (d)

1 restrict access to the tax returns or tax return information only  
2 to persons whose duties or responsibilities require access; (e)  
3 provide such other safeguards as the Tax Commissioner determines  
4 to be necessary or appropriate to protect the confidentiality of  
5 the tax returns or tax return information; (f) provide a report  
6 to the Tax Commissioner which describes the procedures established  
7 and utilized by the Auditor of Public Accounts or Legislative  
8 Performance Audit Section for insuring the confidentiality of tax  
9 returns, tax return information, and audit workpapers; and (g) upon  
10 completion of use of such returns or tax return information, return  
11 to the Tax Commissioner such returns or tax return information,  
12 along with any copies.

13 (14) The Tax Commissioner may permit other tax officials  
14 of this state to inspect the tax returns and reports filed  
15 under sections 77-2714 to 77-27,135, but such inspection shall be  
16 permitted only for purposes of enforcing a tax law and only to  
17 the extent and under the conditions prescribed by the rules and  
18 regulations of the Tax Commissioner.

19 (15) The Tax Commissioner shall compile the school  
20 district information required by subsection (2) of this section.  
21 Insofar as it is possible, such compilation shall include, but  
22 not be limited to, the total adjusted gross income of each school  
23 district in the state. The Tax Commissioner shall adopt and  
24 promulgate such rules and regulations as may be necessary to insure  
25 that such compilation does not violate the confidentiality of any  
26 individual income tax return nor conflict with any other provisions  
27 of state or federal law.



1           Sec. 1431. Section 77-27,160, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           77-27,160 It is the intent of the Legislature to  
4 establish and maintain a procedure to set off against a debtor's  
5 income tax refund or state lottery prize any debt which is assigned  
6 to the ~~Department of Health and Human Services~~ Health and Human  
7 Services System or which any individual not eligible as a public  
8 assistance recipient is attempting to collect, which has accrued  
9 through written contract, subrogation, or court judgment and is  
10 in the form of a liquidated amount due and owing for the care,  
11 support, or maintenance of a child or for spousal support.

12           Sec. 1432. Section 77-27,161, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           77-27,161 For purposes of sections 77-27,160 to  
15 77-27,173, unless the context otherwise requires:

16           (1) Debt shall mean any liquidated amount due and owing  
17 any claimant which has accrued through assignment, contract,  
18 subrogation, court judgment, or operation of law, regardless of  
19 whether there is an outstanding judgment for such amount, and which  
20 is for the care, support, or maintenance of a child or for spousal  
21 support and shall include the costs of health services subject to  
22 section 77-27,163.01;

23           (2) Debtor shall mean any individual owing money to or  
24 having a delinquent account with any claimant which has not been  
25 satisfied by court order, set aside by court order, or discharged  
26 in bankruptcy;

27           (3) Claimant shall mean:

1           (a) ~~The Department of Health and Human Services~~ Health  
2 and Human Services System with respect to collection of a debt owed  
3 by a parent in a case involving a recipient of aid to dependent  
4 children in which rights to child, spousal, or medical support  
5 payments have been assigned to this state;

6           (b) An individual who is not eligible as a public  
7 assistance recipient and to whom a child, spousal, or medical  
8 support debt is owed; or

9           (c) Any person or entity entitled to receive child  
10 support, spousal support, or medical support as defined in section  
11 43-1712.01 pursuant to an order issued by a court or agency of  
12 another state or jurisdiction, including an agency of another state  
13 or jurisdiction to which a person has assigned his or her right  
14 to receive such support. Such a claimant shall submit certification  
15 and documentation sufficient to satisfy the requirements of section  
16 43-1730;

17           (4) Refund shall mean any Nebraska state income tax  
18 refund which the Department of Revenue determines to be due an  
19 individual taxpayer. In the case of a joint income tax return,  
20 it is presumed that each partner to the marriage submitting such  
21 return contributed one-half of the earnings upon which the refund  
22 is based. The presumption may be contested by the state, the  
23 delinquent taxpayer, and the innocent spouse by virtue of the  
24 hearing process prescribed in section 77-27,169;

25           (5) Spousal support shall have the same meaning as in  
26 section 43-1715; and

27           (6) State lottery prize shall mean any lottery prize in

1 excess of five hundred dollars to be awarded to an individual  
2 pursuant to the State Lottery Act upon presentation of a winning  
3 lottery ticket to the Lottery Division of the Department of Revenue  
4 for redemption.

5           Sec. 1433. Section 77-27,162, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           77-27,162 The Department of Revenue, the Department  
8 of Administrative Services, ~~the Department of Health and Human~~  
9 ~~Services,~~ and ~~the Department of Health and Human Services Finance~~  
10 ~~and Support~~ and the Health and Human Services System shall develop  
11 and implement a collection system to carry out the intent of  
12 section 77-27,160.

13           Sec. 1434. Section 77-27,163.01, Revised Statutes  
14 Cumulative Supplement, 2006, is amended to read:

15           77-27,163.01 ~~The Department of Health and Human Services~~  
16 Health and Human Services System shall use the procedures in this  
17 section and sections 77-27,160 to 77-27,173 to set off against a  
18 debtor's income tax refund the costs of health services provided to  
19 a child of the debtor if:

20           (1) The debtor is required by court or administrative  
21 order to provide coverage for the costs of such services; and

22           (2) The debtor has received payment from a third party  
23 for the costs of such services but has not used the payment to  
24 reimburse either the other parent or guardian or the provider of  
25 such services.

26           The amount of the setoff shall be limited to the amount  
27 necessary to reimburse the ~~department~~ Health and Human Services

1 System for its expenditures for the costs of such services under  
2 the medical assistance program established pursuant to the Medical  
3 Assistance Act. Any claim for current or past-due child support  
4 shall take priority over a claim for setoff for the costs of health  
5 services.

6           Sec. 1435. Section 77-27,164, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           77-27,164 ~~The Department of Health and Human Services~~  
9 Health and Human Services System shall adopt and promulgate rules  
10 and regulations necessary to carry out the purposes of sections  
11 77-27,160 to 77-27,173.

12           Sec. 1436. Section 77-27,165, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           77-27,165 Prior to December 1 of each year, the  
15 ~~Department of Health and Human Services~~ Health and Human Services  
16 System shall send notification to the debtor of the assertion of  
17 the department's rights, or of the rights of an individual not  
18 eligible as a public assistance recipient, to all or a portion  
19 of the debtor's income tax refund. The notice shall contain the  
20 procedures available to the debtor for protesting the offset, the  
21 debtor's opportunity to give written notice of intent to contest  
22 the validity of the claim before the ~~department~~ system within  
23 thirty days of the date of mailing the notice, and the defenses the  
24 debtor may raise. The debt shall be certified by the ~~department~~  
25 system through a preoffset review.

26           Sec. 1437. Section 77-27,166, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

1                   77-27,166 (1) By December 1 of each year, the ~~Department~~  
2 ~~of Health and Human Services~~ Health and Human Services System may  
3 submit any certified debt of twenty-five dollars or more to the  
4 Department of Revenue except when the validity of the debt is  
5 legitimately in dispute. Any submission shall be effective only to  
6 initiate setoff for a claim against a refund that would be made for  
7 the calendar year subsequent to the year in which such submission  
8 is made.

9                   (2) The Lottery Division of the Department of Revenue  
10 shall review all current debts on the records of the ~~Department of~~  
11 ~~Health and Human Services~~ Health and Human Services System at the  
12 time of redeeming a lottery ticket for a state lottery prize to  
13 certify a debt owed by a winner of a state lottery prize.

14                   Sec. 1438. Section 77-27,167, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16                   77-27,167 If a debtor identified by the ~~Department of~~  
17 ~~Health and Human Services~~ Health and Human Services System pursuant  
18 to section 77-27,165 or 77-27,166 is determined by the Department  
19 of Revenue to be entitled to a refund of twenty-five dollars or  
20 more or a state lottery prize, the ~~Department of Health and Human~~  
21 ~~Services~~ Health and Human Services System shall be notified that a  
22 refund or prize is pending.

23                   Sec. 1439. Section 77-27,168, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25                   77-27,168 (1) Upon receipt of notification pursuant to  
26 section 77-27,167 that a debtor is entitled to a refund or a state  
27 lottery prize, the ~~Department of Health and Human Services~~ Health

1 and Human Services System shall, within twenty days, send written  
2 notification to the debtor of an assertion of its rights, or of  
3 the rights of an individual not eligible as a public assistance  
4 recipient, to all or a portion of the debtor's refund or state  
5 lottery prize.

6 (2) The written notification shall clearly set forth  
7 the basis for the claim to the refund or state lottery prize,  
8 the intention to apply the refund or state lottery prize against  
9 the debt to a claimant, the debtor's opportunity to give written  
10 notice of intent to contest the validity of the claim before the  
11 ~~Department of Health and Human Services~~ Health and Human Services  
12 System within thirty days of the date of the mailing of the  
13 notice, the mailing address to which the application for a hearing  
14 must be sent, and notice that failure to apply for a hearing in  
15 writing within the thirty-day period will be deemed a waiver of the  
16 opportunity to contest the claim, causing a setoff by default.

17 In the case of a joint tax return, the notice shall also  
18 state the name of the taxpayer named in the return, if any, against  
19 whom no debt is claimed. There shall be no affirmative duty placed  
20 upon the non-owing spouse of an intercepted tax return to initiate  
21 an action to receive payment of the noninterceptable amount.

22 Sec. 1440. Section 77-27,169, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 77-27,169 A written application, pursuant to sections  
25 77-27,165 and 77-27,168, by a debtor for a hearing shall be  
26 effective upon mailing the application, postage prepaid and  
27 properly addressed, to the ~~Department of Health and Human Services.~~

1 Health and Human Services System.

2           If the ~~Department of Health and Human Services~~ Health and  
3 Human Services System receives a written application contesting a  
4 claim, it shall grant a hearing to the taxpayer or state lottery  
5 prize winner to determine whether the claim is valid. If the amount  
6 asserted as due and owing is not correct, an adjustment to the  
7 claimed amount shall be made. No issues shall be reconsidered at  
8 the hearing which have been previously litigated.

9           Sec. 1441. Section 77-27,171, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           77-27,171 (1) Upon final determination of the amount  
12 and validity of the debt due and owing by means of the hearing  
13 provided for in section 77-27,169 or by the taxpayer's default  
14 through failure to request a hearing pursuant to section 77-27,168,  
15 the ~~Department of Health and Human Services~~ Health and Human  
16 Services System shall certify the debt to the Department of  
17 Administrative Services within twenty days from the date of the  
18 final determination. The final determination shall not delay a  
19 refund beyond the period prescribed in section 77-2794.

20           (2) Upon receipt of the certified debt amount from the  
21 ~~Department of Health and Human Services,~~ Health and Human Services  
22 System, the Department of Administrative Services shall deduct  
23 an amount equal to the certified debt from the refund or state  
24 lottery prize due the debtor, up to the amount of the refund or  
25 state lottery prize, and shall transfer such amount, by noncash  
26 voucher, to the ~~Department of Health and Human Services-~~ system.  
27 In nonpublic assistance cases, the ~~Department of Health and Human~~

1 ~~Services~~ system shall transmit the funds collected to the clerk of  
2 the district court for dispersal to the payee. The Department of  
3 Administrative Services shall refund or award any remaining balance  
4 to the debtor as if the setoff had not occurred.

5           Sec. 1442. Section 77-27,172, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           77-27,172 When the ~~Department of Health and Human~~  
8 ~~Services~~ Health and Human Services System receives all or a portion  
9 of a certified debt pursuant to section 77-27,171, the ~~department~~  
10 system shall notify the debtor of the completion of the setoff.  
11 Such notice shall include the final amount of the refund or state  
12 lottery prize to which the debtor was entitled prior to the setoff,  
13 the amount of the certified debt, and the amount of the refund or  
14 state lottery prize in excess of the debt, if any.

15           Sec. 1443. Section 77-27,173, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17           77-27,173 The ~~Department of Health and Human Services~~  
18 Health and Human Services System shall reimburse the Department  
19 of Revenue and the Department of Administrative Services for  
20 all reasonable and necessary costs incurred by the ~~Department of~~  
21 ~~Revenue and the Department of Administrative Services~~ departments  
22 in setting off debts pursuant to sections 77-27,160 to 77-27,173.

23           Sec. 1444. Section 77-27,208, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           77-27,208 Setoffs against state income tax refunds shall  
26 have priority in the following order:

27           (1) Setoffs by the ~~Department of Health and Human~~



1 ~~Services;~~ Health and Human Services System;

2 (2) Setoffs by the Internal Revenue Service;

3 (3) Setoffs by the Department of Labor; and

4 (4) Setoffs by the Department of Motor Vehicles.

5 Sec. 1445. Section 77-27,222, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 77-27,222 (1) For purposes of this section:

8 (a) Accredited means accredited by the National  
9 Association for Family Child Care, the National Association for  
10 the Education of Young Children, the National School-Age Care  
11 Alliance, or a comparable accreditation process approved by the  
12 State Department of Education;

13 (b) Business firm means any business entity, including a  
14 corporation, a fiduciary, a sole proprietorship, a partnership, a  
15 limited liability company, or a corporation subject to the state  
16 income tax imposed by section 77-2715 or 77-2734.02, an insurance  
17 company paying premium or related retaliatory taxes in this state  
18 pursuant to section 44-150 or 77-908, or a financial institution  
19 paying the tax imposed pursuant to sections 77-3801 to 77-3807;

20 (c) Costs incurred by the business firm in providing  
21 child care services for children of employees means the amounts  
22 expended by the business firm during the year for improvements to  
23 the premises for purposes of making the premises suitable in whole  
24 or in part for use as a child care facility, including furnishing  
25 the facility with fencing, landscaping, sidewalks, furniture,  
26 fixtures, equipment, supplies, and other improvements and materials  
27 reasonably required to operate a child care facility and the

1 direct operating costs of staffing, operating, and maintaining  
2 a child care facility. The costs include the payroll taxes  
3 and employee benefit costs of staffing the child care facility  
4 and sales and use taxes on purchases included in the costs of  
5 providing child care, but not an allocation of the business firm's  
6 general, administrative, and other operating expenses. The costs  
7 do not include the acquisition of land or the construction of new  
8 buildings. The costs include payments to third parties to reimburse  
9 the third parties for amounts expended by them and which would have  
10 been costs incurred by the business firm in providing child care  
11 services if incurred directly by the business firm or to subsidize  
12 the cost of providing child care for the children of employees in  
13 such third parties' facilities; and

14 (d) Providing child care services means expending funds  
15 to improve, furnish, license, accredit, qualify for accreditation,  
16 staff, operate, or subsidize a child care facility licensed by the  
17 ~~Department of Health and Human Services Regulation and Licensure~~  
18 Health and Human Services System which provides child care services  
19 to children of employees of the business firm or contracting with  
20 a child care facility licensed by the ~~department~~ system to provide  
21 child care services to children of such employees.

22 (2) For taxable years beginning or deemed to begin on or  
23 after January 1, 2007, under the Internal Revenue Code of 1986, as  
24 amended, any business firm which provides child care services shall  
25 be allowed a credit against the individual income tax, corporate  
26 income tax, premium or related retaliatory tax, or franchise tax  
27 equal to thirty percent of the costs incurred by the business firm

1 in providing child care services for children of employees for each  
2 taxable year, up to fifty percent of such business firm's total  
3 tax liability. In the case of a sole proprietorship, partnership,  
4 or limited liability company which is taxed as a pass-through  
5 entity or a corporation which has in effect an election under  
6 subchapter S of the Internal Revenue Code, the maximum allowable  
7 amount of credit shall be fifty percent of the income tax liability  
8 determined as if such business firm had been a corporation subject  
9 to the state income tax imposed by section 77-2734.02. Such  
10 pass-through entities shall allocate the allowable credit among  
11 their proprietors, partners, members, or shareholders in the same  
12 manner as taxable income is allocated. In the case of a fiduciary,  
13 the maximum allowable amount of the credit shall be fifty percent  
14 of the income tax liability of the fiduciary computed without any  
15 deduction for distributions, and the allowable credit shall be  
16 allocated among the fiduciary and its beneficiaries in proportion  
17 to the taxable income included by each beneficiary in his or  
18 her Nebraska income tax returns. In the case of a corporation  
19 which is part of a unitary group as defined in section 77-2734.04  
20 and which is included in the combined income tax return of such  
21 group, the unitary group shall be the business firm which is  
22 providing child care services. Entities which are disregarded for  
23 federal income tax purposes shall be disregarded for purposes of  
24 defining the business firm which is providing child care services.  
25 The credit shall only be used to reduce the tax liabilities of  
26 the business firm, or in the case of pass-through entities, the  
27 beneficiaries, proprietors, partners, members, or shareholders, for

1 the year in which the costs were incurred. The credit may not  
2 be carried forward to the next taxable year. The credit may  
3 be taken by the business firm for not more than three taxable  
4 years, except that if the child care facility is accredited under  
5 section 43-2620 or becomes accredited under section 43-2620 during  
6 the three-taxable-year period, the credit may be taken for an  
7 additional consecutive two taxable years after the end of the third  
8 taxable year for which a credit was taken under this section.

9 (3) Costs incurred by the business firm in providing  
10 child care services for children of employees shall be reduced  
11 by payments received by the business firm from employees. If  
12 the business firm provides child care services for the children  
13 of employees and also for the children of non-employees, the  
14 direct operating costs of staffing, operating, and maintaining  
15 the child care facility, including the related payroll taxes,  
16 employee benefits, and sales and use taxes, shall be multiplied  
17 by a fraction, the numerator of which is the total child hours of  
18 care provided to the children of employees and the denominator of  
19 which is the total child hours of care provided in the child care  
20 facility. Child hour means one hour of care provided for one child.  
21 For purposes of calculating child hours, if the business firm does  
22 not in the ordinary course of its business compile the actual child  
23 hours of care, it may determine the number of child hours based  
24 on a reasonable convention if such convention is used consistently  
25 for each year that the credit is claimed or the business firm  
26 obtains the advance consent of the Tax Commissioner to change the  
27 convention. Costs shall be considered incurred in the taxable year

1 in which they are either accruable or are paid in accordance with  
2 the business firm's overall income tax method of accounting.

3 (4) A business firm operating a child care facility on  
4 January 1, 2007, shall only qualify for the two years of tax  
5 credits allowed under subsection (2) of this section relating to  
6 expenditures by the business firm for direct operating costs if the  
7 child care facility is accredited after January 1, 2007.

8 (5) A business firm shall not be considered to be  
9 providing child care services for purposes of this section unless  
10 the child care services are provided to the employees of the firm  
11 who qualify under classifications established by the business firm  
12 which are found by the Tax Commissioner not to be discriminatory  
13 in favor of highly compensated employees. For purposes of this  
14 section, highly compensated employee means an employee who was a  
15 five-percent owner of the business firm at any time during the  
16 year or the preceding year or, for the preceding year, either (a)  
17 had compensation from the employer in excess of eighty thousand  
18 dollars or (b) was among the highest twenty percent of employees  
19 ranked by compensation, whichever results in the smaller group.  
20 Whether an employer's classifications are nondiscriminatory shall  
21 be determined on the basis of employees' eligibility to place  
22 children in the child care facility.

23 (6) No amount paid or incurred by an employer to provide  
24 child care assistance to an employee shall qualify for the credit  
25 if the amount was paid or incurred pursuant to a salary reduction  
26 plan or is not paid for services performed within this state.

27 (7) This section shall only apply to business firms that

1 meet the requirements of this section on or before December 31,  
2 2011.

3 (8) If two or more business firms share in the cost of  
4 providing child care services for children of such business firms'  
5 employees, each business firm shall be allowed a tax credit in  
6 proportion to such business firm's share of the total costs.

7 (9) The Department of Revenue and the Department of  
8 Insurance shall issue a joint report by December 1, 2008, and by  
9 each December 1 thereafter for so long as the credit is effective,  
10 that provides the following information:

11 (a) The number of business firms qualifying for the  
12 credit under this section during taxable years ending on or before  
13 the previous December 31;

14 (b) The number and location by county of child care  
15 facilities qualifying for the credit under this section during the  
16 taxable years ending on or before the previous December 31;

17 (c) The total child-years of child care provided, the  
18 range of child-years of child care provided per qualifying  
19 business, and the average and median child-years of care provided  
20 per qualifying business, sorted in reasonable groupings by maximum  
21 enrollment during the year that include a sufficient number of  
22 qualifying businesses in each group to maintain the confidentiality  
23 of the taxpayers qualifying for the credit;

24 (d) The percentage of costs paid by the employees in each  
25 size grouping in subdivision (c) of this subsection;

26 (e) The percentage of such child-years of care provided  
27 in accredited facilities in each size grouping in subdivision (c)

1 of this subsection; and

2 (f) The total credits claimed and the total credits  
3 allowed in each size grouping in subdivision (c) of this  
4 subsection.

5 (10) The Department of Revenue shall develop a form  
6 for claiming the credit allowed by this section stating that any  
7 business firm seeking a credit under this section must supply the  
8 information listed in subsection (9) of this section as a condition  
9 for receiving the credit.

10 (11) The Tax Commissioner and Director of Insurance may  
11 adopt and promulgate rules and regulations as necessary to carry  
12 out this section.

13 Sec. 1446. Section 79-215, Revised Statutes Cumulative  
14 Supplement, 2006, is amended to read:

15 79-215 (1) Except as otherwise provided in this section,  
16 a student is a resident of the school district where he or she  
17 resides or any school district where at least one of his or her  
18 parents reside and shall be admitted to any such school district  
19 upon request without charge.

20 (2) A school board shall admit any homeless student that  
21 requests admission without charge.

22 (3) A school board may allow a student whose residency  
23 in the district ceases during a school year to continue attending  
24 school in such district for the remainder of that school year.

25 (4) A school board may admit nonresident students to the  
26 school district pursuant to a contract with the district where the  
27 student is a resident and shall collect tuition pursuant to the

1 contract.

2 (5) A school board may admit nonresident students to  
3 the school district pursuant to the enrollment option program as  
4 authorized by sections 79-232 to 79-246, and such admission shall  
5 be without charge.

6 (6) A school board may admit a student who is a resident  
7 of another state to the school district and collect tuition in  
8 advance at a rate determined by the school board.

9 (7) When a student as a ward of the state or as a ward  
10 of any court (a) has been placed in a school district other than  
11 the district in which he or she resided at the time he or she  
12 became a ward and such ward does not reside in a foster family home  
13 licensed or approved by the ~~Department of Health and Human Services~~  
14 Health and Human Services System or a foster home maintained or  
15 used pursuant to section 83-108.04 or (b) has been placed in  
16 any institution which maintains a special education program which  
17 has been approved by the State Department of Education and such  
18 institution is not owned or operated by the district in which he or  
19 she resided at the time he or she became a ward, the cost of his  
20 or her education and the required transportation costs associated  
21 with the student's education shall be paid by the state, but not in  
22 advance, to the receiving school district or approved institution  
23 under rules and regulations prescribed by the ~~Department of Health~~  
24 ~~and Human Services~~ system and the student shall remain a resident  
25 of the district in which he or she resided at the time he or she  
26 became a ward. Any student who is a ward of the state or a ward of  
27 any court who resides in a foster family home licensed or approved



1 by the ~~Department of Health and Human Services~~ system or a foster  
2 home maintained or used pursuant to section 83-108.04 shall be  
3 deemed a resident of the district in which the foster family home  
4 or foster home is located.

5 (8) When a student is not a ward of the state or  
6 a ward of any court and is residing in a residential setting  
7 located in Nebraska for reasons other than to receive an education  
8 and the residential setting is operated by a service provider  
9 which is certified or licensed by the ~~Department of Health and~~  
10 ~~Human Services~~ Health and Human Services System or is enrolled  
11 in the medical assistance program established pursuant to the  
12 Medical Assistance Act and Title XIX or XXI of the federal  
13 Social Security Act, as amended, the student shall remain a  
14 resident of the district in which he or she resided immediately  
15 prior to residing in such residential setting. Upon request by  
16 a parent or legal guardian, the resident school district shall  
17 contract with the district in which such residential setting is  
18 located for the provision of all educational services, including  
19 all special education services. If the parent or legal guardian  
20 has requested that the resident school district contract with  
21 the district in which such residential setting is located, the  
22 district in which such residential setting is located shall  
23 contract with the resident district and provide all educational  
24 services, including all special education services, to the student.  
25 If the two districts cannot agree on the amount of the contract,  
26 the State Department of Education shall determine the amount  
27 to be paid by the resident district to the district in which

1 such residential setting is located based on the needs of the  
2 student, approved special education rates, the department's general  
3 experience with special education budgets, and the cost per student  
4 in the district in which such residential setting is located. Once  
5 the contract has been entered into, all legal responsibility for  
6 special education and related services shall be transferred to the  
7 school district in which the residential setting is located. The  
8 resident district for a student who is not a ward of the state or a  
9 ward of any court does not change when the student moves from one  
10 residential setting to another.

11 (9) In the case of any individual eighteen years of  
12 age or younger who is a ward of the state or any court and who  
13 is placed in a county detention home established under section  
14 43-2,110, the cost of his or her education shall be paid by the  
15 state, regardless of the district in which he or she resided at  
16 the time he or she became a ward, to the agency or institution  
17 which: (a) Is selected by the county board with jurisdiction over  
18 such detention home; (b) has agreed or contracted with such county  
19 board to provide educational services; and (c) has been approved by  
20 the State Department of Education pursuant to rules and regulations  
21 prescribed by the State Board of Education.

22 (10) No tuition shall be charged for students who may be  
23 by law allowed to attend the school without charge.

24 (11) On a form prescribed by the State Department of  
25 Education, an adult with legal or actual charge or control of a  
26 student shall provide the name of the student, the name of the  
27 adult with legal or actual charge or control of the student, the

1 address where the student is residing, and the telephone number  
2 and address where the adult may generally be reached during the  
3 school day. If the student is homeless or if the adult does not  
4 have a telephone number and address where he or she may generally  
5 be reached during the school day, those parts of the form may be  
6 left blank and a box may be marked acknowledging that these are the  
7 reasons these parts of the form were left blank. The adult with  
8 legal or actual charge or control of the student shall also sign  
9 the form.

10 (12) The ~~department~~ State Department of Education shall  
11 adopt and promulgate rules and regulations to carry out the  
12 department's responsibilities under this section.

13 Sec. 1447. Section 79-217, Revised Statutes Cumulative  
14 Supplement, 2006, is amended to read:

15 79-217 Except as provided in sections 79-221 and 79-222,  
16 the school board or board of education of each school district  
17 and the governing authority of each private, denominational,  
18 or parochial school in this state shall require each student  
19 to be protected against measles, mumps, rubella, poliomyelitis,  
20 diphtheria, pertussis, and tetanus by immunization prior to  
21 enrollment. Any student who does not comply with this section  
22 shall not be permitted to continue in school until he or she  
23 so complies, except as provided by section 79-222. Each school  
24 district shall make diligent efforts to inform families prior to  
25 the date of school registration of the immunization requirements  
26 of this section.

27 Except as provided in the Childhood Vaccine Act, the cost

1 of such immunization shall be borne by the parent or guardian of  
2 each student who is immunized or by the ~~Department of Health and~~  
3 ~~Human Services Regulation and Licensure~~ Health and Human Services  
4 System for those students whose parent or guardian is financially  
5 unable to meet such cost.

6 Sec. 1448. Section 79-218, Revised Statutes Cumulative  
7 Supplement, 2006, is amended to read:

8 79-218 Any school board or board of education of a school  
9 district or the governing authority of a private, denominational,  
10 or parochial school in this state may request assistance from the  
11 ~~Department of Health and Human Services Regulation and Licensure~~  
12 Health and Human Services System in establishing immunization  
13 clinics. Such assistance shall consist of vaccines, serums, and  
14 other supplies, services, and guidance from the ~~Director of Health~~  
15 ~~and Human Services- system.~~

16 Sec. 1449. Section 79-219, Revised Statutes Cumulative  
17 Supplement, 2006, is amended to read:

18 79-219 The ~~Department of Health and Human Services~~  
19 ~~Regulation and Licensure~~ Health and Human Services System shall  
20 adopt and promulgate rules and regulations relating to the required  
21 levels of protection, provisional enrollment under the provisions  
22 of section 79-222, the evidence necessary to prove that the  
23 required examination or immunization has been received, and the  
24 reporting of each student's immunization status. The ~~department~~  
25 system may modify, add to, or delete from the list of required  
26 immunizations set out in section 79-217. The ~~department~~ system  
27 shall furnish local school authorities with copies of such rules

1 and regulations and any other material which will assist in the  
2 carrying out of sections 79-214 and 79-217 to 79-223.

3           Sec. 1450. Section 79-248, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           79-248 Every school district shall cause every child  
6 under its jurisdiction to be separately and carefully inspected,  
7 except as otherwise provided in this section, to ascertain if such  
8 child is suffering from (1) defective sight or hearing, (2) dental  
9 defects, or (3) other conditions as prescribed by the ~~Department~~  
10 ~~of Health and Human Services Regulation and Licensure.~~ Health and  
11 Human Services System. If such inspection determines that any child  
12 has such condition, the school shall notify the parent of the  
13 child in writing of such condition and explain to such parent the  
14 necessity of professional attendance for such child. Whenever a  
15 child apparently shows symptoms of any contagious or infectious  
16 disease, such child shall be sent home immediately or as soon  
17 as safe and proper conveyance can be found and the proper school  
18 authority, school board, or board of education shall be at once  
19 notified. Such student may be excluded from school as provided  
20 in section 79-264. No child shall be compelled to submit to a  
21 physical examination other than the inspection by the school over  
22 the written objection of his or her parent or guardian delivered  
23 to the school authorities. Such objection does not exempt the child  
24 from the quarantine laws of the state and does not prohibit an  
25 examination for infectious or contagious diseases.

26           Sec. 1451. Section 79-249, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

1                   79-249 The ~~Department of Health and Human Services~~  
2 ~~Regulation and Licensure~~ Health and Human Services System shall  
3 adopt and promulgate rules and regulations for conducting school  
4 health inspections, the qualifications of the person or persons  
5 authorized to make such inspections, and the health conditions to  
6 be observed and remedied and shall furnish to school authorities  
7 regulations and other useful materials for carrying out the  
8 purposes of sections 79-248 to 79-253.

9                   On and after July 1, 1999, no staff member of any school  
10 shall administer medication unless the school complies with the  
11 applicable requirements of the Medication Aide Act. Notwithstanding  
12 any other provision, nothing in the act shall be construed to  
13 require any school to employ or use a school nurse or medication  
14 aide in order to be in compliance with the act.

15                   Sec. 1452. Section 79-843, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17                   79-843 The contracts of the teaching staff and school  
18 nurses employed by an educational program administered by the  
19 State Department of Education, the ~~Department of Health and~~  
20 ~~Human Services,~~ Health and Human Services System, or a political  
21 subdivision of the state, except a school district or an  
22 educational service unit, the colleges governed by the Board  
23 of Trustees of the Nebraska State Colleges, and any university  
24 governed by the Board of Regents of the University of Nebraska  
25 shall require the sanction of a majority of the members of the  
26 governing board. Except as provided in section 79-845, each such  
27 contract shall be deemed renewed and in force and effect until a

1 majority of the governing board votes or the ~~Director of Health~~  
2 ~~and Human Services~~ system determines, sixty days before the close  
3 of the contract period, to amend or terminate the contract for just  
4 cause. The ~~department~~ system or the secretary of the governing  
5 board shall notify each teacher or school nurse in writing at  
6 least ninety days before the close of the contract period of  
7 any conditions of unsatisfactory performance or a reduction in  
8 teaching staff or nursing staff that the ~~department~~ system or  
9 board considers may be just cause to either amend or terminate  
10 the contract for the ensuing year. Any teacher or school nurse  
11 so notified shall have the right to file, within five days after  
12 receipt of such notice, a written request with the ~~department~~  
13 system or board for a hearing before the ~~department~~ system or  
14 board. Upon receipt of such request, the ~~department~~ system or board  
15 shall order the hearing to be held within ten days after such  
16 receipt and shall give written notice of the time and place of the  
17 hearing to the teacher or school nurse. At the hearing, evidence  
18 shall be presented in support of the reasons given for considering  
19 amendment or termination of the contract and the teacher or school  
20 nurse shall be permitted to produce evidence related thereto. The  
21 ~~department~~ system or board shall render the decision to amend or  
22 terminate a contract based on the evidence produced at the hearing.

23           Sec. 1453. Section 79-845, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           79-845 Any contract of employment entered into after  
26 July 1, 1984, between the teaching staff and the Department  
27 of Correctional Services or the ~~Department of Health and Human~~

1 ~~Services~~ Health and Human Services System which applies to the  
2 first two years of the employment of such teaching staff shall  
3 provide that the first two years of the employment of such teacher  
4 are a probationary period. Any such contract may be terminated  
5 during the probationary period without cause.

6           Sec. 1454. Section 79-1103, Revised Statutes Cumulative  
7 Supplement, 2006, is amended to read:

8           79-1103 (1)(a) The State Department of Education shall  
9 establish and administer the Early Childhood Education Grant  
10 Program. Upon the effective date of an endowment agreement,  
11 administration of the Early Childhood Education Grant Program  
12 with respect to programs for children from birth to age three  
13 shall transfer to the board of trustees. If there is no endowment  
14 agreement in effect, the department shall request proposals in  
15 accordance with this section for all early childhood education  
16 programs from school districts, individually or in cooperation  
17 with other school districts or educational service units, working  
18 in cooperation with existing nonpublic programs which meet the  
19 requirements of subsection (2) of section 79-1104. If there is  
20 an endowment agreement in effect, the board of trustees shall  
21 administer the Early Childhood Education Grant Program with respect  
22 to programs for children from birth to age three pursuant to  
23 section 79-1104.02 and the department shall continue to administer  
24 the Early Childhood Education Grant Program with respect to  
25 other prekindergarten programs pursuant to sections 79-1101 to  
26 79-1104.05. All administrative procedures of the board of trustees,  
27 including, but not limited to, rules, grant applications, and



1 funding mechanisms, shall harmonize with those established by the  
2 department for other prekindergarten programs.

3 (b) The first priority shall be for (i) continuation  
4 grants for programs that received grants in the prior school fiscal  
5 year and for which the state aid calculation pursuant to the Tax  
6 Equity and Educational Opportunities Support Act does not include  
7 early childhood education students, in an amount equal to the  
8 amount of such grant, except that if the grant was a first-year  
9 grant the amount shall be reduced by thirty-three percent, and  
10 (ii) continuation grants for programs for which the state aid  
11 calculation pursuant to the act includes early childhood education  
12 students, in an amount equal to the amount of the grant for  
13 the school fiscal year prior to the first school fiscal year  
14 for which early childhood education students were included in the  
15 state aid calculation for the school district's local system minus  
16 the calculated state aid amount. The calculated state aid amount  
17 shall be calculated by multiplying the cost grouping cost per  
18 student for the school district's local system cost grouping by  
19 the adjusted formula students attributed to the early childhood  
20 education programs pursuant to the Tax Equity and Educational  
21 Opportunities Support Act.

22 (c) The second priority shall be for new grants and  
23 expansion grants for programs that will serve at-risk children who  
24 will be eligible to attend kindergarten the following school year.  
25 New grants may be given for up to three years in an amount up to  
26 one-half of the total budget of the program per year. Expansion  
27 grants may be given for one year in an amount up to one-half

1 of the budget for expanding the capacity of the program to serve  
2 additional children.

3 (d) The third priority shall be for new grants, expansion  
4 grants, and continuation grants for programs serving children  
5 younger than those who will be eligible to attend kindergarten  
6 the following school year. New grants may be given for up to  
7 three years in an amount up to one-half the total budget of the  
8 program per year. Expansion grants may be given for one year in  
9 an amount up to one-half the budget for expanding the capacity of  
10 the program to serve additional children. Continuation grants under  
11 this priority may be given annually in an amount up to one-half the  
12 total budget of the program per year minus any continuation grants  
13 received under the first priority.

14 (e) Programs serving children who will be eligible to  
15 attend kindergarten the following school year shall be accounted  
16 for separately for grant purposes from programs serving younger  
17 children, but the two types of programs may be combined within the  
18 same classroom to serve multi-age children. Programs that receive  
19 grants for school fiscal years prior to school fiscal year 2005-06  
20 to serve both children who will be eligible to attend kindergarten  
21 the following school year and younger children shall account for  
22 the two types of programs separately for grant purposes beginning  
23 with school year 2005-06 and shall be deemed to have received  
24 grants prior to school fiscal year 2005-06 for each year that  
25 grants were received for the types of programs representing the age  
26 groups of the children served.

27 (2) Each program proposal which is approved by the

1 department shall include (a) a planning period, (b) an agreement  
2 to participate in periodic evaluations of the program to be  
3 specified by the department, (c) evidence that the program will be  
4 coordinated or contracted with existing programs, including those  
5 listed in subdivision (d) of this subsection and nonpublic programs  
6 which meet the requirements of subsection (2) of section 79-1104,  
7 (d) a plan to coordinate and use a combination of local, state, and  
8 federal funding sources, including, but not limited to, programs  
9 for children with disabilities below five years of age funded  
10 through the Special Education Act, the Early Intervention Act,  
11 funds available through the flexible funding provisions under the  
12 Special Education Act, the federal Head Start program, 42 U.S.C.  
13 9831 et seq., the federal Even Start Family Literacy Program, 20  
14 U.S.C. 6361 et seq., Title I of the federal Improving America's  
15 Schools Act of 1994, 20 U.S.C. 6301 et seq., and child care  
16 assistance through the ~~Department of Health and Human Services,~~  
17 Health and Human Services System, (e) a plan to use sliding  
18 fee scales and the funding sources included in subdivision (d)  
19 of this subsection to maximize the participation of economically  
20 and categorically diverse groups and to ensure that participating  
21 children and families have access to comprehensive services, (f)  
22 the establishment of an advisory body which includes families  
23 and community members, (g) the utilization of appropriately  
24 qualified staff, (h) an appropriate child-to-staff ratio, (i)  
25 appropriate group size, (j) compliance with minimum health and  
26 safety standards, (k) appropriate facility size and equipment,  
27 (l) a strong family development and support component recognizing

1 the central role of parents in their children's development, (m)  
2 developmentally and culturally appropriate curriculum, practices,  
3 and assessment, (n) sensitivity to the economic and logistical  
4 needs and circumstances of families in the provision of services,  
5 (o) integration of children of diverse social and economic  
6 characteristics, (p) a sound evaluation component, including at  
7 least one objective measure of child performance and progress, (q)  
8 continuity with programs in kindergarten and elementary grades,  
9 (r) instructional hours that are similar to or less than the  
10 instructional hours for kindergarten, (s) well-defined language  
11 development and early literacy emphasis, including the involvement  
12 of parents in family literacy activities, (t) a plan for ongoing  
13 professional development of staff, and (u) inclusion of children  
14 with disabilities as defined in the Special Education Act, all as  
15 specified by rules and regulations of the department in accordance  
16 with sound early childhood educational practice.

17 (3) The ~~department~~ State Department of Education shall  
18 make an effort to fund programs widely distributed across the state  
19 in both rural and urban areas.

20 (4) A report evaluating the programs shall be made to the  
21 State Board of Education and the Legislature by January 1 of each  
22 odd-numbered year. Up to five percent of the total appropriation  
23 for the Early Childhood Education Grant Program may be reserved  
24 by the ~~department~~ State Department of Education for evaluation and  
25 technical assistance for the programs.

26 (5) Programs may be approved for purposes of the Tax  
27 Equity and Educational Opportunities Support Act, expansion grants,

1 and continuation grants on the submission of a continuation  
2 plan demonstrating that the program will continue to meet the  
3 requirements of subsection (2) of this section and a proposed  
4 operating budget demonstrating that the program will continue to  
5 receive resources from other sources equal to or greater than the  
6 sum of any grant received pursuant to this section for the prior  
7 school year plus any calculated state aid as calculated pursuant to  
8 subsection (1) of this section for the prior school year.

9 (6) The State Board of Education may adopt and promulgate  
10 rules and regulations to implement the Early Childhood Education  
11 Grant Program, except that if there is an endowment agreement  
12 in effect, the board of trustees shall recommend any rules and  
13 regulations relating specifically to the Early Childhood Education  
14 Grant Program with respect to programs for children from birth to  
15 age three. It is the intent of the Legislature that the rules and  
16 regulations for programs for children from birth to age three be  
17 consistent to the greatest extent possible with those established  
18 for other prekindergarten programs.

19 Sec. 1455. Section 79-1104.04, Revised Statutes  
20 Cumulative Supplement, 2006, is amended to read:

21 79-1104.04 (1) The board of trustees shall include the  
22 following six members:

23 (a) The Commissioner of Education or his or her designee;

24 (b) The chief executive officer of the Health and Human  
25 Services System or his or her designee; Director of Health and  
26 Human Services or his or her designee; and

27 (c) The following persons appointed by the Governor, in

1 his or her discretion:

2 (i) Two persons nominated by the endowment provider;

3 (ii) An early childhood professional representing an  
4 urban at-risk area appointed pursuant to subsection (5) of this  
5 section; and

6 (iii) An early childhood professional representing a  
7 rural at-risk county appointed pursuant to subsection (6) of this  
8 section.

9 (2) The terms of office for members initially appointed  
10 under subsection (1) of this section shall be three years. Upon  
11 completion of the initial terms of such members, the Governor shall  
12 appoint the two members under subdivision (1)(c)(i) of this section  
13 for terms of one and two years, the member under subdivision  
14 (1)(c)(ii) of this section for a term of three years, and the  
15 member under subdivision (1)(c)(iii) of this section for a term of  
16 two years. Succeeding appointees shall be appointed for terms of  
17 three years. An appointee to a vacancy occurring from an unexpired  
18 term shall serve out the term of his or her predecessor. Members  
19 whose terms have expired shall continue to serve until their  
20 successors have been appointed and qualified.

21 (3) The board of trustees shall by majority vote annually  
22 elect a chairperson from among the members of the board of  
23 trustees.

24 (4) The members of the board of trustees shall be  
25 reimbursed for their actual and necessary expenses incurred while  
26 engaged in the performance of their official duties as provided in  
27 sections 81-1174 to 81-1177.

1           (5) The Governor shall identify an at-risk urban area  
2 consisting of not less than ten contiguous census tracts, as  
3 determined by the United States Bureau of the Census for the 2000  
4 United States Census, within a city of the metropolitan class,  
5 which each contain a percentage of families below the poverty  
6 line of greater than twenty percent, as reported by the United  
7 States Bureau of the Census for the 2000 United States Census.  
8 The Governor shall request that a committee, consisting of (a)  
9 the member of the Legislature representing the district containing  
10 the preponderance of geographic area of such at-risk area, (b)  
11 the member of the board of county commissioners representing the  
12 district containing the preponderance of geographic area of such  
13 at-risk area, and (c) the member of the city council representing  
14 the district containing the preponderance of geographic area of  
15 such at-risk area, develop a list of not less than two and not more  
16 than four nominees for appointment to the board of trustees. Upon  
17 receipt of a list of nominees signed by at least two members of the  
18 committee, the Governor shall, in his or her discretion, appoint a  
19 member to the board of trustees from such list of nominees.

20           (6) The Governor shall, in his or her discretion, appoint  
21 one member to the board of trustees who resides in a county which  
22 does not contain a city of the metropolitan class or a city of  
23 the primary class and which contains a percentage of families below  
24 the poverty line of greater than eight and one-half percent, as  
25 reported by the United States Bureau of the Census for the 2000  
26 United States Census.

27           Sec. 1456. Section 79-1133, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           79-1133 Each school district shall pay an amount equal to  
3 the average per pupil cost of the service agency of the preceding  
4 year or the cost as agreed upon pursuant to the contract to the  
5 agency providing the educational program for every child with a  
6 disability who is less than five years of age, who is a resident  
7 of the district, and who is attending an educational program not  
8 operated by the school district, including programs operated by  
9 the State Department of Education, the ~~Department of Health and~~  
10 ~~Human Services,~~ Health and Human Services System, and any other  
11 service agency whose programs are approved by the State Department  
12 of Education.

13           Sec. 1457. Section 79-1140, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15           79-1140 Except as provided in sections 79-232 to 79-246,  
16 each school district shall pay an amount equal to the average per  
17 pupil cost of the service agency of the preceding year or the cost  
18 as agreed upon pursuant to the contract to the agency providing  
19 the educational program for every child with a disability who is  
20 a resident of the district and is attending an educational program  
21 not operated by the school district, including programs operated  
22 by the State Department of Education, the ~~Department of Health and~~  
23 ~~Human Services,~~ Health and Human Services System, and any other  
24 service agency whose programs are approved by the State Department  
25 of Education.

26           Sec. 1458. Section 79-1152, Reissue Revised Statutes of  
27 Nebraska, is amended to read:



1           79-1152 No school district shall place a child with a  
2 disability in a special education program requiring residential  
3 care without advance consultation with the State Department of  
4 Education to review the child's needs and the availability  
5 and appropriateness of each possible placement in the continuum  
6 of alternative services. Applications for approval of special  
7 education program placements requiring residential care shall be  
8 signed by the parent or legal guardian, submitted via the school  
9 district of residence of the child to the State Department of  
10 Education, and acted upon by the State Department of Education  
11 within thirty days after receipt by the department. If an  
12 application is denied, the parent or legal guardian shall be  
13 provided written notification by the State Department of Education  
14 of his or her right to appeal the decision pursuant to sections  
15 79-1162 to 79-1167 and right to name the State Department of  
16 Education as respondent in the appeal proceeding.

17           The State Department of Education and the ~~Department~~  
18 ~~of Health and Human Services~~ Health and Human Services System  
19 shall annually establish the maximum rates that the state will  
20 pay for the ordinary and reasonable cost of residential care  
21 placements within the state. After September 6, 1985, children  
22 with disabilities whose residential placement was funded by state  
23 and regional agencies other than the State Department of Education  
24 shall continue to be funded by such agencies.

25           Sec. 1459. Section 79-1153, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27           79-1153 Following residential placement of a child

1 with a disability, the school district of residence and the  
2 State Department of Education shall continue efforts to develop  
3 appropriate programs closer to the child's home and shall cooperate  
4 with the ~~Department of Health and Human Services~~ Health and Human  
5 Services System in preparing families to accommodate returning  
6 children with disabilities. The ~~Department of Health and Human~~  
7 ~~Services~~ system shall provide consultative services, as defined by  
8 mutual agreement between the State Department of Education and the  
9 ~~Department of Health and Human Services,~~ system, to the children  
10 with disabilities who were initially provided residential care and  
11 to their families.

12           Sec. 1460. Section 79-1160, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           79-1160 The State Department of Education shall adopt,  
15 promulgate, and publish rules and regulations necessary to carry  
16 out the Special Education Act. Such rules and regulations shall  
17 include, but not be limited to, the regulation of costs under  
18 section 79-1152, limitation of the program to children with  
19 disabilities who require residential care in order to receive an  
20 appropriate special education program, and provisions for contracts  
21 with the ~~Department of Health and Human Services~~ Health and Human  
22 Services System to assist in the administration of the act.

23           Sec. 1461. Section 79-1178, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           79-1178 The State Department of Education and the  
26 ~~Department of Health and Human Services~~ Health and Human Services  
27 System shall enter into a written agreement under which the State

1 Department of Education shall furnish to the ~~Department of Health~~  
2 ~~and Human Services~~ system evaluations, diagnoses, and treatment for  
3 children who are otherwise served by the ~~Department of Health and~~  
4 ~~Human Services~~. system. The ~~Department of Health and Human Services~~  
5 system shall, under the agreement, reimburse the State Department  
6 of Education for the costs of such services to children.

7           Sec. 1462. Section 79-11,132, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           79-11,132 The State Department of Education shall enter  
10 into an interagency agreement with the ~~Department of Health~~  
11 ~~and Human Services~~ Health and Human Services System to provide  
12 vocational rehabilitation services and supported employment  
13 programs to persons with developmental disabilities. The Division  
14 of Rehabilitation Services of the State Department of Education  
15 shall match all state and local funds provided by the ~~Department~~  
16 ~~of Health and Human Services~~ system and developmental disabilities  
17 regions to the extent that federal vocational rehabilitation funds  
18 are available.

19           Sec. 1463. Section 79-1902, Revised Statutes Cumulative  
20 Supplement, 2006, is amended to read:

21           79-1902 (1) The State Department of Education, in  
22 cooperation with the ~~Department of Health and Human Services~~, the  
23 ~~Department of Health and Human Services Regulation and Licensure~~,  
24 and the ~~Department of Health and Human Services Finance and Support~~  
25 Health and Human Services System, shall develop a packet entitled  
26 "Learning Begins at Birth" to be given to the parents of each child  
27 born in this state on and after January 1, 2003.

1           (2) The packet shall contain information about child  
2 development, child care, how children learn, children's health  
3 including, on and after July 14, 2006, information on the  
4 prevention of sudden infant death syndrome and shaken baby  
5 syndrome, services available to children and parents, and any other  
6 information deemed relevant by the ~~Department of Health and Human~~  
7 ~~Services,~~ the Department of Health and Human Services Regulation  
8 and Licensure, the Department of Health and Human Services Finance  
9 and Support, system or the State Department of Education. The State  
10 Department of Education shall indicate which information in the  
11 packet is appropriate for the parents of infants, for the parents  
12 of toddlers, and for the parents of preschoolers.

13           (3) The State Department of Education shall develop a  
14 variety of types of the packet, based on the needs of parents.  
15 The information in the packets may be in the form of printed  
16 material or in the form of video tapes, audio cassettes, or other  
17 appropriate media.

18           Sec. 1464. Section 79-1903, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20           79-1903 (1) The ~~Department of Health and Human Services,~~  
21 ~~the Department of Health and Human Services Regulation and~~  
22 ~~Licensure,~~ and the Department of Health and Human Services Finance  
23 and Support Health and Human Services System shall assist the State  
24 Department of Education in developing the packet and shall develop  
25 methods of distributing the packet to parents upon the birth of a  
26 child in this state beginning on January 1, 2003.

27           (2) The ~~departments~~ Health and Human Services System

1 shall solicit private financial assistance to carry out ~~their~~ its  
2 duties under the Nebraska Read, Educate, and Develop Youth Act. The  
3 ~~departments~~ system and the department shall not endorse any private  
4 company or product, but private companies may have their names  
5 placed on materials in the packet to help underwrite the costs of  
6 developing and distributing the packets.

7           Sec. 1465. Section 79-1904, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           79-1904 The READY Cash Fund is created. The fund shall  
10 contain money received from private sources to underwrite the costs  
11 of the Nebraska Read, Educate, and Develop Youth Act. The fund  
12 shall be used by the State Department of Education, ~~the Department~~  
13 ~~of Health and Human Services,~~ ~~the Department of Health and Human~~  
14 ~~Services Regulation and Licensure,~~ and the Department of Health  
15 ~~and Human Services Finance and Support~~ and the Health and Human  
16 Services System to aid in carrying out their duties under the act.  
17 The fund shall be administered by the Department of Health and  
18 ~~Human Services Finance and Support.~~ system. Any money in the fund  
19 available for investment may be invested by the state investment  
20 officer pursuant to the Nebraska Capital Expansion Act and the  
21 Nebraska State Funds Investment Act.

22           Sec. 1466. Section 79-1905, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           79-1905 The State Department of Education, ~~the Department~~  
25 ~~of Health and Human Services,~~ ~~the Department of Health and Human~~  
26 ~~Services Regulation and Licensure,~~ and the Department of Health  
27 ~~and Human Services Finance and Support~~ and the Health and Human

1 Services System shall annually report to the Legislature and  
2 the Governor regarding the actions, activities, accomplishments,  
3 and shortcomings in carrying out the Nebraska Read, Educate, and  
4 Develop Youth Act.

5 Sec. 1467. Section 80-316, Revised Statutes Cumulative  
6 Supplement, 2006, is amended to read:

7 80-316 (1) The purpose of the ~~Division of Veterans Homes~~  
8 Department of Veterans' Homes is to provide domiciliary and nursing  
9 home care and subsistence to:

10 (a) All persons who served in the armed forces of  
11 the United States during a period of war as defined in section  
12 80-401.01 and who were discharged or otherwise separated with  
13 a characterization of honorable or general (under honorable  
14 conditions) if, at the time of making an application for admission  
15 to one of the Nebraska veterans homes:

16 (i) The applicant has been a bona fide resident of the  
17 State of Nebraska for at least two years;

18 (ii) The applicant has become disabled due to service,  
19 old age, or otherwise to an extent that it would prevent such  
20 applicant from earning a livelihood; and

21 (iii) The applicant's income from all sources is such  
22 that the applicant would be dependent wholly or partially upon  
23 public charities for support or the type of care needed is  
24 available only at a state institution;

25 (b) The spouse of any such person admitted to one of the  
26 homes who has attained the age of fifty years and has been married  
27 to such member for at least two years before his or her entrance

1 into the home;

2 (c) Subject to subsection (2) of this section,  
3 the surviving spouses and parents of eligible servicemen and  
4 servicewomen as defined in subdivision (a) of this subsection who  
5 died while in the service of the United States or who have since  
6 died of a service-connected disability as determined by the United  
7 States Department of Veterans Affairs; and

8 (d) Subject to subsection (2) of this section, the  
9 surviving spouses of eligible servicemen or servicewomen as defined  
10 in subdivision (a) of this subsection who have since died.

11 (2) The surviving spouses and parents referred to in  
12 subdivision (1)(c) or (d) of this section shall be eligible for  
13 such care and subsistence if, at the time of applying, they:

14 (a) Have been bona fide residents of the State of  
15 Nebraska for at least two years;

16 (b) Have attained the age of fifty years;

17 (c) Are unable to earn a livelihood; and

18 (d) Are dependent wholly or partially upon public  
19 charities or the type of care needed is available only at a state  
20 institution.

21 (3) No one admitted to one of the Nebraska veterans homes  
22 under conditions enumerated in this section shall have a vested  
23 right to continued residence in such home if such person ceases to  
24 meet any of the eligibility requirements of this section, except  
25 that no person who has been regularly admitted shall be denied  
26 continued residence solely because of his or her marriage to a  
27 member of one of the homes.

1           Sec. 1468. Section 80-605, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           80-605 The appropriate official of the United States  
4 Department of Veterans Affairs or other agency of the United States  
5 shall have authority to transfer any person committed to the United  
6 States Department of Veterans Affairs or other appropriate agency  
7 of the United States or to a hospital maintained by either to  
8 any other hospital operated by the United States Department of  
9 Veterans Affairs or any other agency of the United States, to any  
10 licensed private institution, or, subject to the prior approval  
11 of the ~~Department of Health and Human Services,~~ Health and Human  
12 Services System, to any Nebraska state hospital for the mentally  
13 ill. The ~~Department of Health and Human Services,~~ system, upon  
14 written consent of the legal guardian of the patient or the written  
15 approval of the county board of mental health which committed  
16 such patient if no such guardian has been appointed, shall have  
17 the authority, subject to eligibility and the prior approval  
18 of the appropriate official of the United States Department of  
19 Veterans Affairs or other appropriate agency of the United States  
20 Government, to transfer for care or treatment any patient committed  
21 to a Nebraska state hospital for the care of the mentally ill  
22 to the United States Department of Veterans Affairs or other  
23 appropriate agency of the United States Government. Upon any such  
24 transfer and notice thereof by mail to the committing court or the  
25 judge thereof or the committing board, the original commitment of  
26 such person shall be deemed to constitute commitment to the United  
27 States Department of Veterans Affairs or other agency of the United



1 States or to the state hospital or licensed institution to which  
2 such person may, from time to time, be so transferred.

3 Sec. 1469. Section 80-606, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 80-606 Nothing in sections 80-601 to 80-606 shall  
6 be construed as conferring upon the ~~Department of Health and~~  
7 ~~Human Services~~ Health and Human Services System or other agency  
8 or officer of this state any power of licensing, supervision,  
9 inspection, or control over hospitals or other institutions  
10 operated by the United States Government or over the officers or  
11 employees therein.

12 Sec. 1470. Section 81-502, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 81-502 (1) It shall be the duty of the State Fire  
15 Marshal, under authority of the Governor:

16 (a) To enforce all laws of the state relating to the  
17 suppression of arson and investigation of the cause, origin, and  
18 circumstances of fires;

19 (b) To promote safety and reduce loss by fire;

20 (c) To make an investigation for fire safety of the  
21 premises and facilities of:

22 (i) Liquor establishments for which a license or renewal  
23 of a license is sought, upon request of the Nebraska Liquor Control  
24 Commission, pursuant to section 53-119.01;

25 (ii) Licensed foster care facilities or applicants for  
26 licenses for foster care facilities, upon request by the ~~Department~~  
27 ~~of Health and Human Services,~~ Health and Human Services System,

1 pursuant to section 71-1903;

2 (iii) Licensed providers of programs or applicants for  
3 licenses to provide such programs, upon request of the ~~Department~~  
4 ~~of Health and Human Services Regulation and Licensure,~~ Health  
5 and Human Services System, pursuant to section 71-1913. The State  
6 Fire Marshal shall report the results of the investigation to the  
7 ~~department~~ system within thirty days after receipt of the request  
8 from the ~~department,~~ system;

9 (iv) Licensed hospitals, skilled nursing facilities,  
10 intermediate care facilities, or other health care facilities  
11 which are licensed under the Health Care Facility Licensure Act or  
12 applicants for licenses for such facilities or institutions, upon  
13 request by the ~~Department of Health and Human Services Regulation~~  
14 ~~and Licensure,~~ Health and Human Services System, pursuant to  
15 section 71-441; and

16 (v) Mobile home parks for which a license or renewal of  
17 a license is sought, upon request of the ~~Department of Health and~~  
18 ~~Human Services Regulation and Licensure,~~ Health and Human Services  
19 System, pursuant to section 71-4635; and

20 (d) After a careful study and investigation of relevant  
21 data, to adopt, promulgate, alter, and enforce, through inspections  
22 and code compliance, orders, rules, and regulations covering:

23 (i) The prevention of fires;

24 (ii) The storage, sale, and use of flammable liquids,  
25 combustibles, and fireworks;

26 (iii) Electric wiring and heating, protection equipment  
27 devices, materials, furnishings, and other safeguards within

1 the structure necessary to promote safety and reduce loss by  
2 fire, and the means and adequacy of exits, in case of fire,  
3 in assembly, educational, institutional, residential, mercantile,  
4 office, storage, and industrial-type occupancies as such structures  
5 are defined in the National Fire Protection Association, Pamphlet  
6 Number 101, and associated pamphlets, and all other buildings,  
7 structures, and enclosures in which numbers of persons congregate  
8 from time to time for any purpose whether privately or publicly  
9 owned;

10 (iv) Design, construction, location, installation, and  
11 operation of equipment for storing, handling, and utilization of  
12 liquefied petroleum gases, specifying the odorization of such gases  
13 and the degree thereof;

14 (v) Chemicals, prozylin plastics, X-ray nitrocellulose  
15 films, or any other hazardous material that may now or hereafter  
16 exist;

17 (vi) Tanks used for the storage of regulated substances  
18 pursuant to the Petroleum Products and Hazardous Substances Storage  
19 and Handling Act; and

20 (vii) Accessibility standards and specifications adopted  
21 pursuant to section 81-5,147.

22 (2) The State Fire Marshal may enter into contracts  
23 with private individuals or other agencies, boards, commissions,  
24 or governmental bodies for the purpose of carrying out his or  
25 her duties and responsibilities pursuant to the Arson Reporting  
26 Immunity Act, the Nebraska Natural Gas Pipeline Safety Act of  
27 1969, and sections 81-502 to 81-541.01, 81-5,132 to 81-5,146, and

1 81-5,151 to 81-5,157.

2 (3) The State Fire Marshal may delegate the authority set  
3 forth in this section to qualified local fire prevention personnel.  
4 The State Fire Marshal may overrule a decision, act, or policy of  
5 the local fire prevention personnel. When the State Fire Marshal  
6 overrules the local personnel, such local personnel may follow the  
7 appeals procedure established by sections 81-502.01 to 81-502.03.  
8 Such delegation of authority may be revoked by the State Fire  
9 Marshal for cause upon thirty days' notice after a hearing.

10 (4) The State Fire Marshal, first assistant fire marshal,  
11 and deputies shall have such other powers and perform such other  
12 duties as are set forth in sections 81-501.01 to 81-531 and  
13 81-5,151 to 81-5,157 and as may be conferred and imposed by law.

14 (5) The rules and regulations adopted and promulgated  
15 pursuant to subdivision (1)(d) of this section may conform  
16 generally to the standards recommended by the National Fire  
17 Protection Association, Pamphlet Number 101, known as the Life  
18 Safety Code, and associated pamphlets, but not when doing so would  
19 impose an unduly severe or costly burden without substantially  
20 contributing to the safety of persons or property. This section  
21 and the rules and regulations adopted and promulgated pursuant  
22 to subdivision (1)(d) of this section shall apply to existing as  
23 well as new buildings, structures, and enclosures. Such rules and  
24 regulations shall also apply to sites or structures in public  
25 ownership listed on the National Register of Historic Places but  
26 without destroying the historic quality thereof.

27 (6) Plans for compliance with the rules and regulations

1 adopted and promulgated pursuant to subdivision (1)(d) of this  
2 section shall be reviewed by the State Fire Marshal. Plans  
3 submitted after remodeling or construction has begun shall be  
4 accompanied by a penalty of fifty dollars in addition to the plan  
5 review fee set out in subdivision (4)(a) of section 81-505.01.

6 Sec. 1471. Section 81-502.01, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 81-502.01 For the purposes of assisting the State Fire  
9 Marshal in matters pertaining to the performance of his or her  
10 duties, there is hereby established the Nebraska Fire Safety  
11 Appeals Board. Such board shall consist of the following members:

12 (1) A representative of the fire insurance industry with experience  
13 in fire prevention inspections, (2) an architect licensed in this  
14 state, (3) a member of a board of education of a public school  
15 district, (4) a fire protection engineer, (5) a member of the  
16 inspection division of a paid fire department in this state, (6)  
17 an active member of a volunteer fire department in this state, (7)  
18 a representative of the Department of Health and Human Services,  
19 ~~(8) a representative of the Nebraska Association of Hospitals~~  
20 ~~and Health Systems, and (9) a representative of the Department~~  
21 ~~of Health and Human Services Regulation and Licensure. (8) two~~  
22 representatives of the Health and Human Services System. The  
23 members shall be appointed by the Governor and shall serve for a  
24 term of four years.

25 Sec. 1472. Section 81-505.01, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27 81-505.01 (1) The State Fire Marshal shall establish and

1 assess fees not to exceed the actual costs for the performance  
2 of services by the State Fire Marshal or by qualified local fire  
3 prevention personnel to whom the State Fire Marshal has delegated  
4 authority to perform such services. Prior to establishing or  
5 altering such fees, the State Fire Marshal shall hold a public  
6 hearing on the question of the adoption of or change in fees.  
7 Notice of such hearing shall be given at least thirty days  
8 prior thereto (a) by publication in a newspaper having general  
9 circulation in the state and (b) by notifying in writing the head  
10 of any agency or department having jurisdiction over facilities  
11 that would be subject to the fees. Fees for services performed by  
12 the State Fire Marshal shall be paid to the State Fire Marshal and  
13 shall be remitted to the State Treasurer for credit to the State  
14 Fire Marshal Cash Fund. Fees for services performed by local fire  
15 prevention personnel shall be paid directly to the office of the  
16 local fire prevention personnel.

17 (2) The fee for inspection for fire safety of any  
18 premises or facility pursuant to section 81-502 shall be not less  
19 than twenty-five nor more than one hundred fifty dollars and shall  
20 be paid by the licensee or applicant for a license. The fee for  
21 inspection for fire safety of the same premises or facility made  
22 within twelve months after the last prior inspection shall be not  
23 less than twenty-five nor more than one hundred fifty dollars and  
24 shall be paid by the licensee or applicant for a license. The fees  
25 for inspection for fire safety of foster family homes as defined in  
26 section 71-1902 may be paid by the ~~Department of Health and Human~~  
27 ~~Services.~~ Health and Human Services System.

1           (3) The fee for providing investigation reports to  
2 insurance companies shall not exceed three dollars for each report  
3 provided. The State Fire Marshal may charge an amount not to exceed  
4 the actual cost of preparation for any other approved information  
5 release.

6           (4) (a) Except as provided in subdivision (b) of this  
7 subsection, the fee for reviewing plans, blueprints, and shop  
8 drawings to determine compliance with rules and regulations adopted  
9 and promulgated pursuant to section 81-502 shall be assessed  
10 according to the following schedule:

11 TOTAL VALUE OF PROPOSED

12 STRUCTURE OR IMPROVEMENT FEE

13	\$1 - \$5,000	\$5.00
14	\$5,001 - \$25,000	\$5.00 for the first \$5,000.00 plus
15		\$2.00 for each additional \$5,000.00
16		or fraction thereof.
17	\$25,001 - \$50,000	\$15.00 for the first \$25,000.00 plus
18		\$2.00 for each additional \$5,000.00
19		or fraction thereof.
20	\$50,001 - \$100,000	\$25.00 for the first \$50,000.00 plus
21		\$1.00 for each additional \$5,000.00
22		or fraction thereof.
23	\$100,001 - \$200,000	\$35.00 for the first \$100,000.00 plus
24		\$1.00 for each additional \$10,000.00
25		or fraction thereof.
26	\$200,001 or more	\$50.00 for the first \$200,000.00 plus
27		\$1.00 for each additional \$10,000.00

1 or fraction thereof, except that the  
2 total fee shall not exceed \$500.00.

3 (b) The fees set out in subdivision (a) of this  
4 subsection shall not be assessed or collected by any political  
5 subdivision to which the State Fire Marshal has delegated  
6 the authority to conduct such review and which reviews plans,  
7 blueprints, or shop drawings to determine compliance with such  
8 political subdivision's own fire safety regulations. Nothing in  
9 this subdivision shall be construed to prohibit such political  
10 subdivision from assessing or collecting a fee set by its governing  
11 board for such review.

12 (c) An additional fee equal to fifty percent of the  
13 fee charged pursuant to subdivision (a) of this subsection shall  
14 be assessed for reviewing plans, blueprints, and shop drawings  
15 to determine compliance with the accessibility standards and  
16 specifications adopted pursuant to section 81-5,147, except that  
17 the additional fee assessed pursuant to this subdivision shall not  
18 exceed two hundred fifty dollars.

19 Sec. 1473. Section 81-601, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 81-601 The Department of Health and Human Services  
22 Regulation and Licensure Health and Human Services System shall  
23 have general supervision and control over matters relating to  
24 public health and sanitation and shall provide for examination as  
25 provided in section 81-602 and have supervision over all matters of  
26 quarantine and quarantine regulations.

27 Sec. 1474. Section 81-602, Reissue Revised Statutes of



1 Nebraska, is amended to read:

2           81-602 The ~~Department of Health and Human Services~~  
3 ~~Regulation and Licensure~~ Health and Human Services System shall  
4 have the right at all times to inspect the equipment and methods of  
5 teaching in all medical colleges and medical schools of the state  
6 and shall have the power to refuse examination to the graduates of  
7 any school which, on proper notice and hearing, shall be adjudged  
8 not a medical college or medical school in good standing as defined  
9 by the laws of this state.

10           Sec. 1475. Section 81-604.01, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           81-604.01 Any local or state agency or department, or any  
13 private facility involved in arranging or supervising placements  
14 for those persons requiring care or supervision, shall notify the  
15 ~~Department of Health and Human Services Regulation and Licensure~~  
16 Health and Human Services System when there is reason to believe  
17 that the total number of persons served in any institution,  
18 facility, place, or building exceeds three individuals and that  
19 such facility is not currently licensed by the ~~Department of Health~~  
20 ~~and Human Services Regulation and Licensure- system.~~ The department  
21 system shall investigate or inspect such complaints pursuant to the  
22 Health Care Facility Licensure Act.

23           Sec. 1476. Section 81-604.02, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           81-604.02 For the purpose of assisting the citizens of  
26 the state in receiving benefits under the federal medicare law,  
27 the State of Nebraska authorizes the ~~Department of Health and~~

1 ~~Human Services Regulation and Licensure~~ Department of Public Health  
2 to act as the survey and certification agency for the medicare  
3 program in Nebraska and to contract to perform such functions  
4 with the federal agency responsible for administration of the  
5 medicare program and to enter into such other agreements as may  
6 be necessary to implement federal requirements. The department  
7 may also contract with the federal agency to perform survey and  
8 certification functions in accordance with the federal Clinical  
9 Laboratory Improvement Amendments of 1988.

10           Sec. 1477. Section 81-604.03, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           81-604.03 ~~The Department of Health and Human Services~~  
13 ~~Regulation and Licensure~~ Department of Public Health is hereby  
14 authorized to act as the survey and certification agency for  
15 the medicaid program and to enter into such agreements with the  
16 ~~Department of Health and Human Services Finance and Support~~ as may  
17 be necessary to carry out its duties. ~~Until January 1, 1997, the~~  
18 ~~Department of Health shall notify the Department of Social Services~~  
19 ~~of any violation by a nursing facility, as defined in section~~  
20 ~~71-2097, of federal regulations for participation in the medicaid~~  
21 ~~program. On and after January 1, 1997, the Department of Health and~~  
22 ~~Human Services Regulation and Licensure shall notify the Department~~  
23 ~~of Health and Human Services Finance and Support~~ July 1, 2007, the  
24 Department of Public Health shall notify the medicaid program of  
25 any violation by a nursing facility, as defined in section 71-2097,  
26 of federal regulations for participation in the medicaid program.  
27 Civil penalties will be determined pursuant to sections 71-2097 to

1 71-20,101.

2           Sec. 1478. Section 81-637, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           81-637 As used in sections 81-637 to 81-640, unless the  
5 context otherwise requires:

6           (1) Cancer ~~shall mean~~ means all malignant neoplasm  
7 regardless of the tissue of origin, including malignant lymphoma  
8 and leukemia;

9           (2) Smoking disease ~~shall mean~~ means diseases whose  
10 causes are linked to smoking including, but not limited to,  
11 cardiovascular, pulmonary, and gastrointestinal diseases; and

12           (3) System means the Health and Human Services System.  
13 ~~Director shall mean the Director of Finance and Support.~~

14           Sec. 1479. Section 81-638, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           81-638 (1) The Legislature shall appropriate for each  
17 year from the ~~Department of Health and Human Services Finance~~  
18 ~~and Support~~ Health and Human Services System Cash Fund to the  
19 ~~Department of Health and Human Services Finance and Support~~ system  
20 an amount derived from one cent of the cigarette tax imposed  
21 by section 77-2602, less any amount appropriated from the fund  
22 specifically to the University of Nebraska Eppley Institute for  
23 Research in Cancer and Allied Diseases. The ~~director~~ system shall,  
24 after deducting expenses incurred in the administration of such  
25 funds, distribute such funds exclusively for grants and contracts  
26 for research of cancer and smoking diseases, for funding the  
27 cancer registry prescribed in sections 81-642 to 81-650, and

1 for associated expenses due to the establishment and maintenance  
2 of such cancer registry. Not more than two hundred thousand  
3 dollars shall be appropriated for funding the cancer registry and  
4 associated expenses. The University of Nebraska may receive such  
5 grants and contracts, and other postsecondary institutions having  
6 colleges of medicine located in the State of Nebraska may receive  
7 such contracts.

8 (2) The Legislature shall appropriate for each year from  
9 the ~~Department of Health and Human Services Finance and Support~~  
10 Health and Human Services System Cash Fund to the ~~Department of~~  
11 ~~Health and Human Services Finance and Support system~~ for cancer  
12 research an amount derived from two cents of the cigarette tax  
13 imposed by section 77-2602 to be used exclusively for grants and  
14 contracts for research on cancer and smoking diseases. No amount  
15 shall be appropriated or used pursuant to this subsection for  
16 the operation and associated expenses of the cancer registry. Not  
17 more than one-half of the funds appropriated pursuant to this  
18 subsection shall be distributed to the University of Nebraska  
19 Medical Center for research in cancer and allied diseases and the  
20 University of Nebraska Eppley Institute for Research in Cancer  
21 and Allied Diseases. The remaining funds available pursuant to  
22 this subsection shall be distributed for contracts with other  
23 postsecondary educational institutions having colleges of medicine  
24 located in Nebraska which have cancer research programs for the  
25 purpose of conducting research in cancer and allied diseases.

26 (3) Any contract between the ~~Department of Health and~~  
27 ~~Human Services Finance and Support system~~ and another postsecondary

1 educational institution for cancer research under subsection (2) of  
2 this section shall provide that:

3 (a) Any money appropriated for such contract shall only  
4 be used for cancer research and shall not be used to support any  
5 other program in the institution;

6 (b) Full and detailed reporting of the expenditure of all  
7 funds under the contract is required. The report shall include,  
8 but not be limited to, separate accounting for personal services,  
9 equipment purchases or leases, and supplies. Such reports shall be  
10 made available to the Legislature; and

11 (c) No money appropriated for such contract shall be  
12 spent for travel, building construction, or any other purpose  
13 not directly related to the research that is the subject of the  
14 contract.

15 Sec. 1480. Section 81-639, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 81-639 The ~~director~~ system when making grants and  
18 contracts pursuant to sections 81-637 to 81-640 shall consider:

19 (1) The relevancy of the applicant's proposal to the  
20 furthering of research of cancer and smoking diseases;

21 (2) The feasibility of the applicant's proposal;

22 (3) The availability of other sources of funding for the  
23 applicant's proposal;

24 (4) The facilities, personnel, and expertise available to  
25 the applicant for use in the proposal; and

26 (5) Evidence of the quality of the applicant's prior  
27 or existing programs for research of cancer and smoking diseases

1 or the applicant's potential for developing new programs for such  
2 research.

3 Sec. 1481. Section 81-640, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 81-640 The ~~director~~ system shall adopt and promulgate  
6 rules and regulations pursuant to the Administrative Procedure Act  
7 to:

8 (1) Establish an application process for grants and  
9 contracts;

10 (2) Establish criteria for programs in order to receive  
11 funding;

12 (3) Establish criteria as to the rates and amount of  
13 funding; and

14 (4) Establish other procedures as he or she may deem  
15 necessary for the proper administration of sections 81-637 to  
16 81-640.

17 Sec. 1482. Section 81-642, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 81-642 It is the intent of the Legislature to require the  
20 establishment and maintenance of a cancer registry for the State  
21 of Nebraska. This responsibility is delegated to the ~~Department~~  
22 ~~of Health and Human Services Regulation and Licensure~~ system  
23 along with the authority to exercise the necessary powers to  
24 implement sections 81-642 to 81-650. To insure an accurate and  
25 continuing source of data concerning cancer, all hospitals within  
26 the state shall make available to the ~~Department of Health and~~  
27 ~~Human Services Regulation and Licensure~~ system upon its request, at

1 least once a year, information contained in the medical records of  
2 patients who have cancer within such time following its diagnosis  
3 as the ~~department~~ system shall require. Any medical doctor,  
4 osteopathic physician, or dentist within the state shall make  
5 such information available to the ~~department~~ system upon request  
6 by the ~~department~~ system. This cancer registry should provide a  
7 central data bank of accurate, precise, and current information  
8 which medical authorities state will assist in the research for the  
9 prevention, cure, and control of cancer. The information contained  
10 in the cancer registry may be used as a source of data for  
11 scientific and medical research. Any information released from the  
12 cancer registry shall be disclosed as Class I, Class II, Class III,  
13 or Class IV data as provided in sections 81-663 to 81-675.

14           Sec. 1483. Section 81-644, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           81-644 The ~~department~~ system shall establish and maintain  
17 a cancer registry that includes a record of the cases of cancer  
18 that occur within the state and such information concerning  
19 these cases which the ~~department~~ system determines necessary and  
20 appropriate to provide a basic source of information to further  
21 scientific and medical research for the prevention, cure, and  
22 control of cancer. Any information released from the registry shall  
23 be disclosed as Class I, Class II, Class III, and Class IV data as  
24 provided in sections 81-663 to 81-675.

25           Sec. 1484. Section 81-645, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27           81-645 In order to implement the intent and purposes of

1 sections 81-642 to 81-650, the ~~department~~ system shall:

2 (1) Compile and publish a statistical report annually  
3 or at reasonable intervals containing information obtained from  
4 patient data pursuant to such sections in order to provide  
5 accessible information useful to physicians, medical personnel,  
6 and the public. Such report shall comply with sections 81-663 to  
7 81-675;

8 (2) Comply with all necessary requirements in order to  
9 obtain funds or grants;

10 (3) Coordinate with existing statewide cancer registry  
11 programs to the extent feasible; and

12 (4) Consult with medical professionals, hospital tumor  
13 registries, and medical records representatives in formulating the  
14 plans and policies of the cancer registry program.

15 Sec. 1485. Section 81-646, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 81-646 (1) On the request of the ~~department~~ system or  
18 its authorized representative, each medical doctor, osteopathic  
19 physician, or dentist within the state shall produce and  
20 make available to the ~~department~~ system or its authorized  
21 representative, in a manner prescribed by the ~~department,~~ system,  
22 data which the ~~department~~ system determines is necessary and  
23 appropriate from each medical record of cancer under the doctor's,  
24 osteopathic physician's, or dentist's custody or control.

25 (2) Each hospital within the state shall make available  
26 to the ~~department~~ system or its authorized representative on  
27 presentation of proper identification of the ~~department's~~ system's



1 representative, a list of names of cancer patients, corresponding  
2 medical records numbers, and medical records which document the  
3 diagnosis and treatment of cancer on the premises of the hospital,  
4 office, or clinic during normal working hours, for the purpose of  
5 recording specific data about a patient's cancer.

6 (3) Each hospital that initially diagnoses cancer made  
7 reportable by the ~~department~~ system for more than fifty patients  
8 during a calendar year shall, for the next calendar year, at the  
9 request of the ~~department~~ system or its authorized representative,  
10 produce and make available, in a manner prescribed by the  
11 ~~department~~, system, data which the ~~department~~ system determines  
12 is necessary and appropriate from each medical record of cancer  
13 under the control of the hospital. Any hospital with fewer than  
14 fifty initial diagnoses of cancer may report in the same manner.

15 (4) The data produced pursuant to subsection (1) of this  
16 section shall include, but not be limited to, the:

17 (a) Patient's name, address, and available social  
18 security number;

19 (b) Patient's hospital accession number;

20 (c) Patient's birthdate, race, and sex;

21 (d) Date of diagnosis;

22 (e) Primary site of cancer;

23 (f) Stage of the disease, including in situ, localized,  
24 regional, distant, or metastasis;

25 (g) Basis of staging, including clinical diagnostic,  
26 surgical evaluative, postsurgical treatment pathological, or  
27 retreatment; and

1 (h) Diagnostic confirmation.

2 Sec. 1486. Section 81-647, Revised Statutes Cumulative  
3 Supplement, 2006, is amended to read:

4 81-647 (1) All data obtained from medical records of  
5 individual patients is for the confidential use of the ~~department~~  
6 system and the private or public persons or entities that the  
7 ~~department~~ system determines may view such records as provided in  
8 sections 81-663 to 81-675.

9 (2) The ~~department~~ system may approve individuals or  
10 entities to obtain access to case-specific data or case-specific  
11 and patient-identifying data to assist in their research for  
12 prevention, cure, or control of cancer. Any information released  
13 from the cancer registry shall be disclosed as provided in sections  
14 81-663 to 81-675.

15 (3) For purposes of protecting the public health, local  
16 health departments in Nebraska, health departments or cancer  
17 registries located in other states, and the Centers for Disease  
18 Control and Prevention and the National Cancer Institute of the  
19 United States Department of Health and Human Services or their  
20 successors may have access to the data contained in the cancer  
21 registry upon the ~~department's~~ system's approval based on the  
22 entity's written application.

23 Sec. 1487. Section 81-648, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 81-648 No hospital, medical doctor, osteopathic  
26 physician, or dentist nor any administrator, officer, or employee  
27 of such hospital or office in which any such professional practices

1 take place who is in compliance with sections 81-642 to 81-650  
2 and 81-663 to 81-675 shall be civilly or criminally liable for  
3 divulging the information required pursuant to such sections. The  
4 ~~department~~ system or any of its officials or employees shall not  
5 be liable civilly or criminally for the release of information  
6 contained in the cancer registry or for the conduct or activities  
7 of any individual or entity permitted access to data of the cancer  
8 registry if done pursuant to sections 81-663 to 81-675.

9           Sec. 1488. Section 81-649, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           81-649 Sections 81-642 to 81-650 shall not be deemed  
12 to compel any individual to submit to any medical examination  
13 or supervision by the ~~department~~, system, any of its authorized  
14 representatives, or an approved researcher. No person who seeks  
15 information or obtains registry data pursuant to such sections or  
16 sections 81-663 to 81-675 shall contact a patient on the registry  
17 or such patient's family unless the registry has first obtained the  
18 permission of such patient or patient's family. The registry shall  
19 coordinate its activities with the person desiring such contact and  
20 may authorize the person desiring such contact to perform these  
21 contacts under the direction of the registry.

22           Sec. 1489. Section 81-650, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           81-650 The ~~department~~ system shall annually report to  
25 the Legislature's Health and Human Services Committee with the  
26 documentation on the operation and performance of the cancer  
27 registry program established pursuant to sections 81-642 to 81-650.

1           Sec. 1490. Section 81-651, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           81-651 (1) ~~The Department of Health and Human Services~~  
4 Health and Human Services System may provide visiting community  
5 nursing services or home health services to persons living in the  
6 state and may charge fees for such services. ~~The department system~~  
7 shall not be exempt from licensure as a home health agency under  
8 the Health Care Facility Licensure Act.

9           (2) ~~The department~~ Health and Human Services System may  
10 organize, license, and operate home health agencies to assist in  
11 providing services under subsection (1) of this section.

12           (3) ~~The department~~ Health and Human Services System  
13 (a) may employ necessary personnel, including, but not  
14 limited to, licensed nurses, physical therapists, physical  
15 therapy assistants, audiologists, speech-language pathologists,  
16 communication assistants, occupational therapists, occupational  
17 therapy assistants, home health aides, homemakers, respiratory  
18 care practitioners, nutritionists, social workers, and supervisory  
19 personnel, and may purchase equipment and materials necessary to  
20 maintain an effective program or (b) may contract with individuals  
21 or licensed agencies to obtain such services or to assist in  
22 providing services under subsection (1) of this section.

23           (4) ~~The department~~ Health and Human Services System may  
24 contract with any public, private, for-profit, or nonprofit agency  
25 or individual to provide home health services through any licensed  
26 home health agency created under subsection (2) of this section.

27           Sec. 1491. Section 81-652, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           81-652 ~~The Department of Health and Human Services~~  
3 Health and Human Services System may (1) charge and receive  
4 fees, (2) accept third-party reimbursements or matching funds from  
5 any federal governmental agency, private corporation, or other  
6 public or private organization or entity, and (3) accept grants  
7 or donations from any public or private agency, organization, or  
8 entity for services provided by any home health agency operated  
9 by the ~~department~~ system. Such funds shall be paid to the state  
10 treasury and credited to the ~~Department of Health and Human~~  
11 Services Health and Human Services System Cash Fund.

12           Sec. 1492. Section 81-654, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           81-654 For purposes of sections 81-653 to 81-661:

15           (1) Brain injury registry shall mean the system of  
16 reporting established by sections 81-653 to 81-661 in which cases  
17 of brain or head injury in this state are reported and recorded  
18 in order to achieve the goals of statistical identification and  
19 planning for treatment and rehabilitation of persons with brain or  
20 head injury and prevention of such injury;

21           (2) Brain or head injury shall mean clinically evident  
22 neurotrauma resulting directly or indirectly from closed or  
23 penetrating brain or head trauma, infection, febrile condition,  
24 anoxia, vascular lesions, toxin, or spinal cord injury, not  
25 primarily related to congenital or degenerative conditions,  
26 chemical dependency, or aging processes, which impairs mental,  
27 cognitive, behavioral, or physical functioning; and

1                   (3) System means the Health and Human Services System.  
2 ~~Department shall mean the Department of Health and Human Services~~  
3 ~~Regulation and Licensure.~~

4                   Sec. 1493. Section 81-655, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6                   81-655 The ~~department~~ system shall establish and  
7 maintain a central registry of information concerning persons  
8 with brain or head injury that occurs within the state, which  
9 information the ~~department~~ system deems necessary and appropriate  
10 for the statistical identification and planning for treatment and  
11 rehabilitation of persons with brain or head injury and prevention  
12 of such injury. Any information released from the registry shall be  
13 disclosed as Class I, Class II, and Class IV data as provided in  
14 sections 81-663 to 81-675.

15                   Sec. 1494. Section 81-656, Revised Statutes Cumulative  
16 Supplement, 2006, is amended to read:

17                   81-656 In order to implement the intent and purposes of  
18 section 81-653, the ~~department~~ system shall:

19                   (1) Adopt and promulgate necessary rules and regulations,  
20 including a uniform system of classification of brain or head  
21 injury which is consistent with medically and clinically accepted  
22 standards and definitions for use in reporting by treating medical  
23 personnel and hospitals. The ~~department~~ system shall be guided by  
24 the standards and definitions of the International Classification  
25 of Disease, Clinical Modification Coding System of the World Health  
26 Organization; and

27                   (2) Comply with all necessary requirements in order to

1 obtain funds or grants.

2           Sec. 1495. Section 81-657, Revised Statutes Cumulative  
3 Supplement, 2006, is amended to read:

4           81-657 (1) If a person with brain or head injury is not  
5 admitted to a hospital within the state but is treated in this  
6 state in the office of a physician or psychologist licensed under  
7 the Uniform Licensing Law, the treating physician or psychologist  
8 shall report the brain or head injury to the ~~department~~ system  
9 within thirty days after identification of the person sustaining  
10 such injury. Each treating physician or psychologist shall be  
11 required to report each brain or head injury only one time.

12           (2) Each hospital and each rehabilitation center located  
13 within a hospital in the State of Nebraska shall annually report  
14 to the ~~department~~ system a brain or head injury which results in  
15 admission or treatment.

16           (3) The report shall contain the following information  
17 about the person sustaining the injury:

18           (a) Name;

19           (b) Social security number;

20           (c) Date of birth;

21           (d) Gender;

22           (e) Residence;

23           (f) Date of the injury;

24           (g) Final diagnosis or classification of the injury  
25 according to the International Classification of Disease, Clinical  
26 Modification Coding System, as adopted by the ~~department,~~ system;

27           (h) Cause of the injury and, if practicable, whether the

1 injury resulted from an accident involving the use of alcohol;

2 (i) Place or site of occurrence of the injury;

3 (j) Identification of the reporting source;

4 (k) Dispensation upon discharge;

5 (l) Payor source; and

6 (m) Any additional information the ~~department~~ system can  
7 demonstrate is reasonable in order to implement the purposes stated  
8 in section 81-653.

9 Sec. 1496. Section 81-659, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 81-659 No patient-identifying data as defined in section  
12 81-664 shall be divulged, made public, or released by the  
13 ~~department~~ system to any public or private person or entity.  
14 All other data obtained from medical records of persons sustaining  
15 brain or head injury is for the confidential use as Class I, Class  
16 II, or Class IV data of the ~~department~~ system and the private or  
17 public persons or entities that the ~~department~~ system determines  
18 may view such records as provided in sections 81-663 to 81-675.

19 Sec. 1497. Section 81-661, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 81-661 The Department of Correctional Services, the  
22 ~~Department of Health and Human Services Regulation and Licensure,~~  
23 ~~the Department of Health and Human Services,~~ Health and Human  
24 Services System, the State Department of Education and its  
25 divisions of special education and vocational rehabilitation,  
26 and all other state agencies which serve persons with brain or  
27 head injury shall recognize brain or head injury as a distinct



1 disability and shall identify those persons with brain or head  
2 injury among the persons served by the agency. Such agencies shall  
3 utilize the brain injury registry for improvement of state services  
4 for persons with brain or head injury.

5           Sec. 1498. Section 81-663, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           81-663 The Legislature finds that there is a need to  
8 establish a framework for consistent release of medical record and  
9 health information from the many registries and data bases the  
10 ~~Department of Health and Human Services Regulation and Licensure~~  
11 system maintains for the State of Nebraska. The purpose of the  
12 release of data is to encourage research which will protect the  
13 health and safety of the citizens of Nebraska by assisting in the  
14 prevention, cure, and control of specific diseases or injuries.

15           Sec. 1499. Section 81-664, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17           81-664 For purposes of sections 81-663 to 81-675:

18           (1) Aggregate data means data contained in the medical  
19 record and health information registries maintained by the  
20 ~~department~~ system which is compiled in a statistical format and  
21 which does not include patient-identifying data;

22           (2) Approved researcher means an individual or entity  
23 which is approved by the ~~department~~ system pursuant to section  
24 81-666 to obtain access to data contained in the medical record and  
25 health information registries maintained by the ~~department~~ system  
26 to assist in the scientific or medical research for the prevention,  
27 cure, or control of a disease or injury process;

1           (3) Case-specific data means data contained in the  
2 medical record and health information registries concerning a  
3 specific individual other than patient-identifying data;

4           ~~(4) Department means the Department of Health and Human  
5 Services Regulation and Licensure;~~

6           ~~(5)~~ (4) Medical record and health information registry  
7 means the system of reporting certain medical conditions occurring  
8 in this state, as prescribed by law, which are reported and  
9 recorded in order to achieve the goals of prevention, cure, and  
10 control through research and education, and includes the birth  
11 defects registry established in section 71-646, the cancer registry  
12 established in sections 81-642 to 81-650, the brain injury registry  
13 established in sections 81-653 to 81-661, and the Parkinson's  
14 Disease Registry established in the Parkinson's Disease Registry  
15 Act;

16           ~~(6)~~ (5) Patient-identifying data means the patient's  
17 name, address, record number, symbol, or other identifying  
18 particular assigned to or related to an individual patient; and

19           ~~(7)~~ (6) Research means study specific to the diseases  
20 or injuries for which access to data is requested and which is  
21 dedicated to the prevention, cure, or control of the diseases or  
22 injuries; and -

23           (7) System means the Health and Human Services System.

24           Sec. 1500. Section 81-665, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26           81-665 To implement the intent and purposes of sections  
27 81-663 to 81-675, the ~~department~~ system shall:

1           (1) Adopt and promulgate necessary rules and regulations,  
2 including rules and regulations for the frequency and form  
3 of information submitted and for standards and procedures for  
4 approving researchers;

5           (2) Execute contracts that the ~~department~~ system  
6 considers necessary; and

7           (3) Receive and record the data obtained from the medical  
8 and health information records of persons with particular diseases  
9 or injuries.

10           Sec. 1501. Section 81-666, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           81-666 The ~~department~~ system may approve an individual  
13 or entity to be an approved researcher upon application and proof  
14 satisfactory to the ~~department~~ system that the applicant is a  
15 qualified researcher, that the data will be used for bona fide  
16 scientific or medical research for prevention, cure, or control of  
17 certain diseases or injuries, and that the applicant will maintain  
18 the confidentiality and security of data obtained. The application  
19 shall contain, but not be limited to, the following information:

20           (1) The qualifications of the applicant and of the  
21 principal investigator, if other than the applicant, including  
22 education, experience, prior publications, and recommendations  
23 of professional colleagues who have knowledge and experience of  
24 scientific or medical research;

25           (2) The purpose of the research project, a summary of the  
26 project, and the anticipated time of completion of such project;

27           (3) The location where the research project will be

1 conducted and the equipment, personnel, and other resources  
2 available to the applicant to carry out the project;

3 (4) The identity of the individual or entity funding  
4 the research project, a description of the availability of funds  
5 for the research project, and any conditions on the receipt or  
6 continuation of such funding;

7 (5) The specific data requested and a description of  
8 the use to be made of such data and, if patient-identifying data  
9 is requested, a substantiation of the need for access to such  
10 patient-identifying data;

11 (6) A description of the measures to be taken to secure  
12 the data and maintain the confidentiality of such data during the  
13 research project, for disposal of the data upon completion of the  
14 study, and to assure that the results of the study will not divulge  
15 or make public information that will disclose the identity of any  
16 individual patient;

17 (7) If contact with a patient or patient's family is  
18 planned or expected, substantiation of the need for such contact  
19 and a description of the method to be used to obtain permission  
20 from such patient or patient's family for such contact; and

21 (8) Such additional information as the ~~department~~ system  
22 determines to be necessary to assure that release of data to the  
23 applicant is appropriate and will further the purpose of sections  
24 81-663 to 81-675 or the laws governing the specific registry.

25 Sec. 1502. Section 81-667, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27 81-667 Medical records provided to the ~~department~~ system

1 for use in its medical record and health information registries  
2 shall be classified for release according to the following  
3 categories:

4 (1) Class I data shall be confidential with release only  
5 in aggregate data reports created by the ~~department~~ system on a  
6 periodic basis, usually specified in the statutes creating the  
7 registry. These reports shall be public documents;

8 (2) Class II data shall be confidential with release only  
9 in aggregate data reports created by the ~~department~~ system at the  
10 request of an individual. These reports shall be public documents;

11 (3) Class III data shall be confidential with release  
12 of patient-identifying data to approved researchers for specific  
13 research projects. The approved researcher shall maintain the  
14 confidentiality of the information; and

15 (4) Class IV data shall be confidential with release  
16 of case-specific data to approved researchers for specific  
17 research projects. The approved researcher shall maintain the  
18 confidentiality of the data.

19 Sec. 1503. Section 81-668, Revised Statutes Cumulative  
20 Supplement, 2006, is amended to read:

21 81-668 All case-specific and patient-identifying data  
22 obtained from medical records of individual patients shall be for  
23 the confidential use of the ~~department,~~ system, those reporting  
24 data to the ~~department,~~ system, and the public health agencies and  
25 approved researchers that the ~~department~~ system determines may view  
26 such records in order to carry out the intent of sections 81-663  
27 to 81-675. Such information shall be privileged and shall not

1 otherwise be divulged or made public so as to disclose the identity  
2 of an individual whose medical records and health information have  
3 been used for acquiring such data. Aggregate data collected shall  
4 be open and accessible to the public, and such information shall  
5 not be considered medical records pursuant to section 84-712.05.  
6 The cost of data retrieval and data processing shall be paid by the  
7 data requester.

8 Case-specific and patient-identifying data may be  
9 released to those individuals or entities who have reported  
10 information to the ~~department.~~ system. Such data may be released  
11 for the purpose of confirming the accuracy of the data provided and  
12 to coordinate information among sources.

13 Sec. 1504. Section 81-670, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 81-670 The approved researcher shall submit the reports  
16 or results of the research project to the ~~department.~~ system. The  
17 ~~department~~ system shall review such reports or results and shall  
18 prohibit publication of confidential information. The approved  
19 researcher shall acknowledge the ~~department~~ system and its medical  
20 record and health information registries in any publication in  
21 which information obtained from the medical record and health  
22 information registries is used.

23 Sec. 1505. Section 81-671, Revised Statutes Cumulative  
24 Supplement, 2006, is amended to read:

25 81-671 (1) Except as otherwise provided by the law  
26 governing a specific medical record and health information  
27 registry, the ~~department~~ system may release information contained

1 in a registry to official public health departments and agencies  
2 as follows:

3 (a) Upon request by an official local health department  
4 within the State of Nebraska, the ~~department~~ system may release  
5 such data to the requesting local health department. The official  
6 local health department shall not contact patients using data  
7 received under sections 81-663 to 81-675 without approval by  
8 the ~~department~~ system of an application made pursuant to section  
9 81-666; and

10 (b) Upon approval of an application by federal, state,  
11 or local official public health agencies made pursuant to section  
12 81-666, the ~~department~~ system may release such data.

13 (2) The receiving agency shall not further disclose such  
14 data to any third party but may publish aggregate statistical  
15 reports, except that no patient-identifying data shall be divulged,  
16 made public, or released to any public or private person or  
17 entity. The receiving agency shall comply with the patient contact  
18 provisions of sections 81-663 to 81-675. The receiving agency shall  
19 acknowledge the ~~department~~ system and its medical record and health  
20 information registries in any publication in which information  
21 obtained from the medical record and health information registries  
22 is used.

23 (3) The release and acknowledgment provisions of this  
24 section do not apply to cancer registries located in another state  
25 which receive data through approved data exchange agreements.

26 Sec. 1506. Section 81-673, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

1           81-673 Nothing in sections 81-663 to 81-675 shall  
2 be deemed to compel any individual to submit to any medical  
3 examination or supervision by the ~~department~~, system, any of its  
4 authorized representatives, or an approved researcher. No person  
5 who seeks information or obtains registry data pursuant to such  
6 sections shall contact a patient on the registry or such patient's  
7 family unless the registry has first obtained the permission of  
8 such patient or patient's family. The registry shall coordinate its  
9 activities with the person desiring such contact and may authorize  
10 the person desiring such contact to perform these contacts under  
11 the direction of the registry.

12           Sec. 1507. Section 81-675, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           81-675 The ~~department~~ system shall adopt and promulgate  
15 rules and regulations to implement sections 81-663 to 81-674.

16           Sec. 1508. Section 81-676, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           81-676 The ~~Department of Health and Human Services~~  
19 ~~Regulation and Licensure~~ Health and Human Services System shall  
20 establish a health care data analysis section to conduct data  
21 and research initiatives in order to improve the efficiency and  
22 effectiveness of health care in Nebraska.

23           Sec. 1509. Section 81-677, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           81-677 The ~~Department of Health and Human Services~~  
26 ~~Regulation and Licensure~~, Health and Human Services System, through  
27 the health care data analysis section, shall:



1           (1) Conduct research using existing health care data  
2 bases and promote applications based on existing research;

3           (2) Work closely with health plans and health care  
4 providers to promote improvements in health care efficiency and  
5 effectiveness;

6           (3) Participate as a partner or sponsor of private-sector  
7 initiatives that promote applied research on health care delivery,  
8 outcomes, costs, quality, and management; and

9           (4) Provide technical assistance as needed.

10           Sec. 1510. Section 81-678, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           81-678 Data and research initiatives by the health care  
13 data analysis section of the ~~Department of Health and Human~~  
14 ~~Services Regulation and Licensure~~ Health and Human Services System  
15 shall:

16           (1) Promote applied research on health care delivery,  
17 outcomes, costs, quality, and management;

18           (2) Conduct research and promote health care applications  
19 based on scientifically sound and statistically valid methods;

20           (3) Emphasize data that is useful and relevant and is not  
21 redundant of existing data;

22           (4) Be structured to minimize the administrative burden  
23 on health plans, health care providers, and the health care  
24 delivery system; and

25           (5) Promote continuous improvement in the efficiency and  
26 effectiveness of health care delivery.

27           Sec. 1511. Section 81-679, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           81-679 Data and research initiatives by the health care  
3 data analysis section of the ~~Department of Health and Human~~  
4 ~~Services Regulation and Licensure~~ Health and Human Services System  
5 related to public-sector health care programs shall:

6           (1) Assist the state's current health care financing  
7 and delivery programs to deliver and purchase health care in a  
8 manner that promotes improvements in health care efficiency and  
9 effectiveness;

10           (2) Assist the state in its public health activities,  
11 including the analysis of disease prevalence and trends and the  
12 development of public health responses;

13           (3) Assist the state in developing and refining its  
14 overall health policy, including policy related to health care  
15 costs, quality, and access; and

16           (4) Provide health care information that allows the  
17 evaluation of state health care financing and delivery programs.

18           Sec. 1512. Section 81-680, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20           81-680 (1) To carry out the duties assigned under  
21 sections 81-677 to 81-679, the ~~Department of Health and Human~~  
22 ~~Services Regulation and Licensure~~ Health and Human Services System  
23 may contract with or provide grants to private-sector entities.

24           (2) The health care data analysis section of the  
25 ~~Department of Health and Human Services Regulation and~~  
26 ~~Licensure~~ Health and Human Services System shall negotiate  
27 with private-sector organizations currently collecting data

1 on specific health conditions of interest to the section in  
2 order to obtain required data in a cost-effective manner and  
3 minimize administrative costs. The section shall support linkages  
4 between existing private-sector data bases and shall consider and  
5 implement methods to streamline data collection in order to reduce  
6 public-sector and private-sector administrative costs.

7 (3) The health care data analysis section shall use  
8 existing public-sector data bases, such as those existing for the  
9 medical assistance program and medicare, to the greatest extent  
10 possible. The section shall support linkages between existing  
11 public-sector data bases and consider and implement methods  
12 to streamline public-sector data collection in order to reduce  
13 public-sector and private-sector administrative costs.

14 Sec. 1513. Section 81-699, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 81-699 For purposes of the Parkinson's Disease Registry  
17 Act:

18 (1) Approved researcher means an individual or entity who  
19 is approved by the ~~department~~ system in accordance with section  
20 81-666 to obtain access to data contained in the Parkinson's  
21 Disease Registry to assist in scientific or medical research for  
22 the prevention, cure, or control of Parkinson's disease;

23 ~~(2) Department means the Department of Health and Human~~  
24 ~~Services Regulation and Licensure;~~

25 ~~(3)~~ (2) Parkinson's disease means a chronic, progressive  
26 disorder in which there is a lack of the chemical dopamine  
27 in the brain as a direct result of the destruction of the

1 dopamine-producing cells in the portion of the brain called the  
2 substantia nigra. Clinical features of the disease include tremor  
3 at rest, slow movements, rigidity, and unsteady or shuffling gait  
4 and may be indicated by improvement after using medications used  
5 for Parkinson's disease; and

6 ~~(4)~~ (3) Related movement disorder means a disorder that  
7 resembles Parkinson's disease in some way, such as another kind of  
8 tremor; and ~~-~~

9 (4) System means the Health and Human Services System.

10 Sec. 1514. Section 81-6,100, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 81-6,100 The ~~department~~ system shall establish and  
13 maintain the Parkinson's Disease Registry. The registry shall  
14 consist of a compilation of the reports of cases of Parkinson's  
15 disease and related movement disorders occurring among residents  
16 of this state which are with the ~~department.~~ system. The registry  
17 shall include information the ~~department~~ system deems necessary  
18 and appropriate for the statistical identification and planning  
19 for treatment and education of health care providers and persons  
20 diagnosed with Parkinson's disease and related movement disorders.

21 Sec. 1515. Section 81-6,101, Revised Statutes Cumulative  
22 Supplement, 2006, is amended to read:

23 81-6,101 The ~~department~~ system shall:

24 (1) Adopt and promulgate rules and regulations, including  
25 a uniform system of classification of Parkinson's disease which  
26 is consistent with medically and clinically accepted standards and  
27 definitions for use in reporting by medical personnel treating the

1 disease;

2 (2) Execute any contracts that the ~~department~~ system  
3 deems necessary to carry out the Parkinson's Disease Registry Act;

4 (3) Receive and record the data obtained from reports  
5 filed under sections 81-6,102 and 81-6,103; and

6 (4) Comply with all necessary requirements to obtain  
7 funds or grants.

8 Sec. 1516. Section 81-6,102, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 81-6,102 (1) If a resident of this state is diagnosed  
11 with Parkinson's disease or a related movement disorder within this  
12 state in the office of a physician licensed under the Uniform  
13 Licensing Law, the physician shall file a report of the diagnosis  
14 and pertinent information with the ~~department~~ system within sixty  
15 days after the diagnosis.

16 (2) An individual resident of this state who has been  
17 diagnosed with Parkinson's disease or a related movement disorder  
18 by a licensed physician may file a report with the ~~department~~  
19 system providing relevant information. The ~~department~~ system shall  
20 provide for validation of individual reports.

21 (3) A report filed under this section shall contain the  
22 following information about the person diagnosed with Parkinson's  
23 disease or a related movement disorder:

24 (a) Name;

25 (b) Social security number;

26 (c) Date of birth;

27 (d) Gender;

- 1 (e) Address at time of diagnosis;  
2 (f) Current address;  
3 (g) Date of diagnosis;  
4 (h) Physician;  
5 (i) Identification of reporting source; and  
6 (j) Any additional information the ~~department~~ system  
7 demonstrates is reasonable to implement the Parkinson's Disease  
8 Registry Act.

9 Sec. 1517. Section 81-6,103, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 81-6,103 The pharmacist in charge of each pharmacy  
12 located within the state or doing business in the state shall  
13 file a semiannual report with the ~~department~~ system listing persons  
14 to whom the pharmacist has dispensed drugs on the list of drugs  
15 required to be reported under this section for Parkinson's disease.  
16 The report shall include the name, address, and social security  
17 number of the person for whom the drugs were prescribed and the  
18 name and address of the prescribing physician. The ~~department~~  
19 system shall issue a list of drugs used for the treatment of  
20 Parkinson's disease to be reported under this section, shall review  
21 and revise the list annually, and shall distribute the list to each  
22 pharmacy located within the state or doing business in the state.

23 Sec. 1518. Section 81-6,105, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 81-6,105 Nothing in the Parkinson's Disease Registry Act  
26 shall be deemed to compel any individual to submit to any medical  
27 examination or supervision by the ~~department,~~ system, any of its

1 authorized representatives, or an approved researcher. No person  
2 who seeks information or obtains registry data pursuant to the  
3 act shall contact a patient on the registry or such patient's  
4 family unless the registry has first obtained the permission of  
5 such patient or patient's family. The registry shall coordinate its  
6 activities with the person desiring such contact and may authorize  
7 the person desiring such contact to perform these contacts under  
8 the direction of the registry.

9           Sec. 1519. Section 81-6,109, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           81-6,109 (1) On and after May 26, 2001, for purposes of  
12 the Parkinson's Disease Registry Act:

13           (a) Any rules, regulations, and orders of the Department  
14 of Health and Human Services Regulation and Licensure adopted  
15 pursuant to the former Parkinson's Disease Registry Act, as such  
16 act existed prior to February 14, 2001, and in effect on February  
17 13, 2001, shall be revived and continue in effect until revised,  
18 amended, repealed, or nullified pursuant to law;

19           (b) Any contracts entered into by the department prior  
20 to February 14, 2001, and in effect on February 13, 2001, in  
21 connection with the duties and functions of the former act are  
22 recognized and may be revived upon the agreement of all contract  
23 parties. If revived, the ~~department~~ system shall succeed to all  
24 rights and obligations under such contracts;

25           (c) Any cash funds, custodial funds, gifts, trusts,  
26 grants, and appropriations of funds which were available for use by  
27 the ~~department~~ system for purposes of the former act shall continue

1 to be available for use by the ~~department~~ system if such funds  
2 continue to exist; and

3 (d) Any documents created, information compiled, or  
4 property used by the ~~department~~ system under the former act shall  
5 continue to be available to and may be used by the ~~department~~.  
6 system.

7 (2) For purposes of this section, former act means the  
8 Parkinson's Disease Registry Act, as such act existed prior to  
9 February 14, 2001, which act was outright repealed in Laws 2001, LB  
10 209.

11 Sec. 1520. Section 81-6,110, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 81-6,110 Costs associated with administration of the  
14 Parkinson's Disease Registry Act shall be paid from cash funds,  
15 contract receipts, gifts, and grants. No general funds shall  
16 be used to pay such costs. Funds received by the ~~department~~  
17 system for the payment of such costs shall be remitted to  
18 the State Treasurer for credit to the ~~Department of Health and~~  
19 ~~Human Services Regulation and Licensure~~ Health and Human Services  
20 System Cash Fund. Notwithstanding any other provision of the act,  
21 the Parkinson's Disease Registry and all duties related to the  
22 administration of such registry and such act shall cease as of  
23 June 30 of any year in which the ~~department~~ system has insufficient  
24 funds on hand to perform its duties under the act for the next  
25 fiscal year, after providing thirty days' written notice to each  
26 approved researcher who has contracted with the ~~department~~ system  
27 under section 81-6,101 in the current biennium.



1           Sec. 1521. Section 81-6,113, Revised Statutes Cumulative  
2 Supplement, 2006, is amended to read:

3           81-6,113 For purposes of the Outpatient Surgical  
4 Procedures Data Act:

5           ~~(1) Department means the Department of Health and Human  
6 Services Regulation and Licensure;~~

7           ~~(2)~~ (1) Medicaid means the medical assistance program  
8 established pursuant to the Medical Assistance Act;

9           ~~(3)~~ (2) Medicare means Title XVIII of the federal Social  
10 Security Act, as such title existed on January 1, 2003;

11           ~~(4)~~ (3) Outpatient surgical procedure means a surgical  
12 procedure provided to patients who do not require inpatient  
13 hospitalization;

14           ~~(5)~~ (4) Primary payor means the public payor or private  
15 payor which is expected to be responsible for the largest  
16 percentage of the patient's current bill;

17           ~~(6)~~ (5) Private payor means any nongovernmental source of  
18 funding; ~~and~~

19           ~~(7)~~ (6) Public payor means medicaid, medicare, and any  
20 other governmental source of funding; ~~and~~ -

21           (7) System means the Health and Human Services System.

22           Sec. 1522. Section 81-6,114, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           81-6,114 (1) Every hospital or ambulatory surgical center  
25 licensed under the Health Care Facility Licensure Act shall  
26 annually report the following outpatient surgical and related  
27 information to the ~~department~~ system no later than May 1 of each

1 year for the preceding calendar year in a format as prescribed by  
2 the ~~department~~ system in rule and regulation:

3 (a) The name of the reporting facility;

4 (b) The facility portion of billed charges for each  
5 patient served at such facility;

6 (c) The county and state of residence by zip code for  
7 each patient served at such facility;

8 (d) The primary outpatient surgical procedure performed  
9 for each patient at such facility;

10 (e) The primary payor for each patient served at such  
11 facility; and

12 (f) Such other outpatient surgical information as  
13 voluntarily reported by such facilities.

14 (2) The ~~department~~ system may impose a late fee for  
15 failure to report such information as required by this section.

16 Sec. 1523. Section 81-6,115, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 81-6,115 All information reported to the ~~department~~  
19 system pursuant to section 81-6,114 shall be privileged  
20 communications, shall not be discoverable or subject to subpoena,  
21 and may not be used or offered or received in evidence in any legal  
22 proceeding of any kind or character. Such information shall remain  
23 confidential with the ~~department~~ system and shall not be disclosed  
24 except as provided in sections 81-6,116 and 81-6,117.

25 Sec. 1524. Section 81-6,116, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27 81-6,116 (1) Information reported under section 81-6,114

1 may be used by the ~~department~~ system for statistical and public  
2 health planning purposes and for other public health purposes as  
3 identified by the ~~department~~ system in rule and regulation.

4 (2) The ~~department~~ system shall periodically review  
5 information collected under section 81-6,114 for the purpose  
6 of identifying potential policies or practices of any reporting  
7 facility which may be detrimental to the public health, including,  
8 but not limited to, policies and practices which may have  
9 the effect of limiting access to needed health care services  
10 for Nebraska residents. The ~~department~~ system shall provide  
11 recommendations to the Health and Human Services Committee of the  
12 Legislature relating to appropriate administrative and legislative  
13 responses to such policies and practices and shall provide an  
14 annual report to the chairperson of such committee of its findings  
15 and its current or planned activities under this section, if any.

16 Sec. 1525. Section 81-6,117, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 81-6,117 The ~~department~~ system shall publish an annual  
19 statistical report from information collected under section  
20 81-6,114 which shall include: (1) The twenty most frequently  
21 performed outpatient surgical procedures by type of procedure; (2)  
22 the total number of persons served for each listed procedure; (3)  
23 the total number of persons served by county and state of residence  
24 and region of service; and (4) the average billed charges for such  
25 procedures by county and state of residence. The ~~department~~ system  
26 shall designate service regions for the purpose of aggregating and  
27 reporting information as required by this section. No information

1 shall be published or disclosed by the ~~department~~ system under this  
2 section in a manner that identifies or may be used to identify any  
3 individual hospital or ambulatory surgical center.

4 Sec. 1526. Section 81-6,118, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 81-6,118 Costs associated with implementation of the  
7 Outpatient Surgical Procedures Data Act may be considered by the  
8 ~~department~~ system in determining variable costs for purposes of  
9 establishing licensure fees under section 71-434 and shall not  
10 require an appropriation of General Funds.

11 Sec. 1527. Section 81-6,119, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 81-6,119 The ~~department~~ system shall adopt and promulgate  
14 rules and regulations to implement the Outpatient Surgical  
15 Procedures Data Act. Such rules and regulations shall comply with  
16 all applicable provisions of federal law and shall minimize the  
17 imposition of additional costs to reporting facilities.

18 Sec. 1528. Section 81-1021, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 81-1021 (1) All motor vehicles acquired by the State of  
21 Nebraska shall be indelibly and conspicuously lettered, in plain  
22 letters of a contrasting color or reflective material:

23 (a) On each side thereof with the words State of Nebraska  
24 and following such words the name of whatever board, department,  
25 bureau, division, institution, including the University of Nebraska  
26 or state college, office, system, or other state expending agency  
27 of the state to which the motor vehicle belongs; and

1 (b) On the back thereof with the words State of Nebraska.

2 (2) This section shall not apply to motor vehicles used  
3 or controlled by:

4 (a) The Nebraska State Patrol, the Public Service  
5 Commission, the Game and Parks Commission, deputy state sheriffs  
6 employed by the Nebraska Brand Committee and State Fire Marshal  
7 for state law enforcement purposes, inspectors employed by the  
8 Nebraska Liquor Control Commission, and persons employed by the Tax  
9 Commissioner for state revenue enforcement purposes, the exemption  
10 for state law enforcement purposes and state revenue enforcement  
11 purposes being confined strictly to the seven agencies specifically  
12 named;

13 (b) ~~The Department of Health and Human Services Health~~  
14 ~~and Human Services System~~ or the Department of Correctional  
15 Services for the purpose of apprehending and returning escaped  
16 offenders or parole violators to facilities in the Department of  
17 Correctional Services and transporting offenders and personnel of  
18 the Department of Correctional Services and patients and personnel  
19 of the ~~Department of Public Institutions until January 1, 1997, and~~  
20 ~~on and after January 1, 1997, the Department of Health and Human~~  
21 ~~Services system~~ who are engaged in off-campus program activities;

22 (c) The Military Department;

23 (d) Vocational rehabilitation counselors and the  
24 ~~Department of Health and Human Services Health and Human Services~~  
25 ~~System~~ for the purposes of communicable disease control, for  
26 the prevention and control of those communicable diseases which  
27 endanger the public health, or used by the ~~Department of Health and~~

1 ~~Human Services Regulation and Licensure system~~ in the enforcement  
2 of drug control laws or for other investigation purposes;

3 (e) The Department of Agriculture for special  
4 investigative purposes;

5 (f) The Nebraska Motor Vehicle Industry Licensing Board  
6 for investigative purposes; and

7 (g) The Insurance Fraud Prevention Division of the  
8 Department of Insurance for investigative purposes.

9 Sec. 1529. Section 81-1108.27, Reissue Revised Statutes  
10 of Nebraska, is amended to read:

11 81-1108.27 The Board of Regents of the University of  
12 Nebraska is authorized to furnish and to enter into agreements  
13 with the ~~Department of Health and Human Services~~ Health and Human  
14 Services System and the Department of Correctional Services to  
15 furnish a supply of electric current to such ~~departments~~ system  
16 and department at the line now maintained or hereafter constructed  
17 between the electric power plant at the Department of Correctional  
18 Services adult correctional facility and the State Capitol, which  
19 power shall be furnished by the heating plant located upon the city  
20 campus of the University of Nebraska at Lincoln, except that such  
21 electrical service to the ~~Department of Health and Human Services~~  
22 and the Department of Correctional Services system and department  
23 for distribution to other state buildings and institutions shall  
24 be furnished only if the same may be generated and furnished  
25 without impairment or reduction of the power necessary to proper  
26 and efficient operation of the University of Nebraska and the State  
27 Capitol, including the executive mansion.

1           Sec. 1530. Section 81-1108.28, Reissue Revised Statutes  
2 of Nebraska, is amended to read:

3           81-1108.28 ~~The Department of Health and Human Services~~  
4 Health and Human Services System and the Department of Correctional  
5 Services are authorized to furnish and to enter into agreements  
6 with the Board of Regents of the University of Nebraska to furnish  
7 a supply of electric current to the Board of Regents of the  
8 University of Nebraska at the line now maintained, or hereafter  
9 constructed, between the electric power plant at the University of  
10 Nebraska and the State Capitol, which power shall be furnished by  
11 the electric power plant located at the Department of Correctional  
12 Services adult correctional facility, except that such electrical  
13 service to the Board of Regents shall be furnished only if the  
14 same may be generated and furnished without impairment or reduction  
15 of the power necessary to proper and efficient operation of  
16 state buildings and institutions dependent upon the Department of  
17 Correctional Services adult correctional facility power plant.

18           Sec. 1531. Section 81-1139.01, Reissue Revised Statutes  
19 of Nebraska, is amended to read:

20           81-1139.01 Until June 30, 1993, the Department of  
21 Administrative Services shall be limited to the same rental rate  
22 on the Stone Office Building at the Norfolk Regional Center as  
23 existed on January 1, 1992. ~~The Department of Health and Human~~  
24 ~~Services Finance and Support~~ Health and Human Services System shall  
25 be limited to reimbursement from the counties maintaining office  
26 space in the Stone Office Building pursuant to section 68-130 in  
27 the same amount such counties paid for rental of such space on

1 January 1, 1992.

2 Sec. 1532. Section 81-1281, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4 81-1281 (1) The Department of Economic Development  
5 shall establish a comprehensive housing affordability strategy.  
6 The strategy shall identify needs, consider issues, and  
7 make recommendations regarding housing affordability, housing  
8 availability, housing accessibility, and housing quality in  
9 Nebraska. The department shall submit the strategy to the Governor  
10 and the Clerk of the Legislature by October 1, 1991.

11 (2) The department shall establish a housing advisory  
12 committee consisting of individuals and representatives of groups  
13 involved with housing issues in Nebraska to assist with the  
14 establishment of the strategy. The department shall work with  
15 the Governor's Policy Research Office, the Department of Health  
16 and Human Services, ~~the Department of Health and Human Services~~  
17 ~~Regulation and Licensure,~~ Health and Human Services System, the  
18 Department of Banking and Finance, the Nebraska Investment Finance  
19 Authority, and any other public or private agency involved in  
20 addressing housing needs in Nebraska.

21 (3) The strategy shall:

22 (a) Describe the state's estimated housing needs for  
23 the ensuing five-year period and the need for assistance for  
24 different types of tenure and for different categories of  
25 residents such as very-low-income, low-income, and moderate-income  
26 persons, the elderly, single persons, large families, residents  
27 of nonmetropolitan areas, and other categories determined to be



1 appropriate by the committee;

2 (b) Describe the nature and extent of homelessness  
3 in the state, providing an estimate of the special needs of  
4 various categories of persons who are homeless or threatened  
5 with homelessness and a description of the strategy for (i)  
6 helping low-income families avoid homelessness, (ii) addressing the  
7 emergency shelter and transitional housing needs of the homeless,  
8 including an inventory of facilities and services that meet such  
9 needs in Nebraska, and (iii) helping homeless persons make the  
10 transition to permanent housing;

11 (c) Describe significant characteristics of the housing  
12 market;

13 (d) Explain whether the cost of housing or the incentives  
14 to develop, maintain, or improve affordable housing in Nebraska are  
15 affected by public policies, including tax policies affecting land  
16 and other property, land-use controls, zoning ordinances, building  
17 codes, fees and charges, growth limits, and policies that affect  
18 the return on residential investment;

19 (e) Explain the institutional structure, including  
20 private industry, nonprofit organizations, and public institutions  
21 through which the state will carry out the strategy, assessing the  
22 strengths and gaps and describing what will be done to overcome  
23 any gaps;

24 (f) Describe the means of coordination and cooperation  
25 among the units of state and local government in the development  
26 and implementation of the strategy;

27 (g) Establish standards and procedures for monitoring

1 housing activities undertaken because of the strategy; and

2 (h) Include any other information on housing in Nebraska  
3 deemed relevant by the Department of Economic Development or the  
4 committee.

5 Sec. 1533. Section 81-15,103, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 81-15,103 (1) For licensed activities involving disposal  
8 of low-level radioactive waste, the council shall adopt and  
9 promulgate rules and regulations which require a licensee  
10 to provide an adequate surety or other financial arrangement  
11 sufficient to accomplish any necessary corrective action or cleanup  
12 on real or personal property caused by releases of radiation from a  
13 disposal site during the operational life and closure period of the  
14 facility and to comply with the requirements for decontamination,  
15 decommissioning, site closure, and stabilization of sites, and  
16 structures and equipment used in conjunction with such licensed  
17 activity, in the event the licensee abandons the facility or  
18 defaults for any reason in performing its operational, closure,  
19 or other requirements. Such sureties required under the license  
20 shall be compatible with applicable federal financial assurance  
21 regulations and shall be reviewed by the department at the time  
22 of license review under subsection (1) of section 81-15,106. Any  
23 arrangement which constitutes self-insurance shall not be allowed.  
24 In addition to the surety requirements, the licensee shall purchase  
25 property and third-party liability insurance and pay the necessary  
26 periodic premiums at all times in such amounts as determined by the  
27 council pursuant to rules and regulations adopted and promulgated

1 pursuant to the Low-Level Radioactive Waste Disposal Act.

2 (2) All sureties required pursuant to subsection (1) of  
3 this section which are forfeited shall be paid to the department  
4 and remitted to the State Treasurer for credit to the Radiation  
5 Site Closure and Reclamation Fund which is hereby created. Any  
6 money in the fund may be expended by the department as necessary to  
7 complete the requirements on which licensees have defaulted. Money  
8 in this fund shall not be used for normal operating expenses of the  
9 department. Any money in the fund available for investment shall be  
10 invested by the state investment officer pursuant to the Nebraska  
11 Capital Expansion Act and the Nebraska State Funds Investment Act.

12 (3) For licensed activities involving the disposal of  
13 low-level radioactive waste, the council shall adopt and promulgate  
14 rules and regulations which require a licensee, before termination  
15 of the license, to make available such funding arrangements as may  
16 be necessary to provide for custodial care.

17 (4) (a) Remedial cleanup costs which become necessary  
18 during the operational life and closure of the facility shall  
19 be the responsibility of the licensed facility operator either  
20 directly or through applicable surety bonds, insurance, and other  
21 financial arrangements required pursuant to subsection (1) of  
22 this section, and (b) any remaining remedial cleanup costs which  
23 become necessary during the operational life and closure of the  
24 facility and which exceed funds available under subdivision (a)  
25 of this subsection shall be assessed proportionately by waste  
26 volume against the generators, then proportionately by waste volume  
27 against the party states as provided by the Central Interstate

1 Low-Level Radioactive Waste Compact.

2 (5) Remedial cleanup costs which become necessary during  
3 the period of custodial care shall be assessed (a) first, against  
4 the funds established pursuant to this section and any surety  
5 bonds, insurance, or other financial arrangements established for  
6 the facility, excluding such funds reserved for custodial care,  
7 (b) second, against the licensed facility operator, (c) third,  
8 against the generators based on proportionate waste volume, and  
9 (d) fourth, against the party states based on proportionate waste  
10 volume as provided by the Central Interstate Low-Level Radioactive  
11 Waste Compact.

12 (6) All funds collected from licensees pursuant to  
13 subsection (3) of this section and subsection (1) of section  
14 81-15,101 shall be paid to the department and remitted to the State  
15 Treasurer for credit to the Radiation Custodial Care Fund which  
16 is hereby created. All interest accrued on money deposited in the  
17 fund may be expended by the department for the continuing custodial  
18 care, maintenance, and other care of facilities from which such  
19 funds are collected as necessary for protection of the public  
20 health, safety, and environment. Any money in the fund available  
21 for investment shall be invested by the state investment officer  
22 pursuant to the Nebraska Capital Expansion Act and the Nebraska  
23 State Funds Investment Act.

24 (7) The department may, by contract, agreement, lease,  
25 or license with the ~~Department of Health and Human Services~~  
26 ~~Regulation and Licensure~~, Health and Human Services System, provide  
27 for the decontamination, closure, decommissioning, reclamation,

1 surveillance, or other care of a site subject to this section as  
2 needed to carry out the purposes of this section.

3 Sec. 1534. Section 81-15,170, Revised Statutes Cumulative  
4 Supplement, 2006, is amended to read:

5 81-15,170 The Nebraska Environmental Trust Board is  
6 hereby created as an entity of the executive branch. The board  
7 shall consist of the Director of Environmental Quality, ~~the~~  
8 ~~Director of Regulation and Licensure,~~ the Director of Natural  
9 Resources, the Director of Agriculture, the secretary of the Game  
10 and Parks Commission, the chief executive officer of the Health and  
11 Human Services System or his or her designee, and nine citizens  
12 appointed by the Governor with the approval of a majority of the  
13 Legislature. The citizen members shall begin serving immediately  
14 following notice of nomination and prior to approval by the  
15 Legislature. The citizen members shall represent the general public  
16 and shall have demonstrated competence, experience, and interest  
17 in the environment of the state. Two of the citizen appointees  
18 shall also have experience with private financing of public-purpose  
19 projects. Three appointees shall be chosen from each of the  
20 three congressional districts. The board shall hire an executive  
21 director who shall hire and supervise other staff members as may be  
22 authorized by the board. The executive director shall serve at the  
23 pleasure of the board and be solely responsible to it. The Game and  
24 Parks Commission shall provide administrative support, including,  
25 but not limited to, payroll and accounting functions, to the board.

26 Sec. 1535. Section 81-15,189, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

1           81-15,189 In order to implement the Petroleum Products  
2 and Hazardous Substances Storage and Handling Act and the Petroleum  
3 Release Remedial Action Act, the Director of Environmental Quality  
4 shall appoint a technical advisory committee to work with the  
5 Department of Environmental Quality. The duties of the committee  
6 are advisory only. Committee members shall include, but not be  
7 limited to:

8           (1) The Director of Environmental Quality or his or her  
9 designee;

10          (2) The State Fire Marshal or his or her designee;

11          (3) The executive director of the Nebraska Petroleum  
12 Marketers and Convenience Store Association or his or her designee;

13          (4) The executive director of the League of Nebraska  
14 Municipalities or his or her designee;

15          (5) The executive director of the Nebraska Association of  
16 County Officials or his or her designee;

17          (6) The executive director of the Nebraska Petroleum  
18 Council or his or her designee;

19          (7) The executive director of the American Consulting  
20 Engineers Council of Nebraska or his or her designee;

21          (8) The executive director of the Nebraska Chamber of  
22 Commerce and Industry or his or her designee;

23          (9) The executive director of the Associated Builders and  
24 Contractors or his or her designee;

25          (10) The executive director of the Nebraska Cooperative  
26 Council or his or her designee;

27          (11) A representative of the ~~Department of Health and~~

1 ~~Human Services or a representative of the Department of Health and~~  
2 ~~Human Services Regulation and Licensure;~~ Health and Human Services  
3 System; and

4 (12) A member of the public representing environmental  
5 interests.

6 Committee members shall be reimbursed for actual and  
7 necessary expenses as provided in sections 81-1174 to 81-1177.

8 Sec. 1536. Section 81-15,210, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 81-15,210 (1) The director of the Nebraska Emergency  
11 Management Agency shall serve as the State Administrator of the  
12 Nebraska Emergency Planning and Community Right to Know Act. The  
13 State Emergency Response Commission is created and shall be a  
14 part of the Nebraska Emergency Management Agency for administrative  
15 purposes. The membership of the commission shall include the  
16 Director of Environmental Quality or his or her designee, ~~the~~  
17 ~~Director of Health and Human Services Regulation and Licensure~~  
18 ~~or his or her designee,~~ the Director-State Engineer or his or  
19 her designee, the Superintendent of Law Enforcement and Public  
20 Safety or his or her designee, the State Fire Marshal or  
21 his or her designee, the director of the Nebraska Emergency  
22 Management Agency or his or her designee, the chief executive  
23 officer of the Health and Human Services System or his or  
24 her designee, two elected officials or employees of municipal  
25 or county government, and one citizen member to represent each  
26 of the following interest groups: Firefighters, local emergency  
27 management, public or community health, environmental protection,

1 labor, school district, small business, agricultural business,  
2 chemical industry, highway transportation, and rail transportation.  
3 The Governor shall appoint the municipal or county government  
4 officials or employees and the citizen members with the approval of  
5 the Legislature. The appointments shall be made to represent the  
6 three congressional districts as equally as possible.

7 (2) The members appointed by the Governor shall be  
8 appointed for terms of four years, except that of the first citizen  
9 members appointed, three members shall serve for one-year terms,  
10 three members shall serve for two-year terms, and two members  
11 shall serve for three-year terms, as designated at the time of  
12 appointment.

13 (3) A vacancy on the commission shall exist in the event  
14 of the death, disability, or resignation of a member. Any member  
15 appointed to fill a vacancy occurring prior to the expiration of  
16 the term for which his or her predecessor was appointed shall be  
17 appointed by the Governor for the remainder of such term.

18 Sec. 1537. Section 81-15,245, Revised Statutes Cumulative  
19 Supplement, 2006, is amended to read:

20 81-15,245 The Private Onsite Wastewater Treatment System  
21 Advisory Committee is created. The advisory committee shall be  
22 composed of the following eleven members:

23 (1) Seven members appointed by the director as follows:

24 (a) Five private onsite wastewater treatment system  
25 professionals; and

26 (b) Two registered environmental health specialists or  
27 officials representing local public health departments which have



1 established programs for regulating private onsite wastewater  
2 treatment systems;

3 (2) The chief executive officer of the Health and Human  
4 Services System or his or her designee; The Director of Health and  
5 Human Services Regulation and Licensure or his or her designated  
6 representative;

7 (3) The Director of Environmental Quality or his or her  
8 designated representative; and

9 (4) One representative with experience in soils and  
10 geology and one representative with experience in biological  
11 engineering, both of whom shall be designated by the vice  
12 chancellor of the University of Nebraska Institute of Agriculture  
13 and Natural Resources.

14 Members shall be reimbursed for their actual and  
15 necessary expenses as provided in sections 81-1174 to 81-1177. The  
16 department shall provide administrative support for the advisory  
17 committee.

18 Sec. 1538. Section 81-1850, Revised Statutes Cumulative  
19 Supplement, 2006, is amended to read:

20 81-1850 (1) Upon request of the victim and at the time of  
21 conviction of the offender, the county attorney of the jurisdiction  
22 in which a person is convicted of a felony shall forward to  
23 the Board of Parole, the Department of Correctional Services, the  
24 county corrections agency, or the ~~Department of Health and Human~~  
25 ~~Services~~ Health and Human Services System the name and address  
26 of any victim, as defined in section 29-119, of the convicted  
27 person. The board, the Department of Correctional Services, the

1 county corrections agency, or the ~~Department of Health and Human~~  
2 ~~Services~~ system shall include the name in the file of the convicted  
3 person, but the name shall not be part of the public record of  
4 any parole hearings of the convicted person. Any victim, including  
5 a victim who has waived his or her right to notification at  
6 the time of conviction, may request the notification prescribed  
7 in this section, as applicable, by sending a written request to  
8 the board, the Department of Correctional Services, the county  
9 corrections agency, or the ~~Department of Health and Human Services~~  
10 system any time after the convicted person is incarcerated and  
11 until the convicted person is no longer under the jurisdiction  
12 of the board, the county corrections agency, or the Department of  
13 Correctional Services or, if the person is under the jurisdiction  
14 of the ~~Department of Health and Human Services,~~ system, within the  
15 three-year period after the convicted person is no longer under the  
16 jurisdiction of the board, the county corrections agency, or the  
17 Department of Correctional Services.

18 (2) A victim whose name appears in the file of the  
19 convicted person shall be notified by the Board of Parole:

20 (a) Within ninety days after conviction of an offender,  
21 of the tentative date of release and the earliest parole  
22 eligibility date of such offender;

23 (b) Of any parole hearings or proceedings;

24 (c) Of any decision of the Board of Parole;

25 (d) When a convicted person who is on parole is returned  
26 to custody because of parole violations; and

27 (e) If the convicted person has been adjudged a mentally

1    disordered sex offender or is a convicted sex offender, when such  
2    person is released from custody or treatment.

3           Such notification shall be given in person, by  
4    telecommunication, or by mail.

5           (3) A victim whose name appears in the file of  
6    the convicted person shall be notified by the Department of  
7    Correctional Services or a county corrections agency:

8           (a) When a convicted person is granted a furlough or  
9    release from incarceration for twenty-four hours or longer or any  
10   transfer of the convicted person to community status;

11          (b) When a convicted person is released into  
12   community-based programs, including educational release and work  
13   release programs. Such notification shall occur at the beginning  
14   and termination of any such program;

15          (c) When a convicted person escapes or does not return  
16   from a granted furlough or release and again when the convicted  
17   person is returned into custody;

18          (d) When a convicted person is discharged from custody  
19   upon completion of his or her sentence. Such notice shall be given  
20   at least thirty days before discharge, when practicable;

21          (e) Of the (i) department's calculation of the earliest  
22   parole eligibility date of the prisoner with all potential good  
23   time or disciplinary credits considered if the sentence exceeds  
24   ninety days or (ii) county corrections agency's calculation of  
25   the earliest release date of the prisoner. The victim may request  
26   one notice of the calculation described in this subdivision. Such  
27   information shall be mailed not later than thirty days after

1 receipt of the request;

2 (f) Of any reduction in the prisoner's minimum sentence;

3 and

4 (g) Of the victim's right to submit a statement as  
5 provided in section 81-1848.

6 (4) A victim whose name appears in the file of a  
7 convicted person shall be notified by the ~~Department of Health and~~  
8 ~~Human Services;~~ Health and Human Services System;

9 (a) When a person convicted of an offense listed in  
10 subsection (5) of this section becomes the subject of a petition  
11 pursuant to the Nebraska Mental Health Commitment Act or the Sex  
12 Offender Commitment Act prior to his or her discharge from custody  
13 upon the completion of his or her sentence or within thirty days  
14 after such discharge. The county attorney who filed the petition  
15 shall notify the Department of Correctional Services of such  
16 petition. The Department of Correctional Services shall forward  
17 the names and addresses of victims appearing in the file of the  
18 convicted person to the ~~Department of Health and Human Services;~~  
19 system;

20 (b) When a person under a mental health board commitment  
21 pursuant to subdivision (a) of this subsection escapes from an  
22 inpatient facility providing board-ordered treatment and again when  
23 the person is returned to an inpatient facility;

24 (c) When a person under a mental health board commitment  
25 pursuant to subdivision (a) of this subsection is discharged or has  
26 a change in disposition from inpatient board-ordered treatment;

27 (d) When a person under a mental health board commitment

1 pursuant to subdivision (a) of this subsection is granted a  
2 furlough or release for twenty-four hours or longer; and

3 (e) When a person under a mental health board commitment  
4 pursuant to subdivision (a) of this subsection is released  
5 into educational release programs or work release programs. Such  
6 notification shall occur at the beginning and termination of any  
7 such program.

8 (5) Subsection (4) of this section applies to persons  
9 convicted of at least one of the following offenses which is also  
10 alleged to be the recent act or threat underlying the commitment  
11 of such persons as mentally ill and dangerous or as dangerous sex  
12 offenders as defined in section 83-174.01:

13 (a) Murder in the first degree pursuant to section  
14 28-303;

15 (b) Murder in the second degree pursuant to section  
16 28-304;

17 (c) Kidnapping pursuant to section 28-313;

18 (d) Assault in the first degree pursuant to section  
19 28-308;

20 (e) Assault in the second degree pursuant to section  
21 28-309;

22 (f) Sexual assault in the first degree pursuant to  
23 section 28-319;

24 (g) Sexual assault in the second degree pursuant to  
25 section 28-320;

26 (h) Sexual assault of a child in the first degree  
27 pursuant to section 28-319.01;

1           (i) Sexual assault of a child in the second or third  
2 degree pursuant to section 28-320.01;

3           (j) Stalking pursuant to section 28-311.03; or

4           (k) An attempt, solicitation, or conspiracy to commit an  
5 offense listed in subdivisions (a) through (j) of this subsection.

6           (6) A victim whose name appears in the file of a  
7 convicted person shall be notified by the Board of Pardons:

8           (a) Of any pardon or commutation proceedings; and

9           (b) If a pardon or commutation has been granted.

10           (7) The Board of Parole, the Department of Correctional  
11 Services, the ~~Department of Health and Human Services,~~ Health  
12 and Human Services System, and the Board of Pardons shall adopt  
13 and promulgate rules and regulations as needed to carry out this  
14 section.

15           (8) The victim's address and telephone number maintained  
16 by the Department of Correctional Services, the ~~Department of~~  
17 ~~Health and Human Services,~~ Health and Human Services System, the  
18 county corrections agency, or the Board of Parole pursuant to  
19 subsection (1) of this section shall be exempt from disclosure  
20 under public records laws and federal freedom of information laws,  
21 as such laws existed on January 1, 2004.

22           Sec. 1539. Section 81-2205, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           81-2205 Committee shall mean the ~~Department of Health and~~  
25 ~~Human Services Advisory Committee on Aging.~~

26           Sec. 1540. Section 81-2206, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

1           81-2206 System shall mean the Health and Human Services  
2 System. Department shall mean the Department of Health and Human  
3 Services.

4           Sec. 1541. Section 81-2208, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6           81-2208 Area agency on aging shall mean the agency  
7 formed or eligible pursuant to the Nebraska Community Aging  
8 Services Act which is designated by the ~~department~~ system as  
9 responsible for the administration of the area program plan in each  
10 planning-and-service area.

11          Sec. 1542. Section 81-2209, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13          81-2209 Area program plan shall mean the document  
14 submitted to the ~~department~~ system by an area agency on aging in  
15 order to receive funds under the Nebraska Community Aging Services  
16 Act and under the Older Americans Act, as now or hereafter amended,  
17 which details the area agency on aging's plan for a comprehensive,  
18 coordinated program of community aging services for such area. The  
19 area program plan shall be designed to address the needs of older  
20 individuals with the greatest economic need and the greatest social  
21 need.

22          Sec. 1543. Section 81-2212, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24          81-2212 In addition to duties enumerated in section  
25 68-1104, the committee shall advise the ~~department~~ system  
26 regarding:

27          (1) The state plan on aging as developed and prepared by

1 the ~~department,~~ system;

2 (2) Policies adopted by the ~~department,~~ system;

3 (3) The needs of the state's older individuals;

4 (4) The development of the state plan and policies which  
5 affect the state's older individuals;

6 (5) Such rules, regulations, and standards as may be  
7 adopted by the ~~department,~~ system; and

8 (6) A community aging services budget for submission to  
9 the Legislature by the ~~department,~~ system.

10 The committee shall also act as a panel for the hearing  
11 and resolution of any appeal requested by an area agency on aging  
12 should the ~~department~~ system disapprove the area plan and budget or  
13 amendments as submitted.

14 Sec. 1544. Section 81-2213, Revised Statutes Cumulative  
15 Supplement, 2006, is amended to read:

16 81-2213 The Department of Health and Human Services  
17 system shall have the following powers and duties:

18 (1) To develop, approve, and submit to the Governor  
19 a two-year, three-year, or four-year state plan on aging, as  
20 determined by the ~~department,~~ system, for purposes of administering  
21 grant funds allocated to the state under the federal Older  
22 Americans Act, as now or hereafter amended, or administering  
23 state funds allocated to the Nebraska Community Aging Services Act;

24 (2) To cooperate with similar departments, commissions,  
25 or councils in the federal government and in other states;

26 (3) To adopt and promulgate rules, regulations, and  
27 bylaws governing its procedure and activities and as necessary to



1 carry out the policies of the ~~department~~ system and the policies  
2 prescribed by the Administration on Aging pursuant to the federal  
3 Older Americans Act, as now or hereafter amended;

4 (4) To create committees to aid in the discharge of its  
5 powers and duties;

6 (5) To cooperate with and assist other state and local  
7 governmental agencies and officials on matters relating to services  
8 for older individuals;

9 (6) To divide the state into planning-and-service areas  
10 as provided in section 71-807 for behavioral health regions,  
11 except that Regions 3 and 5 may each be divided into two  
12 planning-and-service areas with boundaries as established by the  
13 ~~department~~ system for planning-and-service areas in existence in  
14 those regions on July 1, 1982;

15 (7) To establish minimum standards for program operations  
16 and to adopt and promulgate rules and regulations for the  
17 performance of area agencies on aging and for any services provided  
18 by such area agencies on aging which are funded in whole or in  
19 part under the Nebraska Community Aging Services Act or the federal  
20 Older Americans Act, as now or hereafter amended;

21 (8) To require the submission of a one-year and a  
22 five-year area plan and budget by each area agency on aging or  
23 agency seeking designation as an area agency on aging. Such plans  
24 and budgets shall be submitted sixty days prior to the start of  
25 each fiscal year in accordance with the uniform area plan format  
26 and other instructions issued by the ~~department;~~ system;

27 (9) To review and approve a one-year and a five-year area

1 plan and budget for the support of each area agency on aging and  
2 the provision of eligible activities and services as defined in  
3 section 81-2222;

4 (10) To adopt and submit to the Legislature a community  
5 aging services budget;

6 (11) To review the performance of each area agency on  
7 aging and, based on the ~~department-approved~~ system-approved area  
8 plan and budget, to determine the continued designation or the  
9 withdrawal of the designation of an area agency on aging receiving  
10 or requesting resources through the state or under the Nebraska  
11 Community Aging Services Act or the federal Older Americans Act, as  
12 now or hereafter amended. After consultation with the director of  
13 the area agency on aging and the governing unit of the area agency  
14 on aging, the ~~department~~ system may withdraw a designation when  
15 it can be shown that federal or state laws, rules, or regulations  
16 have not been complied with, state or federal funds are not being  
17 expended for the purposes for which they were intended, or older  
18 individuals are not receiving appropriate services within available  
19 resources. Withdrawal of a designation may be appealed to the  
20 ~~director.~~ system. Upon withdrawal of a designation, the ~~department~~  
21 system may temporarily perform all or part of the functions and  
22 responsibilities of the area agency on aging, may designate another  
23 agency to perform such functions and responsibilities identified by  
24 the ~~department~~ system until the designation of a new area agency on  
25 aging, and, when deemed necessary, may temporarily deliver services  
26 to assure continuity;

27 (12) To conduct continuing studies and analyses of the

1 problems faced by older individuals within the state and develop  
2 such recommendations for administrative or legislative action as  
3 appear necessary;

4 (13) To develop grants and plans, enter into contracts,  
5 accept gifts, grants, and federal funds, and do all things  
6 necessary and proper to discharge these powers and duties;

7 (14) To accept and administer any other programs or  
8 resources delegated, designated, assigned, or awarded to the  
9 ~~department~~ system from public or private sources;

10 (15) To report and make recommendations to the Governor  
11 and the Legislature on the activities of the ~~department~~ system and  
12 the committee and improvements or additional resources needed to  
13 promote the general welfare of older individuals in Nebraska. Each  
14 member of the Legislature shall receive a copy of the report; and

15 (16) Such other powers and duties necessary to  
16 effectively implement the Nebraska Community Aging Services Act.

17 Sec. 1545. Section 81-2214.02, Reissue Revised Statutes  
18 of Nebraska, is amended to read:

19 81-2214.02 No record of any person receiving any services  
20 funded through the ~~department~~ system and no information of a  
21 sensitive or confidential nature may be disclosed or released to  
22 any other party without the written consent of the person or  
23 his or her legal representative unless the disclosure is required  
24 for the furtherance of purposes directly associated with the  
25 person's plan for services, is required by court order, or is  
26 necessary for program monitoring by authorized federal, state, or  
27 local monitoring agencies, including the ~~department~~ system and the

1 Legislature, or for purposes of the Adult Protective Services Act.

2           Sec. 1546. Section 81-2215, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           81-2215 The ~~department~~ system shall designate an area  
5 agency on aging for each planning-and-service area designated  
6 pursuant to subdivision (6) of section 81-2213.

7           Sec. 1547. Section 81-2216, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           81-2216 The ~~department~~ system shall designate, to perform  
10 the functions of an area agency on aging, any office or agency  
11 having the necessary authority and capacity which is proposed by  
12 the chief elected officials of a combination of units of local  
13 general-purpose governments formed under the Interlocal Cooperation  
14 Act or the Joint Public Agency Act.

15           Sec. 1548. Section 81-2217, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17           81-2217 Before designating an area agency on aging for a  
18 planning-and-service area, the ~~department~~ system shall:

19           (1) Provide written notice to the county government in  
20 the planning-and-service area of the pending designation no less  
21 than sixty days before taking action;

22           (2) Conduct an onsite assessment to determine whether  
23 the agency which is being considered for designation as an area  
24 agency on aging has the capacity and authority to perform all the  
25 functions of an area agency on aging specified by the Nebraska  
26 Community Aging Services Act; and

27           (3) Consider the views of the units of general-purpose

1 local government within the planning-and-service area.

2           Sec. 1549. Section 81-2218, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           81-2218 The governing unit of the designated area agency  
5 on aging shall:

6           (1) In accordance with section 81-2219, employ a  
7 qualified administrator to serve as the chief executive officer  
8 for the administration of the agency and employ adequate staff for  
9 carrying out the area program plan;

10           (2) Approve and submit a one-year and a five-year area  
11 plan and budget to the ~~department~~ system by July 1 of each  
12 year. The plan shall comply with the requirements of the Nebraska  
13 Community Aging Services Act and the Older Americans Act, as now or  
14 hereafter amended;

15           (3) Approve such contracts and agreements as are  
16 necessary to carry out the functions of the agency; and

17           (4) Establish and consult with an area advisory council  
18 on needs, services, and policies affecting older individuals in  
19 the area. The advisory council for the area agency on aging  
20 shall establish bylaws which specify the role and functions of  
21 the council, number of members, selection of members, term of  
22 membership, and frequency of meetings.

23           Sec. 1550. Section 81-2220, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           81-2220 An area agency on aging shall:

26           (1) Monitor, evaluate, and comment on policies, programs,  
27 hearings, and community actions which affect older individuals;

1                   (2) Conduct public hearings, studies, and assessments on  
2 the needs of older individuals living in the planning-and-service  
3 area;

4                   (3) Represent the interests of older individuals  
5 to public officials and to public and private agencies or  
6 organizations;

7                   (4) Cooperate, coordinate, and plan with other agencies,  
8 organizations, or individuals to promote benefits and opportunities  
9 for older individuals consistent with the goals of the Nebraska  
10 Community Aging Services Act and the Older Americans Act, as now or  
11 hereafter amended;

12                   (5) Develop a one-year and a five-year area plan and  
13 budget for a comprehensive, coordinated program of community aging  
14 services needed by older individuals of the area and consistent  
15 with the requirements of the Nebraska Community Aging Services Act  
16 and the Older Americans Act, as now or hereafter amended;

17                   (6) Monitor and evaluate the activities of service  
18 providers to ensure that the services being provided comply with  
19 the terms of the grant or contract. When a provider is found to be  
20 in breach of the terms of its grant or contract, the area agency on  
21 aging shall enforce the terms of the grant or contract;

22                   (7) Comply with rules, regulations, and requirements of  
23 the ~~department~~ system which have been developed in consultation  
24 with the area agencies on aging for client and fiscal information  
25 and provide to the ~~department~~ system information necessary  
26 for federal and state reporting, program evaluation, program  
27 management, fiscal control, and research needs; and

1           (8) Provide technical assistance to service providers as  
2 needed, prepare written monitoring reports, and provide written  
3 reports of onsite assessments of all service providers funded by  
4 the area agency on aging according to the rules and regulations  
5 promulgated by the ~~department~~ system.

6           Sec. 1551. Section 81-2221, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           81-2221 The one-year and the five-year area plan and  
9 budget shall contain at least the following:

10           (1) Provisions required by the Nebraska Community Aging  
11 Services Act and the Older Americans Act, as now or hereafter  
12 amended; and

13           (2) A detailed statement of the manner in which the  
14 area agency on aging develops, administers, and supports the  
15 comprehensive, coordinated program of community aging services  
16 throughout the area.

17           The ~~department~~ system may require minimum service levels  
18 for the area and establish minimum standards for activities which  
19 carry out the requirements of the Nebraska Community Aging Services  
20 Act and the Older Americans Act, as now or hereafter amended.

21           Sec. 1552. Section 81-2224, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23           81-2224 The ~~department~~ system shall reimburse each  
24 designated area agency on aging for seventy-five percent of the  
25 actual cost of providing eligible activities and services as  
26 defined in section 81-2222. Such reimbursement shall be made from  
27 (1) state funds appropriated by the Legislature, (2) federal

1 funds allocated to the ~~department,~~ system, including federal funds  
2 allocated under the Older Americans Act, as now or hereafter  
3 amended, and (3) other funds as available. The payments shall  
4 be made by the ~~department~~ system on or before the twentieth  
5 day of each month. If state funds appropriated, federal funds  
6 allocated, or other funds available are insufficient to finance  
7 the ~~department-approved~~ system-approved plan and budget for each  
8 designated area agency on aging, the reimbursement to each area  
9 agency on aging shall be proportionately reduced. If an area agency  
10 on aging chooses to exceed the budget approved by the ~~department,~~  
11 system, costs in excess of the approved budget shall not be  
12 reimbursed by the ~~department-~~ system.

13           Sec. 1553. Section 81-2225, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15           81-2225 To qualify for reimbursement by the ~~department,~~  
16 system, as provided for in section 81-2224, a designated area  
17 agency on aging shall have a ~~department-approved~~ system-approved  
18 plan and budget and shall provide no less than twenty-five percent  
19 of such approved plan and budget from local sources. Local sources  
20 shall include, but shall not be limited to, local tax dollars,  
21 donations, and fees, and shall not include receipts from federal or  
22 state sources, except federal revenue-sharing trust funds.

23           Sec. 1554. Section 81-2225.01, Reissue Revised Statutes  
24 of Nebraska, is amended to read:

25           81-2225.01 (1) The ~~department,~~ system, after consultation  
26 with the area agencies on aging, shall develop and use an  
27 intrastate funding formula for the allocation to area agencies



1 on aging of state and federal funds awarded pursuant to the  
2 Nebraska Community Aging Services Act and the Older Americans Act,  
3 as now or hereafter amended.

4 (2) The area agencies on aging shall comply with the  
5 intrastate funding formula determined by the ~~department~~ system.

6 Sec. 1555. Section 81-2226, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 81-2226 In the event of a documented malfeasance on the  
9 part of any area agency on aging in the administration of its area  
10 plan, and the failure of the governing unit of the area agency  
11 to take corrective action within a reasonable time, the ~~director~~  
12 system shall, with the advice of the ~~Department of Health and Human~~  
13 ~~Services~~ Advisory Committee on Aging, terminate funding to the area  
14 agency governing unit by disapproving the area plan for that area  
15 agency on aging.

16 Sec. 1556. Section 81-2227, Revised Statutes Cumulative  
17 Supplement, 2006, is amended to read:

18 81-2227 Based upon the ~~department-approved~~  
19 system-approved plan and budget for each designated area agency on  
20 aging, the ~~department~~ system shall submit a budget request to the  
21 Department of Administrative Services no later than September 15  
22 for each even-numbered year, except for 2002, no later than the  
23 date provided in section 81-132, for the funds required to achieve  
24 the objectives of the Nebraska Community Aging Services Act. Such  
25 request shall include all federal funds available to the ~~department~~  
26 system for reimbursement to area agencies on aging.

27 Sec. 1557. Section 81-2229, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 81-2229 It is the intent of the Legislature that:

3 (1) The state establish a statewide system of care  
4 management units through the area agencies on aging to aid in the  
5 coordination of the delivery of a continuum of services targeted  
6 primarily to the state's older population;

7 (2) The continuum of services include the proper  
8 utilization of all available care resources, including  
9 community-based services and institutionalization, to ensure  
10 that persons are receiving, when reasonably possible, the level of  
11 care that best matches their level of need;

12 (3) ~~The Department of Health and Human Services Finance~~  
13 ~~and Support~~ Health and Human Services System apply for and  
14 implement a Title XIX medicaid waiver as a way to provide care  
15 management services to medicaid clients and to control the rising  
16 costs of medicaid; and

17 (4) ~~The Department of Health and Human Services~~ Health  
18 and Human Services System develop a uniform method for data  
19 collection by care management units.

20 Sec. 1558. Section 81-2231, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 81-2231 The care management units shall be certified by  
23 the ~~Department of Health and Human Services~~ Health and Human  
24 Services System which shall adopt and promulgate rules and  
25 regulations within two hundred forty days of August 30, 1987,  
26 providing standards for certification. Such standards shall be  
27 developed in consultation with appropriate state agencies and

1 professional organizations and shall provide that:

2 (1) The care management units shall be subject to  
3 periodic review by the ~~department~~; system;

4 (2) The care management units shall provide an assessment  
5 of an individual's entire range of needs, including, but not  
6 limited to, functional, psychosocial, and environmental needs;

7 (3) The care management units shall develop a long-term  
8 care plan for each client in consultation with the individual and  
9 if possible his or her family utilizing and coordinating available  
10 and appropriate public and private resources;

11 (4) The care management units shall periodically monitor  
12 the delivery of services to each client and review the individual's  
13 plan to determine if the plan remains appropriate;

14 (5) The care management units shall be operated  
15 separately from any direct care programs provided by the area  
16 agencies on aging; and

17 (6) A standardized long-term care assessment document  
18 shall be developed that incorporates, when reasonably possible,  
19 (a) assessment procedures currently used by area agencies on aging  
20 and (b) assessment criteria designed to reduce duplication of  
21 effort with related long-term care services, both public and  
22 private, including assessment material necessary to determine  
23 service eligibility by the ~~Department of Health and Human Services.~~  
24 Health and Human Services System.

25 Sec. 1559. Section 81-2232, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27 81-2232 Within sixty days of the adoption and

1 promulgation of the standards for certification by the ~~Department~~  
2 ~~of Health and Human Services,~~ Health and Human Services System,  
3 each area agency on aging shall submit to the ~~department~~  
4 system for approval a plan of operation to either provide  
5 and supervise or subcontract for at least one certified care  
6 management unit to provide all eligible individuals residing  
7 in its planning-and-service area with long-term care management  
8 services. Within thirty days of receipt of a plan for approval,  
9 the ~~department~~ system shall notify the area agency on aging of  
10 its acceptance or denial of the plan. If the plan is denied, the  
11 ~~department~~ system shall give the reasons for denial and the area  
12 agency on aging shall submit a revised plan. If the area agency  
13 on aging does not submit a revised plan within thirty days of  
14 the denial, the ~~Department of Health and Human Services~~ system  
15 may contract with another public or private entity to serve that  
16 planning-and-service area.

17           Sec. 1560. Section 81-2233, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           81-2233 The ~~Department of Health and Human Services~~  
20 Health and Human Services System shall submit an annual report on  
21 care management units to the Governor and the Legislature.

22           Sec. 1561. Section 81-2234, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           81-2234 (1) Individuals who have family income below  
25 three hundred percent of a poverty level determined by the  
26 ~~Department of Health and Human Services~~ Health and Human Services  
27 System based on any federal poverty index or similar guidelines

1 shall pay from zero to ninety percent of the fee for the services  
2 provided by a care management unit. The fee scale shall be adopted  
3 and promulgated as rules and regulations by the ~~department~~ system  
4 and shall reflect the income range of individuals.

5 (2) A care management unit may receive reimbursement from  
6 state and federal government programs which allow for reimbursement  
7 for care management or case management services.

8 (3) Individuals not covered by subsection (1) or (2) of  
9 this section shall pay the full fee for services provided by a care  
10 management unit.

11 Sec. 1562. Section 81-2235, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 81-2235 (1) Each care management unit may be reimbursed  
14 by the ~~Department of Health and Human Services~~ Health and Human  
15 Services System for costs not paid for by the individual or through  
16 other reimbursement specified in section 81-2234. Reimbursement  
17 by the ~~department~~ system shall be based on actual casework  
18 time units expended on all care management services provided  
19 and shall include expenses for personnel, administration and  
20 planning, client eligibility review, contractual services, and  
21 necessary support services and other necessary actual and indirect  
22 costs. Standardized rates of reimbursement shall be adopted and  
23 promulgated by the ~~department~~ system and shall be adjusted at least  
24 every three years.

25 (2) Appropriations for reimbursement by the ~~department~~  
26 system for services provided under sections 81-2229 to 81-2235 and  
27 for the costs of the ~~department~~ system to administer the program

1 shall be appropriated separately from funds appropriated under the  
2 Nebraska Community Aging Services Act.

3 (3) Funds appropriated under this section shall not be  
4 used to replace funds appropriated under the Nebraska Community  
5 Aging Services Act and granted to the area agencies on aging  
6 prior to August 30, 1987, and used to provide case management or  
7 care management services in their planning-and-service area, except  
8 that such funds may be replaced by non-Nebraska Community Aging  
9 Services funds that are obtained subsequent to August 30, 1987, as  
10 allowed under rules and regulations adopted and promulgated by the  
11 ~~Department of Health and Human Services.~~ Health and Human Services  
12 System.

13 Sec. 1563. Section 81-2239, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 81-2239 System means the Health and Human Services  
16 System. ~~Department shall mean the Department of Health and Human~~  
17 ~~Services.~~

18 Sec. 1564. Section 81-2242, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 81-2242 Local long-term care ombudsman program shall mean  
21 an entity, either public or private and nonprofit, designated as a  
22 local long-term care ombudsman program by the ~~department.~~ system.

23 Sec. 1565. Section 81-2248, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 81-2248 State long-term care ombudsman shall mean the  
26 person or persons appointed by ~~the director~~ to fulfill the  
27 responsibilities of the office.

1           Sec. 1566. Section 81-2249, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           81-2249 Pursuant to the Older Americans Act, the office  
4 of the state long-term care ombudsman is hereby created. The  
5 ~~department~~ system shall establish and operate the office. The  
6 ~~director~~ system shall appoint the state long-term care ombudsman.

7           Sec. 1567. Section 81-2250, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           81-2250 The ~~department~~ system shall establish a long-term  
10 care ombudsman program consisting of the state long-term care  
11 ombudsman and any local long-term care ombudsman ~~program~~ programs.  
12 The program, as approved and administered by the ~~department~~,  
13 system, shall:

14           (1) Investigate and resolve complaints not reportable  
15 under the Adult Protective Services Act made by or on behalf  
16 of older individuals who are patients, residents, or clients  
17 of long-term care facilities relating to action, inaction, or  
18 decisions of providers of long-term care services or their  
19 representatives, of public agencies, or of social service agencies  
20 which may adversely affect the health, safety, welfare, or rights  
21 of such older individuals. The ~~director~~ system shall adopt  
22 and promulgate rules and regulations regarding the handling of  
23 complaints received under this section, including procedures for  
24 conducting investigations of complaints. The rules and regulations  
25 shall include procedures to ensure that no state long-term  
26 care ombudsman or ombudsman advocate investigates any complaint  
27 involving a provider with which the representative was once

1 employed or associated;

2 (2) Provide for the training of the state long-term  
3 care ombudsman and ombudsman advocates and promote the development  
4 of citizen organizations to participate in the program, provide  
5 training to ombudsman advocates and staff of local long-term  
6 care ombudsman programs, issue certificates attesting to the  
7 successful completion of the prescribed training, and provide  
8 ongoing technical assistance to such local programs;

9 (3) Analyze and monitor the development and  
10 implementation of federal, state, and local laws, regulations, and  
11 policies with respect to long-term care facilities and services  
12 and recommend any changes in such laws, regulations, and policies  
13 deemed by the long-term care ombudsman program to be appropriate;

14 (4) Establish a statewide, uniform reporting system to  
15 collect and analyze data relating to complaints and conditions  
16 in long-term care facilities for the purpose of identifying and  
17 resolving significant problems. The data shall be submitted to the  
18 ~~Department of Health and Human Services Regulation and Licensure~~  
19 system at least on an annual basis;

20 (5) Prepare reports as requested by the ~~director~~ system  
21 and provide policy, regulatory, and legislative recommendations to  
22 solve problems, resolve complaints, and improve the quality of care  
23 and life in long-term care facilities;

24 (6) Provide for public forums to discuss concerns and  
25 problems relating to action, inaction, or decisions that may  
26 adversely affect the health, safety, welfare, or civil rights of  
27 residents of long-term care facilities and their representatives,



1 public agencies and entities, and social service agencies; and

2 (7) Provide information to public agencies, legislators,  
3 and others, as deemed necessary by the ~~department~~, system,  
4 regarding the problems and concerns, including recommendations  
5 related to such problems and concerns, of older individuals  
6 residing in long-term care facilities.

7 Sec. 1568. Section 81-2253, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 81-2253 (1) The state long-term care ombudsman shall  
10 ensure that the staff of the office and of local long-term care  
11 ombudsman programs are trained in:

12 (a) Federal, state, and local laws, regulations, and  
13 policies with respect to long-term care facilities in the state;

14 (b) Investigative techniques;

15 (c) Management of long-term care facilities; and

16 (d) Such other matters as the ~~department~~ system deems  
17 appropriate.

18 (2) The state long-term care ombudsman shall develop  
19 procedures for the certification of ombudsman advocates.

20 (3) No ombudsman advocate shall investigate any complaint  
21 filed with the office unless such person is certified by the  
22 office.

23 Sec. 1569. Section 81-2255, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 81-2255 (1) When abuse, neglect, or exploitation of an  
26 older individual who is a patient, resident, or client of a  
27 long-term care facility is suspected, the long-term care ombudsman

1 program shall make an immediate referral to the ~~Department of~~  
2 ~~Health and Human Services~~ system or the appropriate law enforcement  
3 agency. The long-term care ombudsman program shall coordinate  
4 with adult protective services or the appropriate law enforcement  
5 agency, if requested, pursuant to any investigation of such abuse,  
6 neglect, or exploitation.

7 (2) Any state agency or board which responds to a  
8 complaint against a long-term care facility or an individual  
9 employed by a long-term care facility that was referred to the  
10 agency or board by the office shall forward to the office copies of  
11 related inspection reports, plans of correction, and notice of any  
12 citations and sanctions levied against the long-term care facility  
13 or the individual.

14 Sec. 1570. Section 81-2260, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 81-2260 (1) Information relating to any complaints or  
17 investigation made pursuant to the Long-Term Care Ombudsman Act  
18 that discloses the identities of complainants, patients, residents,  
19 or clients shall remain confidential except:

20 (a) When disclosure is authorized in writing by the  
21 complainant, patient, resident, or client or the older individual's  
22 guardian or legal representative;

23 (b) When disclosure is necessary to an investigation of  
24 abuse, neglect, or exploitation and the disclosure is made to the  
25 Attorney General, the county attorney, or the ~~Department of Health~~  
26 ~~and Human Services Regulation and Licensure,~~ or adult protective  
27 ~~services of the Department of Health and Human Services,~~ system;

1 (c) When disclosure is necessary for the provision of  
2 services to the patient, resident, or client and the patient,  
3 resident, or client is unable to express written or oral consent;  
4 or

5 (d) Upon court order.

6 (2) Access to the records and files of the office  
7 relating to any complaint or investigation made pursuant to the  
8 Long-Term Care Ombudsman Act shall be permitted only at the  
9 discretion of the state long-term care ombudsman, except that the  
10 identity of any complainant, witness, patient, resident, or client  
11 shall not be disclosed by such ombudsman except:

12 (a) When disclosure is authorized in writing by such  
13 complainant, witness, patient, resident, or client or the older  
14 individual's guardian or legal representative;

15 (b) Upon court order; or

16 (c) Pursuant to subsection (3) of this section.

17 (3) The records and files of the office shall be released  
18 to adult protective services of the ~~Department of Health and~~  
19 ~~Human Services system~~ if it so requests for purposes of the Adult  
20 Protective Services Act.

21 (4) The ~~director~~ system shall have access to the records  
22 and files of the office to verify the effectiveness and quality of  
23 the long-term care ombudsman program.

24 Sec. 1571. Section 81-2261, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26 81-2261 The ~~department~~ system shall ensure that:

27 (1) No individual involved in the designation of the

1 state long-term care ombudsman has a pecuniary or other interest in  
2 a long-term care facility;

3 (2) No state long-term care ombudsman or ombudsman  
4 advocate has a pecuniary or other interest in a long-term care  
5 facility;

6 (3) Mechanisms are in place to identify and remedy all  
7 such or other similar conflicts; and

8 (4) The office has the ability to pursue administrative,  
9 legal, and other appropriate remedies on behalf of patients,  
10 residents, and clients of long-term care facilities.

11 Sec. 1572. Section 81-2263, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 81-2263 No state long-term care ombudsman or ombudsman  
14 advocate shall be liable for the good faith performance of official  
15 duties pursuant to the Long-Term Care Ombudsman Act. Pursuant to  
16 the Older Americans Act, the ~~department~~ system shall ensure that  
17 adequate legal counsel is available to the office for advice and  
18 consultation and that legal representation is provided to any state  
19 long-term care ombudsman or ombudsman advocate against whom any  
20 legal action is brought in connection with his or her official  
21 duties.

22 Sec. 1573. Section 81-2265, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 81-2265 It is the intent of the Legislature that the  
25 ~~Department of Health and Human Services Finance and Support~~ Health  
26 and Human Services System shall amend its current medicaid waiver  
27 to provide any federal funding which may be available for the

1 purpose of a pilot project for preadmission screening and that the  
2 ~~Department of Health and Human Services Finance and Support system~~  
3 shall ~~contract with the Department of Health and Human Services to~~  
4 develop and implement such a pilot preadmission screening project.

5 Sec. 1574. Section 81-2267, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 81-2267 The ~~Department of Health and Human Services and~~  
8 ~~the Department of Health and Human Services Finance and Support~~  
9 Health and Human Services System shall evaluate the pilot project  
10 for the effectiveness of using medicaid funds, any savings of  
11 those funds realized which can be used to serve the ever-growing  
12 number of frail and vulnerable older individuals in Nebraska, and  
13 the effectiveness of preadmission screening and care management to  
14 divert individuals from nursing facility admission who do not need  
15 that level of care.

16 Sec. 1575. Section 81-2268, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 81-2268 Services identified by care plans for those  
19 eligible for medical assistance whose care needs are appropriate  
20 for nursing facilities but whose needs can be met outside a  
21 nursing facility may be purchased with medicaid waiver funds  
22 available through the home and community-based waiver for the aged  
23 and disabled administered by the ~~Department of Health and Human~~  
24 ~~Services and the Department of Health and Human Services Finance~~  
25 ~~and Support.~~ Health and Human Services System.

26 Sec. 1576. Section 81-2269, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

1                   81-2269 (1) ~~The Department of Health and Human Services,~~  
2 Health and Human Services System, through its care management  
3 units, shall establish a statewide project to prevent premature  
4 institutionalization of nursing facility medicaid-eligible  
5 applicants sixty-five years of age and older through preadmission  
6 screening. In any case in which a determination has not been made  
7 within forty-eight hours, the nursing facility applicant shall  
8 be deemed appropriate for nursing home admission until such time  
9 as preadmission screening is completed, notwithstanding that a  
10 preadmission screening has not been done. ~~The Department of Health~~  
11 ~~and Human Services~~ system shall use the preadmission screening  
12 services of the project.

13                   (2) Subsection (1) of this section becomes operative on  
14 July 1, 1997.

15                   Sec. 1577. Section 81-2270, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17                   81-2270 Services identified by care plans for those not  
18 eligible for services provided through the home and community-based  
19 waiver for the aged and disabled may be purchased with funds  
20 appropriated through sections 81-2265 to 81-2271, based on a  
21 sliding-fee scale. ~~The Department of Health and Human Services~~  
22 Health and Human Services System shall adopt and promulgate rules  
23 and regulations to establish procedures and standards to implement  
24 this section of the pilot project for preadmission screening.

25                   Sec. 1578. Section 81-2271, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27                   81-2271 ~~The Department of Health and Human Services~~

1 Health and Human Services System shall adopt and promulgate rules  
2 and regulations to establish procedures and standards to implement  
3 the intent of sections 81-2265 to 81-2271.

4 Sec. 1579. Section 81-2275, Revised Statutes Cumulative  
5 Supplement, 2006, is amended to read:

6 81-2275 For purposes of the Nebraska Senior Companion  
7 Volunteer Program Act:

8 ~~(1) Department means the Department of Health and Human~~  
9 ~~Services;~~

10 ~~(2)~~ (1) Direct service contractor means any public or  
11 private nonprofit organization that (a) is not currently receiving  
12 federal funding for the federal senior companion program and (b)  
13 demonstrates the ability to provide the services specified in  
14 section 81-2277;

15 ~~(3)~~ (2) Frail elderly means a person who (a) is sixty  
16 years of age or older, (b) has a physical, mental, or emotional  
17 health limitation, and (c) needs assistance to achieve and maintain  
18 independent living; ~~and~~

19 ~~(4)~~ (3) Senior companion volunteer means an individual  
20 who (a) is sixty years of age or older, (b) has an annual  
21 income not exceeding one hundred twenty-five percent of the federal  
22 poverty level, (c) is determined by a physical examination to  
23 be capable, with or without reasonable accommodation, of serving  
24 adults with special needs without detriment to himself or herself  
25 or the persons served, and (d) provides companion services at least  
26 four hours a day, four days a week; ~~and~~ -

27 (4) System means the Health and Human Services System.

1           Sec. 1580. Section 81-2276, Revised Statutes Cumulative  
2 Supplement, 2006, is amended to read:

3           81-2276 The ~~department~~ system shall establish and  
4 coordinate the Nebraska Senior Companion Volunteer Program and  
5 shall utilize senior companion volunteers provided by one or more  
6 direct service contractors.

7           Sec. 1581. Section 81-2277, Revised Statutes Cumulative  
8 Supplement, 2006, is amended to read:

9           81-2277 A direct service contractor:

10           (1) May apply to the ~~department~~ system for a grant  
11 pursuant to section 81-2281;

12           (2) Shall recruit, select, train, and assign staff and  
13 senior companion volunteers;

14           (3) Shall provide for supervision of senior companion  
15 volunteers;

16           (4) Shall provide or arrange for meals and transportation  
17 for senior companion volunteers if funds are available; and

18           (5) Shall maintain a systematic means of capturing and  
19 reporting all program data required by the ~~department.~~ system.

20           Sec. 1582. Section 81-2280, Revised Statutes Cumulative  
21 Supplement, 2006, is amended to read:

22           81-2280 Senior companion volunteers shall not be assigned  
23 to individuals already receiving in-home supportive services  
24 through the ~~department~~ system or another entity of state or local  
25 government.

26           Sec. 1583. Section 81-2281, Revised Statutes Cumulative  
27 Supplement, 2006, is amended to read:



1           81-2281 (1) The ~~department~~ system shall make grants in  
2 an amount not to exceed fifty thousand dollars to direct service  
3 contractors and shall give preference to applications for grants to  
4 provide in-home services.

5           (2) Applications shall be made on forms provided by the  
6 ~~department.~~ system.

7           (3) No grant shall be approved for any applicant who  
8 has received federal funding to provide services under any federal  
9 senior companion program.

10          (4) As a condition to receiving a grant, an applicant  
11 shall obtain at least ten percent matching funds from a local  
12 governmental or other source.

13          (5) Grants shall be for a period of twenty-four months  
14 and shall not be used as matching funds but solely to carry out  
15 the requirements of the Nebraska Senior Companion Volunteer Program  
16 Act.

17          (6) No person paid from grant funds shall replace any  
18 staff member of the grantee.

19          Sec. 1584. Section 81-2282, Revised Statutes Cumulative  
20 Supplement, 2006, is amended to read:

21           81-2282 Each grantee shall file with the ~~department~~  
22 system a quarterly report of its activities on forms provided by  
23 the ~~department.~~ system.

24          Sec. 1585. Section 81-2283, Revised Statutes Cumulative  
25 Supplement, 2006, is amended to read:

26           81-2283 The ~~department~~ system shall adopt and promulgate  
27 rules and regulations to carry out the Nebraska Senior Companion

1 Volunteer Program Act.

2           Sec. 1586. Section 81-3602, Revised Statutes Cumulative  
3 Supplement, 2006, is amended to read:

4           81-3602 (1)(a) The Rural Development Commission shall  
5 consist of members who represent a wide range of rural Nebraska  
6 interests.

7           (b) The Governor shall appoint four members to the  
8 commission. The Governor shall appoint a representative of his  
9 or her office and one representative from each of the Department  
10 of Economic Development, the Department of Agriculture, and the  
11 ~~Nebraska~~ Health and Human Services System.

12           (c) The Speaker of the Legislature shall appoint one  
13 member of the Legislature to the commission.

14           (d) Other members shall be appointed by the Governor  
15 to represent federal agencies, local governments, tribal  
16 governments, nonprofit organizations, regional economic development  
17 organizations, the private sector, postsecondary education, and  
18 youth.

19           (e) The chairperson and vice-chairperson of the  
20 commission shall be elected by a majority of the members of  
21 the commission at the first commission meeting in odd-numbered  
22 years and shall each serve a two-year term as chairperson and  
23 vice-chairperson, respectively.

24           (2) The commission shall meet at the call of the  
25 chairperson or a majority of the members. The chairperson shall  
26 call such meetings as he or she determines necessary to fulfill  
27 the duties of the commission. A quorum shall be one-half of the

1 members.

2 (3) The members of the commission shall be reimbursed for  
3 their actual and necessary expenses as provided in sections 81-1174  
4 to 81-1177 and pursuant to policies of the commission.

5 Sec. 1587. Section 83-101.06, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 83-101.06 The ~~Department of Health and Human Services~~  
8 Health and Human Services System shall:

9 (1) Administer the clinical programs and services of the  
10 Beatrice State Developmental Center, the Lincoln Regional Center,  
11 the Norfolk Regional Center, the Hastings Regional Center, and  
12 such other medical facilities, including skilled nursing care and  
13 intermediate care facilities, as may be provided by the ~~department;~~  
14 system;

15 (2) Plan, develop, administer, and operate mental health  
16 and mental retardation clinics, programs, and services;

17 (3) Plan, develop, and execute the clinical programs and  
18 services carried on by the ~~department;~~ system; and

19 (4) Represent the ~~department~~ system in its work with  
20 the University of Nebraska Medical Center concerning psychiatric  
21 services.

22 Sec. 1588. Section 83-101.08, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 83-101.08 The ~~Department of Health and Human Services,~~  
25 ~~the Department of Health and Human Services Regulation and~~  
26 ~~Licensure,~~ and the ~~Department of Health and Human Services Finance~~  
27 ~~and Support~~ Health and Human Services System shall consult and

1 cooperate with the Department of Correctional Services so as to  
2 coordinate in an effective manner the activities of the ~~departments~~  
3 system and department with those related activities affecting  
4 the welfare of persons which are the responsibility of the  
5 ~~Department of Health and Human Services, the Department of Health~~  
6 ~~and Human Services Regulation and Licensure, the Department of~~  
7 ~~Health and Human Services Finance and Support, and the Department~~  
8 ~~of Correctional Services, system and the department.~~

9           Sec. 1589. Section 83-101.14, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           83-101.14 The ~~Department of Health and Human Services~~  
12 Health and Human Services System with the assistance of the  
13 Commission for the Deaf and Hard of Hearing shall adopt and  
14 promulgate rules and regulations to define criteria and standards  
15 for access by eligible hearing-impaired persons to mental health,  
16 alcoholism, and drug abuse treatment programs.

17           Sec. 1590. Section 83-107.01, Revised Statutes Cumulative  
18 Supplement, 2006, is amended to read:

19           83-107.01 The official names of the state institutions  
20 under the supervision of the ~~Department of Health and Human~~  
21 ~~Services~~ Health and Human Services System shall be as follows:

22 (1) Beatrice State Developmental Center, (2) Lincoln Regional  
23 Center, (3) Norfolk Regional Center, (4) Hastings Regional Center,  
24 (5) Grand Island Veterans' Home, (6) Norfolk Veterans' Home,  
25 (7) Western Nebraska Veterans' Home, (8) Youth Rehabilitation  
26 and Treatment Center-Kearney, and (9) Youth Rehabilitation and  
27 Treatment Center-Geneva, ~~--- The official name of the state~~

1 ~~institution under the supervision of the Department of Health and~~  
2 ~~Human Services shall be and (10)~~ the Thomas Fitzgerald Veterans'  
3 Home prior to July 1, 2007, and, on and after July 1, 2007, ~~shall~~  
4 ~~be~~ the Eastern Nebraska Veterans' Home.

5           Sec. 1591. Section 83-108, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           83-108 ~~The Department of Health and Human Services~~ Health  
8 and Human Services System shall have oversight and general control  
9 of the Beatrice State Developmental Center, the Nebraska veterans  
10 homes, the hospitals for the mentally ill, such skilled nursing  
11 care and intermediate care facilities as may be established by the  
12 ~~department,~~ system, facilities and programs operated by the Office  
13 of Juvenile Services, and all charitable institutions.

14           Sec. 1592. Section 83-108.04, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           83-108.04 (1) In addition to the institutions established  
17 by law, the ~~Department of Health and Human Services~~ Health and  
18 Human Services System may maintain or use the following facilities  
19 for the care of children in its legal custody who have been  
20 adjudged to be as described in subdivision (1), (2), (3)(b), or (4)  
21 of section 43-247: (a) Receiving homes to be used for the temporary  
22 care of children; (b) foster homes; (c) group homes; and (d) other  
23 facilities and services, including forestry or conservation camps  
24 for the training and treatment of children.

25           (2) ~~The Department of Health and Human Services~~ Health  
26 and Human Services System also may use other public facilities  
27 or contract for the use of private facilities for the care and

1 treatment of children in its legal custody. Placement of children  
2 in private or public facilities not under its jurisdiction shall  
3 not terminate the legal custody of the ~~department~~ system. No state  
4 funds may be paid for care of a child in the home of a parent.

5 Sec. 1593. Section 83-109, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 83-109 The ~~Department of Health and Human Services~~ Health  
8 and Human Services System shall have general control over the  
9 admission of patients and residents to all institutions over which  
10 it has jurisdiction. Each individual shall be assigned to the  
11 institution best adapted to care for him or her. A record of every  
12 patient or resident of every institution shall be kept complete  
13 from the date of his or her entrance to the date of his or her  
14 discharge or death, such records to be accessible only (1) to  
15 the ~~department~~, system, a legislative committee, the Governor, any  
16 federal agency requiring medical records to adjudicate claims for  
17 federal benefits, and any public or private agency under contract  
18 to provide facilities, programs, and patient services, (2) upon  
19 order of a judge or court, (3) in accordance with sections 20-161  
20 to 20-166, (4) to the Nebraska State Patrol pursuant to section  
21 69-2409.01, or (5) to those portions of the record required to  
22 be released to a victim as defined in section 29-119 in order  
23 to comply with the victim notification requirements pursuant to  
24 subsections (4) and (5) of section 81-1850. In addition, a patient  
25 or resident or his or her legally authorized representative may  
26 authorize the specific release of his or her records, or portions  
27 thereof, by filing with the ~~department~~ system a signed written

1 consent. Transfers of patients or residents from one institution  
2 to another shall be within the exclusive jurisdiction of the  
3 ~~department~~ system and shall be recorded in the office of the  
4 ~~department~~, system, with the reasons for such transfers. When the  
5 ~~department~~ system is unable to assign a patient to a regional  
6 center or commit him or her to any other institution at the time  
7 of application, a record thereof shall be kept and the patient  
8 accepted at the earliest practicable date. The superintendents  
9 of the regional centers and Beatrice State Developmental Center  
10 shall notify the ~~department~~ system immediately whenever there  
11 is any question regarding the propriety of the commitment,  
12 detention, transfer, or placement of any person admitted to a  
13 state institution. The ~~department~~ system shall then investigate the  
14 matter and take such action as shall be proper. Any interested  
15 party who is not satisfied with such action may appeal such action,  
16 and the appeal shall be in accordance with the Administrative  
17 Procedure Act. The ~~department~~ system shall have full authority on  
18 its own suggestion or upon the application of any interested person  
19 to investigate the physical and mental status of any patient or  
20 resident of any regional center or the Beatrice State Developmental  
21 Center. If upon such investigation the ~~department~~ system considers  
22 such patient or resident fit to be released from the regional  
23 center or Beatrice State Developmental Center, it shall cause such  
24 patient or resident to be discharged or released on convalescent  
25 leave.

26           Sec. 1594. Section 83-111, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

1           83-111 ~~The Department of Health and Human Services~~ Health  
2 and Human Services System shall prepare an estimate of the  
3 appropriations necessary for the support and needed improvements of  
4 the institutions under its charge, and a report of their operation  
5 during the preceding biennium, for the use of the Legislature.  
6 The estimate shall be printed and may include a report of the  
7 results of investigation of methods of institution management and  
8 of treatment of patients and inmates, with suggestions for the  
9 betterment of any or all conditions.

10           Sec. 1595. Section 83-112, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           83-112 (1) ~~The Department of Health and Human Services~~  
13 Health and Human Services System shall gather information as to the  
14 expenditures of charitable institutions in this and other countries  
15 and regarding the best and most successful methods of caring for  
16 persons with mental retardation and persons with a mental disorder.

17           (2) ~~The Department of Health and Human Services~~ Health  
18 and Human Services System shall encourage scientific investigation  
19 of the treatment of mental problems, epilepsy, and all other  
20 diseases and causes that contribute to mental disabilities by the  
21 medical staffs of the state medical institutions. ~~The department~~  
22 system shall provide forms for statistical returns to be made by  
23 the institutions. ~~The department~~ system shall make an investigation  
24 of the conditions, causes, prevention, and cure of epilepsy, mental  
25 retardation, and mental disorders. ~~The department~~ system shall give  
26 special attention to the methods of care, treatment, education, and  
27 improvement of the persons served by the institutions under its



1 control and shall exercise a careful supervision of the methods to  
2 the end that, so far as practicable, the best treatment and care  
3 known to modern science shall be given to such persons and that  
4 the best methods of teaching, improving, and educating such persons  
5 shall be used.

6 Sec. 1596. Section 83-113, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 83-113 ~~The Director of Health and Human Services~~ Health  
9 and Human Services System may examine any of the officers,  
10 attendants, guards, and other employees and make such inquiries  
11 as will determine their fitness for their respective duties and  
12 shall investigate and report to the Governor any abuses or wrongs  
13 alleged to exist in the institution.

14 Sec. 1597. Section 83-114, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 83-114 ~~The Director of Health and Human Services~~  
17 Health and Human Services System shall have the power to summon  
18 and examine witnesses under oath, to examine books and papers  
19 pertaining to the subject under investigation, and to compel  
20 the production of such books and papers. Witnesses who are not  
21 employees of the state shall receive the same fees as witnesses  
22 in civil cases in the district court, and their fees shall be  
23 paid by vouchers. Any officer or employee who interferes in any  
24 manner with the ~~director's~~ system's official investigation shall be  
25 deemed guilty of a misdemeanor, and upon conviction thereof shall  
26 be removed from his or her position, and be fined in a sum not less  
27 than ten dollars nor more than one hundred dollars. The claim that

1 any testimony or evidence sought to be elicited or produced may  
2 tend to incriminate the person giving or producing it, or expose  
3 him or her to public ignominy, shall not excuse him or her from  
4 testifying or producing the evidence, but any evidence given by a  
5 witness at such an investigation shall not be used against him or  
6 her in a criminal prosecution. A witness shall not be exempt from  
7 prosecution and punishment for perjury for testifying falsely at  
8 an investigation. It shall be the duty of the ~~director~~ system to  
9 cause such testimony to be filed in the office of the ~~department~~  
10 system as soon thereafter as practicable, and such testimony shall  
11 be open for inspection. Any person failing to obey the orders of  
12 the ~~director~~, system, issued under the provisions of this section,  
13 shall be reported by the ~~director~~ system to the district court, or  
14 any judge thereof, and shall be dealt with by the court or judge  
15 as for contempt of court.

16           Sec. 1598. Section 83-115, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           83-115 The ~~Director of Health and Human Services~~ Health  
19 and Human Services System shall be prepared to give any information  
20 desired by the Legislature concerning the institutions under ~~his~~  
21 ~~or her~~ its control, and ~~his or her~~ its administration shall be  
22 subject to examination under oath by a legislative committee,  
23 touching any matter in regard to which the Legislature may desire  
24 information concerning the condition of the institutions, their  
25 inmates, and the performance of their duties by the ~~director or his~~  
26 ~~or her employees.~~ system. The committee may call and examine under  
27 oath any other persons as witnesses in such investigation. Such

1 examinations shall be conducted in the manner and subject to the  
2 provisions of section 83-114.

3           Sec. 1599. Section 83-116, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           83-116 ~~The Department of Health and Human Services~~ Health  
6 and Human Services System shall have the power to bring all suits  
7 necessary to protect the interests of the state. Such proceedings  
8 shall be instituted in the name of the State of Nebraska.

9           Sec. 1600. Section 83-121, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           83-121 There is hereby created the School District  
12 Reimbursement Fund for use by the ~~Department of Health and Human~~  
13 ~~Services-~~ Health and Human Services System. The fund shall consist  
14 of money received from school districts or the ~~Department of Health~~  
15 ~~and Human Services Finance and Support~~ system pursuant to section  
16 79-1152 for the operation of special education programs within the  
17 ~~Department of Health and Human Services-~~ system. The fund shall  
18 be used for the operation of such programs pursuant to sections  
19 79-1152, 79-1153, and 79-1155 to 79-1158.

20           Any money in the fund available for investment shall be  
21 invested by the state investment officer pursuant to the Nebraska  
22 Capital Expansion Act and the Nebraska State Funds Investment Act.

23           Sec. 1601. Section 83-126, Revised Statutes Cumulative  
24 Supplement, 2006, is amended to read:

25           83-126 ~~The Director of Health and Human Services~~ chief  
26 executive officer of the Health and Human Services System shall  
27 appoint the chief executive officer of each facility referred to

1 in section 83-107.01. Each chief executive officer shall report to  
2 the ~~director or his or her designee~~ chief executive officer or his  
3 or her designee and shall serve full time and without term at the  
4 pleasure of the ~~director-~~ chief executive officer.

5 Sec. 1602. Section 83-130, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 83-130 An Emergency Revolving Fund, not to exceed three  
8 thousand dollars for any one institution, upon order of the  
9 ~~Director of Health and Human Services,~~ Health and Human Services  
10 System, shall be drawn from the State Treasurer, to be used by  
11 the chief executive officer of each institution as an emergency  
12 cash fund. The fund shall be drawn from the general maintenance  
13 appropriation for the ~~director-~~ system. An accounting of this fund  
14 shall be made by each executive officer once each month to the  
15 ~~director-~~ system.

16 Sec. 1603. Section 83-133, Revised Statutes Cumulative  
17 Supplement, 2006, is amended to read:

18 83-133 The chief executive officer of any state  
19 institution under the control of the ~~Department of Health and~~  
20 ~~Human Services~~ Health and Human Services System shall refer for  
21 investment in accordance with sections 72-1244 and 72-1267 any  
22 surplus of canteen funds or trust funds which he or she may have  
23 belonging to the residents of the institution under his or her  
24 control. The income accruing from the investment of canteen funds  
25 shall be used for the general entertainment of the residents of  
26 the institution. The income accruing from the investment of the  
27 residents' personal trust funds shall be distributed and prorated

1 to each resident's personal trust account in accordance with the  
2 participation of each resident's personal account.

3 Sec. 1604. Section 83-134, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 83-134 (1) ~~The Department of Health and Human Services~~  
6 Health and Human Services System shall have general charge of the  
7 erection of new buildings, the repair and improvement of buildings,  
8 including fire escapes, and the improvement of grounds.

9 (2) Buildings and other improvements costing more than  
10 forty thousand dollars, exclusive of equipment not germane to  
11 construction and building material made in the institution, shall  
12 be (a) constructed under the general charge of the ~~department~~  
13 Health and Human Services System as provided in subsection (1) of  
14 this section and (b) let by contract to the lowest responsible  
15 bidder after proper advertisement as set forth in subsection (5) of  
16 this section.

17 (3) The labor of persons committed to the Department of  
18 Correctional Services pursuant to section 83-183 or of state  
19 charges may be employed, whenever the ~~Department of Health~~  
20 ~~and Human Services~~ Health and Human Services System deems it  
21 practicable, in all construction, repairs, and improvements at  
22 state institutions.

23 (4) The successful bidder at the letting referred to in  
24 subsection (2) of this section shall enter into a formal contract  
25 with the ~~department,~~ Health and Human Services System, prepared  
26 pursuant to subsection (5) of this section, and shall furnish a  
27 bond for the faithful performance of his or her contract, except

1 that a performance bond shall not be required for any project which  
2 has a total cost of forty thousand dollars or less unless the  
3 ~~department~~ system includes a bond requirement in the specifications  
4 for the project.

5 (5) When contracts are to be let by the ~~department~~ Health  
6 and Human Services System as is provided for by subsection (2) of  
7 this section, advertisements shall be published in accordance with  
8 rules and regulations adopted and promulgated by the state building  
9 division of the Department of Administrative Services stating that  
10 sealed proposals will be received by the ~~Department of Health and~~  
11 ~~Human Services~~ system at its office on the date therein stated for  
12 the furnishing of materials, the construction of buildings, or the  
13 making of repairs or improvements and that plans and specifications  
14 can be seen at the office of the ~~department.~~ system. All bids or  
15 proposals shall be accompanied by a certified check or bid bond  
16 in a sum fixed by the ~~department~~ system and payable thereto. All  
17 such contracts shall be awarded to the lowest responsible bidder,  
18 but the right shall be reserved to reject any and all bids.  
19 Whenever any material described in any contract can be obtained  
20 from any state institution, the ~~department~~ system shall exclude  
21 it from such a contract. Upon the awarding of the contract or  
22 contracts therefor, the Attorney General shall review the contract  
23 or contracts to be entered into by the ~~department~~ system and the  
24 contracting parties.

25 Sec. 1605. Section 83-135, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27 83-135 The ~~Department of Health and Human Services~~ Health

1 and Human Services System and the Department of Correctional  
2 Services shall have authority to petition the authorities of any  
3 city, town, or village in which a state institution is located,  
4 to grade, curb, and pave any street or streets upon which the  
5 grounds of the institution abut, where the streets are a part of  
6 a paving district, to waive any damage sustained by the grounds  
7 from the grading, curbing, or paving, and to charge the grounds  
8 with a proportionate share of the cost of paving. The contract for  
9 grading, curbing, and paving shall be let by the authorities of the  
10 city, town, or village, as provided for by the law governing the  
11 city, town, or village, and none of the provisions for the letting  
12 of contracts by the system or department shall apply. The cost of  
13 paving, including curbing and grading, assessed and levied against  
14 the property, shall be paid to the proper officers of the city,  
15 town, or village, by the State Treasurer, out of funds which may be  
16 appropriated by the Legislature for that purpose.

17           Sec. 1606. Section 83-139, Revised Statutes Cumulative  
18 Supplement, 2006, is amended to read:

19           83-139 The steward of each institution shall have charge  
20 of all supplies for that institution, and shall be charged  
21 therewith at their invoice value. Supplies shall be issued only  
22 on requisition by the chief executive officer, and on printed  
23 blanks which shall serve as the steward's vouchers. The steward  
24 shall report monthly to the ~~Department of Health and Human Services~~  
25 Health and Human Services System or the Department of Correctional  
26 Services, whichever has jurisdiction, the amounts of supplies  
27 received, used, and on hand. At the close of the biennial period

1 the steward shall make a comprehensive report to the system or  
2 department showing all the transactions of ~~his or her~~ the system or  
3 department. Any shortage, not allowed by the system or department  
4 for unavoidable causes, shall be paid for by the steward within ten  
5 days after the amount due is officially determined, and in default  
6 of payment the steward shall forfeit his or her office and suit  
7 to recover the amount shall be instituted upon his or her official  
8 bond or equivalent commercial insurance policy.

9           Sec. 1607. Section 83-140, Revised Statutes Cumulative  
10 Supplement, 2006, is amended to read:

11           83-140 The materiel administrator of the Department of  
12 Administrative Services shall purchase all necessary supplies for  
13 the institutions under the ~~Department of Health and Human Services~~  
14 Health and Human Services System and the Department of Correctional  
15 Services, except, in its discretion, fresh fruit, vegetables,  
16 and emergency and minor purchases. The last-named supplies may  
17 be purchased by the chief executive officer or steward under  
18 the order of the system or department. An itemized statement of  
19 such purchases, duly verified, shall be filed with the system or  
20 department on the first day of each month. Estimates of needed  
21 supplies shall be furnished the system or department by each chief  
22 executive officer. Such estimates shall be examined by the system  
23 or department, and an itemized statement of such as are approved  
24 by the system or department, showing kind, quantity, and quality,  
25 shall be filed with the materiel administrator, and upon request  
26 shall be furnished to any applicant therefor.

27           Sec. 1608. Section 83-144, Reissue Revised Statutes of



1 Nebraska, is amended to read:

2           83-144 The ~~Department of Health and Human Services~~ Health  
3 and Human Services System and the Department of Correctional  
4 Services shall administer the provisions of sections 83-144 to  
5 83-152.

6           Sec. 1609. Section 83-153, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           83-153 Any claim to money or personal property in the  
9 hands of the ~~Department of Health and Human Services~~ Health and  
10 Human Services System or the Department of Correctional Services to  
11 the credit of an inmate or patient of any institution subject to  
12 the jurisdiction of such ~~departments~~ system or department shall be  
13 required to be asserted within two years from and after either (1)  
14 the date of the death of the inmate or patient, while confined in  
15 such institution, or (2) the date of the discharge of the inmate  
16 or patient from such institution. If such claim is not presented  
17 within the time limited by this section, it shall be forever  
18 barred.

19           Sec. 1610. Section 83-154, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21           83-154 Upon the failure to assert a claim for money  
22 within two years as prescribed by section 83-153, the ~~Department~~  
23 ~~of Health and Human Services~~ Health and Human Services System or  
24 the Department of Correctional Services shall transfer such money  
25 to a special fund to be set up for the use and benefit of all the  
26 inmates or patients of the institution in which the deceased or  
27 discharged inmate or patient was confined.

1           Sec. 1611. Section 83-155, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           83-155 Upon the failure to assert a claim for personal  
4 property within two years as prescribed by section 83-153, the  
5 ~~Department of Health and Human Services~~ Health and Human Services  
6 System or the Department of Correctional Services shall sell the  
7 property, either with or without notice at either public or private  
8 sale, and shall place the proceeds of such sale in the special fund  
9 provided for by section 83-154.

10          Sec. 1612. Section 83-156, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12          83-156 Nothing contained in sections 83-153 to 83-156  
13 shall be construed in such a manner as to prohibit the ~~Department~~  
14 ~~of Health and Human Services~~ Health and Human Services System or  
15 the Department of Correctional Services from voluntarily remitting  
16 or delivering to any present or former inmate or patient of any  
17 state institution, subject to the jurisdiction of such system or  
18 department, or to his or her heirs, legatees, or other persons  
19 lawfully entitled to the same, any money or other personal property  
20 in the hands of the system or department to the credit of such  
21 inmate or patient, either during the confinement of such inmate or  
22 patient, or at any time thereafter.

23          Sec. 1613. Section 83-174.02, Revised Statutes Cumulative  
24 Supplement, 2006, is amended to read:

25          83-174.02 (1) The Department of Correctional Services  
26 shall order an evaluation of the following individuals by a mental  
27 health professional to determine whether or not the individual is a

1 dangerous sex offender:

2 (a) Individuals who have been convicted of (i) sexual  
3 assault of a child in the first degree pursuant to section  
4 28-319.01 or (ii) sexual assault in the first degree pursuant to  
5 section 28-319;

6 (b) Individuals who have been convicted of two or more  
7 offenses requiring registration as a sex offender under section  
8 29-4003 if one of the convictions was for any of the following  
9 offenses: (i) Kidnapping of a minor pursuant to section 28-313,  
10 except when the person is the parent of the minor and was not  
11 convicted of any other offense; (ii) sexual assault in the first  
12 degree pursuant to section 28-319 or sexual assault in the second  
13 degree pursuant to section 28-320; (iii) sexual assault of a child  
14 pursuant to section 28-320.01; (iv) sexual assault of a child in  
15 the first degree pursuant to section 28-319.01; (v) sexual assault  
16 of a child in the second or third degree pursuant to section  
17 28-320.01; (vi) sexual assault of a vulnerable adult pursuant to  
18 subdivision (1)(c) of section 28-386; (vii) incest of a minor  
19 pursuant to section 28-703; (viii) visual depiction of sexually  
20 explicit conduct of a child pursuant to section 28-1463.03; or (ix)  
21 any offense that is substantially equivalent to an offense listed  
22 in this section by any state, territory, commonwealth, or other  
23 jurisdiction of the United States, by the United States Government,  
24 or by court-martial or other military tribunal, notwithstanding a  
25 procedure comparable in effect to that described in section 29-2264  
26 or any other procedure to nullify a conviction other than by  
27 pardon;

1 (c) Individuals convicted of a sex offense against a  
2 minor who have refused to participate in or failed to successfully  
3 complete the sex offender treatment program offered by the  
4 Department of Correctional Services or the ~~Department of Health~~  
5 ~~and Human Services~~ Health and Human Services System during the  
6 term of incarceration. The failure to successfully complete a  
7 treatment program due to time constraints or the unavailability of  
8 treatment programming shall not constitute a refusal to participate  
9 in treatment; and

10 (d) Individuals convicted of failure to comply with the  
11 registration requirements of the Sex Offender Registration Act who  
12 have previously been convicted for failure to comply with the  
13 registration requirements of the act or a similar registration  
14 requirement in another state.

15 (2) The evaluation required by this section shall be  
16 ordered at least one hundred eighty days before the scheduled  
17 release of the individual. Upon completion of the evaluation, and  
18 not later than one hundred fifty days prior to the scheduled  
19 release of the individual, the department shall send written  
20 notice to the Attorney General, the county attorney of the county  
21 where the offender is incarcerated, and the prosecuting county  
22 attorney. The notice shall contain an affidavit of the mental  
23 health professional describing his or her findings with respect to  
24 whether or not the individual is a dangerous sex offender.

25 Sec. 1614. Section 83-180, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27 83-180 (1) When a physician designated by the Director

1 of Correctional Services finds that a person committed to the  
2 department suffers from a physical disease or defect, or when a  
3 physician or psychologist designated by the director finds that a  
4 person committed to the department suffers from a mental disease  
5 or defect, the chief executive officer may order such person to  
6 be segregated from other persons in the facility. If the physician  
7 or psychologist is of the opinion that the person cannot be given  
8 proper treatment in that facility, the director may arrange for  
9 his or her transfer for examination, study, and treatment to any  
10 medical-correctional facility, or to another institution in the  
11 ~~Department of Health and Human Services~~ Health and Human Services  
12 System where proper treatment is available. A person who is so  
13 transferred shall remain subject to the jurisdiction and custody  
14 of the ~~Department of Correctional Services~~ department and shall be  
15 returned to the department when, prior to the expiration of his or  
16 her sentence, treatment in such facility is no longer necessary.

17 (2) When the physician or psychologist designated by the  
18 Director of Correctional Services finds that a person committed  
19 to the department suffers from a physical or mental disease or  
20 defect which in his or her opinion cannot be properly treated  
21 in any facility or institution in the ~~Department of Health and~~  
22 ~~Human Services,~~ Health and Human Services System, the director may  
23 arrange for his or her transfer for treatment to a hospital or  
24 psychiatric facility outside the department. The director shall  
25 make appropriate arrangements with other public or private agencies  
26 for the transportation to, and for the care, custody, and security  
27 of the person in, such hospital or psychiatric facility. While

1 receiving treatment in such hospital or psychiatric facility, the  
2 person shall remain subject to the jurisdiction and custody of the  
3 Department of Correctional Services and shall be returned to the  
4 department when, prior to the expiration of his or her sentence,  
5 such hospital or psychiatric treatment is no longer necessary.

6 (3) When two psychiatrists designated by the Director  
7 of Correctional Services find that a person about to be released  
8 or discharged from any facility suffers from a mental disease or  
9 defect of such a nature that his or her release or discharge  
10 will endanger the public safety or the safety of the offender,  
11 the director shall transfer him or her to, or if he or she  
12 has already been transferred, permit him or her to remain in, a  
13 psychiatric facility in the ~~Department of Health and Human Services~~  
14 Health and Human Services System and shall promptly commence  
15 proceedings applicable to the civil commitment and detention of  
16 persons suffering from such disease or defect.

17 Sec. 1615. Section 83-218, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 83-218 The Beatrice State Developmental Center shall  
20 provide residential care and humane treatment for those persons  
21 with mental retardation who require residential care, shall study  
22 to improve their condition, shall classify them, and shall furnish  
23 such training in industrial, mechanical, agricultural, and academic  
24 subjects as they may be capable of learning. Whenever the  
25 ~~Department of Health and Human Services~~ Health and Human Services  
26 System determines that continued residence in the Beatrice State  
27 Developmental Center is no longer necessary for the welfare, care,

1 treatment, or training of such person, it shall have authority to  
2 discharge or transfer such person as provided in section 83-387.  
3 ~~The Department of Health and Human Services~~ system shall discharge  
4 any person from the Beatrice State Developmental Center without  
5 requiring sterilization of such person, if the discharge satisfies  
6 the requirements of this section, notwithstanding any court order,  
7 judgment, or decree rendered prior to December 25, 1969, requiring  
8 sterilization as a condition of discharge.

9           Sec. 1616. Section 83-223, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           83-223 Where the person named in the petition for  
12 commitment is a resident, patient, or inmate of a state  
13 institution, the court may commit the person to the care and  
14 custody of the ~~Department of Health and Human Services.~~ Health  
15 and Human Services System. The ~~department~~ system may, in its  
16 discretion, detain the resident, patient, or inmate in the  
17 institution in which he or she is a resident, patient, or inmate at  
18 the time of the hearing, subject to the rules of that institution,  
19 or may transfer him or her to the Beatrice State Developmental  
20 Center.

21           Sec. 1617. Section 83-227.01, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23           83-227.01 The ~~Department of Health and Human Services~~  
24 Health and Human Services System is authorized to utilize space  
25 which is temporarily surplus to the needs of the Lincoln Regional  
26 Center and the Norfolk Regional Center facilities under their  
27 jurisdiction for patients committed to or lawfully confined in the

1 Beatrice State Developmental Center. Patients so transferred to the  
2 Lincoln Regional Center or the Norfolk Regional Center shall be  
3 housed in facilities separate and apart from facilities used to  
4 house patients committed to such hospital, and after their transfer  
5 such patients shall receive the same type of care, custody, and  
6 treatment as they would have received had they remained at the  
7 Beatrice State Developmental Center, and the charges for their  
8 care and maintenance shall be the same as though they were housed  
9 at the Beatrice State Developmental Center, and the charges shall  
10 be collected in the manner provided in this section and sections  
11 83-227.02, 83-350, and 83-363 to 83-380.

12           Sec. 1618. Section 83-227.02, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           83-227.02 (1) ~~The Department of Health and Human Services~~  
15 Health and Human Services System is authorized to use space which  
16 is temporarily surplus to the needs of any institution under its  
17 control, except as provided in subsection (2) of this section, for  
18 the care, custody, and treatment of the inmates of any other such  
19 institution when space at such latter institution is inadequate  
20 and the facilities of the institution to which transfer is made  
21 are suitable to the needs of the inmate. Inmates so transferred  
22 shall receive the same care, custody, and treatment as they would  
23 have received had they not been transferred. If the cost of the  
24 care, custody, and treatment of such inmate is recoverable by the  
25 institution from which the transfer was made, it shall be recovered  
26 in the manner provided in sections 83-363 to 83-380.

27           (2) Subsection (1) of this section shall not be construed



1 to permit the transfer of inmates to or from any Department of  
2 Correctional Services facility unless expressly authorized by law.

3           Sec. 1619. Section 83-305.03, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           83-305.03 ~~The Director of Health and Human Services~~  
6 Health and Human Services System or the Director of Correctional  
7 Services may order the temporary transfer of any person committed  
8 to the ~~Department of Health and Human Services~~ Health and Human  
9 Services System or the Department of Correctional Services to  
10 the University of Nebraska Medical Center with the concurrence  
11 of the chancellor thereof for special diagnosis and treatment  
12 of any illness such person may suffer which cannot be properly  
13 diagnosed or treated by the medical facilities of the institution  
14 of which he or she is a patient or inmate. The responsibility of  
15 guarding any such patient or inmate transferred shall remain with  
16 the institution of which he or she is a patient or inmate. The  
17 ~~Department of Health and Human Services~~ Health and Human Services  
18 System or the Department of Correctional Services shall pay, out  
19 of the proper account, all expenses incurred by the University  
20 of Nebraska Medical Center on behalf of any patient or inmate so  
21 transferred by the ~~respective system or~~ department.

22           Sec. 1620. Section 83-305.04, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           83-305.04 ~~The Department of Health and Human Services~~  
25 Health and Human Services System shall utilize a rehabilitation  
26 model when appropriate for services provided at the regional  
27 centers under the jurisdiction of the ~~department.~~ system.

1 For purposes of this section, rehabilitation model means a  
2 comprehensive approach to treatment and rehabilitation of a person  
3 with a disability caused by a mental illness in order to assure  
4 that such person can perform those physical, emotional, social, and  
5 intellectual skills needed to live and work in the community.

6 Sec. 1621. Section 83-313, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 83-313 ~~The Department of Health and Human Services~~ Health  
9 and Human Services System shall hold in trust, for the state  
10 hospitals for the mentally ill, all real or personal property given  
11 or bequeathed, to be applied for any purpose connected with the  
12 institutions.

13 Sec. 1622. Section 83-324, Revised Statutes Cumulative  
14 Supplement, 2006, is amended to read:

15 83-324 ~~The Director of Health and Human Services~~ Health  
16 and Human Services System may accept patients for care and  
17 treatment upon the written application of a patient. Such written  
18 application may be made by persons desiring to receive care and  
19 treatment in one of the state hospitals for the mentally ill to the  
20 chief executive officer of the state hospital in which the patient  
21 wishes to receive treatment.

22 Sec. 1623. Section 83-336, Revised Statutes Cumulative  
23 Supplement, 2006, is amended to read:

24 83-336 ~~The Director of Health and Human Services~~ Health  
25 and Human Services System shall provide the mental health boards  
26 with blanks for warrants, certificates, and other forms, such as  
27 will enable them to comply with sections 83-313 to 83-357, and also

1 with printed copies of the applicable rules and regulations of the  
2 ~~Department of Health and Human Services~~ system.

3 Sec. 1624. Section 83-348, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 83-348 Patients in the state hospitals for the mentally  
6 ill having no legal settlement in this state, or whose legal  
7 settlement cannot be ascertained, shall be supported at the expense  
8 of the state. This section shall apply to all such patients now  
9 in the hospitals and shall include expenses already incurred and  
10 remaining unpaid. The ~~Director of Health and Human Services~~ Health  
11 and Human Services System may authorize the removal of any such  
12 patient at the expense of the state.

13 Sec. 1625. Section 83-351, Revised Statutes Cumulative  
14 Supplement, 2006, is amended to read:

15 83-351 Expenses incurred by one county, on account of a  
16 mentally ill and dangerous person or a dangerous sex offender as  
17 defined in section 83-174.01 whose legal settlement is in another  
18 county of the state, shall be refunded, with lawful interest  
19 thereon, by the county in which the mentally ill and dangerous  
20 person or dangerous sex offender has his or her legal settlement.  
21 Such expenses shall be presented to the county board of the county  
22 sought to be charged, which shall allow and pay them the same  
23 as other claims. Whenever a patient of any facility over which  
24 the ~~Department of Health and Human Services~~ Health and Human  
25 Services System has control has been adjudicated a mentally ill and  
26 dangerous person or a dangerous sex offender as defined in section  
27 83-174.01 and committed to a state hospital for the mentally ill,

1 and the expenses of the adjudication and commitment have been paid  
2 by the county in which the institution is located, the county clerk  
3 of that county shall certify the total amount of the expenses thus  
4 incurred to the ~~Department of Health and Human Services~~ system.  
5 The ~~department~~ system shall audit the expenses so certified and  
6 shall file a statement of the amount found due with the Director  
7 of Administrative Services, and a warrant shall be drawn on the  
8 General Fund in favor of the county from which the mentally ill and  
9 dangerous person or dangerous sex offender was committed.

10           Sec. 1626. Section 83-355, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           83-355 Mentally ill persons from other states and  
13 territories may be admitted to the state hospitals for the mentally  
14 ill upon equal footing and on same conditions as private-pay  
15 patients. The sum to be paid monthly for the care, maintenance,  
16 and treatment of such patients shall be fixed by the ~~Department~~  
17 ~~of Health and Human Services~~ Health and Human Services System and  
18 shall be collected quarterly in advance by the stewards of the  
19 hospitals and accounted for the same as other funds in their hands  
20 belonging to the State of Nebraska.

21           Sec. 1627. Section 83-363, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23           83-363 As used in sections 83-227.01, 83-227.02, 83-350,  
24 and 83-363 to ~~83-380~~, 83-380.01, unless the context otherwise  
25 requires:

26           (1) System means the Health and Human Services System;  
27 ~~Department shall mean the Department of Health and Human Services;~~

1           ~~(2) Director shall mean the Director of Health and Human~~  
2 ~~Services;~~

3           ~~(3)~~ (2) State institution ~~shall mean~~ means the state  
4 hospitals at Lincoln, Norfolk, and Hastings, the Beatrice State  
5 Developmental Center, and such other institutions as may hereafter  
6 be established by the Legislature for the care and treatment of  
7 persons with a mental disorder or mental retardation;

8           ~~(4)~~ (3) Relative ~~shall mean~~ means the spouse of a patient  
9 or, if the patient has no spouse and is under the age of majority  
10 at the time he or she is admitted, the parents of a patient in a  
11 state institution; and

12           ~~(5)~~ (4) Parents ~~shall mean~~ means either or both of a  
13 patient's natural parents unless such patient has been legally  
14 adopted by other parents, in which case parents shall mean either  
15 or both of the adoptive parents.

16           Sec. 1628. Section 83-365, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           83-365 The ~~Department of Health and Human Services~~ system  
19 shall periodically determine the individual cost, exclusive of  
20 the cost of education, for the care, support, maintenance, and  
21 treatment of the patients in each state institution and for persons  
22 receiving treatment prescribed by an institution following release  
23 or without being admitted as a resident patient. In making such  
24 determinations, the ~~department~~ system may use averaging methods  
25 for each institution if, in the judgment of the director, it is  
26 not practicable to compute the cost for each patient. The cost of  
27 capital expenditures and capital construction shall not be included

1 in making such determinations.

2           Sec. 1629. Section 83-366, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           83-366 The ~~department~~ system shall assess against the  
5 patient or his or her relatives all or such part of the cost  
6 determined under section 83-365 as they are able to pay, in  
7 the judgment of the ~~director~~, system, except that a patient who  
8 is placed in a state institution to receive appropriate special  
9 education pursuant to the Special Education Act or his or her  
10 relatives shall be assessed only for medical care and medical  
11 treatment costs as determined pursuant to rules and regulations  
12 adopted and promulgated by the ~~department~~ system in accordance with  
13 section 83-371.

14           Sec. 1630. Section 83-368, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           83-368 The ~~department~~ system shall determine the ability  
17 of a patient to pay by consideration of the following factors:  
18 (1) Taxable income reportable under Nebraska law; (2) the patient's  
19 age; (3) the number of his or her dependents and their ages and  
20 mental and physical conditions; (4) the patient's length of care or  
21 treatment; (5) his or her liabilities; and (6) his or her assets  
22 including health insurance coverage.

23           Sec. 1631. Section 83-369, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           83-369 When the ~~department~~ system determines that a  
26 patient is unable to pay the entire cost determined pursuant to  
27 section 83-365, the ~~department~~ system shall then determine the

1 ability of his or her relatives to pay such cost. In making this  
2 determination, the ~~department~~ system shall consider the relative's  
3 taxable income reportable under Nebraska law, and the patient's  
4 length of care and treatment. At the request of the relative, the  
5 ~~department~~ system also shall consider other relevant factors in the  
6 interest of avoiding undue hardship. Such factors may include the  
7 relative's age, provision for ~~his~~ retirement years, ~~his~~ assets, ~~his~~  
8 liabilities, the number of ~~his~~ dependents, and their mental and  
9 physical condition and educational requirements.

10           Sec. 1632. Section 83-370, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           83-370 When any relative willfully fails to furnish to  
13 the ~~department~~, system, upon request, the information required by  
14 sections 83-227.01, 83-227.02, 83-350, and 83-363 to 83-380 as  
15 to his taxable income, such relative shall be deemed to have  
16 ability to pay the entire cost determined under sections 83-227.01,  
17 83-227.02, 83-350, and 83-363 to 83-380.

18           Sec. 1633. Section 83-371, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20           83-371 Pursuant to the provisions of the Administrative  
21 Procedure Act, the ~~department~~ system shall adopt appropriate rules  
22 and regulations for making the determinations required by sections  
23 83-227.01, 83-227.02, 83-350, and 83-363 to 83-380.

24           Sec. 1634. Section 83-372, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26           83-372 It shall be the duty of the county board in  
27 each county to make such investigation as the ~~department~~ system

1 may require with regard to the ability to pay of any patient or  
2 relative of a patient who resides within the county. In making such  
3 investigation, the county board shall act in accordance with the  
4 rules and regulations of the ~~department~~ system and shall promptly  
5 submit the required information to the ~~department~~ system.

6 Sec. 1635. Section 83-373, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 83-373 Any determination of the ability of a patient or  
9 relative to pay shall remain in effect until a redetermination  
10 is made. A redetermination shall be made annually and at such  
11 additional times when, in the judgment of the ~~director~~ system, it  
12 is appropriate to do so, or when a request is made by the patient  
13 or relative who is liable for the payments.

14 Sec. 1636. Section 83-374, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 83-374 Any patient or relative aggrieved by a  
17 determination of ability to pay may request a hearing before the  
18 ~~director~~ system. The ~~department~~ system shall adopt and promulgate  
19 rules and regulations to govern the conduct of such hearings. The  
20 ~~director~~ system may appoint an examiner who shall have power to  
21 preside at such hearing, administer oaths, examine witnesses, and  
22 take testimony and shall report the same to the ~~director~~ system.  
23 Such hearings shall be held in the county in which the person  
24 requesting the hearing resides, if such person so requests, in  
25 which event it shall be the duty of the county board to attend such  
26 hearing. The ~~director~~ system shall deliver ~~his or her~~ the decision  
27 within sixty days after the conclusion of the hearing. Any patient



1 or relative aggrieved by a decision following a hearing may appeal  
2 such decision, and such appeal shall be in accordance with the  
3 Administrative Procedure Act.

4 Sec. 1637. Section 83-376, Revised Statutes Cumulative  
5 Supplement, 2006, is amended to read:

6 83-376 When the full cost determined to be necessary for  
7 the care, support, maintenance, and treatment of any patient is  
8 not paid by the patient or his or her relatives within thirty  
9 days of receipt of such care, (1) the county in which the patient  
10 resides shall pay (a) the first fifteen dollars per day of the  
11 unpaid cost for each of the first thirty days at the Hastings  
12 Regional Center, the Lincoln Regional Center, the Norfolk Regional  
13 Center, or other inpatient treatment facility where the patient  
14 is receiving inpatient treatment pursuant to an order of a mental  
15 health board under the Nebraska Mental Health Commitment Act or the  
16 Sex Offender Commitment Act, (b) the first ten dollars per day of  
17 the unpaid cost for each of the first thirty days at the Beatrice  
18 State Developmental Center, and (c) the first three dollars per day  
19 of the unpaid costs for each day after the first thirty days at any  
20 such institution, (2) the balance of the unpaid cost shall be borne  
21 by the state, and (3) the county in which the patient resides shall  
22 be credited by the ~~Director of Health and Human Services~~ system  
23 for amounts collected from such patient or his or her relatives in  
24 excess of the portion of such costs borne by the state.

25 Sec. 1638. Section 83-378, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27 83-378 No person shall be liable for the cost of the

1 care, support, maintenance, and treatment of any patient except as  
2 provided in sections 83-363 to 83-380, but the amounts determined  
3 to be due and unpaid at the time of the death of a patient  
4 or relative shall constitute a claim against the estate of such  
5 patient or relative. The ~~department~~ system may accept voluntary  
6 payments on behalf of any patient from any person who is not liable  
7 for payments.

8           Sec. 1639. Section 83-379, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           83-379 In the absence of fraud, a patient and his  
11 relatives shall be liable only to the extent of assessments  
12 actually made against them respectively, in accordance with  
13 sections 83-227.01, 83-227.02, 83-350, and 83-363 to 83-380. For  
14 the purposes of sections 83-227.01, 83-227.02, 83-350, and 83-363  
15 to 83-380, it shall be deemed fraudulent for any patient or his  
16 relatives to transfer any assets or property to another person for  
17 the purpose of affecting the determination of ability to pay. When  
18 it is determined that such a fraudulent transfer has been made, the  
19 ~~director~~ system shall consider the value of such assets or property  
20 transferred in determining the ability to pay under section 83-368  
21 or 83-369.

22           Sec. 1640. Section 83-380, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           83-380 Within thirty days after June 30, 1971, and  
25 each year thereafter the ~~Director of Health and Human Services~~  
26 system shall certify to the Director of Administrative Services  
27 all amounts not previously certified due to each state institution

1 from the several counties having patients chargeable thereto. The  
2 Director of Administrative Services shall thereupon notify the  
3 county clerk of each county of the amount each county owes. The  
4 county board shall add to its next levy an amount sufficient to  
5 raise the amount certified as due. The county shall pay the amount  
6 certified into the state treasury on or before the next June 1  
7 following such certification.

8 From any county which fails to pay the total amount  
9 certified as due annually by the next June 1 following  
10 certification, there shall be withheld by the State Treasurer from  
11 the next allocation to such county due under the provisions of  
12 section 77-27,137, an amount sufficient to equal the amount unpaid  
13 from such county which amount shall be deducted from the county's  
14 portion and not the municipalities' under section ~~77-27,138-~~  
15 77-27,137.01. The State Treasurer shall credit the amount withheld  
16 the same as if the county had paid it when due as above provided.

17 Sec. 1641. Section 83-380.01, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 83-380.01 Upon the discharge from a treatment facility,  
20 an indigent person who has received mental-health-board-ordered  
21 treatment may file an affidavit with the Department of Health  
22 and Human Services system or the mental health board requesting  
23 that prescription medicine which the regional center treating  
24 psychiatrist or the patient's treating physician has prescribed as  
25 necessary for the patient's mental health treatment be provided to  
26 him or her. Such affidavit shall include the following: (1) That  
27 the patient qualifies as an indigent person who is unable to pay

1 under the same standards of ability to pay as set forth in sections  
2 83-363 to 83-380; and (2) that such prescription medicine has been  
3 prescribed by the regional center's treatment psychiatrist or the  
4 patient's treating physician as necessary for the patient's mental  
5 health treatment. The mental health board shall refer such requests  
6 it receives to the ~~Department of Health and Human Services~~ system  
7 and the ~~department~~ system shall provide such prescription medicine  
8 as may be necessary for such former patient's mental health  
9 treatment so long as he or she remains an outpatient and his or  
10 her treating physician continues to prescribe and certify that such  
11 prescription medicine is necessary for the patient's mental health  
12 treatment and he or she continues to be an indigent person as  
13 determined under the same standards of ability to pay as set forth  
14 in sections 83-363 to 83-380. The ~~Department of Health and Human~~  
15 ~~Services~~ system may adopt and promulgate rules and regulations  
16 to carry out the provisions of this section in accordance with  
17 the Administrative Procedure Act, including, but not limited to,  
18 hearings necessary to determine whether such person is qualified to  
19 receive such medications and whether such medication is necessary  
20 for the patient's mental health treatment.

21           Sec. 1642. Section 83-381, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23           83-381 As used in sections 83-217, 83-218, and 83-381 to  
24 83-390, unless the context otherwise requires:

25           (1) Person with mental retardation ~~shall mean~~ means any  
26 person of subaverage general intellectual functioning which is  
27 associated with a significant impairment in adaptive behavior;

1           ~~(2) Director shall mean the Director of Health and Human~~  
2     ~~Services or such person or agency within the Department of Health~~  
3     ~~and Human Services as the director may designate, and~~

4           ~~(3) (2) Residential facility shall mean means an~~  
5     ~~institution specified under section 83-217 to provide residential~~  
6     ~~care by the State of Nebraska for persons with mental retardation;~~  
7     ~~and -~~

8           (3) System means the Health and Human Services System.

9           Sec. 1643. Section 83-382, Reissue Revised Statutes of  
10     Nebraska, is amended to read:

11           83-382 Except as provided in sections 79-1148 and  
12     79-1149, the Department of Health and Human Services system  
13     shall have jurisdiction of the admission of persons with mental  
14     retardation to a residential facility. Applications for admission  
15     to a residential facility shall be filed with the ~~director-~~ system.

16           Sec. 1644. Section 83-383, Reissue Revised Statutes of  
17     Nebraska, is amended to read:

18           83-383 (1) An application for admission shall be made in  
19     writing by one of the following persons:

20           (a) If the person applying for admission has a  
21     court-appointed guardian, the application shall be made by the  
22     guardian; and

23           (b) If the person applying for admission does not have a  
24     court-appointed guardian and has not reached the age of majority,  
25     as established by section 43-2101, as such section may from time to  
26     time be amended, the application shall be made by both parents if  
27     they are living together or by the parent having custody of such

1 person if both parents are not then living or are not then living  
2 together.

3 (2) The county court of the county of residence of  
4 any person with mental retardation or the county court of the  
5 county in which a state residential facility is located shall  
6 have authority to appoint a guardian for any person with mental  
7 retardation upon the petition of the husband, wife, parent, person  
8 standing in loco parentis to such person, a county attorney, or any  
9 authorized official of the Department of Health and Human Services  
10 authorized by the director. system. If the guardianship proceedings  
11 are initiated by an official of the ~~Department of Health and Human~~  
12 ~~Services,~~ system, the costs thereof may be taxed to and paid by  
13 the ~~department~~ system if the person with mental retardation is  
14 without means to pay the costs. The ~~Department of Health and Human~~  
15 ~~Services~~ system shall pay such costs upon presentation of a proper  
16 claim by the judge of the county court in which the proceedings  
17 were initiated. The costs of such proceedings shall include court  
18 costs, attorneys' fees, sheriffs' fees, psychiatric fees, and other  
19 necessary expenses of the guardianship.

20 Sec. 1645. Section 83-391, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 83-391 For purposes of sections 83-108 and 83-391 to  
23 83-393, unless the context otherwise requires:

24 ~~(1) Department means the Department of Health and Human~~  
25 ~~Services;~~ and

26 ~~(2) (1) Facility means a skilled nursing care or~~  
27 ~~intermediate care facility; and -~~

1                   (2) System means the Health and Human Services System.

2                   Sec. 1646. Section 83-392, Revised Statutes Cumulative  
3 Supplement, 2006, is amended to read:

4                   83-392 The ~~department~~ system may establish, operate, and  
5 administer skilled nursing care and intermediate care facilities.  
6 No such facility shall be established, operated, or administered  
7 without having complied with the laws, rules, and regulations  
8 establishing standards for construction, maintenance, and operation  
9 of such facilities and the care of persons in such facilities, and  
10 no such facility shall be established, operated, or administered  
11 without a license pursuant to the Health Care Facility Licensure  
12 Act.

13                   Sec. 1647. Section 83-393, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15                   83-393 Any person who needs the care provided in a  
16 facility shall be eligible for admission to such facility, and  
17 admission shall not be restricted to persons who receive services  
18 in any other institution operated by the ~~department~~ system at the  
19 time application is made.

20                   Sec. 1648. Section 83-802, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22                   83-802 Pursuant to the compact as provided in section  
23 83-801, the ~~Director of Health and Human Services~~ chief executive  
24 officer of the Health and Human Services System or such person  
25 as the ~~director~~ chief executive officer may designate shall be  
26 the compact administrator and shall have the power to promulgate  
27 rules and regulations to carry out more effectively the terms

1 of the compact. The compact administrator is hereby authorized,  
2 empowered, and directed to cooperate with all departments,  
3 agencies, and officers of and in the government of this state and  
4 its subdivisions in facilitating the proper administration of the  
5 compact or of any supplementary agreement or agreements entered  
6 into by this state thereunder.

7           Sec. 1649. Section 83-1204, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           83-1204 System shall mean the Health and Human Services  
10 System. Department shall mean the Department of Health and Human  
11 Services.

12           Sec. 1650. Section 83-1210, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           83-1210 The ~~department~~ system may establish local  
15 field offices to assist in discharging ~~departmental~~ system  
16 responsibilities and to ensure accessibility of ~~departmental~~ system  
17 services for persons with developmental disabilities and their  
18 families throughout the state.

19           Sec. 1651. Section 83-1211, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21           83-1211 A person receiving specialized services from  
22 a local specialized program which receives financial assistance  
23 through the ~~department~~ system shall be responsible for the cost  
24 of such services in the same manner as are persons receiving care  
25 at the Beatrice State Developmental Center. Provisions of law in  
26 effect on September 6, 1991, or enacted after such date relating to  
27 the responsibility of such persons and their relatives for the cost



1 of and determination of ability to pay for services at the center  
2 shall also apply to persons receiving services from specialized  
3 programs.

4 Sec. 1652. Section 83-1212.01, Revised Statutes  
5 Cumulative Supplement, 2006, is amended to read:

6 83-1212.01 (1) There is hereby created the Advisory  
7 Committee on Developmental Disabilities. The advisory committee  
8 shall consist of a representative of a statewide advocacy  
9 organization for persons with developmental disabilities and their  
10 families and not more than fifteen additional members, at least  
11 one-third of whom shall be persons with developmental disabilities,  
12 at least one-third of whom shall be families of persons with  
13 developmental disabilities, and no more than one-third of whom  
14 shall be elected officials or interested community persons.

15 (2) The members shall be appointed by the Governor for  
16 staggered terms of three years. Any vacancy shall be filled by the  
17 Governor for the remainder of the term. One of the members shall  
18 be designated as chairperson by the Governor. Members shall be  
19 reimbursed for their actual and necessary expenses as provided in  
20 sections 81-1174 to 81-1177.

21 (3) The advisory committee shall advise the ~~department~~  
22 system regarding all aspects of the funding and delivery of  
23 services to persons with developmental disabilities.

24 (4) The advisory committee shall provide sufficient  
25 oversight to ensure that persons placed in the custody of  
26 the ~~department~~ system under the Developmental Disabilities  
27 Court-Ordered Custody Act are receiving the least restrictive

1 treatment and services necessary.

2           Sec. 1653. Section 83-1213, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           83-1213 (1) The ~~department~~ system shall establish a  
5 quality review team for each developmental disability region. Each  
6 team shall consist of four members appointed by the ~~director~~  
7 system and shall include at least one person with a developmental  
8 disability, at least one parent or other close relative of a  
9 person with a developmental disability, and at least one person who  
10 is neither a person with a developmental disability nor a close  
11 relative of such a person. No employee of any governmental agency  
12 or instrumentality or any specialized program shall be eligible to  
13 be appointed to a team. Members shall be chosen from nominations  
14 submitted by advocacy groups, providers, elected officials, or  
15 other groups or by persons interested in developmental disability  
16 services who are located in the service area of the developmental  
17 disability region.

18           (2) For each quality review team, one member shall be  
19 appointed for a term of one year, one member for a term of two  
20 years, one member for a term of three years, and one member for a  
21 term of four years with the director designating the expiration of  
22 the initial term of office of each member. Thereafter, successors  
23 shall serve for terms of four years. In case of a vacancy, a  
24 successor shall be appointed for the unexpired term. Members shall  
25 be reimbursed for their actual and necessary expenses incurred in  
26 the performance of their official duties as provided in sections  
27 81-1174 to 81-1177.

1           (3) Each quality review team shall (a) conduct an annual  
2 quality-of-life survey of persons with developmental disabilities  
3 receiving services in a developmental disability region and of  
4 their families, guardians, and designated advocates, (b) receive,  
5 investigate, and hear complaints from persons with developmental  
6 disabilities and their families, guardians, and designated  
7 advocates, and (c) make recommendations to the developmental  
8 disability region.

9           Sec. 1654. Section 83-1215, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           83-1215 The ~~department~~ system shall carry out the  
12 authority granted to it pursuant to section 68-1204 and shall  
13 comply with all applicable provisions of the federal act identified  
14 in such section and of sections 68-1202 to 68-1210.

15           Sec. 1655. Section 83-1216, Revised Statutes Cumulative  
16 Supplement, 2006, is amended to read:

17           83-1216 (1) Beginning July 1, 1995, persons determined  
18 to be eligible for specialized services who on or after September  
19 6, 1993, graduate from high school, reach the age of twenty-one  
20 years, or are currently receiving services shall receive services  
21 in accordance with the Developmental Disabilities Services Act.  
22 The amount of funding for any person receiving services shall be  
23 determined using an objective assessment process developed by the  
24 plan in subsection (3) of this section.

25           (2) The ~~department~~ system shall provide directly or by  
26 contract service coordination to Nebraska residents found to be  
27 eligible for specialized services.

1           (3) It is the intent of the Legislature that by July  
2 1, 2010, all persons determined to be eligible for services shall  
3 receive services in accordance with the act. The department shall  
4 establish a workgroup including representatives from the State  
5 Department of Education, the Advisory Committee on Developmental  
6 Disabilities, the Developmental Disabilities Planning Council,  
7 consumers, families, consumer advocacy organizations, developmental  
8 disabilities service providers, and other interested parties. On  
9 or before December 1, 2004, the Department of Health and Human  
10 Services, in consultation with the workgroup, shall submit a  
11 report to the Legislature and the Governor for the development and  
12 provision of needed specialized services to implement such intent.  
13 Such plan shall provide for, but shall not be limited to: (a)  
14 The adequate and equitable distribution of available funding for  
15 the provision of specialized services pursuant to an objective  
16 assessment process; (b) the incremental statewide implementation of  
17 such process for the provision of specialized services; and (c) the  
18 projected number of persons who will likely become eligible for  
19 specialized services under the act during the next calendar year.  
20 The workgroup shall terminate upon submission of such plan or on  
21 December 1, 2004, whichever occurs earlier.

22           (4) It is the intent of the Legislature that the  
23 department system take all possible steps to maximize funding  
24 in order to implement subsections (1) and (2) of this section prior  
25 to the date these subsections become entitlements. All Nebraska  
26 residents eligible for funding for specialized services under the  
27 Developmental Disabilities Services Act shall apply for and accept

1 any federal medicaid benefits for which they may be eligible  
2 and benefits from other funding sources within the ~~department,~~  
3 system, the State Department of Education, specifically including  
4 the Division of Rehabilitation Services, and other agencies to the  
5 maximum extent possible.

6 Sec. 1656. Section 83-1217, Revised Statutes Cumulative  
7 Supplement, 2006, is amended to read:

8 83-1217 The ~~department~~ system shall contract for  
9 specialized services and shall only contract with specialized  
10 programs which meet certification and accreditation requirements.

11 In order to be certified, each program shall:

12 (1) Have an internal quality assurance process;

13 (2) Have a program evaluation component;

14 (3) Have a complaint mechanism for persons with  
15 developmental disabilities and their families;

16 (4) Have a process to ensure direct and open  
17 communication with the ~~department;~~ system;

18 (5) Develop, implement, and regularly evaluate a plan to  
19 ensure retention of quality employees and prevent staff turnover;

20 (6) Have measures to enhance staff training and  
21 development;

22 (7) Be governed by a local governing board or have an  
23 advisory committee, the membership of which consists of (a) county  
24 commissioners or other locally elected officials, (b) persons with  
25 developmental disabilities or members of their families, and (c)  
26 persons who are not elected officials, persons with developmental  
27 disabilities, or family members of persons with developmental

1 disabilities. At least one-third of the membership shall be persons  
2 with developmental disabilities or members of their families. No  
3 more than one-third of the membership shall be elected officials,  
4 and no more than one-third of the membership shall be persons who  
5 are not elected officials, persons with developmental disabilities,  
6 or family members of persons with developmental disabilities;

7 (8) Meet accreditation standards developed by the  
8 ~~department;~~ system;

9 (9) Require a criminal history record information check  
10 of all employees hired on or after September 13, 1997, who work  
11 directly with clients receiving services and who are not licensed  
12 or certified as members of their profession; and

13 (10) Meet any other certification requirements developed  
14 by the ~~department~~ system to further the purposes of the  
15 Developmental Disabilities Services Act.

16 Sec. 1657. Section 83-1217.02, Reissue Revised Statutes  
17 of Nebraska, is amended to read:

18 83-1217.02 Each employee subject to the criminal history  
19 record information check requirements of subdivision (9) of section  
20 83-1217 and section 83-1217.01 shall file a complete set of his  
21 or her legible fingerprints with the ~~department.~~ system. The  
22 ~~department~~ system shall transmit such fingerprints to the Nebraska  
23 State Patrol which shall transmit a copy of the applicant's  
24 fingerprints to the Identification Division of the Federal Bureau  
25 of Investigation for a national criminal history record information  
26 check.

27 The national criminal history record information

1 check shall include information concerning the employee from  
2 federal repositories of such information and repositories of  
3 such information in other states if authorized by federal law.  
4 The division shall issue a report containing the results of  
5 the national criminal history record information check to the  
6 ~~department.~~ system.

7           The Nebraska State Patrol shall undertake a search  
8 for Nebraska criminal history record information concerning the  
9 employee. The Nebraska State Patrol shall issue a report to the  
10 ~~department~~ system which contains the results of the criminal  
11 history record information check conducted by the Nebraska State  
12 Patrol.

13           The ~~department~~ system shall issue copies of the reports  
14 to the employee and to the employer listed by the employee.

15           Criminal history record information subject to federal  
16 confidentiality requirements shall remain confidential and may be  
17 released only upon the written authorization by the employee.

18           The ~~department,~~ system, in cooperation with the Nebraska  
19 State Patrol, shall adopt and promulgate rules and regulations  
20 to carry out this section. Such rules and regulations shall  
21 provide that the decision to initiate, continue, or terminate  
22 the employment of the employee is and shall remain that of the  
23 employer.

24           Sec. 1658. Section 83-1218, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26           83-1218 The local governing board for a specialized  
27 program shall:

1           (1) Organize and supervise the delivery of specialized  
2 services within its governance;

3           (2) Cause such services to be provided;

4           (3) Report annually to the ~~director~~ system regarding the  
5 expenditure of funds and the evaluation of specialized services  
6 rendered during the preceding year; and

7           (4) Ensure compliance with the certification and  
8 accreditation requirements of section 83-1217 and all applicable  
9 rules and regulations of the ~~department~~ system.

10           Sec. 1659. Section 83-1219, Revised Statutes Cumulative  
11 Supplement, 2006, is amended to read:

12           83-1219 A person with developmental disabilities or his  
13 or her parent or guardian may initiate a hearing on matters  
14 related to the initiation, change, or termination of or the  
15 refusal to initiate, change, or terminate the determination of  
16 eligibility for specialized services or the evaluation or placement  
17 of the person or the provision of specialized services or records  
18 relating thereto. A copy of the procedures specified in rules and  
19 regulations of the ~~department~~ system for complaints and hearings  
20 under this section shall be provided to such persons who are  
21 receiving specialized services or their parents or guardians.  
22 The hearing shall be initiated by filing a petition with the  
23 ~~department~~ system.

24           Sec. 1660. Section 83-1220, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26           83-1220 The ~~department~~ system shall conduct hearings  
27 initiated under section 83-1219 using hearing officers. The



1 ~~department~~ system may employ, retain, or approve such qualified  
2 hearing officers as are necessary to conduct the hearings. The  
3 hearing officers shall not be persons who are employees or officers  
4 of a local agency which is involved in providing services to the  
5 person with developmental disabilities. A person who otherwise  
6 qualifies to conduct a hearing shall not be considered an employee  
7 of the agency solely because the person is paid by the agency to  
8 serve as a hearing officer. No hearing officer shall participate  
9 in any way in any hearing or matter in which the hearing officer  
10 may have a conflict of interest. Hearing officers appointed and  
11 assigned by the ~~department~~ system shall have exclusive original  
12 jurisdiction over cases arising under sections 83-1219 to 83-1224,  
13 and in no event shall juvenile courts have jurisdiction over such  
14 matters.

15           Sec. 1661. Section 83-1221, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17           83-1221 Upon the receipt of a petition pursuant to  
18 section 83-1219, the ~~department~~ system shall assign it to a hearing  
19 officer. The hearing officer shall receive all subsequent pleadings  
20 and shall conduct the hearing. At the hearing the parties shall  
21 present evidence on the issues raised in the pleadings. At the  
22 completion of the proceedings, the hearing officer shall prepare a  
23 report based on the evidence presented containing findings of fact  
24 and conclusions of law. Within forty-five days after the receipt  
25 of a request for a hearing, the hearing officer shall prepare a  
26 final decision and order directing such action as may be necessary.  
27 At the request of either party for good cause shown, the hearing

1 officer may grant specific extensions of time beyond this period.  
2 The report and the final decision and order shall be delivered  
3 to each party or attorney of record by certified mail and to the  
4 ~~director- system.~~

5 Sec. 1662. Section 83-1224, Revised Statutes Cumulative  
6 Supplement, 2006, is amended to read:

7 83-1224 (1) Any party aggrieved by the findings,  
8 conclusions, or final decision and order of the hearing officer  
9 shall be entitled to judicial review under this section. Any party  
10 of record also may seek enforcement of the final decision and order  
11 of the hearing officer pursuant to this section.

12 (2) Proceedings for judicial review shall be instituted  
13 by filing a petition in the district court of Lancaster County  
14 within thirty days after service of the final decision and order  
15 on the party seeking such review. All parties of record shall be  
16 made parties to the proceedings. The court, in its discretion, may  
17 permit other interested parties to intervene.

18 (3) The filing of a petition for judicial review to  
19 such district court shall operate to stay the enforcement of the  
20 final decision and order of the hearing officer. While judicial  
21 proceedings are pending in district court and unless the parties  
22 otherwise agree, the person with developmental disabilities shall  
23 remain in his or her current placement. If the health or safety  
24 of the person with developmental disabilities or of other persons  
25 would be endangered by delaying a change in placement, the service  
26 provider may make such change without prejudice to the rights of  
27 any party.

1           (4) Within thirty days after receiving notification that  
2 a petition for judicial review has been filed or, if good cause  
3 is shown, within such further time as the court may allow, the  
4 ~~department~~ system shall prepare and transmit to the court a  
5 certified transcript of the proceedings before the hearing officer.

6           (5) Judicial review shall be heard de novo on the  
7 record. The court shall receive the records of the administrative  
8 proceedings, base its decision on the preponderance of the  
9 evidence, and grant such relief as the court determines is  
10 appropriate. The district court may affirm, reverse, or modify  
11 the decision of the hearing officer, or remand the case to the  
12 hearing officer for further proceedings, including the receipt of  
13 additional evidence, for good cause shown.

14           (6) An aggrieved party may secure a review of any final  
15 judgment of the district court under this section by appeal to the  
16 Court of Appeals. Such appeal shall be taken in the manner provided  
17 by law for appeals in civil cases and shall be heard de novo on the  
18 record.

19           (7) When no petition for judicial review or other civil  
20 action is filed within thirty days after service of the final  
21 decision and order on all of the parties, the hearing officer's  
22 final decision and order shall become effective. Proceedings for  
23 enforcement of a hearing officer's final decision and order shall  
24 be instituted by filing a petition for appropriate relief in the  
25 district court of Lancaster County within one year after the date  
26 of the hearing officer's final decision and order.

27           Sec. 1663. Section 83-1226, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           83-1226 The ~~department~~ system shall adopt and promulgate  
3 rules and regulations to carry out the Developmental Disabilities  
4 Services Act.

5           Sec. 1664. Section 84-205, Revised Statutes Cumulative  
6 Supplement, 2006, is amended to read:

7           84-205 The duties of the Attorney General shall be:

8           (1) To appear and defend actions and claims against the  
9 state;

10           (2) To investigate, commence, and prosecute any and all  
11 actions resulting from violations of sections 32-1401 to 32-1417;

12           (3) To consult with and advise the county attorneys, when  
13 requested by them, in all criminal matters and in matters relating  
14 to the public revenue. He or she shall have authority to require  
15 aid and assistance of the county attorney in all matters pertaining  
16 to the duties of the Attorney General in the county of such county  
17 attorney and may, in any case brought to the Court of Appeals or  
18 Supreme Court from any county, demand and receive the assistance of  
19 the county attorney from whose county such case is brought;

20           (4) To give, when required, without fee, his or her  
21 opinion in writing upon all questions of law submitted to him or  
22 her by the Governor, head of any executive department, Secretary  
23 of State, State Treasurer, Auditor of Public Accounts, Board of  
24 Educational Lands and Funds, State Department of Education, Public  
25 Service Commission, or Legislature;

26           (5) At the request of the Governor, head of any executive  
27 department, Secretary of State, State Treasurer, Auditor of Public

1 Accounts, Board of Educational Lands and Funds, State Department of  
2 Education, or Public Service Commission, to prosecute any official  
3 bond or any contract in which the state is interested which is  
4 deposited with any of them and to prosecute or defend for the  
5 state all civil or criminal actions and proceedings relating to  
6 any matter connected with any of such officers' departments if,  
7 after investigation, he or she is convinced there is sufficient  
8 legal merit to justify the proceeding. Such officers shall not  
9 pay or contract to pay from the funds of the state any money for  
10 special attorneys or counselors-at-law unless the employment of  
11 such special counsel is made upon the written authorization of the  
12 Governor or the Attorney General;

13 (6) To enforce the proper application of money  
14 appropriated by the Legislature to the various funds of the state  
15 and prosecute breaches of trust in the administration of such  
16 funds;

17 (7) To prepare, when requested by the Governor, Secretary  
18 of State, State Treasurer, or Auditor of Public Accounts or any  
19 other executive department, proper drafts for contracts, forms, or  
20 other writings which may be wanted for the use of the state and  
21 report to the Legislature, whenever requested, upon any business  
22 pertaining to the duties of his or her office;

23 (8) To pay all money received, belonging to the people  
24 of the state, immediately upon receipt thereof, into the state  
25 treasury;

26 (9) To keep a record in proper books provided for that  
27 purpose at the expense of the state, a register of all actions and

1 demands prosecuted or defended by him or her in behalf of the state  
2 and all proceedings had in relation thereto, and deliver the same  
3 to his or her successor in office;

4 (10) To appear for the state and prosecute and defend all  
5 civil or criminal actions and proceedings in the Court of Appeals  
6 or Supreme Court in which the state is interested or a party. When  
7 requested by the Governor or the Legislature, the Attorney General  
8 shall appear for the state and prosecute or defend any action or  
9 conduct any investigation in which the state is interested or a  
10 party before any court, officer, board, tribunal, or commission;

11 (11) To prepare and promulgate model rules of procedure  
12 appropriate for use by as many agencies as possible. The Attorney  
13 General shall add to, amend, or revise the model rules as necessary  
14 for the proper guidance of agencies;

15 (12) To include within the budget of the office  
16 sufficient funding to assure oversight and representation of the  
17 State of Nebraska for district court appeals of administrative  
18 license revocation proceedings under section 60-498.04; and

19 (13) To create a Child Protection Division to be staffed  
20 by at least three assistant attorneys general who each have five or  
21 more years of experience in the prosecution or defense of felonies  
22 or misdemeanors, including two years in the prosecution or defense  
23 of crimes against children. Upon the written request of a county  
24 attorney, the division shall provide consultation and advise and  
25 assist in the preparation of the trial of any case involving a  
26 crime against a child, including, but not limited to, the following  
27 offenses:

- 1 (a) Murder as defined in sections 28-303 and 28-304;  
2 (b) Manslaughter as defined in section 28-305;  
3 (c) Kidnapping as defined in section 28-313;  
4 (d) False imprisonment as defined in sections 28-314 and  
5 28-315;  
6 (e) Child abuse as defined in section 28-707;  
7 (f) Pandering as defined in section 28-802;  
8 (g) Debauching a minor as defined in section 28-805; and  
9 (h) Offenses listed in sections 28-813, 28-813.01, and  
10 28-1463.03.

11 Any offense listed in subdivisions (a) through (h) of  
12 this subdivision shall include all inchoate offenses pursuant to  
13 the Nebraska Criminal Code and compounding a felony pursuant to  
14 section 28-301. Such crimes shall not include matters involving  
15 dependent and neglected children, infraction violations, custody  
16 or visitation matters, or child support. If the county attorney  
17 declines in writing to prosecute a case involving a crime against  
18 a child because of an ethical consideration, including the presence  
19 or appearance of a conflict of interest, or for any other reason,  
20 the division shall, upon the receipt of a written request of  
21 the county attorney, the ~~Department of Health and Human Services,~~  
22 Health and Human Services System, the minor child, the parents of  
23 the minor child, or any other interested party, investigate the  
24 matter and either decline to prosecute the matter or initiate the  
25 appropriate criminal proceedings in a court of proper jurisdiction.

26 For purposes of this subdivision, child or children shall  
27 mean an individual or individuals sixteen years of age or younger.

1           Sec. 1665. Section 84-1409, Revised Statutes Cumulative  
2 Supplement, 2006, is amended to read:

3           84-1409 For purposes of the Open Meetings Act, unless the  
4 context otherwise requires:

5           (1)(a) Public body means (i) governing bodies of  
6 all political subdivisions of the State of Nebraska, (ii)  
7 governing bodies of all agencies, created by the Constitution of  
8 Nebraska, statute, or otherwise pursuant to law, of the executive  
9 department of the State of Nebraska, (iii) all independent boards,  
10 commissions, bureaus, committees, councils, subunits, or any other  
11 bodies created by the Constitution of Nebraska, statute, or  
12 otherwise pursuant to law, (iv) all study or advisory committees  
13 of the executive department of the State of Nebraska whether  
14 having continuing existence or appointed as special committees with  
15 limited existence, (v) advisory committees of the bodies referred  
16 to in subdivisions (i), (ii), and (iii) of this subdivision, and  
17 (vi) instrumentalities exercising essentially public functions; and

18           (b) Public body does not include (i) subcommittees of  
19 such bodies unless a quorum of the public body attends a  
20 subcommittee meeting or unless such subcommittees are holding  
21 hearings, making policy, or taking formal action on behalf  
22 of their parent body, and (ii) entities conducting judicial  
23 proceedings unless a court or other judicial body is exercising  
24 rulemaking authority, deliberating, or deciding upon the issuance  
25 of administrative orders; 7 and ~~(iii) the Policy Cabinet created in~~  
26 ~~section 81-3009;~~

27           (2) Meeting means all regular, special, or called



1 meetings, formal or informal, of any public body for the purposes  
2 of briefing, discussion of public business, formation of tentative  
3 policy, or the taking of any action of the public body; and

4 (3) Videoconferencing means conducting a meeting  
5 involving participants at two or more locations through the use of  
6 audio-video equipment which allows participants at each location  
7 to hear and see each meeting participant at each other location,  
8 including public input. Interaction between meeting participants  
9 shall be possible at all meeting locations.

10 Sec. 1666. Section 84-1511, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 84-1511 (1) The Public Employees Retirement Board shall  
13 establish a comprehensive preretirement planning program for state  
14 patrol officers, state employees, judges, county employees, and  
15 school employees who are members of the retirement systems  
16 established pursuant to the Class V School Employees Retirement  
17 Act, the County Employees Retirement Act, the Judges Retirement  
18 Act, the School Employees Retirement Act, the Nebraska State  
19 Patrol Retirement Act, and the State Employees Retirement Act. The  
20 program shall provide information and advice regarding the many  
21 changes employees face upon retirement including, but not limited  
22 to, changes in physical and mental health, housing, family life,  
23 leisure activity, and retirement income.

24 (2) The preretirement planning program shall be available  
25 to all employees who have attained the age of fifty or are within  
26 five years of qualifying for retirement or early retirement under  
27 their retirement systems.

1           (3) The preretirement planning program shall include  
2 information on the federal and state income tax consequences of  
3 the various annuity or retirement benefit options available to the  
4 employee, information on social security benefits, information on  
5 various local, state, and federal government programs and programs  
6 in the private sector designed to assist elderly persons, and  
7 information and advice the board deems valuable in assisting public  
8 employees in the transition from public employment to retirement.

9           (4) The board shall work with the ~~Department of Health~~  
10 ~~and Human Services~~, Health and Human Services System, the personnel  
11 division of the Department of Administrative Services, employee  
12 groups, and any other governmental agency, including political  
13 subdivisions or bodies whose services or expertise may enhance  
14 the development or implementation of the preretirement planning  
15 program.

16           (5) Funding to cover the expense of the preretirement  
17 planning program shall be charged back to each retirement fund on a  
18 pro rata share based on the number of employees in each plan.

19           (6) The employer shall provide each eligible employee  
20 leave with pay to attend up to two preretirement planning programs.  
21 For purposes of this subsection, leave with pay shall mean a  
22 day off paid by the employer and shall not mean vacation, sick,  
23 personal, or compensatory time. An employee may choose to attend  
24 a program more than twice, but such leave shall be at the expense  
25 of the employee and shall be at the discretion of the employer.  
26 An eligible employee shall not be entitled to attend more than  
27 one preretirement planning program per fiscal year prior to actual

1 election of retirement.

2 (7) A nominal registration fee shall be charged each  
3 person attending a preretirement planning program to cover the  
4 costs for meals, meeting rooms, or other expenses incurred under  
5 such program.

6 Sec. 1667. Section 85-134, Revised Statutes Cumulative  
7 Supplement, 2006, is amended to read:

8 85-134 The University of Nebraska Medical Center Medical  
9 Education Revolving Fund is hereby established to be administered  
10 by the ~~Department of Health and Human Services Finance and Support.~~  
11 Health and Human Services System. The fund shall be used to fund  
12 medical education. Any money in the fund available for investment  
13 shall be invested by the state investment officer pursuant to  
14 the Nebraska Capital Expansion Act and the Nebraska State Funds  
15 Investment Act.

16 Sec. 1668. Section 86-570, Revised Statutes Cumulative  
17 Supplement, 2006, is amended to read:

18 86-570 (1) The Geographic Information System Steering  
19 Committee is hereby created and shall consist of nineteen members  
20 as follows:

21 (a) The Chief Information Officer or his or her designee  
22 and the director or designee of the Department of Environmental  
23 Quality, the ~~Department of Health and Human Services Regulation and~~  
24 Licensure, chief executive officer of the Health and Human Services  
25 System or his or her designee, the Conservation and Survey Division  
26 of the University of Nebraska, the Department of Natural Resources,  
27 and the Governor's Policy Research Office;

1 (b) The Director-State Engineer or designee;

2 (c) The State Surveyor or designee;

3 (d) The Clerk of the Legislature or designee;

4 (e) The secretary of the Game and Parks Commission or  
5 designee;

6 (f) The Property Tax Administrator or designee;

7 (g) One representative of federal agencies appointed by  
8 the Governor;

9 (h) One representative of the natural resources districts  
10 nominated by the Nebraska Association of Resources Districts and  
11 appointed by the Governor;

12 (i) One representative of the public power districts  
13 appointed by the Governor;

14 (j) Two representatives of the counties nominated by  
15 the Nebraska Association of County Officials and appointed by the  
16 Governor;

17 (k) One representative of the municipalities nominated  
18 by the League of Nebraska Municipalities and appointed by the  
19 Governor; and

20 (1) Two members at large appointed by the Governor.

21 (2) The appointed members shall serve for terms of  
22 four years, except that of the initial members appointed by the  
23 Governor, one of the representatives of the counties shall be  
24 appointed for one year and the other shall be appointed for three  
25 years, one of the members at large shall be appointed for one  
26 year and the other for three years, and the representative of the  
27 public power districts shall be appointed for two years. Their

1 successors shall be appointed for four-year terms. Any vacancy on  
2 the committee shall be filled in the same manner as the original  
3 appointment, and the person selected to fill such vacancy shall  
4 have the same qualifications as the member whose vacancy is being  
5 filled.

6 (3) The members shall be reimbursed for their actual and  
7 necessary expenses as provided in sections 81-1174 to 81-1177.

8 Sec. 1669. Original sections 2-3925, 2-3932, 9-810,  
9 12-102, 13-1207, 23-3595, 28-352, 28-373, 28-374, 28-376, 28-378,  
10 28-379, 28-381, 28-387, 31-740, 32-327, 37-1254.05, 37-1254.06,  
11 42-106, 42-347, 42-358.01, 42-358.08, 42-705, 42-723, 42-903,  
12 42-904, 42-906, 42-907, 42-908, 42-909, 42-910, 42-911, 42-912,  
13 42-913, 42-914, 42-915, 42-916, 42-917, 42-918, 42-920, 42-921,  
14 42-922, 42-923, 43-102, 43-104.01, 43-104.02, 43-104.03, 43-104.04,  
15 43-104.07, 43-105, 43-106.01, 43-106.02, 43-107, 43-117, 43-117.01,  
16 43-117.02, 43-118, 43-118.01, 43-121, 43-123.01, 43-124, 43-125,  
17 43-126, 43-127, 43-130, 43-131, 43-132, 43-133, 43-134, 43-135,  
18 43-137, 43-138, 43-139, 43-140, 43-141, 43-142, 43-143, 43-144,  
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14 71-17,118, 71-17,119, 71-17,121, 71-17,123, 71-17,124, 71-17,127,  
15 71-17,130, 71-17,134, 71-17,135, 71-17,136, 71-17,137, 71-17,138,  
16 71-17,141, 71-1903, 71-1909, 71-1910, 71-1911, 71-1911.01,  
17 71-1911.02, 71-1912, 71-1913.01, 71-1913.02, 71-1913.03, 71-1914,  
18 71-1914.01, 71-1914.02, 71-1914.03, 71-1916, 71-1918, 71-1919,  
19 71-1920, 71-1921, 71-1922, 71-1923, 71-2081, 71-2103, 71-2104,  
20 71-2304, 71-2305, 71-2423, 71-2427, 71-2429, 71-2430, 71-2431,  
21 71-2432, 71-2433, 71-2434, 71-2437, 71-2438, 71-2442, 71-2610.01,  
22 71-3406, 71-3503, 71-3512, 71-3515.01, 71-3515.02, 71-3516,  
23 71-3516.01, 71-3524, 71-3601, 71-3602, 71-3603, 71-3608, 71-3610,  
24 71-3611, 71-3612, 71-3613, 71-3614, 71-4728.05, 71-4737, 71-4738,  
25 71-4739, 71-4740, 71-4741, 71-4742, 71-4743, 71-4744, 71-5176,  
26 71-51,102, 71-5301, 71-5402, 71-5647, 71-5649, 71-5653, 71-5654,  
27 71-5655, 71-5661, 71-5668, 71-5681, 71-5707, 71-5714, 71-5903,

1 71-5906, 71-5908, 71-6038, 71-6039, 71-6039.01, 71-6039.03,  
2 71-6039.04, 71-6040, 71-6041, 71-6042, 71-6054, 71-6103, 71-6113,  
3 71-6115, 71-6122, 71-6123, 71-6721, 71-6736, 71-7434, 71-7439,  
4 71-7447, 71-7448, 71-7450, 71-7451, 71-7452, 71-7453, 71-7454,  
5 71-7455, 71-7456, 71-7457, 71-7458, 71-7459, 71-7460, 71-7461,  
6 71-7463, 71-7607, 71-7608, 71-7617, 71-7618, 71-7619, 71-7620,  
7 71-7621, 71-7622, 71-8506, 75-303.03, 77-912, 77-2602, 77-2704.12,  
8 77-27,119, 77-27,163.01, 79-215, 79-217, 79-218, 79-219, 79-1103,  
9 79-1104.04, 79-1902, 80-316, 80-318, 81-647, 81-656, 81-657,  
10 81-668, 81-671, 81-6,101, 81-6,113, 81-1316, 81-15,170, 81-15,245,  
11 81-1850, 81-2213, 81-2227, 81-2275, 81-2276, 81-2277, 81-2280,  
12 81-2281, 81-2282, 81-2283, 81-3602, 83-107.01, 83-126, 83-133,  
13 83-139, 83-140, 83-174.02, 83-324, 83-336, 83-351, 83-376, 83-392,  
14 83-1212.01, 83-1216, 83-1217, 83-1219, 83-1224, 84-205, 84-1409,  
15 85-134, 86-570, Revised Statutes Cumulative Supplement, 2006, are  
16 repealed.

17           Sec. 1670. The following sections are outright repealed:  
18 Sections 68-718, 68-1729, 68-1730, 71-355, 71-6011, 71-6,319.17,  
19 81-2207, 81-2241, 81-3103, 81-3108, 81-3203, 81-3303, 83-125,  
20 and 83-1206, Reissue Revised Statutes of Nebraska, and sections  
21 43-2414, 81-3001, 81-3001.01, 81-3004, 81-3006, 81-3007.01,  
22 81-3008, 81-3009, 81-3101, 81-3102, 81-3106, 81-3107, 81-3109,  
23 81-3201, 81-3202, 81-3206, 81-3207, 81-3208, 81-3209, 81-3210,  
24 81-3211, 81-3301, 81-3302, 81-3306, 81-3307, 81-3308, 81-3309,  
25 81-3310, and 81-3311, Revised Statutes Cumulative Supplement, 2006.

26           2. In AM74, page 3, line 9, strike "(a)"; in line 11  
27 after "71-6042" insert ", 71-6732," and strike ", (b)" and insert

- 1 "and shall perform such other duties as provided by law."; and
- 2 strike lines 12 and 13.
- 3           3. Renumber the remaining sections accordingly.