

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 296

FINAL READING

Introduced by Johnson, 37; Burling, 33; Erdman, 47; Fischer, 43; Flood, 19; Friend, 10; Gay, 14; Hansen, 42; Hudkins, 21; Janssen, 15; Kruse, 13; Louden, 49; Nantkes, 46; Pankonin, 2; Pedersen, 39; Stuthman, 22; Howard, 9; Pirsch, 4; at the request of the Governor

Read first time January 10, 2007

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to health and human services; to amend
2 sections 2-3925, 2-3932, 13-1207, 23-3595, 31-740,
3 32-327, 37-1254.05, 37-1254.06, 42-106, 42-358.01,
4 42-705, 42-917, 43-102, 43-104.01, 43-104.02, 43-104.03,
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4 83-126, 83-324, 83-336, 83-376, 83-1216, 84-1409, 85-134,
5 and 86-570, Revised Statutes Cumulative Supplement,
6 2006; to adopt the Health and Human Services Act; to
7 state intent; to create the Department of Health and
8 Human Services; to change and eliminate certain agencies
9 and administrative positions; to harmonize provisions;
10 to provide an operative date; to repeal the original
11 sections; to outright repeal sections 68-1729, 68-1730,
12 71-355, 71-6011, 71-6319.17, 81-2207, 81-2241, 81-3103,
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14 Statutes of Nebraska, and sections 43-2414, 81-3001,
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19 81-3308, 81-3309, 81-3310, and 81-3311, Revised Statutes
20 Cumulative Supplement, 2006; and to declare an emergency.
21 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 15 of this act shall be known
2 and may be cited as the Health and Human Services Act.

3 Sec. 2. The purposes of the Health and Human Services
4 Act are to (1) provide for the administration of publicly funded
5 health and human services programs and services in the State of
6 Nebraska through the Department of Health and Human Services; (2)
7 transfer programs, services, and duties of the Department of Health
8 and Human Services, the Department of Health and Human Services
9 Regulation and Licensure, and the Department of Health and Human
10 Services Finance and Support to a single state agency to be known
11 as the Department of Health and Human Services; (3) create six
12 divisions within the Department of Health and Human Services;
13 (4) require the appointment by the Governor of a single chief
14 executive officer for the department, a director for each of the
15 six divisions of the department, and a chief medical officer; and
16 (5) clarify the department's core missions, scope, functions, and
17 responsibilities; ensure and improve accountability, collaboration,
18 and coordination; and enhance services provided to Nebraskans by
19 the department.

20 Sec. 3. Effective July 1, 2007, all programs, services,
21 and duties of the Department of Health and Human Services, the
22 Department of Health and Human Services Regulation and Licensure,
23 and the Department of Health and Human Services Finance and
24 Support shall be transferred to the Department of Health and Human
25 Services.

1 Sec. 4. The Department of Health and Human Services is
2 created. The department shall have six divisions to be known as (1)
3 the Division of Behavioral Health, (2) the Division of Children and
4 Family Services, (3) the Division of Developmental Disabilities,
5 (4) the Division of Medicaid and Long-Term Care, (5) the Division
6 of Public Health, and (6) the Division of Veterans' Homes.

7 Sec. 5. The Governor shall appoint the chief executive
8 officer of the Department of Health and Human Services who shall
9 have recognized and demonstrated knowledge and expertise in the
10 delivery of publicly funded health and human services programs and
11 services and administrative experience in an executive capacity.
12 The chief executive officer shall report to the Governor and serve
13 at the pleasure of the Governor. The chief executive officer shall
14 be subject to confirmation by a majority vote of the members of the
15 Legislature.

16 Sec. 6. (1) The Governor shall appoint a director for
17 each division created in section 4 of this act who shall serve
18 at the pleasure of the Governor and shall report to the chief
19 executive officer. Each division director shall be subject to
20 confirmation by a majority of the members of the Legislature.

21 (2) If the Director of Public Health is licensed to
22 practice medicine and surgery in the State of Nebraska, he or
23 she shall also be the chief medical officer. If the Director of
24 Public Health is not licensed to practice medicine and surgery in
25 the State of Nebraska, the Governor shall appoint a chief medical

1 officer in addition to the Director of Public Health. The chief
2 medical officer shall be licensed to practice medicine and surgery
3 in the State of Nebraska, shall serve at the pleasure of the
4 Governor, and shall be subject to confirmation by a majority of the
5 members of the Legislature.

6 (3) The chief medical officer shall perform duties under
7 the Uniform Licensing Law enumerated in section 71-155.01, shall
8 be the final decisionmaker in contested cases of health care
9 facilities defined in the Health Care Facility Licensure Act
10 arising under the act and sections 71-6042, 71-6732, and 81-604.03,
11 and shall perform such other duties as provided by law.

12 Sec. 7. The responsibilities of the divisions created
13 in section 4 of this act include, but are not limited to, the
14 following:

15 (1) The Division of Behavioral Health shall administer
16 (a) the state hospitals for the mentally ill designated in section
17 83-305 and (b) publicly funded community-based behavioral health
18 services;

19 (2) The Division of Children and Family Services shall
20 administer (a) protection and safety programs and services,
21 including child welfare programs and services and the Office of
22 Juvenile Services, (b) economic and family support programs and
23 services, and (c) service areas as may be designated by the
24 chief executive officer or by the Director of Children and Family
25 Services under authority of the chief executive officer;

1 (3) The Division of Developmental Disabilities shall
2 administer (a) the Beatrice State Developmental Center and
3 (b) publicly funded community-based developmental disabilities
4 services;

5 (4) The Division of Medicaid and Long-Term Care shall
6 administer (a) the medical assistance program also known as
7 medicaid, (b) aging services, and (c) other related programs
8 and services;

9 (5) The Division of Public Health shall administer
10 (a) preventive and community health programs and services, (b)
11 the regulation and licensure of health-related professions and
12 occupations, and (c) the regulation and licensure of health care
13 facilities and health care services; and

14 (6) The Division of Veterans' Homes shall administer (a)
15 the Eastern Nebraska Veterans' Home, (b) the Grand Island Veterans'
16 Home, (c) the Norfolk Veterans' Home, and (d) the Western Nebraska
17 Veterans' Home.

18 Sec. 8. The chief executive officer of the Department of
19 Health and Human Services shall:

20 (1) Supervise and be responsible for the administration
21 of the department and the appointment and removal of employees;

22 (2) Manage services and programs of the department,
23 whether contracted or delivered directly by the state, including,
24 but not limited to: (a) Delegating appropriate powers and duties
25 to division directors and employees of the department; (b) assuring

1 coordination throughout the department for consumers of services;
2 (c) providing services in accordance with established policies,
3 desired outcomes, priorities, and goals; (d) identifying strategies
4 jointly with communities for accomplishing identified goals and
5 outcomes; and (e) assuring service coordination and access through
6 public education and information, community resource development,
7 technical assistance, and coordinated service management;

8 (3) Enter into such agreements as may be necessary or
9 appropriate to provide services and manage funds as provided under
10 the Health and Human Services Act, including the administration
11 of federal funds granted to the state in the furtherance of the
12 activities of the department;

13 (4) Allow for the transfer of personnel and for the
14 authority of one division of the department to act as the agent for
15 another division of the department in carrying out certain services
16 or functions, or a portion of them, or for the joint implementation
17 of public or private grants or performance of contracts;

18 (5) Recommend to the Legislature and the Governor
19 legislation he or she deems necessary or appropriate;

20 (6) Consult and cooperate with other state agencies so
21 as to coordinate activities in an effective manner with related
22 activities in other agencies;

23 (7) Adopt and promulgate necessary rules and regulations
24 to implement programs and activities as required by state law or
25 under federal law or regulation governing federal funds, grants, or

1 contracts administered by the department. The authority to adopt
2 and promulgate rules and regulations may be delegated by the chief
3 executive officer to the division directors of the department;

4 (8) Under the direction and guidance of the Adjutant
5 General and the Nebraska Emergency Management Agency, to coordinate
6 assistance programs established by the Adjutant General under
7 section 81-829.72 with the programs of the department;

8 (9) Coordinate budget, research, and data collection
9 efforts to insure effectiveness of the department;

10 (10) Ensure that the Appropriations Committee of the
11 Legislature is provided any information the committee requires
12 to make funding determinations and budget recommendations
13 to the Legislature, including, but not limited to, specific
14 program budgets, internal budget requests, fiscal reports, and
15 appearances by division directors, division administrators, program
16 administrators, and subprogram directors before the committee
17 to present department, division, program, and subprogram budget
18 requests;

19 (11) Seek grants and other funds from federal and other
20 public and private sources to carry out the purposes of the act
21 and the missions and purposes of the department and to accept and
22 administer programs or resources delegated, designated, assigned,
23 or awarded by the Governor or by other public and private sources;

24 (12) Act as the agent of the federal government in
25 matters of mutual concern in conformity with the Health and Human

1 Services Act and the scope of authority of the department as
2 provided by law;

3 (13) Facilitate joint planning initiatives in the
4 department;

5 (14) Adopt and promulgate confidentiality rules and
6 regulations as provided in section 9 of this act;

7 (15) Delegate the authority to act as decisionmaker in
8 contested cases to the division directors;

9 (16) Encourage and direct initiatives and collaboration
10 in the department; and

11 (17) Perform such other duties as are provided by law.

12 Sec. 9. (1) The chief executive officer of the Department
13 of Health and Human Services may adopt and promulgate rules and
14 regulations which prescribe standards and procedures for access to
15 and security of confidential information among the divisions within
16 the department and within each division. These include standards
17 for collection, maintenance, and use of information in electronic
18 or other storage media. Procedures for disclosure of confidential
19 information among the divisions shall include a determination by
20 the chief executive officer on whether confidential information
21 should be shared among the divisions. In making the determination,
22 the following factors shall be considered:

23 (a) The law governing the confidentiality of the
24 information and the original purpose for which the information was
25 collected;

1 (b) The potential for harm to an individual if the
2 disclosure is made;

3 (c) Whether the disclosure will enhance the
4 coordination of policy development, service provision, eligibility
5 determination, program management, quality assurance, financial
6 services, or support services;

7 (d) Whether the information is a trade secret, academic
8 or scientific research work which is in progress and unpublished,
9 or other proprietary or commercial information;

10 (e) Any limitations placed on the use of the information
11 by the original source of the information;

12 (f) Whether the proposed use is for a bona fide research
13 project or study, the procedures and methodology of which meet the
14 standards for research in the particular body of knowledge;

15 (g) The security of the information, including the scope
16 of access, ongoing security, publication, and disposal of the
17 information at the end of its use;

18 (h) The degree to which aggregate or summary data may
19 identify an individual whose privacy would otherwise be protected;
20 and

21 (i) Whether such information constitutes criminal
22 intelligence information maintained by correctional or law
23 enforcement authorities.

24 (2) Otherwise confidential information may be disclosed
25 among the divisions pursuant to subsection (1) of this section

1 if not expressly prohibited by law. Such disclosure shall not
2 be considered a public disclosure or make the record a public
3 record. Any further disclosure may be made only if permitted by
4 law or a policy governing the originating division. Each division
5 shall observe confidentiality of human resources information and
6 employment records, except that the divisions shall act and be
7 considered to be one agency for purposes of human resources issues,
8 employment records, and related matters.

9 (3) All officials and employees shall be informed
10 regarding laws, rules and regulations, and policies governing
11 confidential information and acknowledge receipt of that
12 information.

13 Sec. 10. The Health and Human Services Cash Fund is
14 created and shall consist of funds from contracts, grants, gifts,
15 or fees. Any money in the Department of Health and Human Services
16 Cash Fund, the Department of Health and Human Services Finance and
17 Support Cash Fund, and the Department of Health and Human Services
18 Regulation and Licensure Cash Fund on July 1, 2007, shall be
19 transferred to the Health and Human Services Cash Fund. Any money
20 in the fund available for investment shall be invested by the state
21 investment officer pursuant to the Nebraska Capital Expansion Act
22 and the Nebraska State Funds Investment Act.

23 Sec. 11. The chief executive officer of the Department
24 of Health and Human Services may request that petty cash funds be
25 created at specific locations which may be used for fees and costs

1 related to the prosecution of support establishment, modification,
2 and enforcement cases, including, but not limited to, court costs,
3 filing fees, service of process fees, sheriff's costs, garnishment
4 and execution fees, court reporter and transcription costs, costs
5 related to appeals, witness and expert witness fees, and fees
6 or costs for obtaining necessary documents. The petty cash funds
7 shall be created and administered as provided in section 81-104.01,
8 except that the amount in each petty cash fund shall not be less
9 than twenty-five dollars nor more than one thousand dollars.

10 Sec. 12. On and after July 1, 2007, whenever the
11 Department of Health and Human Services, the Department of Health
12 and Human Services Finance and Support, or the Department of Health
13 and Human Services Regulation and Licensure is referred to or
14 designated by any contract or other document in connection with
15 the duties and functions transferred to the Department of Health
16 and Human Services pursuant to the Health and Human Services Act,
17 such reference or designation shall apply to such department. All
18 contracts entered into by the agencies prior to July 1, 2007,
19 in connection with the duties and functions transferred to the
20 department are hereby recognized, with the department succeeding to
21 all rights and obligations under such contracts. Any cash funds,
22 custodial funds, gifts, trusts, grants, and any appropriations of
23 funds from prior fiscal years available to satisfy obligations
24 incurred under such contracts shall be transferred and appropriated
25 to the department for the payments of such obligations. All

1 licenses, certificates, registrations, permits, seals, or other
2 forms of approval issued by the departments in accordance with
3 functions or duties transferred to the department shall remain
4 valid as issued under the names of the original departments unless
5 revoked or their effectiveness is otherwise terminated as provided
6 by law. All documents and records transferred, or copies of the
7 same, may be authenticated or certified by the department for all
8 legal purposes.

9 Sec. 13. All rules, regulations, and orders of the
10 Department of Health and Human Services, the Department of Health
11 and Human Services Finance and Support, or the Department of Health
12 and Human Services Regulation and Licensure or their predecessor
13 agencies adopted prior to July 1, 2007, in connection with the
14 powers, duties, and functions transferred to the Department of
15 Health and Human Services pursuant to the Health and Human Services
16 Act, shall continue to be effective until revised, amended,
17 repealed, or nullified pursuant to law.

18 No suit, action, or other proceeding, judicial or
19 administrative, lawfully commenced prior to July 1, 2007, or which
20 could have been commenced prior to that date, by or against any
21 of such departments, or any director or employee thereof in such
22 director's or employee's official capacity or in relation to the
23 discharge of his or her official duties, shall abate by reason of
24 the transfer of duties and functions from the Department of Health
25 and Human Services, the Department of Health and Human Services

1 Finance and Support, or the Department of Health and Human Services
2 Regulation and Licensure to the Department of Health and Human
3 Services.

4 On and after July 1, 2007, unless otherwise specified,
5 whenever any provision of law refers to the Department of Health
6 and Human Services, the Department of Health and Human Services
7 Finance and Support, or the Department of Health and Human Services
8 Regulation and Licensure in connection with duties and functions
9 transferred to the Department of Health and Human Services, such
10 law shall be construed as referring to such department.

11 Sec. 14. On and after July 1, 2007, positions of
12 employment in the Department of Health and Human Services, the
13 Department of Health and Human Services Finance and Support,
14 and the Department of Health and Human Services Regulation and
15 Licensure related to the powers, duties, and functions transferred
16 pursuant to the Health and Human Services Act are transferred to
17 the Department of Health and Human Services. For purposes of the
18 transition, employees of the former departments shall be considered
19 employees of the Department of Health and Human Services and shall
20 retain their rights under the state personnel system or pertinent
21 bargaining agreement, and their service shall be deemed continuous.
22 This section does not grant employees any new rights or benefits
23 not otherwise provided by law or bargaining agreement or preclude
24 the divisions or the chief executive officer of the Department of
25 Health and Human Services from exercising any of the prerogatives

1 of management set forth in section 81-1311 or as otherwise provided
2 by law. This section is not an amendment to or substitute for the
3 provisions of any existing bargaining agreements.

4 Sec. 15. On July 1, 2007, all items of property, real
5 and personal, including office furniture and fixtures, books,
6 documents, and records of the Department of Health and Human
7 Services, the Department of Health and Human Services Finance and
8 Support, and the Department of Health and Human Services Regulation
9 and Licensure pertaining to the duties and functions transferred
10 to the Department of Health and Human Services pursuant to the
11 Health and Human Services Act shall become the property of such
12 department.

13 Sec. 16. Section 2-15,100, Revised Statutes Cumulative
14 Supplement, 2006, is amended to read:

15 2-15,100 The state water planning and review process
16 shall be conducted under the guidance and general supervision of
17 the director. The director shall be assisted in the state water
18 planning and review process by the Game and Parks Commission,
19 the Department of Agriculture, the Governor's Policy Research
20 Office, the Department of Health and Human Services, ~~Regulation~~
21 ~~and Licensure~~, the Department of Environmental Quality, the Water
22 Center of the University of Nebraska, and the Conservation and
23 Survey Division of the University of Nebraska. In addition,
24 the director may obtain assistance from any private individual,
25 organization, political subdivision, or agency of the state or

1 federal government.

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

4 2-2626 The department shall have the following powers,
5 functions, and duties:

6 (1) To administer, implement, and enforce the Pesticide
7 Act and serve as the lead state agency for the regulation of
8 pesticides. The department shall involve the natural resources
9 districts and other state agencies, including the Department of
10 Environmental Quality, the Department of Natural Resources, or the
11 Department of Health and Human Services, ~~Regulation and Licensure,~~
12 in matters relating to water quality. Nothing in the act shall be
13 interpreted in any way to affect the powers of any other state
14 agency or of any natural resources district to regulate for ground
15 water quality or surface water quality as otherwise provided by
16 law;

17 (2) To be responsible for the development and
18 implementation of a state management plan and pesticide management
19 plans. The Department of Environmental Quality shall be responsible
20 for the adoption of standards for pesticides in surface water and
21 ground water, and the Department of Health and Human Services
22 ~~Regulation and Licensure~~ shall be responsible for the adoption
23 of standards for pesticides in drinking water. These standards
24 shall be established as action levels in the state management plan
25 and pesticide management plans at which prevention and mitigation

1 measures are implemented. Such action levels may be set at or
2 below the maximum contaminant level set for any product as set
3 by the federal agency under the federal Safe Drinking Water Act,
4 42 U.S.C. 300f et seq., as the act existed on January 1, 2006.
5 The ~~department~~ Department of Agriculture shall cooperate with and
6 use existing expertise in other state agencies when developing the
7 state management plan and pesticide management plans and shall not
8 hire a hydrologist within the department for such purpose;

9 (3) After notice and public hearing, to adopt
10 and promulgate rules and regulations providing lists of
11 state-limited-use pesticides for the entire state or for a
12 designated area within the state, subject to the following:

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

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

22 (ii) The water quality standards set by the Department
23 of Environmental Quality or the Department of Health and Human
24 Services ~~Regulation and Licensure~~ pursuant to this section are
25 exceeded; or

1 (iii) The ~~department~~ Department of Agriculture determines
2 that the pesticide requires additional restrictions to meet the
3 requirements of the Pesticide Act, the federal act, or any plan
4 adopted under the Pesticide Act or the federal act;

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

8 (i) With permission of the department;

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

11 (iii) In specified quantities and concentrations or at
12 specified times; or

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

15 (c) The ~~department~~ Department of Agriculture may require
16 a person authorized to distribute or use a state-limited-use
17 pesticide to maintain records of the person's distribution or use
18 and may require that the records be kept separate from other
19 business records;

20 (d) The state management plan and pesticide management
21 plans shall be coordinated with the ~~department~~ Department of
22 Agriculture and other state agency plans and with other state
23 agencies and with natural resources districts;

24 (e) The state management plan and pesticide management
25 plans may impose progressively more rigorous pesticide management

1 practices as pesticides are detected in ground water or surface
2 water at increasing fractions of the standards adopted by the
3 Department of Environmental Quality or the Department of Health and
4 Human Services; ~~Regulation and Licensure~~, and

5 (f) A pesticide management plan may impose progressively
6 more rigorous pesticide management practices to address any
7 unreasonable adverse effect of pesticides on humans or the
8 environment. When appropriate, a pesticide management plan may
9 establish action levels for imposition of such progressively more
10 rigorous management practices based upon measurable indicators of
11 the adverse effect on humans or the environment;

12 (4) To adopt and promulgate such rules and regulations
13 as are necessary for the enforcement and administration of the
14 Pesticide Act. The regulations shall include, but not be limited
15 to, regulations providing for:

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

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

20 (c) Labeling requirements of all pesticides required
21 to be registered under provisions of the act, except that
22 such regulations shall not impose any requirements for federally
23 registered labels contrary to those required pursuant to the
24 federal act;

25 (d) Classes of devices which shall be subject to the

1 Pesticide Act;

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

6 (f) Methods to be used in the application of pesticides
7 when the ~~department~~ Department of Agriculture finds that such
8 regulations are necessary to carry out the purpose and intent
9 of the Pesticide Act. Such regulations may include methods to
10 be used in the application of a restricted-use pesticide, may
11 relate to the time, place, manner, methods, materials, amounts,
12 and concentrations in connection with the use of the pesticide,
13 may restrict or prohibit use of the pesticides in designated areas
14 during specified periods of time, and may provide specific examples
15 and technical interpretations of subdivision (4) of section 2-2646.
16 The regulations shall encompass all reasonable factors which the
17 department deems necessary to prevent damage or injury by drift or
18 misapplication to (i) plants, including forage plants, or adjacent
19 or nearby property, (ii) wildlife in the adjoining or nearby
20 areas, (iii) fish and other aquatic life in waters in reasonable
21 proximity to the area to be treated, (iv) surface water or ground
22 water, and (v) humans, animals, or beneficial insects. In adopting
23 and promulgating such regulations, the department shall give
24 consideration to pertinent research findings and recommendations
25 of other agencies of the state, the federal government, or other

1 reliable sources. The department may, by regulation, require that
2 notice of a proposed use of a pesticide be given to landowners
3 whose property is adjacent to the property to be treated or in the
4 immediate vicinity thereof if the department finds that such notice
5 is necessary to carry out the purpose of the act;

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

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

10 (i) Establishment of the components of any state
11 management plan or pesticide management plan;

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

15 (k) Establishment of a process for the issuance of
16 permits for emergency-use pesticides made available under section
17 136p of the federal act;

18 (5) To enter any public or private premises at any
19 reasonable time to:

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

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

25 (c) Inspect and sample any area where a pesticide is

1 disposed of or stored;

2 (d) Observe the use and application of and sample any
3 pesticide;

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

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

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

13 (7) To issue and enforce a written or printed order to
14 stop the sale, removal, or use of a pesticide if the ~~department~~
15 Department of Agriculture has reason to believe that the pesticide
16 is in violation of any provision of the act. The department shall
17 present the order to the owner or custodian of the pesticide. The
18 person who receives the order shall not distribute, remove, or use
19 the pesticide until the department determines that the pesticide
20 is in compliance with the act. This subdivision shall not limit
21 the right of the department to proceed as authorized by any other
22 provision of the act;

23 (8)(a) To sue in the name of the director to enjoin
24 any violation of the act. Venue for such action shall be in the
25 county in which the alleged violation occurred, is occurring, or is

1 threatening to occur; and

2 (b) To request the county attorney or the Attorney
3 General to bring suit to enjoin a violation or threatened violation
4 of the act;

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

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

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

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

20 (13) To seize, for use as evidence, without formal
21 warrant if probable cause exists, any pesticide which is in
22 violation of the act or is not approved by the ~~department~~
23 Department of Agriculture or which is found to be used or
24 distributed in the violation of the act or the rules and
25 regulations adopted and promulgated under it;

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

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

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

1 (17) To prepare and adopt such plans as are necessary to
2 implement any requirements of the federal agency under the federal
3 act;

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

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

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

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

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

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

19 Sec. 18. Section 2-3254, Revised Statutes Cumulative
20 Supplement, 2006, is amended to read:

21 2-3254 (1) The board shall hold a hearing upon the
22 question of the desirability and necessity, in the interest of
23 the public health, safety, and welfare, of the establishment of
24 or altering the boundaries of an existing improvement project area
25 and the undertaking of such a project, upon the question of the

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

25 (2) When any such special project would result in the

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

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

1 the tax roll the same as other special assessment taxes are levied
2 and assessed upon real estate, shall become a lien upon such real
3 estate along with other real estate taxes, and shall be collectible
4 at the same time, in the same manner, and in the same proceeding as
5 other real estate taxes are levied.

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

22 (4) A notice shall be inserted for at least one week in
23 a newspaper published or of general circulation in the improvement
24 project area stating the time when and the place where the
25 directors shall meet for the purpose of hearing all parties

1 interested in the apportionment of benefits by reason of the
2 improvement, at which time and place such parties may appear in
3 person or by counsel or may file written objections thereto. The
4 directors shall then proceed to hear and consider the same and
5 shall make the apportionments fair and just according to benefits
6 received from the improvement. The directors, having completed the
7 apportionment of benefits, shall make a detailed report of the
8 same and file such report with the county clerk. The board of
9 directors shall include in such report a statement of the actual
10 expenses incurred by the district to that time which relate to
11 the proposed project and the actual cost per benefit unit thereof.
12 Thereupon the board of directors shall cause to be published, once
13 each week for three consecutive weeks in a newspaper published or
14 of general circulation in the improvement project area, a notice
15 that the report required in this subsection has been filed and
16 notice shall also be sent to each party appearing to have a
17 direct legal interest in such apportionment, which notice shall
18 include the description of the lands in which each party notified
19 appears to have such interest, the units of benefit assigned to
20 such lands, the amount of actual costs assessable to date to such
21 lands, and the estimated total costs of the project assessable
22 to such lands upon completion thereof, as provided by sections
23 25-520.01 to 25-520.03. If the owners of record title representing
24 more than fifty percent of the estimated total assessments file
25 with the board within thirty days of the final publication of such

1 notice written objections to the project proposed, such project
2 and work in connection therewith shall be suspended, such project
3 shall not be done in such project area, and all expenses relating
4 to such project incurred by and accrued to the district may, at
5 the direction of the board of directors, be assessed upon the
6 lands which were to have been benefited by the completion of
7 such improvement project in accordance with the apportionment of
8 benefits determined and procedures established in this section.
9 Upon completing the establishment of an improvement project area or
10 altering the boundaries of an existing improvement project area as
11 provided in this subsection and upon determining the reimbursable
12 cost of the project and the period of time over which such
13 cost shall be assessed, the board of directors shall determine
14 the amount of money necessary to raise each year by special
15 assessment within such improvement project area and apportion the
16 same in dollars and cents to each tract benefited according to
17 the apportionment of benefits as determined by this section. The
18 board of directors shall also, from time to time as it deems
19 necessary, order an additional assessment upon the lands and
20 property benefited by the project, using the original apportionment
21 of benefits as a basis to ascertain the assessment to each tract of
22 land benefited, to carry out a reasonable program of operation and
23 maintenance upon the construction or capital improvements involved
24 in such project. The chairperson and secretary shall thereupon
25 return lists of such tracts with the amounts chargeable to each

1 of the county clerks of each county in which assessed lands are
2 located, who shall place the same on duplicate tax lists against
3 the lands and lots so assessed. Such assessments shall be collected
4 and accounted for by the county treasurer at the same time as
5 general real estate taxes, and such assessments shall be and
6 remain a perpetual lien against such real estate until paid. All
7 provisions of law for the sale, redemption, and foreclosure in
8 ordinary tax matters shall apply to such special assessments.

9 Sec. 19. Section 2-3925, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 2-3925 The dairy farm water supply shall be safe, clean,
12 and ample for the cleaning of dairy utensils and equipment. The
13 water supply shall meet the bacteriological standards established
14 by the Department of Health and Human Services ~~Regulation and~~
15 ~~Licensure~~ at all times. Water samples shall be taken, analyzed, and
16 found to be in compliance with the requirements of the Nebraska
17 Manufacturing Milk Act prior to the issuance of a permit to
18 the producer and whenever any major change to the well or water
19 source occurs. Wells or water sources which do not meet the
20 construction standards of the Department of Health and Human
21 Services ~~Regulation and Licensure~~ shall be tested annually, and
22 wells which do meet the construction standards of the Department
23 of Health and Human Services ~~Regulation and Licensure~~ shall be
24 tested every three years. Whenever major alterations or repairs
25 occur or a water source repeatedly recontaminates, the water

1 supply shall be unacceptable until such time as the construction
2 standards are met and an acceptable supply is demonstrated. On
3 and after October 1, 1989, all new producers issued permits under
4 the Nebraska Manufacturing Milk Act shall be required to meet the
5 construction standards established by the Department of Health and
6 Human Services ~~Regulation and Licensure~~ for private water supplies.

7 Sec. 20. Section 2-3928, Revised Statutes Cumulative
8 Supplement, 2006, is amended to read:

9 2-3928 (1) At the dairy plant and the receiving station,
10 there shall be an ample supply of both hot and cold water
11 of safe and sanitary quality with adequate facilities for its
12 proper distribution throughout the plant and protected against
13 contamination. Water from other facilities, when officially
14 approved, may be used for boiler feed water and condenser water so
15 long as such water lines are completely separated from the water
16 lines carrying the sanitary water supply and the equipment is so
17 constructed and controlled as to preclude contamination of product
18 contact surfaces. There shall be no cross-connection between
19 potable water lines and nonpotable water lines or between public
20 and private water supplies. Bacteriological examinations shall be
21 made of the plant's sanitary water supply which shall include water
22 extracted from milk and cooling water taken at the plant at least
23 twice each year. The results of all water tests shall be kept on
24 file at the plant for which the test was performed.

25 (2) The location, construction, and operation of any well

1 shall comply with rules and regulations of the Department of Health
2 and Human Services. ~~Regulation and Licensure.~~

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

5 (4) Convenient handwashing facilities shall be provided,
6 including hot and cold running water, soap or other detergents, and
7 sanitary single-service towels or air driers. Such accommodations
8 shall be located in or adjacent to toilet and dressing rooms and
9 also at such other places in the plant as may be essential to the
10 cleanliness of all personnel handling products. Vats for washing
11 equipment or utensils shall not be used as handwashing facilities.
12 Containers shall be provided for used towels and other wastes. The
13 containers may be metal or plastic, may be disposable or reusable,
14 and shall have self-closing covers.

15 (5) Steam shall be supplied in sufficient volume and
16 pressure for satisfactory operation of each applicable piece of
17 equipment. Culinary steam used in direct contact with milk or
18 dairy products shall be free from harmful substances or extraneous
19 material and only those boiler water additives approved by the
20 department shall be used, or a secondary steam generator shall be
21 used, in which soft water is converted to steam and no boiler
22 compounds are used. Steam traps, strainers, and condensate traps
23 shall be used wherever applicable to insure a satisfactory and safe
24 steam supply. Culinary steam shall comply with the 3-A Accepted
25 Practices for a Method of Producing Steam of Culinary Quality.

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

5 (7) Dairy wastes shall be properly disposed of from
6 the plant and premises. The sewer system shall have sufficient
7 slope and capacity to readily remove all waste from the various
8 processing operations. Where a public sewer is not available, all
9 wastes shall be properly disposed of so as not to contaminate
10 milk equipment or to create a nuisance or public health hazard.
11 Containers used for the collection and holding of wastes shall be
12 constructed of metal, plastic, or other equally impervious material
13 and kept covered with tight-fitting lids. Waste shall be stored in
14 an area or room in a manner to protect it from flies and vermin.
15 Solid wastes shall be disposed of regularly and the containers
16 cleaned before reuse. Accumulation of dry wastepaper and cardboard
17 shall be kept to a minimum and disposed of in a manner that is
18 environmentally acceptable.

19 Sec. 21. Section 2-3932, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 2-3932 No person with any disease in a communicable form,
22 or who is a carrier of such disease, shall work at any dairy farm
23 or milk plant in any capacity which brings him or her into contact
24 with the production, handling, storage, or transportation of milk,
25 milk products, containers, or equipment, and no dairy farm or milk

1 plant shall employ in any such capacity any such person, or any
2 person suspected of having any disease in a communicable form, or
3 of being a carrier of such disease. Any producer or distributor
4 of milk or milk products upon whose dairy farm, or in whose milk
5 plant, any communicable disease occurs, or who suspects that any
6 employee has contracted any disease in a communicable form or
7 has become a carrier of such disease, shall notify the director
8 immediately who shall immediately notify the local board of health
9 or the Department of Health and Human Services. ~~Regulation and~~
10 ~~Licensure.~~

11 When reasonable cause exists to suspect the possibility
12 of transmission of infection from any person concerned with the
13 handling of milk or milk products, the director may require any
14 or all of the following measures: (1) The immediate exclusion of
15 that person from milk handling; (2) the immediate exclusion of the
16 milk supply concerned from distribution and use; or (3) adequate
17 medical and bacteriological examination of the person, or his or
18 her associates, and of his or her and their body discharges.

19 Sec. 22. Section 2-4901, Revised Statutes Cumulative
20 Supplement, 2006, is amended to read:

21 2-4901 (1) The Climate Assessment Response Committee is
22 hereby created. The office of the Governor shall be the lead agency
23 and shall oversee the committee and its activities. The committee
24 shall be composed of representatives appointed by the Governor
25 with the approval of a majority of the Legislature from livestock

1 producers, crop producers, and the Nebraska Emergency Management
2 Agency, Conservation and Survey Division and Cooperative Extension
3 Service of the University of Nebraska, Department of Agriculture,
4 Department of Health and Human Services, ~~Regulation and Licensure,~~
5 Department of Natural Resources, and Governor's Policy Research
6 Office. Representatives from the federal Farm Service Agency and
7 Federal Crop Insurance Corporation may also serve on the committee
8 at the invitation of the Governor. The Governor may appoint the
9 chairperson of the Committee on Agriculture of the Legislature
10 and the chairperson of the Committee on Natural Resources of the
11 Legislature and any other state agency representatives or invite
12 any other federal agencies to name representatives as he or she
13 deems necessary. The Governor shall appoint one of the Climate
14 Assessment Response Committee members to serve as the chairperson
15 of the committee. Committee members shall be reimbursed for actual
16 and necessary expenses as provided in sections 81-1174 to 81-1177.

17 (2) The committee shall meet at least twice each year and
18 shall meet more frequently (a) at the call of the chairperson, (b)
19 upon request of a majority of the committee members, and (c) during
20 periods of drought or other severe climate situations.

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

24 (4) Any funds for the activities of the committee and for
25 other climate-related expenditures may be appropriated directly to

1 the office of the Governor for contracting with other agencies or
2 persons for tasks approved by the committee.

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

5 13-1207 Prior to the promulgation of rules and
6 regulations pursuant to section 13-1212, and prior to the awarding
7 of federal or state funds under any program administered by
8 the department or any other state agency which affects the
9 transportation of the elderly, such rules and regulations and the
10 awarding of such funds shall be reviewed by the ~~Director~~ Department
11 of Health and Human Services.

12 Sec. 24. Section 23-1204.06, Revised Statutes Cumulative
13 Supplement, 2006, is amended to read:

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

23 Sec. 25. Section 23-3595, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 23-3595 All hospitals operated directly by an authority

1 and not operated or leased as lessee by a nonprofit person, firm,
2 partnership, limited liability company, association, or corporation
3 shall be operated by the board of trustees of such authority
4 according to the best interests of the public health, and the board
5 of trustees shall make and enforce all rules, regulations, and
6 bylaws necessary for the administration, government, protection,
7 and maintenance of such hospitals and all property belonging
8 thereto and may prescribe the terms upon which patients may
9 be admitted thereto. Such hospitals shall not be required to
10 contract with counties or with agencies thereof to provide care for
11 indigent county patients at below the cost for care. In fixing the
12 basic room rates for such hospitals, the board of trustees shall
13 establish such basic room rates as will, together with other income
14 and revenue available for such purpose and however derived, permit
15 each such hospital to be operated upon a self-supporting basis.
16 In establishing basic room rates for such hospital, the board of
17 trustees shall give due consideration to at least the following
18 factors: Costs of administration, operation, and maintenance of
19 such hospitals; the cost of making necessary repairs and renewals
20 thereto; debt service requirements; the creation of reserves for
21 contingencies; and projected needs for expansion and for the making
22 of major improvements. Minimum standards of operation for such
23 hospitals, at least equal to those set by the Department of Health
24 and Human Services, ~~Regulation and Licensure~~, shall be established
25 and enforced by the board of trustees.

1 In the case of hospitals financed with the proceeds
2 of bonds issued by an authority, but not operated directly
3 by an authority, the board of trustees shall require that the
4 financing documents contain covenants of the operators of such
5 hospitals to establish rates at least sufficient to pay costs of
6 administration, operation, and maintenance of such hospitals, the
7 cost of making necessary repairs and renewals thereto, and to
8 provide for debt service requirements, the creation of reserves for
9 contingencies, and projected needs for expansion and the making of
10 major improvements.

11 Sec. 26. Section 28-322.04, Revised Statutes Cumulative
12 Supplement, 2006, is amended to read:

13 28-322.04 (1) For purposes of this section:

14 (a) Person means an individual employed by the Department
15 of Health and Human Services, ~~the Department of Health and Human~~
16 ~~Services Regulation and Licensure, or the Department of Health~~
17 ~~and Human Services Finance and Support~~ and includes, but is not
18 limited to, any individual working in central administration or
19 regional service areas or facilities of the ~~departments~~ department
20 and any individual to whom ~~one of the departments~~ the department
21 has authorized or delegated control over a protected individual
22 or a protected individual's activities, whether by contract or
23 otherwise; and

24 (b) Protected individual means an individual in the
25 care or custody of the ~~Department of Health and Human Services.~~

1 department.

2 (2) A person commits the offense of sexual abuse of a
3 protected individual if the person subjects a protected individual
4 to sexual penetration or sexual contact as those terms are defined
5 in section 28-318. It is not a defense to a charge under this
6 section that the protected individual consented to such sexual
7 penetration or sexual contact.

8 (3) Any person who subjects a protected individual to
9 sexual penetration is guilty of sexual abuse of a protected
10 individual in the first degree. Sexual abuse of a protected
11 individual in the first degree is a Class III felony.

12 (4) Any person who subjects a protected individual to
13 sexual contact is guilty of sexual abuse of a protected individual
14 in the second degree. Sexual abuse of a protected individual in the
15 second degree is a Class IV felony.

16 Sec. 27. Section 28-326, Revised Statutes Cumulative
17 Supplement, 2006, is amended to read:

18 28-326 For purposes of sections 28-325 to 28-345, unless
19 the context otherwise requires:

20 (1) Abortion means the use or prescription of any
21 instrument, medicine, drug, or other substance or device
22 intentionally to terminate the pregnancy of a woman known to be
23 pregnant with an intention other than to increase the probability
24 of a live birth, to preserve the life or health of the child after
25 live birth, or to remove a dead unborn child, and which causes the

1 premature termination of the pregnancy;

2 (2) Hospital means those institutions licensed by the
3 Department of Health and Human Services ~~Regulation and Licensure~~
4 pursuant to the Health Care Facility Licensure Act;

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

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

9 (5) Conception means the fecundation of the ovum by the
10 spermatozoa;

11 (6) Viability means that stage of human development when
12 the unborn child is potentially able to live more than merely
13 momentarily outside the womb of the mother by natural or artificial
14 means;

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

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

25 (9) Partial-birth abortion means an abortion procedure

1 in which the person performing the abortion partially delivers
2 vaginally a living unborn child before killing the unborn child and
3 completing the delivery. For purposes of this subdivision, the term
4 partially delivers vaginally a living unborn child before killing
5 the unborn child means deliberately and intentionally delivering
6 into the vagina a living unborn child, or a substantial portion
7 thereof, for the purpose of performing a procedure that the person
8 performing such procedure knows will kill the unborn child and does
9 kill the unborn child.

10 Sec. 28. Section 28-328, Revised Statutes Cumulative
11 Supplement, 2006, is amended to read:

12 28-328 (1) No partial-birth abortion shall be performed
13 in this state, unless such procedure is necessary to save the life
14 of the mother whose life is endangered by a physical disorder,
15 physical illness, or physical injury, including a life-endangering
16 physical condition caused by or arising from the pregnancy itself.

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

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

23 (4) The intentional and knowing performance of an
24 unlawful partial-birth abortion shall result in the automatic
25 suspension and revocation of an attending physician's license to

1 practice medicine in Nebraska by the ~~Director of Regulation and~~
2 ~~Licensure~~ Division of Public Health pursuant to sections 71-147 to
3 71-161.20.

4 (5) Upon the filing of criminal charges under this
5 section by the Attorney General or a county attorney, the Attorney
6 General shall also file a petition to suspend and revoke the
7 attending physician's license to practice medicine pursuant to
8 section 71-150. A hearing on such administrative petition shall
9 be set in accordance with section 71-153. At such hearing, the
10 attending physician shall have the opportunity to present evidence
11 that the physician's conduct was necessary to save the life
12 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 A defendant against whom criminal charges are brought under this
16 section may bring a motion to delay the beginning of the trial
17 until after the entry of an order by the ~~Director of Regulation and~~
18 ~~Licensure~~ Director of Public Health pursuant to section 71-155. The
19 findings of the ~~Director of Regulation and Licensure~~ director as to
20 whether the attending physician's conduct was necessary to save the
21 life of a mother whose life was endangered by a physical disorder,
22 physical illness, or physical injury, including a life-endangering
23 physical condition caused by or arising from the pregnancy itself,
24 shall be admissible in the criminal proceedings brought pursuant to
25 this section.

1 Sec. 29. Section 28-343, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 28-343 The Department of Health and Human Services
4 ~~Finance and Support~~ shall prescribe an abortion reporting form
5 which shall be used for the reporting of every abortion performed
6 in this state. Such form shall include the following items:

7 (1) The age of the pregnant woman;

8 (2) The location of the facility where the abortion was
9 performed;

10 (3) The type of procedure performed;

11 (4) Complications, if any;

12 (5) The name of the attending physician;

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

15 (7) The stated reason or reasons for which the abortion
16 was requested;

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

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

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

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

24 The completed form shall be signed by the attending
25 physician and sent to the department within fifteen days after each

1 reporting month. The completed form shall be an original, typed or
2 written legibly in durable ink, and shall not be deemed complete
3 unless the omission of any item of information required shall have
4 been disclosed or satisfactorily accounted for. Carbon copies shall
5 not be acceptable. The abortion reporting form shall not include
6 the name of the person upon whom the abortion was performed. The
7 abortion reporting form shall be confidential and shall not be
8 revealed except upon the order of a court of competent jurisdiction
9 in a civil or criminal proceeding.

10 Sec. 30. Section 28-345, Revised Statutes Cumulative
11 Supplement, 2006, is amended to read:

12 28-345 The Department of Health and Human Services
13 ~~Finance and Support~~ shall prepare and keep on permanent file
14 compilations of the information submitted on the abortion reporting
15 forms pursuant to such rules and regulations as established by
16 the ~~Department of Health and Human Services Finance and Support,~~
17 department, which compilations shall be a matter of public record.
18 Under no circumstances shall the compilations of information
19 include the name of any attending physician or identify in any
20 respect facilities where abortions are performed. The ~~Department of~~
21 ~~Health and Human Services Finance and Support,~~ department, in order
22 to maintain and keep such compilations current, shall file with
23 such reports any new or amended information.

24 Sec. 31. Section 28-356, Revised Statutes Cumulative
25 Supplement, 2006, is amended to read:

1 28-356 Department shall mean the Department of Health and
2 Human Services, ~~Finance and Support.~~

3 Sec. 32. Section 28-372, Revised Statutes Cumulative
4 Supplement, 2006, is amended to read:

5 28-372 (1) When any physician, psychologist, physician
6 assistant, nurse, nursing assistant, other medical, developmental
7 disability, or mental health professional, law enforcement
8 personnel, caregiver or employee of a caregiver, operator or
9 employee of a sheltered workshop, owner, operator, or employee
10 of any facility licensed by the ~~Department of Health and Human~~
11 ~~Services Regulation and Licensure,~~ department, or human services
12 professional or paraprofessional not including a member of the
13 clergy has reasonable cause to believe that a vulnerable adult has
14 been subjected to abuse or observes such adult being subjected to
15 conditions or circumstances which reasonably would result in abuse,
16 he or she shall report the incident or cause a report to be made
17 to the appropriate law enforcement agency or to the ~~Department~~
18 ~~of Health and Human Services Finance and Support.~~ department. Any
19 other person may report abuse if such person has reasonable cause
20 to believe that a vulnerable adult has been subjected to abuse or
21 observes such adult being subjected to conditions or circumstances
22 which reasonably would result in abuse.

23 (2) Such report may be made by telephone, with the
24 caller giving his or her name and address, and, if requested by
25 the department, shall be followed by a written report within

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

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

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

18 (5) The department shall establish a statewide toll-free
19 number to be used by any person any hour of the day or night and
20 any day of the week to make reports of abuse.

21 Sec. 33. Section 28-377, Revised Statutes Cumulative
22 Supplement, 2006, is amended to read:

23 28-377 Except as otherwise provided in sections 28-376
24 to 28-380, no person, official, or agency shall have access to
25 the records relating to abuse unless in furtherance of purposes

1 directly connected with the administration of the Adult Protective
2 Services Act and section 28-726. Persons, officials, and agencies
3 having access to such records shall include, but not be limited to:

4 (1) A law enforcement agency investigating a report of
5 known or suspected abuse;

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

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

10 (4) An agency having the legal responsibility or
11 authorization to care for, treat, or supervise an abused vulnerable
12 adult;

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

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

21 (7) The designated protection and advocacy system
22 authorized pursuant to the Developmental Disabilities Assistance
23 and Bill of Rights Act, 42 U.S.C. 6000, as the act existed on
24 September 1, 2001, and the Protection and Advocacy for Mentally Ill
25 Individuals Act, 42 U.S.C. 10801, as the act existed on September

1 1, 2001, acting upon a complaint received from or on behalf of a
2 person with developmental disabilities or mental illness; and

3 (8) For purposes of licensing providers of child care
4 programs, the ~~Department of Health and Human Services Regulation~~
5 ~~and Licensure~~ department.

6 Sec. 34. Section 28-380, Revised Statutes Cumulative
7 Supplement, 2006, is amended to read:

8 28-380 At any time subsequent to the completion of the
9 department's investigation, if a vulnerable adult, the guardian
10 of a vulnerable adult, or a person who allegedly abused a
11 vulnerable adult and who is mentioned in a report believes the
12 information in the report is inaccurate or being maintained in a
13 manner inconsistent with the Adult Protective Services Act, such
14 person may request the department to amend or expunge identifying
15 information from the report or remove the record of such report
16 from the registry. If the department refuses to do so or does
17 not act within thirty days, the vulnerable adult or person who
18 allegedly abused a vulnerable adult shall have the right to a
19 hearing to determine whether the record of the report should be
20 amended, expunged, or removed on the grounds that it is inaccurate
21 or that it is being maintained in a manner inconsistent with such
22 act. Such hearing shall be held within a reasonable time after a
23 request is made and at a reasonable place and hour. At the hearing
24 the burden of proving the accuracy and consistency of the record
25 shall be on the department. The hearing shall be conducted by the

1 chief executive officer of the department ~~Director of Finance and~~
2 ~~Support~~ or his or her designated representative, who is hereby
3 authorized and empowered to order the amendment, expunction, or
4 removal of the record to make such record accurate or consistent
5 with the requirements of the Adult Protective Services Act. The
6 decision shall be made in writing within thirty days of the close
7 of the hearing and shall state the reasons upon which it is based.
8 Decisions of the department may be appealed, and the appeal shall
9 be in accordance with the Administrative Procedure Act.

10 Sec. 35. Section 28-401, Revised Statutes Cumulative
11 Supplement, 2006, is amended to read:

12 28-401 As used in the Uniform Controlled Substances Act,
13 unless the context otherwise requires:

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

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

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

23 (4) Controlled substance shall mean a drug, biological,
24 substance, or immediate precursor in Schedules I to V of section
25 28-405. Controlled substance shall not include distilled spirits,

1 wine, malt beverages, tobacco, or any nonnarcotic substance if such
2 substance may, under the Federal Food, Drug, and Cosmetic Act, 21
3 U.S.C. 301 et seq., as such act existed on January 1, 2003, and
4 the law of this state, be lawfully sold over the counter without a
5 prescription;

6 (5) Counterfeit substance shall mean a controlled
7 substance which, or the container or labeling of which, without
8 authorization, bears the trademark, trade name, or other
9 identifying mark, imprint, number, or device, or any likeness
10 thereof, of a manufacturer, distributor, or dispenser other than
11 the person or persons who in fact manufactured, distributed, or
12 dispensed such substance and which thereby falsely purports or is
13 represented to be the product of, or to have been distributed by,
14 such other manufacturer, distributor, or dispenser;

15 (6) Department shall mean the Department of Health and
16 Human Services; ~~Regulation and Licensure;~~

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

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

25 (9) Distribute shall mean to deliver other than by

1 administering or dispensing a controlled substance;

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

3 (11) Drug shall mean (a) articles recognized in
4 the official United States Pharmacopoeia, official Homeopathic
5 Pharmacopoeia of the United States, official National Formulary,
6 or any supplement to any of them, (b) substances intended for use
7 in the diagnosis, cure, mitigation, treatment, or prevention of
8 disease in human beings or animals, and (c) substances intended for
9 use as a component of any article specified in subdivision (a) or
10 (b) of this subdivision, but shall not include devices or their
11 components, parts, or accessories;

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

16 (13) Marijuana shall mean all parts of the plant of
17 the genus cannabis, whether growing or not, the seeds thereof,
18 and every compound, manufacture, salt, derivative, mixture, or
19 preparation of such plant or its seeds, but shall not include
20 the mature stalks of such plant, hashish, tetrahydrocannabinols
21 extracted or isolated from the plant, fiber produced from such
22 stalks, oil or cake made from the seeds of such plant, any other
23 compound, manufacture, salt, derivative, mixture, or preparation of
24 such mature stalks, or the sterilized seed of such plant which is
25 incapable of germination. When the weight of marijuana is referred

1 to in the Uniform Controlled Substances Act, it shall mean its
2 weight at or about the time it is seized or otherwise comes into
3 the possession of law enforcement authorities, whether cured or
4 uncured at that time;

5 (14) Manufacture shall mean the production, preparation,
6 propagation, compounding, conversion, or processing of a controlled
7 substance, either directly or indirectly, by extraction from
8 substances of natural origin, independently by means of chemical
9 synthesis, or by a combination of extraction and chemical
10 synthesis, and shall include any packaging or repackaging of the
11 substance or labeling or relabeling of its container. Manufacture
12 shall not include the preparation or compounding of a controlled
13 substance by an individual for his or her own use, except for the
14 preparation or compounding of components or ingredients used for or
15 intended to be used for the manufacture of methamphetamine, or the
16 preparation, compounding, conversion, packaging, or labeling of a
17 controlled substance: (a) By a practitioner as an incident to his
18 or her prescribing, administering, or dispensing of a controlled
19 substance in the course of his or her professional practice; or
20 (b) by a practitioner, or by his or her authorized agent under
21 his or her supervision, for the purpose of, or as an incident to,
22 research, teaching, or chemical analysis and not for sale;

23 (15) Narcotic drug shall mean any of the following,
24 whether produced directly or indirectly by extraction from
25 substances of vegetable origin, independently by means of chemical

1 synthesis, or by a combination of extraction and chemical
2 synthesis: (a) Opium, opium poppy and poppy straw, coca leaves,
3 and opiates; (b) a compound, manufacture, salt, derivative, or
4 preparation of opium, coca leaves, or opiates; or (c) a substance
5 and any compound, manufacture, salt, derivative, or preparation
6 thereof which is chemically equivalent to or identical with any
7 of the substances referred to in subdivisions (a) and (b) of this
8 subdivision, except that the words narcotic drug as used in the
9 Uniform Controlled Substances Act shall not include decocainized
10 coca leaves or extracts of coca leaves, which extracts do not
11 contain cocaine or ecgonine, or isoquinoline alkaloids of opium;

12 (16) Opiate shall mean any substance having an
13 addiction-forming or addiction-sustaining liability similar to
14 morphine or being capable of conversion into a drug having
15 such addiction-forming or addiction-sustaining liability. Opiate
16 shall not include the dextrorotatory isomer of 3-methoxy-n
17 methylmorphinan and its salts. Opiate shall include its racemic and
18 levorotatory forms;

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

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

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

25 (20) Practitioner shall mean a physician, a physician

1 assistant, a dentist, a veterinarian, a pharmacist, a podiatrist,
2 an optometrist, a certified nurse midwife, a certified registered
3 nurse anesthetist, a nurse practitioner, a scientific investigator,
4 a pharmacy, a hospital, or any other person licensed, registered,
5 or otherwise permitted to distribute, dispense, prescribe, conduct
6 research with respect to, or administer a controlled substance in
7 the course of practice or research in this state, including an
8 emergency medical service as defined in section 71-5175;

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

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

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

18 (24) Ultimate user shall mean a person who lawfully
19 possesses a controlled substance for his or her own use, for the
20 use of a member of his or her household, or for administration
21 to an animal owned by him or her or by a member of his or her
22 household;

23 (25) Hospital shall have the same meaning as in section
24 71-419;

25 (26) Cooperating individual shall mean any person, other

1 than a commissioned law enforcement officer, who acts on behalf of,
2 at the request of, or as agent for a law enforcement agency for the
3 purpose of gathering or obtaining evidence of offenses punishable
4 under the Uniform Controlled Substances Act;

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

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

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

23 (30)(a) Controlled substance analogue shall mean a
24 substance (i) the chemical structure of which is substantially
25 similar to the chemical structure of a Schedule I or Schedule

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

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

22 (31) Anabolic steroid shall mean any drug or hormonal
23 substance, chemically and pharmacologically related to testosterone
24 (other than estrogens, progestins, and corticosteroids), that
25 promotes muscle growth and includes any controlled substance in

1 Schedule III(d) of section 28-405. Anabolic steroid shall not
2 include any anabolic steroid which is expressly intended for
3 administration through implants to cattle or other nonhuman species
4 and has been approved by the Secretary of Health and Human Services
5 for such administration, but if any person prescribes, dispenses,
6 or distributes such a steroid for human use, such person shall
7 be considered to have prescribed, dispensed, or distributed an
8 anabolic steroid within the meaning of this subdivision;

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

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

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

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

23 (36) Reverse distributor shall mean a person whose
24 primary function is to act as an agent for a pharmacy, wholesaler,
25 manufacturer, or other entity by receiving, inventorying, and

1 managing the disposition of outdated, expired, or otherwise
2 nonsaleable controlled substances;

3 (37) Signature shall mean the name, word, or mark of
4 a person written in his or her own hand with the intent to
5 authenticate a writing or other form of communication or a digital
6 signature which complies with section 86-611 or an electronic
7 signature;

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

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

15 (40) Electronic transmission shall mean transmission
16 of information in electronic form. Electronic transmission may
17 include computer-to-computer transmission or computer-to-facsimile
18 transmission.

19 Sec. 36. Section 28-456, Revised Statutes Cumulative
20 Supplement, 2006, is amended to read:

21 28-456 (1) Any drug products containing
22 phenylpropanolamine, pseudoephedrine, or their salts, optical
23 isomers, or salts of such optical isomers may be sold without a
24 prescription only if they are:

25 (a) Labeled and marketed in a manner consistent with the

1 pertinent OTC Tentative Final or Final Monograph;

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

4 (c) Packaged as follows:

5 (i) Except for liquids, sold in package sizes of
6 not more than one thousand four hundred forty milligrams of
7 pseudoephedrine base or one thousand four hundred forty milligrams
8 of phenylpropanolamine base, in blister packs, each blister
9 containing not more than two dosage units, or if the use of blister
10 packs is technically infeasible, in unit dose packets or pouches;
11 and

12 (ii) For liquids, sold in package sizes of not
13 more than one thousand four hundred forty milligrams of
14 pseudoephedrine base or one thousand four hundred forty milligrams
15 of phenylpropanolamine base;

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

19 (i) No customer shall be allowed to purchase, receive,
20 or otherwise acquire more than one thousand four hundred
21 forty milligrams of pseudoephedrine base or one thousand four
22 hundred forty milligrams of phenylpropanolamine base during a
23 twenty-four-hour period; and

24 (ii) The customer shall display a valid driver's or
25 operator's license, a Nebraska state identification card, a

1 military identification card, an alien registration card, or a
2 passport as proof of identification; and

3 (e) Stored behind a counter, in an area not accessible to
4 customers, or in a locked case so that a customer needs assistance
5 from an employee to access the drug product, except that this
6 requirement does not apply to liquid pediatric formulations. For
7 the purposes of this subdivision, liquid pediatric formulation
8 means a liquid formulation with pseudoephedrine doses of fifteen
9 milligrams or less that is manufactured and marketed for children
10 twelve years of age or younger. If it is documented by a
11 law enforcement agency to the Nebraska State Patrol that a
12 liquid pediatric formulation has been found at a methamphetamine
13 manufacturing site, the patrol shall present the documentation to
14 the chief medical officer, as described in section ~~81-3201~~, 6 of
15 this act, who shall issue an order removing the exemption.

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

1 this section.

2 Sec. 37. Section 28-713, Revised Statutes Cumulative
3 Supplement, 2006, is amended to read:

4 28-713 Upon the receipt of a call reporting child abuse
5 and neglect as required by section 28-711:

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

25 (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 shall
4 immediately notify the person or persons having custody of each
5 child who has allegedly been abused or neglected that such report
6 of alleged child abuse or neglect has been made and shall provide
7 such person or persons with information of the nature of the
8 alleged child abuse or neglect and any other information that the
9 department deems necessary. The department shall investigate for
10 the purpose of assessing each report of child abuse or neglect to
11 determine the risk of harm to the child involved. The department
12 shall also provide such social services as are necessary and
13 appropriate under the circumstances to protect and assist the child
14 and to preserve the family;

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

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

25 (5) The department shall, upon request, make available to

1 the appropriate investigating law enforcement agency and the county
2 attorney a copy of all reports relative to a case of suspected
3 child abuse or neglect.

4 Sec. 38. Section 28-721, Revised Statutes Cumulative
5 Supplement, 2006, is amended to read:

6 28-721 At any time, the department may amend, expunge,
7 or remove from the central register of child protection cases
8 maintained pursuant to section 28-718 any record upon good cause
9 shown and upon notice to the subject of the report of child abuse
10 or neglect, ~~and to the division.~~

11 Sec. 39. Section 28-726, Revised Statutes Cumulative
12 Supplement, 2006, is amended to read:

13 28-726 Except as provided in this section and sections
14 28-722 and 28-734 to 28-739, no person, official, or agency
15 shall have access to information in the tracking system of
16 child protection cases maintained pursuant to section 28-715 or
17 in records in the central register of child protection cases
18 maintained pursuant to section 28-718 unless in furtherance of
19 purposes directly connected with the administration of the Child
20 Protection Act. Such persons, officials, and agencies having access
21 to such information shall include, but not be limited to:

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

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

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

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

8 (5) Any person engaged in bona fide research or auditing.
9 No information identifying the subjects of the report of child
10 abuse or neglect shall be made available to the researcher or
11 auditor;

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

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

25 (8) The person or persons having custody of the abused or

1 neglected child in situations of alleged out-of-home child abuse or
2 neglect; and

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

6 Sec. 40. Section 28-728, Revised Statutes Cumulative
7 Supplement, 2006, is amended to read:

8 28-728 (1) The Legislature finds that child abuse
9 and neglect are community problems requiring a cooperative
10 complementary response by law enforcement, child advocacy centers,
11 prosecutors, the Department of Health and Human Services, ~~child~~
12 ~~protective services division,~~ and other agencies or entities
13 designed to protect children. It is the intent of the Legislature
14 to create a child abuse and neglect investigation team in each
15 county or contiguous group of counties and to create a child abuse
16 and neglect treatment team in each county or contiguous group of
17 counties.

18 (2) Each county or contiguous group of counties will
19 be assigned by the Department of Health and Human Services
20 to a child advocacy center. The purpose of a child advocacy
21 center is to provide a child-focused response to support the
22 physical, emotional, and psychological needs of children who are
23 victims of abuse or neglect. Each child advocacy center shall
24 meet accreditation criteria set forth by the National Children's
25 Alliance. Nothing in this section shall prevent a child from

1 receiving treatment or other services at a child advocacy center
2 which has received or is in the process of receiving accreditation.

3 (3) Each county attorney or the county attorney
4 representing a contiguous group of counties is responsible
5 for convening the child abuse and neglect investigation team
6 and ensuring that protocols are established and implemented.
7 A representative of the child advocacy center assigned to the
8 team shall assist the county attorney in facilitating case
9 review, developing and updating protocols, and arranging training
10 opportunities for the team. Each team must have protocols which, at
11 a minimum, shall include procedures for:

12 (a) Conducting joint investigations of child abuse and
13 other child abuse and neglect matters which the team deems
14 necessary;

15 (b) Ensuring that a law enforcement agency will
16 participate in the investigation;

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

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

24 (e) Reducing the risk of harm to child abuse and neglect
25 victims;

- 1 (f) Ensuring that the child is in safe surroundings,
2 including removing the perpetrator when necessary;
- 3 (g) Sharing of case information;
- 4 (h) How and when the team will meet; and
- 5 (i) Responding to drug-endangered children.
- 6 (4) Each county attorney or the county attorney
7 representing a contiguous group of counties is responsible for
8 convening the child abuse and neglect treatment team and ensuring
9 that protocols are established and implemented. A representative
10 of the child advocacy center appointed to the team shall assist
11 the county attorney in facilitating case review, developing and
12 updating protocols, and arranging training opportunities for the
13 team. Each team must have protocols which, at a minimum, shall
14 include procedures for:
- 15 (a) Case coordination and assistance, including the
16 location of services available within the area;
- 17 (b) Case staffings and the coordination, development,
18 implementation, and monitoring of treatment plans;
- 19 (c) Reducing the risk of harm to child abuse and neglect
20 victims;
- 21 (d) Assisting those child abuse and neglect victims who
22 are abused and neglected by perpetrators who do not reside in their
23 homes;
- 24 (e) How and when the team will meet; and
- 25 (f) Working with multiproblem delinquent youth.

1 Sec. 41. Section 28-734, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 28-734 For purposes of sections 28-734 to 28-739:

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

7 (2) Department means the Department of Health and Human
8 Services;

9 ~~(2)~~ (3) Findings and information means a written summary
10 as described in section 28-736; and

11 ~~(3)~~ (4) Near fatality means a case in which an examining
12 physician determines that a child is in serious or critical
13 condition as the result of sickness or injury caused by suspected
14 abuse, neglect, or maltreatment.

15 Sec. 42. Section 28-735, Revised Statutes Cumulative
16 Supplement, 2006, is amended to read:

17 28-735 Notwithstanding any other provision of law and
18 subject to sections 28-734 to 28-739, the ~~Department of Health~~
19 ~~and Human Services~~ department shall disclose to the public, upon
20 request, a summary of the findings and information related to a
21 child fatality or near fatality if:

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

25 (2) A county attorney certifies that a person would have

1 been charged with having caused the child fatality or near fatality
2 but for that person's prior death.

3 Sec. 43. Section 28-736, Revised Statutes Cumulative
4 Supplement, 2006, is amended to read:

5 28-736 Findings and information disclosed pursuant to
6 section 28-735 shall consist of a written summary that includes any
7 of the following information the ~~Department of Health and Human~~
8 Services department is able to provide:

9 (1) The dates, outcomes, and results of any actions taken
10 or services rendered by the department; and

11 (2) Confirmation of the receipt of all reports, accepted
12 or not accepted, by the local office of the ~~Department of~~
13 Health and Human Services department for assessment of suspected
14 child abuse, neglect, or maltreatment, including confirmation that
15 investigations were conducted, the results of the investigations,
16 a description of the conduct of the most recent investigation
17 and the services rendered, and a statement of the basis for the
18 department's determination.

19 This section does not authorize access to confidential
20 records in the custody of the department or disclosure to
21 the public of the records or the content of any psychiatric,
22 psychological, or therapeutic evaluations or of information that
23 would reveal the identities of persons who provided information
24 related to suspected child abuse, neglect, or maltreatment.

25 Sec. 44. Section 28-737, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2 28-737 Within five working days after receipt of a
3 request for a summary of the findings and information related
4 to a child fatality or near fatality, the ~~Department of Health~~
5 ~~and Human Services~~ department shall consult with the appropriate
6 county attorney and provide the findings and information unless the
7 department or county attorney has reasonable cause to believe that
8 the release of the information:

9 (1) Is not authorized by section 28-735;

10 (2) Is likely to cause mental, emotional, or physical
11 harm or danger to a minor child residing in the household of the
12 deceased or injured child or who is the sibling of the deceased or
13 injured child;

14 (3) Is the subject of an ongoing or future criminal
15 investigation or prosecution;

16 (4) Is not authorized by federal law and regulations; or

17 (5) Could result in physical or emotional harm to an
18 individual.

19 Sec. 45. Section 28-738, Revised Statutes Cumulative
20 Supplement, 2006, is amended to read:

21 28-738 A person whose request under section 28-737 is
22 denied may apply to the district court of Lancaster County for
23 an order compelling disclosure of a summary of the findings
24 and information by the ~~Department of Health and Human Services.~~
25 department. The application shall set forth with reasonable

1 particularity factors supporting the application. Actions under
2 this section shall be set for immediate hearing, and subsequent
3 proceedings in such actions shall be accorded priority by the
4 appellate courts. After the district court has reviewed the
5 specific findings and information in camera, the court shall issue
6 an order compelling disclosure unless the court finds that one or
7 more of the circumstances set out in section 28-737 exist.

8 Sec. 46. Section 29-2928, Revised Statutes Cumulative
9 Supplement, 2006, is amended to read:

10 29-2928 (1) If the Department of Health and Human
11 Services determines that treatment in an inpatient treatment
12 program operated by the Department of Health and Human Services
13 is appropriate for a convicted sex offender, that the offender
14 will enter the treatment program voluntarily, and that space is
15 available in the program, the Director of Correctional Services
16 shall transfer the offender to the treatment program designated by
17 the ~~Director~~ Department of Health and Human Services for treatment.
18 The Department of Correctional Services shall be responsible for
19 physical transfer of the offender to the treatment facility.

20 (2) If the Department of Health and Human Services
21 determines that treatment in an inpatient treatment program
22 operated by the Department of Health and Human Services is not
23 appropriate for a convicted sex offender, the offender shall
24 serve the sentence in a facility operated by the Department of
25 Correctional Services and may participate in treatment offered

1 by the Department of Correctional Services if the Department of
2 Correctional Services determines that such treatment is appropriate
3 for the offender. The Department of Correctional Services may make
4 a recommendation concerning treatment as provided in subsection (4)
5 of this section.

6 (3) If the Department of Health and Human Services
7 determines that treatment in an inpatient treatment program
8 operated by the Department of Health and Human Services is not
9 initially appropriate for a convicted sex offender but may be
10 appropriate at a later time, a treatment decision may be deferred
11 until a designated time, no later than two and one-half years
12 prior to the offender's earliest parole eligibility date, when the
13 offender will be reevaluated.

14 (4) If the Department of Correctional Services determines
15 that an offender participating in treatment offered by the
16 Department of Correctional Services will benefit from a treatment
17 program operated by the Department of Health and Human Services,
18 the Department of Correctional Services shall notify the Department
19 of Health and Human Services and recommend admission of the
20 offender to the treatment program. The evaluation process to
21 determine whether such offender is to be admitted into a treatment
22 program operated by the Department of Health and Human Services
23 pursuant to this subsection shall be based upon criteria and
24 procedures established by the Department of Health and Human
25 Services and shall not be subject to appeal or review.

1 Sec. 47. Section 29-2929, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 29-2929 (1) The inpatient treatment program operated by
4 the Department of Health and Human Services shall conduct annual
5 reviews of each convicted sex offender in the program and submit
6 annual progress reports to the Department of Correctional Services.

7 (2) If the offender is uncooperative while in the
8 inpatient treatment program or is found not to be amenable to
9 treatment, the ~~Director~~ Department of Health and Human Services
10 shall cause the offender to be returned to the Department of
11 Correctional Services in accordance with procedures established by
12 the Department of Health and Human Services. The Department of
13 Correctional Services shall be responsible for physical transfer
14 of the offender from the inpatient treatment facility to the
15 Department of Correctional Services. The Department of Health
16 and Human Services shall, at the time of the transfer, provide
17 the Department of Correctional Services a report summarizing the
18 offender's response to and progress while in treatment and the
19 reasons for the transfer and shall provide access to the treatment
20 records as requested by the Department of Correctional Services.

21 (3) All days of confinement in a treatment program
22 operated by the Department of Health and Human Services shall be
23 credited to the offender's term of imprisonment.

24 Sec. 48. Section 29-4125, Revised Statutes Cumulative
25 Supplement, 2006, is amended to read:

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

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

11 (a) The state agency or political subdivision which
12 secured the biological material for use in a criminal case notifies
13 any person who remains incarcerated in connection with the case,
14 such person's counsel of record, or if there is no counsel of
15 record, the public defender, if applicable, in the county in which
16 the judgment of conviction of such person was entered. The notice
17 shall include:

18 (i) The intention of the state agency or political
19 subdivision to dispose of the material after ninety days after
20 receipt of the notice; and

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

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

25 (c) No other provision of law or court order requires

1 that such biological material be preserved.

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

11 (4) The Department of Health and Human Services
12 ~~Regulation and Licensure~~ shall preserve biological material
13 obtained for the purpose of determining the concentration of
14 alcohol in a person's blood for two years unless a request is made
15 for the retention of such material beyond such period in connection
16 with a pending legal action.

17 Sec. 49. Section 30-2487, Revised Statutes Cumulative
18 Supplement, 2006, is amended to read:

19 30-2487 (a) If the applicable assets of the estate are
20 insufficient to pay all claims in full, the personal representative
21 shall make payment in the following order:

- 22 (1) Costs and expenses of administration;
- 23 (2) Reasonable funeral expenses;
- 24 (3) Debts and taxes with preference under federal law;
- 25 (4) Reasonable and necessary medical and hospital

1 expenses of the last illness of the decedent, including
2 compensation of persons attending the decedent and claims filed by
3 the Department of Health and Human Services ~~Finance and Support~~
4 pursuant to section 68-919;

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

7 (6) All other claims.

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

11 Sec. 50. Section 31-740, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 31-740 (1) The board of trustees or the administrator
14 of any district organized under sections 31-727 to 31-762
15 shall have power to provide for establishing, maintaining, and
16 constructing gas and electric service lines and conduits, an
17 emergency management warning system, water mains, sewers, and
18 disposal plants and disposing of drainage, waste, and sewage
19 of such district in a satisfactory manner; for establishing,
20 maintaining, and constructing sidewalks, public roads, streets,
21 and highways, including grading, changing grade, paving, repaving,
22 graveling, regravelling, widening, or narrowing roads, resurfacing
23 or relaying existing pavement, or otherwise improving any road,
24 street, or highway within the district, including protecting
25 existing sidewalks, streets, highways, and roads from floods or

1 erosion which has moved within fifteen feet from the edge of
2 such sidewalks, streets, highways, or roads, regardless of whether
3 such flooding or erosion is of natural or artificial origin;
4 for establishing, maintaining, and constructing public waterways,
5 docks, or wharfs, and related appurtenances; and for constructing
6 and contracting for the construction of dikes and levees for flood
7 protection for the district.

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

24 (3) Prior to the installation of any of the improvements
25 or services provided for in this section, the plans or contracts

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

1 be given by such municipality. The municipality or county shall be
2 required to approve plans for such improvements and shall enforce
3 compliance with such plans by action in equity.

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

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

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

1 part of the public records in the office of the Auditor of Public
2 Accounts. The expense of such audits shall be paid out of the
3 funds of the district. The Auditor of Public Accounts shall be
4 given access to all books and papers, contracts, minutes, bonds,
5 and other documents and memoranda of every kind and character of
6 such district and be furnished all additional information possessed
7 by any present or past officer or employee of any such district,
8 or by any other person, that is essential to the making of a
9 comprehensive and correct audit.

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

19 (7) Whenever the sanitary sewer system or any part
20 thereof of a sanitary and improvement district is directly or
21 indirectly connected to the sewerage system of any city, such
22 city, without enacting an ordinance or adopting any resolution for
23 such purpose, may collect such city's applicable rental or use
24 charge from the users in the sanitary and improvement district and
25 from the owners of the property served within the sanitary and

1 improvement district. The charges of such city shall be charged to
2 each property served by the city sewerage system, shall be a lien
3 upon the property served, and may be collected from the owner or
4 the person, firm, or corporation using the service. If the city's
5 applicable rental or service charge is not paid when due, such sum
6 may be recovered by the municipality in a civil action or it may be
7 assessed against the premises served in the same manner as special
8 taxes or assessments are assessed by such city and collected
9 and returned in the same manner as other municipal special taxes
10 or assessments are enforced and collected. When any such tax or
11 assessment is levied, it shall be the duty of the city clerk to
12 deliver a certified copy of the ordinance to the county treasurer
13 of the county in which the premises assessed are located and such
14 county treasurer shall collect the same as provided by law and
15 return the same to the city treasurer. Funds of such city raised
16 from such charges shall be used by it in accordance with laws
17 applicable to its sewer service rental or charges. The governing
18 body of any city may make all necessary rules and regulations
19 governing the direct or indirect use of its sewerage system by
20 any user and premises within any sanitary and improvement district
21 and may establish just and equitable rates or charges to be paid
22 to such city for use of any of its disposal plants and sewerage
23 system. The board of trustees shall have power, in connection with
24 the issuance of any warrants or bonds of the district, to agree to
25 make a specified minimum levy on taxable property in the district

1 to pay, or to provide a sinking fund to pay, principal and interest
2 on warrants and bonds of the district for such number of years
3 as the board may establish at the time of making such agreement
4 and shall also have power to agree to enforce, by foreclosure
5 or otherwise as permitted by applicable laws, the collection of
6 special assessments levied by the district. Such agreements may
7 contain provisions granting to creditors and others the right to
8 enforce and carry out the agreements on behalf of the district and
9 its creditors.

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

20 Sec. 51. Section 32-310, Revised Statutes Cumulative
21 Supplement, 2006, is amended to read:

22 32-310 (1) The State Department of Education, and the
23 Department of Health and Human Services, ~~the Department of Health~~
24 ~~and Human Services Regulation and Licensure,~~ and the Department of
25 ~~Health and Human Services Finance and Support~~ shall provide the

1 opportunity to register to vote at the time of application, review,
2 or change of address for the following programs, as applicable:

3 (a) The food stamp program; (b) the medicaid program; (c) the WIC
4 program as defined in section 71-2225; (d) the aid to dependent
5 children program; (e) the vocational rehabilitation program; and
6 (f) any other public assistance program or program primarily for
7 the purpose of providing services to persons with disabilities.
8 If the application, review, or change of address is accomplished
9 through an agent or contractor of the department, the agent or
10 contractor shall provide the opportunity to register to vote.
11 Any information on whether an applicant registers or declines
12 to register and the agency at which he or she registers shall
13 be confidential and shall only be used for voter registration
14 purposes.

15 (2) The department, agent, or contractor shall make
16 the mail-in registration application described in section 32-320
17 available at the time of application, review, or change of address
18 and shall provide assistance, if necessary, to the applicant in
19 completing the application to register to vote. The department
20 shall retain records indicating whether an applicant accepted or
21 declined the opportunity to register to vote.

22 (3) Department personnel, agents, and contractors
23 involved in the voter registration process pursuant to this section
24 shall not be considered deputy registrars or agents or employees of
25 the election commissioner or county clerk.

1 (4) The applicant may return the completed voter
2 registration application to the department, agent, or contractor
3 or may personally mail or deliver the application to the election
4 commissioner or county clerk as provided in section 32-321. If
5 the applicant returns the completed application to the department,
6 agent, or contractor, the department, agent, or contractor shall
7 deliver the application to the election commissioner or county
8 clerk of the county in which the office of the department, agent,
9 or contractor is located not later than ten days after receipt
10 by the department, agent, or contractor, except that if the
11 application is returned to the department, agent, or contractor
12 within five days prior to the third Friday preceding any election,
13 it shall be delivered not later than five days after the date it
14 is returned. The election commissioner or county clerk shall, if
15 necessary, forward the application to the election commissioner or
16 county clerk of the county in which the applicant resides within
17 such prescribed time limits. The application shall be completed
18 and returned to the department, agency, or contractor by the close
19 of business on the third Friday preceding any election to be
20 registered to vote at such election. A registration application
21 received after the deadline shall not be processed by the election
22 commissioner or county clerk until after the election.

23 (5) The departments shall adopt and promulgate rules and
24 regulations to ensure compliance with this section.

25 Sec. 52. Section 32-327, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 32-327 The election commissioner or county clerk may
3 at any time remove from the voter registration register a voter
4 registration of a deceased person when the election commissioner
5 or county clerk has any supporting information of the death of
6 such voter. The Department of Health and Human Services ~~Finance and~~
7 ~~Support~~ shall provide, at cost, a record of the deaths of residents
8 which occur in each county every three months to the appropriate
9 election commissioner or county clerk.

10 Sec. 53. Section 37-1254.05, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 37-1254.05 Except as provided in section 37-1254.03, any
13 test made pursuant to section 37-1254.02, if made in conformance
14 with the requirements of this section, shall be competent evidence
15 in any prosecution under a state law or city or village ordinance
16 regarding the actual physical control of any motorboat under
17 propulsion upon the waters of this state while under the influence
18 of alcohol or regarding the actual physical control of any
19 motorboat under propulsion upon the waters of this state when
20 the concentration of alcohol in the blood or breath is in excess
21 of allowable levels in violation of section 37-1254.01 or a city
22 or village ordinance. To be considered valid, tests shall have
23 been performed according to methods approved by the Department
24 of Health and Human Services ~~Regulation and Licensure~~ and by an
25 individual possessing a valid permit issued by the department for

1 such purpose. The department may approve satisfactory techniques
2 or methods and ascertain the qualifications and competence of
3 individuals to perform such tests and may issue permits which shall
4 be subject to termination or revocation at the discretion of the
5 department.

6 The permit fee may be established by rules and
7 regulations adopted and promulgated by the department, which fee
8 shall not exceed the actual cost of processing the initial permit.
9 Such fee shall be charged annually to each permit holder. The fees
10 shall be used to defray the cost of processing and issuing the
11 permits and other expenses incurred by the department in carrying
12 out this section. The fee shall be deposited in the state treasury
13 and credited to the ~~Department of Health and Human Services~~
14 ~~Regulation and Licensure~~ Health and Human Services Cash Fund as a
15 laboratory service fee.

16 Sec. 54. Section 37-1254.06, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 37-1254.06 (1) Any physician, registered nurse, other
19 trained person employed by a licensed health care facility or
20 health care service defined in the Health Care Facility Licensure
21 Act, a clinical laboratory certified pursuant to the federal
22 Clinical Laboratories Improvement Act of 1967, as amended, or Title
23 XVIII or XIX of the federal Social Security Act, as amended, to
24 withdraw human blood for scientific or medical purposes, or a
25 hospital shall be an agent of the State of Nebraska when performing

1 the act of withdrawing blood at the request of a peace officer
2 pursuant to section 37-1254.02. The state shall be liable in
3 damages for any illegal or negligent acts or omissions of such
4 agents in performing the act of withdrawing blood. The agent shall
5 not be individually liable in damages or otherwise for any act
6 done or omitted in performing the act of withdrawing blood at the
7 request of a peace officer pursuant to such section except for acts
8 of willful, wanton, or gross negligence of the agent or of persons
9 employed by such agent.

10 (2) Any person listed in subsection (1) of this section
11 withdrawing a blood specimen for purposes of section 37-1254.02
12 shall, upon request, furnish to any law enforcement agency or the
13 person being tested a certificate stating that such specimen was
14 taken in a medically acceptable manner. The certificate shall be
15 signed under oath before a notary public and shall be admissible
16 in any proceeding as evidence of the statements contained in the
17 certificate. The form of the certificate shall be prescribed by the
18 Department of Health and Human Services ~~Regulation and Licensure~~
19 and such forms shall be made available to the persons listed in
20 subsection (1) of this section.

21 Sec. 55. Section 42-106, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 42-106 When an application is made for a license to the
24 county clerk, he or she shall, upon the granting of such license,
25 state in the license the information contained in the application

1 as provided in section 42-104. The license shall, prior to the
2 issuing thereof, be entered of record in the office of the county
3 clerk in a suitable book to be provided for that purpose.

4 The forms for the application, license, and certificate
5 of marriage shall be provided by the Department of Health and Human
6 Services ~~Finance and Support~~ at actual cost as determined by the
7 department.

8 Sec. 56. Section 42-358, Revised Statutes Cumulative
9 Supplement, 2006, is amended to read:

10 42-358 (1) The court may appoint an attorney to protect
11 the interests of any minor children of the parties. Such attorney
12 shall be empowered to make independent investigations and to cause
13 witnesses to appear and testify on matters pertinent to the welfare
14 of the children. The court shall by order fix the fee, including
15 disbursements, for such attorney, which amount shall be taxed as
16 costs and paid by the parties as ordered. If the court finds that
17 the party responsible is indigent, the court may order the county
18 to pay the costs.

19 (2) Following entry of any decree, the court having
20 jurisdiction over the minor children of the parties may at any time
21 appoint an attorney, as friend of the court, to initiate contempt
22 proceedings for failure of any party to comply with an order
23 of the court directing such party to pay temporary or permanent
24 child support. The county attorney or authorized attorney may be
25 appointed by the court for the purposes provided in this section,

1 in which case the county attorney or authorized attorney shall
2 represent the state.

3 (3) The clerk of each district court shall maintain
4 records of support orders. The Title IV-D Division of the
5 Department of Health and Human Services shall maintain support
6 order payment records pursuant to section 43-3342.01 and the clerk
7 of each district court shall maintain records of payments received
8 pursuant to sections 42-369 and 43-3342.01. For support orders in
9 all cases issued before September 6, 1991, and for support orders
10 issued or modified on or after September 6, 1991, in cases in
11 which no party has applied for services under Title IV-D of the
12 federal Social Security Act, as amended, each month the Title IV-D
13 Division shall certify all cases in which the support order payment
14 is delinquent in an amount equal to the support due and payable for
15 a one-month period of time. The Title IV-D Division shall provide
16 the case information in electronic format, and upon request in
17 print format, to the judge presiding over domestic relations cases
18 and to the county attorney or authorized attorney. A rebuttable
19 presumption of contempt shall be established if a prima facie
20 showing is made that the court-ordered child or spousal support is
21 delinquent. In cases in which one of the parties receives services
22 under Title IV-D of the federal Social Security Act, as amended,
23 the Title IV-D Division shall certify all such delinquent support
24 order payments to the county attorney or the authorized attorney.

25 In each case certified, if income withholding has not

1 been implemented it shall be implemented pursuant to the Income
2 Withholding for Child Support Act. If income withholding is not
3 feasible and no other action is pending for the collection of
4 support payments, the court shall appoint an attorney to commence
5 contempt of court proceedings. If the county attorney or authorized
6 attorney consents, he or she may be appointed for such purpose. The
7 contempt proceeding shall be instituted within ten days following
8 appointment, and the case shall be diligently prosecuted to
9 completion. The court shall by order fix the fee, including
10 disbursements, for such attorney, which amount shall be taxed as
11 costs and paid by the parties as ordered. Any fees allowed for
12 the services of any county attorney or authorized attorney shall
13 be paid to the Department of Health and Human Services when there
14 is an assignment of support to the department pursuant to section
15 43-512.07 or when an application for child support services is on
16 file with a county attorney or authorized attorney. If the court
17 finds the party responsible is indigent, the court may order the
18 county to pay the costs.

19 (4) If, at the hearing, the person owing child or spousal
20 support is called for examination as an adverse party and such
21 person refuses to answer upon the ground that his or her testimony
22 may be incriminating, the court may, upon the motion of the county
23 attorney or authorized attorney, require the person to answer and
24 produce the evidence. In such a case the evidence produced shall
25 not be admissible in any criminal case against such person nor

1 shall any evidence obtained because of the knowledge gained by such
2 evidence be so admissible.

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

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

10 Sec. 57. Section 42-358.01, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 42-358.01 Records of delinquencies in support order
13 payments shall be kept by the Title IV-D Division of the Department
14 of Health and Human Services or by the clerks of the district
15 courts pursuant to their responsibilities under law.

16 Sec. 58. Section 42-358.02, Revised Statutes Cumulative
17 Supplement, 2006, is amended to read:

18 42-358.02 (1) All delinquent child support payments shall
19 draw interest at the rate specified in section 45-103 in effect on
20 the date of the most recent order or decree. Such interest shall be
21 computed as simple interest.

22 (2) All child support payments shall become delinquent
23 the day after they are due and owing, except that no obligor whose
24 child support payments are automatically withheld from his or her
25 paycheck shall be regarded or reported as being delinquent or in

1 arrears if (a) any delinquency or arrearage is solely caused by a
2 disparity between the schedule of the obligor's regular pay dates
3 and the scheduled date the child support is due, (b) the total
4 amount of child support to be withheld from the paychecks of the
5 obligor and the amount ordered by the support order are the same
6 on an annual basis, and (c) the automatic deductions for child
7 support are continuous and occurring. Interest shall not accrue
8 until thirty days after such payments are delinquent.

9 (3) The court shall order the determination of the amount
10 of interest due, and such interest shall be payable in the same
11 manner as the support payments upon which the interest accrues
12 subject to subsection (2) of this section or unless it is waived
13 by agreement of the parties. The Title IV-D Division of the
14 Department of Health and Human Services shall compute interest and
15 identify delinquencies pursuant to this section on the payments
16 received by the State Disbursement Unit pursuant to section 42-369.
17 The Title IV-D Division shall provide the case information in
18 electronic format, and upon request in print format, to the judge
19 presiding over domestic relations cases and to the county attorney
20 or authorized attorney.

21 (4) Support order payments shall be credited in the
22 following manner:

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

1 (b) Second, toward any payment arrearage owing, in the
2 following order: Child support payment arrearage, then spousal
3 support payment arrearage, and lastly medical support payment
4 arrearage; and

5 (c) Third, toward the interest on any payment arrearage,
6 in the following order: Child support payment arrearage interest,
7 then spousal support payment arrearage interest, and lastly medical
8 support payment arrearage interest.

9 (5) Interest which may have accrued prior to September
10 6, 1991, shall not be affected or altered by changes to this
11 section which take effect on such date. All delinquent child
12 support payments and all decrees entered prior to such date shall
13 draw interest at the effective rate as prescribed by this section
14 commencing as of such date.

15 Sec. 59. Section 42-364.13, Revised Statutes Cumulative
16 Supplement, 2006, is amended to read:

17 42-364.13 (1) Any order for support entered by the
18 court shall specifically provide that any person ordered to pay a
19 judgment shall be required to furnish to the clerk of the district
20 court his or her address, telephone number, and social security
21 number, the name of his or her employer, whether or not such
22 person has access to employer-related health insurance coverage
23 and, if so, the health insurance policy information, and any other
24 information the court deems relevant until such judgment is paid
25 in full. The person shall also be required to advise the clerk of

1 any changes in such information between the time of entry of the
2 decree and the payment of the judgment in full. If both parents
3 are parties to the action, such order shall provide that each be
4 required to furnish to the clerk of the district court all of the
5 information required by this subsection. Failure to comply with
6 this section shall be punishable by contempt.

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

10 (3) Until the Title IV-D Division of the Department of
11 Health and Human Services has operative the statewide automated
12 data processing and retrieval system necessary for centralized
13 collection and disbursement of support order payments:

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

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

1 warrant shall be issued for his or her arrest.

2 (b) If the court orders income withholding regardless
3 of whether or not payments are in arrears pursuant to section
4 43-1718.01 or 43-1718.02, the statement in this subsection may be
5 altered to read as follows:

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

15 (4) When the Title IV-D Division of the Department of
16 Health and Human Services has operative the statewide automated
17 data processing and retrieval system necessary for centralized
18 collection and disbursement of support order payments:

19 (a) If any case contains an order or judgment for child,
20 medical, or spousal support, the order shall include the following
21 statements:

22 In the event that the (plaintiff or defendant) fails to
23 pay any child, medical, or spousal support payment, as such failure
24 is certified each month by the State Disbursement Unit in cases
25 in which court-ordered support is delinquent in an amount equal

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

7 (b) If the court orders income withholding regardless
8 of whether or not payments are in arrears pursuant to section
9 43-1718.01 or 43-1718.02, the statement in this subsection may be
10 altered to read as follows:

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

20 Sec. 60. Section 42-705, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 42-705 (a) In a proceeding to establish or enforce a
23 support order or to determine parentage, a tribunal of this state
24 may exercise personal jurisdiction over a nonresident individual or
25 the individual's guardian or conservator if:

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

3 (2) The individual submits to the jurisdiction of this
4 state by consent, by entering a general appearance, or by filing
5 a responsive document having the effect of waiving any contest to
6 personal jurisdiction;

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

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

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

12 (6) The individual engaged in sexual intercourse in this
13 state and the child may have been conceived by that act of
14 intercourse;

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

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

22 (b) The basis of personal jurisdiction set forth in
23 subsection (a) of this section or in any other law of this state
24 shall not be used to acquire personal jurisdiction for a tribunal
25 of this state to modify a child support order of another state

1 unless the requirements of section 42-746 or 42-747.03 are met.

2 Sec. 61. Section 42-917, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 42-917 The delivery of all services provided for under
5 the Protection from Domestic Abuse Act shall be done in cooperation
6 with existing public, private, state, and local programs whenever
7 possible to avoid duplication of services. Special effort shall
8 be taken to coordinate programs with the Department of Labor, the
9 Nebraska Commission on the Status of Women, the State Department
10 of Education, ~~the Division of Behavioral Health Services of the~~
11 ~~Department of Health and Human Services, the Department of Health~~
12 ~~and Human Services Regulation and Licensure, the Department of~~
13 ~~Health and Human Services Finance and Support,~~ other appropriate
14 agencies, community service agencies, and private sources.

15 Sec. 62. Section 43-102, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 43-102 Except as otherwise provided in the Nebraska
18 Indian Child Welfare Act, any person or persons desiring to adopt
19 a minor child or an adult child shall file a petition for adoption
20 signed and sworn to by the person or persons desiring to adopt.
21 The consent or consents required by sections 43-104 and 43-105 or
22 section 43-104.07, the documents required by section 43-104.07 or
23 the documents required by sections 43-104.08 to 43-104.24, and a
24 completed preplacement adoptive home study if required by section
25 43-107 shall be filed prior to the hearing required in section

1 43-103.

2 The county court of the county in which the person or
3 persons desiring to adopt the child reside has jurisdiction of
4 adoption proceedings, except that if a separate juvenile court
5 already has jurisdiction over the child to be adopted under the
6 Nebraska Juvenile Code, such separate juvenile court has concurrent
7 jurisdiction with the county court in such adoption proceeding. The
8 petition and all other court filings for an adoption proceeding
9 shall be filed with the clerk of the county court. The party
10 shall state in the petition whether such party requests that the
11 proceeding be heard by the county court or, in cases in which a
12 separate juvenile court already has jurisdiction over the child to
13 be adopted under the Nebraska Juvenile Code, such separate juvenile
14 court. Such proceeding is considered a county court proceeding even
15 if heard by a separate juvenile court judge and an order of the
16 separate juvenile court in such adoption proceeding has the force
17 and effect of a county court order. The testimony in an adoption
18 proceeding heard before a separate juvenile court judge shall be
19 preserved as in any other separate juvenile court proceeding. The
20 clerks of the district courts shall transfer all adoption petitions
21 and other adoption filings which were filed with such clerks prior
22 to August 28, 1999, to the clerk of the county court where the
23 separate juvenile court which heard the proceeding is situated. The
24 clerk of such county court shall file and docket such petitions and
25 other filings.

1 Except as set out in subdivisions (1)(b)(ii), (iii),
2 (iv), and (v) of section 43-107, an adoption decree shall not be
3 issued until at least six months after an adoptive home study has
4 been completed by the ~~department~~ Department of Health and Human
5 Services or a licensed child placement agency.

6 Sec. 63. Section 43-104.01, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 43-104.01 (1) The Department of Health and Human Services
9 ~~Finance and Support~~ shall establish a biological father registry
10 which shall record the names and addresses of (a) any person
11 adjudicated by a court of this state to be the father of a child
12 born out of wedlock if a certified copy of the court order is
13 filed with the registry by such person or any other person, (b) any
14 person who has filed with the registry, prior to notification under
15 sections 43-104.12 to 43-104.16, a paternity claim for notification
16 purposes for such child, (c) any person who has filed with the
17 registry a notice of intent to claim paternity and obtain custody
18 of such child, and (d) any person adjudicated by a court of another
19 state or territory of the United States to be the father of such
20 child, if a certified copy of the court order has been filed with
21 the registry by that person or any other person.

22 (2) A paternity claim for notification purposes or a
23 notice of intent to claim paternity and obtain custody filed with
24 the registry shall include the claimant's name and address, the
25 name and last-known address of the mother, and the month and year

1 of the birth or the expected birth of the child. The person filing
2 the notice shall notify the registry of any change of address
3 pursuant to procedures prescribed by regulations of the department.

4 (3) Any person filing a paternity claim for notification
5 purposes or a notice of intent to claim paternity and obtain
6 custody with the biological father registry may revoke such notice,
7 and upon receipt of such revocation by the registry, the effect
8 shall be as if no filing had ever been made.

9 (4) The department shall not divulge the names and
10 addresses of persons listed with the registry to any other person
11 except as authorized by law or upon order of a court for good cause
12 shown.

13 (5) The department may develop information about the
14 registry and may distribute such information, through ~~their~~ its
15 existing publications, to the news media and the public. The
16 department may provide information about the registry to the
17 Department of Correctional Services, ~~the Department of Health and~~
18 ~~Human Services,~~ and the Department of Health and Human Services
19 ~~Regulation and Licensure,~~ who which may distribute such information
20 through ~~their~~ its existing publications.

21 Sec. 64. Section 43-104.02, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 43-104.02 As provided in section 43-104.01, a person
24 claiming to be the father of the child and who intends to claim
25 paternity and obtain custody of the child shall file with the

1 biological father registry maintained by the Department of Health
2 and Human Services ~~Finance and Support~~ on forms provided by the
3 department, within five business days after the birth of the
4 child, or within five business days after receipt of the notice
5 contemplated in section 43-104.12, or within five business days
6 after the last date of any published notice provided pursuant
7 to section 43-104.14, whichever is later, a notice of intent to
8 claim paternity and obtain custody. Such notice shall include the
9 social security number of the person claiming to be the father.
10 A notice of intent to claim paternity and obtain custody of the
11 child shall be considered to have been filed if it is received by
12 the ~~Department of Health and Human Services Finance and Support~~
13 department or postmarked prior to the end of the fifth business day
14 contemplated in this section.

15 Sec. 65. Section 43-104.03, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 43-104.03 Within three days after the filing of a
18 paternity claim for notification purposes or a notice of intent
19 to claim paternity and obtain custody with the biological father
20 registry pursuant to sections 43-104.01 and 43-104.02, the ~~Director~~
21 ~~of Finance and Support~~ Department of Health and Human Services
22 shall cause a certified copy of such notice to be mailed by
23 certified mail to (1) the mother or prospective mother of such
24 child at the last-known address shown on the notice or (2) an agent
25 specifically designated in writing by the mother or prospective

1 mother to receive such notice. The notice shall be admissible in
2 any action for paternity, shall estop the claimant from denying
3 paternity of such child thereafter, and shall contain language that
4 the claimant acknowledges liability for contribution to the support
5 and education of the child after birth and for contribution to the
6 pregnancy-related medical expenses of the mother.

7 Sec. 66. Section 43-104.04, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 43-104.04 If a notice of intent to claim paternity and
10 obtain custody is not timely filed with the biological father
11 registry pursuant to section 43-104.02, the mother of a child born
12 out of wedlock or an agent specifically designated in writing by
13 the mother may request, and the Department of Health and Human
14 Services ~~Finance and Support~~ shall supply, a certificate that no
15 notice of intent to claim paternity and obtain custody has been
16 filed with the biological father registry and the filing of such
17 certificate pursuant to section 43-102 shall eliminate the need
18 or necessity of a consent or relinquishment for adoption by the
19 natural father of such child.

20 Sec. 67. 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

1 discretionary, request the Department of Health and Human Services
2 or any child placement agency licensed by the department to examine
3 ~~into~~ the allegations set forth in the petition and to ascertain
4 any other facts relating to such minor child and the person or
5 persons petitioning to adopt such child as may be relevant to
6 the propriety of such adoption, except that the county judge
7 shall not be required to request such an examination if the judge
8 determines that information compiled in a previous examination or
9 study is sufficiently current and comprehensive. Upon the request
10 being made, the department or other licensed agency shall conduct
11 an investigation and report its findings to the county judge in
12 writing at least one week prior to the date set for hearing.

13 (b) (i) For adoption placements occurring on or after
14 January 1, 1994, a preplacement adoptive home study shall be filed
15 with the court prior to the hearing required in section 43-103,
16 which study is completed by the Department of Health and Human
17 Services or a licensed child placement agency within one year
18 before the date on which the adoptee is placed with the petitioner
19 or petitioners and indicates that the placement of a child for the
20 purpose of adoption would be safe and appropriate.

21 (ii) An adoptive home study shall not be required when
22 the petitioner is a stepparent of the adoptee unless required by
23 the court, except that for petitions filed on or after January 1,
24 1994, the judge shall order the petitioner or his or her attorney
25 to request the Nebraska State Patrol to file a national criminal

1 history record information check and to request the department to
2 conduct and file a check of the central register created in section
3 28-718 for any history of the petitioner of behavior injurious to
4 or which may endanger the health or morals of a child. An adoption
5 decree shall not be issued until such records are on file with the
6 court. The petitioner shall pay the cost of the national criminal
7 history record information check and the check of the central
8 register.

9 (iii) The placement of a child for foster care made by or
10 facilitated by the department or a licensed child placement agency
11 in the home of a person who later petitions the court to adopt
12 the child shall be exempt from the requirements of a preplacement
13 adoptive home study. The petitioner or petitioners who meet such
14 criteria shall have a postplacement adoptive home study completed
15 by the department or a licensed child placement agency and filed
16 with the court at least one week prior to the hearing for adoption.

17 (iv) A voluntary placement for purposes other than
18 adoption made by a parent or guardian of a child without assistance
19 from an attorney, physician, or other individual or agency which
20 later results in a petition for the adoption of the child shall be
21 exempt from the requirements of a preplacement adoptive home study.
22 The petitioner or petitioners who meet such criteria shall have a
23 postplacement adoptive home study completed by the department or a
24 licensed child placement agency and filed with the court at least
25 one week prior to the hearing for adoption.

1 (v) The adoption of an adult child as provided
2 in subsection (2) of section 43-101 shall be exempt from
3 the requirements of an adoptive home study unless the court
4 specifically orders otherwise. The court may order an adoptive home
5 study, a background investigation, or both if the court determines
6 that such would be in the best interests of the adoptive party or
7 the person to be adopted.

8 (vi) Any adoptive home study required by this section
9 shall be conducted by the department or a licensed child placement
10 agency at the expense of the petitioner or petitioners unless such
11 expenses are waived by the department or licensed child placement
12 agency. The department or licensed agency shall determine the fee
13 or rate for the adoptive home study.

14 (vii) The preplacement or postplacement adoptive home
15 study shall be performed as prescribed in rules and regulations
16 of the department and shall include at a minimum an examination
17 into the facts relating to the petitioner or petitioners as may
18 be relevant to the propriety of such adoption. Such rules and
19 regulations shall require an adoptive home study to include a
20 national criminal history record information check and a check of
21 the central register created in section 28-718 for any history of
22 the petitioner or petitioners of behavior injurious to or which may
23 endanger the health or morals of a child.

24 (2) Upon the filing of a petition for adoption, the judge
25 shall require that a complete medical history be provided on the

1 child, except that in the adoption of a child by a stepparent
2 the provision of a medical history shall be discretionary. A
3 medical history shall be provided, if available, on the biological
4 mother and father and their biological families, including, but
5 not limited to, siblings, parents, grandparents, aunts, and uncles,
6 unless the child is foreign born or was abandoned. The medical
7 history or histories shall be reported on a form provided by
8 the ~~Department of Health and Human Services Finance and Support~~
9 department and filed along with the report of adoption as provided
10 by section 71-626. If the medical history or histories do not
11 accompany the report of adoption, the ~~Department of Health and~~
12 ~~Human Services Finance and Support~~ department shall inform the
13 court and the State Court Administrator. The medical history or
14 histories shall be made part of the court record. After the entry
15 of a decree of adoption, the court shall retain a copy and forward
16 the original medical history or histories to the ~~Department of~~
17 ~~Health and Human Services Finance and Support.~~ department. This
18 subsection shall only apply when the relinquishment or consent for
19 an adoption is given on or after September 1, 1988.

20 Sec. 68. Section 43-118, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 43-118 All actions of the Department of Health and
23 Human Services under the programs authorized by sections 43-117 to
24 43-117.02 shall be subject to the following criteria:

25 (1) The child so adopted shall have been a child for whom

1 adoption would not have been possible without the financial aid
2 provided for by sections 43-117 to 43-117.02; and

3 (2) The ~~Director of Health and Human Services~~ department
4 shall adopt and promulgate rules and regulations for the
5 administration of sections 43-117 to 43-118.

6 Sec. 69. Section 43-119, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 43-119 For purposes of sections 43-119 to 43-146.16,
9 unless the context otherwise requires, the definitions found in
10 sections 43-121 to 43-123.01 and section 70 of this act shall be
11 used.

12 Sec. 70. Department shall mean the Department of Health
13 and Human Services.

14 Sec. 71. Section 43-123.01, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 43-123.01 Medical history shall mean medical history as
17 defined by the ~~Department of Health and Human Services Finance and~~
18 ~~Support~~ department in its rules and regulations.

19 Sec. 72. Section 43-124, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 43-124 The ~~Department of Health and Human Services~~
22 ~~Finance and Support~~ department shall provide a form which may
23 be signed by a relative indicating the fact that such relative
24 consents to his or her name being released to such relative's
25 adopted person as provided by sections 43-113, 43-119 to ~~43-146,~~

1 43-146.16, 71-626, 71-626.01, and 71-627.02. Such consent shall be
2 effective as of the time of filing the form with the ~~Department of~~
3 ~~Health and Human Services Finance and Support.~~ department.

4 Sec. 73. Section 43-125, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 43-125 The form provided by section 43-124 shall contain
7 the following information:

8 (1) The name of the person completing the form and, if
9 different, the name of such person at the time of birth of the
10 adopted person;

11 (2) The relationship of the person to the adopted person;

12 (3) The date of birth of the adopted person;

13 (4) The sex of the adopted person;

14 (5) The place of birth of the adopted person;

15 (6) Authorization that the name, last-known address, and
16 last-known telephone number of the relative and the original birth
17 certificate of the adopted person may be released to the adopted
18 person as provided by sections 43-113, 43-119 to ~~43-146,~~ 43-146.16,
19 71-626, 71-626.01, and 71-627.02; and

20 (7) A notice in the following form:

21 **IMPORTANT NOTICE**

22 You do not have to sign this form. If you do sign it,
23 you are entitled to a copy of it. Your signature on this form
24 allows the Department of Health and Human Services ~~Finance and~~
25 ~~Support~~ to give your name and other information to the adopted

1 person designated, upon his or her written request after reaching
2 twenty-five years of age. You may file additional copies of this
3 consent if your name or address changes. You may revoke this
4 consent at any time by filing a revocation of consent with the
5 Department of Health and Human Services. ~~Finance and Support.~~

6 Sec. 74. Section 43-126, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 43-126 At any time after signing the consent form, a
9 relative may revoke such consent form. A form for revocation of
10 consent shall be provided by the ~~Department of Health and Human~~
11 ~~Services Finance and Support.~~ department. The revocation shall be
12 effective as of the time of filing the form with the ~~Department~~
13 ~~of Health and Human Services Finance and Support.~~ department. The
14 revocation form shall contain the following notice:

15 IMPORTANT NOTICE

16 You do not have to sign this form. If you do sign it,
17 you are entitled to a copy of it. Your signature on this form
18 means that the Department of Health and Human Services ~~Finance~~
19 ~~and Support~~ will not disclose your name or address to any person
20 without a court order. If you sign this form and later decide
21 you do want your name and address given to a relative properly
22 requesting the information, you may file another consent for that
23 purpose.

24 Sec. 75. Section 43-127, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 43-127 The forms provided by sections 43-124 and 43-126
2 shall be notarized and filed with the ~~Department of Health and~~
3 ~~Human Services Finance and Support~~ department which shall keep such
4 forms with all other records of an individual adopted person.

5 Sec. 76. Section 43-130, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 43-130 Except as otherwise provided in the Nebraska
8 Indian Child Welfare Act, an adopted person twenty-five years
9 of age or older born in this state who desires access to the
10 names of relatives or access to his or her original certificate
11 of birth shall file a written request for such information with
12 the ~~Department of Health and Human Services Finance and Support.~~
13 department.The department shall provide a form for making such a
14 request.

15 Sec. 77. Section 43-131, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 43-131 (1) Upon receipt of a request for information,
18 the ~~Department of Health and Human Services Finance and Support~~
19 department shall check the records of the adopted person making the
20 request to determine whether the consent form provided by section
21 43-124 has been signed and filed by any relative of the adopted
22 person and whether an unrevoked nonconsent form is on file from a
23 biological parent or parents pursuant to section 43-132 or from an
24 adoptive parent or parents pursuant to section 43-143.

25 (2) If the consent form has been signed and filed and

1 has not been revoked and if no nonconsent form has been filed
2 by an adoptive parent or parents pursuant to section 43-143,
3 the ~~Department of Health and Human Services Finance and Support~~
4 department shall release the information on such form to the
5 adopted person.

6 (3) If no consent forms have been filed, or if the
7 consent form has been revoked, and if no nonconsent form has been
8 filed pursuant to section 43-143, the following information shall
9 be released to the adopted person:

10 (a) The name and address of the court which issued the
11 adoption decree;

12 (b) The name and address of the child placement agency,
13 if any, involved in the adoption; and

14 (c) The fact that an agency may assist the adopted
15 person in searching for relatives as provided in sections 43-132 to
16 43-141.

17 (4) The provisions of this section shall not apply to
18 persons subject to the Nebraska Indian Child Welfare Act.

19 Sec. 78. Section 43-132, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 43-132 A biological parent or parents may at any time,
22 if they desire, file a notice of nonconsent with the ~~Department of~~
23 ~~Health and Human Services Finance and Support~~ department stating
24 that at no time after his or her death and prior to the death of
25 his or her spouse, if such spouse is not a biological parent, may

1 any information on the adopted person's original birth certificate
2 be released to such adopted person. The provisions of this section
3 shall not apply to persons subject to the Nebraska Indian Child
4 Welfare Act.

5 Sec. 79. Section 43-133, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 43-133 The nonconsent form provided for in section 43-132
8 shall contain the following information:

9 (1) The name of the person completing the form and, if
10 different, the name of such person at the time of birth of the
11 adopted person;

12 (2) The relationship of the person to the adopted person;

13 (3) The date of birth of the adopted person;

14 (4) The sex of the adopted person;

15 (5) The place of birth of the adopted person;

16 (6) A statement that no information concerning the
17 information contained in the original birth certificate of the
18 adopted person shall be released following the death of the parent
19 or parents signing the form and such information shall not be
20 released to the adopted person prior to the death of the spouse of
21 such parent or parents, if such spouse is not a biological parent;
22 and

23 (7) A notice in the following form:

24 **IMPORTANT NOTICE**

25 You do not have to sign this form. If you do sign it,

1 you are entitled to a copy of it. Your signature on this form
2 means that the Department of Health and Human Services ~~Finance and~~
3 ~~Support~~ will not disclose any information contained on the birth
4 certificate of the adopted person to any person following your
5 death and prior to the death of your spouse, if such spouse is not
6 a biological parent, without a court order. If you later decide
7 that you do not object to the release of such information you may
8 file a form stating that purpose.

9 Sec. 80. Section 43-134, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 43-134 At any time after signing the notice of nonconsent
12 provided for in section 43-132, the parent or parents may revoke
13 such notice. A form of revocation shall be provided by the
14 ~~Department of Health and Human Services Finance and Support,~~
15 department and shall take effect at the time of filing of the
16 form with the department. The revocation form shall contain the
17 following notice:

18 IMPORTANT NOTICE

19 You do not have to sign this form. If you do sign it,
20 you are entitled to a copy of it. Your signature on this form
21 means that the Department of Health and Human Services ~~Finance~~
22 ~~and Support~~ may disclose any information contained on the birth
23 certificate of the adopted person following your death. If you
24 sign this form and later decide you do not want this information
25 released following your death and prior to the death of your

1 spouse, if such spouse is not a biological parent, you may file
2 another form for that purpose.

3 Sec. 81. Section 43-135, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 43-135 If the ~~Department of Health and Human Services~~
6 ~~Finance and Support~~ department has information indicating that both
7 biological parents of the adopted person are deceased, or if only
8 one biological parent is known and information indicates that such
9 parent is deceased, and no nonconsent form, as provided in section
10 43-132 or 43-143, has been filed, all information on the adopted
11 person's original birth certificate regarding such deceased parent
12 or parents shall be released to the adopted person notwithstanding
13 the fact that no consent form was signed and filed by such deceased
14 parent or parents prior to death.

15 Sec. 82. Section 43-137, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 43-137 If an adopted person twenty-five years of age or
18 older, after following the procedures set forth in sections 43-130
19 and 43-131 is not able to obtain information about such person's
20 relatives, such person may then contact the child placement agency
21 which handled the adoption if the name of the agency has been
22 given to the adopted person by the ~~Department of Health and Human~~
23 ~~Services Finance and Support~~ department. If it is not feasible for
24 the adopted person to contact the agency, such person may contact
25 the ~~Department of Health and Human Services~~ department.

1 Sec. 83. Section 43-138, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 43-138 After being contacted by an adopted person, if no
4 valid nonconsent form, as provided in section 43-132 or 43-143, is
5 on file, the ~~Department of Health and Human Services~~ department or
6 agency as the case may be shall apply to the clerk of the court
7 which issued the adoption decree or the ~~Department of Health and~~
8 ~~Human Services Finance and Support~~ department for any information
9 in the records of the court or the ~~Department of Health and~~
10 ~~Human Services Finance and Support~~ department regarding the adopted
11 person or his or her relatives, including names, locations, and any
12 birth, marriage, divorce, or death certificates. Any information
13 which is available shall be given only to the ~~Department of~~
14 ~~Health and Human Services~~ department or agency. The ~~Department of~~
15 ~~Health and Human Services~~ department or agency shall keep such
16 information confidential and shall not disclose it either directly
17 or indirectly to the adopted person. The provisions of this section
18 shall not apply to persons subject to the Nebraska Indian Child
19 Welfare Act.

20 Sec. 84. Section 43-139, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 43-139 When any information is provided to the ~~Department~~
23 ~~of Health and Human Services~~ department or agency pursuant to
24 section 43-138, the person providing the information shall record
25 in the records of the adopted person the nature of the information

1 disclosed, to whom the information was disclosed, and the date of
2 the disclosure.

3 Sec. 85. Section 43-140, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 43-140 (1) Upon determining the identity and location
6 of the relative being sought, the ~~Department of Health and Human~~
7 ~~Services~~ department or agency shall attempt to contact the relative
8 to determine such relative's willingness to be contacted by the
9 adopted person.

10 (2) In contacting the relative, the ~~Department of Health~~
11 ~~and Human Services~~ department or agency shall not discuss or reveal
12 in any other manner to any person other than that particular
13 relative who is being sought the nature of the contact, the
14 name, nature, or business of the adoption agency, or any other
15 information which might indicate or imply that such relative is the
16 biological parent of an adopted person.

17 (3) In contacting the relative, the ~~Department of Health~~
18 ~~and Human Services~~ department or agency shall not reveal the
19 identity or any other information about the adopted person.

20 (4) No reunion of a relative and an adopted person
21 shall be arranged, nor shall any information about the relative
22 be released to the adopted person until such relative has signed
23 the consent form provided by section 43-124 and the form has been
24 filed with the ~~Department of Health and Human Services Finance and~~
25 ~~Support.~~ department.

1 Sec. 86. Section 43-141, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 43-141 The ~~Department of Health and Human Services~~
4 department or agency may charge a reasonable fee in an amount
5 established by the department or agency in rules and regulations
6 to recover expenses in carrying out sections 43-137 to 43-140. The
7 department or agency shall use the fees to defray costs incurred
8 to carry out such sections. The department or agency may waive the
9 fee if the requesting party shows that the fee would work an undue
10 financial hardship on the party.

11 The department may adopt and promulgate rules and
12 regulations to carry out such sections.

13 Sec. 87. Section 43-142, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 43-142 The ~~Department of Health and Human Services~~
16 department or an agency which receives information as provided
17 in section 43-138 shall file a written report with the clerk of the
18 court within nine months of receipt of the information. The report
19 shall indicate whether the relative has been located and whether
20 a contact between the relative and the adopted person has been
21 arranged or has occurred. If the relative has not been located, the
22 report shall set forth the efforts made to identify and locate the
23 relative.

24 Sec. 88. Section 43-143, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 43-143 For adoptions in which the relinquishment or
2 consent for adoption was given prior to July 20, 2002: An adoptive
3 parent or parents may at any time, if they desire, file a notice of
4 nonconsent with the ~~Department of Health and Human Services Finance~~
5 ~~and Support~~ department stating that at no time prior to his or her
6 death or the death of both parents if each signed the form may
7 any information on the adopted person's original birth certificate
8 be released to such adopted person. The provisions of this section
9 shall not apply to persons subject to the Nebraska Indian Child
10 Welfare Act.

11 Sec. 89. Section 43-144, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 43-144 The nonconsent form provided for in section 43-143
14 shall contain the following information:

15 (1) The name of the person completing the form and, if
16 different, the name of such person at the time of birth of the
17 adopted person;

18 (2) The relationship of the person to the adopted person;

19 (3) The date of birth of the adopted person;

20 (4) The sex of the adopted person;

21 (5) The place of birth of the adopted person;

22 (6) A statement that no information concerning the
23 information contained in the original birth certificate of the
24 adopted person shall be released prior to the death of the adoptive
25 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 and~~
6 ~~Support~~ will not disclose any information contained on the birth
7 certificate of the adopted person to any person prior to your death
8 and the death of your spouse, if he or she signed the form, without
9 a court order. If you later decide that you do not object to
10 the release of such information you may file a form stating that
11 purpose.

12 Sec. 90. 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
16 may revoke such notice. A form of revocation shall be provided by
17 the ~~Department of Health and Human Services Finance and Support,~~
18 department and shall take effect at the time of filing of the
19 form with the ~~Department of Health and Human Services Finance~~
20 ~~and Support.~~ department. 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~~

1 ~~and Support~~ may disclose any information contained on the birth
2 certificate of the adopted person pursuant to sections 43-113,
3 43-119 to ~~43-146~~, 43-146.16, 71-626, 71-626.01, and 71-627.02.
4 If you sign this form and later decide you do not want this
5 information released prior to your death you may file another form
6 for that purpose.

7 Sec. 91. Section 43-146, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 43-146 The forms provided by sections 43-132, 43-134,
10 43-143, and 43-145 shall be notarized and filed with the ~~Department~~
11 ~~of Health and Human Services Finance and Support~~ department which
12 shall keep such forms with all other records of an individual
13 adopted person.

14 Sec. 92. Section 43-146.02, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 43-146.02 A child placement agency, the ~~Department of~~
17 ~~Health and Human Services~~, department, or a private agency handling
18 the adoption, as the case may be, shall maintain and shall provide
19 to the adopting parents upon placement of the person with such
20 parents and to the adopted person, upon his or her request, the
21 available medical history of the person placed for adoption and of
22 the biological parents. The medical history shall not include the
23 names of the biological parents of the adopted person or any other
24 identifying information.

25 Sec. 93. Section 43-146.04, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 43-146.04 An adopted person twenty-one years of age
3 or older born in this state who desires access to the names
4 of relatives or access to his or her original certificate of
5 birth shall file a written request for such information with
6 the ~~Department of Health and Human Services Finance and Support~~
7 department. The department shall provide a form for making such
8 request.

9 Sec. 94. Section 43-146.05, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 43-146.05 (1) Upon receipt of a request for information
12 made under section 43-146.04, the ~~Department of Health and Human~~
13 ~~Services Finance and Support~~ department shall check the records
14 of the adopted person to determine whether an unrevoked nonconsent
15 form is on file from a biological parent pursuant to section
16 43-146.06.

17 (2) If no nonconsent form has been filed pursuant to
18 section 43-146.06, the following information shall be released to
19 the adopted person:

20 (a) The name and address of the court which issued the
21 adoption decree;

22 (b) The name and address of the child placement agency,
23 if any, involved in the adoption;

24 (c) The fact that an agency or the ~~Department of Health~~
25 ~~and Human Services~~ department may assist the adopted person in

1 searching for relatives as provided in sections 43-146.10 to
2 43-146.14;

3 (d) A copy of the person's original birth certificate;
4 and

5 (e) A copy of the person's medical history and any
6 medical records on file.

7 (3) If an unrevoked nonconsent form has been filed
8 pursuant to section 43-146.06, no information may be released to
9 the adopted person except a copy of the person's medical history as
10 provided in section 43-107 if requested. The medical history shall
11 not include the names of the biological parents or relatives of the
12 adopted person or any other identifying information.

13 Sec. 95. Section 43-146.06, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 43-146.06 A biological parent may at any time file a
16 notice of nonconsent with the ~~Department of Health and Human~~
17 ~~Services Finance and Support~~ department stating that at no time
18 prior to his or her death may any information on the adopted
19 person's original birth certificate or any other identifying
20 information, except medical histories as provided in section
21 43-107, be released to such adopted person. Failure by a biological
22 parent to sign the notice of nonconsent shall be deemed a notice
23 of consent by such parent to release the adopted person's original
24 birth certificate to such adopted person.

25 Sec. 96. Section 43-146.07, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 43-146.07 The nonconsent form provided for in section
3 43-146.06 shall be designed by the ~~Department of Health and Human~~
4 ~~Services Finance and Support~~ department and shall contain the
5 following information:

6 (1) The name of the person completing the form and, if
7 different, the name of such person at the time of birth of the
8 adopted person;

9 (2) The relationship of the person to the adopted person;

10 (3) The date of birth of the adopted person;

11 (4) The sex of the adopted person;

12 (5) The place of birth of the adopted person;

13 (6) A statement that no information contained in the
14 original birth certificate or any other identifying information,
15 except medical histories as provided in section 43-107, shall be
16 released prior to the death of the parent signing the form;

17 (7) A statement that the person signing understands the
18 effect and consequences of filing or not filing a nonconsent form;

19 and

20 (8) A notice in the following form:

21 **IMPORTANT NOTICE**

22 You do not have to sign this form. If you do sign it,
23 you are entitled to a copy of it. Your signature on this form
24 means that the Department of Health and Human Services ~~Finance and~~
25 ~~Support~~ will not disclose any information contained in the original

1 birth certificate of the adopted person or any other identifying
2 information to any person prior to your death without a court
3 order. If you later decide that you do not object to the release of
4 such information, you may file a form stating that purpose.

5 Sec. 97. Section 43-146.08, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 43-146.08 At any time after signing the notice of
8 nonconsent provided for in section 43-146.06, the biological parent
9 may revoke such notice. A form of revocation shall be provided by
10 the ~~Department of Health and Human Services Finance and Support~~
11 department and shall take effect at the time of filing of the
12 form with the department. The revocation form shall contain the
13 following notice:

14 IMPORTANT NOTICE

15 You do not have to sign this form. If you do sign it,
16 you are entitled to a copy of it. Your signature on this form
17 means that the Department of Health and Human Services ~~Finance~~
18 ~~and Support~~ may at any time disclose to the adopted person any
19 information contained on the original birth certificate of the
20 adopted person.

21 Sec. 98. Section 43-146.09, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 43-146.09 If the ~~Department of Health and Human Services~~
24 ~~Finance and Support~~ department has verified information indicating
25 that both biological parents of the adopted person are deceased or

1 if only one biological parent is known and verified information
2 indicates that such parent is deceased, all information on the
3 adopted person's original birth certificate regarding such deceased
4 parent or parents shall be released to the adopted person upon
5 request. The department shall establish a policy for verifying
6 information about the death of the biological parent or parents.

7 Sec. 99. Section 43-146.10, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 43-146.10 If an adopted person twenty-one years of age
10 or older, after following the procedures set forth in sections
11 43-146.04 and 43-146.05, is unable to obtain information about the
12 adopted person's relatives and there is no unrevoked nonconsent
13 form as provided in section 43-146.06 on file with the ~~Department~~
14 ~~of Health and Human Services Finance and Support,~~ department, such
15 person may then contact the child placement agency which handled
16 the adoption or the ~~Department of Health and Human Services-~~
17 department.

18 Sec. 100. Section 43-146.11, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 43-146.11 After being contacted by an adopted person
21 as provided in section 43-146.10, the ~~Department of Health and~~
22 ~~Human Services~~ department or agency, as the case may be, shall
23 verify with the ~~Department of Health and Human Services Finance~~
24 ~~and Support~~ that no unrevoked nonconsent form is on file with the
25 department. If an unrevoked nonconsent form is not on file, the

1 ~~Department of Health and Human Services~~ department or agency, as
2 the case may be, shall apply to the clerk of the court which
3 issued the adoption decree or the ~~Department of Health and Human~~
4 ~~Services Finance and Support~~ department for any information in
5 the court or ~~Department of Health and Human Services Finance and~~
6 ~~Support~~ department records regarding the adopted person or his or
7 her relatives, including names, locations, and any birth, marriage,
8 divorce, or death certificates. Any information which is available
9 shall be given by the court or ~~Department of Health and Human~~
10 ~~Services Finance and Support~~ department only to the ~~Department of~~
11 ~~Health and Human Services~~ department or agency. The ~~Department of~~
12 ~~Health and Human Services~~ department or agency shall keep such
13 information confidential.

14 Sec. 101. Section 43-146.12, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 43-146.12 When any information is provided to the
17 ~~Department of Health and Human Services~~ department or agency
18 pursuant to section 43-146.11, the person providing the information
19 shall record in the records of the adopted person the nature of
20 the information disclosed, to whom the information was disclosed,
21 and the date of the disclosure.

22 Sec. 102. Section 43-146.13, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 43-146.13 (1) Upon determining the identity and location
25 of the relative being sought, the ~~Department of Health and Human~~

1 ~~Services~~ department or agency shall attempt to contact the relative
2 to determine such relative's willingness to be contacted by the
3 adopted person.

4 (2) Information about the relative shall not be released
5 to the adopted person by the department or agency unless such
6 relative agrees to be contacted by the adopted person.

7 Sec. 103. Section 43-146.14, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 43-146.14 ~~The Department of Health and Human Services~~
10 department or agency may charge a reasonable fee in an amount
11 established by the department or agency in rules and regulations to
12 recover expenses in carrying out sections 43-146.10 to 43-146.13.
13 The department or agency shall use the fees to defray costs
14 incurred to carry out such sections. The department or agency may
15 waive the fee if the requesting party shows that the fee would work
16 an undue financial hardship on the party.

17 The department may adopt and promulgate rules and
18 regulations to carry out sections 43-123.01 and 43-146.01 to
19 43-146.16.

20 Sec. 104. Section 43-146.15, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 43-146.15 ~~The Department of Health and Human Services~~
23 department or an agency which receives information as provided
24 in section 43-146.11 shall file a written report with the clerk
25 of the court or ~~Department of Health and Human Services Finance~~

1 ~~and Support~~ department within nine months of receipt of the
2 information. The report shall indicate whether the relative has
3 been located and whether a contact between the relative and the
4 adopted person has been arranged or has occurred. If the relative
5 has not been located, the report shall set forth the efforts made
6 to identify and locate the relative.

7 Sec. 105. Section 43-146.16, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 43-146.16 The forms provided by sections 43-146.06 and
10 43-146.08 shall be notarized and filed with the ~~Department of~~
11 ~~Health and Human Services Finance and Support~~ department which
12 shall keep such forms with all other records of the adopted person.

13 Sec. 106. Section 43-146.17, Revised Statutes Cumulative
14 Supplement, 2006, is amended to read:

15 43-146.17 (1) Notwithstanding sections 43-119 to
16 43-146.16 and except as otherwise provided in this section, an
17 heir twenty-one years of age or older of an adopted person shall
18 have access to all information on file at the Department of Health
19 and Human Services, ~~the Department of Health and Human Services~~
20 ~~Regulation and Licensure,~~ and the Department of Health and Human
21 ~~Services Finance and Support~~ related to such adopted person,
22 including information contained in the original birth certificate
23 of the adopted person, if: (a) (i) The adopted person is deceased,
24 (ii) both biological parents of the adopted person are deceased or,
25 if only one biological parent is known, such parent is deceased,

1 and (iii) each spouse of the biological parent or parents of the
2 adopted person, if any, is deceased, if such spouse is not a
3 biological parent; or (b) at least one hundred years has passed
4 since the birth of the adopted person.

5 (2) The following information relating to an adopted
6 person shall not be released to the heir of such person under
7 this section: (a) Tests conducted for the human immunodeficiency
8 virus or acquired immunodeficiency syndrome; (b) the revocation
9 of a license to practice medicine in the State of Nebraska; (c)
10 child protective services reports or records; (d) adult protective
11 services reports or records; (e) information from the central
12 register of child protection cases and the Adult Protective
13 Services Central Registry; or (f) law enforcement investigative
14 reports.

15 (3) ~~The Department of Health and Human Services, the~~
16 ~~Department of Health and Human Services Regulation and Licensure,~~
17 ~~and the Department of Health and Human Services Finance and Support~~
18 department shall provide a form that an heir of an adopted person
19 may use to request information under this section. The ~~Department~~
20 ~~of Health and Human Services, the Department of Health and Human~~
21 ~~Services Regulation and Licensure, and the Department of Health~~
22 ~~and Human Services Finance and Support~~ department may charge a
23 reasonable fee in an amount established by rules and regulations of
24 each the department to recover expenses incurred by the department
25 in carrying out this section. Such fee may be waived if the

1 requesting party shows that the fee would work an undue financial
2 hardship on the party. When any information is provided to an heir
3 of an adopted person under this section, the disclosure of such
4 information shall be recorded in the records of the adopted person,
5 including the nature of the information disclosed, to whom the
6 information was disclosed, and the date of the disclosure.

7 (4) For purposes of this section, an heir of an adopted
8 person means a direct biological descendent of such adopted person.

9 (5) ~~The Department of Health and Human Services, the~~
10 ~~Department of Health and Human Services Regulation and Licensure,~~
11 ~~and the Department of Health and Human Services Finance and Support~~
12 department may adopt and promulgate rules and regulations to carry
13 out this section.

14 Sec. 107. Section 43-161, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 43-161 All client records from the Nebraska Industrial
17 Home at Milford shall be maintained by the Department of Health
18 and Human Services as confidential records but shall be accessible
19 as provided by statute or by the rules and regulations of the
20 department. ~~The Department of Health and Human Services Regulation~~
21 ~~and Licensure and the Department of Health and Human Services~~
22 ~~Finance and Support shall have complete access to these records~~
23 ~~without restriction.~~

24 Sec. 108. Section 43-284.02, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 43-284.02 The Department of Health and Human Services
2 may make payments as needed on behalf of a child who has been a
3 ward of the department after the appointment of a guardian for the
4 child. Such payments to the guardian may include maintenance costs,
5 medical and surgical expenses, and other costs incidental to the
6 care of the child. All such payments shall terminate on or before
7 the child's nineteenth birthday. The child under guardianship shall
8 be a child for whom the guardianship would not be possible without
9 the financial aid provided under this section.

10 The ~~Director~~ Department of Health and Human Services
11 shall adopt and promulgate rules and regulations for the
12 administration of this section.

13 Sec. 109. Section 43-404, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 43-404 There is created within the Department of Health
16 and Human Services the Office of Juvenile Services. The office
17 shall have oversight and control of state juvenile correctional
18 facilities and programs other than the secure youth confinement
19 facility which is under the control of the Department of
20 Correctional Services. The Administrator of the Office of Juvenile
21 Services shall be appointed by the ~~Governor~~ with the approval
22 of a majority of the Legislature chief executive officer of the
23 department or his or her designee and shall be responsible for the
24 administration of the facilities and programs of the office. The
25 ~~Department of Health and Human Services~~ department may contract

1 with a state agency or private provider to operate any facilities
2 and programs of the Office of Juvenile Services.

3 Sec. 110. Section 43-411, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 43-411 The ~~Director~~ chief executive officer of the
6 Department of Health and Human Services shall have the authority,
7 and may delegate the authority only to the Administrator of the
8 Office of Juvenile Services and the superintendents of the youth
9 rehabilitation and treatment centers, to issue detainers for the
10 apprehension and detention of juveniles who have absconded from a
11 placement with or commitment to the office. Any peace officer who
12 detains a juvenile on such a detainer shall hold the juvenile in an
13 appropriate facility or program for juveniles until the office can
14 take custody of the juvenile.

15 Sec. 111. Section 43-504.01, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 43-504.01 As a condition of eligibility for aid for
18 children included in section 43-504, a partially or totally
19 unemployed parent or needy caretaker shall participate in the
20 employment preparation or training program for aid to dependent
21 children, unless considered exempt under rules and regulations
22 adopted and promulgated by the ~~Director~~ Department of Health and
23 Human Services, and any totally or partially unemployed parent
24 or needy caretaker who fails or refuses without good cause to
25 participate in the employment preparation or training program or

1 who refuses without good cause to accept employment in which he or
2 she is able to engage which will increase his or her ability to
3 maintain himself or herself and his or her family shall be deemed
4 by such refusal to have rendered his or her children ineligible for
5 further aid until he or she has complied with this section.

6 The requirements of this section shall also apply to any
7 dependent child unless he or she is under age sixteen or attending,
8 full time, an elementary, secondary, or vocational school.

9 Sec. 112. Section 43-507, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 43-507 The ~~Director~~ Department of Health and Human
12 Services, ~~in~~ on behalf of mentally and physically handicapped
13 children, shall (1) obtain admission to state and other suitable
14 schools, hospitals, or other institutions or care in their own
15 homes or in family, free, or boarding homes for such children in
16 accordance with the provisions of the existing law, (2) maintain
17 medical supervision over such mentally or physically handicapped
18 children, and (3) provide necessary medical or surgical care in a
19 suitable hospital, sanitarium, preventorium, or other institution
20 or in the child's own home or a home for any medically handicapped
21 child needing such care and pay for such care from public funds,
22 if necessary.

23 Sec. 113. Section 43-508, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 43-508 The ~~Director~~ Department of Health and Human

1 Services shall cooperate with the state institutions for delinquent
2 and mentally and physically handicapped children to ascertain the
3 conditions of the home and the character and habits of the parents
4 of a child, before his or her discharge from a state institution,
5 and make recommendations as to the advisability of returning the
6 child to his or her home. In case the ~~director~~ department deems
7 it unwise to have any such child returned to his or her former
8 home, such state institution may, with the consent of the ~~director,~~
9 department, place such child into the care of the ~~director.~~
10 department.

11 Sec. 114. Section 43-511, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 43-511 The ~~Director~~ Department of Health and Human
14 Services shall extend the assistance and services herein provided
15 for to all children in rural districts throughout this state, in
16 order that the same benefits and facilities shall be available to
17 children in such districts as in urban areas.

18 Sec. 115. Section 43-512, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 43-512 (1) Any dependent child as defined in section
21 43-504 or any relative or eligible caretaker of such a dependent
22 child may file with the Department of Health and Human Services
23 a written application for financial assistance for such child on
24 forms furnished by the department.

25 (2) The department, through its agents and employees,

1 shall make such investigation pursuant to the application as it
2 deems necessary or as may be required by the county attorney
3 or authorized attorney. If the investigation or the application
4 for financial assistance discloses that such child has a parent
5 or stepparent who is able to contribute to the support of such
6 child and has failed to do so, a copy of the finding of such
7 investigation and a copy of the application shall immediately be
8 filed with the county attorney or authorized attorney.

9 (3) The department shall make a finding as to whether the
10 application referred to in subsection (1) of this section should
11 be allowed or denied. If the department finds that the application
12 should be allowed, the department shall further find the amount
13 of monthly assistance which should be paid with reference to such
14 dependent child. Except as may be otherwise provided, payments
15 shall be made by state warrant, and the amount of payments shall
16 not exceed three hundred dollars per month when there is but
17 one dependent child and one eligible caretaker in any home, plus
18 an additional seventy-five dollars per month on behalf of each
19 additional eligible person. No payments shall be made for amounts
20 totaling less than ten dollars per month except in the recovery of
21 overpayments.

22 (4) The amount which shall be paid as assistance with
23 respect to a dependent child shall be based in each case upon the
24 conditions disclosed by the investigation made by the department.
25 An appeal shall lie from the finding made in each case to the

1 chief executive officer of the department or his or her designated
2 representative. ~~to the Director of Health and Human Services.~~ Such
3 appeal may be taken by any taxpayer or by any relative of such
4 child. Proceedings for and upon appeal shall be conducted in the
5 same manner as provided for in section 68-1016.

6 (5) (a) For the purpose of preventing dependency,
7 the ~~director~~ department shall adopt and promulgate rules and
8 regulations providing for services to former and potential
9 recipients of aid to dependent children and medical assistance
10 benefits. The ~~director~~ department shall adopt and promulgate rules
11 and regulations establishing programs and cooperating with programs
12 of work incentive, work experience, job training, and education.
13 The provisions of this section with regard to determination of
14 need, amount of payment, maximum payment, and method of payment
15 shall not be applicable to families or children included in such
16 programs.

17 (b) If a recipient of aid to dependent children becomes
18 ineligible for aid to dependent children as a result of increased
19 hours of employment or increased income from employment after
20 having participated in any of the programs established pursuant to
21 subdivision (a) of this subsection, the recipient may be eligible
22 for the following benefits, as provided in rules and regulations of
23 the department in accordance with sections 402, 417, and 1925 of
24 the federal Social Security Act, as amended, Public Law 100-485,
25 in order to help the family during the transition from public

1 assistance to independence:

2 (i) An additional aid to dependent children payment in
3 the amount of one-half of the previous month's aid to dependent
4 children grant;

5 (ii) Child care as provided in subdivision (1)(c) of
6 section 68-1724; and

7 (iii) Except as may be provided in accordance with
8 subsection (2) of section 68-1713 and subdivision (1)(c) of section
9 68-1724, medical assistance for up to twelve months after the month
10 the recipient becomes employed and is no longer eligible for aid to
11 dependent children.

12 (6) For purposes of sections 43-512 to 43-512.10 and
13 43-512.12 to 43-512.18:

14 (a) Authorized attorney shall mean an attorney, employed
15 by the county subject to the approval of the county board, employed
16 by the department, or appointed by the court, who is authorized
17 to investigate and prosecute child, spousal, and medical support
18 cases. An authorized attorney shall represent the state as provided
19 in section 43-512.03;

20 (b) Child support shall be defined as provided in section
21 43-1705;

22 (c) Medical support shall include all expenses associated
23 with the birth of a child and, if required pursuant to section
24 42-369 or 43-290, medical and hospital insurance coverage or
25 membership in a health maintenance organization or preferred

1 provider organization;

2 (d) Spousal support shall be defined as provided in
3 section 43-1715;

4 (e) State Disbursement Unit shall be defined as provided
5 in section 43-3341; and

6 (f) Support shall be defined as provided in section
7 43-3313.

8 Sec. 116. Section 43-512.11, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 43-512.11 The ~~Director~~ Department of Health and Human
11 Services shall report annually, not later than February 1 of each
12 year, to the Legislature regarding the effectiveness of programs
13 established pursuant to subdivision (5)(a) of section 43-512. The
14 report shall include, but not be limited to:

15 (1) The number of program participants;

16 (2) The number of program participants who become
17 employed, whether such employment is full time or part time or
18 subsidized or unsubsidized, and whether the employment was retained
19 for at least thirty days;

20 (3) Supportive services provided to participants in the
21 program;

22 (4) Grant reductions realized; and

23 (5) A cost and benefit statement for the program.

24 Sec. 117. Section 43-515, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 43-515 In each case the ~~Director~~ Department of Health and
2 Human Services shall make such investigation and reinvestigations
3 as may be necessary to determine family circumstances and
4 eligibility for assistance payments. Each applicant and recipient
5 shall be notified in writing as to the approval or disapproval
6 of any application, as to the amount of payments awarded, as
7 to any change in the amount of payments awarded, and as to the
8 discontinuance of payments.

9 Sec. 118. Section 43-522, Revised Statutes Cumulative
10 Supplement, 2006, is amended to read:

11 43-522 The ~~Director of Finance and Support~~ Department
12 of Health and Human Services shall expend state assistance funds
13 allocated for medically handicapped children to supplement other
14 state, county, and municipal, benevolent, fraternal, and charitable
15 expenditures, to extend and improve, especially in rural areas
16 and in areas suffering from severe economic distress, services
17 for locating physically and medically handicapped children and for
18 providing medical, surgical, correction, and other services and
19 care, and facilities for diagnosis, hospitalization, and aftercare,
20 for children who are physically or medically handicapped or who
21 are suffering from conditions which lead to medical handicaps.
22 Expenditures and services shall be uniformly distributed so far as
23 possible or practicable under conditions and circumstances which
24 may be found to exist.

25 Sec. 119. Section 43-523, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 43-523 The ~~Director~~ Department of Health and Human
3 Services shall make such reports to the Department of Health
4 and Human Services of the United States in such form and containing
5 such information as such department may from time to time require,
6 and the department shall comply with such provisions as ~~he or she~~
7 ~~may from time to time find necessary,~~ to assure the correctness of
8 such reports.

9 Sec. 120. Section 43-524, Revised Statutes Cumulative
10 Supplement, 2006, is amended to read:

11 43-524 The ~~Director of Finance and Support~~ Department of
12 Health and Human Services shall cooperate with medical, health,
13 nursing, and welfare groups and organizations and with any agency
14 in the state charged with providing for local rehabilitation of
15 physically handicapped children.

16 Sec. 121. Section 43-525, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 43-525 The Department of Health and Human Services
19 ~~through its director~~ shall expend state assistance funds allocated
20 for child welfare services in establishing, extending, and
21 strengthening, especially in rural areas, child welfare services
22 mentioned in sections 43-501 to 43-526, for which other funds are
23 not specifically or sufficiently made available by such sections or
24 other laws of this state.

25 Sec. 122. Section 43-529, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 43-529 (1) Payments with respect to any dependent child,
3 including payments to meet the needs of the relative with whom such
4 child is living, such relative's spouse, and the needs of any other
5 individual living in the same home as such child and relative if
6 such needs are taken into account in making the determination for
7 eligibility of such child to receive aid to families with dependent
8 children, may be made on behalf of such child, relative, and
9 other person to either (a) another individual who, in accordance
10 with standards set by the ~~Director~~ Department of Health and Human
11 Services, is interested in or concerned with the welfare of such
12 child or relative, or (b) directly to a person or entity furnishing
13 food, living accommodations, or other goods, services, or items to
14 or for such child, relative, or other person, or (c) both such
15 individual and such person or entity.

16 (2) No such payments shall be made unless all of the
17 following conditions are met: (a) The ~~director~~ department has
18 determined that the relative of such child with respect to whom
19 such payments are made has such inability to manage funds that
20 making payments to him or her would be contrary to the welfare
21 of the child and that it is therefor necessary to provide such
22 aid with respect to such child and relative through payments
23 described above to another interested individual, (b) the ~~director~~
24 department has made arrangements for undertaking and continuing
25 special efforts to develop greater ability on the part of the

1 relative to manage funds in such a manner as to protect the
2 welfare of the family, and (c) the ~~director~~ department has approved
3 a plan that provides for a periodic review to ascertain whether
4 conditions justifying such payments still exist, with provision for
5 termination of such payments if such conditions no longer exist and
6 for judicial appointment of a guardian or conservator if it appears
7 that the need for such special payments is continuing or is likely
8 to continue beyond a period specified by the ~~director~~ department.

9 Sec. 123. Section 43-536, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 43-536 In determining the rate of reimbursement for child
12 care, the Department of Health and Human Services ~~Finance and~~
13 ~~Support~~ shall conduct a market rate survey of the child care
14 providers in the state. The ~~Department of Health and Human Services~~
15 department shall adjust the reimbursement rate for child care every
16 odd-numbered year at a rate not less than the sixtieth percentile
17 and not to exceed the seventy-fifth percentile of the current
18 market rate survey, except that (1) nationally accredited child
19 care providers may be reimbursed at higher rates and (2) for the
20 two fiscal years beginning July 1, 2003, such rate may be less than
21 the sixtieth percentile but shall not be less than the rate for the
22 immediately preceding fiscal year.

23 Sec. 124. Section 43-905, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 43-905 (1) The Department of Health and Human Services

1 shall be the legal guardian of all children committed to it. The
2 department shall afford temporary care and shall use special
3 diligence to provide suitable homes for such children. The
4 department is authorized to place such children in suitable
5 families for adoption or, in the discretion of the department,
6 on a written contract.

7 (2) The contract shall provide (a) for the children's
8 education in the public schools or otherwise, (b) for teaching them
9 some useful occupation, and (c) for kind and proper treatment as
10 members of the family in which they are placed.

11 (3) Whenever any child who has been committed to
12 the ~~Department of Health and Human Services~~ department becomes
13 self-supporting, the ~~Director of Health and Human Services~~
14 department shall declare that fact and the guardianship of the
15 department shall cease. Thereafter the child shall be entitled
16 to his or her own earnings. Guardianship of and services by the
17 department shall never extend beyond the age of majority, except
18 that services by the department to a child shall continue until
19 the child reaches the age of twenty-one if the child is a student
20 regularly attending a school, college, or university or regularly
21 attending a course of vocational or technical training designed to
22 prepare such child for gainful employment.

23 (4) Whenever the parents of any ward, whose parental
24 rights have not been terminated, have become able to support and
25 educate their child, the department shall restore the child to his

1 or her parents if the home of such parents would be a suitable
2 home. The guardianship of the department shall then cease.

3 (5) Whenever permanent free homes for the children cannot
4 be obtained, the department shall have the authority to provide
5 and pay for the maintenance of the children in private families,
6 boarding homes, or institutions for care of children.

7 Sec. 125. Section 43-907, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 43-907 Unless a guardian shall have been appointed by a
10 court of competent jurisdiction, the ~~Director~~ Department of Health
11 and Human Services shall take custody of and exercise general
12 control over assets owned by children under ~~his or her~~ the charge
13 of the department. Children owning assets shall at all times pay
14 for personal items. Assets over and above a maximum of one thousand
15 dollars and current income shall be available for reimbursement
16 to the state for the cost of care. Assets may be deposited in
17 a checking account, invested in United States bonds, or deposited
18 in a savings account insured by the United States Government. All
19 income received from the investment or deposit of assets shall
20 be credited to the individual child whose assets were invested or
21 deposited. The ~~director~~ department shall make and maintain detailed
22 records showing all receipts, investments, and expenditures of
23 assets owned by children under ~~his or her~~ the charge of the
24 department.

25 Sec. 126. Section 43-908, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 43-908 An attempt shall be made by the ~~Director~~
3 Department of Health and Human Services to locate children who
4 arrive at the age of majority for the purpose of delivering and
5 transferring to any such child such funds or property as he or she
6 may own. In the event that such child cannot be located within five
7 years after the child arrives at the age of majority, any funds
8 or assets owned by him or her shall be transferred to the state
9 treasury of the State of Nebraska.

10 Sec. 127. Section 43-1320, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 43-1320 (1) The Legislature finds and declares that
13 foster parents are a valuable resource providing an important
14 service to the citizens of Nebraska. The Legislature recognizes
15 that the current insurance crisis has adversely affected some
16 foster parents in several ways. Foster parents have been unable
17 to obtain liability insurance coverage over and above homeowner's
18 or tenant's coverage for actions filed against them by the foster
19 child, the child's parents, or the child's legal guardian. In
20 addition, the monthly payment made to foster parents is not
21 sufficient to cover the cost of obtaining extended coverage and
22 there is no mechanism in place by which foster parents can
23 recapture the cost. Foster parents' personal resources are at risk,
24 and therefor the Legislature desires to provide relief to address
25 these problems.

1 (2) The Department of Health and Human Services ~~Finance~~
2 ~~and Support~~ shall provide for self-insuring the foster parent
3 program pursuant to section 81-8,239.01 or shall provide and pay
4 for liability and property damage insurance for participants in a
5 family foster parent program who have been licensed or approved to
6 provide care or who have been licensed or approved by a legally
7 established Indian tribal council operating within the state to
8 provide care.

9 (3) There is hereby created the Foster Parent Liability
10 and Property Damage Fund. The fund shall be administered by the
11 Department of Health and Human Services ~~Finance and Support~~ and
12 shall be used to provide funding for self-insuring the foster
13 parent program pursuant to section 81-8,239.01 or to purchase any
14 liability and property damage insurance policy provided pursuant
15 to subsection (2) of this section and reimburse foster parents for
16 unreimbursed liability and property damage incurred or caused by a
17 foster child as the result of acts covered by the insurance policy.
18 Claims for unreimbursed liability and property damage incurred or
19 caused by a foster child may be submitted in the manner provided
20 in the State Miscellaneous Claims Act. Each claim shall be limited
21 to the amount of any deductible applicable to the insurance policy
22 provided pursuant to subsection (2) of this section, and there
23 may be a fifty-dollar deductible payable by the foster parent per
24 claim. The Department of Health and Human Services ~~Finance and~~
25 ~~Support~~ department shall adopt and promulgate rules and regulations

1 to carry out this section. Any money in the fund available for
2 investment shall be invested by the state investment officer
3 pursuant to the Nebraska Capital Expansion Act and the Nebraska
4 State Funds Investment Act.

5 Sec. 128. Section 43-1408.01, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 43-1408.01 (1) During the period immediately before or
8 after the in-hospital birth of a child whose mother was not married
9 at the time of either conception or birth of the child or at
10 any time between conception and birth of the child, the person in
11 charge of such hospital or his or her designated representative
12 shall provide to the child's mother and alleged father, if the
13 alleged father is readily identifiable and available, the documents
14 and written instructions for such mother and father to complete
15 a notarized acknowledgment of paternity. Such acknowledgment, if
16 signed by both parties and notarized, shall be filed with the
17 Department of Health and Human Services ~~Finance and Support~~ at the
18 same time at which the certificate of live birth is filed.

19 Nothing in this section shall be deemed to require the
20 person in charge of such hospital or his or her designee to seek
21 out or otherwise locate an alleged father who is not readily
22 identifiable or available.

23 (2) The acknowledgment shall be executed on a form
24 prepared by the ~~Department of Health and Human Services Finance~~
25 ~~and Support.~~ department. Such form shall be in essentially the

1 same form provided by the department and used for obtaining
2 signatures required by section 71-640.02. The acknowledgment shall
3 include, but not be limited to, (a) a statement by the mother
4 consenting to the acknowledgment of paternity and a statement that
5 the alleged father is the biological father of the child, (b) a
6 statement by the alleged father that he is the biological father
7 of the child, (c) written information regarding parental rights
8 and responsibilities, and (d) the social security numbers of the
9 parents. ~~In addition to distribution required by this section, the~~
10 ~~form shall also be made available to the Department of Health and~~
11 ~~Human Services for distribution.~~

12 (3) The form provided for in subsection (2) of this
13 section shall also contain instructions for completion and filing
14 with the ~~Department of Health and Human Services Finance and~~
15 ~~Support department~~ if it is not completed and filed with a birth
16 certificate as provided in subsection (1) of this section.

17 (4) ~~The Department of Health and Human Services Finance~~
18 ~~and Support department~~ shall accept completed acknowledgment
19 forms and make available to the ~~Department of Health and Human~~
20 ~~Services,~~ county attorneys, or authorized attorneys a record of
21 acknowledgments it has received, as provided in subsection (1) of
22 section 71-612. ~~The Department of Health and Human Services Finance~~
23 ~~and Support department~~ may prepare photographic, electronic, or
24 other reproductions of acknowledgments. Such reproductions, when
25 certified and approved by the ~~Department of Health and Human~~

1 ~~Services Finance and Support,~~ department, shall be accepted as
2 the original records, and the documents from which permanent
3 reproductions have been made may be disposed of as provided
4 by rules and regulations of the ~~Department of Health and Human~~
5 ~~Services Finance and Support,~~ department.

6 (5) The ~~Department of Health and Human Services~~
7 department may by regulation establish a nominal payment and
8 procedure for payment by the department for each acknowledgment
9 filed with the ~~Department of Health and Human Services Finance and~~
10 ~~Support,~~ department. The amount of such payments and the entities
11 receiving such payments shall be within the limits allowed by Title
12 IV-D of the federal Social Security Act, as amended.

13 Sec. 129. Section 43-1414, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 43-1414 (1) In any proceeding to establish paternity,
16 the court may, on its own motion, or shall, on a timely request
17 of a party, after notice and hearing, require the child, the
18 mother, and the alleged father to submit to genetic testing to
19 be performed on blood or any other appropriate genetic testing
20 material. Failure to comply with such requirement for genetic
21 testing shall constitute contempt and may be dealt with in the
22 same manner as other contempts. If genetic testing is required,
23 the court shall direct that inherited characteristics be determined
24 by appropriate testing procedures and shall appoint an expert in
25 genetic testing and qualified as an examiner of genetic markers to

1 analyze and interpret the results and to report to the court. The
2 court shall determine the number of experts required.

3 (2) In any proceeding to establish paternity, the
4 ~~Director~~ Department of Health and Human Services, county attorneys,
5 and authorized attorneys have the authority to require the child,
6 the mother, and the alleged father to submit to genetic testing
7 to be performed on blood or any other appropriate genetic testing
8 material. All genetic testing shall be performed by a laboratory
9 accredited by the College of American Pathologists or any other
10 national accrediting body or public agency which has requirements
11 that are substantially equivalent to or more comprehensive than
12 those of the college.

13 (3) Except as authorized under sections 43-1414 to
14 43-1418, a person shall not disclose information obtained from
15 genetic paternity testing that is done pursuant to such sections.

16 (4) If an alleged father who is tested as part of an
17 action under such sections is found to be the child's father,
18 the testing laboratory shall retain the genetic testing material
19 of the alleged father, mother, and child for no longer than the
20 period of years prescribed by the national standards under which
21 the laboratory is accredited. If a man is found not to be the
22 child's father, the testing laboratory shall destroy the man's
23 genetic testing material in the presence of a witness after such
24 material is used in the paternity action. The witness may be an
25 individual who is a party to the destruction of the genetic testing

1 material. After the man's genetic testing material is destroyed,
2 the testing laboratory shall make and keep a written record of the
3 destruction and have the individual who witnessed the destruction
4 sign the record. The testing laboratory shall also expunge its
5 records regarding the genetic paternity testing performed on the
6 genetic testing material in accordance with the national standards
7 under which the laboratory is accredited. The testing laboratory
8 shall retain the genetic testing material of the mother and child
9 for no longer than the period of years prescribed by the national
10 standards under which the laboratory is accredited. After a testing
11 laboratory destroys an individual's genetic testing material as
12 provided in this subsection, it shall notify the adult individual,
13 or the parent or legal guardian of a minor individual, by certified
14 mail that the genetic testing material was destroyed.

15 (5) A testing laboratory is required to protect the
16 confidentiality of genetic testing material, except as required for
17 a paternity determination. The court and its officers shall not use
18 or disclose genetic testing material for a purpose other than the
19 paternity determination.

20 (6) A person shall not buy, sell, transfer, or offer
21 genetic testing material obtained under sections 43-1414 to
22 43-1418.

23 (7) A testing laboratory shall annually have an
24 independent audit verifying the contracting laboratory's compliance
25 with this section. The audit shall not disclose the names of, or

1 otherwise identify, the test subjects required to submit to testing
2 during the previous year. The testing laboratory shall forward the
3 audit to the department.

4 (8) Any person convicted of violating this section shall
5 be guilty of a Class IV misdemeanor for the first offense and a
6 Class III misdemeanor for the second or subsequent offense.

7 (9) For purposes of sections 43-1414 to 43-1418, an
8 expert in genetic testing means a person who has formal doctoral
9 training or postdoctoral training in human genetics.

10 Sec. 130. Section 43-1718.02, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 43-1718.02 (1) In any case in which services are not
13 provided under Title IV-D of the federal Social Security Act, as
14 amended, and a support order has been issued or modified on or
15 after July 1, 1994, the obligor's income shall be subject to income
16 withholding regardless of whether or not payments pursuant to such
17 order are in arrears, and the court shall require such income
18 withholding in its order unless:

19 (a) One of the parties demonstrates and the court
20 finds that there is good cause not to require immediate income
21 withholding; or

22 (b) A written agreement between the parties providing an
23 alternative arrangement is incorporated into the support order.

24 (2) If the court pursuant to subsection (1) of this
25 section orders income withholding regardless of whether or not

1 payments are in arrears, the obligor shall prepare a notice
2 to withhold income. The notice to withhold income shall be
3 substantially similar to a prototype prepared by the ~~Department~~
4 ~~of Health and Human Services~~ department and made available by the
5 department to the State Court Administrator and the clerks of the
6 district courts. The notice to withhold shall direct:

7 (a) That the employer or other payor shall withhold from
8 the obligor's disposable income the amount stated in the notice
9 to withhold for the purpose of satisfying the obligor's ongoing
10 obligation for support payments as they become due and if there are
11 arrearages, reducing such arrearages in child, spousal, or medical
12 support payments arising from the obligor's failure to fully comply
13 with a support order;

14 (b) That the employer or other payor shall pay to the
15 obligor, on his or her regularly scheduled payday, such income then
16 due which is not required to be withheld as stated on the notice or
17 pursuant to any court order;

18 (c) That the employer or other payor shall not withhold
19 more than the maximum amount permitted to be withheld under section
20 303(b) of the federal Consumer Credit Protection Act, 15 U.S.C.
21 1673(b) (2) (A) and (B), and the amount withheld to satisfy an
22 arrearage of child, spousal, or medical support when added to the
23 amount withheld to pay current support and the fee provided for in
24 subdivision (2) (d) of this section shall not exceed such maximum
25 amount;

1 (d) That the employer or other payor may assess an
2 additional administrative fee from the obligor's disposable income
3 not to exceed two dollars and fifty cents in any calendar month
4 as compensation for the employer's or other payor's reasonable cost
5 incurred in complying with the notice;

6 (e) That the employer or other payor shall remit, within
7 seven days after the date the obligor is paid and in the manner
8 specified in the notice, the income withheld, less the deduction
9 allowed as an administrative fee by subdivision (2)(d) of this
10 section, to the State Disbursement Unit and shall notify the unit
11 of the date such income was withheld;

12 (f) That the notice to withhold income shall terminate
13 with respect to the employer or other payor without any court
14 action or action by the obligor thirty days after the obligor
15 ceases employment with or is no longer entitled to income from such
16 employer or other payor;

17 (g) That the employer or other payor may combine amounts
18 required to be withheld from the income of two or more obligors in
19 a single payment to the unit if the portion of the single payment
20 which is attributable to each individual obligor is separately
21 identified;

22 (h) That an employer or other payor who fails to withhold
23 and remit income of an obligor after receiving proper notice or who
24 discriminates, demotes, disciplines, or terminates an employee or
25 payee after receiving a notice to withhold income shall be subject

1 to the penalties prescribed in subsections (4) and (5) of this
2 section; and

3 (i) That if the employer or other payor receives more
4 than one notice to withhold income of a single obligor and the
5 amount of income available to be withheld pursuant to the limits
6 specified in subdivision (c) of this subsection is insufficient
7 to satisfy the total support amount certified in the notices, the
8 income available shall first be applied to current support. If the
9 total amount of income available to be withheld is insufficient
10 to satisfy the total amount of current support certified by the
11 notices, the employer or other payor shall withhold for each notice
12 the proportion that the amount of the current support certified in
13 such notice bears to the total amount of current support certified
14 in all notices received for the obligor. Any remaining income
15 available to be withheld after current support is satisfied for all
16 notices shall be applied to arrearages. If arrearages are certified
17 in more than one notice, the employer or other payor shall withhold
18 for each notice the proportion that the amount of the arrearage
19 certified in such notice bears to the total amount of arrearage
20 certified in all notices received for the obligor.

21 Compliance with the order by the employer or other payor
22 shall operate as a discharge of the employer's or other payor's
23 liability to the obligor as to the portion of the obligor's income
24 withheld.

25 (3) The obligor shall deliver the notice to withhold

1 income to his or her current employer or other payor and provide a
2 copy of such notice to the clerk of the district court.

3 (4) Any employer or other payor who fails to withhold and
4 remit any income of an obligor receiving income from the employer
5 or other payor, after proper notice as provided in subsection (2)
6 of this section, shall be required to pay to the unit the amount
7 specified in the notice.

8 (5) An employer or other payor shall not use an order or
9 notice to withhold income or order or the possibility of income
10 withholding as a basis for (a) discrimination in hiring, (b)
11 demotion of an employee or payee, (c) disciplinary action against
12 an employee or payee, or (d) termination of an employee or payee.

13 Upon application by the obligor and after a hearing on
14 the matter, the court may impose a civil fine of up to five hundred
15 dollars for each violation of this subsection.

16 An employer or other payor who violates this subsection
17 shall be required to make full restitution to the aggrieved
18 employee or payee, including reinstatement and backpay.

19 (6) When an obligor ceases employment with or is no
20 longer entitled to income from an employer or other payor, the
21 notice to withhold income shall not cease to operate against the
22 obligor and income withholding shall continue to apply to any
23 subsequent employment or income of the obligor. The notice to
24 withhold income shall terminate with respect to the employer or
25 other payor without any court action or action by the obligor

1 thirty days after the obligor ceases employment with or is no
2 longer entitled to income from such employer or other payor. A
3 notice to withhold income shall also terminate when the child,
4 spousal, or medical support obligation terminates and all past-due
5 support has been paid, in which case the obligor shall notify the
6 employer or other payor to cease withholding income.

7 (7) A notice to withhold income may be modified or
8 revoked by a court of competent jurisdiction as a result of
9 modification of the support order. A notice to withhold income may
10 also be modified or revoked by a court of competent jurisdiction,
11 for other good cause shown, after notice and a hearing on the
12 issue.

13 (8) The obligee or obligor may file an action in district
14 court to enforce this section.

15 (9) If after an order is issued in any case under this
16 section the case becomes one in which services are provided under
17 Title IV-D of the federal Social Security Act, as amended, the
18 county attorney or authorized attorney or the ~~Director~~ Department
19 of Health and Human Services shall implement income withholding as
20 otherwise provided in the Income Withholding for Child Support Act.

21 Sec. 131. Section 43-1720, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 43-1720 If the ~~Director~~ of Health and Human Services
24 department has previously sent a notice of assignment and
25 opportunity for hearing on the same support order under section

1 48-647, the county attorney, authorized attorney, or the department
2 shall certify the amount to be withheld from an obligor's
3 disposable income pursuant to section 43-1722 and shall notify the
4 obligor's employer or other payor pursuant to section 43-1723. If
5 the ~~director~~ department has not previously sent such notice, and
6 except in cases in which the court has ordered income withholding
7 pursuant to subsection (1) of section 43-1718.01 or section
8 43-1718.02, upon receiving certification pursuant to section 42-358
9 or notice of delinquent payments of medical support, the county
10 attorney, the authorized attorney, or the department shall send a
11 notice by certified mail to the last-known address of the obligor
12 stating:

13 (1) That an assignment of his or her income by means of
14 income withholding will go into effect within fifteen days after
15 the date the notice is sent;

16 (2) That the income withholding will continue to apply to
17 any subsequent employer or other payor of the obligor;

18 (3) The amount of support the obligor owes;

19 (4) The amount of income that will be withheld; and

20 (5) That within the fifteen-day period, the obligor may
21 request a hearing in the manner specified in the notice to contest
22 a mistake of fact. For purposes of this subdivision, mistake of
23 fact shall mean (a) an error in the amount of current or overdue
24 support, (b) an error in the identity of the obligor, or (c) an
25 error in the amount to be withheld as provided in section 43-1722.

1 Sec. 132. Section 43-1902, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 43-1902 As used in sections 43-1901 to 43-1906, unless
4 the context otherwise requires:

5 (1) Board ~~shall mean~~ means the Nebraska Child Abuse
6 Prevention Fund Board;

7 (2) Department ~~shall mean~~ means the Department of Health
8 and Human Services; and

9 ~~(3) Director shall mean the Director of Health and Human~~
10 ~~Services; and~~

11 ~~(4) (3) Fund shall mean~~ means the Nebraska Child Abuse
12 Prevention Fund.

13 Sec. 133. Section 43-1903, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 43-1903 (1) There is hereby created within the department
16 the Nebraska Child Abuse Prevention Fund Board which shall be
17 composed of nine members as follows: ~~The Director of Health and~~
18 ~~Human Services, the Director of Regulation and Licensure, Two~~
19 representatives of the Department of Health and Human Services
20 appointed by the chief executive officer and seven members to be
21 appointed by the Governor with the approval of the Legislature.
22 The Governor shall appoint two members from each of the three
23 congressional districts and one member from the state at large.
24 As a group, the appointed board members (a) shall demonstrate
25 knowledge in the area of child abuse and neglect prevention, (b)

1 shall be representative of the demographic composition of this
2 state, and (c) to the extent practicable, shall be representative
3 of all of the following categories (i) the business community,
4 (ii) the religious community, (iii) the legal community, (iv)
5 professional providers of child abuse and neglect prevention
6 services, and (v) volunteers in child abuse and neglect prevention
7 services.

8 (2) The term of each appointed board member shall be
9 three years, except that of the board members first appointed, two,
10 including the at-large member, shall serve for three years, three
11 shall serve for two years, and two shall serve for one year. The
12 Governor shall designate the term which each of the members first
13 appointed shall serve when he or she makes the appointments. An
14 appointed board member shall not serve more than two consecutive
15 terms whether partial or full. A vacancy shall be filled for the
16 balance of the unexpired term in the same manner as the original
17 appointment.

18 (3) The board shall elect a chairperson from among the
19 appointed board members who shall serve for a term of two years.
20 The board may elect the other officers and establish committees as
21 it deems appropriate.

22 (4) The members of the board shall not receive any
23 compensation for their services but shall be reimbursed for their
24 actual and necessary expenses incurred in the performance of
25 their duties as provided in sections 81-1174 to 81-1177. The

1 reimbursement shall be paid from the fund. In any one fiscal
2 year, no more than five percent of the annually available funds
3 as provided in section 43-1906 shall be used for the purpose of
4 reimbursement of board members.

5 (5) Any board member may be removed by the Governor for
6 misconduct, incompetency, or neglect of duty after first being
7 given the opportunity to be heard in his or her own behalf.

8 Sec. 134. Section 43-1904, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 43-1904 The board shall have the following powers and
11 duties:

12 (1) To meet not less than twice annually at the call of
13 the chairperson to conduct its official business;

14 (2) To require that at least five of the board members
15 approve the awarding of grants made under subdivision (3)(b) of
16 this section; and

17 (3) To develop, one year after the appointment of
18 the original board and annually thereafter, a state plan for
19 the distribution and disbursement of money in the fund. The
20 plan developed under this subdivision shall assure that an
21 equal opportunity exists for the establishment and maintenance
22 of prevention programs and the receipt of money from the fund in
23 all geographic areas of this state. The plan shall be transmitted
24 to the ~~director~~, department, the Governor, and the Legislature
25 and made available to the general public. In carrying out a

1 plan developed under this subdivision, the board shall establish
2 procedures for:

3 (a) Developing and publicizing criteria for the awarding
4 of grants for programs to be supported with money from the fund
5 within the limits of appropriations made for that purpose;

6 (b) Awarding grants to agencies, organizations, or
7 individuals for community-based child abuse prevention programs.
8 The programs shall provide education, public awareness, or
9 prevention services. In awarding grants under this subdivision,
10 consideration shall be given by the board to factors such as need,
11 geographic location, diversity, coordination with or improvement of
12 existing services, and extensive use of volunteers;

13 (c) Supporting and encouraging the formation of local
14 child abuse councils;

15 (d) Consulting with applicable state agencies,
16 commissions, and boards to help determine probable effectiveness,
17 fiscal soundness, and need for proposed community-based educational
18 and service prevention programs;

19 (e) Facilitating information exchange among groups
20 concerned with prevention programs; and

21 (f) Encouraging statewide educational and public
22 awareness programs regarding the problems of families and children
23 which (i) encourage professional persons and groups to recognize
24 and deal with problems of families and children, (ii) make
25 information regarding the problems of families and children and

1 the prevention of such problems available to the general public in
2 order to encourage citizens to become involved in the prevention
3 of such problems, and (iii) encourage the development of community
4 prevention programs.

5 Sec. 135. Section 43-1905, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 43-1905 The ~~director~~ department shall:

8 (1) Have the power to deny any grant award, or portion of
9 such award, made by the board;

10 (2) Review and monitor expenditures of money from the
11 fund on a periodic basis; and

12 (3) Submit to the Governor and the Legislature an annual
13 report of all receipts and disbursements of funds, including the
14 recipients, the nature of the program funded, the dollar amount
15 awarded, and the percentage of the total annually available funds
16 the grant represents. The report may be made available to the
17 public upon request.

18 Sec. 136. Section 43-2002, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 43-2002 Each year Nebraska children are reported missing.
21 The Legislature is seeking a procedure whereby it can help locate
22 such missing children through school records and birth certificates
23 filed with the schools and the Department of Health and Human
24 Services. ~~Finance and Support.~~

25 Sec. 137. Section 43-2003, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 43-2003 As used in the Missing Children Identification
3 Act, unless the context otherwise requires:

4 (1) County agency means any agency in a county that
5 records and maintains birth certificates;

6 (2) Department means the Department of Health and Human
7 Services; ~~Finance and Support;~~

8 (3) Missing person means a person sixteen years of age or
9 younger reported to any law enforcement agency as abducted or lost;
10 and

11 (4) Patrol means the Nebraska State Patrol.

12 Sec. 138. Section 43-2411, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 43-2411 (1) The Nebraska Coalition for Juvenile Justice
15 is created. As provided in the federal act, there shall be no less
16 than fifteen nor more than thirty-three members of the coalition.
17 The coalition members shall be appointed by the Governor and shall
18 include:

19 (a) The Administrator of the Office of Juvenile Services;

20 (b) ~~The Director of Health and Human Services~~ chief
21 executive officer of the Department of Health and Human Services or
22 his or her designee;

23 (c) The Commissioner of Education or his or her designee;

24 (d) The executive director of the Nebraska Commission on
25 Law Enforcement and Criminal Justice or his or her designee;

- 1 (e) The Executive Director of the Nebraska Association of
2 County Officials or his or her designee;
- 3 (f) The probation administrator of the Office of
4 Probation Administration or his or her designee;
- 5 (g) One county commissioner or supervisor;
- 6 (h) One police chief;
- 7 (i) One sheriff;
- 8 (j) One separate juvenile court judge;
- 9 (k) One county court judge;
- 10 (l) One representative of mental health professionals who
11 works directly with juveniles;
- 12 (m) Three representatives, one from each congressional
13 district, from community-based, private nonprofit organizations who
14 work with juvenile offenders and their families;
- 15 (n) One volunteer who works with juvenile offenders or
16 potential juvenile offenders;
- 17 (o) One person who works with an alternative to
18 incarceration program for juveniles;
- 19 (p) The director or his or her designee from a youth
20 rehabilitation and treatment center;
- 21 (q) The director or his or her designee from a secure
22 youth confinement facility;
- 23 (r) The director or his or her designee from a staff
24 secure youth confinement facility;
- 25 (s) At least five members who are under twenty-four years

1 of age when appointed;

2 (t) One person who works directly with juveniles who have
3 learning or emotional difficulties or are abused or neglected;

4 (u) One member of the Nebraska Commission on Law
5 Enforcement and Criminal Justice;

6 (v) One county attorney; and

7 (w) One public defender.

8 (2) The terms of members appointed pursuant to
9 subdivisions (1)(g) through (1)(w) of this section shall be three
10 years, except that the terms of the initial members of the
11 coalition shall be staggered so that one-third of the members
12 are appointed for terms of one year, one-third for terms of two
13 years, and one-third for terms of three years, as determined by
14 the Governor. A majority of the coalition members, including the
15 chairperson, shall not be full-time employees of federal, state,
16 or local government. At least one-fifth of the coalition members
17 shall be under the age of twenty-four at the time of appointment.
18 Any vacancy on the coalition shall be filled by appointment
19 by the Governor. The coalition shall select a chairperson, a
20 vice-chairperson, and such other officers as it deems necessary.

21 (3) Members of the coalition shall be reimbursed for
22 their actual and necessary expenses pursuant to sections 81-1174 to
23 81-1177.

24 (4) The coalition may appoint task forces or
25 subcommittees to carry out its work. Task force and subcommittee

1 members shall have knowledge of, responsibility for, or interest in
2 an area related to the duties of the coalition.

3 Sec. 139. Section 43-2503, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 43-2503 The purposes of the Early Intervention Act shall
6 be to:

7 (1) Develop and implement a statewide system of
8 comprehensive, coordinated, family-centered, community-based, and
9 culturally competent early intervention services for infants
10 or toddlers with disabilities and their families through the
11 collaboration of the Department of Health and Human Services, ~~the~~
12 ~~Department of Health and Human Services Finance and Support,~~ the
13 State Department of Education, and all other relevant agencies or
14 organizations at the state, regional, and local levels;

15 (2) Establish and implement a billing system for
16 accessing federal medicaid funds;

17 (3) Establish and implement services coordination through
18 a community team approach;

19 (4) Facilitate the coordination of payment for early
20 intervention services from federal, state, local, and private
21 sources including public and private insurance coverage; and

22 (5) Enhance Nebraska's capacity to provide quality
23 early intervention services and expand and improve existing
24 early intervention services being provided to eligible infants or
25 toddlers with disabilities and their families.

1 Sec. 140. Section 43-2505, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 43-2505 For purposes of the Early Intervention Act:

4 (1) Collaborating agencies means the Department of Health
5 and Human Services, ~~the Department of Health and Human Services~~
6 ~~Finance and Support~~, and the State Department of Education;

7 (2) Developmental delay has the definition found in
8 section 79-1118.01;

9 (3) Early intervention services may include services
10 which:

11 (a) Are designed to meet the developmental needs of each
12 eligible infant or toddler with disabilities and the needs of the
13 family related to enhancing the development of their infant or
14 toddler;

15 (b) Are selected in collaboration with the parent or
16 guardian;

17 (c) Are provided in accordance with an individualized
18 family service plan;

19 (d) Meet all applicable federal and state standards; and

20 (e) Are provided, to the maximum extent appropriate, in
21 natural environments including the home and community settings in
22 which infants and toddlers without disabilities participate;

23 (4) Eligible infant or toddler with disabilities means a
24 child who needs early intervention services and is two years of age
25 or younger, except that toddlers who reach age three during the

1 school year shall remain eligible throughout that school year. The
2 need for early intervention services is established when the infant
3 or toddler experiences developmental delays or any of the other
4 disabilities described in the Special Education Act;

5 (5) Federal early intervention program means the
6 federal early intervention program for infants and toddlers with
7 disabilities, 20 U.S.C. 1471 to 1485;

8 (6) Individualized family service plan means the process,
9 periodically documented in writing, of determining appropriate
10 early intervention services for an eligible infant or toddler with
11 disabilities and his or her family;

12 (7) Interagency planning team means an organized group of
13 interdisciplinary, interagency representatives, community leaders,
14 and family members in each local community or region;

15 (8) Lead agency or agencies means the Department
16 of Health and Human Services, ~~the Department of Health and~~
17 ~~Human Services Finance and Support,~~ the State Department of
18 Education, and any other agencies designated by the Governor for
19 general administration, supervision, and monitoring of programs
20 and activities receiving federal funds under the federal early
21 intervention program and state funds appropriated for early
22 intervention services under the Early Intervention Act; and

23 (9) Services coordination means a flexible process of
24 interaction facilitated by a services coordinator to assist the
25 family of an eligible infant or toddler with disabilities within

1 a community to identify and meet their needs pursuant to the
2 act. Services coordination under the act shall not duplicate
3 any case management services which an eligible infant or toddler
4 with disabilities and his or her family are already receiving or
5 eligible to receive from other sources.

6 Sec. 141. Section 43-2507, Revised Statutes Cumulative
7 Supplement, 2006, is amended to read:

8 43-2507 (1) Planning for early intervention services
9 shall be the responsibility of each collaborating agency. The
10 planning shall address a statewide system of comprehensive,
11 coordinated, family-centered, community-based, and culturally
12 competent early intervention services to all eligible infants or
13 toddlers with disabilities and their families in Nebraska. The
14 statewide system shall include the following minimum components:

15 (a) A public awareness program, including a central
16 directory;

17 (b) A comprehensive early identification system,
18 including a system for identifying children and making referrals
19 for infants or toddlers who may be eligible for early intervention
20 services;

21 (c) Common intake, referral, and assessment processes,
22 procedures, and forms to determine eligibility of infants and
23 toddlers and their families referred for early intervention
24 services;

25 (d) An individualized family service plan, including

1 services coordination, for each eligible infant or toddler with
2 disabilities and his or her family;

3 (e) A comprehensive system of personnel development;

4 (f) A uniform computer data base and reporting system
5 which crosses agency lines; and

6 (g) Services coordination to access the following early
7 intervention services: Audiology; family training, counseling, and
8 home visits; health services; medical services only for diagnostic
9 or evaluation purposes; nursing services; nutrition services;
10 occupational therapy; physical therapy; psychological services;
11 social work services; special instruction; speech-language
12 pathology; transportation and related costs that are necessary to
13 enable an eligible infant or toddler with disabilities and his
14 or her family to receive early intervention services; assistive
15 technology devices and assistive technology services; vision
16 services; and hearing services.

17 (2) Collaborating agencies shall review standards to
18 ensure that personnel are appropriately and adequately prepared and
19 trained to carry out the Early Intervention Act.

20 (3) Collaborating agencies shall be responsible for
21 designing, supporting, and implementing a statewide training
22 and technical assistance plan which shall address preservice,
23 inservice, and leadership development for service providers and
24 parents of eligible infants and toddlers with disabilities.

25 (4) Policies and procedures shall be jointly examined and

1 analyzed by the collaborating agencies to satisfy data collection
2 requirements under the federal early intervention program and to
3 assure the confidentiality of the data contained in the statewide
4 system. Notwithstanding any other provision of state law, the
5 collaborating agencies shall be permitted to share information and
6 data necessary to carry out the provisions of the federal early
7 intervention program, including the personal identification or
8 other specific information concerning individual infants, toddlers,
9 or their families, except that the vital and medical records
10 and health information concerning individuals provided to the
11 Department of Health and Human Services ~~or the Department of Health~~
12 ~~and Human Services Finance and Support~~ may be released only under
13 the laws authorizing the provision of such records and information.
14 Nothing in this section shall prohibit the use of such data to
15 provide for the preparation of reports, fiscal information, or
16 other documents required by the Early Intervention Act, but no
17 information in such reports, fiscal information, or other documents
18 shall be used in a manner which would allow for the personal
19 identification of an individual infant, toddler, or family.

20 Sec. 142. Section 43-2508, Revised Statutes Cumulative
21 Supplement, 2006, is amended to read:

22 43-2508 (1) The Department of Health and Human Services
23 ~~Finance and Support~~ shall be responsible for providing or
24 contracting for services.

25 (2) Whenever possible, the medical assistance program

1 prescribed in the Medical Assistance Act shall be used for payment
2 of services coordination.

3 (3) It is the intent of this section that the department
4 shall apply for and implement a Title XIX medicaid waiver as a way
5 to assist in the provision of services coordination to eligible
6 infants or toddlers with disabilities and their families.

7 Sec. 143. Section 43-2509, Revised Statutes Cumulative
8 Supplement, 2006, is amended to read:

9 43-2509 The Department of Health and Human Services ~~and~~
10 ~~the Department of Health and Human Services Finance and Support~~
11 ~~shall be~~ is responsible for incorporating components required
12 under the federal early intervention program into the state plans
13 developed for the Special Supplemental Nutrition Program for Women,
14 Infants, and Children, the Commodity Supplemental Food Program,
15 the maternal and child health program, and the developmental
16 disabilities program. The ~~departments~~ department shall provide
17 technical assistance, planning, and coordination related to the
18 incorporation of such components.

19 Sec. 144. Section 43-2510, Revised Statutes Cumulative
20 Supplement, 2006, is amended to read:

21 43-2510 The Department of Health and Human Services ~~and~~
22 ~~the Department of Health and Human Services Finance and Support~~
23 ~~shall be~~ is responsible for incorporating components required under
24 the federal early intervention program into the mental health
25 and developmental disabilities planning responsibilities of the

1 ~~departments- department.~~ The departments department shall provide
2 technical assistance, planning, and coordination related to the
3 incorporation of such components.

4 Sec. 145. Section 43-2511, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 43-2511 There is hereby established a statewide billing
7 system for accessing federal medicaid funds for special education
8 and related services provided by school districts. The system
9 shall apply to all students verified with disabilities from
10 date of diagnosis to twenty-one years of age as allowed under
11 the federal Medicare Catastrophic Coverage Act of 1988. The
12 system shall be developed jointly by the Department of Health
13 and Human Services, ~~the Department of Health and Human Services~~
14 ~~Finance and Support,~~ and the State Department of Education. School
15 districts, educational service units, or approved cooperatives
16 providing special education and related services shall be required
17 to participate in the statewide billing system. It is the intent
18 of this section that costs to school districts associated with
19 the implementation of such a system shall be eligible for payment
20 through the medicaid reimbursement rates to be established for each
21 therapy.

22 Sec. 146. Section 43-2512, Revised Statutes Cumulative
23 Supplement, 2006, is amended to read:

24 43-2512 Each region established pursuant to section
25 79-1135 shall establish an interagency planning team, which

1 planning team shall include representatives from school districts,
2 social services, health and medical services, parents, and
3 mental health, developmental disabilities, Head Start, and other
4 relevant agencies or persons serving children from birth to
5 age five and their families and parents or guardians. Each
6 interagency planning team shall be responsible for assisting in
7 the planning and implementation of the Early Intervention Act in
8 each local community or region. The Department of Health and Human
9 Services, ~~Finance and Support~~, in collaboration with each regional
10 interagency planning team, shall provide or contract for services
11 coordination.

12 Sec. 147. Section 43-2515, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 43-2515 On or before October 1, 1993, and for each year
15 thereafter, the Department of Health and Human Services ~~Finance~~
16 ~~and Support~~ and the State Department of Education shall jointly
17 certify to the budget administrator of the budget division of
18 the Department of Administrative Services the amount of federal
19 medicaid funds paid to school districts pursuant to the Early
20 Intervention Act for special education services for children five
21 years of age and older. The General Fund appropriation to the State
22 Department of Education for state special education aid shall be
23 decreased by an amount equal to the amount that would have been
24 reimbursed with state general funds to the school districts through
25 the special education reimbursement process for special education

1 services for children five years of age and older that was paid
2 to school districts or approved cooperatives with federal medicaid
3 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. 148. Section 43-2605, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 43-2605 For purposes of the Quality Child Care Act:

13 (1) Child care shall mean the care and supervision of
14 children in lieu of parental care and supervision and shall include
15 programs; and

16 (2) Programs shall mean the programs listed in
17 subdivision ~~(3)~~ (2) of section 71-1910.

18 Sec. 149. Section 43-2606, Revised Statutes Cumulative
19 Supplement, 2006, is amended to read:

20 43-2606 (1) The Department of Health and Human Services
21 ~~Regulation and Licensure~~ shall adopt and promulgate rules and
22 regulations for mandatory training requirements for providers
23 of child care and school-age-care programs. Such requirements
24 shall include preservice orientation and at least four hours of
25 annual inservice training. All child care programs required to

1 be licensed under section 71-1911 shall show completion of a
2 preservice orientation approved or delivered by the department
3 prior to receiving a provisional license.

4 (2) The department shall initiate a system of documenting
5 the training levels of staff in specific child care settings to
6 assist parents in selecting optimal care settings.

7 (3) The training requirements shall be designed to meet
8 the health, safety, and developmental needs of children and shall
9 be tailored to the needs of licensed providers of child care
10 programs. The training requirements for providers of child care
11 programs shall include, but not be limited to, information on
12 sudden infant death syndrome, shaken baby syndrome, and child
13 abuse.

14 (4) The department shall provide or arrange for training
15 opportunities throughout the state and shall provide information
16 regarding training opportunities to all providers of child care
17 programs at the time of registration or licensure, when renewing a
18 registration, or on a yearly basis following licensure.

19 (5) Each provider of child care and school-age-care
20 programs receiving orientation or training shall provide his or her
21 social security number to the department.

22 (6) The department shall review and provide
23 recommendations to the Governor for updating rules and regulations
24 adopted and promulgated under this section at least every five
25 years.

1 Sec. 150. Section 43-2616, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 43-2616 Notwithstanding any other provision of law,
4 including section 71-1914, family child care homes licensed by the
5 Department of Health and Human Services ~~Regulation and Licensure~~
6 pursuant to section 71-1911 or by a city, village, or county
7 pursuant to subsection (2) of section 71-1914 may be established
8 and operated in any residential zone within the exercised zoning
9 jurisdiction of any city or village.

10 Sec. 151. Section 43-2617, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 43-2617 A provider of a program shall notify the parents
13 of enrolled children of the outbreak of any communicable disease
14 in any child in the program on the same day the provider is
15 informed of or observes the outbreak. The Department of Health and
16 Human Services ~~in consultation with the Department of Health and~~
17 ~~Human Services Regulation and Licensure~~ shall develop appropriate
18 procedures to carry out this section.

19 Sec. 152. Section 43-2620, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 43-2620 The Department of Health and Human Services, ~~the~~
22 ~~Department of Health and Human Services Regulation and Licensure,~~
23 and the State Department of Education shall collaborate in their
24 activities and may:

25 (1) Encourage the development of comprehensive systems

1 of child care programs and early childhood education programs
2 which promote the wholesome growth and educational development of
3 children, regardless of the child's level of ability;

4 (2) Encourage and promote the provision of parenting
5 education, developmentally appropriate activities, and primary
6 prevention services by program providers;

7 (3) Facilitate cooperation between the private and public
8 sectors in order to promote the expansion of child care;

9 (4) Promote continuing study of the need for child care
10 and early childhood education and the most effective methods by
11 which these needs can be served through governmental and private
12 programs;

13 (5) Coordinate activities with other state agencies
14 serving children and families;

15 (6) Strive to make the state a model employer by
16 encouraging the state to offer a variety of child care benefit
17 options to its employees;

18 (7) Provide training for ~~child care~~ early childhood
19 education providers as authorized in sections 79-1101 to 79-1103;

20 (8) Develop and support resource and referral services
21 for parents and providers that will be in place statewide by
22 January 1, 1994;

23 (9) Promote the involvement of businesses and communities
24 in the development of child care throughout the state by providing
25 technical assistance to providers and potential providers of child

1 care;

2 (10) Establish a voluntary accreditation process for
3 public and private child care and early childhood education
4 providers, which process promotes program quality;

5 (11) At least biennially, develop an inventory of
6 programs and early childhood education programs provided to
7 children in Nebraska and identify the number of children receiving
8 and not receiving such services, the types of programs under which
9 the services are received, and the reasons children not receiving
10 the services are not being served; and

11 (12) Support the identification and recruitment of
12 persons to provide child care for children with special needs.

13 Sec. 153. Section 43-3305.01, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 43-3305.01 ~~Director means the Director~~ Department means
16 the Department of Health and Human Services. ~~or his or her~~
17 ~~designee.~~

18 Sec. 154. Section 43-3314, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 43-3314 (1) When the ~~director~~ department or a county
21 attorney or authorized attorney has made reasonable efforts to
22 verify and has reason to believe that a license holder in a case
23 receiving services under Title IV-D of the Social Security Act, as
24 amended, (a) is delinquent on a support order in an amount equal
25 to the support due and payable for more than a three-month period

1 of time, (b) is not in compliance with a payment plan for amounts
2 due as determined by a county attorney, an authorized attorney,
3 or the ~~Department of Health and Human Services~~ department for
4 such past-due support, or (c) is not in compliance with a payment
5 plan for amounts due under a support order pursuant to a court
6 order for such past-due support, and therefor determines to certify
7 the license holder to the appropriate licensing authority, the
8 ~~director,~~ department, county attorney, or authorized attorney shall
9 send written notice to the license holder by certified mail to
10 the last-known address of the license holder or to the last-known
11 address of the license holder available to the court pursuant to
12 section 42-364.13. For purposes of this section, reasonable efforts
13 to verify means reviewing the case file and having written or oral
14 communication with the clerk of the court of competent jurisdiction
15 and with the license holder. Reasonable efforts to verify may also
16 include written or oral communication with custodial parents.

17 (2) The notice shall specify:

18 (a) That the ~~director,~~ Department of Health and Human
19 Services, county attorney, or authorized attorney intends to
20 certify the license holder to the Department of Motor Vehicles
21 and to relevant licensing authorities pursuant to subsection (3) of
22 section 43-3318 as a license holder described in subsection (1) of
23 this section;

24 (b) The court or agency of competent jurisdiction which
25 issued the support order or in which the support order is

1 registered;

2 (c) That an enforcement action for a support order will
3 incorporate any amount delinquent under the support order which may
4 accrue in the future;

5 (d) That a license holder who is in violation of a
6 support order can come into compliance by:

7 (i) Paying current support if a current support
8 obligation exists; and

9 (ii) Paying all past-due support or, if unable to pay all
10 past-due support and if a payment plan for such past-due support
11 has not been determined, by making payments in accordance with
12 a payment plan determined by the county attorney, the authorized
13 attorney, or the Department of Health and Human Services for such
14 past-due support; and

15 (e) That within thirty days after issuance of the notice,
16 the license holder may either:

17 (i) Request administrative review in the manner specified
18 in the notice to contest a mistake of fact. Mistake of fact means
19 an error in the identity of the license holder or an error in the
20 determination of whether the license holder is a license holder
21 described in subsection (1) of this section; or

22 (ii) Seek judicial review by filing a petition in the
23 court of competent jurisdiction of the county where the support
24 order was issued or registered or, in the case of a foreign
25 support order not registered in Nebraska, the court of competent

1 jurisdiction of the county where the child resides if the child
2 resides in Nebraska or the court of competent jurisdiction of the
3 county where the license holder resides if the child does not
4 reside in Nebraska.

5 Sec. 155. Section 43-3317, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 43-3317 Any person aggrieved by a decision of the
8 ~~Department of Health and Human Services~~ department pursuant to
9 section 43-3316 may, upon exhaustion of the procedures for
10 administrative review provided under the Administrative Procedure
11 Act, seek judicial review within ten days after the issuance
12 of notice of the ~~Department of Health and Human Services'~~
13 department's decision pursuant to section 43-3316. Notwithstanding
14 subdivision (2)(a) of section 84-917, proceedings for review shall
15 be instituted by filing a petition in the court of competent
16 jurisdiction of the county where the support order was issued
17 or registered or, in the case of a foreign support order not
18 registered in Nebraska, the court of competent jurisdiction as
19 specified in subdivision (2)(e)(ii) of section 43-3314.

20 Sec. 156. Section 43-3318, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 43-3318 (1) The ~~director,~~ Department of Health and
23 Human Services, county attorney, authorized attorney, or court
24 of competent jurisdiction may certify in writing to the Department
25 of Motor Vehicles, relevant licensing authorities, and, if the

1 license holder is a member of the Nebraska State Bar Association,
2 the Counsel for Discipline of the Nebraska Supreme Court, that a
3 license holder is a license holder described in subsection (1) of
4 section 43-3314 if:

5 (a) The license holder does not timely request either
6 administrative review or judicial review upon issuance of a notice
7 under subsection (2) of section 43-3314, is still a license holder
8 described in subsection (1) of section 43-3314 thirty-one days
9 after issuance of the notice, and does not obtain a written
10 confirmation of compliance from the Department of Health and
11 Human Services, county attorney, or authorized attorney pursuant
12 to section 43-3320 within thirty-one days after issuance of the
13 notice;

14 (b) The Department of Health and Human Services issues a
15 decision after a hearing that finds the license holder is a license
16 holder described in subsection (1) of section 43-3314, the license
17 holder is still a license holder described in such subsection
18 thirty-one days after issuance of that decision, and the license
19 holder does not seek judicial review of the decision within the
20 ten-day appeal period provided in section 43-3317; or

21 (c) The court of competent jurisdiction enters a judgment
22 on a petition for judicial review, initiated under either section
23 43-3315 or 43-3317, that finds the license holder is a license
24 holder described in subsection (1) of section 43-3314.

25 (2) The court of competent jurisdiction, after providing

1 appropriate notice, may certify a license holder to the Department
2 of Motor Vehicles and relevant licensing authorities if a license
3 holder has failed to comply with subpoenas or warrants relating to
4 paternity or child support proceedings.

5 (3) If the ~~director~~, Department of Health and Human
6 Services, county attorney, authorized attorney, or court of
7 competent jurisdiction determines to certify a license holder to
8 the appropriate licensing authority, then the ~~director~~, department,
9 county attorney, authorized attorney, or court of competent
10 jurisdiction shall certify a license holder in the following order
11 and in compliance with the following restrictions:

12 (a) To the Department of Motor Vehicles to suspend the
13 license holder's operator's license, except the Department of Motor
14 Vehicles shall not suspend the license holder's commercial driver's
15 license or restricted commercial driver's license. If a license
16 holder possesses a commercial driver's license or restricted
17 commercial driver's license, the ~~director~~, Department of Health and
18 Human Services, county attorney, authorized attorney, or court of
19 competent jurisdiction shall certify such license holder pursuant
20 to subdivision (b) of this subsection. If the license holder
21 fails to come into compliance with the support order as provided
22 in section 43-3314 or with subpoenas and warrants relating to
23 paternity or child support proceedings within ten working days
24 after the date on which the license holder's operator's license
25 suspension becomes effective, then the ~~director~~, department, county

1 attorney, authorized attorney, or court of competent jurisdiction
2 may certify the license holder pursuant to subdivision (b) of this
3 subsection without further notice;

4 (b) To the relevant licensing authority to suspend
5 the license holder's recreational license once the Game and
6 Parks Commission has operative the electronic or other automated
7 retrieval system necessary to suspend recreational licenses. If
8 the license holder does not have a recreational license and until
9 the Game and Parks Commission has operative the electronic or
10 other automated retrieval system necessary to suspend recreational
11 licenses, the ~~director~~, department, county attorney, authorized
12 attorney, or court of competent jurisdiction may certify the
13 license holder pursuant to subdivision (c) of this subsection.
14 If the license holder fails to come into compliance with the
15 support order as provided in section 43-3314 or with subpoenas and
16 warrants relating to paternity or child support proceedings within
17 ten working days after the date on which the license holder's
18 recreational license suspension becomes effective, the ~~director~~,
19 department, county attorney, authorized attorney, or court of
20 competent jurisdiction may certify the license holder pursuant to
21 subdivision (c) of this subsection without further notice; and

22 (c) To the relevant licensing authority to suspend
23 the license holder's professional license, occupational license,
24 commercial driver's license, or restricted commercial driver's
25 license.

1 (4) If the ~~director~~, Department of Health and Human
2 Services, county attorney, authorized attorney, or court of
3 competent jurisdiction certifies the license holder to the
4 Department of Motor Vehicles, the Department of Motor Vehicles
5 shall suspend the operator's license of the license holder ten
6 working days after the date of certification. The Department of
7 Motor Vehicles shall without undue delay notify the license holder
8 by certified mail that the license holder's operator's license
9 will be suspended and the date the suspension becomes effective.
10 No person shall be issued an operator's license by the State of
11 Nebraska if at the time of application for a license the person's
12 operator's license is suspended under this section. Any person
13 whose operator's license has been suspended shall return his or her
14 license to the Department of Motor Vehicles within five working
15 days after receiving the notice of the suspension. If any person
16 fails to return the license, the Department of Motor Vehicles shall
17 direct any peace officer to secure possession of the operator's
18 license and to return it to the Department of Motor Vehicles.
19 The peace officer who is directed to secure possession of the
20 license shall make every reasonable effort to secure the license
21 and return it to the Department of Motor Vehicles or shall show
22 good cause why the license cannot be returned. An appeal of the
23 suspension of an operator's license under this section shall be
24 pursuant to section 60-4,105. A license holder whose operator's
25 license has been suspended under this section may apply for an

1 employment driving permit as provided by sections 60-4,129 and
2 60-4,130, except that the license holder is not required to fulfill
3 the driver improvement or driver education and training course
4 requirements of subsection (2) of section 60-4,130.

5 (5) Except as provided in subsection (6) of this section
6 as it pertains to a license holder who is a member of the
7 Nebraska State Bar Association, if the ~~director~~, Department of
8 Health and Human Services, county attorney, authorized attorney,
9 or court of competent jurisdiction certifies the license holder to
10 a relevant licensing authority, the relevant licensing authority,
11 notwithstanding any other provision of law, shall suspend the
12 license holder's professional, occupational, or recreational
13 license and the license holder's right to renew the professional,
14 occupational, or recreational license ten working days after
15 the date of certification. The relevant licensing authority
16 shall without undue delay notify the license holder by certified
17 mail that the license holder's professional, occupational, or
18 recreational license will be suspended and the date the suspension
19 becomes effective.

20 (6) If the ~~director~~, department, county attorney,
21 authorized attorney, or court of competent jurisdiction certifies
22 a license holder who is a member of the Nebraska State Bar
23 Association to the Counsel for Discipline of the Nebraska Supreme
24 Court, the Nebraska Supreme Court may suspend the license holder's
25 license to practice law. It is the intent of the Legislature to

1 encourage all license holders to comply with their child support
2 obligations. Therefor, the Legislature hereby requests that the
3 Nebraska Supreme Court adopt amendments to the rules regulating
4 attorneys, if necessary, which provide for the discipline of an
5 attorney who is delinquent in the payment of or fails to pay his
6 or her child support obligation.

7 (7) The Department of Health and Human Services, or court
8 of competent jurisdiction when appropriate, shall send by certified
9 mail to the license holder at the license holder's last-known
10 address a copy of any certification filed with the Department
11 of Motor Vehicles or a relevant licensing authority and a notice
12 which states that the license holder's operator's license will
13 be suspended ten working days after the date of certification
14 and that the suspension of a professional, occupational, or
15 recreational license pursuant to subsection (5) of this section
16 becomes effective ten working days after the date of certification.

17 Sec. 157. Section 43-3319, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 43-3319 If the license holder files a motion or
20 application to modify a support order, the ~~Department of Health~~
21 ~~and Human Services,~~ department, county attorney, or authorized
22 attorney, upon notification by the license holder, shall stay the
23 action to certify the license holder under section 43-3318 until
24 disposition of the motion or application by the court or agency of
25 competent jurisdiction. If the license holder requests review of

1 the support order under section 43-512.12, the ~~Department of Health~~
2 ~~and Human Services~~ department shall stay the action to certify
3 the license holder pending final disposition of the review and
4 modification process.

5 Sec. 158. Section 43-3320, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 43-3320 (1) When a license holder comes into compliance
8 with the support order as provided in section 43-3314, the
9 ~~Department of Health and Human Services,~~ department, county
10 attorney, or authorized attorney shall provide the license holder
11 with written confirmation that the license holder is in compliance.

12 (2) When a license holder comes into compliance with
13 subpoenas and warrants relating to paternity or child support
14 proceedings, the court of competent jurisdiction shall provide the
15 license holder with written confirmation that the license holder is
16 in compliance.

17 Sec. 159. Section 43-3323, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 43-3323 The ~~Department of Health and Human Services~~
20 department shall adopt and promulgate rules and regulations to
21 carry out the License Suspension Act.

22 Sec. 160. Section 43-3325, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 43-3325 Nothing in the License Suspension Act shall
25 prevent the ~~Department of Health and Human Services,~~ department,

1 the county attorney, the authorized attorney, or the court of
2 competent jurisdiction from taking other enforcement actions.

3 Sec. 161. Section 43-3326, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 43-3326 The ~~director~~ department shall issue a report
6 to the Legislature on or before January 31 of each year which
7 discloses the number of professional, occupational, or recreational
8 licenses which were suspended and the number which were erroneously
9 suspended and restored as a result of the License Suspension Act
10 for the prior year. The Director of Motor Vehicles shall issue
11 a report to the Legislature on or before January 31 of each
12 year which discloses the number of operators' licenses which were
13 suspended and the number which were erroneously suspended and
14 restored as a result of the License Suspension Act for the prior
15 year.

16 Sec. 162. Section 43-3327, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 43-3327 (1) For purposes of this section:

19 (a) Authorized attorney has the same meaning as in
20 section 43-1704;

21 (b) ~~Director~~ means the ~~Director~~ Department means the
22 Department of Health and Human Services; ~~or his or her designee;~~

23 (c) Genetic testing means genetic testing ordered
24 pursuant to section 43-1414; and

25 (d) Support order has the same meaning as in section

1 43-1717.

2 (2) Notwithstanding any other provision of law regarding
3 the confidentiality of records, the ~~director,~~ department, a county
4 attorney, or an authorized attorney may, without obtaining a court
5 or administrative order:

6 (a) Compel by subpoena (i) information relevant to
7 establishing, modifying, or enforcing a support order and (ii)
8 genetic testing of an individual relevant to establishing,
9 modifying, or enforcing a support order. Such information includes,
10 but is not limited to, relevant financial records and other
11 relevant records including the name, address, and listing of
12 financial assets or liabilities from public or private entities.
13 If a person fails or refuses to obey the subpoena, the ~~director,~~
14 department, a county attorney, or an authorized attorney may apply
15 to a judge of the court of competent jurisdiction for an order
16 directing such person to comply with the subpoena. Failure to obey
17 such court order may be punished by the court as contempt of court;
18 and

19 (b) Obtain access to information contained in the
20 records, including automated data bases, of any state or local
21 agency which is relevant to establishing, modifying, or enforcing a
22 support order or to ordering genetic testing. Such records include,
23 but are not limited to, vital records, state and local tax and
24 revenue records, titles to real and personal property, employment
25 security records, records of correctional institutions, and records

1 concerning the ownership and control of business entities.

2 (3) The ~~director~~ department 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~~ department 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. 163. Section 43-3329, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 43-3329 For purposes of sections 43-3328 to 43-3339, the
2 following definitions apply:

3 (1) Account means a demand deposit account, checking or
4 negotiable withdrawal order account, savings account, time deposit
5 account, or money-market mutual fund account;

6 (2) Authorized attorney has the same meaning as found in
7 section 43-1704;

8 (3) Child support has the same meaning as found in
9 section 43-1705;

10 (4) Department means the Department of Health and Human
11 Services and if the department designates, includes a county
12 attorney or authorized attorney;

13 ~~(5) Director means the Director of Health and Human~~
14 ~~Services or his or her designee and, if the director designates,~~
15 ~~includes a county attorney or authorized attorney;~~

16 ~~(6)~~ (5) Financial institution means every federal or
17 state commercial or savings bank, including savings and loan
18 associations and cooperative banks, federal or state chartered
19 credit unions, benefit associations, insurance companies, safe
20 deposit companies, any money-market mutual fund as defined in
21 section 851(a) of the Internal Revenue Code that seeks to maintain
22 a constant net asset value of one dollar in accordance with 17
23 C.F.R. 270.2a-7, any broker, brokerage firm, trust company, or unit
24 investment trust, or any other similar entity doing business or
25 authorized to do business in the State of Nebraska;

1 ~~(7)~~ (6) Match means a comparison by automated or other
2 means by name and social security number of a list of obligors
3 provided to a financial institution by the ~~Department of Health and~~
4 ~~Human Services~~ department and a list of depositors of any financial
5 institution;

6 ~~(8)~~ (7) Medical support has the same meaning as found in
7 section 43-512;

8 ~~(9)~~ (8) Obligor means a person who owes a duty of support
9 pursuant to a support order;

10 ~~(10)~~ (9) Payor includes a person, partnership, limited
11 partnership, limited liability partnership, limited liability
12 company, corporation, or other entity doing business or authorized
13 to do business in the State of Nebraska, including a financial
14 institution, or a department or an agency of state, county, or city
15 government;

16 ~~(11)~~ (10) Spousal support has the same meaning as found
17 in section 43-1715;

18 ~~(12)~~ (11) Support in the definitions of child support,
19 medical support, and spousal support means providing necessary
20 shelter, food, clothing, care, medical support, medical attention,
21 education expenses, or funeral expenses or any other reasonable and
22 necessary expense; and

23 ~~(13)~~ (12) Support order has the same meaning as found in
24 section 43-1717.

25 Sec. 164. Section 43-3333, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 43-3333 (1) In a case which is receiving services under
3 Title IV-D of the federal Social Security Act, as amended, when
4 the ~~director~~ department has made reasonable efforts to verify and
5 has reason to believe payment on a support order is in arrears
6 in an amount equal to the support due and payable for more than
7 a three-month period of time or upon the request of the state
8 agency of another state which administers Title IV-D of the federal
9 Social Security Act, and therefor determines to seize an obligor's
10 property, the ~~director~~ department shall send written notice to
11 the obligor by first-class mail to the last-known address of the
12 obligor or to the last-known address of the obligor available
13 to the court pursuant to section 42-364.13. For purposes of this
14 section, reasonable efforts to verify means reviewing the case file
15 and having written or oral communication with the clerk of the
16 district court.

17 (2) The notice of arrearage shall:

18 (a) Specify the court or agency which issued the support
19 order;

20 (b) Specify the arrearage under the support order which
21 the obligor owes as of the date of the notice or other date
22 certain;

23 (c) Specify that any enforcement action will incorporate
24 any arrearage which may accrue in the future;

25 (d) State clearly, "Your property may be seized without

1 further notice if you do not respond or clear up the arrearage";
2 and

3 (e) Specify that within twenty days after the notice is
4 mailed, the obligor may request, in writing, a hearing to contest
5 a mistake of fact. For purposes of this section, mistake of fact
6 means an error in the amount of the arrearage or an error in the
7 identity of the obligor.

8 (3) If the obligor files a written request for a hearing
9 based upon a mistake of fact within twenty days after the notice is
10 mailed, the department shall provide an opportunity for a hearing
11 and shall stay enforcement action under sections 43-3333 to 43-3337
12 until the administrative appeal process is completed.

13 Sec. 165. Section 43-3334, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 43-3334 (1) The ~~director~~ department may send a payor
16 an order to withhold and deliver specifically identified property
17 of any kind due, owing, or belonging to an obligor if (a) the
18 ~~director~~ department has reason to and does believe that there is
19 in the possession of the payor property which is due, owing, or
20 belonging to an obligor, (b) payment on a support order is in
21 arrears, (c) the ~~director~~ department sent a notice of arrearage to
22 the obligor pursuant to section 43-3333 at least thirty days prior
23 to sending the notice to withhold and deliver, and (d) no hearing
24 was requested or after a hearing the department determined that an
25 arrearage did exist or that there was no mistake of fact.

1 (2) The order to withhold and deliver shall state that
2 notice has been mailed to the obligor in accordance with the
3 requirements of subdivision (1)(c) of this section and that the
4 obligor has not requested a hearing or, after a hearing, the
5 department has determined that an arrearage exists or that there
6 was no mistake of fact, the amount in arrears, the social security
7 number of the obligor, the court or agency to which the property
8 is to be delivered, instructions for transmitting the property, and
9 information regarding the requirements found in subsection (3) of
10 this section. The order shall include written questions regarding
11 the property of every description, including whether or not any
12 other person has an ownership interest in the property, and the
13 credits of the obligor which are in the possession or under the
14 control of the payor at the time the order is received.

15 (3) Upon receipt of an order to withhold and deliver, a
16 payor shall:

17 (a) Hold property that is subject to the order and that
18 is in the possession or under the control of the payor at the time
19 the order to withhold and deliver was received, to the extent of
20 the amount of the arrearage stated in the order until the payor
21 receives further notice from the ~~director~~, department;

22 (b) Answer all of the questions asked of the payor in
23 the order, supply the name and address of any person that has an
24 ownership interest in the property sought to be reached, and return
25 such information to the ~~director~~ department within five business

1 days after receiving the order; and

2 (c) Upon further notice from the ~~director~~, department,
3 deliver any property which may be subject to the order to the
4 court or agency designated in the order or release such property or
5 portion thereof.

6 (4) An order to withhold and deliver shall have the same
7 priority as a garnishment for the support of a person pursuant to
8 subsection (4) of section 25-1056.

9 (5) If the payor is a financial institution, such
10 financial institution may deduct and retain a processing fee
11 from any amounts turned over to the department under this section.
12 The processing fee shall not exceed ten dollars for each account
13 turned over to the department.

14 Sec. 166. Section 43-3335, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 43-3335 (1) Within five days after the issuance of the
17 order to withhold and deliver, the ~~director~~ department shall send
18 written notice to the obligor by first-class mail. The notice shall
19 be dated and shall specify the payor to which an order to withhold
20 and deliver was sent, the amount due, the steps to be followed to
21 release the property, the time period in which to respond to such
22 notice, and the court or agency of competent jurisdiction which
23 issued the support order.

24 (2) The obligor may request a hearing to contest a
25 mistake of fact by sending a written request to the ~~director~~

1 department within seven days after the date of the notice. The
2 department shall provide an opportunity for a hearing within
3 ten days after receipt of the written request and shall stay
4 enforcement actions under sections 43-3333 to 43-3337 until the
5 administrative appeal process is completed.

6 Sec. 167. Section 43-3336, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 43-3336 (1) If, after receiving the information from
9 the payor in subdivision (3)(b) of section 43-3334, the ~~director~~
10 department has knowledge that another person has an ownership
11 interest or may claim an ownership interest in any property sought
12 to be reached which is in the possession or under the control of
13 the payor as the property of the obligor, the ~~director~~ department
14 shall send written notice to such person or persons by certified
15 mail, return receipt requested. The notice shall be dated and shall
16 specify why the order to withhold and deliver was issued, the
17 payor to which the order to withhold and deliver was sent, and
18 that the person has a right to request a hearing by the department
19 within fifteen days after the date of the notice to establish
20 that the property or any part thereof is not the property of the
21 obligor. The department shall provide an opportunity for hearing
22 to a person making such request and shall stay enforcement actions
23 under sections 43-3333 to 43-3337 until the administrative appeal
24 process is completed.

25 (2) Any person other than the obligor claiming an

1 ownership interest in any property sought to be reached which
2 is in the possession or under the control of the payor as the
3 property of the obligor has a right to timely request a hearing by
4 the department to establish that the property or any part thereof
5 is not the property of the obligor. The department shall provide an
6 opportunity for hearing to a person making such request and shall
7 stay enforcement actions under sections 43-3333 to 43-3337 until
8 the administrative appeal process is completed. If the property or
9 any part of the property which is in the possession or under the
10 control of the payor is not the property of the obligor, the payor
11 is discharged as to that property which is not the obligor's.

12 Sec. 168. Section 43-3338, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 43-3338 Any person aggrieved by a determination of the
15 department under sections 43-3328 to 43-3339, upon exhaustion of
16 the procedures for administrative review provided in such sections,
17 or the ~~director~~ department may seek judicial review in the court in
18 which the support order was issued or registered.

19 Sec. 169. Section 43-3342.04, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 43-3342.04 (1) The Title IV-D Division shall establish a
22 Customer Service Unit. In hiring the initial staff for the unit, a
23 hiring preference shall be given to employees of the clerks of the
24 district court. The duties of the Customer Service Unit include,
25 but are not limited to:

1 (a) Providing account information as well as addressing
2 inquiries made by customers of the State Disbursement Unit; and

3 (b) Administering two statewide toll-free telephone
4 systems, one for use by employers and one for use by all other
5 customers, to provide responses to inquiries regarding income
6 withholding, the collection and disbursement of support order
7 payments made to the State Disbursement Unit, and other child
8 support enforcement issues, including establishing a call center
9 with sufficient telephone lines, a voice response unit, and
10 adequate personnel available during normal business hours to ensure
11 that responses to inquiries are made by the division's personnel
12 or the division's designee.

13 (2) The physical location of the Customer Service Unit
14 shall be in Nebraska and shall result in the hiring of a number of
15 new employees or contractor's staff equal to at least one-fourth
16 of one percent of the labor force in the county or counties in
17 which the Customer Service Unit is located. Customer service staff
18 responsible for providing account information related to the State
19 Disbursement Unit may be located at the same location as the State
20 Disbursement Unit.

21 (3) ~~The Director of Health and Human Services~~ department
22 shall issue a report to the Governor and to the Legislature on or
23 before January 31 of each year which discloses information relating
24 to the operation of the State Disbursement Unit for the preceding
25 calendar year including, but not limited to:

- 1 (a) The number of transactions processed by the State
2 Disbursement Unit;
- 3 (b) The dollar amount collected by the State Disbursement
4 Unit;
- 5 (c) The dollar amount disbursed by the State Disbursement
6 Unit;
- 7 (d) The percentage of identifiable collections disbursed
8 within two business days;
- 9 (e) The percentage of identifiable collections that are
10 matched to the correct case;
- 11 (f) The number and dollar amount of insufficient funds
12 checks received by the State Disbursement Unit;
- 13 (g) The number and dollar amount of insufficient
14 funds checks received by the State Disbursement Unit for which
15 restitution is subsequently made to the State Disbursement Unit;
- 16 (h) The number of incoming telephone calls processed
17 through the Customer Service Unit;
- 18 (i) The average length of incoming calls from employers;
- 19 (j) The average length of incoming calls from all other
20 customers;
- 21 (k) The percentage of incoming calls resulting in
22 abandonment by the customer;
- 23 (l) The percentage of incoming calls resulting in a
24 customer receiving a busy signal;
- 25 (m) The average holding time for all incoming calls; and

1 (n) The percentage of calls handled by employees of the
2 Customer Service Unit that are resolved within twenty-four hours.

3 Sec. 170. Section 43-3401, Revised Statutes Cumulative
4 Supplement, 2006, is amended to read:

5 43-3401 The Early Childhood Interagency Coordinating
6 Council is created. The council shall advise and assist the
7 collaborating agencies in carrying out the provisions of the Early
8 Intervention Act, the Quality Child Care Act, sections 79-1101 to
9 79-1104, and other early childhood care and education initiatives
10 under state supervision. Membership and activities of the council
11 shall comply with all applicable provisions of federal law. Members
12 of the council shall be appointed by the Governor and shall
13 include, but not be limited to:

14 (1) Parents of children who require early intervention
15 services, early childhood special education, and other early
16 childhood care and education services; and

17 (2) Representatives of school districts, social
18 services, health and medical services, family child care and
19 center-based early childhood care and education programs, agencies
20 providing training to staff of child care programs, resource
21 and referral agencies, mental health services, developmental
22 disabilities services, educational service units, Head Start,
23 higher education, physicians, the Legislature, business persons,
24 and the collaborating agencies.

25 Terms of the members shall be for three years, and

1 a member shall not serve more than two consecutive three-year
2 terms. Members shall be reimbursed for their actual and necessary
3 expenses, including child care expenses, with funds provided for
4 such purposes through the Early Intervention Act, the Quality Child
5 Care Act, and sections 79-1101 to 79-1104.

6 Members of the Nebraska Interagency Coordinating Council
7 serving on July 13, 2000, shall constitute the Early Childhood
8 Interagency Coordinating Council and shall serve for the remainder
9 of their terms. The Governor shall make additional appointments
10 as required by this section and to fill vacancies as needed.
11 The Governor shall set the initial terms of additional appointees
12 to result in staggered terms for members of the council. The
13 Department of Health and Human Services ~~Finance and Support~~, the
14 Department of Health and Human Services ~~Regulation and Licensure~~,
15 and the State Department of Education shall provide and coordinate
16 staff assistance to the council.

17 Sec. 171. Section 43-3402, Revised Statutes Cumulative
18 Supplement, 2006, is amended to read:

19 43-3402 With respect to the Early Intervention Act, the
20 Quality Child Care Act, and sections 79-1101 to 79-1104, the
21 Early Childhood Interagency Coordinating Council shall serve in an
22 advisory capacity to state agencies responsible for early childhood
23 care and education, including care for school-age children, in
24 order to:

25 (1) Promote the policies set forth in the Early

1 Intervention Act, the Quality Child Care Act, and sections 79-1101
2 to 79-1104;

3 (2) Facilitate collaboration with the federally
4 administered Head Start program;

5 (3) Make recommendations to the Department of Health and
6 Human Services, ~~the Department of Health and Human Services Finance~~
7 ~~and Support,~~ ~~the Department of Health and Human Services Regulation~~
8 ~~and Licensure,~~ the State Department of Education, and other state
9 agencies responsible for the regulation or provision of early
10 childhood care and education programs on the needs, priorities, and
11 policies relating to such programs throughout the state;

12 (4) Make recommendations to the lead agency or agencies
13 which prepare and submit applications for federal funding;

14 (5) Review new or proposed revisions to rules and
15 regulations governing the registration or licensing of early
16 childhood care and education programs;

17 (6) Study and recommend additional resources for early
18 childhood care and education programs; and

19 (7) Report biennially to the Governor and Legislature
20 on the status of early intervention and early childhood care and
21 education in the state. Such report shall include (a) the number
22 of license applications received under section 71-1911, (b) the
23 number of such licenses issued, (c) the number of such license
24 applications denied, (d) the number of complaints investigated
25 regarding such licensees, (e) the number of such licenses revoked,

1 (f) the number and dollar amount of civil penalties levied pursuant
2 to section 71-1920, and (g) information which may assist the
3 Legislature in determining the extent of cooperation provided
4 to the Department of Health and Human Services ~~Regulation and~~
5 ~~Licensure~~ by other state and local agencies pursuant to section
6 71-1914.

7 Sec. 172. Section 43-3810, Revised Statutes Cumulative
8 Supplement, 2006, is amended to read:

9 43-3810 The ~~Director of Health and Human Services~~ chief
10 executive officer of the department or his or her designee shall
11 meet as necessary with consular officials to discuss, clarify, and
12 coordinate activities, ideas and concerns of a high-profile nature,
13 timely media attention, and joint prevention efforts regarding the
14 protection and well-being of foreign national minors and minors
15 holding dual citizenship and families.

16 Sec. 173. Section 44-771, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 44-771 Hospital shall mean an institution licensed as a
19 hospital by the Department of Health and Human Services ~~Regulation~~
20 ~~and Licensure~~ and defined in section 71-419.

21 Sec. 174. Section 44-772, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 44-772 Substance abuse treatment center shall mean an
24 institution licensed as a substance abuse treatment center by the
25 Department of Health and Human Services ~~Regulation and Licensure~~

1 and defined in section 71-430, which provides a program for the
2 inpatient or outpatient treatment of alcoholism pursuant to a
3 written treatment plan approved and monitored by a physician and
4 which is affiliated with a hospital under a contractual agreement
5 with an established system for patient referral.

6 Sec. 175. Section 44-773, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 44-773 Outpatient program shall refer to a program which
9 is licensed or certified by the Department of Health and Human
10 Services ~~Regulation and Licensure~~ or the Division of Behavioral
11 Health ~~Services~~ of the Department of Health and Human Services to
12 provide specified services to persons suffering from the disease of
13 alcoholism.

14 Sec. 176. Section 44-774, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 44-774 Certified shall mean approved by the Division of
17 Behavioral Health ~~Services~~ of the Department of Health and Human
18 Services to render specific types or levels of care to the person
19 suffering from the disease of alcoholism.

20 Sec. 177. Section 44-782, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 44-782 No insurance company, health maintenance
23 organization, or other health insurance provider shall deny payment
24 for treatment of mental or nervous disorders under a policy,
25 contract, certificate, or other evidence of coverage issued or

1 delivered in Nebraska on the basis that the hospital or state
2 institution licensed as a hospital by the Department of Health
3 and Human Services ~~Regulation and Licensure~~ and defined in section
4 71-419 providing such treatment is publicly funded and charges are
5 reduced or no fee is charged depending on the patient's ability
6 to pay.

7 Sec. 178. Section 44-793, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 44-793 (1) On or after January 1, 2000, notwithstanding
10 section 44-3,131, any health insurance plan delivered, issued, or
11 renewed in this state (a) if coverage is provided for treatment
12 of mental health conditions other than alcohol or substance abuse,
13 (i) shall not establish any rate, term, or condition that places
14 a greater financial burden on an insured for access to treatment
15 for a serious mental illness than for access to treatment for
16 a physical health condition and (ii) if an out-of-pocket limit
17 is established for physical health conditions, shall apply such
18 out-of-pocket limit as a single comprehensive out-of-pocket limit
19 for both physical health conditions and mental health conditions,
20 or (b) if no coverage is to be provided for treatment of mental
21 health conditions, shall provide clear and prominent notice of such
22 noncoverage in the plan.

23 (2) If a health insurance plan provides coverage for
24 serious mental illness, the health insurance plan shall cover
25 health care rendered for treatment of serious mental illness (a)

1 by a mental health professional, (b) by a person authorized by
2 the rules and regulations of the Department of Health and Human
3 Services ~~Regulation and Licensure~~ to provide treatment for mental
4 illness, (c) in a mental health center as defined in section
5 71-423, or (d) in any other health care facility licensed under
6 the Health Care Facility Licensure Act that provides a program for
7 the treatment of a mental health condition pursuant to a written
8 plan. The issuer of a health insurance plan may require a health
9 care provider under this subsection to enter into a contract as a
10 condition of providing benefits.

11 (3) The Director of Insurance may disapprove any plan
12 that the director determines to be inconsistent with the purposes
13 of this section.

14 Sec. 179. Section 44-1102, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 44-1102 For purposes of the Viatical Settlements Act:

17 (1) Advertising means any written, electronic, or printed
18 communication or any communication by means of recorded telephone
19 messages or transmitted on radio, television, the Internet,
20 or similar communications media, including film strips, motion
21 pictures, and videos, published, disseminated, circulated, or
22 placed before the public, directly or indirectly, for the purpose
23 of creating an interest in or inducing a person to sell a life
24 insurance policy pursuant to a viatical settlement contract;

25 (2) Business of viatical settlements means an

1 activity involved in, but not limited to, the offering,
2 solicitation, negotiation, procurement, effectuation, purchasing,
3 investing, financing, monitoring, tracking, underwriting, selling,
4 transferring, assigning, pledging, or hypothecating of viatical
5 settlement contracts or purchase agreements;

6 (3) Chronically ill means (a) being unable to perform at
7 least two activities of daily living, such as eating, toileting,
8 transferring, bathing, dressing, or continence; (b) requiring
9 substantial supervision to protect the individual from threats to
10 health and safety due to severe cognitive impairment; or (c) having
11 a level of disability similar to that described in subdivision
12 (3) (a) of this section as determined by the ~~Director~~ Department of
13 Health and Human Services;

14 (4) Department means the Department of Insurance;

15 (5) Director means the Director of Insurance;

16 (6) Financing entity means an underwriter, a placement
17 agent, a lender, a purchaser of securities, a purchaser of a
18 policy or certificate from a viatical settlement provider, a
19 credit enhancer, or any entity that has a direct ownership in a
20 policy or certificate that is the subject of a viatical settlement
21 contract (a) whose principal activity related to the transaction is
22 providing funds to effect the viatical settlement or purchase of
23 one or more viaticated policies and (b) who has an agreement in
24 writing with one or more licensed viatical settlement providers to
25 finance the acquisition of viatical settlement contracts. Financing

1 entity does not include a nonaccredited investor or viatical
2 settlement purchaser;

3 (7) Fraudulent viatical settlement act means an act or
4 omission committed by any person who, knowingly and with intent to
5 defraud and for the purpose of depriving another of property or for
6 pecuniary gain, commits, or permits his or her employees or agents
7 to commit, any of the following acts:

8 (a) Presenting, causing to be presented, or preparing
9 with the knowledge or belief that it will be presented to or by a
10 viatical settlement provider, viatical settlement broker, viatical
11 settlement purchaser, financing entity, insurer, insurance broker,
12 insurance agent, or any other person, false material information,
13 or concealing material information, as part of, in support of, or
14 concerning a fact material to one or more of the following:

15 (i) An application for the issuance of a viatical
16 settlement contract or insurance policy;

17 (ii) The underwriting of a viatical settlement contract
18 or insurance policy;

19 (iii) A claim for payment or benefit pursuant to a
20 viatical settlement contract or insurance policy;

21 (iv) Premiums paid on an insurance policy;

22 (v) Payments and changes in ownership or beneficiary made
23 in accordance with the terms of a viatical settlement contract or
24 insurance policy;

25 (vi) The reinstatement or conversion of an insurance

1 policy;

2 (vii) The solicitation, offer, effectuation, or sale of a
3 viatical settlement contract or insurance policy;

4 (viii) The issuance of written evidence of a viatical
5 settlement contract or insurance;

6 (ix) A financing transaction; or

7 (x) Employing any device, scheme, or artifice to defraud
8 related to viaticated policies;

9 (b) In the furtherance of a fraud or to prevent the
10 detection of a fraud:

11 (i) Removing, concealing, altering, destroying, or
12 sequestering from the director the assets or records of a licensee
13 or other person engaged in the business of viatical settlements;

14 (ii) Misrepresenting or concealing the financial
15 condition of a licensee, financing entity, insurer, or other
16 person;

17 (iii) Transacting the business of viatical settlements in
18 violation of laws requiring a license, certificate of authority,
19 or other legal authority for the transaction of the business of
20 viatical settlements; or

21 (iv) Filing with the director or the chief insurance
22 regulatory official of another jurisdiction a document containing
23 false information or otherwise concealing information about a
24 material fact from the director;

25 (c) Presenting, causing to be presented, or preparing

1 with the knowledge or reason to believe that it will be presented,
2 to or by a viatical settlement provider, viatical settlement
3 broker, insurer, insurance agent, financing entity, viatical
4 settlement purchaser, or any other person, in connection with
5 a viatical settlement transaction or insurance transaction, an
6 insurance policy, knowing the policy was fraudulently obtained by
7 the insured, owner, or any agent thereof;

8 (d) Embezzlement, theft, misappropriation, or conversion
9 of money, funds, premiums, credits, or other property of a
10 viatical settlement provider, insurer, insured, viator, insurance
11 policyowner, or any other person engaged in the business of
12 viatical settlements or insurance; or

13 (e) Attempting to commit, assisting, aiding, or abetting
14 in the commission of, or conspiring to commit the acts or omissions
15 specified in this subdivision;

16 (8) Person means a natural person or a legal entity,
17 including an individual, a partnership, a limited liability
18 company, an association, a trust, or a corporation;

19 (9) Policy means an individual or group policy, group
20 certificate, contract, or arrangement of life insurance affecting
21 the rights of a resident of this state or bearing a reasonable
22 relation to this state, regardless of whether delivered or issued
23 for delivery in this state;

24 (10) Related provider trust means a titling trust or
25 other trust established by a licensed viatical settlement provider

1 or a financing entity for the sole purpose of holding the ownership
2 or beneficial interest in purchased policies in connection with
3 a financing transaction. The trust shall have a written agreement
4 with the licensed viatical settlement provider under which the
5 licensed viatical settlement provider is responsible for ensuring
6 compliance with all statutory and regulatory requirements and under
7 which the trust agrees to make all records and files related to
8 viatical settlement transactions available to the director as if
9 those records and files were maintained directly by the licensed
10 viatical settlement provider;

11 (11) Special purpose entity means a corporation,
12 partnership, trust, limited liability company, or other similar
13 entity formed solely to provide, either directly or indirectly,
14 access to institutional capital markets for a financing entity or
15 licensed viatical settlement provider;

16 (12) Terminally ill means having an illness or sickness
17 that can reasonably be expected to result in death in twenty-four
18 months or less;

19 (13) Viatical settlement broker means a person that
20 on behalf of a viator and for a fee, commission, or other
21 valuable consideration offers or attempts to negotiate viatical
22 settlement contracts between a viator and one or more viatical
23 settlement providers. Notwithstanding the manner in which the
24 viatical settlement broker is compensated, a viatical settlement
25 broker is deemed to represent only the viator and owes a fiduciary

1 duty to the viator to act according to the viator's instructions
2 and in the best interest of the viator. Viatical settlement
3 broker includes a licensed life insurance producer that meets
4 the requirements of section 44-1103. Viatical settlement broker
5 does not include an attorney, a certified public accountant,
6 or a financial planner accredited by a nationally recognized
7 accreditation agency who is retained to represent the viator and
8 whose compensation is not paid directly or indirectly by the
9 viatical settlement provider or purchaser;

10 (14) Viatical settlement contract means a written
11 agreement establishing the terms under which compensation or
12 anything of value will be paid, which compensation or value is
13 less than the expected death benefit of the insurance policy or
14 certificate, in return for the viator's assignment, transfer, sale,
15 devise, or bequest of the death benefit or ownership or any portion
16 of the insurance policy or certificate of insurance. A viatical
17 settlement contract also includes a contract for a loan or other
18 financing transaction secured primarily by an individual or group
19 life insurance policy, other than a loan by a life insurance
20 company pursuant to the terms of the life insurance contract, or a
21 loan secured by the cash value of a policy. A viatical settlement
22 contract includes an agreement to transfer ownership or change the
23 beneficiary designation at a later date regardless of the date that
24 compensation is paid to the viator;

25 (15) Viatical settlement provider means a person, other

1 than a viator, that enters into or effectuates a viatical
2 settlement contract. Viatical settlement provider does not include:

3 (a) A bank, savings bank, savings and loan association,
4 credit union, or other licensed lending institution that takes an
5 assignment of a life insurance policy as collateral for a loan;

6 (b) The issuer of a life insurance policy providing
7 accelerated benefits under and pursuant to the contract;

8 (c) An authorized or eligible insurer that provides
9 stop-loss coverage to a viatical settlement provider, purchaser,
10 financing entity, special purpose entity, or related provider
11 trust;

12 (d) A natural person who enters into or effectuates no
13 more than one agreement in a calendar year for the transfer of
14 life insurance policies for any value less than the expected death
15 benefit;

16 (e) A financing entity;

17 (f) A special purpose entity;

18 (g) A related provider trust;

19 (h) A viatical settlement purchaser; or

20 (i) An accredited investor or qualified institutional
21 buyer as defined respectively in Regulation D, Rule 501, or Rule
22 144A of the federal Securities Act of 1933, as the act existed
23 on September 1, 2001, who purchases a viaticated policy from a
24 viatical settlement provider;

25 (16) Viatical settlement purchaser means a person who

1 gives a sum of money as consideration for a life insurance policy
2 or an interest in the death benefits of a life insurance policy,
3 or a person who owns or acquires or is entitled to a beneficial
4 interest in a trust that owns a viatical settlement contract or is
5 the beneficiary of a life insurance policy that has been or will
6 be the subject of a viatical settlement contract, for the purpose
7 of deriving an economic benefit. Viatical settlement purchaser does
8 not include:

9 (a) A licensee under the Viatical Settlements Act;

10 (b) An accredited investor or qualified institutional
11 buyer as defined respectively in Regulation D, Rule 501, or Rule
12 144A of the federal Securities Act of 1933, as the act existed on
13 September 1, 2001;

14 (c) A financing entity;

15 (d) A special purpose entity; or

16 (e) A related provider trust;

17 (17) Viaticated policy means a life insurance policy
18 or certificate that has been acquired by a viatical settlement
19 provider pursuant to a viatical settlement contract; and

20 (18) Viator means the owner of a life insurance policy
21 or a certificate holder under a group policy who enters or seeks
22 to enter into a viatical settlement contract. For purposes of the
23 Viatical Settlements Act, a viator is not limited to an owner of a
24 life insurance policy or a certificate holder under a group policy
25 insuring the life of an individual with a terminal or chronic

1 illness or condition except as specifically addressed. Viator does
2 not include:

3 (a) A licensee under the act;

4 (b) An accredited investor or qualified institutional
5 buyer as defined respectively in Regulation D, Rule 501, or Rule
6 144A of the federal Securities Act of 1933, as the act existed on
7 September 1, 2001;

8 (c) A financing entity;

9 (d) A special purpose entity; or

10 (e) A related provider trust.

11 Sec. 180. Section 44-2835, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 44-2835 (1) Each malpractice claim settled or adjudicated
14 to final judgment against a health care provider under the Nebraska
15 Hospital-Medical Liability Act shall be reported to the director
16 by the plaintiff's attorney and by the health care provider or his
17 or her insurer or risk manager within sixty days following final
18 disposition of the claim. Such report to the director shall state
19 the following:

20 (a) The nature of the claim;

21 (b) The alleged injury and the damages asserted;

22 (c) Attorney's fees and expenses incurred in connection
23 with the claim or defense; and

24 (d) The amount of any settlement or judgment.

25 (2) The director shall forward the name of every health

1 care provider, except a hospital, against whom a settlement has
2 been made or judgment has been rendered under the act to the
3 Department of Health and Human Services ~~Regulation and Licensure~~
4 for such action, if any, as it deems to be appropriate under the
5 circumstances.

6 Sec. 181. Section 44-2847, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 44-2847 (1) Medical review panels shall be concerned
9 only with the determination of the questions set forth in section
10 44-2843. Such panels shall not consider or report on disputed
11 questions of law.

12 (2) To provide for uniformity of procedure, the ~~Director~~
13 ~~of Regulation and Licensure~~ Department of Health and Human Services
14 may appoint a doctor of medicine from the members of the Board of
15 Medicine and Surgery who may sit with each panel as an observer and
16 as an adviser on procedure but without a vote.

17 Sec. 182. Section 44-2901, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 44-2901 Any three or more hospitals as defined in section
20 71-419, which are located in this state and licensed by the
21 Department of Health and Human Services, ~~Regulation and Licensure,~~
22 may incorporate a mutual insurance association to insure member
23 hospitals and their officers, directors, employees, and volunteer
24 workers against liability arising from rendering, or failing
25 to render, professional services in the treatment or care of

1 patients by hospitals and their agents and employees or by member
2 physicians.

3 Sec. 183. Section 44-2904, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 44-2904 Any hospital, whether within or without the
6 state, shall be qualified to become a member of a hospital
7 association incorporated under sections 44-2901 to 44-2918 if it
8 is licensed either by the Department of Health and Human Services
9 ~~Regulation and Licensure~~ or by the corresponding authority in the
10 state in which the hospital is located, except that no hospital
11 outside of this state may become a member of such an association
12 until one year after March 31, 1976, nor may any risks outside
13 this state be insured under the provisions of sections 44-2901
14 to 44-2918 until one year after the issuance of a certificate
15 of authority to transact insurance business by the Department of
16 Insurance. All such risks shall be subject to the prior approval of
17 the Director of Insurance.

18 In determining whether or not to grant approval for the
19 insuring of risks outside of Nebraska, the Director of Insurance
20 shall consider the following: (1) Limits of indemnity; (2) past
21 and present loss experience of the hospital to be insured; (3)
22 statutes, court decisions, and the insurance climate of the
23 jurisdiction in which the risk is located; and (4) such other
24 information as the director may deem relevant.

25 Sec. 184. Section 44-32,119, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 44-32,119 (1) Upon receipt of an application for issuance
3 of a certificate of authority, the Director of Insurance shall
4 forthwith transmit copies of such application and accompanying
5 documents to the ~~Director of Regulation and Licensure~~ Department
6 of Health and Human Services.

7 (2) The ~~Director of Regulation and Licensure~~ Department
8 of Health and Human Services shall determine whether the applicant
9 has complied with sections 44-32,126 to 44-32,128 with respect to
10 health care services to be furnished.

11 (3) Within forty-five days of receipt of the application
12 for issuance of a certificate of authority, the ~~Director of~~
13 ~~Regulation and Licensure~~ Department of Health and Human Services
14 shall certify to the Director of Insurance that the proposed health
15 maintenance organization meets the requirements of such sections
16 or notify the Director of Insurance that the health maintenance
17 organization does not meet such requirements and specify in what
18 respects it is deficient.

19 Sec. 185. Section 44-32,120, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 44-32,120 The Director of Insurance shall, within
22 forty-five days of receipt of certification or notice of
23 deficiencies pursuant to section 44-32,119, issue a certificate
24 of authority to any person filing a completed application upon
25 receiving the prescribed fees and being satisfied that:

1 (1) The persons responsible for the conduct of the
2 affairs of the applicant are competent, trustworthy, and possess
3 good reputations;

4 (2) Any deficiencies identified by the ~~Director of~~
5 Regulation and Licensure Department of Health and Human Services
6 have been corrected and the ~~Director of Regulation and Licensure~~
7 department has certified to the Director of Insurance that the
8 health maintenance organization's proposed plan of operation meets
9 the requirements of sections 44-32,126 to 44-32,128;

10 (3) The health maintenance organization will effectively
11 provide or arrange for the provision of basic health care services
12 on a prepaid basis, through insurance or otherwise, except to the
13 extent of reasonable requirements for copayments or deductibles;
14 and

15 (4) The health maintenance organization is in compliance
16 with sections 44-32,138 to 44-32,148.

17 A certificate of authority shall be denied only after
18 the Director of Insurance complies with the requirements of section
19 44-32,153.

20 Sec. 186. Section 44-32,127, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 44-32,127 Each health maintenance organization shall have
23 an ongoing, internal quality assurance program to monitor and
24 evaluate its health care services, including primary and specialist
25 physician services, and ancillary and preventive health care

1 services across all institutional and noninstitutional settings.
2 The quality assurance program shall include, but not be limited to,
3 the following:

4 (1) A written statement of goals and objectives which
5 emphasizes improved health status in evaluating the quality of care
6 rendered to enrollees;

7 (2) A written quality assurance plan which describes the
8 following:

9 (a) The health maintenance organization's scope and
10 purpose in quality assurance;

11 (b) The organizational structure responsible for quality
12 assurance activities;

13 (c) Contractual arrangements, when appropriate, for
14 delegation of quality assurance activities;

15 (d) Confidentiality policies and procedures;

16 (e) A system of ongoing evaluation activities;

17 (f) A system of focused evaluation activities;

18 (g) A system for credentialing providers and performing
19 peer review activities; and

20 (h) Duties and responsibilities of the designated
21 physician responsible for the quality assurance activities;

22 (3) A written statement describing the system of ongoing
23 quality assurance activities, including, but not limited to, the
24 following:

25 (a) Problem assessment, identification, selection, and

1 study;

2 (b) Corrective action, monitoring, evaluation, and
3 reassessment; and

4 (c) Interpretation and analysis of patterns of care
5 rendered to individual patients by individual providers;

6 (4) A written statement describing the system of focused
7 quality assurance activities based on representative samples of the
8 enrolled population which identifies method of topic selection,
9 study, data collection, analysis, interpretation, and report
10 format; and

11 (5) A written plan for taking appropriate corrective
12 action whenever, as determined by the quality assurance program,
13 inappropriate or substandard services have been provided or
14 services which should have been furnished have not been provided.

15 Each health maintenance organization shall record
16 proceedings of formal quality assurance program activities and
17 maintain documentation in a confidential manner. Quality assurance
18 program minutes shall be available to the ~~Director of Regulation~~
19 ~~and Licensure.~~ Department of Health and Human Services. Each
20 health maintenance organization shall also establish a mechanism
21 for periodic reporting of quality assurance program activities to
22 the governing body of the health maintenance organization, the
23 providers, and appropriate staff.

24 Sec. 187. Section 44-32,128, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 44-32,128 Each health maintenance organization shall
2 ensure the use and maintenance of an adequate patient record
3 system which facilitates documentation and retrieval of clinical
4 information for the purpose of the health maintenance organization
5 evaluating continuity and coordination of patient care and
6 assessing the quality of health and medical care provided to
7 enrollees. Enrollee clinical records shall be available to the
8 ~~Director of Regulation and Licensure~~ Department of Health and Human
9 Services or an authorized designee for examination and review to
10 ascertain compliance with section 44-32,127 or as deemed necessary
11 by the ~~Director of Regulation and Licensure~~ department.

12 Sec. 188. Section 44-32,134, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 44-32,134 (1) Every health maintenance organization
15 shall file annually, on or before March 1, an annual financial
16 statement with the Director of Insurance, with a copy to the
17 ~~Director of Regulation and Licensure,~~ Department of Health and
18 Human Services, covering the preceding calendar year. The annual
19 financial statement shall be on forms prescribed by the Director
20 of Insurance and shall be prepared in accordance with annual
21 statement instructions and accounting practices and procedures
22 manuals as prescribed by the director which conform substantially
23 to the annual statement instructions and the Accounting Practices
24 and Procedures Manuals of the National Association of Insurance
25 Commissioners.

1 (2) Every health maintenance organization shall file
2 annually, on or before March 1, with the Director of Insurance,
3 with a copy to the ~~Director of Regulation and Licensure~~
4 department:

5 (a) A list of the providers who have executed a contract
6 that complies with section 44-32,141; and

7 (b) A description of the grievance procedures, the total
8 number of grievances handled through such procedures, a compilation
9 of the causes underlying those grievances, and a summary of the
10 final disposition of those grievances.

11 (3) Every health maintenance organization shall file
12 annually, on or before June 1, audited financial statements
13 with the Director of Insurance, with a copy to the ~~Director~~
14 of Regulation and Licensure department.

15 (4) The Director of Insurance may require such additional
16 reports as are deemed necessary and appropriate to carry out his or
17 her duties under the Health Maintenance Organization Act.

18 Sec. 189. Section 44-32,136, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 44-32,136 Each health maintenance organization shall
21 establish and maintain a grievance procedure to provide for the
22 resolution of grievances initiated by enrollees. The procedure
23 shall be approved by the Director of Insurance after consultation
24 with the ~~Director of Regulation and Licensure~~ Department of
25 Health and Human Services. The Director of Insurance or the

1 ~~Director of Regulation and Licensure~~ department may examine the
2 grievance procedure. The health maintenance organization shall
3 maintain records regarding grievances received since the date of
4 the last examination.

5 Sec. 190. Section 44-32,152, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 44-32,152 (1) The Director of Insurance may make an
8 examination of the affairs of any health maintenance organization
9 in accordance with the Insurers Examination Act and any provider
10 with whom such health maintenance organization has contracts,
11 agreements, or other arrangements as often as is reasonably
12 necessary for the protection of the interests of the people of
13 this state. The ~~Director of Regulation and Licensure~~ Department of
14 Health and Human Services may make an examination concerning the
15 quality assurance program of any health maintenance organization
16 and any provider with whom such health maintenance organization
17 has contracts, agreements, or other arrangements as often as is
18 reasonably necessary for the protection of the interests of the
19 people of this state but not less frequently than once every three
20 years.

21 (2) Every health maintenance organization and provider
22 shall submit its books and records for an examination and in every
23 way facilitate the completion of the examination. For the purpose
24 of an examination, the Director of Insurance and the ~~Director of~~
25 Regulation and Licensure Department of Health and Human Services

1 may administer oaths to and examine the officers and agents of the
2 health maintenance organization and the principals of a provider
3 concerning the business. An examination shall not involve the
4 confidential communications between physicians and patients.

5 (3) The expenses of an examination shall be assessed
6 against the health maintenance organization being examined and
7 remitted to the Director of Insurance or the ~~Director of Regulation~~
8 ~~and Licensure~~ Department of Health and Human Services for whom
9 the examination is being conducted in the manner provided in the
10 Insurers Examination Act.

11 (4) In lieu of an examination, the Director of Insurance
12 or the ~~Director of Regulation and Licensure~~ Department of Health
13 and Human Services may accept the report of an examination
14 made by the insurance commissioner, insurance director, insurance
15 superintendent, or equivalent official or director of health or
16 equivalent official of another state.

17 Sec. 191. Section 44-32,153, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 44-32,153 If the Director of Insurance finds that any of
20 the conditions listed in this section exist, any certificate of
21 authority issued under the Health Maintenance Organization Act may
22 be suspended or revoked or any application for a certificate of
23 authority may be denied:

24 (1) The health maintenance organization is operating
25 significantly in contravention of its basic organizational document

1 or in a manner contrary to that described in any other information
2 submitted under section 44-32,117 unless amendments to such
3 submissions have been filed with and approved by the director;

4 (2) The health maintenance organization issues an
5 evidence of coverage or uses a schedule of charges for health care
6 services which does not comply with the requirements of sections
7 44-32,129 to 44-32,133 and 44-32,149;

8 (3) The health maintenance organization does not provide
9 or arrange for basic health care services;

10 (4) The ~~Director of Regulation and Licensure~~ Department
11 of Health and Human Services certifies to the Director of Insurance
12 that:

13 (a) The health maintenance organization does not meet the
14 requirements of subsection (2) of section 44-32,119; or

15 (b) The health maintenance organization is unable to
16 fulfill its obligations to furnish health care services;

17 (5) The health maintenance organization is no longer
18 financially responsible and may reasonably be expected to be unable
19 to meet its obligations to enrollees or prospective enrollees;

20 (6) The health maintenance organization has failed to
21 correct, within the time prescribed by section 44-32,154, any
22 deficiency occurring due to such health maintenance organization's
23 prescribed minimum net worth being impaired;

24 (7) The health maintenance organization has failed to
25 implement grievance procedures in a reasonable manner to resolve

1 valid complaints;

2 (8) The health maintenance organization or any person
3 on its behalf has advertised or merchandised its services in an
4 untrue, misrepresentative, misleading, deceptive, or unfair manner;

5 (9) The continued operation of the health maintenance
6 organization would be hazardous to its enrollees; or

7 (10) The health maintenance organization has otherwise
8 failed substantially to comply with the act.

9 Sec. 192. Section 44-32,156, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 44-32,156 Suspension or revocation of a certificate of
12 authority, the denial of an application for a certificate, or the
13 imposition of an administrative penalty shall be by written order
14 and shall be sent by the Director of Insurance to the health
15 maintenance organization or applicant by certified or registered
16 mail and to the ~~Director of Regulation and Licensure.~~ Department
17 of Health and Human Services. The written order shall state the
18 grounds, charges, or conduct on which the suspension, revocation,
19 denial, or administrative penalty is based. The health maintenance
20 organization or applicant may in writing request a hearing within
21 thirty days from the date of mailing of the order. If no written
22 request is made, such order shall be final upon the expiration of
23 thirty days.

24 Sec. 193. Section 44-32,157, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 44-32,157 (1) If the health maintenance organization or
2 applicant requests a hearing pursuant to section 44-32,156, the
3 Director of Insurance shall issue a written notice of hearing and
4 send it to the health maintenance organization or applicant by
5 certified or registered mail and to the ~~Director of Regulation and~~
6 ~~Licensure~~ Department of Health and Human Services stating:

7 (a) A specific time for the hearing, which may not be
8 less than twenty nor more than thirty days after mailing of the
9 notice of hearing; and

10 (b) A specific place for the hearing, which may be either
11 in Lancaster County or in the county where the health maintenance
12 organization's or applicant's principal place of business is
13 located.

14 (2) If a hearing is requested, the ~~Director of Regulation~~
15 ~~and Licensure~~ chief executive officer of the Department of Health
16 and Human Services or his or her designated representative shall
17 be in attendance and shall participate in the proceedings. The
18 recommendations and findings of the ~~Director of Regulation and~~
19 ~~Licensure~~ chief executive officer with respect to matters relating
20 to the quality of health care services provided in connection
21 with any decision regarding denial, suspension, or revocation of a
22 certificate of authority shall be conclusive and binding upon the
23 Director of Insurance.

24 (3) After the hearing or upon failure of the health
25 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 to
3 the health maintenance organization or applicant with a copy to
4 the ~~Director of Regulation and Licensure~~, Department of Health
5 and Human Services. The action of the Director of Insurance and
6 the recommendation and findings of the ~~Director of Regulation and~~
7 ~~Licensure~~ chief executive officer may be appealed, and the appeal
8 shall be in accordance with the Administrative Procedure Act. The
9 act shall apply to proceedings under this section to the extent it
10 is not in conflict with this section.

11 Sec. 194. 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

1 Department of Health and Human Services, ~~Regulation and Licensure.~~
2 All fees or other assessments transmitted to the Department of
3 Health and Human Services ~~Regulation and Licensure~~ pursuant to the
4 act shall be remitted to the state treasury for credit to the
5 ~~Department of Health and Human Services Regulation and Licensure~~
6 Cash Fund. There shall be appropriated from money credited to the
7 fund pursuant to this section such amounts as are available to pay
8 expenses considered incident to the administration of the act.

9 Sec. 195. 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 of~~
12 ~~Regulation and Licensure~~ Department of Health and Human Services
13 has for any reason cause to believe that any violation of the
14 Health Maintenance Organization Act has occurred or is threatened,
15 the Director of Insurance or the ~~Director of Regulation and~~
16 ~~Licensure~~ Department of Health and Human Services may give notice
17 to the health maintenance organization and to the representatives
18 or other persons who appear to be involved in such suspected
19 violation to arrange a conference with the alleged violators or
20 their authorized representatives for the purpose of attempting
21 to ascertain the facts relating to such suspected violation and,
22 if it appears that any violation has occurred or is threatened,
23 to arrive at an adequate and effective means of correcting or
24 preventing such violation. Proceedings under this section shall
25 not be governed by any formal procedural requirements and may

1 be conducted in such manner as the Director of Insurance or the
2 ~~Director of Regulation and Licensure~~ Department of Health and
3 Human Services deems appropriate under the circumstances. Unless
4 consented to by the health maintenance organization, no rule or
5 order may result from a conference until the requirements of this
6 section are satisfied.

7 Sec. 196. Section 44-32,176, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 44-32,176 The ~~Director of Regulation and Licensure,~~
10 Department of Health and Human Services, in carrying out ~~his or~~
11 ~~her~~ obligations under the Health Maintenance Organization Act, may
12 contract with qualified persons to make recommendations concerning
13 the determinations required to be made by him or her. Such
14 recommendations may be accepted in full or in part by the ~~Director~~
15 ~~of Regulation and Licensure.~~ department.

16 Sec. 197. Section 44-4109.01, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 44-4109.01 Policies or contracts authorized by sections
19 44-4109 and 44-4110 are subject to the following requirements:

20 (1) A prospective insured shall be provided information
21 about the terms and conditions of the insurance arrangement to
22 enable him or her to make an informed decision about accepting a
23 system of health care delivery. If the insurance arrangement is
24 described orally to a prospective insured, the description shall
25 use easily understood, truthful, and objective terms. All written

1 descriptions shall be in a readable and understandable format.

2 Specific items that shall be included are:

3 (a) Coverage provisions, benefits, and any exclusions by
4 category of service, provider, or physician and, if applicable, by
5 specific service;

6 (b) Any prior authorization or other review requirements,
7 including preauthorization review, concurrent review, postservice
8 review, and postpayment review, the manner in which an insured
9 may obtain review of a denial of coverage, and the nature of
10 any liability an insured may incur if the insured does not
11 comply with the authorization requirements of the policy, contract,
12 certificate, or other materials; and

13 (c) Information on the insured's financial responsibility
14 for payment for deductibles, coinsurance, or other noncovered
15 services;

16 (2) If an insurer conducts customer satisfaction surveys
17 concerning an insurance arrangement, the results of such surveys
18 shall be made available upon request to existing and prospective
19 participants in insurance arrangements;

20 (3) The policy, contract, certificate, or other materials
21 shall establish a mechanism by which a committee of preferred
22 providers will be involved in reviewing and advising the insurance
23 arrangement about medical policy, including coverage of new
24 technology and procedures, quality and credentialing criteria, and
25 medical management procedures;

1 (4) All policies or contracts shall have a system for
2 credentialing participating preferred providers and shall allow
3 all providers within the insurance arrangement's geographic service
4 area to apply for such credentials periodically and not less than
5 annually. The credentialing process:

6 (a) Shall begin upon application of a provider for
7 inclusion in the policy or contract; and

8 (b) Shall be based solely on quality, accessibility, or
9 economic considerations and shall be applied in accordance with
10 reasonable business judgment.

11 Credentialing standards or criteria shall be made
12 available, upon request, to providers and insureds;

13 (5) If the policy or contract is with an organized
14 delivery system formed by insurers, hospitals, physicians, or
15 allied health professionals, or a combination of such entities,
16 participation by a provider may be limited to a participant in the
17 organized delivery system or to providers having staff privileges
18 at a particular health care facility;

19 (6) If an insurer or a participant in an insurance
20 arrangement refuses to contract with a provider, the provider shall
21 be permitted to appeal the adverse decision. A person conducting
22 the provider-appeal procedure may be employed by the insurer or
23 participant in an insurance arrangement if the person does not
24 initially participate in the decision to take adverse action
25 against the provider. The provider-appeal procedure shall include,

1 but not be limited to, notice of the date and time of the hearing,
2 a statement of the criteria or standards on which the decision
3 was based, an opportunity for the provider to review information
4 upon which the adverse decision was based, an opportunity for
5 the provider to appear personally at the hearing and present any
6 additional information, and a timely decision on the appeal;

7 (7) If the insurer or participant in an insurance
8 arrangement excludes or fails to retain a provider previously
9 contracted with to provide health care services, the provider shall
10 be permitted to appeal the adverse decision in the same manner
11 as set forth in subdivision (6) of this section. If the provider
12 disagrees with the decision, the provider shall be permitted to
13 appeal to an appeals committee consisting of one person selected
14 by each party to the appeal and one person mutually agreeable to
15 both parties. The parties to the appeal shall pay to the appeal
16 committee any costs associated with the person they select and
17 shall share the costs of the person mutually agreeable to both
18 parties, which costs shall not be recoverable by the other party;

19 (8) Prior to initiation of a proceeding to terminate
20 a provider's participation, the provider shall be given an
21 opportunity to enter into and complete a corrective action plan,
22 except in cases of fraud or imminent harm to patient health or when
23 the provider's ability to provide services has been restricted by
24 an action, including probation or any compliance agreements, by the
25 Department of Health and Human Services ~~Regulation and Licensure~~ or

1 other governmental agency; and

2 (9) Policies and contracts shall not exclude providers
3 with practices containing a substantial number of patients having
4 severe or expensive medical conditions, except that this section
5 shall not prohibit plans from excluding providers who fail to meet
6 the insurance arrangement's criteria for quality, accessibility, or
7 economic considerations.

8 Sec. 198. Section 44-7006, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 44-7006 (1) A health carrier shall:

11 (a) Establish written policies and procedures for
12 credentialing verification of all health care professionals with
13 whom the health carrier contracts and apply these standards
14 consistently;

15 (b) Verify the credentials of a health care professional
16 before entering into a contract with that health care professional.
17 The medical director of the health carrier or other designated
18 health care professional shall have responsibility for, and shall
19 participate in, credentialing verification;

20 (c) Establish a credentialing verification committee
21 consisting of licensed physicians and other health care
22 professionals to review credentialing verification information and
23 supporting documents and make decisions regarding credentialing
24 verification;

25 (d) Make available for review by the applying health care

1 professional upon written request all application and credentialing
2 verification policies and procedures;

3 (e) Retain all records and documents relating to a health
4 care professional's credentialing verification process for at least
5 five years; and

6 (f) Keep confidential all information obtained in the
7 credentialing verification process except as otherwise provided by
8 law.

9 (2) Nothing in the Health Care Professional Credentialing
10 Verification Act shall be construed to require a health carrier
11 to select a provider as a participating provider solely because
12 the provider meets the health carrier's credentialing verification
13 standards or to prevent a health carrier from utilizing separate or
14 additional criteria in selecting the health care professionals with
15 whom it contracts.

16 (3) The policies and procedures for credentialing
17 verification shall be available for review by the director, and,
18 in the case of a health maintenance organization, shall also be
19 available for review by the chief medical officer, if one is
20 appointed pursuant to section ~~81-3201~~, 6 of this act, and if not,
21 then the Director of ~~Regulation and Licensure~~. Public Health.

22 Sec. 199. Section 44-7107, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 44-7107 (1) A contract between a health carrier and an
25 intermediary shall satisfy all the requirements contained in this

1 section.

2 (2) (a) Intermediaries and participating providers
3 with whom they contract shall comply with all the applicable
4 requirements of section 44-7106.

5 (b) A health carrier's statutory responsibility to
6 monitor the offering of covered benefits to covered persons shall
7 not be delegated or assigned to the intermediary.

8 (c) A health carrier shall have the right to approve or
9 disapprove participation status of a subcontracted provider in its
10 own or a contracted network for the purpose of delivering covered
11 benefits to the health carrier's covered persons.

12 (d) A health carrier shall maintain copies of all
13 intermediary health care subcontracts at its principal place
14 of business in the state, or ensure that it has access to
15 all intermediary subcontracts, including the right to make
16 copies to facilitate regulatory review, upon twenty days' prior
17 written notice from the health carrier. A health carrier may
18 meet the requirements of this subdivision by maintaining a
19 copy of the intermediary health care subcontract forms used
20 by its intermediaries, and if the health carrier does so, the
21 health carrier shall also maintain a copy of any portion of an
22 intermediary health care subcontract which substantially differs
23 from the intermediary health care subcontract form in subject areas
24 other than reimbursement.

25 (e) If applicable, an intermediary shall transmit

1 utilization documentation and claims paid documentation to the
2 health carrier. The health carrier shall monitor the timeliness
3 and appropriateness of payments made to providers and health care
4 services received by covered persons.

5 (f) If applicable, an intermediary shall maintain the
6 books, records, financial information, and documentation of health
7 care services provided to covered persons at its principal place of
8 business in the state and preserve them for five years in a manner
9 that facilitates regulatory review.

10 (g) An intermediary shall allow the director and a health
11 maintenance organization shall allow the director and the ~~Director~~
12 ~~of Regulation and Licensure~~ Department of Health and Human Services
13 access to the intermediary's books, records, financial information,
14 and any documentation of health care services provided to covered
15 persons, as necessary to determine compliance with the Managed Care
16 Plan Network Adequacy Act.

17 (h) A health carrier shall have the right, in the event
18 of the intermediary's insolvency, to require the assignment to
19 the health carrier of the provisions of a provider's contract
20 addressing the provider's obligation to furnish covered services.

21 Sec. 200. Section 44-7206, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 44-7206 A health carrier that provides managed care
24 plans shall develop and maintain the infrastructure and disclosure
25 systems necessary to measure the quality of health care services

1 provided to covered persons on a regular basis and appropriate to
2 the types of managed care plans offered by the health carrier. A
3 health carrier shall:

4 (1) Establish a system designed to assess the quality
5 of health care provided to covered persons and appropriate to the
6 types of managed care plans offered by the health carrier. The
7 system shall include systematic collection, analysis, and reporting
8 of relevant data in accordance with statutory and regulatory
9 requirements;

10 (2) Communicate findings in a timely manner to applicable
11 regulatory agencies, providers, and consumers as provided in
12 section 44-7209;

13 (3) Report to the appropriate licensing authority any
14 persistent pattern of problematic care provided by a provider that
15 is sufficient to cause the health carrier to terminate or suspend
16 contractual arrangements with the provider. A health carrier acting
17 in good faith shall be granted immunity from any cause of action
18 under state law in making the report; and

19 (4) Develop a written description of the quality
20 assessment program available for review by the director, which
21 shall include a signed certification by a corporate officer of
22 the health carrier that the filing meets the requirements of the
23 Quality Assessment and Improvement Act. The written description of
24 the quality assessment program of a health maintenance organization
25 shall also be available for review by the ~~Director of Regulation~~

1 ~~and Licensure~~, Department of Health and Human Services.

2 Sec. 201. Section 44-7306, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 44-7306 (1) A health carrier shall maintain in a
5 grievance register written records to document all grievances
6 received during a calendar year. A request for a first-level
7 review of an adverse determination shall be processed in compliance
8 with section 44-7308 but not considered a grievance for purposes
9 of the grievance register unless such request includes a written
10 grievance. A request for a second-level review of an adverse
11 determination shall be considered a grievance for purposes of the
12 grievance register. For each grievance required to be recorded in
13 the grievance register, the grievance register shall contain, at a
14 minimum, the following information:

15 (a) A general description of the reason for the
16 grievance;

17 (b) Date received;

18 (c) Date of each review or hearing;

19 (d) Resolution at each level of the grievance;

20 (e) Date of resolution at each level; and

21 (f) Name of the covered person for whom the grievance was
22 filed.

23 (2) The grievance register shall be maintained in a
24 manner that is reasonably clear and accessible to the director. A
25 grievance register maintained by a health maintenance organization

1 shall also be accessible to the ~~Director of Regulation and~~
2 ~~Licensure~~. Department of Health and Human Services.

3 (3) A health carrier shall retain the grievance register
4 compiled for a calendar year for the longer of three years or until
5 the director has adopted a final report of an examination that
6 contains a review of the grievance register for that calendar year.

7 Sec. 202. Section 46-602, Revised Statutes Cumulative
8 Supplement, 2006, is amended to read:

9 46-602 (1) Each water well completed in this state on
10 or after July 1, 2001, excluding test holes and dewatering wells
11 to be used for less than ninety days, shall be registered with
12 the Department of Natural Resources as provided in this section
13 within sixty days after completion of construction of the water
14 well. The water well contractor as defined in section 46-1213
15 constructing the water well, or the owner of the water well if
16 the owner constructed the water well, shall file the registration
17 on a form made available by the department and shall also file
18 with the department the information from the well log required
19 pursuant to section 46-1241. The department shall, by January 1,
20 2002, provide water well contractors with the option of filing such
21 registration forms electronically. No signature shall be required
22 on forms filed electronically. The fee required by subsection (3)
23 of section 46-1224 shall be the source of funds for any required
24 fee to a contractor which provides the on-line services for such
25 registration. Any discount in the amount paid the state by a credit

1 card, charge card, or debit card company or a third-party merchant
2 bank for such registration fees shall be deducted from the portion
3 of the registration fee collected pursuant to section 46-1224.

4 (2)(a) If the newly constructed water well is a
5 replacement water well, the registration form shall include
6 (i) the registration number of the water well being replaced,
7 if applicable, and (ii) the date the original water well was
8 decommissioned or a certification that the water well will be
9 decommissioned within one hundred eighty days or a certification
10 that the original water well will be modified and equipped to
11 pump fifty gallons per minute or less and will be used only for
12 livestock, monitoring, observation, or any other nonconsumptive use
13 or de minimus use approved by the applicable natural resources
14 district.

15 (b) For purposes of this section, replacement water well
16 means a water well which is constructed to provide water for
17 the same purpose as the original water well and is operating in
18 accordance with any applicable permit from the department and any
19 applicable rules and regulations of the natural resources district
20 and, if the purpose is for irrigation, the replacement water well
21 delivers water to the same tract of land served by the original
22 water well and (i) replaces an abandoned water well within three
23 years after the last operation of the abandoned water well and
24 the original water well is decommissioned either before or within
25 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

1 well, (ii) the pump installation contractor as defined in section
2 46-1209 who decommissions the water well or modifies and equips the
3 water well, or (iii) the owner if the owner decommissions a driven
4 sandpoint well which is on land owned by him or her for farming,
5 ranching, or agricultural purposes or as his or her place of
6 abode. The Department of Health and Human Services ~~Regulation and~~
7 ~~Licensure~~ shall, by rule and regulation, determine which contractor
8 or owner shall be responsible for such notice in situations in
9 which more than one contractor or owner may be required to provide
10 notice under this subsection.

11 (3) For a series of two or more water wells completed and
12 pumped into a common carrier as part of a single site plan for
13 irrigation purposes, a registration form and a detailed site plan
14 shall be filed for each water well. The registration form shall
15 include the registration numbers of other water wells included in
16 the series if such water wells are already registered.

17 (4) A series of water wells completed for purposes
18 of installation of a ground heat exchanger for a structure
19 for utilizing the geothermal properties of the ground shall be
20 considered as one water well. One registration form and a detailed
21 site plan shall be filed for each such series.

22 (5) One registration form shall be required along with
23 a detailed site plan which shows the location of each such water
24 well in the site and a log from each such water well for water
25 wells constructed as part of a single site plan for (a) monitoring

1 ground water, obtaining hydrogeologic information, or extracting
2 contaminants from the ground, (b) water wells constructed as part
3 of remedial action approved by the Department of Environmental
4 Quality pursuant to section 66-1525, 66-1529.02, or 81-15,124, and
5 (c) water well owners who have a permit issued pursuant to the
6 Industrial Ground Water Regulatory Act and also have an underground
7 injection control permit issued by the Department of Environmental
8 Quality.

9 (6) The Department of Natural Resources shall be notified
10 by the owner of any change in the ownership of a water well
11 required to be registered under this section. Notification shall be
12 in such form and include such evidence of ownership as the Director
13 of Natural Resources by rule and regulation directs. The department
14 shall use such notice to update the registration on file. The
15 department shall not collect a fee for the filing of the notice.

16 (7) The water well contractor or pump installation
17 contractor responsible therefor shall notify the department within
18 sixty days on a form provided by the department of any pump
19 installation or any modifications to the construction of the water
20 well or pump, after the initial registration of the well. For
21 a change of use resulting in modification and equipping of an
22 original water well which is being replaced in accordance with
23 subsection (2) of this section, the water well contractor or pump
24 installation contractor shall notify the department within sixty
25 days on a form provided by the department of the water well and

1 pump modifications and equipping of the original water well. A
2 water well owner shall notify the department within sixty days on
3 a form provided by the department of any other changes or any
4 inaccuracies in recorded water well information, including, but not
5 limited to, changes in use. The department shall not collect a fee
6 for the filing of the notice.

7 (8) Whenever a water well becomes an illegal water well
8 as defined in section 46-706, the owner of the water well shall
9 either correct the deficiency that causes the well to be an illegal
10 water well or shall cause the proper decommissioning of the water
11 well in accordance with rules and regulations adopted pursuant
12 to the Water Well Standards and Contractors' Licensing Act. The
13 water well contractor who decommissions the water well, the pump
14 installation contractor who decommissions the water well, or the
15 owner if the owner decommissions a driven sandpoint well which is
16 on land owned by him or her for farming, ranching, or agricultural
17 purposes or as his or her place of abode, shall provide a properly
18 completed notice of abandonment to the Department of Natural
19 Resources within sixty days. The Department of Health and Human
20 Services ~~Regulation and Licensure~~ shall, by rule and regulation,
21 determine which contractor or owner shall be responsible for such
22 notice in situations in which more than one contractor or owner may
23 be required to provide notice under this subsection. The Department
24 of Natural Resources shall not collect a fee for the filing of the
25 notice.

1 (9) Except for water wells which are used solely for
2 domestic purposes and were constructed before September 9, 1993,
3 and for test holes and dewatering wells used for less than ninety
4 days, each water well which was completed in this state before
5 July 1, 2001, and which is not registered on that date shall be an
6 illegal water well until it is registered with the Department of
7 Natural Resources. Such registration shall be completed by a water
8 well contractor or by the current owner of the water well, shall
9 be on forms provided by the department, and shall provide as much
10 of the information required by subsections (1) through (5) of this
11 section for registration of a new water well as is possible at the
12 time of registration.

13 (10) Water wells which are or were used solely for
14 injecting any fluid other than water into the underground water
15 reservoir, which were constructed before July 16, 2004, and which
16 have not been properly decommissioned on or before July 16, 2004,
17 shall be registered on or before July 1, 2005.

18 Sec. 203. Section 46-705, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 46-705 Nothing in the Nebraska Ground Water Management
21 and Protection Act shall be construed to limit the powers of the
22 Department of Health and Human Services ~~Regulation and Licensure~~
23 provided in the Nebraska Safe Drinking Water Act.

24 Nothing in the Nebraska Ground Water Management and
25 Protection Act relating to the contamination of ground water is

1 intended to limit the powers of the Department of Environmental
2 Quality provided in Chapter 81, article 15.

3 Sec. 204. Section 46-724, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 46-724 If the Director of Environmental Quality
6 determines from the study conducted pursuant to section 46-722 that
7 one or more sources of contamination are not point sources and if a
8 management area, a purpose of which is protection of water quality,
9 has been established which includes the affected area, the Director
10 of Environmental Quality shall consider whether to require the
11 district which established the management area to adopt an action
12 plan as provided in sections 46-725 to 46-729.

13 If the Director of Environmental Quality determines that
14 one or more of the sources are not point sources and if such
15 a management area has not been established or does not include
16 all the affected area, he or she shall, within thirty days after
17 completion of the report required by section 46-722, consult with
18 the district within whose boundaries the area affected by such
19 contamination is located and fix a time and place for a public
20 hearing to consider the report, hear any other evidence, and secure
21 testimony on whether a management area should be designated or
22 whether an existing area should be modified. The hearing shall be
23 held within one hundred twenty days after completion of the report.
24 Notice of the hearing shall be given as provided in section 46-743,
25 and the hearing shall be conducted in accordance with such section.

1 At the hearing, all interested persons shall be allowed
2 to appear and present testimony. The Conservation and Survey
3 Division of the University of Nebraska, the Department of Health
4 and Human Services, ~~Regulation and Licensure~~, the Department of
5 Natural Resources, and the appropriate district may offer as
6 evidence any information in their possession which they deem
7 relevant to the purpose of the hearing. After the hearing and after
8 any studies or investigations conducted by or on behalf of the
9 Director of Environmental Quality as he or she deems necessary,
10 the director shall determine whether a management area shall be
11 designated.

12 Sec. 205. Section 46-1011, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 46-1011 Plans and specifications for any proposed
15 improvement authorized by sections 46-1001 to 46-1020 shall be
16 filed with the director, the Department of Health and Human
17 Services, ~~Regulation and Licensure~~, and the secretary of the
18 district. No construction of any such improvement shall begin
19 until the plans and specifications for such improvement have been
20 approved by the director and the Department of Health and Human
21 Services, ~~Regulation and Licensure~~, except that if the improvement
22 involves a public water system as defined in section 71-5301,
23 only the Department of Health and Human Services ~~Regulation and~~
24 ~~Licensure~~ shall be required to review the plans and specifications
25 for such improvement and approve the same if in compliance with

1 Chapter 71, article 53, and departmental regulations adopted
2 thereunder.

3 The total benefits of any such improvement shall be
4 divided into a suitable number of benefit units. Each landowner
5 within the district shall subscribe to a number of such units
6 in proportion to the extent he or she desires to participate
7 in the benefits of the improvements. As long as the capacity of
8 the district's facilities permits, participating members of the
9 district may subscribe to additional units upon payment of a unit
10 fee for each such unit. Owners of land located within the district
11 who are not participating members may subscribe to such units as
12 the board in its discretion may grant, and upon payment of the unit
13 fee for each such unit shall be entitled to the same rights as
14 original participating members. If the capacity of the district's
15 facilities permits, the district may sell water to persons engaged
16 in hauling water and to any political subdivision organized under
17 the laws of the State of Nebraska.

18 Sec. 206. Section 46-1018, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 46-1018 It shall be the duty of the chairperson of the
21 board of directors to keep in repair such works as are constructed
22 by the district as authorized in sections 46-1001 to 46-1020 and
23 to operate such works, all as directed by the board. Such works
24 shall be operated in conformance with the rules and regulations
25 of the Department of Health and Human Services ~~Regulation and~~

1 ~~Licensure~~ relating to water supply systems. The chairperson and
2 all persons who may perform any service or labor as provided in
3 sections 46-1001 to 46-1020 shall be paid such just and reasonable
4 compensation as may be allowed by the board of directors, and
5 such board shall annually prepare an estimated budget for the
6 coming year, adjust water rates, if necessary to produce sufficient
7 revenue required by such budget, cause an annual audit of the
8 district's records and accounts to be made, and make a report on
9 such matters at each annual meeting.

10 Sec. 207. Section 46-1204.01, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 46-1204.01 Abandoned water well means any water well
13 (1) the use of which has been accomplished or permanently
14 discontinued, (2) which has been decommissioned as described
15 in the rules and regulations of the Department of Health and
16 Human Services, ~~Regulation and Licensure~~, and (3) for which the
17 notice of abandonment required by subsection (2) of section 46-602
18 has been filed with the Department of Natural Resources by the
19 licensed water well contractor or pump installation contractor who
20 decommissioned the water well or by the water well owner if the
21 owner decommissioned the water well.

22 Sec. 208. 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.~~

1 Sec. 209. Section 46-1217, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 46-1217 There is hereby created a Water Well Standards
4 and Contractors' Licensing Board. The board shall be composed
5 of ten members, six of whom shall be appointed by the Governor
6 as follows: (1) A water well contractor representing irrigation
7 water well contractors, (2) a water well contractor representing
8 domestic water well contractors, (3) a water well contractor
9 representing municipal and industrial water well contractors, (4)
10 a pump installation contractor, (5) a manufacturer or supplier of
11 water well or pumping equipment, and (6) a holder of a license or
12 certificate issued under the Water Well Standards and Contractors'
13 Licensing Act employed by a natural resources district. The
14 ~~Director of Health and Human Services Regulation and Licensure~~
15 ~~or his or her designated representative,~~ chief executive officer
16 of the Department of Health and Human Services or his or her
17 designated representative, the Director of Environmental Quality
18 or his or her designated representative, the Director of Natural
19 Resources or his or her designated representative, and the director
20 of the Conservation and Survey Division of the University of
21 Nebraska or his or her designated representative shall also serve
22 as members of the board. Each member shall be a resident of the
23 state. Each appointed member of the board shall have had at least
24 five years of experience in the business of his or her category
25 prior to appointment and shall be actively engaged in such business

1 at the time of appointment and while serving on the board. Each
2 member representing a category subject to licensing under the Water
3 Well Standards and Contractors' Licensing Act, with the exception
4 of members initially appointed, shall be licensed by the department
5 pursuant to such act. In making appointments, the Governor may
6 consider recommendations made by the trade associations of each
7 category.

8 Sec. 210. Section 46-1235, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 46-1235 In cases other than those relating to failure
11 to meet the requirements for an initial license or an initial
12 certificate, the department may deny, refuse renewal of, suspend,
13 or revoke licenses or certificates or may take other disciplinary
14 action for any of the following acts or offenses:

15 (1) Practice of fraud or deceit in obtaining a license or
16 certificate;

17 (2) Violation of the Water Well Standards and
18 Contractors' Licensing Act or any standards, rules, or regulations
19 adopted and promulgated pursuant to such act;

20 (3) Incompetence or gross negligence in the performance
21 of any activity for which licenses or certificates are issued
22 pursuant to the act;

23 (4) Conduct or practices detrimental to the health
24 or safety of persons hiring the services of the licensee or
25 certificate holder or of members of the general public;

1 (5) Practice of the trade fraudulently, beyond the
2 authorized scope, or with manifest incapacity;

3 (6) Practice of the trade while the ability to practice
4 is impaired by alcohol, controlled substances, narcotic drugs, or
5 physical disability;

6 (7) Permitting, aiding, or abetting the practice of the
7 trade or the performance of activities requiring a license or
8 certificate by a person not licensed or certified to do so;

9 (8) Having had a license or certificate denied,
10 refused renewal, limited, suspended, or revoked or having been
11 disciplined in any other manner by another state or jurisdiction
12 to practice water well construction, water well drilling, water
13 well decommissioning, or pump installation based upon acts by
14 the applicant, licensee, or certificate holder similar to acts
15 described in this section. A certified copy of the record of
16 denial, refusal of renewal, limitation, suspension, or revocation
17 of a license or certificate or the taking of other disciplinary
18 action by another state or jurisdiction shall be conclusive
19 evidence;

20 (9) Unprofessional conduct as may be defined in rules and
21 regulations of the board with approval of the department;

22 (10) Practice of the trade while the license or
23 certificate to do so is suspended or practice of the trade
24 in contravention of any limitation placed upon the license or
25 certificate;

1 (11) Failing to file a water well registration required
2 by subsection (1), (2), (3), (4), or (5) of section 46-602 or
3 failing to file a notice required by subsection (7) of such
4 section; or

5 (12) Failing to file a properly completed notice of
6 abandonment of a water well required by subsection (8) of section
7 46-602.

8 A licensee or certificate holder shall not engage in the
9 practice of the trade after a license or certificate is revoked
10 or during the time for which it is suspended. If a license or
11 certificate is suspended, the suspension shall be for a definite
12 period of time to be fixed by the ~~Director of Regulation and~~
13 ~~Licensure, department,~~ and such license or certificate shall be
14 automatically reinstated upon the expiration of such period if the
15 current renewal fee has been paid. If such license or certificate
16 is revoked, such revocation shall be for one year.

17 Sec. 211. Section 46-1235.01, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 46-1235.01 The authority of the ~~Director of Regulation~~
20 ~~and Licensure~~ department to discipline a licensee or certificate
21 holder by placing him or her on probation pursuant to sections
22 46-1235 and 46-1237.02 shall include, but not be limited to, the
23 following:

24 (1) To require the licensee or certificate holder to
25 obtain additional professional training and to pass an examination

1 upon the completion of the training. The examination may be written
2 or oral, or both, and may be a practical or technical examination,
3 or both, or any or all of such combinations of written, oral,
4 practical, and technical at the option of the ~~director;~~ department;
5 or

6 (2) To restrict or limit the extent, scope, or type of
7 practice of the licensee or certificate holder upon consultation
8 with the board.

9 Sec. 212. Section 46-1237.01, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 46-1237.01 The department may temporarily suspend or
12 limit a license or certificate without notice or hearing if the
13 ~~Director of Regulation and Licensure~~ department determines that
14 there is reasonable cause to believe that grounds exist under
15 section 46-1235 for the revocation, suspension, or limitation of
16 the license or certificate and that the licensee's or certificate
17 holder's continuation in practice would constitute an imminent
18 danger to public health and safety. Simultaneously with any such
19 action, the department shall institute proceedings for a hearing on
20 the grounds for revocation, suspension, or limitation. Such hearing
21 shall be held no later than fifteen days from the date of such
22 temporary suspension or limitation. A continuance of the hearing
23 shall be granted by the department upon written request of the
24 licensee or certificate holder, and such a continuance shall not
25 exceed thirty days. An order of temporary suspension or limitation

1 shall take effect when served in person upon the licensee or
2 certificate holder. A temporary suspension or limitation shall not
3 be in effect for a period in excess of one hundred eighty days.
4 At the end of such one-hundred-eighty-day period, the license or
5 certificate shall be reinstated unless the department has revoked,
6 suspended, or limited the license or certificate after notice and
7 hearing.

8 Sec. 213. Section 46-1237.02, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 46-1237.02 (1) All proceedings under the Water Well
11 Standards and Contractors' Licensing Act shall be summary in
12 nature and triable as equity actions. Affidavits may be received
13 in evidence at the discretion of the ~~Director of Regulation~~
14 ~~and Licensure.~~ department. The department may administer oaths,
15 subpoena witnesses and compel their attendance, and issue subpoenas
16 duces tecum and require the production of books, accounts, and
17 documents in the same manner and to the same extent as a district
18 court. Depositions may be used by either party.

19 (2) Upon the completion of any hearing, the ~~director~~
20 department may enter an order to exercise any or all of the
21 following powers irrespective of the petition:

22 (a) Issue a censure or reprimand against the licensee or
23 certificate holder;

24 (b) Suspend judgment;

25 (c) Place the licensee or certificate holder on

1 probation;

2 (d) Place a limitation on the license or certificate
3 and upon the right of the licensee or certificate holder to
4 practice the trade to such extent, scope, or type of practice, for
5 such time, and under such conditions as are found necessary and
6 proper. The ~~director~~ department shall consult with the board in all
7 instances prior to issuing an order of limitation;

8 (e) Impose a civil penalty under section 46-1240. The
9 amount of the penalty shall be based on the severity of the
10 violation;

11 (f) Enter an order of suspension;

12 (g) Enter an order of revocation; or

13 (h) Dismiss the action.

14 (3) If a licensee or certificate holder fails to appear,
15 either in person or by counsel, at the time and place designated
16 in a notice, the ~~director~~, department, after receiving satisfactory
17 evidence of the truth of the charges, shall order the license
18 or certificate revoked or suspended or shall order any other
19 appropriate disciplinary action.

20 (4) Any order issued under the act may be appealed. The
21 appeal shall be in accordance with the Administrative Procedure
22 Act.

23 Sec. 214. Section 46-1240.05, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 46-1240.05 (1) Whenever the ~~Director of Regulation and~~

1 ~~Licensure~~ department has reason to believe that a violation of any
2 provision of the Water Well Standards and Contractors' Licensing
3 Act or any rule or regulation adopted and promulgated by the
4 department is occurring or has occurred, ~~he or she~~ the department
5 may cause an administrative order to be served upon the person
6 alleged to be in violation. Such order shall specify the violation
7 and the facts alleged to constitute a violation and shall order
8 that necessary corrective action be taken within a reasonable time
9 to be prescribed in such order. Any such order shall become final
10 unless the person named in the order requests in writing a hearing
11 before the ~~director~~ department no later than thirty days after the
12 date such order is served. In lieu of such order, the ~~director~~
13 department may require that the person appear before the ~~director~~
14 department at a time and place specified in the notice and answer
15 the charges. The notice shall be served on the person not less than
16 thirty days before the time set for the hearing.

17 (2) Whenever the ~~director~~ department finds that an
18 emergency exists requiring immediate action to protect the public
19 health and welfare concerning a chemical, material, procedure, or
20 act which is determined by the ~~director~~ department to be harmful or
21 potentially harmful to human health, the ~~director~~ department may,
22 without notice or hearing, issue an order reciting the existence
23 of such an emergency and requiring that such action be taken as
24 the ~~director~~ department deems necessary to meet the emergency. Such
25 order shall be effective immediately. Any person to whom such order

1 is directed shall comply immediately and, on written application
2 to the ~~director~~, department, shall be afforded a hearing as soon
3 as possible and not later than ten days after receipt of such
4 application by such affected person. On the basis of such hearing,
5 the ~~director~~ department shall continue such order in effect, revoke
6 it, or modify it.

7 (3) The ~~director~~ department shall afford to the alleged
8 violator an opportunity for a hearing before the department.

9 Sec. 215. Section 47-623, Revised Statutes Cumulative
10 Supplement, 2006, is amended to read:

11 47-623 (1) The council shall include the following voting
12 members:

13 (a) The executive director of the Nebraska Commission on
14 Law Enforcement and Criminal Justice;

15 (b) The Director of Correctional Services;

16 (c) The chairperson of the Board of Parole;

17 (d) The Parole Administrator; and

18 (e) Nine members appointed by the Governor with the
19 approval of a majority of the Legislature, consisting of: One
20 representative from a list of persons nominated by the Nebraska
21 Criminal Defense Attorneys Association; one representative from
22 a list of persons nominated by the Nebraska County Attorneys
23 Association; one full-time officer or employee of a law enforcement
24 agency; one mental health and substance abuse professional; from
25 each congressional district, one provider of community-based

1 behavioral health services; and two at-large members.

2 (2) The council shall include the following nonvoting
3 members:

4 (a) The State Court Administrator;

5 (b) The probation administrator;

6 (c) Two members of the Legislature, appointed by the
7 Executive Board of the Legislative Council;

8 (d) Two judges of the district court, appointed by the
9 Chief Justice of the Supreme Court; and

10 ~~(e) The Director of Health and Human Services or his or~~
11 ~~her designee.~~

12 (e) The chief executive officer of the Department of
13 Health and Human Services or his or her designee.

14 (3) The terms of office for members initially appointed
15 under subdivision (1) (e) of this section shall be three years. Upon
16 completion of the initial terms of such members, the Governor shall
17 appoint (a) a representative from law enforcement, a mental health
18 and substance abuse professional, and one at-large member for
19 terms of one year, (b) a representative of the Nebraska Criminal
20 Defense Attorneys Association, one provider of community-based
21 behavioral health services from the first congressional district,
22 one provider of community-based behavioral health services from the
23 third congressional district, and one at-large member for terms
24 of two years, and (c) a representative of the Nebraska County
25 Attorneys Association and a provider of community-based behavioral

1 health services from the second congressional district for terms of
2 three years. Succeeding appointees shall be appointed for terms of
3 three years. An appointee to a vacancy occurring from an unexpired
4 term shall serve out the term of his or her predecessor. Members
5 whose terms have expired shall continue to serve until their
6 successors have been appointed and qualified.

7 (4) The council shall by majority vote elect a
8 chairperson from among the members of the council.

9 (5) The members of the council shall be reimbursed for
10 their actual and necessary expenses incurred while engaged in
11 the performance of their official duties as provided in sections
12 81-1174 to 81-1177.

13 Sec. 216. Section 48-602, Revised Statutes Cumulative
14 Supplement, 2006, is amended to read:

15 48-602 For purposes of the Employment Security Law,
16 unless the context otherwise requires:

17 (1) Base period shall mean the last four completed
18 calendar quarters immediately preceding the first day of an
19 individual's benefit year, except that the commissioner may
20 prescribe by rule and regulation that base period shall mean the
21 first four of the last five completed calendar quarters immediately
22 preceding the first day of an individual's benefit year;

23 (2) Benefits shall mean the money payments payable to an
24 individual with respect to his or her unemployment;

25 (3) Benefit year, with respect to any individual, shall

1 mean the one-year period beginning with the first day of the first
2 week with respect to which the individual first files a valid claim
3 for benefits, and thereafter the one-year period beginning with the
4 first day of the first week with respect to which the individual
5 next files a valid claim for benefits after the termination of his
6 or her last preceding benefit year. Any claim for benefits made in
7 accordance with section 48-629 shall be deemed to be a valid claim
8 for the purpose of this subdivision if the individual has been
9 paid the wages for insured work required under section 48-627. For
10 the purposes of this subdivision a week with respect to which an
11 individual files a valid claim shall be deemed to be in, within,
12 or during that benefit year which includes the greater part of such
13 week;

14 (4) Calendar quarter shall mean the period of three
15 consecutive calendar months ending on March 31, June 30, September
16 30, or December 31, or the equivalent thereof as the Commissioner
17 of Labor may by rule and regulation prescribe;

18 (5) Client shall mean any individual, partnership,
19 limited liability company, corporation, or other legally recognized
20 entity that contracts with a professional employer organization
21 to obtain professional employer services relating to worksite
22 employees through a professional employer agreement;

23 (6) Combined tax shall mean the employer liability
24 consisting of contributions and the state unemployment insurance
25 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 as a hospital;

24 (15) Institution of higher education shall mean an
25 institution which: (a) Admits as regular students only individuals

1 having a certificate of graduation from a high school or the
2 recognized equivalent of such a certificate; (b) is legally
3 authorized in this state to provide a program of education beyond
4 high school; (c) provides an educational program for which it
5 awards a bachelor's degree or higher or provides a program which
6 is acceptable for full credit toward such a degree, a program of
7 postgraduate or postdoctoral studies, or a program of training to
8 prepare students for gainful employment in a recognized occupation;
9 and (d) is a public or other nonprofit institution; notwithstanding
10 any of the foregoing provisions of this subdivision, all colleges
11 and universities in this state are institutions of higher education
12 for purposes of this section;

13 (16) Insured work shall mean employment for employers;

14 (17) Leave of absence shall mean any absence from work:

15 (a) Mutually and voluntarily agreed to by the employer and the
16 employee; (b) mutually and voluntarily agreed to between the
17 employer and the employee's bargaining agent; or (c) to which the
18 employee is entitled to as a matter of state or federal law;

19 (18) Paid vacation leave shall mean a period of time
20 while employed or following separation from employment in which the
21 individual renders no services to the employer but is entitled to
22 receive vacation pay equal to or exceeding his or her base weekly
23 wage;

24 (19) Payments in lieu of contributions shall mean the
25 money payments to the Unemployment Compensation Fund required by

1 sections 48-649, 48-652, 48-660.01, and 48-661;

2 (20) Professional employer agreement shall mean a written
3 professional employer services contract whereby:

4 (a) A professional employer organization agrees to
5 provide payroll services, employee benefit administration, or
6 personnel services for a majority of the employees providing
7 services to the client at a client worksite;

8 (b) The agreement is intended to be ongoing rather than
9 temporary in nature; and

10 (c) Employer responsibilities for worksite employees,
11 including those of hiring, firing, and disciplining, are shared
12 between the professional employer organization and the client
13 by contract. The term professional employer agreement shall not
14 include a contract between a parent corporation, company, or other
15 entity and a wholly owned subsidiary;

16 (21) Professional employer organization shall mean any
17 individual, partnership, limited liability company, corporation, or
18 other legally recognized entity that enters into a professional
19 employer agreement with a client or clients for a majority of
20 a client's workforce at a client worksite. The term professional
21 employer organization shall not include an insurer as defined in
22 section 44-103 or a temporary help firm;

23 (22) State includes, in addition to the states of the
24 United States of America, any dependency of the United States, the
25 Commonwealth of Puerto Rico, the Virgin Islands, and the District

1 of Columbia;

2 (23) State unemployment insurance tax shall mean that
3 portion of the combined tax which is based upon the state
4 unemployment insurance tax rate portion of the combined tax rate
5 and which is deposited in the State Unemployment Insurance Trust
6 Fund as required by sections 48-648 and 48-649;

7 (24) State unemployment insurance tax rate shall mean the
8 percentage of the combined tax rate used to determine the state
9 unemployment insurance tax portion of the combined tax;

10 (25) Temporary employee shall mean an employee of a
11 temporary help firm assigned to work for the clients of such
12 temporary help firm;

13 (26) Temporary help firm shall mean a firm that hires
14 its own employees and assigns them to clients to support or
15 supplement the client's work force in work situations such as
16 employee absences, temporary skill shortages, seasonal workloads,
17 and special assignments and projects;

18 (27) Unemployed shall mean an individual during any week
19 in which the individual performs no service and with respect to
20 which no wages are payable to the individual or any week of less
21 than full-time work if the wages payable with respect to such week
22 are less than the individual's weekly benefit amount, but shall not
23 include any individual on a leave of absence or on paid vacation
24 leave. When an agreement between the employer and a bargaining unit
25 representative does not allocate vacation pay allowance or pay in

1 lieu of vacation to a specified period of time during a period of
2 temporary layoff or plant shutdown, the payment by the employer or
3 his or her designated representative will be deemed to be wages
4 as defined in this section in the week or weeks the vacation is
5 actually taken;

6 (28) Unemployment Trust Fund shall mean the trust fund
7 in the Treasury of the United States of America established under
8 section 904 of the federal Social Security Act, 42 U.S.C. 1104, as
9 such section existed on March 2, 2001, which receives credit from
10 the state Unemployment Compensation Fund;

11 (29) Wages, except with respect to services performed
12 in employment as provided in subdivisions (4)(c) and (d) of
13 section 48-604, shall mean all remuneration for personal services,
14 including commissions and bonuses, remuneration for personal
15 services paid under a contract of hire, and the cash value of
16 all remunerations in any medium other than cash. The reasonable
17 cash value of remuneration in any medium other than cash shall be
18 estimated and determined in accordance with rules and regulations
19 prescribed by the commissioner. After December 31, 1985, wages
20 shall include tips which are received while performing services
21 which constitute employment and which are included in a written
22 statement furnished to the employer pursuant to section 6053(a) of
23 the Internal Revenue Code as defined in section 49-801.01.

24 With respect to services performed in employment in
25 agricultural labor as is provided in subdivision (4)(c) of section

1 48-604 or in domestic service as is provided in subdivision (4) (d)
2 of section 48-604, wages shall mean cash remuneration for such
3 services.

4 The term wages shall not include:

5 (a) The amount of any payment, including any amount paid
6 by an employer for insurance or annuities or into a fund to
7 provide for such payment, made to, or on behalf of, an individual
8 in employment or any of his or her dependents under a plan
9 or system established by an employer which makes provision for
10 such individuals generally or for a class or classes of such
11 individuals, including any amount paid by an employer for insurance
12 or annuities or into a fund to provide for any such payment, on
13 account of (i) sickness or accident disability, except, in the case
14 of payments made to an employee or any of his or her dependents,
15 this subdivision (i) shall exclude from wages only payments which
16 are received under a workers' compensation law, (ii) medical and
17 hospitalization expenses in connection with sickness or accident
18 disability, or (iii) death;

19 (b) The payment by an employer, without deduction from
20 the remuneration of the employee, of the tax imposed upon an
21 employee under section 3101 of the Internal Revenue Code as defined
22 in section 49-801.01;

23 (c) Any payment on account of sickness or accident
24 disability, or medical or hospitalization expenses in connection
25 with sickness or accident disability, made by an employer to, or

1 on behalf of, an individual after the expiration of six calendar
2 months following the last calendar month in which such individual
3 worked for such employer;

4 (d) Any payment made to, or on behalf of, an individual
5 or his or her beneficiary (i) from or to a trust described in
6 section 401(a) of the Internal Revenue Code as defined in section
7 49-801.01 which is exempt from tax under section 501(a) of the
8 Internal Revenue Code as defined in section 49-801.01 at the time
9 of such payment unless such payment is made to an employee of the
10 trust as remuneration for services rendered as such employee and
11 not as a beneficiary of the trust or (ii) under or to an annuity
12 plan which, at the time of such payment, meets the requirements
13 of section 401 of the Internal Revenue Code as defined in section
14 49-801.01;

15 (e) Any payment made to, or on behalf of, an employee
16 or his or her beneficiary (i) under a simplified employee pension
17 as defined by the commissioner, (ii) under or to an annuity
18 contract as defined by the commissioner, other than a payment
19 for the purchase of such contract which is made by reason of
20 a salary reduction agreement, whether evidenced by a written
21 instrument or otherwise, (iii) under or to an exempt governmental
22 deferred compensation plan as defined by the commissioner, (iv)
23 to supplement pension benefits under a plan or trust, as defined
24 by the commissioner, to take into account some portion or all of
25 the increase in the cost of living since retirement, but only if

1 such supplemental payments are under a plan which is treated as a
2 welfare plan, or (v) under a cafeteria benefits plan;

3 (f) Remuneration paid in any medium other than cash to an
4 individual for service not in the course of the employer's trade or
5 business;

6 (g) Benefits paid under a supplemental unemployment
7 benefit plan which satisfies the eight points set forth in Internal
8 Revenue Service Revenue Ruling 56-249 as the ruling existed on
9 March 2, 2001, and is in compliance with the standards set forth in
10 Internal Revenue Service Revenue Rulings 58-128 and 60-330 as the
11 rulings existed on March 2, 2001; and

12 (h) Remuneration for service performed in the employ of
13 any state in the exercise of his or her duties as a member of the
14 Army National Guard or Air National Guard or in the employ of the
15 United States of America as a member of any military reserve unit;

16 (30) Week shall mean such period of seven consecutive
17 days as the commissioner may by rule and regulation prescribe;

18 (31) Week of unemployment with respect to any individual
19 shall mean any week during which he or she performs less than
20 full-time work and the wages payable to him or her with respect to
21 such week are less than his or her weekly benefit amount;

22 (32) Wholly owned subsidiary means a corporation,
23 company, or other entity which has eighty percent or more of
24 its outstanding voting stock or membership owned or controlled,
25 directly or indirectly, by the parent entity; and

1 (33) Worksite employee shall mean a person receiving
2 wages or benefits from a professional employer organization
3 pursuant to the terms of a professional employer agreement for work
4 performed at a client's worksite.

5 Sec. 217. Section 48-647, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 48-647 (1) Any assignment, pledge, or encumbrance of any
8 right to benefits which are or may become due or payable under
9 sections 48-623 to 48-626 shall be void except as set forth in
10 this section. Such rights to benefits shall be exempt from levy,
11 execution, attachment, or any other remedy whatsoever provided for
12 the collection of debt. Benefits received by any individual, so
13 long as they are not mingled with other funds of the recipient,
14 shall be exempt from any remedy whatsoever for the collection of
15 all debts except debts incurred for necessities furnished to such
16 individual or his or her spouse or dependents during the time
17 when such individual was unemployed. Any waiver of any exemption
18 provided for in this section shall be void. Any assignment,
19 pledge, or encumbrance of any right or claim to contributions or
20 to any money credited to any employer's reserve account in the
21 Unemployment Compensation Fund shall be void, and the same shall
22 be exempt from levy, execution, attachment, or any other remedy
23 whatsoever provided for the collection of debt, and any waiver of
24 any exemption provided for in this section shall be void.

25 (2)(a) An individual filing a new claim for unemployment

1 compensation shall, at the time of filing such claim, disclose
2 whether or not he or she owes child support obligations as defined
3 under subdivision (h) of this subsection. If such individual
4 discloses that he or she owes child support obligations and
5 is determined to be eligible for unemployment compensation, the
6 commissioner shall notify the ~~Director~~ Department of Health and
7 Human Services that the individual has been determined to be
8 eligible for unemployment compensation.

9 (b) The commissioner shall deduct and withhold from
10 any unemployment compensation otherwise payable to an individual
11 disclosing child support obligations:

12 (i) The amount specified by the individual to the
13 commissioner to be deducted under this subsection, if neither
14 subdivision (ii) nor (iii) of this subdivision is applicable;

15 (ii) The amount, if any, determined pursuant to an
16 agreement between the ~~director~~ Department of Health and Human
17 Services and such individual owing the child support obligations to
18 have a specified amount withheld and such agreement being submitted
19 to the commissioner, unless subdivision (iii) of this subdivision
20 is applicable; or

21 (iii) The amount otherwise required to be so deducted
22 and withheld from such unemployment compensation pursuant to legal
23 process, as that term is defined in subdivision (2)(i) of this
24 section, properly served upon the commissioner.

25 (c) Any amount deducted and withheld under subdivision

1 (b) of this subsection shall be paid by the commissioner to the
2 ~~director~~ Department of Health and Human Services.

3 (d) Any amount deducted and withheld under subdivision
4 (b) or (g) of this subsection shall for all purposes be treated
5 as if it were paid to the individual as unemployment compensation
6 and paid by such individual to the ~~director~~ Department of Health
7 and Human Services in satisfaction of his or her child support
8 obligations.

9 (e) For purposes of subdivisions (a) through (d) and
10 (g) of this subsection, the term unemployment compensation shall
11 mean any compensation payable under the Employment Security Law
12 and including amounts payable by the commissioner pursuant to
13 an agreement by any federal law providing for compensation,
14 assistance, or allowances with respect to unemployment.

15 (f) This subsection shall apply only if appropriate
16 arrangements have been made for reimbursement by the Department of
17 Health and Human Services for the administrative costs incurred by
18 the commissioner under this section which are attributable to child
19 support obligations being enforced by the department.

20 (g) The ~~director~~ Department of Health and Human Services
21 and the commissioner shall develop and implement a collection
22 system to carry out the intent of this subdivision. The collection
23 system shall, at a minimum, provide that:

24 (i) The commissioner shall periodically notify the
25 ~~director~~ Department of Health and Human Services of the information

1 listed in section 43-1719 with respect to individuals determined to
2 be eligible for unemployment compensation during such period;

3 (ii) Unless the county attorney, the authorized attorney,
4 or the Department of Health and Human Services has sent a notice on
5 the same support order under section 43-1720, upon the notification
6 required by subdivision (2)(g)(i) of this section, the ~~director~~
7 Department of Health and Human Services shall send notice to
8 any such individual who owes child support obligations and who
9 is subject to income withholding pursuant to subdivision (2)(a),
10 (2)(b)(ii), or (2)(b)(iii) of section 43-1718.01. The notice shall
11 be sent by certified mail to the last-known address of the
12 individual and shall state the same information as required under
13 section 43-1720;

14 (iii)(A) If the support obligation is not based on a
15 foreign support order entered pursuant to section 43-1729 and the
16 individual requests a hearing, the Department of Health and Human
17 Services shall hold a hearing within fifteen days of the date of
18 receipt of the request. The hearing shall be in accordance with
19 the Administrative Procedure Act. The assignment shall be held in
20 abeyance pending the outcome of the hearing. The department shall
21 notify the individual and the commissioner of its decision within
22 fifteen days of the date the hearing is held; and

23 (B) If the support obligation is based on a foreign
24 support order entered pursuant to section 43-1729 and the
25 individual requests a hearing, the county attorney or authorized

1 attorney shall apply the procedures described in sections 43-1732
2 to 43-1742;

3 (iv) (A) If no hearing is requested by the individual
4 under this subsection or pursuant to a notice sent under section
5 43-1720, (B) if after a hearing under this subsection or section
6 43-1721 the ~~department~~ Department of Health and Human Services
7 determines that the assignment should go into effect, (C) in cases
8 in which the court has ordered income withholding for child support
9 pursuant to subsection (1) of section 43-1718.01, or (D) in cases
10 in which the court has ordered income withholding for child support
11 pursuant to section 43-1718.02 and the case subsequently becomes
12 one in which child support collection services are being provided
13 under Title IV-D of the federal Social Security Act, as amended,
14 the ~~director~~ Department of Health and Human Services shall certify
15 to the commissioner the amount to be withheld for child support
16 obligations from the individual's unemployment compensation. Such
17 amount shall not in any case exceed the maximum amount permitted
18 to be withheld under section 303(b) of the federal Consumer Credit
19 Protection Act, 15 U.S.C. 1673(b) (2) (A) and (B), and the amount
20 withheld to satisfy an arrearage of child support when added to
21 the amount withheld to pay current support shall not exceed such
22 maximum amount;

23 (v) The collection system shall comply with the
24 requirements of Title III and Title IV-D of the federal Social
25 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~~ Department of Health and Human
5 Services and the commissioner shall adopt and promulgate rules and
6 regulations to carry out subdivision (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 Department of Health and Human Services
22 shall be deemed an authorized official pursuant to order of a court
23 of 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

1 compensation otherwise payable to an individual in order to satisfy
2 a legal obligation of such individual to provide child support.

3 (j) Nothing in this subsection shall be construed to
4 authorize withholding from unemployment compensation of any support
5 obligation other than child support obligations.

6 (3)(a) An individual filing a new claim for unemployment
7 compensation shall, at the time of filing such claim, disclose
8 whether or not he or she owes an uncollected overissuance, as
9 defined in section 13(c)(1) of the federal Food Stamp Act of 1977,
10 of food stamp benefits, if not otherwise known or disclosed to
11 the state food stamp agency. The commissioner shall notify the
12 state food stamp agency enforcing such obligation of any individual
13 disclosing that he or she owes an uncollected overissuance whom the
14 commissioner determines is eligible for unemployment compensation.

15 (b) The commissioner shall deduct and withhold from any
16 unemployment compensation payable to an individual who owes an
17 uncollected overissuance (i) the amount specified by the individual
18 to the commissioner to be deducted and withheld under this
19 subsection, (ii) the amount, if any, determined pursuant to an
20 agreement submitted to the state food stamp agency under section
21 13(c)(3)(A) of the federal Food Stamp Act of 1977, or (iii)
22 any amount otherwise required to be deducted and withheld from
23 unemployment compensation pursuant to section 13(c)(3)(B) of such
24 federal act.

25 (c) Any amount deducted and withheld under this

1 subsection shall be paid by the commissioner to the state food
2 stamp agency.

3 (d) Any amount deducted and withheld under subdivision
4 (b) of this subsection shall be treated for all purposes as if it
5 were paid to the individual as unemployment compensation and paid
6 by such individual to the state food stamp agency as repayment of
7 the individual's uncollected overissuance.

8 (e) For purposes of this subsection, unemployment
9 compensation means any compensation payable under the Employment
10 Security Law, including amounts payable by the commissioner
11 pursuant to an agreement under any federal law providing
12 for compensation, assistance, or allowances with respect to
13 unemployment.

14 (f) This subsection applies only if arrangements have
15 been made for reimbursement by the state food stamp agency for
16 the administrative costs incurred by the commissioner under this
17 subsection which are attributable to the repayment of uncollected
18 overissuances to the state food stamp agency.

19 Sec. 218. Section 48-1902, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 48-1902 For purposes of sections 48-1901 to 48-1910,
22 unless the context otherwise requires:

23 (1) Alcohol shall mean any product of distillation of
24 any fermented liquid, whether rectified or diluted, whatever may be
25 the origin thereof, synthetic ethyl alcohol, the four varieties of

1 liquor defined in subdivisions (1) through (4) of section 53-103,
2 alcohol, spirits, wine, and beer, every liquid or solid, patented
3 or not, containing alcohol, spirits, wine, or beer, and alcohol
4 used in the manufacture of denatured alcohol, flavoring extracts,
5 syrups, or medicinal, mechanical, scientific, culinary, and toilet
6 preparations;

7 (2) Breath-testing device shall mean intoxilyzer model
8 4011AS or other scientific testing equivalent as approved by and
9 operated in accordance with the department rules and regulations;

10 (3) Breath-testing-device operator shall mean a person
11 who has obtained or been issued a permit pursuant to the department
12 rules and regulations;

13 (4) Department shall mean the Department of Health and
14 Human Services; ~~Regulation and Licensure;~~

15 (5) Department rules and regulations shall mean the
16 techniques and methods authorized pursuant to section 60-6,201;

17 (6) Drug shall mean any substance, chemical, or compound
18 as described, defined, or delineated in sections 28-405 and 28-419
19 or any metabolite or conjugated form thereof, except that any
20 substance, chemical, or compound containing any product as defined
21 in subdivision (1) of this section may also be defined as alcohol;

22 (7) Employee shall mean any person who receives any
23 remuneration, commission, bonus, or other form of wages in return
24 for such person's actions which directly or indirectly benefit an
25 employer; and

1 (8) Employer shall mean the State of Nebraska and its
2 political subdivisions, all other governmental entities, or any
3 individual, association, corporation, or other organization doing
4 business in the State of Nebraska unless it, he, or she employs a
5 total of less than six full-time and part-time employees at any one
6 time.

7 Sec. 219. Section 48-2305, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 48-2305 An employer that has employees who are employed
10 in two or more states and that transmits reports magnetically
11 or electronically may comply with the New Hire Reporting Act by
12 designating one of such states in which the employer has employees
13 as the state to which the employer will transmit the report
14 described in section 48-2303. Any Nebraska employer that transmits
15 reports pursuant to this section shall notify the ~~Director of~~
16 ~~Health and Human Services~~ department in writing of the state which
17 such employer designates for the purpose of transmitting reports.

18 Sec. 220. Section 48-2306, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 48-2306 On and after October 1, 1998, the department may
21 levy a fine not to exceed twenty-five dollars for each employee not
22 reported by the employer to the department. The department shall
23 determine whether or not to levy a fine based upon the good faith
24 efforts of an employer to comply with the New Hire Reporting Act.
25 The department shall remit fines collected under this section to

1 the State Treasurer for distribution in accordance with Article
2 VII, section 5, of the Constitution of Nebraska. The department
3 ~~shall remit any money collected pursuant to this section to the~~
4 ~~State Treasurer for credit to the permanent school fund.~~

5 Sec. 221. Section 48-2307, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 48-2307 The Director of Health and Human Services
8 department shall issue a report to the Legislature on or before
9 January 31 of each year which discloses the number of employees
10 reported to the department and the number of matches during the
11 preceding calendar year for purposes of the New Hire Reporting Act.

12 Sec. 222. Section 49-506, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 49-506 After the Secretary of State has made the
15 distribution provided by section 49-503, he or she shall deliver
16 additional copies of the session laws and the journal of the
17 Legislature pursuant to this section in print or electronic format
18 as he or she determines, upon recommendation by the Clerk of the
19 Legislature and approval of the Executive Board of the Legislative
20 Council.

21 One copy of the session laws shall be delivered to
22 the Lieutenant Governor, the State Treasurer, the Auditor of
23 Public Accounts, the Reporter of the Supreme Court and Court of
24 Appeals, the State Court Administrator, the State Fire Marshal,
25 the Department of Administrative Services, the Department of

1 Aeronautics, the Department of Agriculture, the Department of
2 Banking and Finance, the State Department of Education, the
3 Department of Environmental Quality, the Department of Insurance,
4 the Department of Labor, the Department of Motor Vehicles, the
5 Department of Property Assessment and Taxation, the Department
6 of Revenue, the Department of Roads, the Department of Veterans'
7 Affairs, the Department of Natural Resources, the Military
8 Department, the Nebraska State Patrol, the Nebraska Commission
9 on Law Enforcement and Criminal Justice, each of the Nebraska
10 state colleges, the Game and Parks Commission, the Nebraska
11 Library Commission, the Nebraska Liquor Control Commission, the
12 Nebraska Accountability and Disclosure Commission, the Public
13 Service Commission, the State Real Estate Commission, the Nebraska
14 State Historical Society, the Public Employees Retirement Board,
15 the Risk Manager, the Legislative Fiscal Analyst, the Public
16 Counsel, the materiel division of the Department of Administrative
17 Services, the State Records Administrator, the budget division
18 of the Department of Administrative Services, ~~the Department of~~
19 ~~Health and Human Services,~~ ~~the Department of Health and Human~~
20 ~~Services Regulation and Licensure,~~ ~~the Department of Health and~~
21 ~~Human Services Finance and Support,~~ the Tax Equalization and Review
22 Commission, the inmate library at all state penal and correctional
23 institutions, the Commission on Public Advocacy, and the Library of
24 Congress; two copies to the Governor, the Secretary of State, the
25 Nebraska Workers' Compensation Court, the Commission of Industrial

1 Relations, and the Coordinating Commission for Postsecondary
2 Education, one of which shall be for use by the community colleges;
3 three copies to the Department of Health and Human Services; four
4 copies to the Nebraska Publications Clearinghouse; five copies
5 to the Attorney General; nine copies to the Revisor of Statutes;
6 sixteen copies to the Supreme Court and the Legislative Council;
7 and thirty-five copies to the University of Nebraska College of
8 Law.

9 One copy of the journal of the Legislature shall be
10 delivered to the Governor, the Lieutenant Governor, the State
11 Treasurer, the Auditor of Public Accounts, the Reporter of the
12 Supreme Court and Court of Appeals, the State Court Administrator,
13 the Nebraska State Historical Society, the Legislative Fiscal
14 Analyst, the Tax Equalization and Review Commission, the Commission
15 on Public Advocacy, and the Library of Congress; two copies to
16 the Secretary of State, the Commission of Industrial Relations,
17 and the Nebraska Workers' Compensation Court; four copies to the
18 Nebraska Publications Clearinghouse; five copies to the Attorney
19 General and the Revisor of Statutes; eight copies to the Clerk
20 of the Legislature; thirteen copies to the Supreme Court and the
21 Legislative Council; and thirty-five copies to the University of
22 Nebraska College of Law. The remaining copies shall be delivered
23 to the State Librarian who shall use the same, so far as required
24 for exchange purposes, in building up the State Library and in the
25 manner specified in sections 49-507 to 49-509.

1 Sec. 223. Section 49-617, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 49-617 The Revisor of Statutes shall cause the statutes
4 to be printed. The printer shall deliver all completed copies to
5 the Supreme Court. These copies shall be held and disposed of
6 by the court as follows: Sixty copies to the State Library to
7 exchange for statutes of other states; five copies to the State
8 Library to keep for daily use; not to exceed twenty-five copies
9 to the Legislative Council for bill drafting and related services
10 to the Legislature and executive state officers; as many copies
11 to the Attorney General as he or she has attorneys on his or her
12 staff; as many copies to the Commission on Public Advocacy as it
13 has attorneys on its staff; up to sixteen copies to the State
14 Court Administrator; twelve copies to the Tax Commissioner; eight
15 copies to the Nebraska Publications Clearinghouse; six copies to
16 the Public Service Commission; four copies to the Secretary of
17 State; four copies to the Clerk of the Legislature for use in his
18 or her office and three copies to be maintained in the legislative
19 chamber, one copy on each side of the chamber and one copy at the
20 desk of the Clerk of the Legislature, under control of the sergeant
21 at arms; three copies to the Auditor of Public Accounts; three
22 copies to the Department of Health and Human Services; two copies
23 each to the Governor of the state, the Chief Justice and each
24 judge of the Supreme Court, each judge of the Court of Appeals,
25 the Clerk of the Supreme Court, the Reporter of the Supreme Court

1 and Court of Appeals, the Commissioner of Labor, and the Revisor
2 of Statutes; one copy each to the Secretary of State of the United
3 States, each Indian tribal court located in the State of Nebraska,
4 the library of the Supreme Court of the United States, the Adjutant
5 General, the Air National Guard, the Commissioner of Education,
6 the State Treasurer, the Board of Educational Lands and Funds, the
7 Director of Agriculture, the Director of Administrative Services,
8 the Director of Aeronautics, the Director of Economic Development,
9 the director of the Public Employees Retirement Board, the
10 Director-State Engineer, the Director of Banking and Finance, the
11 Director of Insurance, the Director of Motor Vehicles, the Property
12 Tax Administrator, the Director of Veterans' Affairs, the Director
13 of Natural Resources, the Director of Correctional Services, the
14 Nebraska Emergency Operating Center, each judge of the Nebraska
15 Workers' Compensation Court, each judge of the Commission of
16 Industrial Relations, the Nebraska Liquor Control Commission, the
17 State Real Estate Commission, the Tax Equalization and Review
18 Commission, the secretary of the Game and Parks Commission, the
19 Board of Pardons, ~~the Department of Health and Human Services, the~~
20 ~~Department of Health and Human Services Regulation and Licensure,~~
21 ~~the Department of Health and Human Services Finance and Support,~~
22 each state institution under the Department of Health and Human
23 Services, each state institution under the State Department of
24 Education, the State Surveyor, the Nebraska State Patrol, the
25 materiel division of the Department of Administrative Services, the

1 personnel division of the Department of Administrative Services,
2 the Nebraska Motor Vehicle Industry Licensing Board, the Board of
3 Trustees of the Nebraska State Colleges, each of the Nebraska state
4 colleges, each district judge of the State of Nebraska, each judge
5 of the county court, each judge of a separate juvenile court,
6 the Lieutenant Governor, each United States Senator from Nebraska,
7 each United States Representative from Nebraska, each clerk of the
8 district court for the use of the district court, the clerk of
9 the Nebraska Workers' Compensation Court, each clerk of the county
10 court, each county attorney, each county public defender, each
11 county law library, and the inmate library at all state penal and
12 correctional institutions, and each member of the Legislature shall
13 be entitled to two complete sets, and two complete sets of such
14 volumes as are necessary to update previously issued volumes, but
15 each member of the Legislature and each judge of any court referred
16 to in this section shall be entitled, on request, to an additional
17 complete set. Copies of the statutes distributed without charge,
18 as listed in this section, shall be the property of the state or
19 governmental subdivision of the state and not the personal property
20 of the particular person receiving a copy. Distribution of statutes
21 to the library of the College of Law of the University of Nebraska
22 shall be as provided in sections 85-176 and 85-177.

23 Sec. 224. Section 54-703, Revised Statutes Cumulative
24 Supplement, 2006, is amended to read:

25 54-703 (1) The Department of Agriculture and all

1 inspectors and persons appointed and authorized to assist in the
2 work of the department shall enforce sections 54-701 to 54-753.05,
3 54-797 to 54-7,103, and 54-7,105 to 54-7,108 as designated.

4 (2) The department and any officer, agent, employee, or
5 appointee of the department shall have the right to enter upon
6 the premises of any person who has, or is suspected of having,
7 any animal thereon, including any premises where the carcass or
8 carcasses of dead livestock may be found or where a facility for
9 the disposal or storage of dead livestock is located, for the
10 purpose of making any and all inspections, examinations, tests, and
11 treatments of such animal, to inspect livestock carcass disposal
12 practices, and to declare, carry out, and enforce any and all
13 quarantines.

14 (3) The department, in consultation with the Department
15 of Environmental Quality and the Department of Health and Human
16 Services, ~~Regulation and Licensure~~, may adopt and promulgate rules
17 and regulations reflecting best management practices for the burial
18 of carcasses of dead 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. 225. 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

1 in a research or demonstration facility for innovative livestock
2 disposal methods registered with the Department of Agriculture,
3 except that a research or demonstration facility of liquefaction
4 shall not be registered under this section and liquefaction
5 shall not be permitted as a method of livestock disposal. The
6 registration of a facility under this section shall contain a
7 description of the facility, the location and proposed duration of
8 the research or demonstration, and a description of the method of
9 disposal to be utilized. The department may register up to five
10 such research or demonstration facilities conducted in conjunction
11 with private livestock operations which meet all of the following
12 conditions:

13 (a) The project is designed and conducted by one or more
14 research faculty of the University of Nebraska;

15 (b) The project does not duplicate other research or
16 demonstration projects;

17 (c) The project sponsors submit annual reports on the
18 project and a final report at the conclusion of the project;

19 (d) The project employs adequate safeguards against
20 disease transmission or environmental contamination; and

21 (e) The project meets any other conditions deemed prudent
22 by the director.

23 (2) It is the intent of the Legislature that the
24 department register at least one research or demonstration facility
25 for innovative livestock disposal methods which shall be located

1 upon the premises of an animal feeding operation as defined in
2 section 54-2417. Before registering such facility, the department
3 shall first consult with the Department of Environmental Quality
4 and the Department of Health and Human Services. ~~Regulation~~
5 ~~and Licensure.~~ The Department of Agriculture may revoke the
6 registration of the facility at any time if the director has
7 reason to believe that the facility no longer meets the conditions
8 for registration.

9 (3) Only the carcasses of livestock that have died
10 upon the animal feeding operation premises where a research or
11 demonstration facility for innovative livestock disposal methods is
12 located may be disposed of at such facility. Carcasses from other
13 locations shall not be transported to such facility for disposal.

14 (4) A facility registered under this section is exempt
15 from the requirements for disposal of solid waste under the
16 Integrated Solid Waste Management Act.

17 Sec. 226. Section 54-747, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 54-747 Whenever any animal has been adjudged to
20 be affected with any infectious, contagious, or otherwise
21 transmissible disease, other than a disease for which specific
22 legislation exists, and has been ordered killed, the owner or
23 custodian thereof shall be notified of such finding and order.
24 Within forty-eight hours thereafter, such owner or custodian may
25 file a protest with the Department of Agriculture stating under

1 oath that to the best of his or her knowledge and belief such
2 animal is free from such infectious, contagious, or otherwise
3 transmissible disease. Thereupon, an examination of the animal
4 involved shall be made by three veterinarians, graduates of a
5 college of veterinary medicine which has been approved by the
6 Department of Health and Human Services ~~Regulation and Licensure~~ as
7 a preliminary qualification for admission to practice veterinary
8 medicine in the state. One of such veterinarians shall be appointed
9 by the department, one by the person making such protest, and
10 the two thus appointed shall choose the third. In case all three
11 veterinarians or any two of them find such animal to be free from
12 such infectious, contagious, or otherwise transmissible disease,
13 the expense of such examination shall be paid by the state. In
14 case the three veterinarians or any two of them find such animal
15 to be affected with such infectious, contagious, or otherwise
16 transmissible disease, the expense of the examination shall be
17 paid by the person making the protest. The department and the
18 person making such protest shall be bound by the result of such
19 examination.

20 Sec. 227. Section 60-3,135, Revised Statutes Cumulative
21 Supplement, 2006, is amended to read:

22 60-3,135 (1)(a) Undercover license plates may be issued
23 to state, county, city, or village law enforcement agencies
24 and shall be used only for legitimate criminal investigatory
25 purposes. Undercover license plates may also be issued to the

1 Nebraska State Patrol, the Game and Parks Commission, deputy
2 state sheriffs employed by the Nebraska Brand Committee and State
3 Fire Marshal for state law enforcement purposes, persons employed
4 by the Tax Commissioner for state revenue enforcement purposes,
5 the Department of Health and Human Services for the purposes of
6 communicable disease control, ~~or for~~ the prevention and control of
7 those communicable diseases which endanger the public health, ~~the~~
8 ~~Department of Health and Human Services Regulation and Licensure in~~
9 the enforcement of drug control laws, ~~or for~~ other investigation
10 purposes, the Department of Agriculture for special investigative
11 purposes, and the Insurance Fraud Prevention Division of the
12 Department of Insurance for investigative purposes. Undercover
13 license plates shall not be used on personally owned vehicles or
14 for personal use of government-owned vehicles.

15 (b) The director shall prescribe a form for agencies to
16 apply for undercover license plates. The form shall include a space
17 for the name and signature of the contact person for the requesting
18 agency, a statement that the undercover license plates are to be
19 used only for legitimate criminal investigatory purposes, and a
20 statement that undercover license plates are not to be used on
21 personally owned vehicles or for personal use of government-owned
22 vehicles.

23 (2) The agency shall include the name and signature of
24 the contact person for the agency on the form and pay the fee
25 prescribed in section 60-3,102. If the undercover license plates

1 will be used for the investigation of a specific event rather than
2 for ongoing investigations, the agency shall designate on the form
3 an estimate of the length of time the undercover license plates
4 will be needed. The contact person in the agency shall sign the
5 form and verify the information contained in the form.

6 (3) Upon receipt of a completed form, the director shall
7 determine whether the undercover license plates will be used by an
8 approved agency for a legitimate purpose pursuant to subsection (1)
9 of this section. If the director determines that the undercover
10 license plates will be used for such a purpose, he or she may issue
11 the undercover license plates in the form and under the conditions
12 he or she determines to be necessary. The decision of the director
13 regarding issuance of undercover license plates is final.

14 (4) The department shall keep records pertaining to
15 undercover license plates confidential, and such records shall not
16 be subject to public disclosure.

17 (5) The contact person shall return the undercover
18 license plates to the department if:

19 (a) The undercover license plates expire and are not
20 renewed;

21 (b) The purpose for which the undercover license plates
22 were issued has been completed or terminated; or

23 (c) The director requests their return.

24 (6) A state agency, board, or commission that uses
25 motor vehicles from the transportation services bureau of the

1 Department of Administrative Services shall notify the bureau
2 immediately after undercover license plates have been assigned to
3 the motor vehicle and shall provide the equipment and license plate
4 number and the undercover license plate number to the bureau. The
5 transportation services bureau shall maintain a list of state-owned
6 motor vehicles which have been assigned undercover license plates.
7 The list shall be confidential and not be subject to public
8 disclosure.

9 (7) The contact person shall be held accountable to keep
10 proper records of the number of undercover plates possessed by
11 the agency, the particular license plate numbers for each motor
12 vehicle, and the person who is assigned to the motor vehicle.
13 This record shall be confidential and not be subject to public
14 disclosure.

15 Sec. 228. Section 60-480.01, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 60-480.01 (1)(a) Undercover drivers' licenses may be
18 issued to state, county, city, or village law enforcement agencies
19 and shall be used only for legitimate criminal investigatory
20 purposes. Undercover drivers' licenses may also be issued to the
21 Nebraska State Patrol, the Game and Parks Commission, deputy
22 state sheriffs employed by the Nebraska Brand Committee and
23 State Fire Marshal for state law enforcement purposes, persons
24 employed by the Tax Commissioner for state revenue enforcement
25 purposes, the Department of Health and Human Services for the

1 purposes of communicable disease control, ~~or for~~ the prevention and
2 control of those communicable diseases which endanger the public
3 health, ~~the Department of Health and Human Services Regulation~~
4 ~~and Licensure in~~ the enforcement of drug control laws, ~~or for~~
5 other investigation purposes, and the Department of Agriculture for
6 special investigative purposes. Undercover drivers' licenses are
7 not for personal use.

8 (b) The director shall prescribe a form for agencies
9 to apply for undercover drivers' licenses. The form shall include
10 a space for the name and signature of the contact person for
11 the requesting agency, a statement that the undercover drivers'
12 licenses are to be used only for legitimate criminal investigatory
13 purposes, and a statement that undercover drivers' licenses are not
14 for personal use.

15 (2) The agency shall include the name and signature of
16 the contact person for the agency on the form and pay the fees
17 prescribed in section 60-4,115. If the undercover drivers' licenses
18 will be used for the investigation of a specific event rather than
19 for ongoing investigations, the agency shall designate on the form
20 an estimate of the length of time the undercover drivers' licenses
21 will be needed. The contact person in the agency shall sign the
22 form and verify the information contained in the form.

23 (3) Upon receipt of a completed form, the director shall
24 determine whether the undercover drivers' licenses will be used by
25 an approved agency for a legitimate purpose pursuant to subsection

1 (1) of this section. If the director determines that the undercover
2 drivers' licenses will be used for such a purpose, he or she may
3 issue the undercover drivers' licenses in the form and under the
4 conditions he or she determines to be necessary. The decision of
5 the director regarding issuance of undercover drivers' licenses is
6 final.

7 (4) The Department of Motor Vehicles shall keep records
8 pertaining to undercover drivers' licenses confidential, and such
9 records shall not be subject to public disclosure. Any person who
10 receives information pertaining to undercover drivers' licenses in
11 the course of his or her employment and who discloses any such
12 information to any unauthorized individual shall be guilty of a
13 Class III misdemeanor.

14 (5) The contact person shall return the undercover
15 drivers' licenses to the Department of Motor Vehicles if:

16 (a) The undercover drivers' licenses expire and are not
17 renewed;

18 (b) The purpose for which the undercover drivers'
19 licenses were issued has been completed or terminated;

20 (c) The persons for whom the undercover drivers' licenses
21 were issued cease to be employees of the agency; or

22 (d) The director requests their return.

23 Sec. 229. Section 60-493, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 60-493 When a person applies for an operator's license or

1 state identification card, the county treasurer or examiner of the
2 Department of Motor Vehicles shall distribute a brochure provided
3 by an organ and tissue procurement organization and approved by the
4 Department of Health and Human Services ~~Regulation and Licensure~~
5 containing a description and explanation of the Uniform Anatomical
6 Gift Act to each person applying for a new or renewal license or
7 card.

8 If an individual desires to receive additional specific
9 information regarding organ and tissue donation and the Donor
10 Registry of Nebraska as indicated on an application or examiner's
11 certificate under section 60-484, 60-4,144, or 60-4,181, the
12 department shall notify a representative of the federally
13 designated organ procurement organization in Nebraska within five
14 working days of the name and address of such individual.

15 Sec. 230. Section 60-4,118.02, Reissue Revised Statutes
16 of Nebraska, is amended to read:

17 60-4,118.02 (1) There is hereby created the Health
18 Advisory Board which shall consist of six health care providers
19 appointed by the director with the advice and recommendation of
20 ~~the Director of Regulation and Licensure.~~ Department of Health
21 and Human Services. The members of the board shall consist of
22 one general practice physician, one physician engaged in the
23 practice of ophthalmology, one physician engaged in the practice
24 of orthopedic surgery, one physician engaged in the practice
25 of neurological medicine and surgery, one optometrist, and one

1 psychiatrist. Each member of the board shall be licensed to
2 practice his or her profession pursuant to the Uniform Licensing
3 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. 231. 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

1 Act, a clinical laboratory certified pursuant to the federal
2 Clinical Laboratories Improvement Act of 1967, as amended, or Title
3 XVIII or XIX of the federal Social Security Act, as amended, to
4 withdraw human blood for scientific or medical purposes, or a
5 hospital shall be an agent of the State of Nebraska when performing
6 the act of withdrawing blood at the request of a peace officer
7 pursuant to section 60-4,164. The state shall be liable in damages
8 for any illegal or negligent acts or omissions of such agents in
9 performing the act of withdrawing blood. The agent shall not be
10 individually liable in damages or otherwise for any act done or
11 omitted in performing the act of withdrawing blood at the request
12 of a peace officer pursuant to such section except for acts of
13 willful, wanton, or gross negligence of the agent or of persons
14 employed by such agent.

15 (2) Any person listed in subsection (1) of this section
16 withdrawing a blood specimen for purposes of section 60-4,164
17 shall, upon request, furnish to any law enforcement agency or the
18 person being tested a certificate stating that such specimen was
19 taken in a medically acceptable manner. The certificate shall be
20 signed under oath before a notary public and shall be admissible
21 in any proceeding as evidence of the statements contained in the
22 certificate. The form of the certificate shall be prescribed by the
23 Department of Health and Human Services ~~Regulation and Licensure~~
24 and such forms shall be made available to the persons listed in
25 subsection (1) of this section.

1 Sec. 232. Section 60-6,104, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 60-6,104 All samples and tests of body fluids under
4 sections 60-6,101 to 60-6,103 shall be submitted to and performed
5 by an individual possessing a valid permit issued by the Department
6 of Health and Human Services ~~Regulation and Licensure~~ for such
7 purpose. Such tests shall be performed according to methods
8 approved by the department. Such individual shall promptly perform
9 such analysis and report the results thereof to the official
10 submitting the sample.

11 Sec. 233. Section 60-6,107, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 60-6,107 (1) Except as provided in subsection (2) of this
14 section, the Department of Health and Human Services ~~Regulation~~
15 ~~and Licensure~~ shall adopt necessary rules and regulations for the
16 administration of the provisions of sections 60-6,101 to 60-6,106.

17 (2) The Department of Roads shall adopt and promulgate
18 rules and regulations which shall provide for the release and
19 disclosure of the results of tests conducted under sections
20 60-6,102 and 60-6,103.

21 Sec. 234. Section 60-6,201, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 60-6,201 (1) Any test made under section 60-6,197, if
24 made in conformity with the requirements of this section, shall
25 be competent evidence in any prosecution under a state statute

1 or city or village ordinance involving operating a motor vehicle
2 while under the influence of alcoholic liquor or drugs or involving
3 driving or being in actual physical control of a motor vehicle when
4 the concentration of alcohol in the blood or breath is in excess of
5 allowable levels.

6 (2) Any test made under section 60-6,211.02, if made
7 in conformity with the requirements of this section, shall be
8 competent evidence in any prosecution involving operating or being
9 in actual physical control of a motor vehicle in violation of
10 section 60-6,211.01.

11 (3) To be considered valid, tests of blood, breath, or
12 urine made under section 60-6,197 or tests of blood or breath made
13 under section 60-6,211.02 shall be performed according to methods
14 approved by the Department of Health and Human Services ~~Regulation~~
15 ~~and Licensure~~ and by an individual possessing a valid permit issued
16 by such department for such purpose, except that a physician,
17 registered nurse, or other trained person employed by a licensed
18 health care facility or health care service which is defined in the
19 Health Care Facility Licensure Act or clinical laboratory certified
20 pursuant to the federal Clinical Laboratories Improvement Act of
21 1967, as such act existed on September 1, 2001, or Title XVIII
22 or XIX of the federal Social Security Act, as such act existed
23 on September 1, 2001, to withdraw human blood for scientific or
24 medical purposes, acting at the request of a peace officer, may
25 withdraw blood for the purpose of a test to determine the alcohol

1 concentration or the presence of drugs and no permit from the
2 department shall be required for such person to withdraw blood
3 pursuant to such an order. The department may approve satisfactory
4 techniques or methods to perform such tests and may ascertain
5 the qualifications and competence of individuals to perform such
6 tests and issue permits which shall be subject to termination or
7 revocation at the discretion of the department.

8 (4) A permit fee may be established by regulation by the
9 department which shall not exceed the actual cost of processing
10 the initial permit. Such fee shall be charged annually to each
11 permitholder. The fees shall be used to defray the cost of
12 processing and issuing the permits and other expenses incurred by
13 the department in carrying out this section. The fee shall be
14 remitted to the State Treasurer for credit to the ~~Department of~~
15 ~~Health and Human Services Regulation and Licensure Cash Fund~~ Health
16 and Human Services Cash Fund as a laboratory service fee.

17 (5) Relevant evidence shall not be excluded in any
18 prosecution under a state statute or city or village ordinance
19 involving operating a motor vehicle while under the influence of
20 alcoholic liquor or drugs or involving driving or being in actual
21 physical control of a motor vehicle when the concentration of
22 alcohol in the blood or breath is in excess of allowable levels
23 on the ground that the evidence existed or was obtained outside of
24 this state.

25 Sec. 235. Section 60-6,202, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 60-6,202 (1) Any physician, registered nurse, other
3 trained person employed by a licensed health care facility or
4 health care service defined in the Health Care Facility Licensure
5 Act, a clinical laboratory certified pursuant to the federal
6 Clinical Laboratories Improvement Act of 1967, as amended, or Title
7 XVIII or XIX of the federal Social Security Act, as amended, to
8 withdraw human blood for scientific or medical purposes, or a
9 hospital shall be an agent of the State of Nebraska when performing
10 the act of withdrawing blood at the request of a peace officer
11 pursuant to sections 60-6,197 and 60-6,211.02. The state shall be
12 liable in damages for any illegal or negligent acts or omissions of
13 such agents in performing the act of withdrawing blood. The agent
14 shall not be individually liable in damages or otherwise for any
15 act done or omitted in performing the act of withdrawing blood at
16 the request of a peace officer pursuant to such sections except for
17 acts of willful, wanton, or gross negligence of the agent or of
18 persons employed by such agent.

19 (2) Any person listed in subsection (1) of this section
20 withdrawing a blood specimen for purposes of section 60-6,197 or
21 60-6,211.02 shall, upon request, furnish to any law enforcement
22 agency or the person being tested a certificate stating that
23 such specimen was taken in a medically acceptable manner. The
24 certificate shall be signed under oath before a notary public and
25 shall be admissible in any proceeding as evidence of the statements

1 contained in the certificate. The form of the certificate shall
2 be prescribed by the Department of Health and Human Services
3 ~~Regulation and Licensure~~ and such forms shall be made available to
4 the persons listed in subsection (1) of this section.

5 Sec. 236. Section 68-126, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 68-126 The ~~Director of Finance and Support~~ shall
8 ~~immediately~~ Department of Health and Human Services shall adopt and
9 promulgate rules and regulations establishing maximum payments for
10 all health services furnished to recipients of public assistance.
11 Each county shall, not later than December 31, 1984, establish
12 a standard of need for medical services furnished, pursuant to
13 section 68-104, by the counties to indigent persons who are not
14 eligible for other medical assistance programs. This standard shall
15 not exceed the Office of Management and Budget income poverty
16 guidelines.

17 Sec. 237. Section 68-129, Revised Statutes Cumulative
18 Supplement, 2006, is amended to read:

19 68-129 The ~~Director~~ Department of Health and Human
20 Services shall, by rule and regulation, when determining need
21 for public assistance on the basis of available resources, exclude
22 from the definition of available resources of an applicant for
23 assistance either the funds deposited in an irrevocable trust fund
24 created pursuant to section 12-1106 or up to four thousand dollars,
25 increased annually as provided in this section, of the amount paid

1 for a policy of insurance the proceeds of which are specifically
2 and irrevocably designated, assigned, or pledged for the payment
3 of the applicant's burial expenses. The Department of Health and
4 Human Services shall increase such amount annually on September
5 1 beginning with the year 2006 by the percentage change in the
6 Consumer Price Index for All Urban Consumers published by the
7 Federal Bureau of Labor Statistics at the close of the twelve-month
8 period ending on August 31 of such year. This section shall not
9 preclude the eligibility for assistance of an applicant who has
10 purchased such a policy of insurance prior to July 9, 1988, unless
11 such applicant is subject to subdivision (3) of section 68-1002.

12 Sec. 238. Section 68-130, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 68-130 Counties shall maintain, at no additional cost to
15 the Department of Health and Human Services, ~~Finance and Support,~~
16 office and service facilities used for the administration of the
17 public assistance programs as such facilities existed on April 1,
18 1983.

19 Sec. 239. Section 68-309, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 68-309 The Department of Health and Human Services
22 ~~Finance and Support~~ shall be the sole agency of the State of
23 Nebraska to administer the State Assistance Fund for assistance
24 to the aged, blind, or disabled, aid to dependent children,
25 medical assistance, medically handicapped children's services,

1 child welfare services, and such other assistance and services
2 as may be made available to the State of Nebraska by the government
3 of the United States.

4 Sec. 240. Section 68-312, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 68-312 The Department of Health and Human Services, ~~the~~
7 ~~Department of Health and Human Services Regulation and Licensure,~~
8 ~~and the Department of Health and Human Services Finance and Support~~
9 ~~shall have~~ has the power to establish and enforce reasonable rules
10 and regulations governing the custody, use, and preservation of the
11 records, papers, files, and communications of the state. The use of
12 such records, papers, files, and communications by any other agency
13 or department of government to which they may be furnished shall be
14 limited to the purposes for which they are furnished.

15 Sec. 241. Section 68-313, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 68-313 It shall be unlawful, except as permitted by
18 section 68-313.01 and except for purposes directly connected with
19 the administration of general assistance, medically handicapped
20 children's services, medical assistance, assistance to the aged,
21 blind, or disabled, or aid to dependent children, and in accordance
22 with the rules and regulations of the Department of Health and
23 Human Services, ~~the Department of Health and Human Services~~
24 ~~Regulation and Licensure,~~ and ~~the Department of Health and~~
25 ~~Human Services Finance and Support,~~ for any person or persons

1 to solicit, disclose, receive, make use of, authorize, knowingly
2 permit, participate in, or acquiesce in the use of, any list of
3 or names of, any information concerning, or persons applying for
4 or receiving such aid or assistance, directly or indirectly derived
5 from the records, papers, files, or communications of the state, or
6 subdivisions or agencies thereof, or acquired in the course of the
7 performance of official duties.

8 Sec. 242. Section 68-703.01, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 68-703.01 The Department of Health and Human Services,
11 ~~the Department of Health and Human Services Regulation and~~
12 ~~Licensure, and the Department of Health and Human Services Finance~~
13 ~~and Support shall have~~ has the authority to use any funds which may
14 be made available through an agency of the government of the United
15 States to reimburse any county of this state, either in whole or in
16 part, for the following expenditures: (1) Employment of staff whose
17 duties involve the giving or strengthening of services to children,
18 (2) the return of any nonresident child to his or her place of
19 residence when such child shall be found in the county, and (3) the
20 temporary cost of board and care of a needy child who by necessity
21 requires care in a foster home.

22 Sec. 243. Section 68-716, Revised Statutes Cumulative
23 Supplement, 2006, is amended to read:

24 68-716 An application for medical assistance shall give a
25 right of subrogation to the Department of Health and Human Services

1 ~~Finance and Support~~ or its assigns. Subject to sections 68-921 to
2 68-925, subrogation shall include every claim or right which the
3 applicant may have against a third party when such right or claim
4 involves money for medical care. The third party shall be liable to
5 make payments directly to the department or its assigns as soon as
6 he or she is notified in writing of the valid claim for subrogation
7 under this section.

8 Sec. 244. Section 68-717, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 68-717 The Department of Health and Human Services
11 and the Department of Health and Human Services ~~Finance and~~
12 ~~Support~~ shall assume the responsibility for all public assistance,
13 including aid to families with dependent children, emergency
14 assistance, assistance to the aged, blind, or disabled, medically
15 handicapped children's services, commodities, food stamps, and
16 medical assistance.

17 Sec. 245. Section 68-718, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 68-718 All furniture, equipment, books, files, records,
20 and personnel utilized by the county divisions or boards of public
21 welfare for the administration of public assistance programs shall
22 be transferred and delivered to the Department of Health and Human
23 Services. ~~Finance and Support~~. The transferred employees shall
24 not lose any accrued benefits or status due to the transfer and
25 shall receive the same benefits as other state employees, including

1 participation in the State Employees Retirement Fund.

2 Sec. 246. Section 68-907, Revised Statutes Cumulative
3 Supplement, 2006, is amended to read:

4 68-907 For purposes of the Medical Assistance Act:

5 (1) Committee means the Health and Human Services
6 Committee of the Legislature;

7 (2) Department means the Department of Health and Human
8 Services; ~~Finance and Support;~~

9 ~~(3) Director means the Director of Finance and Support;~~

10 ~~(4)~~ (3) Medicaid Reform Plan means the Medicaid Reform
11 Plan submitted on December 1, 2005, pursuant to the Medicaid Reform
12 Act enacted pursuant to Laws 2005, LB 709;

13 ~~(5)~~ (4) Medicaid state plan means the comprehensive
14 written document, developed and amended by the department and
15 approved by the federal Centers for Medicare and Medicaid Services,
16 which describes the nature and scope of the medical assistance
17 program and provides assurances that the department will administer
18 the program in compliance with federal requirements;

19 ~~(6)~~ (5) Provider means a person providing health care or
20 related services under the medical assistance program; and

21 ~~(7)~~ (6) Waiver means the waiver of applicability to
22 the state of one or more provisions of federal law relating to
23 the medical assistance program based on an application by the
24 department and approval of such application by the federal Centers
25 for Medicare and Medicaid Services.

1 Sec. 247. Section 68-908, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 68-908 (1) The department shall administer the medical
4 assistance program.

5 (2) The department may (a) enter into contracts and
6 interagency agreements, (b) adopt and promulgate rules and
7 regulations, (c) adopt fee schedules, (d) apply for and implement
8 waivers and managed care plans for eligible recipients, and (e)
9 perform such other activities as necessary and appropriate to carry
10 out its duties under the Medical Assistance Act.

11 (3) The department shall maintain the confidentiality
12 of information regarding applicants for or recipients of medical
13 assistance and such information shall only be used for purposes
14 related to administration of the medical assistance program and the
15 provision of such assistance or as otherwise permitted by federal
16 law.

17 (4)(a) The department shall prepare a biennial summary
18 and analysis of the medical assistance program for legislative
19 and public review, including, but not limited to, a description
20 of eligible recipients, covered services, provider reimbursement,
21 program trends and projections, program budget and expenditures,
22 the status of implementation of the Medicaid Reform Plan, and
23 recommendations for program changes.

24 (b) The department shall provide a draft report of such
25 summary and analysis to the Medicaid Reform Council no later than

1 October 1 of each even-numbered year. The council shall conduct a
2 public meeting no later than October 15 of such year to discuss
3 and receive public comment regarding such report. The council shall
4 provide any comments and recommendations regarding such report in
5 writing to the ~~director~~ department and the committee no later than
6 November 1 of such year. The department shall submit a final report
7 of such summary and analysis to the Governor, the Legislature, and
8 the council no later than December 1 of such year.

9 Sec. 248. Section 68-913, Revised Statutes Cumulative
10 Supplement, 2006, is amended to read:

11 68-913 (1) Each public school district shall annually,
12 at the beginning of the school year, provide written information
13 supplied by the ~~Department of Health and Human Services and~~
14 ~~the Department of Health and Human Services Finance and Support~~
15 department to every student describing the availability of
16 children's health services provided under the medical assistance
17 program.

18 (2) Each hospital shall provide the mother of every
19 child born in such hospital, at the time of such birth, written
20 information provided by the ~~departments~~ department describing the
21 availability of children's health services provided under the
22 medical assistance program.

23 (3) The ~~departments~~ department shall develop and
24 implement other activities designed to increase public awareness of
25 the availability of children's health services provided under the

1 medical assistance program. Such activities shall include materials
2 and efforts designed to increase participation in the program by
3 minority populations.

4 Sec. 249. Section 68-915, Revised Statutes Cumulative
5 Supplement, 2006, is amended to read:

6 68-915 The following persons shall be eligible for
7 medical assistance:

8 (1) Dependent children as defined in section 43-504;

9 (2) Aged, blind, and disabled persons as defined in
10 sections 68-1002 to 68-1005;

11 (3) Children under nineteen years of age who are eligible
12 under section 1905(a)(i) of the federal Social Security Act;

13 (4) Persons who are presumptively eligible as allowed
14 under sections 1920 and 1920B of the federal Social Security Act;

15 (5) Children under nineteen years of age and pregnant
16 women with a family income equal to or less than one hundred
17 eighty-five percent of the Office of Management and Budget income
18 poverty guideline, as allowed under Title XIX and Title XXI of the
19 federal Social Security Act, without regard to resources. Children
20 described in this subdivision and subdivision (6) of this section
21 shall remain eligible for six consecutive months from the date of
22 initial eligibility prior to redetermination of eligibility. The
23 department may review eligibility monthly thereafter pursuant to
24 rules and regulations adopted and promulgated by the department.
25 The department may determine upon such review that a child is

1 ineligible for medical assistance if such child no longer meets
2 eligibility standards established by the department;

3 (6) For purposes of Title XIX of the federal Social
4 Security Act as provided in subdivision (5) of this section,
5 children with a family income as follows:

6 (a) Equal to or less than one hundred fifty percent of
7 the Office of Management and Budget income poverty guideline with
8 eligible children one year of age or younger;

9 (b) Equal to or less than one hundred thirty-three
10 percent of the Office of Management and Budget income poverty
11 guideline with eligible children over one year of age and under six
12 years of age; or

13 (c) Equal to or less than one hundred percent of the
14 Office of Management and Budget income poverty guideline with
15 eligible children six years of age or older and less than nineteen
16 years of age;

17 (7) Persons who are medically needy caretaker relatives
18 as allowed under 42 U.S.C. 1396d(a)(ii);

19 (8) As allowed under 42 U.S.C. 1396a(a)(10)(A)(ii),
20 disabled persons as defined in section 68-1005 with a family income
21 of less than two hundred fifty percent of the Office of Management
22 and Budget income poverty guideline and who, but for earnings in
23 excess of the limit established under 42 U.S.C. 1396d(q)(2)(B),
24 would be considered to be receiving federal Supplemental Security
25 Income. The ~~Department of Health and Human Services~~ department

1 shall apply for a waiver to disregard any unearned income that is
2 contingent upon a trial work period in applying the Supplemental
3 Security Income standard. Such disabled persons shall be subject to
4 payment of premiums as a percentage of family income beginning at
5 not less than two hundred percent of the Office of Management and
6 Budget income poverty guideline. Such premiums shall be graduated
7 based on family income and shall not be less than two percent or
8 more than ten percent of family income; and

9 (9) As allowed under 42 U.S.C. 1396a(a)(10)(A)(ii),
10 persons who:

11 (a) Have been screened for breast and cervical cancer
12 under the Centers for Disease Control and Prevention breast and
13 cervical cancer early detection program established under Title XV
14 of the federal Public Health Service Act, 42 U.S.C. 300k et seq.,
15 in accordance with the requirements of section 1504 of such act, 42
16 U.S.C. 300n, and who need treatment for breast or cervical cancer,
17 including precancerous and cancerous conditions of the breast or
18 cervix;

19 (b) Are not otherwise covered under creditable coverage
20 as defined in section 2701(c) of the federal Public Health Service
21 Act, 42 U.S.C. 300gg(c);

22 (c) Have not attained sixty-five years of age; and

23 (d) Are not eligible for medical assistance under any
24 mandatory categorically needy eligibility group.

25 Eligibility shall be determined under this section

1 using an income budgetary methodology that determines children's
2 eligibility at no greater than one hundred eighty-five percent of
3 the Office of Management and Budget income poverty guideline and
4 adult eligibility using adult income standards no greater than the
5 applicable categorical eligibility standards established pursuant
6 to state or federal law. The department shall determine eligibility
7 under this section pursuant to such income budgetary methodology
8 and subdivision (1)(s) of section 68-1713.

9 Sec. 250. Section 68-921, Revised Statutes Cumulative
10 Supplement, 2006, is amended to read:

11 68-921 For purposes of sections 68-921 to 68-925:

12 (1) Assets means property which is not exempt from
13 consideration in determining eligibility for medical assistance
14 under rules and regulations adopted and promulgated under section
15 68-922;

16 (2) Community spouse monthly income allowance means the
17 amount of income determined by the ~~Department of Health and Human~~
18 ~~Services~~ department in accordance with section 1924 of the federal
19 Social Security Act, as amended, Public Law 100-360, 42 U.S.C.
20 1396r-5;

21 (3) Community spouse resource allowance means the amount
22 of assets determined in accordance with section 1924 of the federal
23 Social Security Act, as amended, Public Law 100-360, 42 U.S.C.
24 1396r-5. For purposes of 42 U.S.C. 1396r-5(f)(2)(A)(i), the amount
25 specified by the state shall be twelve thousand dollars;

1 (4) Home and community-based services means services
2 furnished under home and community-based waivers as defined in
3 Title XIX of the federal Social Security Act, as amended, 42 U.S.C.
4 1396;

5 (5) Qualified applicant means a person (a) who applies
6 for medical assistance on or after July 9, 1988, (b) who is
7 under care in a state-licensed hospital, skilled nursing facility,
8 intermediate care facility, intermediate care facility for the
9 mentally retarded, nursing facility, assisted-living facility, or
10 center for the developmentally disabled, as such terms are defined
11 in the Health Care Facility Licensure Act, or an adult family home
12 certified by the ~~Department of Health and Human Services~~ department
13 or is receiving home and community-based services, and (c) whose
14 spouse is not under such care or receiving such services and is not
15 applying for or receiving medical assistance;

16 (6) Qualified recipient means a person (a) who has
17 applied for medical assistance before July 9, 1988, and is eligible
18 for such assistance, (b) who is under care in a facility certified
19 to receive medical assistance funds or is receiving home and
20 community-based services, and (c) whose spouse is not under such
21 care or receiving such services and is not applying for or
22 receiving medical assistance; and

23 (7) Spouse means the spouse of a qualified applicant or
24 qualified recipient.

25 Sec. 251. Section 68-922, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2 68-922 For purposes of determining medical assistance
3 eligibility and the right to and obligation of medical support
4 pursuant to sections 68-716, 68-915, and 68-916, a spouse may
5 retain (1) assets equivalent to the community spouse resource
6 allowance and (2) an amount of income equivalent to the community
7 spouse monthly income allowance.

8 ~~The Department of Health and Human Services~~ department
9 shall administer this section in accordance with section 1924 of
10 the Social Security Act, as amended, Public Law 100-360, 42 U.S.C.
11 1396r-5, and shall adopt and promulgate rules and regulations as
12 necessary to implement and enforce sections 68-921 to 68-925.

13 Sec. 252. Section 68-923, Revised Statutes Cumulative
14 Supplement, 2006, is amended to read:

15 68-923 If a portion of the aggregate assets is designated
16 in accordance with section 68-924:

17 (1) Only the assets not designated for the spouse shall
18 be considered in determining the eligibility of an applicant for
19 medical assistance;

20 (2) In determining the eligibility of an applicant, the
21 assets designated for the spouse shall not be taken into account
22 and proof of adequate consideration for any assignment or transfer
23 made as a result of the designation of assets shall not be
24 required;

25 (3) The assets designated for the spouse shall not be

1 considered to be available to an applicant or recipient for future
2 medical support and the spouse shall have no duty of future medical
3 support of the applicant or recipient from such assets;

4 (4) Recovery may not be made from the assets designated
5 for the spouse for any amount paid for future medical assistance
6 provided to the applicant or recipient; and

7 (5) Neither the ~~Director of Health and Human Services~~
8 department nor the state shall be subrogated to or assigned any
9 future right of the applicant or recipient to medical support from
10 the assets designated for the spouse.

11 Sec. 253. Section 68-924, Revised Statutes Cumulative
12 Supplement, 2006, is amended to read:

13 68-924 A designation of assets pursuant to section 68-922
14 shall be evidenced by a written statement listing such assets and
15 signed by the spouse. A copy of such statement shall be provided
16 to the ~~Director of Health and Human Services~~ department at the
17 time of application and shall designate assets owned as of the date
18 of application. Failure to complete any assignments or transfers
19 necessary to place the designated assets in sole ownership of the
20 spouse within a reasonable time after the statement is signed as
21 provided in rules and regulations adopted and promulgated under
22 section 68-922 may render the applicant or recipient ineligible for
23 assistance in accordance with such rules and regulations.

24 Sec. 254. Section 68-925, Revised Statutes Cumulative
25 Supplement, 2006, is amended to read:

1 68-925 The Department of Health and Human Services
2 department shall furnish to each qualified applicant for and
3 each qualified recipient of medical assistance a clear and simple
4 written statement explaining the provisions of section 68-922.

5 Sec. 255. Section 68-926, Revised Statutes Cumulative
6 Supplement, 2006, is amended to read:

7 68-926 The Legislature finds that (1) the Department
8 of Health and Human Services and the Department of Health and
9 Human Services Finance and Support rely department relies on
10 health insurance and claims information from private insurers to
11 ensure accuracy in processing state benefit program payments to
12 providers and in verifying individual recipients' eligibility, (2)
13 delay or refusal to provide such information causes unnecessary
14 expenditures of state funds, (3) disclosure of such information
15 to the Department of Health and Human Services and the Department
16 of Health and Human Services Finance and Support department is
17 permitted pursuant to the federal Health Insurance Portability and
18 Accountability privacy rules under 45 C.F.R. part 164, and (4) for
19 medical assistance program recipients who also have other insurance
20 coverage, including coverage by licensed and self-funded insurers,
21 the Department of Health and Human Services Finance and Support
22 department is required by 42 U.S.C. 1396a(a)(25) to assure that
23 licensed and self-funded insurers coordinate benefits with the
24 program.

25 Sec. 256. Section 68-927, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2 68-927 For purposes of sections 68-926 to 68-933:

3 (1) Coordinate benefits means:

4 (a) Provide to the ~~Department of Health and Human~~
5 ~~Services or the Department of Health and Human Services Finance and~~
6 ~~Support~~ department information regarding the licensed insurer's or
7 self-funded insurer's existing coverage for an individual who is
8 eligible for a state benefit program; and

9 (b) Meet payment obligations;

10 (2) Coverage information means health information
11 possessed by a licensed insurer or self-funded insurer that is
12 limited to the following information about an individual:

13 (a) Eligibility for coverage under a health plan;

14 (b) Coverage of health care under the health plan; or

15 (c) Benefits and payments associated with the health
16 plan;

17 (3) Health plan means any policy of insurance issued
18 by a licensed insurer or any employee benefit plan offered by a
19 self-funded insurer that provides for payment to or on behalf of
20 an individual as a result of an illness, disability, or injury or
21 change in a health condition;

22 (4) Individual means a person covered by a state benefit
23 program, including the medical assistance program, or a person
24 applying for such coverage;

25 (5) Licensed insurer means any insurer, except a

1 self-funded insurer, including a fraternal benefit society,
2 producer, or other person licensed or required to be licensed,
3 authorized or required to be authorized, or registered or required
4 to be registered pursuant to the insurance laws of the state; and

5 (6) Self-funded insurer means any employer or union who
6 or which provides a self-funded employee benefit plan.

7 Sec. 257. Section 68-928, Revised Statutes Cumulative
8 Supplement, 2006, is amended to read:

9 68-928 (1) Except as provided in subsection (2) of this
10 section, at the request of the ~~Department of Health and Human~~
11 ~~Services or the Department of Health and Human Services Finance and~~
12 ~~Support, department,~~ a licensed insurer or a self-funded insurer
13 shall provide coverage information to the ~~requesting~~ department
14 without an individual's authorization for purposes of:

15 (a) Determining an individual's eligibility for state
16 benefit programs, including the medical assistance program; or

17 (b) Coordinating benefits with state benefit programs.

18 Such information shall be provided within thirty days
19 after the date of request unless good cause is shown. Requests for
20 coverage information shall specify individual recipients for whom
21 information is being requested.

22 (2)(a) Coverage information requested pursuant to
23 subsection (1) of this section regarding a limited benefit policy
24 shall be limited to whether a specified individual has coverage
25 and, if so, a description of that coverage, and such information

1 shall be used solely for the purposes of subdivision (1) (a) of this
2 section.

3 (b) For purposes of this section, limited benefit policy
4 means a policy of insurance issued by a licensed insurer that
5 consists only of one or more, or any combination of the following:

- 6 (i) Coverage only for accident or disability income
7 insurance, or any combination thereof;
8 (ii) Coverage for specified disease or illness; or
9 (iii) Hospital indemnity or other fixed indemnity
10 insurance.

11 Sec. 258. Section 68-930, Revised Statutes Cumulative
12 Supplement, 2006, is amended to read:

13 68-930 The ~~Department of Health and Human Services~~
14 ~~Finance and Support~~ department may impose and collect a civil
15 penalty on a self-funded insurer who violates the requirements
16 of section 68-928 if the department finds that the self-funded
17 insurer:

18 (1) Committed the violation flagrantly and in conscious
19 disregard of the requirements; or

20 (2) Has committed violations with such frequency as to
21 indicate a general business practice to engage in that type of
22 conduct.

23 The civil penalty shall not be more than one thousand
24 dollars for each violation, not to exceed an aggregate penalty of
25 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. 259. 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~~ department 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. 260. 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~~ department shall establish a process by
16 rule and regulation for resolving any violation by a self-funded
17 insurer of section 68-928 and for assessing the financial penalties
18 contained in section 68-930. Any appeal of an action by the
19 department under such policies shall be in accordance with the
20 Administrative Procedure Act.

21 Sec. 261. Section 68-940, Revised Statutes Cumulative
22 Supplement, 2006, is amended to read:

23 68-940 (1) In determining the amount of any penalties or
24 damages awarded under the False Medicaid Claims Act, the following
25 shall be taken into account:

1 (a) The nature of claims and the circumstances under
2 which they were presented;

3 (b) The degree of culpability and history of prior
4 offenses of the person presenting the claims;

5 (c) Coordination of the total penalties and damages
6 arising from the same claims, goods, or services, whether based on
7 state or federal statute; and

8 (d) Such other matters as justice requires.

9 (2) (a) Any person who presents a false medicaid claim is
10 subject to civil liability as provided in section 68-936, except
11 when the court finds that:

12 (i) The person committing the violation of the False
13 Medicaid Claims Act furnished officials of the state responsible
14 for investigating violations of the act with all information known
15 to such person about the violation within thirty days after the
16 date on which the defendant first obtained the information;

17 (ii) Such person fully cooperated with any state
18 investigation of such violation; and

19 (iii) At the time such person furnished the state with
20 the information about the violation, no criminal prosecution, civil
21 action, or administrative action had commenced under the act with
22 respect to such violation and the person did not have actual
23 knowledge of the existence of an investigation into such violation.

24 (b) The court may assess not more than two times the
25 amount of the false medicaid claims submitted because of the action

1 of a person coming within the exception under subdivision (2) (a)
2 of this section, and such person is also liable for the state's
3 costs and attorney's fees for a civil action brought to recover any
4 penalty or damages.

5 (3) Amounts recovered under the False Medicaid Claims
6 Act shall be remitted to the State Treasurer for credit to the
7 ~~Department of Health and Human Services~~ Cash Fund, except that the
8 State Treasurer shall distribute civil penalties in accordance with
9 Article VII, section 5, of the Constitution of Nebraska.

10 Sec. 262. Section 68-948, Revised Statutes Cumulative
11 Supplement, 2006, is amended to read:

12 68-948 (1) The Medicaid Reform Council is established.
13 The council shall consist of ten persons appointed by the
14 chairperson of the committee, in consultation with the committee,
15 the Governor, and the ~~director~~ department. The council shall
16 include, but not be limited to, at least one representative from
17 each of the following: Providers, recipients of medical assistance,
18 advocates for such recipients, business representatives, insurers,
19 and elected officials. The chairperson of the committee shall
20 appoint the chairperson of the council. Members of the council may
21 be reimbursed for their actual and necessary expenses as provided
22 in sections 81-1174 to 81-1177.

23 (2) The council shall (a) oversee and support
24 implementation of reforms to the medical assistance program,
25 including, but not limited to, reforms such as those contained

1 in the Medicaid Reform Plan, (b) conduct at least two public
2 meetings annually and other meetings at the call of the chairperson
3 of the council, in consultation with the ~~director~~ department and
4 the chairperson of the committee, and (c) provide comments and
5 recommendations to the department regarding the administration of
6 the medical assistance program and any proposed changes to such
7 program.

8 (3) The Medicaid Reform Council and this section
9 terminate on June 30, 2010.

10 Sec. 263. Section 68-949, Revised Statutes Cumulative
11 Supplement, 2006, is amended to read:

12 68-949 (1) It is the intent of the Legislature that the
13 department implement reforms to the medical assistance program
14 such as those contained in the Medicaid Reform Plan, including (a)
15 an incremental expansion of home and community-based services for
16 aged persons and persons with disabilities consistent with such
17 plan, (b) an increase in care coordination or disease management
18 initiatives to better manage medical assistance expenditures
19 on behalf of high-cost recipients with multiple or chronic
20 medical conditions, and (c) other reforms as deemed necessary and
21 appropriate by the department, in consultation with the committee
22 and the Medicaid Reform Council.

23 (2)(a) The department shall develop recommendations
24 relating to the provision of health care and related services
25 for medicaid-eligible children under the state children's health

1 insurance program as allowed under Title XIX and Title XXI of the
2 federal Social Security Act. Such study and recommendations shall
3 include, but not be limited to, the organization and administration
4 of such program, the establishment of premiums, copayments, and
5 deductibles under such program, and the establishment of limits on
6 the amount, scope, and duration of services offered to recipients
7 under such program.

8 (b) The department shall provide a draft report of such
9 recommendations to the committee and the Medicaid Reform Council
10 no later than October 1, 2007. The council shall conduct a public
11 meeting no later than October 15, 2007, to discuss and receive
12 public comment regarding such report. The council shall provide any
13 comments and recommendations regarding such report in writing to
14 the ~~director~~ department and the committee no later than November
15 1, 2007. The department shall provide a final report of such
16 recommendations to the Governor, the committee, and the council no
17 later than December 1, 2007.

18 (3)(a) The department shall develop recommendations
19 for further modification or replacement of the defined benefit
20 structure of the medical assistance program. Such recommendations
21 shall be consistent with the public policy in section 68-905 and
22 shall consider the needs and resources of low-income Nebraska
23 residents who are eligible or may become eligible for medical
24 assistance, the experience and outcomes of other states that have
25 developed and implemented such changes, and other relevant factors

1 as determined by the department.

2 (b) The department shall provide a draft report of such
3 recommendations to the committee and the Medicaid Reform Council
4 no later than October 1, 2008. The council shall conduct a public
5 meeting no later than October 15, 2008, to discuss and receive
6 public comment regarding such report. The council shall provide any
7 comments and recommendations regarding such report in writing to
8 the ~~director~~ department and the committee no later than November
9 1, 2008. The department shall provide a final report of such
10 recommendations to the Governor, the committee, and the council no
11 later than December 1, 2008.

12 Sec. 264. Section 68-1001.01, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 68-1001.01 For the purpose of adding to the security and
15 social adjustment of former and potential recipients of assistance
16 to the aged, blind, and disabled, and of medical assistance, the
17 ~~Director~~ Department of Health and Human Services is authorized to
18 promulgate rules and regulations providing for services to such
19 persons.

20 Sec. 265. Section 68-1002, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 68-1002 In order to qualify for assistance to the aged,
23 blind, or disabled, an individual:

24 (1) Must be a bona fide resident of the State of
25 Nebraska, except that a resident of another state who enters the

1 State of Nebraska solely for the purpose of receiving care in
2 a home licensed by the Department of Health and Human Services
3 ~~Regulation and Licensure~~ shall not be deemed to be a bona fide
4 resident of Nebraska while such care is being provided;

5 (2) ~~Is not~~ Shall not be receiving care or services as an
6 inmate of a public institution, except as a patient in a medical
7 institution, and if the individual is a patient in an institution
8 for tuberculosis or mental diseases, he or she has attained the age
9 of sixty-five years;

10 (3) ~~Has not~~ Shall not have deprived himself or herself
11 directly or indirectly of any property whatsoever for the purpose
12 of qualifying for assistance to the aged, blind, or disabled;

13 (4) May receive care in a public or private institution
14 only if such institution is subject to a state authority or
15 authorities which shall be responsible for establishing and
16 maintaining standards for such institutions; and

17 (5) Must be in need of shelter, maintenance, or medical
18 care.

19 Sec. 266. Section 68-1007, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 68-1007 In determining need for assistance to the aged,
22 blind, or disabled, the ~~Director~~ Department of Health and Human
23 Services shall take into consideration all other income and
24 resources of the individual claiming such assistance, as well
25 as any expenses reasonably attributable to the earning of any such

1 income, except as otherwise provided in this section. In making
2 such determination with respect to any individual who is blind,
3 there shall be disregarded the first eighty-five dollars per month
4 of earned income plus one-half of earned income in excess of
5 eighty-five dollars per month and, for a period not in excess
6 of twelve months, such additional amounts of other income and
7 resources, in the case of an individual who has an approved plan
8 for achieving self-support, as may be necessary for the fulfillment
9 of such plan. In making such determination with respect to an
10 individual who has attained age sixty-five, or who is permanently
11 and totally disabled, and is claiming aid to the aged, blind,
12 or disabled, the ~~Director of Health and Human Services~~ department
13 shall disregard earned income at least to the extent such income
14 was disregarded on January 1, 1972, as provided in 42 U.S.C.
15 1396a(f).

16 Sec. 267. Section 68-1008, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 68-1008 Upon the filing of an application for assistance
19 to the aged, blind, or disabled, the Department of Health and Human
20 Services, ~~the Department of Health and Human Services Regulation~~
21 ~~and Licensure,~~ and the Department of Health and Human Services
22 ~~Finance and Support~~ shall make such investigation as it deems
23 necessary to determine the circumstances existing in each case.
24 Each applicant and recipient shall be notified in writing as to (1)
25 the approval or disapproval of any application, (2) the amount of

1 payments awarded, (3) any change in the amount of payments awarded,
2 and (4) the discontinuance of payments.

3 Sec. 268. Section 68-1014, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 68-1014 If any guardian or conservator shall have been
6 appointed to take charge of the property of any recipient of
7 assistance to the aged, blind, or disabled, aid to dependent
8 children, or medical assistance, such assistance payments shall be
9 made to the guardian or conservator upon his or her filing with the
10 ~~Director~~ Department of Health and Human Services a certified copy
11 of his or her letters of guardianship or conservatorship.

12 Sec. 269. Section 68-1015, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 68-1015 For the purpose of any investigation or hearing,
15 the ~~Director of Health and Human Services, the Director of~~
16 ~~Regulation and Licensure, and the Director of Finance and Support,~~
17 chief executive officer of the Department of Health and Human
18 Services and the division directors appointed pursuant to section
19 6 of this act, through his ~~or her~~ authorized agents, shall have
20 the power to compel, by subpoena, the attendance and testimony of
21 witnesses and the production of books and papers. Witnesses may be
22 examined on oath or affirmation.

23 Sec. 270. Section 68-1016, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 68-1016 The ~~Director of Health and Human Services~~ chief

1 executive officer of the Department of Health and Human Services,
2 or his or her designated representative, shall provide for granting
3 an opportunity for a fair hearing ~~before the Department of Health~~
4 ~~and Human Services~~ to any individual whose claim for assistance to
5 the aged, blind, or disabled, aid to dependent children, emergency
6 assistance, medical assistance, commodities, or food stamp benefits
7 is denied, is not granted in full, or is not acted upon with
8 reasonable promptness. An appeal shall be taken by filing with the
9 ~~director~~ department a written notice of appeal setting forth the
10 facts on which the appeal is based. The ~~director~~ department shall
11 thereupon, in writing, notify the appellant of the time and place
12 for hearing which shall be not less than one week nor more than six
13 weeks from the date of such notice. Hearings shall be before the
14 ~~director or his or her~~ duly authorized agent of the department. On
15 the basis of evidence adduced, the ~~director~~ duly authorized agent
16 shall enter a final order on such appeal, which order shall be
17 transmitted to the appellant.

18 Sec. 271. Section 68-1017, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 68-1017 Any person, including vendors and providers
21 of medical assistance and social services, who, by means of a
22 willfully false statement or representation, or by impersonation
23 or other device, obtains or attempts to obtain, or aids or abets
24 any person to obtain or to attempt to obtain (1) an assistance
25 certificate of award to which he or she is not entitled, (2) any

1 commodity, any foodstuff, any food coupon, any food stamp coupon,
2 electronic benefit, or electronic benefit card, or any payment to
3 which such individual is not entitled or a larger payment than
4 that to which he or she is entitled, (3) any payment made on
5 behalf of a recipient of medical assistance or social services,
6 or (4) any other benefit administered by the Department of Health
7 and Human Services, ~~or the Department of Health and Human Services~~
8 ~~Finance and Support~~, or who violates any statutory provision
9 relating to assistance to the aged, blind, or disabled, aid to
10 dependent children, social services, or medical assistance, commits
11 an offense and shall upon conviction be punished as follows: (a)
12 If the aggregate value of all funds or other benefits obtained or
13 attempted to be obtained is less than five hundred dollars, the
14 person so convicted shall be guilty of a Class III misdemeanor; or
15 (b) if the aggregate value of all funds and other benefits obtained
16 or attempted to be obtained is five hundred dollars or more, the
17 person so convicted shall be guilty of a Class IV felony.

18 Sec. 272. Section 68-1095.01, Revised Statutes Cumulative
19 Supplement, 2006, is amended to read:

20 68-1095.01 The Long-Term Care Partnership Program is
21 established. The program shall be administered by the Department of
22 Health and Human Services ~~Finance and Support~~ in accordance with
23 federal requirements on state long-term care partnership programs.
24 In order to implement the program, the department shall file a
25 state plan amendment with the federal Centers for Medicare and

1 Medicaid Services pursuant to the requirements set forth in 42
2 U.S.C. 1396p(b), as such section existed on March 1, 2006.

3 Sec. 273. Section 68-1101, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 68-1101 The ~~Department of Health and Human Services~~
6 Division of Medicaid and Long-Term Care Advisory Committee on Aging
7 is created. The committee shall consist of twelve members, one
8 from each of the planning-and-service areas as designated in the
9 Nebraska Community Aging Services Act and the remaining members
10 from the state at large.

11 Any member serving on the ~~Department on Aging~~ Department
12 of Health and Human Services Advisory Committee on Aging on January
13 ~~17, 1997,~~ July 1, 2007, shall continue to serve until his or her
14 term expires. As the terms of the members expire, the Governor
15 shall, on or before March 1 of such year, appoint or reappoint
16 a member of the committee for a term of four years. Each area
17 agency on aging serving a designated planning-and-service area
18 shall recommend to the Governor the names of persons qualified to
19 represent the senior population of the planning-and-service area.
20 Any vacancy on the committee shall be filled for the unexpired
21 term. A vacancy shall exist when a member of the committee ceases
22 to be a resident of the planning-and-service area from which he
23 or she was appointed or reappointed. The members to be appointed
24 to represent a planning-and-service area shall be residents of the
25 planning-and-service area from which they are appointed. Members

1 of the advisory committee shall not be elected public officials or
2 staff of the Department of Health and Human Services or of an area
3 agency on aging.

4 Sec. 274. Section 68-1103, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 68-1103 Members of the ~~Department of Health and Human~~
7 ~~Services~~ Division of Medicaid and Long-Term Care Advisory Committee
8 on Aging shall meet within thirty days after their appointment
9 to select from the members of the committee a chairperson, and
10 such other officers as committee members deem necessary, who shall
11 serve for a period of two years. The committee shall elect a new
12 chairperson every two years thereafter. The committee shall meet
13 at regular intervals at least once each year and may hold special
14 meetings at the call of the chairperson or at the request of a
15 majority of the members of the committee. The committee shall meet
16 at the seat of government or such other place as the members of the
17 committee may designate.

18 Sec. 275. Section 68-1104, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 68-1104 The ~~Department of Health and Human Services~~
21 Division of Medicaid and Long-Term Care Advisory Committee on Aging
22 shall advise the Division of Medicaid and Long-Term Care of the
23 Department of Health and Human Services regarding:

24 (1) The collection of facts and statistics and special
25 studies of conditions and problems pertaining to the employment,

1 health, financial status, recreation, social adjustment, or other
2 conditions and problems pertaining to the general welfare of the
3 aging of the state;

4 (2) Recommendations to state and local agencies serving
5 the aging for purposes of coordinating such agencies' activities,
6 and reports from the various state agencies and institutions on
7 matters within the jurisdiction of the committee;

8 (3) The latest developments of research, studies, and
9 programs being conducted throughout the nation on the problems and
10 needs of the aging;

11 (4) The mutual exchange of ideas and information on the
12 aging between federal, state, and local governmental agencies,
13 private organizations, and individuals; and

14 (5) Cooperation with agencies, federal, state, and
15 local or private organizations, in administering and supervising
16 demonstration programs of services for aging designed to foster
17 continued participation of older people in family and community
18 life and to prevent insofar as possible the onset of dependency and
19 the need for long-term institutional care.

20 The committee shall have the power to create special
21 committees to undertake such special studies as members of the
22 committee shall authorize and may include noncommittee members who
23 are qualified in any field of activity related to the general
24 welfare of the aging in the membership of such committees.

25 Sec. 276. Section 68-1105, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 68-1105 The members of the ~~Department of Health and~~
3 ~~Human Services~~ Division of Medicaid and Long-Term Care Advisory
4 Committee on Aging, and noncommittee members serving on special
5 committees, shall receive no compensation for their services other
6 than reimbursement for actual and necessary expenses as provided
7 in sections 81-1174 to 81-1177. Committee expenses and any office
8 expenses shall be paid from funds made available to the committee
9 by the Legislature.

10 Sec. 277. Section 68-1204, Revised Statutes Cumulative
11 Supplement, 2006, is amended to read:

12 68-1204 (1) For the purpose of providing or purchasing
13 social services described in section 68-1202, the state hereby
14 accepts and assents to all applicable provisions of the federal
15 Social Security Act, as such act existed on July 1, 2006. The
16 ~~Director of Health and Human Services and the Director of Finance~~
17 ~~and Support~~ Department of Health and Human Services may each adopt
18 and promulgate rules and regulations, enter into agreements, and
19 adopt fee schedules with regard to social services described in
20 section 68-1202.

21 (2) The ~~Department of Health and Human Services~~
22 department shall adopt and promulgate rules and regulations to
23 administer funds under Title XX of the federal Social Security Act,
24 as such title existed on July 1, 2006, designated for specialized
25 developmental disability services.

1 Sec. 278. Section 68-1205, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 68-1205 The matching funds required to obtain the federal
4 share of the services described in section 68-1202 may come from
5 either state, county, or donated sources in amounts and other
6 provisions to be determined by the ~~Director of Health and Human~~
7 ~~Services or the Director of Finance and Support.~~ Department of
8 Health and Human Services.

9 Sec. 279. Section 68-1206, Revised Statutes Cumulative
10 Supplement, 2006, is amended to read:

11 68-1206 (1) The ~~Director of Health and Human Services~~
12 ~~and the Director of Finance and Support~~ Department of Health and
13 Human Services shall administer the program of social services
14 in this state. The ~~Department of Health and Human Services and~~
15 ~~the Department of Health and Human Services Finance and Support~~
16 ~~department~~ may contract with other social agencies for the purchase
17 of social services at rates not to exceed those prevailing in
18 the state or the cost at which the ~~departments~~ department could
19 provide those services. The statutory maximum payments for the
20 separate program of aid to dependent children shall apply only to
21 public assistance grants and shall not apply to payments for social
22 services.

23 (2) In determining the rate or rates to be paid by the
24 ~~Department of Health and Human Services~~ department for child care
25 as defined in section 43-2605, the ~~Director of Health and Human~~

1 ~~Services~~ department shall adopt a fixed-rate schedule for the state
2 or a fixed-rate schedule for an area of the state applicable to
3 each child care program category of provider as defined in section
4 71-1910 which may claim reimbursement for services provided by
5 the federal Child Care Subsidy program, except that the department
6 shall not pay a rate higher than that charged by an individual
7 provider to that provider's private clients. The schedule may
8 provide separate rates for care for infants, for children with
9 special needs, including disabilities or technological dependence,
10 or for other individual categories of children. The schedule shall
11 be effective on October 1 of every year and shall be revised
12 annually by the ~~Director of Health and Human Services~~ department.

13 Sec. 280. Section 68-1207, Revised Statutes Cumulative
14 Supplement, 2006, is amended to read:

15 68-1207 The ~~Director~~ Department of Health and Human
16 Services shall supervise all public child welfare services
17 as described by law. The ~~director~~ department shall establish
18 and maintain caseloads to carry out child welfare services
19 which provide for adequate, timely, and indepth investigations
20 and services to children and families. In establishing the
21 standards for such caseloads, the ~~director~~ department shall (1)
22 include the workload factors that may differ due to geographic
23 responsibilities, office location, and the travel required to
24 provide a timely response in the investigation of abuse and
25 neglect, the protection of children, and the provision of services

1 to children and families in a uniform and consistent statewide
2 manner and (2) consider workload standards recommended by national
3 child welfare organizations and factors related to the attainment
4 of such standards. The ~~director~~ department shall consult with the
5 appropriate employee representative in establishing such standards.

6 To carry out the provisions of this section, the
7 Legislature shall provide funds for additional staff.

8 Sec. 281. Section 68-1207.01, Revised Statutes Cumulative
9 Supplement, 2006, is amended to read:

10 68-1207.01 The ~~Director~~ Department of Health and Human
11 Services shall annually provide a report to the Legislature and
12 Governor outlining the caseloads of child protective services, the
13 factors considered in their establishment, and the fiscal resources
14 necessary for their maintenance. Such report shall include:

15 (1) A comparison of caseloads established by the ~~director~~
16 department with the workload standards recommended by national
17 child welfare organizations along with the amount of fiscal
18 resources necessary to maintain such caseloads in Nebraska;

19 (2) (a) The number of child welfare services caseworkers
20 and case managers employed by the State of Nebraska and child
21 welfare services workers, providing services directly to children
22 and families, who are under contract with the State of Nebraska
23 or employed by a private entity under contract with the State of
24 Nebraska and (b) statistics on the average length of employment in
25 such positions, statewide and by health and human services area;

1 (3) (a) The average caseload of child welfare services
2 caseworkers and case managers employed by the State of Nebraska
3 and child welfare services workers, providing services directly to
4 children and families, who are under contract with the State of
5 Nebraska or employed by a private entity under contract with the
6 State of Nebraska and (b) the outcomes of such cases, including
7 the number of children reunited with their families, children
8 adopted, children in guardianships, placement of children with
9 relatives, and other permanent resolutions established, statewide
10 and by health and human services area; and

11 (4) The average cost of training child welfare services
12 caseworkers and case managers employed by the State of Nebraska
13 and child welfare services workers, providing services directly to
14 children and families, who are under contract with the State of
15 Nebraska or employed by a private entity under contract with the
16 State of Nebraska, statewide and by health and human services area.

17 Sec. 282. Section 68-1210, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 68-1210 Notwithstanding any other provision of law, the
20 ~~Director~~ Department of Health and Human Services shall have the
21 authority through rule or regulation to establish payment rates
22 for children with special needs who are in foster care and in the
23 custody of the ~~Department of Health and Human Services.~~ department.

24 Sec. 283. Section 68-1402, Revised Statutes Cumulative
25 Supplement, 2006, is amended to read:

1 68-1402 The ~~Director of Finance and Support~~ Department of
2 Health and Human Services shall establish and administer a program
3 for the medical care of persons of all ages with genetically
4 handicapping conditions, including cystic fibrosis, hemophilia, and
5 sickle cell disease, through physicians and health care providers
6 that are qualified pursuant to the regulations of the ~~Department of~~
7 ~~Health and Human Services~~ Finance and Support department to provide
8 such medical services. The ~~director~~ department shall adopt such
9 rules and regulations pursuant to the Administrative Procedure Act,
10 as are necessary for the implementation of the provisions of the
11 Genetically Handicapped Persons Act. The ~~director~~ department shall
12 establish priorities for the use of funds and provision of services
13 under the Genetically Handicapped Persons Act.

14 Sec. 284. Section 68-1403, Revised Statutes Cumulative
15 Supplement, 2006, is amended to read:

16 68-1403 The program established under the Genetically
17 Handicapped Persons Act, which shall be under the supervision of
18 the Department of Health and Human Services, ~~Finance and Support,~~
19 shall include any or all of the following:

- 20 (1) Initial intake and diagnostic evaluation;
- 21 (2) The cost of blood transfusion and use of blood
22 derivatives, or both;
- 23 (3) Rehabilitation services, including reconstructive
24 surgery;
- 25 (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. 285. 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~~ shall establish uniform standards of
16 financial eligibility for the treatment services under the
17 program established under the Genetically Handicapped Persons
18 Act, including a uniform formula for the payment of services by
19 physicians and health care providers rendered under such program
20 and such formula for payment shall provide for reimbursement at
21 rates similar to those set by other federal and state programs,
22 and private entitlements. The standards of the department for
23 financial eligibility shall be the same as those established for
24 Medically Handicapped Children's Services, as administered by the
25 department. All county or district health departments shall use the

1 uniform standards for financial eligibility and uniform formula for
2 payment established by the department. All payments shall be used
3 in support of the program for services established under the act.

4 The department shall establish payment schedules for
5 services.

6 Sec. 286. Section 68-1503, Revised Statutes Cumulative
7 Supplement, 2006, is amended to read:

8 68-1503 For purposes of the Disabled Persons and Family
9 Support Act:

10 (1) Department means the Department of Health and Human
11 Services; ~~Finance and Support;~~

12 (2) Disabled family member or disabled person means a
13 person who has a medically determinable severe, chronic disability
14 which:

15 (a) Is attributable to a mental or physical impairment or
16 combination of mental and physical impairments;

17 (b) Is likely to continue indefinitely;

18 (c) Results in substantial functional limitations in
19 two or more of the following areas of major life activity: (i)
20 Self-care, (ii) receptive and expressive language, (iii) learning,
21 (iv) mobility, (v) self-direction, (vi) capacity for independent
22 living, (vii) work skills or work tolerance, and (viii) economic
23 sufficiency; and

24 (d) Reflects the person's need for a combination and
25 sequence of special, interdisciplinary, or generic care, treatment,

1 vocational rehabilitation, or other services which are of lifelong
2 or extended duration and are individually planned and coordinated;
3 and

4 (3) Other support programs means all forms of local,
5 state, or federal assistance, grants-in-aid, educational programs,
6 or support provided by public or private funds for disabled persons
7 or their families.

8 Sec. 287. Section 68-1514, Revised Statutes Cumulative
9 Supplement, 2006, is amended to read:

10 68-1514 The Director of Finance and Support chief
11 executive officer of the department, or his or her designated
12 representative, shall provide an opportunity for a fair hearing
13 before the department to any family or disabled person who is
14 denied support pursuant to the Disabled Persons and Family Support
15 Act.

16 Sec. 288. Section 68-1521, Revised Statutes Cumulative
17 Supplement, 2006, is amended to read:

18 68-1521 For purposes of sections 68-1520 to 68-1528:

19 (1) Caregiver means an individual providing ongoing care
20 for an individual unable to care for himself or herself;

21 (2) Community lifespan respite services program means a
22 noncategorical respite services program that:

23 (a) Is operated by a community-based private nonprofit
24 or for-profit agency or a public agency that provides respite
25 services;

1 (b) Receives funding through the Nebraska Lifespan
2 Respite Services Program established under section 68-1522;

3 (c) Serves an area in one or more of the six regional
4 services areas of the department;

5 (d) Acts as a single local source for respite services
6 information and referral; and

7 (e) Facilitates access to local respite services;

8 (3) Department means the Department of Health and Human
9 Services; ~~Finance and Support;~~

10 (4) Noncategorical care means care without regard to the
11 age, type of special needs, or other status of the individual
12 receiving care;

13 (5) Provider means an individual or agency selected by a
14 family or caregiver to provide respite services to an individual
15 with special needs;

16 (6) Respite care means the provision of short-term relief
17 to primary caregivers from the demands of ongoing care for an
18 individual with special needs; and

19 (7) Respite services includes:

20 (a) Recruiting and screening of paid and unpaid respite
21 care providers;

22 (b) Identifying local training resources and organizing
23 training opportunities for respite care providers;

24 (c) Matching of families and caregivers with providers
25 and other types of respite care;

1 (d) Linking families and caregivers with payment
2 resources;

3 (e) Identifying, coordinating, and developing community
4 resources for respite services;

5 (f) Quality assurance and evaluation; and

6 (g) Assisting families and caregivers to identify respite
7 care needs and resources.

8 Sec. 289. Section 68-1522, Revised Statutes Cumulative
9 Supplement, 2006, is amended to read:

10 68-1522 The ~~Director of Finance and Support~~ department
11 shall establish the Nebraska Lifespan Respite Services Program to
12 develop and encourage statewide coordination of respite services
13 and to work with community-based private nonprofit or for-profit
14 agencies, public agencies, and interested citizen groups in the
15 establishment of community lifespan respite services programs. The
16 Nebraska Lifespan Respite Services Program shall:

17 (1) Provide policy and program development support,
18 including, but not limited to, data collection and outcome
19 measures;

20 (2) Identify and promote resolution of local and
21 state-level policy concerns;

22 (3) Provide technical assistance to community lifespan
23 respite services programs;

24 (4) Develop and distribute respite services information;

25 (5) Promote the exchange of information and coordination

1 among state and local governments, community lifespan respite
2 services programs, agencies serving individuals unable to care
3 for themselves, families, and respite care advocates to encourage
4 efficient provision of respite services and reduce duplication of
5 effort;

6 (6) Ensure statewide access to community lifespan respite
7 services programs; and

8 (7) Monitor and evaluate implementation of community
9 lifespan respite services programs.

10 Sec. 290. Section 68-1523, Revised Statutes Cumulative
11 Supplement, 2006, is amended to read:

12 68-1523 (1) The department, through the Nebraska Lifespan
13 Respite Services Program, shall coordinate the establishment of
14 community lifespan respite services programs. The program shall
15 accept proposals submitted in the form and manner required by
16 the program from community-based private nonprofit or for-profit
17 agencies or public agencies that provide respite services to
18 operate community lifespan respite services programs. According
19 to criteria established by the department, the Nebraska Lifespan
20 Respite Services Program shall designate and fund agencies
21 described in this section to operate community lifespan respite
22 services programs.

23 (2) ~~The Director of Finance and Support~~ department shall
24 create the position of program specialist for the Nebraska Lifespan
25 Respite Services Program to administer the program.

1 Sec. 291. Section 68-1732, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 68-1732 It is the intent of the Legislature that the
4 ~~Department of Health and Human Services Regulation and Licensure,~~
5 the Department of Health and Human Services, the State Department
6 of Education, the Department of Labor, ~~the Department of Health~~
7 ~~and Human Services Finance and Support,~~ the Office of Probation
8 Administration, the Department of Correctional Services, and the
9 Department of Economic Development will have integrated programs
10 and policies when serving a common customer. Organizational mergers
11 and operating agreements shall be developed within state government
12 which bring together the state's community-based child-serving and
13 family-serving resources in the areas of health care services,
14 social services, mental health services, developmental disabilities
15 services, juvenile justice, and education. Such actions shall
16 eliminate the need for the public to understand the differing
17 roles, responsibilities, and services of the agencies enumerated in
18 this section and their affiliates.

19 Sec. 292. Section 68-1802, Revised Statutes Cumulative
20 Supplement, 2006, is amended to read:

21 68-1802 For purposes of the ICF/MR Reimbursement
22 Protection Act:

23 (1) Department means the Department of Health and Human
24 Services; ~~Finance and Support;~~

25 (2) Intermediate care facility for the mentally retarded

1 has the definition found in section 71-421;

2 (3) Medical assistance program means the program
3 established pursuant to the Medical Assistance Act; and

4 (4) Net revenue means the revenue paid to an intermediate
5 care facility for the mentally retarded for resident care, room,
6 board, and services less contractual adjustments and does not
7 include revenue from sources other than operations, including, but
8 not limited to, interest and guest meals.

9 Sec. 293. Section 68-1807, Revised Statutes Cumulative
10 Supplement, 2006, is amended to read:

11 68-1807 (1) An intermediate care facility for the
12 mentally retarded that fails to pay the tax required by section
13 68-1803 shall be subject to a penalty of five hundred dollars per
14 day of delinquency. The total amount of the penalty assessed under
15 this section shall not exceed five percent of the tax due from the
16 intermediate care facility for the mentally retarded for the year
17 for which the tax is assessed.

18 (2) The department shall collect the penalties and remit
19 them to the State Treasurer for distribution in accordance with
20 Article VII, section 5, of the Constitution of Nebraska. Penalties
21 shall be collected by the department and remitted to the State
22 Treasurer for credit to the permanent school fund.

23 Sec. 294. Section 69-302, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 69-302 For purposes of the Mail Order Contact Lens Act:

1 (1) Contact lens prescription means a written order
2 bearing the original signature of an optometrist or physician or an
3 oral or electromagnetic order issued by an optometrist or physician
4 that authorizes the dispensing of contact lenses to a patient and
5 meets the requirements of section 69-303;

6 (2) Department means the Department of Health and Human
7 Services; ~~Regulation and Licensure;~~

8 (3) Mail-order ophthalmic provider means an entity that
9 ships, mails, or in any manner delivers dispensed contact lenses to
10 Nebraska residents;

11 (4) Optometrist means a person licensed to practice
12 optometry pursuant to sections 71-1,133 to 71-1,136.09; and

13 (5) Physician means a person licensed to practice
14 medicine and surgery pursuant to sections 71-1,102 to 71-1,107.14.

15 Sec. 295. Section 69-305, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 69-305 The mail-order ophthalmic provider shall pay a
18 fee equivalent to the annual fee for an initial or renewal permit
19 to operate a pharmacy in Nebraska as established in and at the
20 times provided for in the Health Care Facility Licensure Act. Such
21 fees shall be remitted to the State Treasurer for credit to the
22 ~~Department of Health and Human Services Regulation and Licensure~~
23 Health and Human Services Cash Fund.

24 Sec. 296. Section 71-101, Revised Statutes Cumulative
25 Supplement, 2006, is amended to read:

1 71-101 Sections 71-101 to 71-1,107.30, 71-1,133 to
2 71-1,338, 71-1,343 to 71-1,361, and 71-1301 to 71-1354 and the
3 Physical Therapy Practice Act shall be known and may be cited as
4 the Uniform Licensing Law.

5 For purposes of the Uniform Licensing Law, unless the
6 context otherwise requires:

7 (1) Board or professional board means one of the boards
8 appointed by the State Board of Health pursuant to sections 71-111
9 and 71-112;

10 (2) Licensed, when applied to any licensee in any of the
11 professions named in section 71-102, means a person licensed under
12 the Uniform Licensing Law;

13 (3) Profession or health profession means any of the
14 several groups named in section 71-102;

15 (4) Department means the Division of Public Health of the
16 Department of Health and Human Services; ~~Regulation and Licensure~~;

17 (5) Whenever a particular gender is used, it is construed
18 to include both the masculine and the feminine, and the singular
19 number includes the plural when consistent with the intent of the
20 Uniform Licensing Law;

21 (6) License, licensing, or licensure means permission to
22 engage in a health profession which would otherwise be unlawful
23 in this state in the absence of such permission and which is
24 granted to individuals who meet prerequisite qualifications and
25 allows them to perform prescribed health professional tasks and use

1 a particular title;

2 (7) Certificate, certify, or certification, with respect
3 to professions, means a voluntary process by which a statutory,
4 regulatory entity grants recognition to an individual who has met
5 certain prerequisite qualifications specified by such regulatory
6 entity and who may assume or use the word certified in the title or
7 designation to perform prescribed health professional tasks. When
8 appropriate, certificate means a document issued by the department
9 which designates particular credentials for an individual;

10 (8) Lapse means the termination of the right or privilege
11 to represent oneself as a licensed, certified, or registered person
12 and to practice the profession when a license, certificate, or
13 registration is required to do so;

14 (9) Credentialing means the totality of the process
15 associated with obtaining state approval to provide health care
16 services or human services or changing aspects of a current
17 approval. Credentialing grants permission to use a protected
18 title that signifies that a person is qualified to provide the
19 services of a certain profession. Credential includes a license,
20 certificate, or registration; and

21 (10) Dependence means a compulsive or chronic need for
22 or an active addiction to alcohol or any controlled substance or
23 narcotic drug; and -

24 (11) Director means the Director of Public Health of the
25 Division of Public Health.

1 Sec. 297. Section 71-102, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 71-102 (1) No person shall engage in the practice
4 of medicine and surgery, athletic training, respiratory care,
5 osteopathic medicine, chiropractic, dentistry, dental hygiene,
6 pharmacy, podiatry, optometry, massage therapy, physical therapy,
7 audiology, speech-language pathology, embalming, funeral directing,
8 psychology, veterinary medicine and surgery, medical nutrition
9 therapy, acupuncture, mental health practice, or alcohol and drug
10 counseling unless such person has obtained a license from the
11 ~~Department of Health and Human Services Regulation and Licensure~~
12 department for that purpose.

13 (2) No person shall hold himself or herself out as a
14 certified social worker or certified master social worker unless
15 such person has obtained a certificate from the department for that
16 purpose.

17 (3) No person shall hold himself or herself out as a
18 certified professional counselor unless such person has obtained a
19 certificate from the department for such purpose.

20 (4) No person shall hold himself or herself out as a
21 certified marriage and family therapist unless such person has
22 obtained a certificate from the department for such purpose.

23 Sec. 298. Section 71-104, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 71-104 ~~The Department of Health and Human Services~~

1 ~~Regulation and Licensure~~ department may refuse to grant a license,
2 certificate, or registration to practice a profession to any
3 person, otherwise qualified, upon any of the grounds for which
4 a license, certificate, or registration may be revoked under the
5 provisions of the Uniform Licensing Law.

6 Sec. 299. Section 71-105, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 71-105 Every credential to practice a profession shall be
9 in the form of a document under the name and seal of the department
10 and signed by the ~~Director of Regulation and Licensure~~ director and
11 the Governor. It shall also be countersigned by the members of the
12 appropriate professional board, except that all credentials granted
13 without examination may be issued by the department under its name
14 and seal and signed by its director and the Governor. A copy of all
15 credentials shall be retained in the department and given the same
16 number as has been assigned to the credentialed person in the other
17 records of the department.

18 Sec. 300. Section 71-121.01, Revised Statutes Cumulative
19 Supplement, 2006, is amended to read:

20 71-121.01 The department shall be responsible for the
21 general administration of the activities of each of the boards as
22 defined in the Advanced Practice Registered Nurse Licensure Act,
23 the Certified Registered Nurse Anesthetist Act, the Clinical Nurse
24 Specialist Practice Act, the Nebraska Certified Nurse Midwifery
25 Practice Act, the Nebraska Cosmetology Act, the Nurse Practice

1 Act, the Nurse Practitioner Act, the Occupational Therapy Practice
2 Act, and sections 71-4701 to 71-4719 and 71-6053 to 71-6068 and
3 the boards covered by the scope of the Uniform Licensing Law and
4 named in section 71-102. The cost of operation and administration
5 of the boards shall be paid from fees, gifts, grants, and other
6 money credited to the Professional and Occupational Credentialing
7 Cash Fund. The ~~Director of Regulation and Licensure~~ director shall
8 determine the proportionate share of this cost to be paid from the
9 fees of the respective boards, except that no fees shall be paid
10 for such purpose from the fund without the prior approval of the
11 boards concerned. The director's determinations shall become final
12 when approved by the respective boards ~~and the department~~ and shall
13 be valid for one fiscal year only.

14 Sec. 301. Section 71-139, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 71-139 (1) The department may, without examination,
17 except when a practical examination is required, issue a license
18 to practice any profession, except pharmacy, podiatry, dentistry,
19 medicine and surgery, optometry, osteopathic medicine and surgery
20 or as an osteopathic physician, and audiology and speech-language
21 pathology, to a person who has been in the active practice of
22 such profession in another state or territory of the United
23 States or the District of Columbia upon (a) certification by the
24 proper licensing authority of the state, territory, or District
25 of Columbia that (i) the applicant is duly licensed, (ii) his or

1 her license has never been suspended or revoked, and (iii) so far
2 as the records of such authority are concerned, the applicant is
3 entitled to its endorsement and (b) proof of the following:

4 (i) That the state, territory, or District of Columbia
5 has and maintains standards regulating such profession equal to
6 those maintained in this state;

7 (ii) That his or her license was based upon a written
8 examination and the grades given at such examination;

9 (iii) The date of his or her license;

10 (iv) That he or she has been actively engaged in the
11 practice of such profession under such license or in an accepted
12 residency or graduate training program for at least one of the
13 three years immediately preceding the application for license by
14 reciprocity;

15 (v) That the applicant is of good moral character and
16 standing in his or her profession as evidenced by completing
17 under oath an application from the department containing such a
18 statement; and

19 (vi) That the applicant has been in the active and
20 continuous practice of such profession under license by examination
21 in such state, territory, or District of Columbia for at least one
22 year.

23 (2) An applicant for reciprocal registration coming from
24 any state may be licensed by reciprocity if his or her individual
25 qualifications meet the Nebraska legal requirements.

1 (3) The department may issue certificates or
2 registrations on a reciprocal basis to persons who are
3 required to be certified or registered pursuant to the Uniform
4 Licensing Law. The department may adopt and promulgate rules and
5 regulations for reciprocity pursuant to this section.

6 (4) Persons who graduate from schools or colleges of
7 osteopathic medicine accredited by the department on recommendation
8 of the Board of Examiners in Osteopathy since January 1, 1963, and
9 prior to May 23, 1981, and after May 23, 1981, persons who graduate
10 from schools or colleges of osteopathic medicine accredited by
11 the department on recommendation of the Board of Medicine and
12 Surgery who meet the requirements of this section and who have
13 passed a written examination which is equivalent to that required
14 in section 71-1,104 as determined by the Board of Medicine and
15 Surgery and who meet the requirements of section 71-1,137 for the
16 practice of osteopathic medicine and surgery as evidenced by a
17 certificate of the Board of Medicine and Surgery may be granted a
18 license to practice osteopathic medicine and surgery as defined in
19 section 71-1,137 if such person has been actively engaged in the
20 practice under such license or in an accepted residency or graduate
21 training program for at least one of the three years immediately
22 preceding the application for license by reciprocity. Graduates
23 of an accredited school or college of osteopathic medicine since
24 January 1, 1963, who meet the requirements of this section and
25 who meet the applicable requirements of section 71-1,139.01 as

1 certified by the Board of Medicine and Surgery may be granted a
2 special license as doctor of osteopathic medicine and surgery.

3 (5) The department may approve without examination any
4 person who has been duly licensed to practice optometry in another
5 state or territory of the United States or the District of Columbia
6 under conditions and circumstances which the Board of Optometry
7 shall find to be comparable to the requirements of the State of
8 Nebraska for obtaining a license to practice optometry if such
9 person has been actively engaged in the practice under such license
10 for at least one of the three years immediately preceding the
11 application for license by reciprocity. The applicant shall produce
12 evidence satisfactory to the board that he or she has had the
13 required secondary and professional education and training. The
14 applicant shall provide certification from the proper licensing
15 authority of the state, territory, or District of Columbia where
16 he or she is licensed to practice such profession that he or she
17 is duly licensed, that his or her license has not been suspended
18 or revoked, and that so far as the records of such authority
19 are concerned he or she is entitled to its endorsement. If the
20 applicant is found to meet the requirements provided in this
21 section and is qualified to be licensed to practice the profession
22 of optometry in the State of Nebraska, the board shall issue a
23 license to practice optometry in the State of Nebraska to such
24 applicant.

25 (6) The Board of Dentistry may approve any person who

1 has been duly licensed to practice dentistry or dental hygiene in
2 another state or territory of the United States or the District of
3 Columbia under conditions and circumstances which the board finds
4 to be comparable to the requirements of the State of Nebraska for
5 obtaining a license to practice dentistry or dental hygiene if such
6 person has been actively engaged in the practice under such license
7 or in an accepted residency or graduate training program for at
8 least three years, one of which shall be within the three years
9 immediately preceding the application for license by reciprocity.
10 The applicant shall produce evidence satisfactory to the board
11 that he or she has had the required secondary and professional
12 education and training and is possessed of good character and
13 morals as required by the laws of the State of Nebraska. The
14 applicant shall provide certification from the proper licensing
15 authority of the state, territory, or District of Columbia where
16 he or she is licensed to practice such profession that he or she
17 is duly licensed, that his or her license has not been suspended
18 or revoked, and that so far as the records of such authority are
19 concerned he or she is entitled to its endorsement. The applicant
20 shall submit evidence of completion during the twelve-month period
21 preceding the application of continuing competency requirements
22 comparable to the requirements of this state. The board may
23 administer an oral examination to all applicants for licensure by
24 reciprocity to assess their knowledge of basic clinical aspects
25 of dentistry or dental hygiene. If the applicant is found by

1 the board to meet the requirements provided in this section,
2 the board shall certify such fact to the department, and the
3 department upon receipt of such certification shall issue a license
4 to practice dentistry or dental hygiene in the State of Nebraska
5 to such applicant. If the board finds that the applicant does not
6 satisfy the requirements of this section, the board shall certify
7 its findings to the department. The ~~Director of Regulation and~~
8 ~~Licensure~~ director shall review the findings, and if he or she
9 agrees with the findings, the director shall deny the application.

10 Sec. 302. Section 71-141, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 71-141 In order that the department may determine the
13 standards established by law and by rule in the other states,
14 the director, ~~Director of Regulation and Licensure~~, or some other
15 person authorized by the director, shall gather information from
16 other states bearing upon this point. The applicant shall, upon the
17 request of the department, be responsible for securing information
18 from the proper authority of the place from which he or she
19 comes, of the standards maintained there, and the laws and rules
20 relating thereto. In determining these standards, the department
21 shall submit to the appropriate professional board any question
22 that requires the exercise of expert knowledge.

23 Sec. 303. Section 71-142, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 71-142 Where the licensing authority in any other state

1 shall refuse to accept applicants from Nebraska who are qualified
2 to be admitted under the laws of that state, and have been properly
3 certified by the ~~Department of Health and Human Services Regulation~~
4 ~~and Licensure~~ department of this state, then the department may
5 decline to admit without examination licensees from that state.

6 Sec. 304. Section 71-150, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 71-150 (1) ~~The Director of Regulation and Licensure~~
9 director shall have jurisdiction of proceedings (a) to deny the
10 issuance of a license, certificate, or registration, (b) to refuse
11 renewal of a license, certificate, or registration, and (c) to
12 discipline a licensee, certificate holder, or registrant.

13 (2) To deny or refuse renewal of a license, certificate,
14 or registration, the department shall send the applicant, licensee,
15 certificate holder, or registrant, by registered or certified
16 mail, notice setting forth the action taken and the reasons
17 for the determination. The denial or refusal to renew shall
18 become final thirty days after mailing the notice unless the
19 applicant, licensee, certificate holder, or registrant, within such
20 thirty-day period, gives written notice of his or her desire for
21 a hearing. The hearing shall be conducted in accordance with the
22 Administrative Procedure Act.

23 (3) In order for the director to discipline a licensee,
24 certificate holder, or registrant, a petition shall be filed by
25 the Attorney General in all cases. The petition shall be filed in

1 the office of the director. The department may withhold a petition
2 for discipline or a final decision from public access for a period
3 of five days from the date of filing the petition or the date
4 the decision is entered or until service is made, whichever is
5 earliest.

6 Sec. 305. Section 71-151, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 71-151 The Attorney General shall comply with such
9 directions of the ~~Department of Health and Human Services~~
10 ~~Regulation and Licensure~~ or of the ~~Director of Regulation and~~
11 ~~Licensure~~ director and prosecute such action on behalf of the
12 state, but the county attorney of any county where a licensee,
13 certificate holder, or registrant has practiced, at the request
14 of the Attorney General or of the department, shall appear and
15 prosecute such action.

16 Sec. 306. Section 71-153, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 71-153 Upon the presentation of the petition to the
19 ~~Director of Regulation and Licensure,~~ director, he or she shall
20 make an order fixing the time and place for the hearing, which
21 shall not be less than thirty nor more than sixty days thereafter.

22 Sec. 307. Section 71-155, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 71-155 (1) The proceeding under section 71-150 shall be
25 summary in its nature and triable as an equity action and shall

1 be heard by the ~~Director of Regulation and Licensure~~ director
2 or by a hearing officer designated by the director under rules
3 and regulations of the department. Affidavits may be received in
4 evidence in the discretion of the director or hearing officer. The
5 department shall have the power to administer oaths, to subpoena
6 witnesses and compel their attendance, and to issue subpoenas duces
7 tecum and require the production of books, accounts, and documents
8 in the same manner and to the same extent as the district courts
9 of the state. Depositions may be used by either party. Upon the
10 completion of any hearing held under this section, the director
11 shall, if the petition is brought with respect to subdivision
12 (15) of section 71-148, make findings as to whether the licensee's
13 conduct was necessary to save the life of a mother whose life was
14 endangered by a physical disorder, physical illness, or physical
15 injury, including a life-endangering physical condition caused by
16 or arising from the pregnancy itself, and shall have the authority
17 through entry of an order to exercise in his or her discretion any
18 or all of the following powers, irrespective of the petition:

- 19 (a) Issue a censure against the credentialed person;
20 (b) Place the credentialed person on probation;
21 (c) Place a limitation or limitations on the credential
22 and upon the right of the credentialed person to practice the
23 profession to such extent, scope, or type of practice, for such
24 time, and under such conditions as are found necessary and proper;
25 (d) Impose a civil penalty not to exceed twenty thousand

1 dollars. The amount of the penalty shall be based on the severity
2 of the violation;

3 (e) Enter an order of suspension of the credential;

4 (f) Enter an order of revocation of the credential; and

5 (g) Dismiss the action.

6 (2) If the director determines that guilt has been
7 established, the director may, at his or her discretion, consult
8 with the professional board for the profession involved concerning
9 sanctions to be imposed or terms and conditions of the sanctions.
10 When the director consults with a professional board, the
11 credentialed person shall be provided with a copy of the director's
12 request, the recommendation of the board, and an opportunity to
13 respond in such manner as the director determines.

14 (3) The credentialed person shall not engage in the
15 practice of a profession after a credential to practice such
16 profession is revoked or during the time for which it is suspended.
17 If a credential is suspended, the suspension shall be for a
18 definite period of time to be set by the director. The director may
19 provide that the credential shall be automatically reinstated upon
20 expiration of such period, reinstated if the terms and conditions
21 as set by the director are satisfied, or reinstated subject to
22 probation or limitations or conditions upon the practice of the
23 credentialed person. If such credential is revoked, such revocation
24 shall be for all times, except that at any time after the
25 expiration of two years, application may be made for reinstatement

1 pursuant to section 71-161.04.

2 Sec. 308. Section 71-155.01, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 71-155.01 If a chief medical officer is appointed
5 pursuant to section ~~81-3201~~, 6 of this act, he or she shall perform
6 the duties of the ~~Director of Regulation and Licensure~~ director
7 for decisions in contested cases under sections 71-150, 71-153
8 to 71-155, 71-156, 71-161.02, 71-161.03, 71-161.07, 71-161.11 to
9 71-161.15, 71-161.17, 71-161.18, 71-161.20, 71-1,104, 71-1,142,
10 71-1,147.31, 71-1,147.44, and 71-1,147.45.

11 Sec. 309. Section 71-156, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 71-156 In case the licensee, certificate holder, or
14 registrant fails to appear, either in person or by counsel at the
15 time and place designated in the notice required by section 71-154,
16 the ~~Director of Regulation and Licensure~~ director after receiving
17 satisfactory evidence of the truth of the charges shall order
18 the license, certificate, or registration revoked or suspended or
19 shall ~~order~~ take any or all of the other appropriate disciplinary
20 measures authorized by section 71-155 ~~to be taken~~ against the
21 licensee, certificate holder, or registrant.

22 Sec. 310. Section 71-161.02, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 71-161.02 The authority of the ~~Director of Regulation and~~
25 ~~Licensure~~ director to discipline a licensee, certificate holder, or

1 registrant by placing him or her on probation pursuant to section
2 71-155 shall include, but not be limited to, the following:

3 (1) To require the licensee, certificate holder, or
4 registrant to obtain additional professional training and to pass
5 an examination upon the completion of the training. The examination
6 may be written or oral or both and may be a practical or clinical
7 examination or both or any or all of such combinations of written,
8 oral, practical, and clinical, at the option of the director;

9 (2) To require the licensee, certificate holder, or
10 registrant to submit to a complete diagnostic examination by one or
11 more physicians appointed by the director. If the director requires
12 the licensee, certificate holder, or registrant to submit to such
13 an examination, the director shall receive and consider any other
14 report of a complete diagnostic examination given by one or more
15 physicians of the licensee's, certificate holder's, or registrant's
16 choice if the licensee, certificate holder, or registrant chooses
17 to make available such a report or reports by his or her physician
18 or physicians; and

19 (3) To limit the extent, scope, or type of practice of
20 the licensee, certificate holder, or registrant.

21 Sec. 311. Section 71-161.03, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 71-161.03 (1) Any petition filed with the ~~Director of~~
24 ~~Regulation and Licensure~~ director pursuant to section 71-150 may,
25 at any time prior to the entry of any order by the director,

1 be disposed of by stipulation, agreed settlement, consent order,
2 or similar method as agreed to between the parties. A proposed
3 settlement shall be submitted and considered in camera and shall
4 not be a public record unless accepted by the director. The
5 director may review the input provided to the Attorney General
6 by the board pursuant to subsection (2) of this section. If the
7 settlement is acceptable to the director, he or she shall make
8 it the sole basis of any order he or she enters in the matter,
9 and it may be modified or added to by the director only upon the
10 mutual consent of both of the parties thereto. If the settlement is
11 not acceptable to the director, it shall not be admissible in any
12 subsequent hearing and it shall not be considered in any manner as
13 an admission.

14 (2) The Attorney General shall not enter into any
15 agreed settlement or dismiss any petition without first having
16 given notice of the proposed action and an opportunity to the
17 appropriate professional board to provide input into the terms of
18 the settlement or on dismissal. The board shall have fifteen days
19 from the date of the Attorney General's request to respond, but
20 the recommendation of the board, if any, shall not be binding
21 on the Attorney General. Meetings of the board for such purpose
22 shall be in closed session, and any recommendation by the board
23 to the Attorney General shall not be a public record until the
24 pending action is complete, except that if the director reviews the
25 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. 312. 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

1 records of the ~~Department of Health and Human Services Regulation~~
2 ~~and Licensure~~ department or as otherwise known or by means of
3 personal service by being personally served by any sheriff or
4 constable or by any person especially appointed by the board. The
5 hearing may be continued from time to time as the board finds
6 necessary.

7 Sec. 313. Section 71-161.07, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 71-161.07 (1) Each professional board shall make a
10 recommendation to the ~~Director of Regulation and Licensure~~ director
11 regarding reinstatement following disciplinary action within the
12 board's profession. In determining whether reinstatement should
13 be recommended, the board (a) may request the department to
14 investigate the petitioner to determine if the petitioner has
15 committed acts or offenses prohibited by sections 71-147 and
16 71-148, (b) may require the petitioner to submit to a complete
17 diagnostic examination by one or more physicians appointed by the
18 board, the petitioner being free also to consult a physician or
19 physicians of his or her own choice for a complete diagnostic
20 examination and to make available a report or reports thereof to
21 the board, (c) may require the petitioner to pass a written, oral,
22 or practical examination or any combination of such examinations,
23 and (d) may require additional education.

24 (2) The affirmative vote of a majority of the members
25 of the board shall be necessary to recommend reinstatement of

1 a credential with or without terms, conditions, or restrictions.
2 The board may grant or deny, without a hearing or argument,
3 any petition to recommend reinstatement filed pursuant to section
4 71-161.04 when the petitioner has been afforded a hearing or an
5 opportunity for a hearing upon any such petition within a period of
6 two years immediately preceding the filing of such petition.

7 (3) Denial by the board of the petition for
8 recommendation of reinstatement of the license or certificate
9 may be appealed. The appeal shall be in accordance with the
10 Administrative Procedure Act.

11 Sec. 314. Section 71-161.12, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 71-161.12 In addition to the grounds for denial, refusal
14 of renewal, limitation, suspension, or revocation of a license,
15 certificate, or registration as otherwise provided by law, a
16 license, certificate, or registration to practice any profession
17 or occupation regulated by the ~~Department of Health and Human~~
18 ~~Services Regulation and Licensure~~ department pursuant to Chapter 71
19 shall be denied, refused renewal, limited, suspended, or revoked
20 automatically by the ~~Director of Regulation and Licensure~~ director
21 when the applicant, licensee, certificate holder, or registrant is
22 found to be not qualified to practice the particular profession or
23 occupation for which he or she is applying, licensed, certified,
24 or registered because of habitual intoxication or dependence,
25 physical or mental illness, or physical or mental deterioration or

1 disability.

2 Sec. 315. Section 71-161.13, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 71-161.13 When any complaint has been filed with the
5 department by any person or any report has been made to the
6 ~~Director of Regulation and Licensure~~ director by the Licensee
7 Assistance Program under section 71-172.01 alleging that an
8 applicant for a credential or a person credentialed to practice any
9 profession or occupation in the state regulated by the department
10 pursuant to Chapter 71 is suffering from habitual intoxication
11 or dependence, physical or mental illness, or physical or mental
12 deterioration or disability, the ~~Director of Regulation and~~
13 ~~Licensure~~ director shall investigate such complaint to determine
14 if any reasonable cause exists to question the qualification of
15 the applicant or credentialed person to practice or to continue
16 to practice such profession or occupation. If the director on the
17 basis of such investigation or, in the absence of such complaint,
18 upon the basis of his or her own independent knowledge finds
19 that reasonable cause exists to question the qualification of
20 the applicant or credentialed person to practice such profession
21 or occupation because of habitual intoxication or dependence,
22 physical or mental illness, or physical or mental deterioration or
23 disability, the director shall report such finding and evidence
24 supporting it to the appropriate professional board and if
25 such board agrees that reasonable cause exists to question the

1 qualification of such applicant or credentialed person, the board
2 shall appoint a committee of three qualified physicians to examine
3 the applicant or credentialed person and to report their findings
4 and conclusions to the board. The board shall then consider the
5 findings and the conclusions of the physicians and any other
6 evidence or material which may be submitted to that board by
7 the applicant or credentialed person, by the director, or by
8 any other person and shall then determine if the applicant or
9 credentialed person is qualified to practice or to continue to
10 practice such profession or occupation in the State of Nebraska.
11 If such board finds the applicant or credentialed person to
12 be not qualified to practice or to continue to practice such
13 profession or occupation because of habitual intoxication or
14 dependence, physical or mental illness, or physical or mental
15 deterioration or disability, the board shall so certify that fact
16 to the director with a recommendation for the denial, refusal of
17 renewal, limitation, suspension, or revocation of such credential.
18 The director shall thereupon deny, refuse renewal of, suspend, or
19 revoke the credential or limit the credential of the credentialed
20 person to practice such profession or occupation in the state in
21 such manner and to such extent as the director determines to be
22 necessary for the protection of the public.

23 Sec. 316. Section 71-161.14, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 71-161.14 The denial, refusal of renewal, limitation,

1 suspension, or revocation of a credential as provided in section
2 71-161.13 shall continue in effect until reversed on appeal or
3 until the cause of such denial, refusal of renewal, limitation,
4 suspension, or revocation no longer exists and the appropriate
5 professional board finds, upon competent medical evaluation by
6 a qualified physician or physicians, that the applicant, former
7 credentialed person, or credentialed person is qualified to engage
8 in the practice of the profession or occupation for which he or she
9 made application, for which he or she was formerly credentialed,
10 or for which he or she was credentialed subject to limitation and
11 certifies that fact to the ~~Director of Regulation and Licensure.~~
12 director. Upon such finding the director, notwithstanding the
13 provision of any other statute, shall issue, return, or reinstate
14 such credential or remove any limitation on such credential if
15 the person is otherwise qualified as determined by the appropriate
16 professional board to practice or to continue in the practice of
17 the profession or occupation.

18 Sec. 317. Section 71-161.16, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 71-161.16 Any applicant, licensee, certificate holder, or
21 registrant shall have the right to appeal from an order denying,
22 refusing renewal of, limiting, suspending, or revoking a license,
23 certificate, or registration to practice a profession or occupation
24 regulated by the ~~Department of Health and Human Services Regulation~~
25 ~~and Licensure~~ department pursuant to Chapter 71 because of habitual

1 intoxication or dependence, physical or mental illness, or physical
2 or mental deterioration or disability. Such appeal shall be in
3 accordance with the Administrative Procedure Act.

4 Sec. 318. Section 71-161.17, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 71-161.17 (1) The license, certificate, or registration
7 of any person to practice any profession or occupation licensed,
8 certified, or registered by the ~~Department of Health and Human~~
9 ~~Services Regulation and Licensure~~ department pursuant to the
10 provisions of Chapter 71 shall be suspended automatically if
11 he or she is determined by legal process to be mentally ill.

12 (2) A certified copy of the document evidencing that such
13 a licensee, certificate holder, or registrant has been determined
14 by legal process to be mentally ill shall be transmitted to the
15 ~~Director of Regulation and Licensure~~ director as soon as possible
16 following such determination.

17 (3) A suspension under this section may be terminated by
18 the ~~Director of Regulation and Licensure~~ director when he or she
19 receives competent evidence that such former practitioner is not
20 or is no longer mentally ill and is otherwise satisfied, with due
21 regard for the public interest, that such former practitioner's
22 license, certificate, or registration to practice may be restored.

23 Sec. 319. Section 71-161.20, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 71-161.20 (1) An applicant may apply to the ~~Director of~~

1 ~~Regulation and Licensure~~ director for reinstatement only with an
2 affirmative recommendation of the appropriate professional board,
3 and such application to the director may not be received or
4 filed by the director unless accompanied by (a) the written
5 recommendation of the board, including any finding of fact or
6 order of the board, (b) the application submitted to the board,
7 (c) the record of hearing if any, and (d) any pleadings, motions,
8 requests, preliminary or intermediate rulings and orders, and
9 similar correspondence to or from the board and the petitioner.

10 (2) The director shall then review the application and
11 other documents and may affirm the recommendation of the board and
12 grant reinstatement or may reverse or modify the recommendation if
13 the board's recommendation is (a) in excess of statutory authority,
14 (b) made upon unlawful procedure, (c) unsupported by competent,
15 material, and substantial evidence in view of the entire record, or
16 (d) arbitrary or capricious.

17 Sec. 320. Section 71-165, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 71-165 Any person who shall file, or attempt to file,
20 with the ~~Department of Health and Human Services Regulation and~~
21 ~~Licensure~~ department any false or forged diploma or certificate,
22 or affidavit of identification or qualification, shall be deemed
23 guilty of forgery, and upon conviction thereof shall be punished
24 according to the penalties imposed in the statutes relating to that
25 subject.

1 Sec. 321. Section 71-169, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 71-169 The ~~Department of Health and Human Services~~
4 ~~Regulation and Licensure~~ department shall promulgate necessary
5 rules and regulations and forms for carrying out the provisions of
6 the Uniform Licensing Law. It may also adopt rules and regulations
7 supplementing any of the provisions herein contained but not
8 inconsistent therewith.

9 Sec. 322. Section 71-172.01, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 71-172.01 (1) The ~~Department of Health and Human Services~~
12 ~~Regulation and Licensure~~ may contract with the Department of
13 ~~Health and Human Services~~ to department may contract to provide a
14 Licensee Assistance Program to credential holders regulated by the
15 ~~Department of Health and Human Services Regulation and Licensure.~~
16 department. The program shall be limited to providing education,
17 referral assistance, and monitoring of compliance with treatment
18 of habitual intoxication or dependence and shall be limited to
19 voluntary participation by credential holders.

20 (2)(a) Participation in the program shall be
21 confidential, except that if any evaluation by the program
22 determines that the intoxication or dependence may be of a nature
23 which constitutes a danger to the public health and safety by the
24 person's continued practice or if the person fails to comply with
25 any term or condition of a treatment plan, the program shall report

1 the same to the ~~Director of Regulation and Licensure~~, director.

2 (b) Participation in the program shall not preclude the
3 investigation of alleged statutory violations which could result
4 in disciplinary action against the person's credential or criminal
5 action against the person. Any report from any person or from the
6 program to the ~~Department of Health and Human Services Regulation~~
7 ~~and Licensure~~ department indicating that a credential holder is
8 suffering from habitual intoxication or dependence shall be treated
9 as a complaint against such credential and shall subject such
10 credential holder to discipline under sections 71-150 to 71-155.

11 (3) No person who makes a report of intoxication or
12 dependence to the program or from the program to the department
13 shall be liable in damages to any person for slander, libel,
14 defamation of character, breach of any privileged communication, or
15 other criminal or civil action of any nature, whether direct or
16 derivative, for making such report or providing information to the
17 program or department in accordance with this section.

18 (4) Any person who contacts the department for
19 information on or assistance in obtaining referral or treatment
20 of himself or herself or any other person credentialed by the
21 department for habitual intoxication or dependence shall be
22 referred to the program. Such inquiries shall not be used by
23 the department as the basis for investigation for disciplinary
24 action, except that such limitation shall not apply to complaints
25 or any other reports or inquiries made to the department concerning

1 persons who may be suffering from habitual intoxication or
2 dependence or when a complaint has been filed or an investigation
3 or disciplinary or other administrative proceeding is in process.

4 Sec. 323. Section 71-172.02, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 71-172.02 The ~~Department of Health and Human Services~~
7 ~~Regulation and Licensure~~ department shall charge a fee of one
8 dollar per year, in addition to any other fee, for each credential.
9 Such fee shall be collected at the time of issuance or renewal and
10 shall be remitted to the State Treasurer for credit to the Licensee
11 Assistance Cash Fund, which fund is hereby created. Money in the
12 fund shall be used to carry out section 71-172.01. Any money in
13 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. 324. Section 71-181, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 71-181 The ~~Department of Health and Human Services~~
19 ~~Regulation and Licensure~~ department may in its discretion dispense
20 with the examination in case of a chiropractor duly authorized
21 to practice chiropractic in any other state, territory, or the
22 District of Columbia, maintaining standards established by law or
23 by duly authorized rules, equal to those of Nebraska, and who
24 presents a certificate or license based on written examination
25 issued by the proper authority of such other state, territory, or

1 the District of Columbia.

2 Sec. 325. Section 71-188, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 71-188 When a person licensed to practice dentistry in
5 this state changes his or her place of residence, he or she
6 shall forthwith notify the ~~Department of Health and Human Services~~
7 ~~Regulation and Licensure~~ department of such change, which shall be
8 noted in the records of the department.

9 Sec. 326. Section 71-193.01, Revised Statutes Cumulative
10 Supplement, 2006, is amended to read:

11 71-193.01 There is hereby established the Office of Oral
12 Health and Dentistry in the ~~Department of Health and Human Services~~
13 ~~Regulation and Licensure-~~ department. The head of such office shall
14 be known as the Dental Health Director and shall be appointed by
15 the department. The Dental Health Director shall give full time to
16 his or her duties.

17 Sec. 327. Section 71-193.13, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 71-193.13 Any licensed dentist, public institution, or
20 school may employ dental assistants, in addition to licensed
21 dental hygienists. Such dental assistants, under the supervision
22 of a licensed dentist, may perform such duties as are prescribed
23 in accordance with rules and regulations adopted and promulgated
24 by the ~~Department of Health and Human Services Regulation and~~
25 ~~Licensure-~~ department.

1 Sec. 328. Section 71-193.15, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 71-193.15 A licensed dental hygienist shall perform the
4 traditional dental hygiene functions set forth in section 71-193.17
5 only when authorized to do so by a licensed dentist who shall be
6 responsible for the total oral health care of the patient. The
7 ~~Department of Health and Human Services Regulation and Licensure~~
8 department in the conduct of public health-related services may
9 authorize a licensed dental hygienist to conduct preliminary
10 charting and screening examinations, provide oral health education
11 for patients including the teaching of appropriate plaque control
12 techniques, and perform or provide all of the duties that any
13 dental assistant is authorized to perform.

14 Sec. 329. Section 71-193.18, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 71-193.18 (1) A licensed dental hygienist may monitor
17 nitrous oxide analgesia under the indirect supervision of a
18 licensed dentist.

19 (2) A licensed dental hygienist may be approved by the
20 department, upon the recommendation of the Board of Dentistry,
21 to administer local anesthesia under the indirect supervision of
22 a licensed dentist. The department may, upon the recommendation
23 of the board, prescribe by rule and regulation: The necessary
24 education and preparation, which shall include, but not be limited
25 to, instruction in the areas of head and neck anatomy, osteology,

1 physiology, pharmacology, medical emergencies, and clinical
2 techniques; the necessary clinical experience; and the necessary
3 examination for purposes of determining the competence of licensed
4 dental hygienists to administer local anesthesia.

5 Upon the recommendation of the board, the department may
6 approve successful completion after July 1, 1994, of a course of
7 instruction to determine competence to administer local anesthesia.
8 The course of instruction must be at an institution accredited
9 by a regional or professional accrediting organization which is
10 recognized by the United States Department of Education and
11 approved by the Division of Public Health of the Department of
12 Health and Human Services. ~~Regulation and Licensure.~~ The course of
13 instruction must be taught by a faculty member or members of the
14 institution presenting the course. The department may approve for
15 purposes of this subsection a course of instruction if such course
16 includes:

17 (a) At least twelve clock hours of classroom lecture,
18 including instruction in (i) medical history evaluation procedures,
19 (ii) anatomy of the head, neck, and oral cavity as it relates to
20 administering local anesthetic agents, (iii) pharmacology of local
21 anesthetic agents, vasoconstrictor, and preservatives, including
22 physiologic actions, types of anesthetics, and maximum dose per
23 weight, (iv) systemic conditions which influence selection and
24 administration of anesthetic agents, (v) signs and symptoms of
25 reactions to local anesthetic agents, including monitoring of vital

1 signs, (vi) management of reactions to or complications associated
2 with the administration of local anesthetic agents, (vii) selection
3 and preparation of the armamentaria for administering various
4 local anesthetic agents, and (viii) methods of administering local
5 anesthetic agents;

6 (b) At least twelve clock hours of clinical instruction
7 during which time at least three injections of each of the
8 anterior, middle and posterior superior alveolar, naso and greater
9 palatine, inferior alveolar, lingual, mental, long buccal, and
10 infiltration injections are administered; and

11 (c) Procedures, which shall include an examination, for
12 purposes of determining whether the hygienist has acquired the
13 necessary knowledge and proficiency to administer local anesthetic
14 agents.

15 Sec. 330. Section 71-193.19, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 71-193.19 ~~The Department of Health and Human Services~~
18 ~~Regulation and Licensure~~ department may, by rule and regulation,
19 prescribe functions, procedures, and services in addition to those
20 in section 71-193.17 which may be performed by a licensed dental
21 hygienist under the supervision of a licensed dentist when such
22 additional procedures are educational or related to the oral
23 prophylaxis and intended to attain or maintain optimal oral health.

24 Sec. 331. Section 71-193.22, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 71-193.22 As used in the Dental Anesthesia Act, unless
2 the context otherwise requires:

3 (1) Analgesia shall mean the diminution or elimination of
4 pain in the conscious patient;

5 (2) Board shall mean the Board of Dentistry;

6 (3) Department shall mean the Division of Public Health
7 of the Department of Health and Human Services; ~~Regulation and~~
8 ~~Licensure;~~

9 (4) General anesthesia shall mean a controlled state
10 of unconsciousness accompanied by a partial or complete loss
11 of protective reflexes, including the inability to independently
12 maintain an airway and respond purposefully to physical
13 stimulation or verbal command, and produced by a pharmacologic or
14 nonpharmacologic method or a combination thereof;

15 (5) Inhalation analgesia shall mean the administration
16 of nitrous oxide and oxygen to diminish or eliminate pain in a
17 conscious patient;

18 (6) Parenteral shall mean administration other than
19 through the digestive tract, including, but not limited to,
20 intravenous administration; and

21 (7) Sedation shall mean a depressed level of
22 consciousness in which the patient's ability to independently
23 and continuously maintain an airway and respond appropriately
24 to physical stimulation or verbal command is retained and which
25 is produced by a pharmacologic or nonpharmacologic method or a

1 combination thereof.

2 Sec. 332. Section 71-1,104, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 71-1,104 (1) Each applicant for a license to practice
5 medicine and surgery shall:

6 (a) (i) Present proof that he or she is a graduate of
7 an accredited school or college of medicine, (ii) if a foreign
8 medical graduate, provide a copy of a permanent certificate issued
9 by the Educational Commission on Foreign Medical Graduates that
10 is currently effective and relates to such applicant or provide
11 such credentials as are necessary to certify that such foreign
12 medical graduate has successfully passed the Visa Qualifying
13 Examination or its successor or equivalent examination required
14 by the United States Department of Health and Human Services and
15 the United States Immigration and Naturalization Service, or (iii)
16 if a graduate of a foreign medical school who has successfully
17 completed a program of American medical training designated as
18 the Fifth Pathway and who additionally has successfully passed the
19 Educational Commission on Foreign Medical Graduates examination but
20 has not yet received the permanent certificate attesting to the
21 same, provide such credentials as certify the same to the Division
22 of Public Health of the Department of Health and Human Services;
23 ~~Regulation and Licensure;~~

24 (b) Present proof that he or she has served at least
25 one year of graduate medical education approved by the Board of

1 Medicine and Surgery or, if a foreign medical graduate, present
2 proof that he or she has served at least three years of graduate
3 medical education approved by the board;

4 (c) Pass a licensing examination designated by the board
5 and the department covering appropriate medical subjects; and

6 (d) Present proof satisfactory to the board that he or
7 she, within the three years immediately preceding the application
8 for licensure, (i) has been in the active practice of the
9 profession of medicine and surgery in some other state, a
10 territory, the District of Columbia, or Canada for a period of
11 one year, (ii) has had at least one year of graduate medical
12 education as described in subdivision (1)(b) of this section, (iii)
13 has completed continuing education in medicine and surgery approved
14 by the board, (iv) has completed a refresher course in medicine and
15 surgery approved by the board, or (v) has completed the special
16 purposes examination approved by the board.

17 (2) The department, upon the recommendation of the board,
18 may waive any requirement for more than one year of approved
19 graduate medical education, as set forth in subdivision (1)(b)
20 of this section, if the applicant has served at least one year
21 of graduate medical education approved by such board and if the
22 following conditions are met:

23 (a) The applicant meets all other qualifications for a
24 license to practice medicine and surgery;

25 (b) The applicant submits satisfactory proof that the

1 issuance of a license based on the waiver of the requirement of
2 more than one year of approved graduate medical education will not
3 jeopardize the health, safety, and welfare of the citizens of this
4 state; and

5 (c) The applicant submits proof that he or she will enter
6 into the practice of medicine in a health profession shortage area
7 designated as such by the Nebraska Rural Health Advisory Commission
8 immediately upon obtaining a license to practice medicine and
9 surgery based upon a waiver of the requirement for more than one
10 year of graduate medical education.

11 (3) A license issued on the basis of such a waiver shall
12 be subject to the limitation that the licensee continue in practice
13 in the health profession shortage area and such other limitations,
14 if any, deemed appropriate under the circumstances by the ~~Director~~
15 ~~of Regulation and Licensure~~, director, upon recommendation of the
16 board, which may include, but shall not be limited to, supervision
17 by a medical practitioner, training, education, and scope of
18 practice. After two years of practice under a limited license
19 issued on the basis of a waiver of the requirement of more than
20 one year of graduate medical education, a licensee may apply to the
21 department for removal of the limitations. The director, upon the
22 recommendation of the board, may grant or deny such application or
23 may continue the license with limitations.

24 (4) In addition to any other grounds for disciplinary
25 action against the license contained in the Uniform Licensing

1 Law, the department may take disciplinary action against a license
2 granted on the basis of a waiver of the requirement of more
3 than one year of graduate medical education for violation of the
4 limitations on the license. The department, upon the recommendation
5 of the board, shall adopt and promulgate rules and regulations for
6 the purpose of implementing and administering this section.

7 Sec. 333. Section 71-1,104.01, Revised Statutes
8 Cumulative Supplement, 2006, is amended to read:

9 71-1,104.01 (1) Except as provided in section 71-519
10 and except for newborn screening tests ordered by physicians to
11 comply with the law of the state in which the infant was born,
12 a physician or an individual to whom the physician has delegated
13 authority to perform a selected act, task, or function shall not
14 order a predictive genetic test without first obtaining the written
15 informed consent of the patient to be tested. Written informed
16 consent consists of a signed writing executed by the patient
17 or the representative of a patient lacking decisional capacity
18 that confirms that the physician or individual acting under the
19 delegated authority of the physician has explained, and the patient
20 or his or her representative understands:

21 (a) The nature and purpose of the predictive genetic
22 test;

23 (b) The effectiveness and limitations of the predictive
24 genetic test;

25 (c) The implications of taking the predictive genetic

1 test, including the medical risks and benefits;

2 (d) The future uses of the sample taken to conduct the
3 predictive genetic test and the genetic information obtained from
4 the predictive genetic test;

5 (e) The meaning of the predictive genetic test results
6 and the procedure for providing notice of the results to the
7 patient; and

8 (f) Who will have access to the sample taken to conduct
9 the predictive genetic test and the genetic information obtained
10 from the predictive genetic test, and the patient's right to
11 confidential treatment of the sample and the genetic information.

12 (2) ~~The Department of Health and Human Services~~
13 ~~Regulation and Licensure~~ department shall develop and distribute
14 a model informed consent form for purposes of this section. The
15 department shall include in the model form all of the information
16 required under subsection (1) of this section. The department
17 shall distribute the model form and all revisions to the form
18 to physicians and other individuals subject to this section upon
19 request and at no charge. The department shall review the model
20 form at least annually for five years after the first model form is
21 distributed and shall revise the model form if necessary to make
22 the form reflect the latest developments in medical genetics. The
23 department may also develop and distribute a pamphlet that provides
24 further explanation of the information included in the model form.

25 (3) If a patient or his or her representative signs a

1 copy of the model informed consent form developed and distributed
2 under subsection (2) of this section, the physician or individual
3 acting under the delegated authority of the physician shall give
4 the patient a copy of the signed informed consent form and shall
5 include the original signed informed consent form in the patient's
6 medical record.

7 (4) If a patient or his or her representative signs a
8 copy of the model informed consent form developed and distributed
9 under subsection (2) of this section, the patient is barred
10 from subsequently bringing a civil action for damages against
11 the physician, or an individual to whom the physician delegated
12 authority to perform a selected act, task, or function, who ordered
13 the predictive genetic test, based upon failure to obtain informed
14 consent for the predictive genetic test.

15 (5) A physician's duty to inform a patient under this
16 section does not require disclosure of information beyond what
17 a physician reasonably well-qualified to order and interpret
18 the predictive genetic test would know. A person acting under
19 the delegated authority of a physician shall understand and be
20 qualified to provide the information required by subsection (1) of
21 this section.

22 (6) For purposes of this section:

23 (a) Genetic information means information about a gene,
24 gene product, or inherited characteristic derived from a genetic
25 test;

1 (b) Genetic test means the analysis of human DNA, RNA,
2 chromosomes, epigenetic status, and those tissues, proteins, and
3 metabolites used to detect heritable or somatic disease-related
4 genotypes or karyotypes for clinical purposes. Tests of tissues,
5 proteins, and metabolites are included only when generally accepted
6 in the scientific and medical communities as being specifically
7 determinative of a heritable or somatic disease-related genetic
8 condition. Genetic test does not include a routine analysis,
9 including a chemical analysis, of body fluids or tissues unless
10 conducted specifically to determine a heritable or somatic
11 disease-related genetic condition. Genetic test does not include
12 a physical examination or imaging study. Genetic test does not
13 include a procedure performed as a component of biomedical research
14 that is conducted pursuant to federal common rule under 21 C.F.R.
15 parts 50 and 56 and 45 C.F.R. part 46, as such regulations existed
16 on January 1, 2003; and

17 (c) Predictive genetic test means a genetic test for an
18 otherwise undetectable genotype or karyotype relating to the risk
19 for developing a genetically related disease or disability, the
20 results of which can be used to substitute a patient's prior risk
21 based on population data or family history with a risk based on
22 genotype or karyotype. Predictive genetic test does not include
23 diagnostic testing conducted on a person exhibiting clinical signs
24 or symptoms of a possible genetic condition. Predictive genetic
25 testing does not include prenatal genetic diagnosis, unless the

1 prenatal testing is conducted for an adult-onset condition not
2 expected to cause clinical signs or symptoms before the age of
3 majority.

4 Sec. 334. Section 71-1,107, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 71-1,107 ~~The Department of Health and Human Services~~
7 ~~Regulation and Licensure~~ department may accept in lieu of
8 the examination provided in section 71-1,104 a certificate of
9 examination issued by the National Board of Medical Examiners of
10 the United States of America, but every applicant for a license
11 upon the basis of such certificate shall be required to pay the
12 fees prescribed for licenses issued in medicine and surgery without
13 examination based upon a license by examination held in another
14 state, territory, or the District of Columbia.

15 Sec. 335. Section 71-1,107.06, Reissue Revised Statutes
16 of Nebraska, is amended to read:

17 71-1,107.06 The duration of any permit issued pursuant
18 to sections 71-1,107.01 to 71-1,107.14 shall be determined by the
19 ~~Department of Health and Human Services Regulation and Licensure~~
20 department but in no case shall it be in excess of one year.
21 The permit may be renewed from time to time at the discretion
22 of the ~~Department of Health and Human Services Regulation and~~
23 ~~Licensure~~ department but in no case shall it be renewed for
24 more than five one-year periods. The department may issue to
25 all qualified graduates of accredited colleges of medicine or

1 accredited schools or colleges of osteopathic medicine, who are
2 eligible for the examination provided in section 71-1,104, and
3 who make application for such examination, a temporary educational
4 permit, without charge. Such permit shall be issued only for the
5 duration of the time between the date of the examination and
6 the date of licensure granted as a result of such examination.
7 Any person issued a temporary educational permit without charge
8 shall meet all requirements provided for in sections 71-1,107.01
9 to ~~71-1,107.13,~~ 71-1,107.14, except the required fee, and such
10 exemption is only for the period of time between the examination
11 date and the licensing date and for only those individuals who take
12 the examination as provided in section 71-1,104.

13 Sec. 336. Section 71-1,107.07, Reissue Revised Statutes
14 of Nebraska, is amended to read:

15 71-1,107.07 Before granting any temporary educational
16 permit, the ~~Department of Health and Human Services Regulation and~~
17 ~~Licensure department~~ shall ascertain by evidence satisfactory to
18 such board that an accredited hospital or school or college of
19 medicine in the State of Nebraska has requested the issuance of
20 a temporary educational permit for an applicant to serve as a
21 graduate student in its approved program for the period involved
22 and any application for the issuance of such permit shall be signed
23 by the applicant requesting that such permit be issued to him or
24 her and shall designate the specified approved graduate medical
25 educational program with respect to which such permit shall apply.

1 Sec. 337. Section 71-1,107.08, Reissue Revised Statutes
2 of Nebraska, is amended to read:

3 71-1,107.08 Before a visiting faculty permit shall be
4 issued, the ~~Department of Health and Human Services Regulation~~
5 ~~and Licensure~~ department shall determine on the basis of evidence
6 satisfactory to the department that an accredited school or college
7 of medicine in the State of Nebraska has requested issuance of
8 such visiting faculty permit for the individual involved to serve
9 as a member of the faculty of such school or college of medicine
10 and that the applicant for such permit has met the requirements of
11 sections 71-1,107.01 to 71-1,107.14. Any application for issuing a
12 visiting faculty permit shall be signed by the applicant to whom
13 such permit is to be issued and shall designate the accredited
14 school or college of medicine where such applicant proposes to
15 serve as a member of the faculty and shall outline the faculty
16 duties to be performed pursuant to the permit.

17 Sec. 338. Section 71-1,107.16, Reissue Revised Statutes
18 of Nebraska, is amended to read:

19 71-1,107.16 For purposes of sections 71-1,107.15 to
20 71-1,107.30, unless the context otherwise requires:

21 (1) Approved program means a program for the education of
22 physician assistants which the board formally approves;

23 (2) Board means the Board of Medicine and Surgery;

24 (3) Department means the Division of Public Health of the
25 Department of Health and Human Services; ~~Regulation and Licensure~~;

1 (4) Physician assistant means any person who graduates
2 from a program approved by the Commission on Accreditation of
3 Allied Health Education Programs or its predecessor or successor
4 agency and the board, who satisfactorily completes a proficiency
5 examination, and whom the board, with the concurrence of the
6 department, approves to perform medical services under the
7 supervision of a physician or group of physicians approved by the
8 board to supervise such assistant;

9 (5) Supervision means the ready availability of the
10 supervising physician for consultation and direction of the
11 activities of the physician assistant. Contact with the supervising
12 physician by telecommunication shall be sufficient to show ready
13 availability if the board finds that such contact is sufficient to
14 provide quality medical care. The level of supervision may vary by
15 geographic location as provided in section 71-1,107.17;

16 (6) Trainee means any person who is currently enrolled in
17 an approved program;

18 (7) Proficiency examination means the initial proficiency
19 examination approved by the board for the licensure of physician
20 assistants, including, but not limited to, the examination
21 administered by the National Commission on Certification of
22 Physician Assistants or other national organization established for
23 such purpose that is recognized by the board;

24 (8) Supervising physician means a (a) board-approved
25 physician who utilizes an approved physician assistant or (b)

1 backup physician;

2 (9) Backup physician means a physician designated by
3 the supervising physician to ensure supervision of the physician
4 assistant in the supervising physician's absence. A backup
5 physician shall be subject to the same requirements imposed upon
6 the supervising physician when the backup physician is acting as a
7 supervising physician; and

8 (10) Committee means the Physician Assistant Committee
9 created in section 71-1,107.25.

10 Sec. 339. Section 71-1,132.05, Revised Statutes
11 Cumulative Supplement, 2006, is amended to read:

12 71-1,132.05 For purposes of the Nurse Practice Act,
13 unless the context otherwise requires:

14 (1) Executive director means the executive director of
15 the Board of Nursing;

16 (2) Board means the Board of Nursing;

17 (3) License by endorsement means the granting of active
18 status and the authority to practice to an individual who has been
19 licensed in another jurisdiction;

20 (4) License by examination means the authority to
21 practice is based on an assessment of minimum competency by such
22 means as the board may determine;

23 (5) License, for purposes of discipline, includes the
24 multistate licensure privilege to practice granted by the Nurse
25 Licensure Compact. If the multistate licensure privilege is

1 restricted due to disciplinary action by the home state, the
2 department may, upon request by the individual, grant the authority
3 to practice in this state;

4 (6) Licensed practitioner means a person lawfully
5 authorized to prescribe medications or treatments;

6 (7) The practice of nursing means the performance for
7 compensation or gratuitously of any act expressing judgment or
8 skill based upon a systematized body of nursing knowledge.
9 Such acts include the identification of and intervention in
10 actual or potential health problems of individuals, families,
11 or groups, which acts are directed toward maintaining health
12 status, preventing illness, injury, or infirmity, improving health
13 status, and providing care supportive to or restorative of life and
14 well-being through nursing assessment and through the execution of
15 nursing care and of diagnostic or therapeutic regimens prescribed
16 by any person lawfully authorized to prescribe. Each nurse is
17 directly accountable and responsible to the consumer for the
18 quality of nursing care rendered. Licensed nurses may use the
19 services of unlicensed individuals to provide assistance with
20 personal care and activities of daily living;

21 (8) The practice of nursing by a registered nurse means
22 assuming responsibility and accountability for nursing actions
23 which include, but are not limited to:

24 (a) Assessing human responses to actual or potential
25 health conditions;

- 1 (b) Establishing nursing diagnoses;
- 2 (c) Establishing goals and outcomes to meet identified
3 health care needs;
- 4 (d) Establishing and maintaining a plan of care;
- 5 (e) Prescribing nursing interventions to implement the
6 plan of care;
- 7 (f) Implementing the plan of care;
- 8 (g) Teaching health care practices;
- 9 (h) Delegating, directing, or assigning nursing
10 interventions that may be performed by others and that do not
11 conflict with the act;
- 12 (i) Maintaining safe and effective nursing care rendered
13 directly or indirectly;
- 14 (j) Evaluating responses to interventions, including, but
15 not limited to, performing physical and psychological assessments
16 of patients under restraint and seclusion as required by federal
17 law, if the registered nurse has been trained in the use of
18 emergency safety intervention;
- 19 (k) Teaching theory and practice of nursing;
- 20 (l) Conducting, evaluating, and utilizing nursing
21 research;
- 22 (m) Administering, managing, and supervising the practice
23 of nursing; and
- 24 (n) Collaborating with other health professionals in the
25 management of health care;

1 (9) The practice of nursing by a licensed practical nurse
2 means the assumption of responsibilities and accountability for
3 nursing practice in accordance with knowledge and skills acquired
4 through an approved program of practical nursing. A licensed
5 practical nurse may function at the direction of a licensed
6 practitioner or a registered nurse. Such responsibilities and
7 performances of acts must utilize procedures leading to predictable
8 outcomes and must include, but not be limited to:

9 (a) Contributing to the assessment of the health status
10 of individuals and groups;

11 (b) Participating in the development and modification of
12 a plan of care;

13 (c) Implementing the appropriate aspects of the plan of
14 care;

15 (d) Maintaining safe and effective nursing care rendered
16 directly or indirectly;

17 (e) Participating in the evaluation of response to
18 interventions; and

19 (f) Assigning and directing nursing interventions that
20 may be performed by others and that do not conflict with the act;

21 (10) Department means the Division of Public Health
22 of the Department of Health and Human Services; Regulation and
23 Licensure;

24 (11) Director means the Director of Public Health of the
25 Division of Public Health; Regulation and Licensure;

1 (12) Inactive status means the designation given to a
2 licensee who requests this status and pays the fee. A licensee on
3 inactive status is issued a card indicating inactive status but
4 shall not practice;

5 (13) Lapsed status means the designation given to a
6 licensee who requests this status. A licensee on lapsed status
7 shall not practice;

8 (14) Expiration date means the date on which the license
9 expires has passed. The licensee whose license has expired shall
10 not practice;

11 (15) Suspended means the licensee's authority to practice
12 has been temporarily removed as a result of disciplinary action;

13 (16) Revoked means the licensee's authority to practice
14 has been removed as a result of disciplinary action. The licensee
15 may apply for reinstatement of his or her license two years or more
16 after the date of revocation;

17 (17) Reinstatement means the return to active status and
18 the restoration of the authority to practice to a licensee who was
19 previously licensed in this state;

20 (18) Verification means attesting to the current status
21 of an individual's license;

22 (19) Certification means attesting to the current status
23 of an individual's license, any disciplinary action taken, and the
24 means by which the individual was licensed;

25 (20) Probation means that the individual's authority to

1 practice is contingent on the licensee meeting specified conditions
2 imposed as a result of disciplinary action;

3 (21) Limited license means that certain restrictions have
4 been imposed on the individual's authority to practice as a result
5 of disciplinary action;

6 (22) Assignment means appointing or designating another
7 individual the responsibility for the performance of nursing
8 interventions;

9 (23) Delegation means transferring to another individual
10 the authority, responsibility, and accountability to perform
11 nursing interventions; and

12 (24) Direction means managing, guiding, and supervising
13 the nursing interventions performed by another individual.

14 Sec. 340. Section 71-1,132.53, Reissue Revised Statutes
15 of Nebraska, is amended to read:

16 71-1,132.53 ~~The Department of Health and Human Services~~
17 ~~Regulation and Licensure~~ department shall:

18 (1) Conduct hearings upon charges of suspension or
19 revocation of a license;

20 (2) Have power to issue subpoenas and compel the
21 attendance of witnesses and administer oaths to persons giving
22 testimony at hearings;

23 (3) Cause the prosecution of all persons violating the
24 Nurse Practice Act and have power to incur the necessary expense;
25 and

1 (4) Establish fees for credentialing activities under the
2 Nurse Practice Act as provided in section 71-162.

3 Sec. 341. Section 71-1,135.02, Reissue Revised Statutes
4 of Nebraska, is amended to read:

5 71-1,135.02 (1) (a) No optometrist licensed in this state,
6 except an optometrist who has been certified by the department
7 prior to April 30, 1987, or by another state with substantially
8 equivalent requirements for certification as determined by the
9 department upon recommendation of the Board of Optometry to
10 use topical ocular pharmaceutical agents for diagnostic purposes
11 prior to April 30, 1987, shall use topical ocular pharmaceutical
12 agents for diagnostic purposes authorized under subdivision (2)
13 of section 71-1,133 unless such person (i) submits to the board
14 the required fee and evidence of satisfactory completion of a
15 pharmacology course at an institution accredited by a regional or
16 professional accrediting organization which is recognized by the
17 United States Department of Education and approved by the Division
18 of Public Health of the Department of Health and Human Services,
19 ~~Regulation and Licensure,~~ (ii) passes an examination approved by
20 the department, and (iii) has been certified by the department upon
21 the recommendation of the board as qualified to use topical ocular
22 pharmaceutical agents for diagnostic purposes.

23 (b) The department may approve for certification pursuant
24 to subdivision (1) (a) (i) of this section a pharmacology course if
25 such course includes:

1 (i) A study of ocular anesthetics, mydriatics,
2 cycloplegics, ocular toxicity of pharmaceutical agents, ocular
3 allergies of ocular agents, and pharmacologic effects of ocular
4 drug substances;

5 (ii) The consideration of the mechanism of action of
6 anesthetics, cycloplegics, and mydriatics in human beings and the
7 uses of such substances in the diagnosis of occurring ocular
8 disorders;

9 (iii) At least one hundred hours of classroom education,
10 clinical training, and examination; and

11 (iv) The correlation of the utilization of pharmaceutical
12 agents and optical instrumentation and procedures.

13 (c) The department may approve for certification pursuant
14 to subdivision (1)(a)(ii) of this section an examination if such
15 examination is:

16 (i) Based upon the competencies taught in a pharmacology
17 course; and

18 (ii) Administered by an institution accredited by
19 a regional or professional accrediting organization which is
20 recognized by the United States Department of Education and
21 approved by the Division of Public Health of the Department of
22 Health and Human Services. ~~Regulation and Licensure.~~

23 (2)(a) No optometrist licensed in this state on or after
24 April 30, 1987, shall use topical ocular pharmaceutical agents for
25 therapeutic purposes authorized under subdivision (3) of section

1 71-1,133 unless such person (i) submits to the board the required
2 fee and evidence of satisfactory completion of a minimum of one
3 hundred hours since January 1, 1984, of which forty hours shall be
4 classroom education and sixty hours shall be supervised clinical
5 training as it applies to optometry with particular emphasis
6 on the examination, diagnosis, and treatment of the eye, ocular
7 adnexa, and visual system offered by a school or college approved
8 by the department, (ii) passes an examination approved by the
9 department, (iii) has been certified by the department upon the
10 recommendation of the board to use topical ocular pharmaceutical
11 agents for therapeutic purposes, and (iv) has been certified by
12 the department upon the recommendation of the board to use topical
13 ocular pharmaceutical agents for diagnostic purposes.

14 (b) The department may approve for certification pursuant
15 to subdivision (2)(a)(i) of this section a therapeutic course
16 or courses of instruction, from an institution accredited by
17 a regional or professional accrediting organization which is
18 recognized by the United States Department of Education, that
19 have been completed after January 1, 1984. Such course or courses
20 shall include, but not be limited to:

- 21 (i) Review of general pharmacology and therapeutics;
- 22 (ii) Review of ocular therapeutic pharmacology;
- 23 (iii) Diagnosis and treatment of diseases of the eye,
24 ocular adnexa, and visual system;
- 25 (iv) Diagnosis of corneal disease and trauma including

1 corneal foreign bodies;

2 (v) Diagnosis and treatment of anterior segment eye
3 diseases;

4 (vi) Clinical procedures related to the diagnosis and
5 treatment of the eye, ocular adnexa, and visual system;

6 (vii) Ocular manifestations of systemic disease;

7 (viii) Review of systemic disease syndromes;

8 (ix) Ocular therapy including management of acute
9 systemic emergencies; and

10 (x) Consultation criteria in ocular disease and trauma.

11 (3)(a) An optometrist who is licensed and certified to
12 use pharmaceutical agents for therapeutic purposes on July 15,
13 1998, who graduated from an accredited school of optometry prior
14 to January 1, 1996, shall complete the educational requirements
15 relative to the treatment of glaucoma, as determined by the board,
16 prior to January 1, 2000, and shall complete such educational
17 requirements prior to treating glaucoma. Failure to complete such
18 education prior to January 1, 2000, shall result in the revocation
19 of the licensee's certification to use pharmaceutical agents for
20 therapeutic purposes.

21 (b) An optometrist who applies for licensure on or
22 after July 15, 1998, who graduated from an accredited school
23 of optometry prior to January 1, 1996, shall complete the
24 educational requirements relative to the treatment of glaucoma,
25 as determined by the board, prior to being issued a license to

1 practice optometry.

2 (c) An optometrist who graduated from an accredited
3 school of optometry after January 1, 1996, shall be deemed to
4 have met the educational requirements for certification to use
5 pharmaceutical agents for therapeutic purposes which includes the
6 treatment and management of glaucoma.

7 Sec. 342. Section 71-1,136, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 71-1,136 No school of optometry shall be approved by the
10 Division of Public Health of the Department of Health and Human
11 ~~Services Regulation and Licensure~~ as an accredited school unless
12 the school is accredited by a regional or professional accrediting
13 organization which is recognized by the United States Department of
14 Education.

15 Sec. 343. Section 71-1,141, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 71-1,141 With respect to licenses issued pursuant to
18 sections 71-1,139 and 71-1,139.01 and any renewals thereof, the
19 ~~Department of Health and Human Services Regulation and Licensure~~
20 department shall designate the extent of such practice as follows:

21 (1) License to practice as an osteopathic physician; or

22 (2) License to practice osteopathic medicine and surgery.

23 Every license issued under sections 71-1,139 and
24 71-1,139.01 shall confer upon the holder thereof the right to
25 practice osteopathic medicine and surgery as taught in the schools

1 or colleges of osteopathic medicine recognized by the American
2 Osteopathic Association in the manner and to the extent provided
3 by such license.

4 Sec. 344. Section 71-1,142, Revised Statutes Cumulative
5 Supplement, 2006, is amended to read:

6 71-1,142 For purposes of sections 71-1,142 to 71-1,151
7 and elsewhere in the Uniform Licensing Law, unless the context
8 otherwise requires:

9 (1) Practice of pharmacy means (a) the interpretation,
10 evaluation, and implementation of a medical order, (b) the
11 dispensing of drugs and devices, (c) drug product selection,
12 (d) the administration of drugs or devices, (e) drug utilization
13 review, (f) patient counseling, (g) the provision of pharmaceutical
14 care, and (h) the responsibility for compounding and labeling of
15 dispensed or repackaged drugs and devices, proper and safe storage
16 of drugs and devices, and maintenance of proper records. The active
17 practice of pharmacy means the performance of the functions set
18 out in this subdivision by a pharmacist as his or her principal or
19 ordinary occupation;

20 (2) Administer means to directly apply a drug or device
21 by injection, inhalation, ingestion, or other means to the body of
22 a patient or research subject;

23 (3) Administration means the act of (a) administering,
24 (b) keeping a record of such activity, and (c) observing,
25 monitoring, reporting, and otherwise taking appropriate action

1 regarding desired effect, side effect, interaction, and
2 contraindication associated with administering the drug or device;

3 (4) Board means the Board of Pharmacy;

4 (5) Caregiver means any person acting as an agent on
5 behalf of a patient or any person aiding and assisting a patient;

6 (6) Chart order means an order for a drug or device
7 issued by a practitioner for a patient who is in the hospital
8 where the chart is stored or for a patient receiving detoxification
9 treatment or maintenance treatment pursuant to section 28-412.
10 Chart order does not include a prescription;

11 (7) Compounding means the preparation of components into
12 a drug product (a) as the result of a practitioner's medical order
13 or initiative occurring in the course of practice based upon the
14 relationship between the practitioner, patient, and pharmacist or
15 (b) for the purpose of, or as an incident to, research, teaching,
16 or chemical analysis and not for sale or dispensing. Compounding
17 includes the preparation of drugs or devices in anticipation of
18 receiving medical orders based upon routine, regularly observed
19 prescribing patterns;

20 (8) Delegated dispensing means the practice of pharmacy
21 by which one or more pharmacists have jointly agreed, on a
22 voluntary basis, to work in conjunction with one or more persons
23 pursuant to sections 71-1,147.42 to 71-1,147.64 under a protocol
24 which provides that such person may perform certain dispensing
25 functions authorized by the pharmacist or pharmacists under certain

1 specified conditions and limitations;

2 (9) Deliver or delivery means to actually,
3 constructively, or attempt to transfer a drug or device from one
4 person to another, whether or not for consideration;

5 (10) Department means the Division of Public Health
6 of the Department of Health and Human Services; ~~Regulation and~~
7 ~~Licensure;~~

8 (11) Device means an instrument, apparatus, implement,
9 machine, contrivance, implant, in vitro reagent, or other similar
10 or related article, including any component, part, or accessory,
11 which is prescribed by a practitioner and dispensed by a pharmacist
12 or other person authorized by law to do so;

13 (12) Dialysis drug or device distributor means a
14 manufacturer or wholesaler who provides dialysis drugs, solutions,
15 supplies, or devices, to persons with chronic kidney failure for
16 self-administration at the person's home or specified address,
17 pursuant to a prescription;

18 (13) Dialysis drug or device distributor worker means a
19 person working for a dialysis drug or device distributor with a
20 delegated dispensing permit who has completed the approved training
21 and has demonstrated proficiency to perform the task or tasks of
22 assembling, labeling, or delivering drugs or devices pursuant to a
23 prescription;

24 (14) Dispense or dispensing means interpreting,
25 evaluating, and implementing a medical order, including preparing

1 and delivering a drug or device to a patient or caregiver
2 in a suitable container appropriately labeled for subsequent
3 administration to, or use by, a patient. Dispensing includes (a)
4 dispensing incident to practice, (b) dispensing pursuant to a
5 delegated dispensing permit, (c) dispensing pursuant to a medical
6 order, and (d) any transfer of a prescription drug or device to a
7 patient or caregiver other than by administering;

8 (15) Distribute means to deliver a drug or device, other
9 than by administering or dispensing;

10 (16) Facility means a health care facility as defined in
11 section 71-413;

12 (17) Hospital has the same meaning as in section 71-419;

13 (18) Person means an individual, corporation,
14 partnership, limited liability company, association, or other legal
15 entity;

16 (19) Labeling means the process of preparing and affixing
17 a label to any drug container or device container, exclusive
18 of the labeling by a manufacturer, packer, or distributor of
19 a nonprescription drug or commercially packaged legend drug or
20 device. Any such label shall include all information required by
21 federal and state law or regulation;

22 (20) Medical order means a prescription, a chart order,
23 or an order for pharmaceutical care issued by a practitioner;

24 (21) Pharmaceutical care means the provision of drug
25 therapy for the purpose of achieving therapeutic outcomes that

1 improve a patient's quality of life. Such outcomes include (a) the
2 cure of disease, (b) the elimination or reduction of a patient's
3 symptomatology, (c) the arrest or slowing of a disease process, or
4 (d) the prevention of a disease or symptomatology. Pharmaceutical
5 care includes the process through which the pharmacist works in
6 concert with the patient and his or her caregiver, physician, or
7 other professionals in designing, implementing, and monitoring a
8 therapeutic plan that will produce specific therapeutic outcomes
9 for the patient;

10 (22) Pharmacist means any person who is licensed by the
11 State of Nebraska to practice pharmacy;

12 (23) Pharmacy has the same meaning as in section 71-425;

13 (24) Drugs, medicines, and medicinal substances means (a)
14 articles recognized in the official United States Pharmacopoeia,
15 the Homeopathic Pharmacopoeia of the United States, the official
16 National Formulary, or any supplement to any of them, (b) articles
17 intended for use in the diagnosis, cure, mitigation, treatment, or
18 prevention of diseases in humans or animals, (c) articles, except
19 food, intended to affect the structure or any function of the
20 body of a human or an animal, (d) articles intended for use as a
21 component of any articles specified in subdivision (a), (b), or (c)
22 of this subdivision, except any device or its components, parts, or
23 accessories, and (e) prescription drugs or devices as defined in
24 subdivision (31) of this section;

25 (25) Patient counseling means the verbal communication

1 by a pharmacist, pharmacist intern, or practitioner, in a manner
2 reflecting dignity and the right of the patient to a reasonable
3 degree of privacy, of information to the patient or caregiver in
4 order to improve therapeutic outcomes by maximizing proper use of
5 prescription drugs and devices and also includes the duties set out
6 in section 71-1,147.35;

7 (26) Pharmacist in charge means a pharmacist who is
8 designated on a pharmacy license or designated by a hospital as
9 being responsible for the practice of pharmacy in the pharmacy
10 for which a pharmacy license is issued and who works within the
11 physical confines of such pharmacy for a majority of the hours
12 per week that the pharmacy is open for business averaged over a
13 twelve-month period or thirty hours per week, whichever is less;

14 (27) Pharmacist intern means a person who meets the
15 requirements of section 71-1,144;

16 (28) Pharmacy technician means an individual at least
17 eighteen years of age who is a high school graduate or officially
18 recognized by the State Department of Education as possessing the
19 equivalent degree of education, who has never been convicted of
20 any drug-related misdemeanor or felony, and who, under the written
21 control procedures and guidelines of an employing pharmacy, may
22 perform those functions which do not require professional judgment
23 and which are subject to verification to assist a pharmacist in the
24 practice of pharmacy;

25 (29) Practitioner means a certified registered nurse

1 anesthetist, a certified nurse midwife, a dentist, an optometrist,
2 a nurse practitioner, a physician assistant, a physician, a
3 podiatrist, or a veterinarian;

4 (30) Prescribe means to issue a medical order;

5 (31) Prescription drug or device or legend drug or
6 device means (a) a drug or device which is required under
7 federal law to be labeled with one of the following statements
8 prior to being dispensed or delivered: (i) Caution: Federal law
9 prohibits dispensing without prescription; (ii) Caution: Federal
10 law restricts this drug to use by or on the order of a licensed
11 veterinarian; or (iii) "Rx Only" or (b) a drug or device which is
12 required by any applicable federal or state law to be dispensed
13 pursuant only to a prescription or chart order or which is
14 restricted to use by practitioners only;

15 (32) Prescription means an order for a drug or device
16 issued by a practitioner for a specific patient, for emergency use,
17 or for use in immunizations. Prescription does not include a chart
18 order;

19 (33) Nonprescription drugs means nonnarcotic medicines or
20 drugs which may be sold without a medical order and which are
21 prepackaged for use by the consumer and labeled in accordance with
22 the requirements of the laws and regulations of this state and the
23 federal government;

24 (34) Public health clinic worker means a person in a
25 public health clinic with a delegated dispensing permit who has

1 completed the approved training and has demonstrated proficiency
2 to perform the task of dispensing authorized refills of oral
3 contraceptives pursuant to a written prescription;

4 (35) Public health clinic means the department, any
5 county, city-county, or multicounty health department, or any
6 private not-for-profit family planning clinic licensed as a health
7 clinic as defined in section 71-416;

8 (36) Signature means the name, word, or mark of a person
9 written in his or her own hand with the intent to authenticate a
10 writing or other form of communication or a digital signature which
11 complies with section 86-611 or an electronic signature;

12 (37) Supervision means the immediate personal guidance
13 and direction by the licensed pharmacist on duty in the facility of
14 the performance by a pharmacy technician of authorized activities
15 or functions subject to verification by such pharmacist, except
16 that when a pharmacy technician performs authorized activities or
17 functions to assist a pharmacist on duty in the facility when the
18 prescribed drugs or devices will be administered by a licensed
19 staff member or consultant or by a licensed physician assistant to
20 persons who are patients or residents of a facility, the activities
21 or functions of such pharmacy technician shall only be subject to
22 verification by a pharmacist on duty in the facility;

23 (38) Verification means the confirmation by a supervising
24 pharmacist of the accuracy and completeness of the acts, tasks,
25 or functions undertaken by a pharmacy technician to assist the

1 pharmacist in the practice of pharmacy;

2 (39) Written control procedures and guidelines means
3 the document prepared and signed by the pharmacist in charge
4 and approved by the board which specifies the manner in which
5 basic levels of competency of pharmacy technicians employed by
6 the pharmacy are determined, the manner in which supervision is
7 provided, the manner in which the functions of pharmacy technicians
8 are verified, the maximum ratio of pharmacy technicians to one
9 pharmacist used in the pharmacy, and guidelines governing the use
10 of pharmacy technicians and the functions which they may perform;

11 (40) Medical gas distributor means a person who dispenses
12 medical gases to a patient or ultimate user but does not include a
13 person who manufactures medical gases or a person who distributes,
14 transfers, delivers, dispenses, or sells medical gases to a person
15 other than a patient or ultimate user;

16 (41) Facsimile means a copy generated by a system that
17 encodes a document or photograph into electrical signals, transmits
18 those signals over telecommunications lines, and reconstructs the
19 signals to create an exact duplicate of the original document at
20 the receiving end;

21 (42) Electronic signature has the same definition found
22 in section 86-621; and

23 (43) Electronic transmission means transmission of
24 information in electronic form. Electronic transmission may
25 include computer-to-computer transmission or computer-to-facsimile

1 transmission.

2 Sec. 345. Section 71-1,143.01, Revised Statutes
3 Cumulative Supplement, 2006, is amended to read:

4 71-1,143.01 (1) Every applicant for examination and
5 licensure as a pharmacist shall be not less than twenty-one years
6 of age, of good moral character and temperate habits, a graduate
7 of an accredited pharmacy program, recognized by the board, except
8 that an applicant who is a graduate of a pharmacy program located
9 outside of the United States and which is not accredited shall be
10 deemed to have satisfied the requirement of being a graduate of
11 an accredited pharmacy program upon providing evidence satisfactory
12 to the board of graduation from such foreign pharmacy program and
13 upon successfully passing an equivalency examination approved by
14 the board.

15 (2) Every applicant shall (a) file proof of sufficient
16 internship experience in pharmacy, under the supervision of a
17 licensed pharmacist, as may be required by the board, which
18 shall comply with national requirements for internship as set
19 forth by the National Association of Boards of Pharmacy, (b) have
20 satisfactorily completed at least five years of college of which
21 at least three years shall have been in an accredited pharmacy
22 program, and (c) pass an examination satisfactory to the board.

23 (3) Proof of the qualifications for licensure prescribed
24 in this section shall be made to the satisfaction of the board,
25 substantiated by proper affidavits. In all cases the actual time

1 of attendance in an accredited pharmacy program shall be certified
2 by the appropriate school, college, or university authority by
3 the issuance of the degree granted to a graduate of such school,
4 college, or university. Service and experience in pharmacy under
5 the supervision of a licensed pharmacist, as required in this
6 section, shall be predominantly related to the practice of pharmacy
7 and shall include the keeping of records and the making of reports
8 required under state and federal statutes. The ~~Department of Health~~
9 ~~and Human Services Regulation and Licensure~~, department, upon the
10 recommendation of the board, shall adopt and promulgate rules
11 and regulations as may be required to establish standards for
12 internship which shall comply with national requirements to effect
13 reciprocity with other states which have similar requirements for
14 licensure. The required fee for pharmacy internship shall accompany
15 the application.

16 Sec. 346. Section 71-1,147.26, Reissue Revised Statutes
17 of Nebraska, is amended to read:

18 71-1,147.26 The duration of any temporary educational
19 permit issued pursuant to sections 71-1,147.17 to 71-1,147.32 shall
20 be determined by the ~~Department of Health and Human Services~~
21 ~~Regulation and Licensure~~ department but in no case shall it be in
22 excess of one year. The permit may be renewed from time to time
23 at the discretion of the ~~Department of Health and Human Services~~
24 ~~Regulation and Licensure~~ department but in no case shall it be
25 renewed for more than five one-year periods.

1 Sec. 347. Section 71-1,147.28, Reissue Revised Statutes
2 of Nebraska, is amended to read:

3 71-1,147.28 Before granting any temporary educational
4 permit, the ~~Department of Health and Human Services Regulation~~
5 ~~and Licensure~~ department shall ascertain by evidence satisfactory
6 to the department that an accredited hospital or clinic or an
7 accredited school or college of pharmacy in the State of Nebraska
8 has requested the issuance of a temporary educational permit for an
9 applicant to serve as a graduate student in its approved program
10 for the period involved. Any application for the issuance of such
11 permit shall be signed by the applicant requesting that such permit
12 be issued to him or her and shall designate the specified approved
13 graduate pharmacy educational program with respect to which such
14 permit shall apply.

15 Sec. 348. Section 71-1,147.31, Reissue Revised Statutes
16 of Nebraska, is amended to read:

17 71-1,147.31 Any temporary educational permit granted
18 under the authority of sections 71-1,147.17 to 71-1,147.32
19 may be suspended, limited, or revoked by the department, upon
20 recommendation of the board, at any time upon a finding that the
21 reasons for issuing such permit no longer exist or that the person
22 to whom such permit has been issued is no longer qualified to hold
23 such permit or for any reason for which a pharmacist license could
24 be suspended, limited, or revoked. A hearing on the suspension,
25 limitation, or revocation of the temporary educational permit

1 by the department shall be held in the same manner as for the
2 denial of a pharmacist license. The final order of the ~~Director of~~
3 ~~Regulation and Licensure~~ director may be appealed, and the appeal
4 shall be in accordance with the Administrative Procedure Act.

5 Sec. 349. Section 71-1,147.33, Revised Statutes
6 Cumulative Supplement, 2006, is amended to read:

7 71-1,147.33 (1) A pharmacy technician shall only perform
8 tasks which do not require professional judgment and which are
9 subject to verification to assist a pharmacist in the practice of
10 pharmacy.

11 (2) The functions and tasks which shall not be performed
12 by pharmacy technicians or individuals dispensing pursuant to a
13 delegated dispensing permit include, but are not limited to:

14 (a) Receiving oral medical orders from a practitioner or
15 his or her agent;

16 (b) Providing patient counseling;

17 (c) Performing any evaluation or necessary clarification
18 of a medical order or performing any functions other than strictly
19 clerical functions involving a medical order;

20 (d) Supervising or verifying the tasks and functions of
21 pharmacy technicians;

22 (e) Interpreting or evaluating the data contained in a
23 patient's record maintained pursuant to section 71-1,147.35;

24 (f) Releasing any confidential information maintained by
25 the pharmacy;

1 (g) Performing any professional consultations; and

2 (h) Drug product selecting, with regard to an individual
3 medical order, in accordance with the Nebraska Drug Product
4 Selection Act.

5 (3) ~~The Director of Regulation and Licensure~~ director
6 shall, upon recommendation of the board, waive any of the
7 limitations in subsection (2) of this section for purposes of
8 a scientific study of the role of pharmacy technicians approved
9 by the board. Such study shall be based upon providing improved
10 patient care or enhanced pharmaceutical care. Any such waiver shall
11 state the length of the study and shall require that all study data
12 and results be made available to the board upon the completion of
13 the study. Nothing in this subsection shall require the board to
14 approve any study proposed by this subsection.

15 (4) The pharmacy employing pharmacy technicians shall
16 be responsible for the supervision and performance of such
17 technicians.

18 (5) The pharmacist in charge shall be responsible
19 for the practice of pharmacy and the establishment of written
20 control procedures and guidelines governing the qualifications,
21 onsite training, functions, supervision, and verification of the
22 performance of pharmacy technicians. The supervision of such
23 technicians at the place of employment shall be performed by
24 the licensed pharmacist who is on duty in the facility with the
25 pharmacy technicians.

1 (6) (a) Each pharmacy shall document, in a manner
2 and method specified in the written control procedures and
3 guidelines, the basic competence of the pharmacy technician prior
4 to performance of tasks and functions by such technician. Such
5 basic competence shall include, but not be limited to:

- 6 (i) Basic pharmaceutical nomenclature;
- 7 (ii) Metric system measures, both liquid and solid;
- 8 (iii) The meaning and use of Roman numerals;
- 9 (iv) Abbreviations used for dosages and directions to
10 patients;
- 11 (v) Basic medical terms, including terms relating to
12 ailments, diseases, or infirmities;
- 13 (vi) The use and operation of automated dispensing and
14 record-keeping systems if used by the employing pharmacy;
- 15 (vii) Applicable statutes, rules, and regulations
16 governing the preparation, compounding, dispensing, and
17 distribution of drugs or devices, record keeping with regard to
18 such functions, and the employment, use, and functions of pharmacy
19 technicians; and
- 20 (viii) The contents of the written control procedures and
21 guidelines.

22 (b) Written control procedures and guidelines shall
23 specify the functions that pharmacy technicians may perform in the
24 employing pharmacy. The written control procedures and guidelines
25 shall specify the means used by the employing pharmacy to verify

1 that the prescribed drug or device, the dosage form, and the
2 directions provided to the patient or caregiver conform to the
3 medical order authorizing the drug or device to be dispensed.

4 (c) The written control procedures and guidelines shall
5 specify the manner in which the verification made prior to
6 dispensing is documented.

7 (7) Each pharmacy or facility shall, before using
8 pharmacy technicians, file with the board a copy of its written
9 control procedures and guidelines and receive approval of its
10 written control procedures and guidelines from the board. The
11 board shall, within ninety days from the filing of such written
12 control procedures and guidelines, review and either approve or
13 disapprove them. The board shall notify the pharmacy or facility
14 of the approval or disapproval. The board or its representatives
15 shall have access to the approved written control procedures
16 and guidelines upon request. Any written control procedures and
17 guidelines for supportive pharmacy personnel that were filed by a
18 pharmacy and approved by the board prior to May 26, 1999, shall be
19 deemed to be approved and to apply to pharmacy technicians.

20 (8) Any hospital using supportive pharmacy personnel
21 prior to June 11, 1993, and using pharmacy technicians on or after
22 May 1, 2001, shall file a copy of written control procedures and
23 guidelines with the board by February 1, 2002, or such hospital
24 shall be in violation of subsection (2) of section 71-1,147.

25 (9) (a) If pharmacy technicians perform functions

1 requiring professional judgment and licensure as a pharmacist,
2 perform functions not specified under approved written control
3 procedures and guidelines, or perform functions without supervision
4 and such acts are known to the pharmacist supervising the pharmacy
5 technicians or the pharmacist in charge or are of such a nature
6 that they should have been known to a reasonable person, such acts
7 may be considered acts of unprofessional conduct on the part of the
8 pharmacist supervising the pharmacy technicians or the pharmacist
9 in charge pursuant to section 71-147 against whom disciplinary
10 measures may be taken.

11 (b) Acts described in subdivision (a) of this subsection
12 may be grounds for the department, upon the recommendation of the
13 board, to apply to the district court in the judicial district in
14 which the pharmacy is located for an order to cease and desist
15 from the performance of any unauthorized acts. On or at any time
16 after such application the court may, in its discretion, issue an
17 order restraining such pharmacy or its agents or employees from
18 the performance of unauthorized acts. After a full hearing the
19 court shall either grant or deny the application. Such order shall
20 continue until the court, after a like hearing, finds the basis for
21 such order has been removed.

22 Sec. 350. Section 71-1,147.44, Reissue Revised Statutes
23 of Nebraska, is amended to read:

24 71-1,147.44 (1) If the department determines to deny an
25 application for a delegated dispensing permit or to revoke, limit,

1 suspend, or refuse renewal of a delegated dispensing permit, the
2 department shall send to the applicant or permittee, by certified
3 mail, a notice setting forth the particular reasons for the
4 determination. The denial, limitation, suspension, revocation, or
5 refusal of renewal shall become final thirty days after the mailing
6 of the notice unless the applicant or permittee, within such
7 thirty-day period, requests a hearing in writing. The applicant
8 or permittee shall be given a fair hearing before the department
9 and may present such evidence as may be proper. On the basis of
10 such evidence, the determination involved shall be affirmed or set
11 aside, and a copy of such decision setting forth the finding of
12 facts and the particular reasons upon which it is based shall be
13 sent by certified mail to the applicant or permittee. The decision
14 shall become final thirty days after a copy of such decision is
15 mailed unless the applicant or permittee within such thirty-day
16 period appeals the decision pursuant to section 71-1,147.46.

17 (2) The procedure governing hearings authorized by this
18 section shall be in accordance with rules and regulations adopted
19 and promulgated by the department. A full and complete record shall
20 be kept of all proceedings. Witnesses may be subpoenaed by either
21 party and shall be allowed a fee at a rate prescribed by the
22 rules and regulations adopted and promulgated by the department.
23 The proceedings shall be summary in nature and triable as equity
24 actions. Affidavits may be received in evidence in the discretion
25 of the ~~Director of Regulation and Licensure~~ director. The

1 department shall have the power to administer oaths, to subpoena
2 witnesses and compel their attendance, and to issue subpoenas duces
3 tecum and require the production of books, accounts, and documents
4 in the same manner and to the same extent as the district courts of
5 the state. Depositions may be used by either party.

6 Sec. 351. Section 71-1,147.45, Reissue Revised Statutes
7 of Nebraska, is amended to read:

8 71-1,147.45 (1) Upon the completion of any hearing
9 pursuant to section 71-1,147.44, the ~~Director of Regulation and~~
10 ~~Licensure~~ director shall have the authority through entry of an
11 order to exercise in his or her discretion any or all of the
12 following powers:

13 (a) Issue a censure against the permittee;

14 (b) Place the permittee on probation;

15 (c) Place a limitation or limitations on the permit and
16 upon the right of the permittee to dispense drugs or devices to the
17 extent, scope, or type of operation, for such time, and under such
18 conditions as the director finds necessary and proper. The director
19 shall consult with the board in all instances prior to issuing an
20 order of limitation;

21 (d) Impose a civil penalty not to exceed twenty thousand
22 dollars. The amount of the civil penalty, if any, shall be based
23 on the severity of the violation. If any violation is a repeated
24 or continuing violation, each violation or each day a violation
25 continues shall constitute a separate violation for the purpose of

1 computing the applicable civil penalty, if any;

2 (e) Enter an order of suspension of the permit;

3 (f) Enter an order of revocation of the permit; and

4 (g) Dismiss the action.

5 (2) The permittee shall not dispense drugs or devices
6 after a permit is revoked or during the time for which the permit
7 is suspended. If a permit is suspended, the suspension shall be for
8 a definite period of time to be fixed by the director. The permit
9 shall be automatically reinstated upon the expiration of such
10 period if the current renewal fees have been paid. If the permit
11 is revoked, the revocation shall be permanent, except that at any
12 time after the expiration of two years, application may be made
13 for reinstatement by any permittee whose permit has been revoked.
14 The application shall be addressed to the director but may not be
15 received or filed by ~~him~~ ~~or her~~ unless accompanied by a written
16 recommendation of reinstatement by the board. The department may
17 adopt and promulgate the necessary rules and regulations concerning
18 notice and hearing of such application.

19 (3) Any civil penalty assessed and unpaid under this
20 section shall constitute a debt to the State of Nebraska which
21 may be collected in the manner of a lien foreclosure or sued for
22 and recovered in a proper form of action in the name of the state
23 in the district court of the county in which the violator resides
24 or owns property. The department shall remit any collected civil
25 penalty to the State Treasurer, within thirty days after receipt,

1 for distribution in accordance with Article VII, section 5, of
2 the Constitution of Nebraska. ~~The department shall within thirty~~
3 ~~days after receipt remit any collected civil penalty to the State~~
4 ~~Treasurer for credit to the permanent school fund.~~

5 Sec. 352. Section 71-1,147.48, Reissue Revised Statutes
6 of Nebraska, is amended to read:

7 71-1,147.48 (1) Upon recommendation of the board, the
8 ~~Director of Regulation and Licensure~~ director shall approve a
9 formulary to be used by individuals dispensing pursuant to a
10 delegated dispensing permit. A formulary shall consist of a list
11 of drugs or devices appropriate to delegated dispensing activities
12 authorized by the delegated dispensing permit. Except as otherwise
13 provided in this section, if the board finds that a formulary would
14 be unnecessary to protect the public health and welfare and promote
15 public convenience and necessity, the board shall recommend that no
16 formulary be approved.

17 (2) (a) Upon the recommendation of the board, which shall
18 be based on the recommendations of the Public Health Clinic
19 Formulary Advisory Committee, the director shall approve the
20 formulary to be used by public health clinics dispensing pursuant
21 to a delegated dispensing permit.

22 (b) The formulary for a public health clinic shall
23 consist of a list of drugs and devices for contraception,
24 sexually transmitted diseases, and vaginal infections which may
25 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 approve for inclusion
5 in the formulary any drug or device not approved by the committee
6 or exclude any of the provisions for patient instruction approved
7 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. 353. Section 71-1,147.53, Reissue Revised Statutes

1 of Nebraska, is amended to read:

2 71-1,147.53 Under a delegated dispensing permit for a
3 public health clinic, approved formulary drugs and devices may
4 be dispensed by a public health clinic worker or a health care
5 professional licensed in Nebraska to practice medicine and surgery
6 or licensed in Nebraska as a registered nurse, licensed practical
7 nurse, or physician assistant without the onsite services of a
8 pharmacist if:

9 (1) The initial dispensing of all prescriptions for
10 approved formulary drugs and devices is conducted by a health care
11 professional licensed in Nebraska to practice medicine and surgery
12 or pharmacy or licensed in Nebraska as a registered nurse, licensed
13 practical nurse, or physician assistant;

14 (2) The drug or device is dispensed pursuant to a
15 prescription written on site by a practitioner;

16 (3) The only prescriptions to be refilled under
17 the delegated dispensing permit are prescriptions for oral
18 contraceptives;

19 (4) Prescriptions are accompanied by patient instructions
20 and written information approved by the ~~Director of Regulation and~~
21 ~~Licensure~~, director;

22 (5) The dispensing of authorized refills of oral
23 contraceptives is done by a licensed health care professional
24 listed in subdivision (1) of this section or by a public health
25 clinic worker;

1 (6) All drugs or devices are prepackaged by the
2 manufacturer or at a public health clinic by a pharmacist into
3 the quantity to be prescribed and dispensed at the public health
4 clinic;

5 (7) All drugs and devices stored, received, or dispensed
6 under the authority of public health clinics are properly labeled
7 at all times. For purposes of this subdivision, properly labeled
8 means that the label affixed to the container prior to dispensing
9 contains the following information:

10 (a) The name of the manufacturer;

11 (b) The lot number and expiration date from the
12 manufacturer or, if prepackaged by a pharmacist, the lot number and
13 calculated expiration date. Calculated expiration date means the
14 expiration date on the manufacturer's container or one year from
15 the date the drug is repackaged, whichever is earlier;

16 (c) Directions for patient use;

17 (d) The quantity of drug in the container;

18 (e) The name, strength, and dosage form of the drug; and

19 (f) Auxiliary labels as needed for proper adherence to
20 any prescription;

21 (8) The following additional information is added to the
22 label of each container when the drug or device is dispensed:

23 (a) The patient's name;

24 (b) The name of the prescribing health care professional;

25 (c) The prescription number;

1 (d) The date dispensed; and

2 (e) The name and address of the public health clinic;

3 (9) The only drugs and devices allowed to be dispensed or
4 stored by public health clinics appear on the formulary approved
5 pursuant to section 71-1,147.48; and

6 (10) At any time that dispensing is occurring from a
7 public health clinic, the delegating pharmacist for the public
8 health clinic or on-call pharmacist in Nebraska is available,
9 either in person or by telephone, to answer questions from
10 clients, staff, public health clinic workers, or volunteers. This
11 availability shall be confirmed and documented at the beginning
12 of each day that dispensing will occur. The delegating pharmacist
13 or on-call pharmacist shall inform the public health clinic if
14 he or she will not be available during the time that his or
15 her availability is required. If a pharmacist is unavailable, no
16 dispensing shall occur.

17 Sec. 354. Section 71-1,147.59, Reissue Revised Statutes
18 of Nebraska, is amended to read:

19 71-1,147.59 (1) The board may appoint formulary advisory
20 committees as deemed necessary for the determination of formularies
21 for delegated dispensing permittees.

22 (2) The Public Health Clinic Formulary Advisory Committee
23 is created. The committee shall consist of eight members as
24 follows:

25 (a) Two members designated by the board;

1 (b) Two members who are employees of the department
2 with knowledge of and interest in reproductive health and sexually
3 transmitted diseases;

4 (c) Two members who are licensed pharmacists in this
5 state and who are selected by the ~~Director of Regulation and~~
6 ~~Licensure.~~ director. The Nebraska Pharmacists Association may
7 submit to the director a list of five persons of recognized ability
8 in the profession. If such a list is submitted, the director shall
9 consider the names on such list and may appoint one or more of
10 the persons so named. The director may appoint any qualified person
11 even if such person is not named on the list submitted by the
12 association; and

13 (d) Two members who are employees of public health
14 clinics which hold or will hold a delegated dispensing permit and
15 who are selected by the director from names recommended by such
16 public health clinics.

17 (3) Designations and recommendations shall be made and
18 submitted to the director in July prior to the third quarter
19 meeting of the committee. Members shall serve for terms of two
20 years each beginning with the third quarter meeting. Members may
21 serve for consecutive terms as approved by the director. The
22 director may remove a member of the committee for inefficiency,
23 neglect of duty, or misconduct in office.

24 Sec. 355. Section 71-1,154, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 71-1,154 When used in the Nebraska Veterinary Practice
2 Act and elsewhere in the Uniform Licensing Law, unless the context
3 otherwise requires:

4 (1) Animal means any animal other than man and includes
5 birds, fish, and reptiles, wild or domestic, living or dead, except
6 domestic poultry;

7 (2) Veterinary medicine and surgery includes veterinary
8 surgery, obstetrics, dentistry, and all other branches or
9 specialties of veterinary medicine;

10 (3) Practice of veterinary medicine and surgery means:

11 (a) To diagnose, treat, correct, change, relieve, or
12 prevent animal disease, deformity, defect, injury, or other
13 physical or mental conditions, including the prescription or
14 administration of any drug, medicine, biologic, apparatus,
15 application, anesthetic, or other therapeutic or diagnostic
16 substance or technique, and the use of any manual or mechanical
17 procedure for testing for pregnancy or for correcting sterility or
18 infertility. The acts described in this subdivision shall not be
19 done without a valid veterinarian-client-patient relationship;

20 (b) To render advice or recommendation with regard to any
21 act described in subdivision (a) of this subdivision;

22 (c) To represent, directly or indirectly, publicly or
23 privately, an ability and willingness to do any act described in
24 subdivision (a) of this subdivision; and

25 (d) To use any title, words, abbreviation, or letters

1 in a manner or under circumstances which induce the belief that
2 the person using them is qualified to do any act described in
3 subdivision (a) of this subdivision;

4 (4) Veterinarian means a person who has received a
5 ~~doctor's degree in veterinary medicine~~ the degree of Doctor of
6 Veterinary Medicine or its equivalent from an accredited school of
7 veterinary medicine; ~~or its equivalent;~~

8 (5) Licensed veterinarian means a person who is validly
9 and currently licensed to practice veterinary medicine and surgery
10 in this state;

11 (6) Veterinarian-client-patient relationship means that:

12 (a) The veterinarian has assumed the responsibility for
13 making clinical judgments regarding the health of the animal and
14 the need for medical treatment, and the client has agreed to follow
15 the veterinarian's instructions;

16 (b) The veterinarian has sufficient knowledge of the
17 animal to initiate at least a general or preliminary diagnosis
18 of the medical condition of the animal. This means that the
19 veterinarian has recently seen and is personally acquainted with
20 the keeping and care of the animal by virtue of an examination of
21 the animal or by medically appropriate and timely visits to the
22 premises where the animal is kept; and

23 (c) The veterinarian is readily available or has arranged
24 for emergency coverage and for followup evaluation in the event of
25 adverse reactions or the failure of the treatment regimen;

1 (7) Accredited school of veterinary medicine within the
2 meaning of the Nebraska Veterinary Practice Act means:

3 (a) One approved by the department upon the
4 recommendation of the board;

5 (b) A veterinary college or division of a university or
6 college that offers the degree of Doctor of Veterinary Medicine or
7 its equivalent; and

8 (c) One that conforms to the standards required for
9 accreditation by the American Veterinary Medical Association;

10 (8) Person means any individual, firm, partnership,
11 limited liability company, association, joint venture, cooperative
12 and corporation, or any other group or combination acting in
13 concert; and whether or not acting as a principal, trustee,
14 fiduciary, receiver, or as any other kind of legal or personal
15 representative, or as the successor in interest, assignee,
16 agent, factor, servant, employee, director, officer, or any other
17 representative of such person;

18 (9) Board means the Board of Veterinary Medicine and
19 Surgery;

20 (10) Department means the Division of Public Health
21 of the Department of Health and Human Services; Regulation and
22 Licensure;

23 (11) Veterinary technician means an individual who has
24 met one of the requirements of subsection (1) of section 71-1,165;

25 (12) Licensed veterinary technician means a veterinary

1 technician who is validly and currently licensed as a veterinary
2 technician in this state. Only a licensed veterinary technician may
3 advertise or offer his or her services in a manner calculated to
4 lead others to believe that he or she is a veterinary technician;

5 (13) Unlicensed assistant means an individual who is
6 not a veterinarian or a veterinary technician who is working in
7 veterinary medicine;

8 (14) Supervisor means a licensed veterinarian or licensed
9 veterinary technician as required by statute or rule or regulation
10 for the particular delegated task being performed by a veterinary
11 technician or unlicensed assistant;

12 (15) Immediate supervision means that the supervisor is
13 on the premises and is in direct eyesight and hearing range of
14 the animal and the veterinary technician or unlicensed assistant
15 who is treating the animal and the animal has been examined by
16 a veterinarian at such times as acceptable veterinary practice
17 requires consistent with the particular delegated animal health
18 care task;

19 (16) Direct supervision means that the supervisor is
20 on the premises and is available to the veterinary technician or
21 unlicensed assistant who is treating the animal and the animal
22 has been examined by a veterinarian at such times as acceptable
23 veterinary practice requires consistent with the particular
24 delegated animal health care task; and

25 (17) Indirect supervision means that the supervisor is

1 not on the premises but is easily accessible and has given
2 written or oral instructions for treatment of the animal and
3 the animal has been examined by a veterinarian at such times
4 as acceptable veterinary practice requires consistent with the
5 particular delegated animal health care task.

6 Sec. 356. Section 71-1,190.01, Reissue Revised Statutes
7 of Nebraska, is amended to read:

8 71-1,190.01 Commencing July 1, 1985, all audiologists
9 and speech-language pathologists, except those specified in section
10 71-1,187, shall be required to be licensed by the ~~Department of~~
11 ~~Health and Human Services Regulation and Licensure.~~ department.

12 Sec. 357. Section 71-1,206.05, Reissue Revised Statutes
13 of Nebraska, is amended to read:

14 71-1,206.05 Department shall mean the Division of Public
15 Health of the Department of Health and Human Services. ~~Regulation~~
16 ~~and Licensure.~~

17 Sec. 358. Section 71-1,206.18, Revised Statutes
18 Cumulative Supplement, 2006, is amended to read:

19 71-1,206.18 Except as provided in this section, a person
20 licensed as a psychologist under the law in effect immediately
21 prior to September 1, 1994, but not certified in clinical
22 psychology:

23 (1) Shall be issued a special license to practice
24 psychology that continues existing requirements for supervision.
25 Any psychological practice that involves the diagnosis and

1 treatment of major mental and emotional disorders by a person
2 holding a special license shall be done under the supervision of
3 a licensed psychologist approved by the board in accordance with
4 regulations developed by the board. A psychologist licensed under
5 this subdivision shall not supervise mental health practitioners
6 or independently evaluate persons under the Nebraska Mental Health
7 Commitment Act or the Sex Offender Commitment Act. Supervisory
8 relationships shall be registered with the board by a notarized
9 letter signed by both the supervisor and supervisee. The letter
10 shall contain:

11 (a) A general description of the supervisee's practice
12 and the plan of supervision;

13 (b) A statement by the supervisor that he or she has
14 the necessary experience and training to supervise this area of
15 practice; and

16 (c) A statement by the supervisor that he or she accepts
17 the legal and professional responsibility for the supervisee's
18 practice with individuals having major mental and emotional
19 disorders.

20 Psychologists practicing with special licenses may
21 continue to use the title licensed psychologist but shall
22 disclose supervisory relationships to clients or patients for whom
23 supervision is required and to third-party payors when relevant.
24 Psychologists who wish to continue supervisory relationships
25 existing immediately prior to September 1, 1994, with qualified

1 physicians may do so if a letter as described in this subdivision
2 is received by the board within three months after such date;

3 (2) May apply for licensure before December 1, 1995,
4 by demonstrating that he or she has rendered psychological
5 diagnostic and treatment services as the major element of his or
6 her employment in an educational, correctional, or health care
7 setting for at least four years after licensure. A psychologist
8 demonstrating such experience shall be deemed to have met
9 equivalent requirements for licensure to those required by section
10 71-1,206.15 and shall be eligible for renewal of licensure in
11 accordance with the Uniform Licensing Law. For purposes of this
12 subdivision:

13 (a) Educational settings shall be those which are part
14 of a university or state college and those regulated by the State
15 Department of Education;

16 (b) Correctional settings shall be those under the
17 jurisdiction of the Department of Correctional Services; and

18 (c) Health care settings shall be hospitals, skilled
19 nursing facilities, clinics, and mental health centers licensed
20 by the Division of Public Health of the Department of Health
21 and Human Services ~~Regulation and Licensure~~ and accredited by
22 the Joint Commission on Hospital Accreditation, by the Commission
23 on Accreditation of Rehabilitation Facilities, by the Department
24 of Health and Human Services, or by a similar or an equivalent
25 accrediting body as determined by the board.

1 The four-year period shall be continuous and represent
2 four years of full-time employment or a combination of half-time
3 and full-time employment that totals four years. For purposes
4 of this subdivision, year shall mean a calendar year except
5 for educational settings that may define the employment year in
6 nine-month increments. In no case shall an applicant receive four
7 years of credit for experience accrued in less than four calendar
8 years; or

9 (3) May apply for licensure within three months of
10 September 1, 1994, by demonstrating that he or she has been
11 employed as full-time faculty in a program of graduate education
12 in psychology approved by the American Psychological Association
13 for a period not less than five years after licensure. A
14 person demonstrating such employment shall be deemed to have
15 met equivalent requirements for licensure under section 71-1,206.15
16 and shall be eligible for renewal of licensure in accordance with
17 the Uniform Licensing Law.

18 A person licensed but not certified to practice clinical
19 psychology under the law in effect immediately prior to September
20 1, 1994, who has failed the examination for clinical certification
21 shall not be eligible to apply under subdivisions (2) and (3)
22 of this section. The board may deny an application under such
23 subdivisions if the applicant has had any action taken against him
24 or her for violations of the laws licensing psychologists by the
25 board or the boards of other jurisdictions. Such person shall be

1 granted a special license under subdivision (1) of this section.

2 Sec. 359. Section 71-1,238, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 71-1,238 For purposes of sections 71-1,238 to 71-1,242,
5 unless the context otherwise requires:

6 (1) Athletic trainer means a person who is responsible
7 for the prevention, emergency care, first aid, treatment, and
8 rehabilitation of athletic injuries under guidelines established
9 with a licensed physician and who is licensed to perform the
10 functions set out in section 71-1,240. When athletic training
11 is provided in a hospital outpatient department or clinic or
12 an outpatient-based medical facility, the athletic trainer will
13 perform the functions described in section 71-1,240 with a referral
14 from a licensed physician for athletic training;

15 (2) Athletic training means the prevention, evaluation,
16 emergency care, first aid, treatment, and rehabilitation of
17 athletic injuries utilizing the treatments set out in section
18 71-1,240;

19 (3) Athletic injuries means the types of musculoskeletal
20 injury or common illness and conditions which athletic trainers are
21 educated to treat or refer, incurred by athletes, which prevent or
22 limit participation in sports or recreation;

23 (4) Board means the Board of Athletic Training;

24 (5) Department means the Division of Public Health of the
25 Department of Health and Human Services; ~~Regulation and Licensure;~~

1 and

2 (6) Practice site means the location where the athletic
3 trainer practices athletic training.

4 Sec. 360. Section 71-1,290, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 71-1,290 The department shall issue a license, signed by
7 the ~~Director of Regulation and Licensure,~~ director, to each person
8 who is qualified to be a licensed medical nutrition therapist.

9 Sec. 361. Section 71-1,312, Revised Statutes Cumulative
10 Supplement, 2006, is amended to read:

11 71-1,312 No person shall engage in mental health practice
12 or hold himself or herself out as a mental health practitioner
13 unless he or she is licensed for such purpose pursuant to the
14 Uniform Licensing Law, except that this section shall not be
15 construed to prevent:

16 (1) Qualified members of other professions who are
17 licensed, certified, or registered by this state from practice
18 of any mental health activity consistent with the scope of practice
19 of their respective professions;

20 (2) Alcohol and drug counselors who are licensed by
21 the Division of Public Health of the Department of Health and
22 Human Services ~~Regulation and Licensure~~ and problem gambling
23 counselors who are certified by the Department of Health and
24 Human Services from practicing their profession. Such exclusion
25 shall include students training and working under the supervision

1 of an individual qualified under section 71-1,356;

2 (3) Any person employed by an agency, bureau, or division
3 of the federal government from discharging his or her official
4 duties, except that if such person engages in mental health
5 practice in this state outside the scope of such official duty
6 or represents himself or herself as a licensed mental health
7 practitioner, he or she shall be licensed;

8 (4) Teaching or the conduct of research related to mental
9 health services or consultation with organizations or institutions
10 if such teaching, research, or consultation does not involve the
11 delivery or supervision of mental health services to individuals
12 or groups of individuals who are themselves, rather than a third
13 party, the intended beneficiaries of such services;

14 (5) The delivery of mental health services by:

15 (a) Students, interns, or residents whose activities
16 constitute a part of the course of study for medicine, psychology,
17 nursing, school psychology, social work, clinical social work,
18 counseling, marriage and family therapy, or other health care or
19 mental health service professions; or

20 (b) Individuals seeking to fulfill postgraduate
21 requirements for licensure when those individuals are supervised by
22 a licensed professional consistent with the applicable regulations
23 of the appropriate professional board;

24 (6) Duly recognized members of the clergy from providing
25 mental health services in the course of their ministerial duties

1 and consistent with the codes of ethics of their profession if they
2 do not represent themselves to be mental health practitioners;

3 (7) The incidental exchange of advice or support by
4 persons who do not represent themselves as engaging in mental
5 health practice, including participation in self-help groups when
6 the leaders of such groups receive no compensation for their
7 participation and do not represent themselves as mental health
8 practitioners or their services as mental health practice;

9 (8) Any person providing emergency crisis intervention
10 or referral services or limited services supporting a service plan
11 developed by and delivered under the supervision of a licensed
12 mental health practitioner, licensed physician, or a psychologist
13 licensed to engage in the practice of psychology if such persons
14 are not represented as being licensed mental health practitioners
15 or their services are not represented as mental health practice; or

16 (9) Staff employed in a program designated by an agency
17 of state government to provide rehabilitation and support services
18 to individuals with mental illness from completing a rehabilitation
19 assessment or preparing, implementing, and evaluating an individual
20 rehabilitation plan.

21 Sec. 362. Section 71-1,339, Revised Statutes Cumulative
22 Supplement, 2006, is amended to read:

23 71-1,339 The clerk of any county or district court
24 in this state shall report to the Division of Public Health
25 of the Department of Health and Human Services Regulation and

1 ~~Licensure~~ the conviction of any person licensed, certified, or
2 registered by the department under the Advanced Practice Registered
3 Nurse Licensure Act, the Certified Registered Nurse Anesthetist
4 Act, the Clinical Nurse Specialist Practice Act, the Emergency
5 Medical Services Act, the Licensed Practical Nurse-Certified Act,
6 the Nebraska Certified Nurse Midwifery Practice Act, the Nebraska
7 Cosmetology Act, the Nurse Practice Act, the Nurse Practitioner
8 Act, the Occupational Therapy Practice Act, the Uniform Controlled
9 Substances Act, the Uniform Licensing Law, the Wholesale Drug
10 Distributor Licensing Act, or sections 71-3702 to 71-3715, 71-4701
11 to 71-4719, or 71-6053 to 71-6068 of any felony or of any
12 misdemeanor involving the use, sale, distribution, administration,
13 or dispensing of a controlled substance, alcohol or chemical
14 impairment, or substance abuse and shall also report a judgment
15 against any such licensee, certificate holder, or registrant
16 arising out of a claim of professional liability. The Attorney
17 General or city or county prosecutor prosecuting any such criminal
18 action and plaintiff in any such civil action shall provide the
19 court with information concerning the licensure, certification, or
20 registration of the defendant or party. Notice to the department
21 shall be filed within thirty days after the date of conviction or
22 judgment in a manner agreed to by the ~~Director of Regulation and~~
23 ~~Licensure~~ Director of Public Health of the division and the State
24 Court Administrator.

25 Sec. 363. Section 71-1,341, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 71-1,341 For purposes of sections 71-1,340 to 71-1,342:

3 (1) Credentialing means the grant of authority or
4 approval by the state to health care practitioners, facilities,
5 and providers who provide health care or related services through
6 licensure, certification, registration, approval of provider
7 status, enrollment in a program for reimbursement, and other
8 similar activities;

9 (2) Department means the Division of Public Health of the
10 Department of Health and Human Services; ~~Regulation and Licensure;~~

11 (3) Director means the Director of ~~Regulation and~~
12 ~~Licensure;~~ Public Health of the Division of Public Health;

13 (4) Facility means a health care facility or health care
14 service licensed under the Health Care Facility Licensure Act to
15 provide health care;

16 (5) Health care practitioner means an individual
17 licensed, certified, or otherwise authorized by law to administer
18 health care in the course of professional practice; and

19 (6) Provider means a person providing health care
20 services under an agreement with the state and its contractors for
21 payment for those services.

22 Sec. 364. Section 71-1,367, Revised Statutes Cumulative
23 Supplement, 2006, is amended to read:

24 71-1,367 Department means the Division of Public Health
25 of the Department of Health and Human Services. ~~Regulation and~~

1 ~~Licensure.~~

2 Sec. 365. Section 71-354, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 71-354 Department shall mean the Division of Public
5 Health of the Department of Health and Human Services. ~~Regulation~~
6 ~~and Licensure.~~

7 Sec. 366. Section 71-390, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 71-390 (1) Examinations approved by the board may
10 be national standardized examinations, but in all cases the
11 examinations shall be related to the knowledge and skills necessary
12 to perform the practices being examined and shall be related to
13 the curricula required to be taught in schools of cosmetology or
14 schools of electrolysis.

15 (2) The board shall fix the time and place of each
16 examination no less than one year in advance. At least two
17 examinations shall be given annually. All examinations shall be
18 conducted in the city of Lincoln unless ordered otherwise by the
19 department.

20 (3) If examinations are administered directly by the
21 department, the examination shall be administered by a chief
22 examiner who shall be an employee of the department. Persons
23 serving as examiners for practical examinations administered
24 directly by the department shall hold current licenses in the field
25 of practice being examined or in cosmetology, except that examiners

1 for instructors' examinations shall each hold an instructor's
2 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, examination grades shall be approved by the board
13 and the department before they become official. Any disagreements
14 regarding a grade to be given among the examiners shall be settled
15 by the chief examiner. An examiner may appeal such a decision to
16 the Director of ~~Regulation and Licensure~~ Public Health or his or
17 her designee.

18 (7) The department shall keep a permanent record of all
19 grades received in examinations and shall provide any individual a
20 copy of his or her grades upon request without charge.

21 (8) The department may adopt and promulgate rules and
22 regulations to provide for procedures, development, administration,
23 scoring, and reviewing of examinations and to protect the security
24 of the contents of examination questions and answers in the
25 examination review. The department shall not enter into an

1 agreement to adopt an examination from a national testing service
2 without first obtaining from such service detailed documentation of
3 the process of examination development and maintenance.

4 Sec. 367. Section 71-3,173, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 71-3,173 (1) The hearing in any disciplinary action shall
7 be before the ~~director~~ Director of Public Health or a hearing
8 officer appointed by the director.

9 (2) The department may impose the disciplinary actions
10 cited in section 71-155.

11 Sec. 368. Section 71-3,174, Revised Statutes Cumulative
12 Supplement, 2006, is amended to read:

13 71-3,174 (1) Persons, cosmetology, nail technology,
14 and electrology establishments, and body art facilities holding
15 licenses, registrations, or permits under the Nebraska Cosmetology
16 Act shall be subject to the disciplinary actions described in
17 section 71-155 and in sections 71-3,170 to 71-3,173 upon the
18 finding by the ~~director~~ Director of Public Health that a violation
19 has occurred.

20 (2) A person not holding a license, registration, or
21 permit under the Nebraska Cosmetology Act shall, upon conviction of
22 violation of such act, except as specific penalties are otherwise
23 imposed, be guilty of a Class II misdemeanor. Any such person
24 convicted of a second violation of the Nebraska Cosmetology Act,
25 except as specific penalties are otherwise imposed, shall be guilty

1 of a Class I misdemeanor.

2 (3) Any person engaging in any of the practices regulated
3 under the Nebraska Cosmetology Act, any person operating an
4 establishment or a facility without being duly licensed or
5 registered under the Nebraska Cosmetology Act, any person engaging
6 in the provision of home services without having complied with such
7 act, or any person found to be acting in violation of the Nebraska
8 Cosmetology Act may be restrained by a temporary or permanent
9 injunction.

10 Sec. 369. Section 71-410, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 71-410 Department means the Division of Public Health
13 of the Department of Health and Human Services. ~~Regulation and~~
14 ~~Licensure.~~

15 Sec. 370. Section 71-411, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 71-411 Director means the Director of ~~Regulation and~~
18 ~~Licensure.~~ Public Health of the Division of Public Health.

19 Sec. 371. Section 71-434, Revised Statutes Cumulative
20 Supplement, 2006, is amended to read:

21 71-434 (1) Licensure activities under the Health Care
22 Facility Licensure Act shall be funded by license fees. An
23 applicant for an initial or renewal license under section 71-433
24 shall pay a license fee as provided in this section.

25 (2) License fees shall include a base fee of fifty

1 dollars and an additional fee based on:

2 (a) Variable costs to the department of inspections,
3 architectural plan reviews, and receiving and investigating
4 complaints, including staff salaries, travel, and other similar
5 direct and indirect costs;

6 (b) The number of beds available to persons residing at
7 the health care facility;

8 (c) The program capacity of the health care facility or
9 health care service; or

10 (d) Other relevant factors as determined by the
11 department.

12 Such additional fee shall be no more than two thousand
13 six hundred dollars for a hospital or a health clinic operating
14 as an ambulatory surgical center, no more than two thousand
15 dollars for an assisted-living facility, a health clinic providing
16 hemodialysis or labor and delivery services, an intermediate care
17 facility, an intermediate care facility for the mentally retarded,
18 a nursing facility, or a skilled nursing facility, no more than one
19 thousand dollars for home health agencies, hospice services, and
20 centers for the developmentally disabled, and no more than seven
21 hundred dollars for all other health care facilities and health
22 care services.

23 (3) If the licensure application is denied, the license
24 fee shall be returned to the applicant, except that the department
25 may retain up to twenty-five dollars as an administrative fee

1 and may retain the entire license fee if an inspection has been
2 completed prior to such denial.

3 (4) The department shall also collect the fee provided in
4 subsection (1) of this section for reinstatement of a license that
5 has lapsed or has been suspended or revoked. The department shall
6 collect a fee of ten dollars for a duplicate original license.

7 (5) The department shall adopt and promulgate rules
8 and regulations for the establishment of license fees under this
9 section.

10 (6) The department shall remit all license fees collected
11 under this section to the State Treasurer for credit to the
12 ~~Department of Health and Human Services Regulation and Licensure~~
13 Health and Human Services Cash Fund. License fees collected under
14 this section shall only be used for activities related to the
15 licensure of health care facilities and health care services.

16 Sec. 372. Section 71-445, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 71-445 A health care facility or health care service
19 shall not discriminate or retaliate against a person residing
20 in, served by, or employed at such facility or service who has
21 initiated or participated in any proceeding authorized by the
22 Health Care Facility Licensure Act or who has presented a complaint
23 or provided information to the administrator of such facility
24 or service, or the Department of Health and Human Services.
25 ~~the Department of Health and Human Services Finance and Support,~~

1 ~~of the Department of Health and Human Services Regulation and~~
2 ~~Licensure.~~ Such person may maintain an action for any type of
3 relief, including injunctive and declaratory relief, permitted by
4 law.

5 Sec. 373. Section 71-448, Revised Statutes Cumulative
6 Supplement, 2006, is amended to read:

7 71-448 The ~~department~~ Division of Public Health of the
8 Department of Health and Human Services may take disciplinary
9 action against a license issued under the Health Care Facility
10 Licensure Act on any of the following grounds:

11 (1) Violation of any of the provisions of the
12 Assisted-Living Facility Act, the Health Care Facility Licensure
13 Act, the Nebraska Nursing Home Act, or the rules and regulations
14 adopted and promulgated under such acts;

15 (2) Committing or permitting, aiding, or abetting the
16 commission of any unlawful act;

17 (3) Conduct or practices detrimental to the health or
18 safety of a person residing in, served by, or employed at the
19 health care facility or health care service;

20 (4) A report from an accreditation body or public
21 agency sanctioning, modifying, terminating, or withdrawing the
22 accreditation or certification of the health care facility or
23 health care service;

24 (5) Failure to allow an agent or employee of the
25 Department of Health and Human Services, ~~the Department of Health~~

1 ~~and Human Services Finance and Support, or the Department of~~
2 ~~Health and Human Services Regulation and Licensure~~ access to the
3 health care facility or health care service for the purposes
4 of inspection, investigation, or other information collection
5 activities necessary to carry out the duties of ~~such departments,~~
6 the Department of Health and Human Services;

7 (6) Discrimination or retaliation against a person
8 residing in, served by, or employed at the health care facility or
9 health care service who has submitted a complaint or information to
10 the Department of Health and Human Services; ~~the Department of~~
11 ~~Health and Human Services Finance and Support, or the Department of~~
12 ~~Health and Human Services Regulation and Licensure;~~

13 (7) Discrimination or retaliation against a person
14 residing in, served by, or employed at the health care facility or
15 health care service who has presented a grievance or information to
16 the office of the state long-term care ombudsman;

17 (8) Failure to allow a state long-term care ombudsman or
18 an ombudsman advocate access to the health care facility or health
19 care service for the purposes of investigation necessary to carry
20 out the duties of the office of the state long-term care ombudsman
21 as specified in the rules and regulations adopted and promulgated
22 by the Department of Health and Human Services;

23 (9) Violation of the Emergency Box Drug Act;

24 (10) Failure to file a report required by section
25 71-168.02;

- 1 (11) Violation of the Medication Aide Act; or
2 (12) Failure to file a report of suspected abuse or
3 neglect as required by sections 28-372 and 28-711.

4 Sec. 374. Section 71-501, Revised Statutes Cumulative
5 Supplement, 2006, is amended to read:

6 71-501 (1) The local public health department as defined
7 in section 71-1626 or the county board of a county that has
8 not established or joined in the establishment of a local public
9 health department shall make and enforce regulations to prevent the
10 introduction and spread of contagious, infectious, and malignant
11 diseases in the county or counties under its jurisdiction.

12 (2) The county board of a county that has not established
13 or joined in the establishment of a local public health department
14 shall establish a county board of health consisting of three
15 members: The sheriff, who shall be chairperson and quarantine
16 officer; a physician who resides permanently in the county, but
17 if the county has no resident physician, then one conveniently
18 situated, who shall be medical adviser, and who shall be chosen by
19 the county board; and the county clerk, who shall be secretary. The
20 county board may pay the chairperson of the county board of health
21 a salary for such services not to exceed fifty dollars per month,
22 as fixed by the county board.

23 (3) The local public health department or the county
24 board of health shall make rules and regulations to safeguard
25 the health of the people and prevent nuisances and insanitary

1 conditions and shall enforce and provide penalties for the
2 violation of such rules and regulations for the county or counties
3 under its jurisdiction except for incorporated cities and villages.
4 If the local public health department or the county board of health
5 fails to enact such rules and regulations, it shall enforce the
6 rules and regulations adopted and promulgated by the Department of
7 Health and Human Services. ~~Regulation and Licensure.~~

8 Sec. 375. Section 71-501.02, Revised Statutes Cumulative
9 Supplement, 2006, is amended to read:

10 71-501.02 The Department of Health and Human Services
11 ~~Regulation and Licensure~~ may establish and administer a statewide
12 acquired immunodeficiency syndrome program for the purpose of
13 providing education, prevention, detection, and counseling services
14 to protect the public health. In order to implement the program,
15 the department may:

16 (1) Apply for, receive, and administer federal and other
17 public and private funds and contract for services, equipment, and
18 property as necessary to use such funds for the purposes specified
19 in section 71-501.01 and this section;

20 (2) Provide education and training regarding acquired
21 immunodeficiency syndrome and its related diseases and conditions
22 to the general public and to health care providers. The department
23 may charge fees based on administrative costs for such services.
24 Any fees collected shall be deposited in the state treasury and
25 shall be credited to the ~~Department of Health and Human Services~~

1 ~~Regulation and Licensure~~ Health and Human Services Cash Fund;

2 (3) Provide resource referrals for medical care and
3 social services to persons affected by acquired immunodeficiency
4 syndrome and its related diseases and conditions;

5 (4) Contract or provide for voluntary, anonymous, or
6 confidential screening, testing, and counseling services. All sites
7 providing such services pursuant to a contract with the department
8 shall provide services on an anonymous basis if so requested by
9 the individual seeking such services. The department may charge
10 and permit its contractors to charge an administrative fee or may
11 request donations to defer the cost of the services but shall not
12 deny the services for failure to pay any administrative fee or for
13 failure to make a donation;

14 (5) Cooperate with the Centers for Disease Control and
15 Prevention of the Public Health Service of the United States
16 Department of Health and Human Services or its successor for
17 the purposes of research into and investigation of acquired
18 immunodeficiency syndrome and its related diseases and conditions;
19 and

20 (6) To the extent funds are available, offer services
21 that are culturally and language specific upon request to persons
22 identified as having tested positive for the human immunodeficiency
23 virus infection. Such services shall include, but not be limited
24 to, posttest counseling, partner notification, and such early
25 intervention services as case management, behavior modification and

1 support services, laboratory quantification of lymphocyte subsets,
2 immunizations, Mantoux testing for tuberculosis, prophylactic
3 treatment, and referral for other medical and social services.

4 Sec. 376. Section 71-502, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 71-502 The Department of Health and Human Services
7 ~~Regulation and Licensure~~ shall have supervision and control of
8 all matters relating to necessary communicable disease control
9 and shall adopt and promulgate such proper and reasonable general
10 rules and regulations as will best serve to promote communicable
11 disease control throughout the state and prevent the introduction
12 or spread of disease. In addition to such general and standing
13 rules and regulations, (1) in cases of emergency in which the
14 health of the people of the entire state or any locality in the
15 state is menaced by or exposed to any contagious, infectious, or
16 epidemic disease, illness, or poisoning, (2) when a local board
17 of health having jurisdiction of a particular locality fails or
18 refuses to act with sufficient promptitude and efficiency in any
19 such emergency, or (3) in localities in which no local board of
20 health has been established, as provided by law, the department
21 shall adopt, promulgate, and enforce special communicable disease
22 control rules and regulations such as the occasion and proper
23 protection of the public health may require. All necessary expenses
24 incurred in the enforcement of such rules and regulations shall be
25 paid by the city, village, or county for and within which the same

1 have been incurred. All officers and other persons shall obey and
2 enforce such communicable disease control rules and regulations as
3 may be adopted and promulgated by the department.

4 Sec. 377. Section 71-502.01, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 71-502.01 Sexually transmitted diseases are declared to
7 be contagious, infectious, communicable, and dangerous to the
8 public health. Sexually transmitted diseases shall include, but
9 not be limited to, syphilis, gonorrhoea, chancroid, and such other
10 sexually transmitted diseases as the Department of Health and Human
11 Services ~~Regulation and Licensure~~ may from time to time specify.

12 Sec. 378. Section 71-502.02, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 71-502.02 The Department of Health and Human Services
15 ~~Regulation and Licensure~~ shall adopt and promulgate such rules and
16 regulations as shall, in its judgment, be necessary to control and
17 suppress sexually transmitted diseases.

18 Sec. 379. Section 71-502.03, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 71-502.03 Every physician, or other person authorized by
21 law to practice obstetrics, who is attending a pregnant woman
22 in the state for conditions relating to her pregnancy during the
23 period of gestation or at delivery shall take or cause to be
24 taken a sample of the blood of such woman at the time of the
25 first examination and shall submit such sample to an approved

1 laboratory for a standard serological test for syphilis. Every
2 other person permitted by law to attend pregnant women in the
3 state, but not permitted by law to take blood samples, shall cause
4 such a sample of the blood of such pregnant women to be taken by a
5 physician, duly licensed to practice either medicine and surgery or
6 obstetrics, or other person authorized by law to take such sample
7 of blood and have such sample submitted to an approved laboratory
8 for a standard serological test for syphilis. The results of
9 all such laboratory tests shall be reported to the ~~Director of~~
10 ~~Regulation and Licensure~~ Department of Health and Human Services
11 on standard forms prescribed and furnished by the ~~Department of~~
12 ~~Health and Human Services Regulation and Licensure~~ department. For
13 the purpose of this section, a standard serological test shall be
14 a test for syphilis approved by the ~~Director of Regulation and~~
15 ~~Licensure~~ department and shall be made at a laboratory approved
16 to make such tests by the ~~Director of Regulation and Licensure~~ department. Such laboratory tests, as are required by this section,
17 shall be made on request at the Department of Health and Human
18 Services ~~Regulation and Licensure laboratory~~ Laboratory. A fee may
19 be established by rule and regulation by the department to defray
20 no more than the actual cost of such tests. Such fee shall be
21 deposited in the state treasury and credited to the ~~Department~~
22 ~~of Health and Human Services Regulation and Licensure~~ Health and
23 Human Services Cash Fund. In reporting every birth and stillbirth,
24 physicians and others required to make such reports shall state
25

1 on the portion of the certificate entitled For Medical and Health
2 Use Only whether a blood test for syphilis has been made upon a
3 specimen of blood taken from the woman who bore the child for which
4 a birth or stillbirth certificate is filed and the approximate
5 date when the specimen was taken. No birth certificate shall show
6 the result of such test. If no test was made, the reason shall
7 be stated. The department shall provide the necessary clerical,
8 printing, and other expenses in carrying out this section.

9 Sec. 380. Section 71-502.04, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 71-502.04 Any person who is in charge of a clinical
12 laboratory in which a laboratory examination of any specimen
13 derived from the human body yields microscopical, cultural,
14 immunological, serological, or other evidence of disease, illness,
15 or poisoning as the Department of Health and Human Services
16 ~~Regulation and Licensure~~ may from time to time specify shall
17 promptly notify the official local health department or the
18 Department of Health and Human Services ~~Regulation and Licensure~~
19 of such findings.

20 Each notification shall give the date and result of the
21 test performed, the name and, when available, the age of the person
22 from whom the specimen was obtained, and the name and address of
23 the physician for whom such examination or test was performed. A
24 legible copy of the laboratory report shall be deemed satisfactory
25 notification.

1 Sec. 381. Section 71-503, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 71-503 All attending physicians shall report to the
4 official local health department or the Department of Health
5 and Human Services ~~Regulation and Licensure~~ promptly, upon the
6 discovery thereof, the existence of any contagious or infectious
7 diseases and such other disease, illness, or poisoning as the
8 Department of Health and Human Services ~~Regulation and Licensure~~
9 may from time to time specify. Any attending physician, knowing of
10 the existence of any such disease, illness, or poisoning, who fails
11 promptly to report the same in accordance with this section, shall
12 be deemed guilty of a Class V misdemeanor for each offense.

13 Sec. 382. Section 71-503.01, Revised Statutes Cumulative
14 Supplement, 2006, is amended to read:

15 71-503.01 Whenever any statute of the state, any
16 ordinance or resolution of a municipal corporation or political
17 subdivision enacted pursuant to statute, or any rule or regulation
18 of an administrative agency adopted and promulgated pursuant to
19 statute requires medical practitioners or other persons to report
20 cases of communicable diseases, including sexually transmitted
21 diseases and other reportable diseases, illnesses, or poisonings
22 or to give notification of positive laboratory findings to the
23 Department of Health and Human Services ~~Regulation and Licensure~~
24 or any county or city board of health, local health department
25 established pursuant to sections 71-1626 to 71-1636, city health

1 department, local health agency, or state or local public official
2 exercising the duties and responsibilities of any board of health
3 or health department, such reports or notifications and the
4 resulting investigations shall be confidential except as provided
5 in this section, shall not be subject to subpoena, and shall be
6 privileged and inadmissible in evidence in any legal proceeding
7 of any kind or character and shall not be disclosed to any other
8 department or agency of the State of Nebraska.

9 In order to further the protection of public health, such
10 reports and notifications may be disclosed by the Department of
11 Health and Human Services, ~~Regulation and Licensure~~, the official
12 local health department, and the person making such reports or
13 notifications to the Centers for Disease Control and Prevention
14 of the Public Health Service of the United States Department of
15 Health and Human Services or its successor in such a manner as to
16 ensure that the identity of any individual cannot be ascertained.
17 To further protect the public health, the Department of Health
18 and Human Services, ~~Regulation and Licensure~~, the official local
19 health department, and the person making the report or notification
20 may disclose to the official state and local health departments
21 of other states, territories, and the District of Columbia such
22 reports and notifications, including sufficient identification and
23 information so as to ensure that such investigations as deemed
24 necessary are made.

25 The appropriate board, health department, agency, or

1 official may: (1) Publish analyses of such reports and information
2 for scientific and public health purposes in such a manner as
3 to ensure that the identity of any individual concerned cannot
4 be ascertained; (2) discuss the report or notification with the
5 attending physician; and (3) make such investigation as deemed
6 necessary.

7 Any medical practitioner, any official health department,
8 the Department of Health and Human Services, ~~Regulation and~~
9 ~~Licensure,~~ or any other person making such reports or notifications
10 shall be immune from suit for slander or libel or breach of
11 privileged communication based on any statements contained in such
12 reports and notifications.

13 Sec. 383. Section 71-504, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 71-504 The ~~Director of Health and Human Services,~~ the
16 ~~Director of Regulation and Licensure,~~ chief medical officer as
17 designated in section 6 of this act, or local director of health,
18 if a physician, or his or her agent, or any physician, upon
19 consultation by any person as a patient, shall, with the consent
20 of such person who is hereby granted the right of giving such
21 consent, make or cause to be made a diagnostic examination for
22 sexually transmitted diseases and prescribe for and treat such
23 person for sexually transmitted diseases including prophylactic
24 treatment for exposure to sexually transmitted diseases whenever
25 such person is suspected of having a sexually transmitted disease

1 or contact with anyone having a sexually transmitted disease.
2 All such examinations and treatment may be performed without the
3 consent of or notification to the parent, parents, guardian, or any
4 other person having custody of such person. In any such case, the
5 ~~Director of Health and Human Services,~~ the Director of Regulation
6 ~~and Licensure,~~ chief medical officer, or local director of health,
7 if a physician, or his or her agent, or the physician shall
8 incur no civil or criminal liability by reason of having made
9 such diagnostic examination or rendered such treatment, but such
10 immunity shall not apply to any negligent acts or omissions. The
11 ~~Director of Health and Human Services~~ chief medical officer or
12 local director of health, if a physician, or his or her agent, or
13 the physician shall incur no civil or criminal liability by reason
14 of any adverse reaction to medication administered if reasonable
15 care is taken to elicit from any such person who is under twenty
16 years of age any history of sensitivity or previous adverse
17 reaction to medication. Parents shall be liable for expenses
18 of such treatment to minors under their custody. In the event
19 such person is affected with a sexually transmitted disease, the
20 ~~Director of Regulation and Licensure~~ chief medical officer or local
21 director of health may cause an interview of the person by a
22 sexually transmitted disease investigator to secure the names of
23 sexual contacts so that appropriate investigation can be made in an
24 effort to locate and eliminate sources of infection.

25 Sec. 384. 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~~ shall secure and maintain in all parts
4 of the state an official record and notification of reportable
5 diseases, illnesses, or poisonings, provide popular literature upon
6 the different branches of public health and distribute the same
7 free throughout the state in a manner best calculated to promote
8 that interest, prepare and exhibit in the different communities
9 of the state public health demonstrations accompanied by lectures
10 and audiovisual aids, provide preventive services to protect the
11 public, and in all other effective ways prevent the origin and
12 spread of disease and promote the public health.

13 (2) The department may provide technical services to and
14 on behalf of health care providers and may charge fees for such
15 services in an amount sufficient to recover the administrative
16 costs of such services. Such fees shall be paid into the state
17 treasury and credited to the ~~Department of Health and Human~~
18 ~~Services Regulation and Licensure~~ Health and Human Services Cash
19 Fund.

20 Sec. 385. Section 71-507, Revised Statutes Cumulative
21 Supplement, 2006, is amended to read:

22 71-507 For purposes of sections 71-507 to 71-513:

23 (1) Alternate facility means a facility other than a
24 health care facility that receives a patient transported to the
25 facility by an emergency services provider;

1 (2) Department means the Department of Health and Human
2 Services; ~~Regulation and Licensure;~~

3 (3) Designated physician means the physician representing
4 the emergency services provider as identified by name, address,
5 and telephone number on the significant exposure report form. The
6 designated physician shall serve as the contact for notification in
7 the event an emergency services provider believes he or she has had
8 significant exposure to an infectious disease or condition. Each
9 emergency services provider shall designate a physician as provided
10 in subsection (2) of section 71-509;

11 (4) Emergency services provider means an out-of-hospital
12 emergency care provider certified pursuant to the Emergency Medical
13 Services Act, a sheriff, a deputy sheriff, a police officer,
14 a state highway patrol officer, a funeral director, a paid or
15 volunteer firefighter, a school district employee, and a person
16 rendering emergency care gratuitously as described in section
17 25-21,186;

18 (5) Funeral director means a person licensed under
19 section 71-1302 or an employee of such a person with responsibility
20 for transport or handling of a deceased human;

21 (6) Funeral establishment means a business licensed under
22 section 71-1327;

23 (7) Health care facility has the meaning found in
24 sections 71-419, 71-420, 71-424, and 71-429 or any facility
25 that receives patients of emergencies who are transported to

1 the facility by emergency services providers;

2 (8) Infectious disease or condition means hepatitis
3 B, hepatitis C, meningococcal meningitis, active pulmonary
4 tuberculosis, human immunodeficiency virus, diphtheria, plague,
5 hemorrhagic fevers, rabies, and such other diseases as the
6 department may by rule and regulation specify;

7 (9) Patient means an individual who is sick, injured,
8 wounded, deceased, or otherwise helpless or incapacitated;

9 (10) Patient's attending physician means the physician
10 having the primary responsibility for the patient as indicated on
11 the records of a health care facility;

12 (11) Provider agency means any law enforcement agency,
13 fire department, emergency medical service, funeral establishment,
14 or other entity which employs or directs emergency services
15 providers or public safety officials;

16 (12) Public safety official means a sheriff, a deputy
17 sheriff, a police officer, a state highway patrol officer, a paid
18 or volunteer firefighter, a school district employee, and any
19 civilian law enforcement employee or volunteer performing his or
20 her duties, other than those as an emergency services provider;

21 (13) Responsible person means an individual who has been
22 designated by an alternate facility to carry out the facility's
23 responsibilities under sections 71-507 to 71-513. A responsible
24 person may be designated on a case-by-case basis;

25 (14) Significant exposure means a situation in which

1 the body fluids, including blood, saliva, urine, respiratory
2 secretions, or feces, of a patient or individual have entered
3 the body of an emergency services provider or public safety
4 official through a body opening including the mouth or nose, a
5 mucous membrane, or a break in skin from cuts or abrasions, from
6 a contaminated needlestick or scalpel, from intimate respiratory
7 contact, or through any other situation when the patient's or
8 individual's body fluids may have entered the emergency services
9 provider's or public safety official's body or when an airborne
10 pathogen may have been transmitted from the patient or individual
11 to the emergency services provider or public safety official; and

12 (15) Significant exposure report form means the form
13 used by the emergency services provider to document information
14 necessary for notification of significant exposure to an infectious
15 disease or condition.

16 Sec. 386. Section 71-514.02, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 71-514.02 For purposes of sections 71-514.01 to
19 71-514.05:

20 (1) Health care provider means a person who provides care
21 to a patient which is designed to improve the status of his or her
22 health whether this care is rendered in the hospital or community
23 setting and whether the provider is paid or voluntary. Health care
24 provider does not mean an emergency services provider as defined in
25 section 71-507;

1 (2) Infectious disease or condition means hepatitis
2 B, hepatitis C, meningococcal meningitis, active pulmonary
3 tuberculosis, human immunodeficiency virus, and such other diseases
4 as the Department of Health and Human Services ~~Regulation and~~
5 ~~Licensure~~ may from time to time specify;

6 (3) Patient means an individual who is sick, injured,
7 wounded, or otherwise helpless or incapacitated;

8 (4) Provider agency means any health care facility or
9 agency which is in the business of providing health care services;
10 and

11 (5) Significant exposure to blood or other body fluid
12 means a specific eye, mouth, other mucous membrane, nonintact
13 skin, or parenteral contact with blood or other materials known to
14 transmit infectious diseases that results from providing care.

15 Sec. 387. Section 71-516.02, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 71-516.02 The Legislature finds and declares that:

18 (1) Certain nursing homes and related facilities and
19 assisted-living facilities claim special care for persons who have
20 Alzheimer's disease, dementia, or a related disorder;

21 (2) It is in the public interest to provide for the
22 protection of consumers regarding the accuracy and authenticity of
23 such claims; and

24 (3) The provisions of the Alzheimer's Special Care
25 Disclosure Act are intended to require such facilities to disclose

1 the reasons for those claims, require records of such disclosures
2 to be kept, and require the Department of Health and Human Services
3 ~~Regulation and Licensure~~ to examine the records.

4 Sec. 388. Section 71-516.03, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 71-516.03 For the purposes of the Alzheimer's Special
7 Care Disclosure Act, Alzheimer's special care unit shall mean
8 any nursing facility or assisted-living facility, licensed by
9 the Department of Health and Human Services, ~~Regulation and~~
10 ~~Licensure~~, which secures, segregates, or provides a special
11 program or special unit for residents with a diagnosis of
12 probable Alzheimer's disease, dementia, or a related disorder and
13 which advertises, markets, or otherwise promotes the facility as
14 providing specialized Alzheimer's disease, dementia, or related
15 disorder care services.

16 Sec. 389. Section 71-516.04, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 71-516.04 Any facility which offers to provide or
19 provides care for persons with Alzheimer's disease, dementia, or a
20 related disorder by means of an Alzheimer's special care unit shall
21 disclose the form of care or treatment provided that distinguishes
22 such form as being especially applicable to or suitable for such
23 persons. The disclosure shall be made to the Department of Health
24 and Human Services ~~Regulation and Licensure~~ and to any person
25 seeking placement within an Alzheimer's special care unit. The

1 department shall examine all such disclosures in the records of the
2 department as part of the facility's license renewal procedure at
3 the time of licensure or relicensure.

4 The information disclosed shall explain the additional
5 care provided in each of the following areas:

6 (1) The Alzheimer's special care unit's written statement
7 of its overall philosophy and mission which reflects the needs
8 of residents afflicted with Alzheimer's disease, dementia, or a
9 related disorder;

10 (2) The process and criteria for placement in, transfer
11 to, or discharge from the unit;

12 (3) The process used for assessment and establishment of
13 the plan of care and its implementation, including the method by
14 which the plan of care evolves and is responsive to changes in
15 condition;

16 (4) Staff training and continuing education practices;

17 (5) The physical environment and design features
18 appropriate to support the functioning of cognitively impaired
19 adult residents;

20 (6) The frequency and types of resident activities;

21 (7) The involvement of families and the availability of
22 family support programs; and

23 (8) The costs of care and any additional fees.

24 Sec. 390. Section 71-519, Revised Statutes Cumulative
25 Supplement, 2006, is amended to read:

1 71-519 (1) All infants born in the State of Nebraska
2 shall be screened for phenylketonuria, primary hypothyroidism,
3 biotinidase deficiency, galactosemia, hemoglobinopathies,
4 medium-chain acyl co-a dehydrogenase (MCAD) deficiency, and
5 such other metabolic diseases as the Department of Health and Human
6 Services ~~Regulation and Licensure~~ may from time to time specify.
7 Confirmatory tests shall be performed if a presumptive positive
8 result on the screening test is obtained.

9 (2) The attending physician shall collect or cause to
10 be collected the prescribed blood specimen or specimens and shall
11 submit or cause to be submitted the same to the laboratory
12 designated by the department for the performance of such tests
13 within the period and in the manner prescribed by the department.
14 If a birth is not attended by a physician and the infant does
15 not have a physician, the person registering the birth shall
16 cause such tests to be performed within the period and in the
17 manner prescribed by the department. The laboratory shall within
18 the period and in the manner prescribed by the department perform
19 such tests as are prescribed by the department on the specimen
20 or specimens submitted and report the results of these tests to
21 the physician, if any, the hospital or other birthing facility or
22 other submitter, and the department. The laboratory shall report
23 to the department the results of such tests that are presumptive
24 positive or confirmed positive within the period and in the manner
25 prescribed by the department.

1 (3) The hospital or other birthing facility shall record
2 the collection of specimens for tests for metabolic diseases and
3 the report of the results of such tests or the absence of such
4 report. For purposes of tracking, monitoring, and referral, the
5 hospital or other birthing facility shall provide from its records,
6 upon the department's request, information about the infant's and
7 mother's location and contact information, and care and treatment
8 of the infant.

9 (4) (a) The department shall have authority over the
10 use, retention, and disposal of blood specimens and all related
11 information collected in connection with metabolic disease testing
12 conducted under subsection (1) of this section.

13 (b) The department shall adopt and promulgate rules
14 and regulations relating to the retention and disposal of such
15 specimens. The rules and regulations shall: (i) Be consistent with
16 nationally recognized standards for laboratory accreditation and
17 shall comply with all applicable provisions of federal law; (ii)
18 require that the disposal be conducted in the presence of a witness
19 who may be an individual involved in the disposal or any other
20 individual; and (iii) provide for maintenance of a written or
21 electronic record of the disposal, verified by such witness.

22 (c) The department shall adopt and promulgate rules and
23 regulations relating to the use of such specimens and related
24 information. Such use shall only be made for public health purposes
25 and shall comply with all applicable provisions of federal law.

1 The department may charge a reasonable fee for evaluating proposals
2 relating to the use of such specimens for public health research
3 and for preparing and supplying specimens for research proposals
4 approved by the department.

5 (5) The department shall prepare written materials
6 explaining the requirements of this section. The department shall
7 include the following information in the pamphlet:

8 (a) The nature and purpose of the testing program
9 required under this section, including, but not limited to, a brief
10 description of each condition or disorder listed in subsection (1)
11 of this section;

12 (b) The purpose and value of the infant's parent,
13 guardian, or person in loco parentis retaining a blood specimen
14 obtained under subsection (6) of this section in a safe place;

15 (c) The department's procedures for retaining and
16 disposing of blood specimens developed under subsection (4) of this
17 section; and

18 (d) That the blood specimens taken for purposes of
19 conducting the tests required under subsection (1) of this section
20 may be used for research pursuant to subsection (4) of this
21 section.

22 (6) In addition to the requirements of subsection (1)
23 of this section, the attending physician or person registering
24 the birth may offer to draw an additional blood specimen from
25 the infant. If such an offer is made, it shall be made to the

1 infant's parent, guardian, or person in loco parentis at the
2 time the blood specimens are drawn for purposes of subsection (1)
3 of this section. If the infant's parent, guardian, or person in
4 loco parentis accepts the offer of an additional blood specimen,
5 the blood specimen shall be preserved in a manner that does not
6 require special storage conditions or techniques, including, but
7 not limited to, lamination. The attending physician or person
8 making the offer shall explain to the parent, guardian, or person
9 in loco parentis at the time the offer is made that the additional
10 blood specimen can be used for future identification purposes and
11 should be kept in a safe place. The attending physician or person
12 making the offer may charge a fee that is not more than the actual
13 cost of obtaining and preserving the additional blood specimen.

14 (7) The person responsible for causing the tests to be
15 performed under subsection (2) of this section shall inform the
16 parent or legal guardian of the infant of the tests and of the
17 results of the tests and provide, upon any request for further
18 information, at least a copy of the written materials prepared
19 under subsection (5) of this section.

20 (8) Dietary and therapeutic management of the infant with
21 phenylketonuria, primary hypothyroidism, biotinidase deficiency,
22 galactosemia, hemoglobinopathies, MCAD deficiency, or such other
23 metabolic diseases as the department may from time to time specify
24 shall be the responsibility of the child's parent, guardian, or
25 custodian with the aid of a physician selected by such person.

1 (9) Except for acts of gross negligence or willful or
2 wanton conduct, any physician, hospital or other birthing facility,
3 laboratory, or other submitter making reports or notifications
4 under sections 71-519 to 71-524 shall be immune from criminal or
5 civil liability of any kind or character based on any statements
6 contained in such reports or notifications.

7 Sec. 391. Section 71-520, Revised Statutes Cumulative
8 Supplement, 2006, is amended to read:

9 71-520 The Department of Health and Human Services
10 ~~Regulation and Licensure~~ shall establish a program to provide
11 food supplements and treatment services to individuals suffering
12 from the metabolic diseases set forth in section 71-519. To defray
13 or help defray the costs of any program which may be established
14 by the department under this section, the department may prescribe
15 and assess a scale of fees for the food supplements. The maximum
16 prescribed fee for food supplements shall be no more than the
17 actual cost of providing such supplements. No fees may be charged
18 for formula, and up to two thousand dollars of pharmaceutically
19 manufactured food supplements shall be available to an individual
20 without fees each year.

21 Sec. 392. Section 71-521, Revised Statutes Cumulative
22 Supplement, 2006, is amended to read:

23 71-521 The Department of Health and Human Services
24 ~~Regulation and Licensure~~ shall prescribe the tests, the test
25 methods and techniques, and such reports and reporting procedures

1 as are necessary to implement sections 71-519 to 71-524.

2 Sec. 393. Section 71-522, Revised Statutes Cumulative
3 Supplement, 2006, is amended to read:

4 71-522 The Department of Health and Human Services
5 ~~Regulation and Licensure~~ shall establish and maintain a central
6 data registry for the collection and storage of reported data
7 concerning metabolic diseases. The department shall use reported
8 data to ensure that all infants born in the State of Nebraska
9 are tested for diseases set forth in section 71-519 or by rule
10 and regulation. The department shall also use reported data to
11 evaluate the quality of the statewide system of newborn screening
12 and develop procedures for quality assurance. Reported data in
13 anonymous or statistical form may be made available by the
14 department for purposes of research.

15 Sec. 394. Section 71-523, Revised Statutes Cumulative
16 Supplement, 2006, is amended to read:

17 71-523 (1) The Department of Health and Human Services
18 ~~Regulation and Licensure~~ shall provide educational and resource
19 services regarding metabolic diseases to persons affected by
20 sections 71-519 to 71-524 and to the public generally.

21 (2) The Department of Health and Human Services, ~~the~~
22 ~~Department of Health and Human Services Finance and Support,~~
23 ~~and the Department of Health and Human Services Regulation and~~
24 ~~Licensure~~ may apply for, receive, and administer assessed fees and
25 federal or other funds which are available for the purpose of

1 implementing sections 71-519 to 71-524 and may contract for or
2 provide services as may be necessary to implement such sections.

3 (3) The Department of Health and Human Services
4 ~~Regulation and Licensure~~ shall adopt and promulgate rules and
5 regulations to implement sections 71-519 to 71-524.

6 (4) The Department of Health and Human Services
7 ~~Regulation and Licensure~~ shall contract, following competitive
8 bidding, with a single laboratory to perform tests, report results,
9 set forth the fee the laboratory will charge for testing, and
10 collect and submit fees pursuant to sections 71-519 to 71-524. The
11 department shall require the contracting laboratory to: (a) Perform
12 testing for all of the diseases pursuant to section 71-519 and
13 in accordance with rules and regulations adopted and promulgated
14 pursuant to this section, (b) maintain certification under the
15 federal Clinical Laboratories Improvement Act of 1967, 42 U.S.C.
16 263a, as such act and section existed on July 20, 2002, (c)
17 participate in appropriate quality assurance proficiency testing
18 programs offered by the Centers for Disease Control and Prevention
19 of the United States Department of Health and Human Services or
20 other professional laboratory organization, as determined by the
21 Department of Health and Human Services, ~~Regulation and Licensure,~~
22 (d) maintain sufficient contingency arrangements to ensure testing
23 delays of no longer than twenty-four hours in the event of natural
24 disaster or laboratory equipment failure, and (e) charge to the
25 hospital, other birthing facility, or other submitter the fee

1 provided in the contract for laboratory testing costs and the
2 administration fee specified in subsection (5) of this section. The
3 administration fee collected pursuant to such subsection shall be
4 remitted to the Department of Health and Human Services, ~~Finance~~
5 ~~and Support.~~

6 (5) The Department of Health and Human Services
7 ~~Regulation and Licensure~~ shall set an administration fee of not
8 more than ten dollars. The department may use the administration
9 fee to pay for the costs of the central data registry, tracking,
10 monitoring, referral, quality assurance, program operation, program
11 development, program evaluation, and treatment services authorized
12 under sections 71-519 to 71-523. The fee shall be collected by the
13 contracting laboratory as provided in subdivision (4)(e) of this
14 section.

15 (6) Fees collected for the department pursuant to
16 sections 71-519 to 71-523 shall be remitted to the State Treasurer
17 for credit to the ~~Department of Health and Human Services Finance~~
18 ~~and Support~~ Health and Human Services Cash Fund.

19 Sec. 395. Section 71-524, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 71-524 In addition to any other remedies which may be
22 available by law, a civil proceeding to enforce section 71-519 may
23 be brought in the district court of the county where the infant is
24 domiciled or found. The attending physician, the hospital or other
25 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~~ Department of Health and
5 Human Services reports a violation to cause appropriate proceedings
6 to be initiated without delay. A hearing on any action brought
7 pursuant to this section shall be held within seventy-two hours of
8 the 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. 396. 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~~ may participate in the national efforts
14 described in sections 71-527 and 71-528 and may develop a
15 statewide immunization action plan which is comprehensive in scope
16 and reflects contributions from a broad base of providers and
17 consumers. In order to implement the statewide immunization action
18 plan, the department 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;

1 (3) Provide immunization information and education to the
2 public, parents, health care providers, and educators to establish
3 and maintain a high level of awareness and demand for immunization
4 by parents;

5 (4) Assist parents, health care providers, and
6 communities in developing systems, including demonstration and
7 pilot projects, which emphasize well-child care and the use
8 of private practitioners and which improve the availability of
9 immunization and improve management of immunization delivery so as
10 to ensure the adequacy of the vaccine delivery system;

11 (5) Evaluate the effectiveness of these statewide
12 efforts, conduct ongoing measurement of children's immunization
13 status, identify children at special risk for deficiencies in
14 immunization, and report on the activities of the statewide
15 immunization program annually to the Legislature and the citizens
16 of Nebraska;

17 (6) Recognize persons who volunteer their efforts towards
18 achieving the goal of providing immunization of the children of
19 Nebraska and in meeting the Healthy People 2000 objective of
20 series-complete immunization coverage for ninety percent or more of
21 United States children by their second birthday;

22 (7) Establish a statewide program to immunize Nebraska
23 children from birth up to six years of age against measles, mumps,
24 rubella, poliomyelitis, diphtheria, pertussis, tetanus, hepatitis
25 B, and haemophilus influenzae type B. The program shall serve

1 children who are not otherwise eligible for childhood immunization
2 coverage with medicaid or other federal funds or are not covered by
3 private third-party payment; and

4 (8) Contract to provide vaccine under the statewide
5 program authorized under subdivision (7) of this section without
6 cost to health care providers subject to the following conditions:

7 (a) In order to receive vaccine without cost, health care
8 providers shall not charge for the cost of the vaccine. Health care
9 providers may charge a fee for the administration of the vaccine
10 but may not deny service because of the parent's or guardian's
11 inability to pay such fee. Fees for administration of the vaccine
12 shall be negotiated between the department and the health care
13 provider, shall be uniform among participating providers, and shall
14 be no more than the cost ceiling for the region in which Nebraska
15 is included as set by the Secretary of the United States Department
16 of Health and Human Services for the Vaccines for Children Program
17 authorized by the Omnibus Budget Reconciliation Act of 1993;

18 (b) Health care providers shall administer vaccines
19 according to the schedule recommended by the Advisory Committee
20 on Immunization Practices of the Centers for Disease Control and
21 Prevention or by the American Academy of Pediatrics unless in the
22 provider's medical judgment, subject to accepted medical practice,
23 such compliance is medically inappropriate; and

24 (c) Health care providers shall maintain records on
25 immunizations as prescribed by this section for inspection and

1 audit by the Department of Health and Human Services ~~Regulation and~~
2 ~~Licensure~~ or the Auditor of Public Accounts, including responses
3 by parents or guardians to simple screening questions related
4 to payment coverage by public or private third-party payors,
5 identification of the administration fee as separate from any
6 other cost charged for other services provided at the same time
7 the vaccination service is provided, and other information as
8 determined by the department to be necessary to comply with
9 subdivision (5) of this section. Such immunization records may also
10 be used for information exchange as provided in sections 71-539 to
11 71-544.

12 Sec. 397. Section 71-532, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 71-532 The Department of Health and Human Services
15 ~~Regulation and Licensure~~ shall adopt and promulgate rules and
16 regulations which make the human immunodeficiency virus infection
17 reportable by name in the same manner as communicable diseases
18 under section 71-502.

19 Sec. 398. Section 71-541, Revised Statutes Cumulative
20 Supplement, 2006, is amended to read:

21 71-541 A physician, an advanced practice registered nurse
22 practicing under and in accordance with his or her applicable
23 certification act, a physician assistant, a pharmacist, a licensed
24 health care facility, a public immunization clinic, a local or
25 district health department, and the Department of Health and

1 Human Services, ~~the Department of Health and Human Services~~
2 ~~Regulation and Licensure~~, and the Department of Health and Human
3 ~~Services Finance and Support~~ may share immunization information
4 which is not restricted under section 71-540. The unrestricted
5 immunization information shared may include, but is not limited
6 to, the patient's name, date of birth, dates and vaccine types
7 administered, and any immunization information obtained from other
8 sources.

9 Sec. 399. Section 71-543, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 71-543 The Department of Health and Human Services, ~~the~~
12 ~~Department of Health and Human Services Regulation and Licensure~~,
13 and the Department of Health and Human Services Finance and
14 ~~Support~~ may adopt and promulgate rules and regulations to implement
15 sections 71-539 to 71-544, including procedures and methods for
16 access to and security of the immunization information.

17 Sec. 400. Section 71-601.01, Revised Statutes Cumulative
18 Supplement, 2006, is amended to read:

19 71-601.01 For purposes of the Vital Statistics Act:

20 (1) Abstract of marriage means a certified document that
21 summarizes the facts of marriage, including, but not limited to,
22 the name of the bride and groom, the date of the marriage, the
23 place of the marriage, and the name of the office filing the
24 original marriage license. An abstract of marriage does not include
25 signatures;

1 (2) Certificate means the record of a vital event;

2 (3) Certification means the process of recording, filing,
3 amending, or preserving a certificate, which process may be by
4 any means, including, but not limited to, microfilm, electronic,
5 imaging, photographic, typewritten, or other means designated by
6 the department; and

7 (4) Department means the Department of Health and Human
8 Services. ~~Finance and Support.~~

9 Sec. 401. Section 71-602, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 71-602 (1) ~~The Department of Health and Human Services~~
12 ~~Finance and Support~~ department shall adopt and promulgate rules and
13 regulations prescribing all standard forms for registering with or
14 reporting to the department and for certification to the public of
15 any birth, abortion, marriage, annulment, dissolution of marriage,
16 or death registered in Nebraska. Such forms shall (a) provide for
17 the registration of vital events as accurately as possible, (b)
18 secure information about the economic, educational, occupational,
19 and sociological backgrounds of the individuals involved in the
20 registered events and their parents as a basis for statistical
21 research in order to reduce morbidity and mortality and improve
22 the quality of life, (c) accomplish such duties in a manner which
23 will be uniform with forms for reporting similar events which
24 have been established by the United States Public Health Service
25 to the extent such forms are consistent with state law, and (d)

1 permit other deviations from such forms as will reduce the costs of
2 gathering information, increase efficiency, or protect the health
3 and safety of the people of Nebraska without jeopardizing such
4 uniformity.

5 (2) All information designated by the department on all
6 certificates as being for health data and statistical research
7 shall be confidential and may be released only to the United States
8 Public Health Service or its successor, government health agencies,
9 or a researcher as approved by the department in accordance with
10 its rules and regulations. The department may publish analyses of
11 any information received on the forms for scientific and public
12 health purposes in such a manner as to assure that the identity
13 of any individual cannot be ascertained. The release of such
14 information pursuant to this section shall not make otherwise
15 confidential information a public record.

16 Sec. 402. Section 71-602.01, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 71-602.01 All information designated by the ~~Department~~
19 ~~of Health and Human Services Finance and Support~~ department on
20 all certificates as being for health data and statistical research
21 shall be confidential but may be released to the ~~Department of~~
22 ~~Health and Human Services and the Department of Health and Human~~
23 ~~Services Regulation and Licensure~~ department for research and
24 statistical purposes. The ~~Department of Health and Human Services~~
25 ~~Finance and Support~~ department may release cost, health, and

1 associated health risk information from medicaid records to the
2 ~~Department of Health and Human Services and the Department of~~
3 ~~Health and Human Services Regulation and Licensure~~ department for
4 research and statistical purposes. Release of information shall be
5 pursuant to a written agreement between the Department of Health
6 and Human Services Finance and Support and the Department of
7 Health and Human Services and between the Department of Health
8 and Human Services Finance and Support and the Department of
9 Health and Human Services Regulation and Licensure. Such agreement
10 release shall provide for protection of the security of the
11 content of the information, including access limitations, storage
12 of the information, destruction of the information, and use of
13 the information. The release of such information pursuant to this
14 section shall not make otherwise confidential information a public
15 record.

16 Sec. 403. Section 71-604, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 71-604 (1) A certificate for each live birth which
19 occurs in the State of Nebraska shall be filed on a standard
20 Nebraska certificate form. Such certificate shall be filed with
21 the ~~Department of Health and Human Services Finance and Support~~
22 department within five business days after the birth.

23 (2) When a birth occurs in an institution or en route
24 thereto, the person in charge of the institution or his or her
25 authorized designee shall obtain the personal data, prepare the

1 certificate which shall include the name, title, and address of
2 the attendant, certify that the child was born alive at the place
3 and time and on the date stated either by standard procedure or
4 by an approved electronic process, and file the certificate. The
5 physician or other person in attendance shall provide the medical
6 information required for the certificate within seventy-two hours
7 after the birth.

8 (3) When a birth occurs outside an institution, the
9 certificate of birth shall be prepared and filed by one of the
10 following:

11 (a) The physician in attendance at or immediately after
12 the birth;

13 (b) The father, the mother, or, in the absence of the
14 father and the inability of the mother, the person in charge of the
15 premises where the birth occurred; or

16 (c) Any other person in attendance at or immediately
17 after the birth.

18 Sec. 404. Section 71-604.01, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 71-604.01 Upon receipt of a notarized affidavit from the
21 physician that performed sex reassignment surgery on an individual
22 born in this state and a certified copy of an order of a
23 court of competent jurisdiction changing the name of such person,
24 the ~~Department of Health and Human Services Finance and Support~~
25 department shall prepare a new certificate of birth in the new

1 name and sex of such person in substantially the same form as
2 that used for other live births. The evidence from which the new
3 certificate is prepared and the original certificate of birth shall
4 be available for inspection only upon the order of a court of
5 competent jurisdiction.

6 Sec. 405. Section 71-604.05, Revised Statutes Cumulative
7 Supplement, 2006, is amended to read:

8 71-604.05 (1) ~~The Department of Health and Human Services~~
9 ~~Finance and Support~~ department shall not file (a) a certificate
10 of live birth, (b) a certificate of delayed birth registration
11 for a registrant who is under twenty-five years of age when an
12 application for such certificate is filed, (c) a certificate of
13 live birth filed after adoption of a Nebraska-born person who is
14 under twenty-five years of age or a person born outside of the
15 jurisdiction of the United States, or (d) a certificate of live
16 birth issued pursuant to section 71-628 unless the social security
17 number or numbers issued to the parents are furnished by the person
18 seeking to register the birth. No such certificate may be amended
19 to show paternity unless the social security number of the father
20 is furnished by the person requesting the amendment. The social
21 security number shall not be required if no social security number
22 has been issued to the parent or if the social security number is
23 unknown.

24 (2) Social security numbers (a) shall be recorded on
25 the birth certificate but shall not be considered part of the

1 birth certificate and (b) shall only be used for the purpose of
2 enforcement of child support orders in Nebraska as permitted by
3 Title IV-D of the federal Social Security Act, as amended, or
4 as permitted by section 7(a) of the federal Privacy Act of 1974,
5 as amended. ~~The Department of Health and Human Services Finance
6 and Support shall make social security numbers available to the
7 Department of Health and Human Services for purposes permitted
8 under Title IV-D of the federal Social Security Act, as amended.~~

9 (3) ~~The Department of Health and Human Services Finance
10 and Support, or on receipt of a written or electronic request by
11 the Department of Health and Human Services, department may release
12 data to the Social Security Administration which is necessary to
13 obtain a social security number and which is contained on the
14 birth certificate of any individual who has applied for or is
15 receiving medicaid or food stamp benefits. The Department of Health
16 and Human Services Finance and Support department shall make such
17 data available only for the purpose of obtaining a social security
18 number for the individual.~~

19 (4) ~~The Department of Health and Human Services Finance
20 and Support department shall provide to the Social Security
21 Administration each parent's name and social security number
22 collected in the birth certification process as required by the
23 federal Taxpayer Relief Act of 1997.~~

24 Sec. 406. Section 71-605.01, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 71-605.01 Death certificates issued by or under the
2 authority of the United States for persons who were residents of
3 Nebraska at the time they entered the military or armed forces of
4 the United States, and died while in the service of their country
5 while outside the continental limits of the United States may be
6 recorded with the ~~Department of Health and Human Services Finance~~
7 ~~and Support~~ department.

8 Sec. 407. Section 71-605.02, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 71-605.02 The ~~Department of Health and Human Services~~
11 ~~Finance and Support~~ department shall preserve permanently and index
12 all such certificates and shall charge and collect in advance the
13 fee prescribed in section 71-612, to be paid by the applicant for
14 each certified copy supplied to the applicant or for any search
15 made at the applicant's request for access to or a certified copy
16 of any record, whether or not the record is found on file with the
17 department. All fees so collected shall be remitted to the State
18 Treasurer for credit to the ~~Department of Health and Human Services~~
19 ~~Finance and Support~~ Health and Human Services Cash Fund as provided
20 in section 71-612.

21 Sec. 408. Section 71-606, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 71-606 A child born dead shall be registered as a
24 fetal death on a certificate form furnished by the ~~Department of~~
25 ~~Health and Human Services Finance and Support~~ department. Such

1 certificate shall not be required for a child which has not
2 advanced to the twentieth week of gestation. The certificate shall
3 be filed with the department by the funeral director and embalmer
4 in charge of the funeral and shall include a statement of the cause
5 of death made by a person holding a valid license as a physician
6 who was in attendance. In the event of hospital disposition, as
7 provided in section 71-20,121, the entire certificate shall be
8 completed by the attending physician and subscribed to also by the
9 hospital administrator or his or her designated representative. If
10 the attendant is not a physician, the death shall be referred to
11 the county attorney for certification. The same time limit for
12 completion shall apply as for a regular death certificate.

13 Sec. 409. Section 71-608.01, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 71-608.01 Persons in any county containing a city of the
16 metropolitan or primary class which has an established city-county
17 or county health department pursuant to sections 71-1626 to 71-1636
18 which has an established birth and death registration system shall
19 be exempt from the requirements of direct filing of birth and death
20 certificates required by sections 71-604, 71-605, and 71-606. The
21 certificates for the births and deaths occurring in any such county
22 shall be filed with the vital statistics office of the city-county
23 or county health department within five business days of the date
24 of the birth or death. The city-county or county health department
25 shall forward the certificates to the ~~Department of Health and~~

1 ~~Human Services Finance and Support~~ department within ten business
2 days of the date of the birth or death.

3 Sec. 410. Section 71-609, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 71-609 Every retail dealer in caskets shall keep a record
6 of sales, which record shall include the name and post office
7 address of the purchaser and the name and date and place of death
8 of the deceased. A report of sales or no sales shall be forwarded
9 to the ~~Department of Health and Human Services Finance and Support~~
10 department on the first day of each month. This requirement shall
11 not apply to persons selling caskets only to dealers or funeral
12 directors and embalmers. Every seller of a casket at retail who
13 does not have charge of the disposition of the body shall enclose
14 within the casket a notice calling attention to the requirements of
15 the law and a blank certificate of death.

16 Sec. 411. Section 71-610, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 71-610 Maternity homes and lying-in hospitals, and places
19 used as such, shall report to the ~~Department of Health and Human~~
20 ~~Services Finance and Support~~ department on the first day of
21 each month the sex and date of birth of all children born in
22 their respective institutions during the preceding month. The
23 report shall also show the names and addresses of the parents and
24 attending physicians.

25 Sec. 412. Section 71-611, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 71-611 The ~~Department of Health and Human Services~~
3 ~~Finance and Support~~ department shall supply all necessary blanks,
4 forms, and instructions pertaining to the recording of births
5 and deaths to physicians, hospitals, and funeral directors and
6 embalmers. Upon written request, the department may authorize
7 a funeral director and embalmer licensed in Nebraska to use
8 computer-generated death certificate forms on paper supplied by
9 the department which is of the same quality and identical in form
10 established in department regulations for death certificates which
11 are not computer-generated.

12 Sec. 413. Section 71-612, Revised Statutes Cumulative
13 Supplement, 2006, is amended to read:

14 71-612 (1) The ~~Director of Finance and Support,~~
15 department, as the State Registrar, ~~through the Department of~~
16 ~~Health and Human Services Finance and Support~~ shall preserve
17 permanently and index all certificates received. The department
18 shall supply to any applicant for any proper purpose, as defined by
19 rules and regulations of the department, a certified copy of the
20 record of any birth, death, marriage, annulment, or dissolution of
21 marriage or an abstract of marriage. The department shall supply a
22 copy of a public vital record for viewing purposes at its office
23 upon an application signed by the applicant and upon proof of the
24 identity of the applicant. The application may include the name,
25 address, and telephone number of the applicant, purpose for viewing

1 each record, and other information as may be prescribed by the
2 department by rules and regulations to protect the integrity of
3 vital records and prevent their fraudulent use. Except as provided
4 in subsections (2), (3), (5), (6), and (7) of this section, the
5 department shall be entitled to charge and collect in advance a fee
6 of eleven dollars to be paid by the applicant for each certified
7 copy or abstract of marriage supplied to the applicant or for any
8 search made at the applicant's request for access to or a certified
9 copy of any record or abstract of marriage, whether or not the
10 record or abstract is found on file with the department.

11 (2) The department shall, free of charge, search for and
12 furnish a certified copy of any record or abstract of marriage on
13 file with the department upon the request of (a) the United States
14 Department of Veterans Affairs or any lawful service organization
15 empowered to represent veterans if the copy of the record or
16 abstract of marriage is to be issued, for the welfare of any member
17 or veteran of the armed forces of the United States or in the
18 interests of any member of his or her family, in connection with a
19 claim growing out of service in the armed forces of the nation or
20 (b) the Military Department.

21 (3) ~~The Department of Health and Human Services Finance~~
22 ~~and Support~~ department may, free of charge, search for and furnish
23 a certified copy of any record or abstract of marriage on file
24 with the department when in the opinion of the ~~Director of Finance~~
25 ~~and Support~~ department it would be a hardship for the claimant of

1 old age, survivors, or disability benefits under the federal Social
2 Security Act to pay the fee provided in this section.

3 (4) A strict account shall be kept of all funds received
4 by the department. Funds received pursuant to subsections (1),
5 (5), (6), and (8) of this section shall be remitted to the State
6 Treasurer for credit to the ~~Department of Health and Human Services~~
7 ~~Finance and Support~~ Health and Human Services Cash Fund. Money
8 credited to the fund pursuant to this section shall be used for
9 the purpose of administering the laws relating to vital statistics
10 and may be used to create a petty cash fund administered by the
11 department to facilitate the payment of refunds to individuals who
12 apply for copies or abstracts of records. The petty cash fund shall
13 be subject to section 81-104.01, except that the amount in the
14 petty cash fund shall not be less than twenty-five dollars nor more
15 than one thousand dollars.

16 (5) The department shall, upon request, conduct a search
17 of death certificates for stated individuals for the Nebraska
18 Medical Association or any of its allied medical societies or any
19 inhospital staff committee pursuant to sections 71-3401 to 71-3403.
20 If such death certificate is found, the department shall provide
21 a noncertified copy. The department shall charge a fee for each
22 search or copy sufficient to cover its actual direct costs, except
23 that the fee shall not exceed two dollars per individual search or
24 copy requested.

25 (6) The department may permit use of data from vital

1 records for statistical or research purposes under section
2 71-602 or disclose data from certificates or records to federal,
3 state, county, or municipal agencies of government for use in
4 administration of their official duties and charge and collect a
5 fee that will recover the department's cost of production of the
6 data. The department may provide access to public vital records for
7 viewing purposes by electronic means, if available, under security
8 provisions which shall assure the integrity and security of the
9 records and data base and shall charge and collect a fee that shall
10 recover the department's costs.

11 (7) In addition to the fees charged under subsection
12 (1) of this section, the department shall charge and collect an
13 additional fee of one dollar for any certified copy of the record
14 of any birth or for any search made at the applicant's request
15 for access to or a certified copy of any such record, whether
16 or not the record is found on file with the department. Any
17 county containing a city of the metropolitan class which has an
18 established city-county or county health department pursuant to
19 sections 71-1626 to 71-1636 which has an established system of
20 registering births and deaths shall charge and collect in advance a
21 fee of one dollar for any certified copy of the record of any birth
22 or for any search made at the applicant's request for such record,
23 whether or not the record is found on file with the county. All
24 fees collected under this subsection shall be remitted to the State
25 Treasurer for credit to the Nebraska Child Abuse Prevention Fund.

1 (8) The department shall not charge other state agencies
2 the fees authorized under subsections (1) and (7) of this
3 section for automated review of any certificates or abstracts
4 of marriage. The department shall charge and collect a fee from
5 other state agencies for such automated review that will recover
6 the department's cost.

7 Sec. 414. Section 71-614, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 71-614 (1) On or before the fifth day of each month,
10 the county clerk of each county shall return to the ~~Department~~
11 ~~of Health and Human Services Finance and Support~~ department upon
12 suitable blank forms, to be provided by the department, a statement
13 of all marriages recorded by him or her during the preceding
14 calendar month. If no marriages were performed in the county during
15 the preceding month, a card furnished by the department indicating
16 such information shall be submitted on or before the fifth day of
17 each month to the department. Upon neglect or refusal to make such
18 returns, such county clerk shall, for each such neglect or refusal,
19 forfeit and pay the sum of twenty-five dollars for the use of the
20 proper county, to be collected as debts of like amount are now
21 collectible.

22 (2) As soon as possible after completion of an amendment
23 to a marriage license by the ~~Department of Health and Human~~
24 ~~Services Finance and Support,~~ department, the department shall
25 forward a noncertified copy of the marriage license reflecting the

1 amendment to the county clerk of the county in which the license
2 was filed. Upon receipt of the amended copy, the county clerk shall
3 make the necessary changes on the marriage license on file in his
4 or her office to reflect the amendment.

5 Sec. 415. Section 71-615, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 71-615 On or before the fifth day of each month, the
8 clerk of the district court of each county shall make and return
9 to the ~~Department of Health and Human Services Finance and Support,~~
10 department, upon suitable forms furnished by the department, a
11 statement of each action for annulment or dissolution of marriage
12 granted in the court of which he or she is clerk during the
13 preceding calendar month. The information shall be furnished by
14 the petitioner or his or her legal representative and presented
15 to the clerk of the court with the petition. In all cases, the
16 furnishing of the information to complete the record shall be a
17 prerequisite to the granting of the final decree. If no annulments
18 or dissolutions of marriage were granted in the county during the
19 preceding month, a card furnished by the department indicating such
20 information shall be submitted on or before the fifth day of each
21 month to the department. Upon neglect or refusal to make such
22 return, such clerk shall, for each neglect or refusal, forfeit and
23 pay the sum of twenty-five dollars for the use of the county.

24 Sec. 416. Section 71-616, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 71-616 The ~~Department of Health and Human Services~~
2 ~~Finance and Support~~ department shall preserve permanently and
3 index all births, deaths, marriages, and divorces received, and
4 shall tabulate statistics therefrom.

5 Sec. 417. Section 71-616.03, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 71-616.03 The ~~Department of Health and Human Services~~
8 ~~Finance and Support~~ department may accept for filing and issue
9 certified copies of vital records generated from microfilm,
10 imaging, electronic means, or any other medium as designated by the
11 department.

12 Sec. 418. Section 71-616.04, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 71-616.04 To preserve vital records, the ~~Department~~
15 ~~of Health and Human Services~~ ~~Finance and Support~~ department
16 may prepare typewritten, photographic, electronic, or other
17 reproductions of certificates or reports of vital records. Such
18 reproductions, when verified and approved by the department, shall
19 be accepted as the original records, and the documents from which
20 permanent reproductions have been made may be disposed of as
21 provided by rules and regulations of the department.

22 Sec. 419. Section 71-617.02, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 71-617.02 A notarized application may be filed with
25 the ~~Department of Health and Human Services~~ ~~Finance and Support~~

1 department for a delayed registration of birth of any person
2 born in the State of Nebraska whose birth is not registered
3 within one year after the date of birth. If the birth occurred
4 in the State of Nebraska at any time since the commencement in
5 1905 of mandatory registration under the laws of Nebraska, the
6 applicant shall pay the statutory file search fee prescribed by
7 section 71-612 to determine that such birth is not recorded. The
8 certificate shall be registered based upon documentary evidence
9 furnished to substantiate the alleged facts of birth. As used in
10 the Delayed Birth Registration Act, unless the context otherwise
11 requires, documentary evidence shall mean independent records each
12 of which was created for a different purpose.

13 Sec. 420. Section 71-617.06, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 71-617.06 Independent supporting records shall include,
16 but not be limited to, original records or certified or notarized
17 copies of:

18 (1) A recorded certificate of baptism performed under age
19 four;

20 (2) An insurance policy application personal history
21 sheet;

22 (3) A federal census record;

23 (4) A school census record;

24 (5) A military service record;

25 (6) A family Bible record when proved beyond a reasonable

1 doubt that the record was made before the child reached age four;

2 (7) Other evidence on file in the ~~Department of Health~~
3 ~~and Human Services Finance and Support~~ department taken from other
4 registrations;

5 (8) A record at least five years old or established
6 within seven years of the date of birth such as a physician's
7 certificate or an affidavit taken from physician, hospital,
8 nursing, or clinic records;

9 (9) An affidavit from a parent or longtime acquaintance;

10 (10) A printed notice of birth;

11 (11) A record from a birthday or baby book;

12 (12) A school record; or

13 (13) A church record.

14 An affidavit shall include the full name of the person
15 whose birth is being registered as well as the date and place of
16 birth and the basis of the affiant's knowledge of these facts.

17 Sec. 421. Section 71-617.07, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 71-617.07 If an applicant for a certificate of delayed
20 birth registration fails to submit the minimum documentation
21 required for the delayed registration or if the ~~Department of~~
22 ~~Health and Human Services Finance and Support~~ department has
23 reasonable cause to question the validity or adequacy of either
24 the applicant's sworn statement or the documentary evidence due
25 to conflicting evidence submitted and if the deficiencies are not

1 corrected, the department shall not issue and register a delayed
2 certificate of birth and shall advise the applicant of the reasons
3 for such action. The department shall further advise the applicant
4 of his or her right of appeal to the ~~Director of Finance and~~
5 ~~Support~~ department and then, if not satisfied, to the county court
6 as provided in section 71-617.08.

7 Sec. 422. Section 71-617.08, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 71-617.08 (1) If a delayed certificate of birth is denied
10 by the ~~Department of Health and Human Services Finance and Support~~
11 ~~and the Director of Finance and Support,~~ department, a petition
12 signed and sworn to by the petitioner may be filed with the
13 county court of Lancaster County, of the county of the petitioner's
14 residence, or of the county in which the birth is claimed to have
15 occurred.

16 (2) The petition shall be made on a form prescribed and
17 furnished by the ~~Department of Health and Human Services Finance~~
18 ~~and Support~~ department and shall allege:

19 (a) That the person for whom a delayed certificate of
20 birth is sought was born in this state;

21 (b) That no certificate of birth of such person can be
22 found in the files or records of the ~~Department of Health and Human~~
23 ~~Services Finance and Support,~~ department;

24 (c) That diligent efforts by the petitioner have failed
25 to obtain evidence required by sections 71-617.05 and 71-617.06

1 that is considered acceptable by the ~~Department of Health and Human~~
2 ~~Services Finance and Support~~, department;

3 (d) That the ~~Department of Health and Human Services~~
4 ~~Finance and Support~~ department has refused to register a delayed
5 certificate of birth; and

6 (e) Such other allegations as may be required.

7 Sec. 423. Section 71-617.09, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 71-617.09 A statement of the ~~Director of Finance and~~
10 ~~Support~~ department indicating why a delayed certificate of birth
11 was not issued and registered and all documentary evidence which
12 was submitted to the ~~Department of Health and Human Services~~
13 ~~Finance and Support~~ department in support of such registration
14 shall accompany a petition filed under section 71-617.08.

15 Sec. 424. Section 71-617.10, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 71-617.10 The court shall fix a time and place for a
18 hearing upon a petition filed under section 71-617.08 and shall
19 give the ~~Department of Health and Human Services Finance and~~
20 ~~Support~~ department ten calendar days' notice of such hearing. ~~The~~
21 ~~Director of Finance and Support or one of his or her authorized~~
22 Authorized representatives of the department may appear and testify
23 in the proceeding.

24 Sec. 425. Section 71-617.11, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 71-617.11 If the court finds from the evidence presented
2 that the person for whom a delayed certificate of birth is sought
3 was born in this state, it shall make findings as to the place and
4 date of birth, parentage, and such other findings as the case may
5 require and shall issue an order on a form prescribed and furnished
6 by the ~~Department of Health and Human Services Finance and Support~~
7 department to establish a certificate of birth. The order shall
8 include the birth data to be registered, a description of the
9 evidence presented, and the date of the court's action.

10 Sec. 426. Section 71-617.12, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 71-617.12 The clerk of the court shall forward any order
13 made under section 71-617.11 to the ~~Department of Health and Human~~
14 ~~Services Finance and Support~~ department not later than the tenth
15 day of the calendar month following the month in which it was
16 entered. The order shall be registered by the department and shall
17 constitute the certificate of birth.

18 Sec. 427. Section 71-617.13, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 71-617.13 The ~~Department of Health and Human Services~~
21 ~~Finance and Support~~ department shall certify on a delayed
22 registration of birth that no other record of the birth is on file
23 with the department.

24 Sec. 428. Section 71-617.15, Revised Statutes Cumulative
25 Supplement, 2006, is amended to read:

1 71-617.15 (1) The department shall charge and collect
2 the same fee as prescribed in subsection (1) of section 71-612
3 when an application for a delayed birth certificate is filed. All
4 such fees shall be remitted to the State Treasurer for credit to
5 the ~~Department of Health and Human Services Finance and Support~~
6 Health and Human Services Cash Fund. The department shall collect
7 an additional fee of one dollar when a delayed birth certificate
8 is issued. All amounts collected from such additional fee shall be
9 remitted to the State Treasurer for credit to the Nebraska Child
10 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-~~
14 department. All fees for a certified copy shall be handled as
15 provided in section 71-612.

16 Sec. 429. 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- department. The report shall (a)
23 include the original name, date, and place of birth and the name
24 of the parent or parents of such person; (b) provide information
25 necessary to establish a new certificate of birth of the person

1 adopted; (c) provide the name and address of the child placement
2 agency, if any, which placed the child for adoption; and (d)
3 identify the decree of adoption and be certified by the clerk of
4 the court.

5 (2) Information in the possession of the petitioner
6 necessary to prepare the report of adoption shall be furnished
7 with the petition for adoption by each petitioner or his or her
8 attorney. The social or welfare agency or other person concerned
9 shall supply the court with such additional information in his
10 or her possession as may be necessary to complete the report.
11 The supplying of such information shall be a prerequisite to the
12 issuance of a decree.

13 (3) Whenever an adoption decree is amended or set aside,
14 the clerk of the court shall prepare a report thereof, which
15 shall include such facts as are necessary to identify the original
16 adoption report and the facts amended in the adoption decree as
17 shall be necessary to properly amend the birth record.

18 (4) Not later than the tenth day after the decree has
19 been entered, the clerk of such court shall forward the report to
20 the ~~Department of Health and Human Services Finance and Support~~
21 department whenever an adoptive birth certificate is to be filed or
22 has already been filed.

23 Sec. 430. Section 71-626.01, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 71-626.01 (1) The ~~Department of Health and Human Services~~

1 ~~Finance and Support~~ department shall establish a new certificate
2 of birth for a person born in the State of Nebraska whenever it
3 receives any of the following:

4 (a) A report of adoption as provided in section 71-626
5 on a form supplied by the ~~Department of Health and Human Services~~
6 ~~Finance and Support~~ department or a certified copy of the decree
7 of adoption together with the information required in such report,
8 except that a new certificate of birth shall not be established if
9 so requested in writing by the court decreeing the adoption, the
10 adoptive parents, or the adopted person; or

11 (b) A report of adoption or a certified copy of the
12 decree of adoption entered in a court of competent jurisdiction
13 of any other state or nation declaring adopted a person born in
14 the State of Nebraska, together with the information necessary to
15 identify the original certificate of birth and to establish the new
16 certificate of birth, except that a new certificate of birth shall
17 not be established when so requested by the court decreeing the
18 adoption, the adoptive parents, or the adopted person.

19 (2) The new certificate of birth for a person born in the
20 State of Nebraska shall be on the form in use at the time of its
21 preparation and shall include the following items in addition to
22 such other information as may be necessary to complete the form:

23 (a) The adoptive name of the person;

24 (b) The names and personal particulars of the adoptive
25 parents;

1 (c) The date and place of birth as transcribed from the
2 original certificate;

3 (d) The name of the attendant, printed or typed;

4 (e) The same birth number as was assigned to the original
5 certificate; and

6 (f) The original filing date.

7 The data necessary to locate the existing certificate
8 and the data necessary to complete the new certificate shall be
9 submitted to the ~~Department of Health and Human Services Finance~~
10 ~~and Support.~~ department.

11 (3) When an adoptive certificate of birth is established,
12 the actual place of birth and date of birth shall be shown.
13 It shall be substituted for the original certificate of birth.
14 Thereafter, the original certificate and the evidence of adoption
15 shall not be subject to inspection except (a) upon order of a
16 court of competent jurisdiction, (b) as provided in sections 43-138
17 to 43-140, (c) as provided in sections 43-146.11 to 43-146.13,
18 or (d) as provided by rules and regulations of the ~~Department of~~
19 ~~Health and Human Services Finance and Support.~~ department. Upon
20 receipt of notice that an adoption has been set aside, the original
21 certificate of birth shall be restored to its place in the files
22 and the new certificate and evidence shall not be subject to
23 inspection except upon order of a court of competent jurisdiction.

24 (4) Whenever a new certificate of birth is established by
25 the ~~Department of Health and Human Services Finance and Support,~~

1 department, all copies of the original certificate of birth in the
2 custody of any custodian of permanent local records in this state
3 shall be sealed from inspection.

4 (5) ~~The Department of Health and Human Services Finance~~
5 ~~and Support~~ department may adopt and promulgate such rules and
6 regulations as are necessary and proper to assist it in the
7 implementation and administration of section 71-626 and this
8 section.

9 Sec. 431. Section 71-627, Revised Statutes Cumulative
10 Supplement, 2006, is amended to read:

11 71-627 (1) The certificate of birth of adopted children
12 shall be filed as other certificates of birth. The department shall
13 charge and collect the same fee as prescribed in subsection (1)
14 of section 71-612 for each certificate filed. All such fees shall
15 be remitted to the State Treasurer for credit to the ~~Department~~
16 ~~of Health and Human Services Finance and Support~~ Health and Human
17 Services Cash Fund. The department shall charge and collect an
18 additional fee of one dollar for each certificate issued. All
19 amounts collected from such additional fee shall be remitted to the
20 State Treasurer for credit to the Nebraska Child Abuse Prevention
21 Fund.

22 (2) Upon request and payment of the fees required by
23 section 71-612, a certified copy of an adoptive birth certificate
24 shall be furnished by the ~~Director of Finance and Support.~~
25 department. All fees for a certified copy shall be handled as

1 provided in section 71-612.

2 Sec. 432. Section 71-627.01, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 71-627.01 Whenever a decree of adoption is entered in
5 any court of competent jurisdiction in the State of Nebraska, as
6 to a child born in another state, the judge of the court in
7 which such decree is entered shall, on forms to be furnished by
8 the ~~Director of Finance and Support~~, department, notify the agency
9 having authority to issue adoptive birth certificates in the state
10 in which such child was born for the purpose of securing the
11 issuance of an adoptive birth certificate from the state of birth.

12 Sec. 433. Section 71-627.02, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 71-627.02 Upon receipt of a Report of Adoption or a
15 certified copy of a decree of adoption issued by any court
16 of competent jurisdiction in the State of Nebraska as to any
17 foreign-born person, the ~~Director of Finance and Support~~ department
18 shall prepare a birth certificate in the new name of the adopted
19 person. The birth certificate shall show specifically (1) the new
20 name of the adopted person, (2) the date of birth and sex of the
21 adopted person, (3) statistical information concerning the adoptive
22 parents in place of the natural parents, and (4) the true or
23 probable place of birth including the city or town and country.

24 Sec. 434. Section 71-628, Revised Statutes Cumulative
25 Supplement, 2006, is amended to read:

1 71-628 In case of the legitimation of any child born
2 in Nebraska by the subsequent marriage of such child's parents as
3 provided in section 43-1406, the department, upon the receipt of a
4 certified copy of the marriage certificate or abstract of marriage
5 of the parents and a statement of the parents acknowledging
6 paternity, shall prepare a new certificate of birth in the new
7 name of the child so legitimated, in substantially the same form as
8 that used for other live births. The department shall charge and
9 collect the same fee as prescribed in subsection (1) of section
10 71-612. All such fees shall be remitted to the State Treasurer
11 for credit to the ~~Department of Health and Human Services Finance~~
12 ~~and Support~~ Health and Human Services Cash Fund. The department
13 shall charge and collect an additional fee of one dollar for each
14 new certificate of birth filed. All amounts collected from such
15 additional fee shall be remitted to the State Treasurer for credit
16 to the Nebraska Child Abuse Prevention Fund.

17 Sec. 435. Section 71-629, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 71-629 A certified copy or copies of the certificate
20 of birth of any such legitimized child may be furnished upon
21 request by the ~~Director of Finance and Support,~~ department, but the
22 evidence upon which the new certificate is made and the original
23 certificate of birth shall be available for inspection only upon
24 the order of a court of competent jurisdiction.

25 Sec. 436. Section 71-630, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 71-630 (1) A birth or death certificate filed with
3 ~~the Department of Health and Human Services Finance and Support~~
4 department may be amended only in accordance with this section
5 and sections 71-635 to 71-644 and rules and regulations adopted
6 pursuant thereto by the department as necessary and proper to
7 protect the integrity and accuracy of records of vital statistics.

8 (2) A certificate that is amended under this section
9 shall have a properly dated reference placed on the face of the
10 certificate and state that it is amended, except as provided in
11 subsection (4) of this section.

12 (3) Upon receipt of a certified copy of a court order
13 changing the name of a person born in this state and upon
14 request of such person or his or her parent, guardian, or legal
15 representative, ~~the Department of Health and Human Services Finance~~
16 ~~and Support~~ department shall amend the certificate of birth to
17 reflect the change in name.

18 (4) Upon request and receipt of a sworn acknowledgment of
19 paternity of a child born out of wedlock signed by both parents,
20 ~~the Department of Health and Human Services Finance and Support~~
21 department shall amend the certificate of birth to show such
22 paternity if paternity is not shown on the birth certificate. Such
23 certificate shall not be marked amended.

24 Sec. 437. Section 71-634, Revised Statutes Cumulative
25 Supplement, 2006, is amended to read:

1 71-634 The department shall charge and collect the same
2 fee as prescribed in subsection (1) of section 71-612 for each
3 proceeding under sections 71-630 and 71-635 to 71-644. All fees so
4 collected shall be remitted to the State Treasurer for credit to
5 the ~~Department of Health and Human Services Finance and Support~~
6 Health and Human Services Cash Fund. The department shall collect
7 the fees required by section 71-612 for a certified copy of the
8 amended record. All fees for a certified copy shall be handled as
9 provided in section 71-612.

10 If a certificate is amended pursuant to sections 71-630
11 and 71-635 to 71-644 as the result of an error committed by the
12 department in the issuance of such certificate, the department may
13 waive any fee required under this section.

14 Sec. 438. Section 71-636, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 71-636 Amendment of obvious errors, of transposition of
17 letters in words of common knowledge, or of omissions on birth
18 certificates may be made by the ~~Department of Health and Human~~
19 ~~Services Finance and Support~~ department within the first year after
20 the date of the birth, either upon its own observation, upon query,
21 or upon request of a person with a direct and tangible interest in
22 the certificate. When such additions or minor amendments are made
23 by the department, a notation as to the source of the information
24 together with the date the change was made and the initials of the
25 authorized agent making the change shall be made on the reverse

1 side of the certificate in such a way as not to become a part of
2 the certificate. The certificate shall not be marked amended.

3 Sec. 439. Section 71-639, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 71-639 The ~~Department of Health and Human Services~~
6 ~~Finance and Support~~ department shall evaluate all evidence
7 submitted for amendments to vital records and when it finds reason
8 to question its validity or adequacy it may reject the amendment
9 and shall advise the applicant of the reasons for this action.

10 Sec. 440. Section 71-640.02, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 71-640.02 The ~~Department of Health and Human Services~~
13 ~~Finance and Support~~ department shall enter on the birth certificate
14 of any child born out of wedlock the name of the father of the
15 child upon receipt of (1) a certified copy of a court order showing
16 that paternity has been established or a statement in writing by
17 the father that he is the father of the child and (2) the written
18 request of (a) the parent having legal custody of the child or
19 (b) the guardian or agency having legal custody of the child. The
20 surname of the child shall be determined in accordance with section
21 71-640.03.

22 Sec. 441. Section 71-640.03, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 71-640.03 (1) In any case in which paternity of a child
25 is determined by a court of competent jurisdiction, the surname of

1 the child may be entered on the record the same as the surname of
2 the father.

3 (2) The surname of the child shall be the parents'
4 prerogative, except that the ~~Department of Health and Human~~
5 ~~Services Finance and Support~~ department shall not accept a birth
6 certificate with a child's surname that implies any obscene or
7 objectionable words or abbreviations.

8 Sec. 442. Section 71-641, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 71-641 (1) Until the registrant's seventh birthday, the
11 given name, for a child whose birth was recorded without a given
12 name, may be added based upon an affidavit signed by (a) both
13 parents, (b) the mother in the case of a child born out of wedlock
14 or the death or incapacity of the father, (c) the father in the
15 case of the death or incapacity of the mother, or (d) the guardian
16 or agency having legal custody of the registrant in the case of the
17 death or incapacity of both parents. A certificate amended in this
18 manner prior to the first birthday shall not be marked amended.

19 (2) After the seventh birthday, one or more items of
20 documentary evidence must be submitted to substantiate the name
21 being added.

22 (3) For a legal change of name, a certified copy of the
23 court order changing the name must be presented to the ~~Department~~
24 ~~of Health and Human Services Finance and Support~~ department along
25 with data to identify the birth certificate and a request that it

1 be amended to show the new name.

2 Sec. 443. Section 71-644, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 71-644 A certificate or report that is amended under
5 sections 71-635 to 71-644 shall indicate that it has been amended
6 as provided by rules and regulations of the ~~Department of Health
7 and Human Services Finance and Support.~~ department. A record
8 shall be maintained which identifies the evidence upon which the
9 amendment was based, the date of the amendment, and the identity of
10 the person making the amendment.

11 Sec. 444. Section 71-645, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 71-645 It is hereby found that the occurrence of
14 malformation or inherited disease at the time of birth is a
15 tragedy for the child, the family, and the community, and a matter
16 of vital concern to the public health. In order to provide for
17 the protection and promotion of the health of the citizens of
18 the state, the ~~Department of Health and Human Services Regulation
19 and Licensure~~ department shall have the responsibility for the
20 implementation and development of scientific investigations and
21 research concerning the causes, methods of prevention, treatment,
22 and cure of birth defects.

23 Sec. 445. Section 71-646, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 71-646 The ~~Director of Regulation and Licensure~~

1 department shall establish within the Department of Health and
2 ~~Human Services Regulation and Licensure~~ a birth defects registry
3 for the purpose of initiating and conducting investigations of the
4 causes, mortality, methods of prevention, treatment, and cure of
5 birth defects and allied diseases. Any information released from
6 the registry shall be disclosed as Class I, Class II, Class III, or
7 Class IV data as provided in sections 81-663 to 81-675.

8 Sec. 446. Section 71-647, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 71-647 (1) The ~~Department of Health and Human Services~~
11 ~~Regulation and Licensure~~ department shall have and may exercise the
12 following powers and duties:

13 (a) To conduct scientific investigations and surveys of
14 the causes, mortality, methods of prevention, treatment, and cure
15 of birth defects;

16 (b) To publish at least annually the results of such
17 investigations and surveys for the benefit of the public health
18 and to annually collate such publications for distribution to
19 scientific organizations and qualified scientists and physicians;

20 (c) To carry on programs of professional education and
21 training of medical students, physicians, nurses, scientists, and
22 technicians in the causes, methods of prevention, treatment, and
23 cure of birth defects;

24 (d) To conduct and support clinical counseling services
25 in medical facilities; and

1 (e) To secure necessary scientific, educational,
2 training, technical, administrative, and operational personnel and
3 services including laboratory facilities by contract or otherwise
4 from public or private entities in order to carry out the purposes
5 of this section.

6 (2) Any information released from the birth defects
7 registry shall be disclosed as Class I, Class II, Class III, or
8 Class IV data as provided in sections 81-663 to 81-675.

9 Sec. 447. Section 71-648, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 71-648 Birth defects and allied diseases shall be
12 reported by physicians, hospitals, and persons in attendance at
13 births in the manner and on such forms as may be prescribed by the
14 ~~Department of Health and Human Services Regulation and Licensure-~~
15 department. Such reports may be included in the monthly report
16 to the department on births as required by section 71-610. Such
17 reports shall be forwarded to the department no later than the
18 tenth day of the succeeding month after the birth. When objection
19 is made by either parent to furnishing information relating to
20 the medical and health condition of a live-born child because of
21 conflict with religion, such information shall not be required to
22 be entered as provided in this section.

23 Sec. 448. Section 71-701, Revised Statutes Cumulative
24 Supplement, 2006, is amended to read:

25 71-701 The Women's Health Initiative of Nebraska is

1 created within the Department of Health and Human Services,
2 ~~Regulation and Licensure~~. The Women's Health Initiative of Nebraska
3 shall strive to improve the health of women in Nebraska by
4 fostering the development of a comprehensive system of coordinated
5 services, policy development, advocacy, and education. The
6 initiative shall:

7 (1) Serve as a clearinghouse for information regarding
8 women's health issues, including pregnancy, breast and cervical
9 cancers, acquired immunodeficiency syndrome, osteoporosis,
10 menopause, heart disease, smoking, and mental health issues as well
11 as other issues that impact women's health, including substance
12 abuse, domestic violence, teenage pregnancy, sexual assault,
13 adequacy of health insurance, access to primary and preventative
14 health care, and rural and ethnic disparities in health outcomes;

15 (2) Perform strategic planning within the Department of
16 Health and Human Services, ~~the Department of Health and Human~~
17 ~~Services Regulation and Licensure~~, and the Department of Health and
18 ~~Human Services Finance and Support~~ to develop department-wide plans
19 for implementation of goals and objectives for women's health;

20 (3) Conduct department-wide policy analysis on specific
21 issues related to women's health;

22 (4) Coordinate pilot projects and planning projects
23 funded by the state that are related to women's health;

24 (5) Communicate and disseminate information and perform a
25 liaison function within the ~~departments~~ department and to providers

1 of health, social, educational, and support services to women;

2 (6) Provide technical assistance to communities, other
3 public entities, and private entities for initiatives in women's
4 health, including, but not limited to, community health assessment
5 and strategic planning and identification of sources of funding and
6 assistance with writing of grants; and

7 (7) Encourage innovative responses by public and private
8 entities that are attempting to address women's health issues.

9 Sec. 449. Section 71-702, Revised Statutes Cumulative
10 Supplement, 2006, is amended to read:

11 71-702 (1) The Women's Health Initiative Advisory
12 Council is created and shall consist of not more than thirty
13 members, at least three-fourths of whom are women. At least
14 one member shall be appointed from the following disciplines:

15 (a) An obstetrician/gynecologist; (b) a nurse practitioner or
16 physician's assistant from a rural community; (c) a geriatrics
17 physician or nurse; (d) a pediatrician; (e) a community public
18 health representative from each congressional district; (f) a
19 health educator; (g) an insurance industry representative; (h) a
20 mental health professional; (i) a representative from a statewide
21 health volunteer agency; (j) a private health care industry
22 representative; (k) an epidemiologist or a health statistician; (l)
23 a foundation representative; and (m) a woman who is a health care
24 consumer from each of the following age categories: Eighteen to
25 thirty; thirty-one to forty; forty-one to sixty-five; and sixty-six

1 and older. The membership shall also include a representative of
2 the University of Nebraska Medical Center, a representative from
3 Creighton University Medical Center, the executive director of the
4 Nebraska Commission on the Status of Women or his or her designee,
5 the chief medical officer if one is appointed under section
6 ~~81-3201, 6~~ of this act, and the Title V Director of the Department
7 of Health and Human Services.

8 (2) The Governor shall appoint advisory council members
9 and shall consider and attempt to balance representation based
10 on political party affiliation, race, and different geographical
11 areas of Nebraska when making appointments. The Governor shall
12 appoint the first chairperson and vice-chairperson of the advisory
13 council. There shall be two ex officio, nonvoting members from the
14 Legislature, one of which shall be the chairperson of the Health
15 and Human Services Committee.

16 (3) The terms of the initial members shall be as follows:
17 One-third shall serve for one-year terms, one-third shall serve
18 for two-year terms, and one-third shall serve for three-year terms
19 including the members designated chairperson and vice-chairperson.
20 Thereafter members shall serve for three-year terms. Members may
21 not serve more than two consecutive three-year terms.

22 (4) The Governor shall make the appointments within three
23 months after July 13, 2000.

24 (5) The advisory council shall meet quarterly the first
25 two years. After this time the advisory council shall meet at least

1 every six months or upon the call of the chairperson or a majority
2 of the voting members. A quorum shall be one-half of the voting
3 members.

4 (6) The members of the advisory council shall be
5 reimbursed for their actual and necessary expenses as provided
6 in sections 81-1174 to 81-1177 and pursuant to policies of the
7 advisory council. Funds for reimbursement for expenses shall be
8 from the Women's Health Initiative Fund.

9 (7) The advisory council shall advise the Women's Health
10 Initiative of Nebraska in carrying out its duties under section
11 71-701 and may solicit private funds to support the initiative.

12 (8) The advisory council terminates on December 31, 2009.
13 Sec. 450. Section 71-703, Revised Statutes Cumulative
14 Supplement, 2006, is amended to read:

15 71-703 ~~The Director of Regulation and Licensure~~
16 Department of Health and Human Services will determine how the
17 ~~Department of Health and Human Services Regulation and Licensure~~
18 department will provide personnel to carry out the Women's Health
19 Initiative of Nebraska. ~~The Director of Regulation and Licensure~~
20 department shall employ personnel, including an executive director,
21 necessary to carry out the powers and duties of the initiative.
22 The Governor's Policy Research Office, ~~the Department of Health~~
23 ~~and Human Services Finance and Support,~~ ~~the Department of Health~~
24 ~~and Human Services Regulation and Licensure,~~ ~~the Department of~~
25 ~~Health and Human Services,~~ department, and other state agencies as

1 necessary may provide administrative and technical support under
2 the direct supervision of the Governor. The initiative may secure
3 cooperation and assistance of other appropriate government and
4 private-sector entities for women's health issues, programs, and
5 educational materials.

6 Sec. 451. Section 71-705, Revised Statutes Cumulative
7 Supplement, 2006, is amended to read:

8 71-705 The Women's Health Initiative Fund is created.
9 The fund shall consist of money received as gifts or grants or
10 collected as fees or charges from any federal, state, public,
11 or private source. Money in the fund shall be used to reimburse
12 the expenses of the Women's Health Initiative of Nebraska and
13 expenses of members of the Women's Health Initiative Advisory
14 Council. Nothing in sections 71-701 to 71-707 requires the Women's
15 Health Initiative of Nebraska to accept any private donations that
16 are not in keeping with the goals and objectives set forth by
17 the initiative and the Department of Health and Human Services.
18 ~~Regulation and Licensure.~~ No funds expended or received by or
19 through the initiative shall pay for abortion referral or abortion
20 services. 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. 452. Section 71-706, Revised Statutes Cumulative
24 Supplement, 2006, is amended to read:

25 71-706 The Department of Health and Human Services

1 ~~Regulation and Licensure~~ shall have all powers necessary to
2 implement the purposes and intent of sections 71-701 to 71-707,
3 including applying for, receiving, and administering federal and
4 other public and private funds credited to the Women's Health
5 Initiative Fund. Any funds obtained for the Women's Health
6 Initiative of Nebraska shall be remitted to the State Treasurer for
7 credit to the Women's Health Initiative Fund.

8 Sec. 453. Section 71-707, Revised Statutes Cumulative
9 Supplement, 2006, is amended to read:

10 71-707 The Department of Health and Human Services
11 ~~Regulation and Licensure~~ shall issue an annual report to the
12 Governor and the Legislature on September 1 for the preceding
13 fiscal year's activities of the Women's Health Initiative
14 of Nebraska. The report shall include progress reports on
15 any programs, activities, or educational promotions that were
16 undertaken by the initiative. The report shall also include a
17 status report on women's health in Nebraska and any results
18 achieved by the initiative.

19 Sec. 454. Section 71-804, Revised Statutes Cumulative
20 Supplement, 2006, is amended to read:

21 71-804 For purposes of the Nebraska Behavioral Health
22 Services Act:

23 ~~(1) Administrator means the administrator of the~~
24 ~~division;~~

25 ~~(2)~~ (1) Behavioral health disorder means mental illness

1 or alcoholism, drug abuse, problem gambling, or other addictive
2 disorder;

3 ~~(3)~~ (2) Behavioral health region means a behavioral
4 health region established in section 71-807;

5 ~~(4)~~ (3) Behavioral health services means services,
6 including, but not limited to, consumer-provided services, support
7 services, inpatient and outpatient services, and residential and
8 nonresidential services, provided for the prevention, diagnosis,
9 and treatment of behavioral health disorders and the rehabilitation
10 and recovery of persons with such disorders;

11 ~~(5)~~ (4) Community-based behavioral health services or
12 community-based services means behavioral health services that are
13 not provided at a regional center;

14 ~~(6)~~ (5) Department means the Department of Health and
15 Human Services;

16 ~~(7)~~ (6) Director means the Director of Behavioral Health;
17 ~~Health and Human Services;~~

18 ~~(8)~~ (7) Division means the Division of Behavioral Health
19 Services of the department;

20 ~~(9)~~ (8) Medical assistance program means the program
21 established pursuant to the Medical Assistance Act;

22 ~~(10)~~ Nebraska Health and Human Services System means the
23 Department of Health and Human Services, the Department of Health
24 and Human Services Regulation and Licensure, and the Department of
25 Health and Human Services Finance and Support;

1 ~~(11)~~ Policy Cabinet means the Policy Cabinet of the
2 Nebraska Health and Human Services System established in section
3 81-3009;

4 ~~(12)~~ (9) Public behavioral health system means the
5 statewide array of behavioral health services for children
6 and adults provided by the public sector or private sector
7 and supported in whole or in part with funding received and
8 administered by the Nebraska Health and Human Services System,
9 department, including behavioral health services provided under the
10 medical assistance program;

11 ~~(13)~~ (10) Regional center means one of the state
12 hospitals for the mentally ill designated in section 83-305;
13 and

14 ~~(14)~~ (11) Regional center behavioral health services or
15 regional center services means behavioral health services provided
16 at a regional center.

17 Sec. 455. Section 71-805, Revised Statutes Cumulative
18 Supplement, 2006, is amended to read:

19 71-805 ~~(1)~~ The Division of Behavioral Health Services is
20 established within the department. The division shall establish and
21 maintain a separate budget and shall separately account for all
22 revenue and expenditures.

23 ~~(2)~~ The administrator of the division shall be appointed
24 by the Governor and confirmed by a majority of the members of
25 the Legislature. The administrator shall report to the director

1 and shall be responsible for the administration and management
2 of the division. (1) The director shall appoint a chief clinical
3 officer and a program administrator for consumer affairs for the
4 division. The chief clinical officer shall be a board-certified
5 psychiatrist and shall serve as the medical director for the
6 division and all facilities and programs operated by the division.
7 The program administrator for consumer affairs shall be a consumer
8 or former consumer of behavioral health services and shall
9 have specialized knowledge, experience, or expertise relating to
10 consumer-directed behavioral health services, behavioral health
11 delivery systems, and advocacy on behalf of consumers of behavioral
12 health services and their families. The chief clinical officer
13 and the program administrator for consumer affairs shall report to
14 the ~~administrator of the division~~ director. The Governor and the
15 director shall conduct a search for qualified candidates and shall
16 solicit and consider recommendations from interested parties for
17 such positions prior to making such appointments.

18 ~~(3)~~ (2) The ~~administrator of the division~~ director shall
19 establish and maintain an office of consumer affairs within the
20 division. The program administrator for consumer affairs shall be
21 responsible for the administration and management of the office.

22 Sec. 456. Section 71-806, Revised Statutes Cumulative
23 Supplement, 2006, is amended to read:

24 71-806 (1) The division shall act as the chief behavioral
25 health authority for the State of Nebraska and shall direct

1 the administration and coordination of the public behavioral
2 health system, including, but not limited to: (a) Administration
3 and management of the division, regional centers, and any
4 other facilities and programs operated by the division; (b)
5 integration and coordination of the public behavioral health
6 system; (c) comprehensive statewide planning for the provision of
7 an appropriate array of community-based behavioral health services
8 and continuum of care; (d) coordination and oversight of regional
9 behavioral health authorities, including approval of regional
10 budgets and audits of regional behavioral health authorities; (e)
11 development and management of data and information systems; (f)
12 prioritization and approval of all expenditures of funds received
13 and administered by the division, including the establishment of
14 rates to be paid and reimbursement methodologies for behavioral
15 health services and fees to be paid by consumers of such services;
16 (g) cooperation with the ~~Department of Health and Human Services~~
17 ~~Regulation and Licensure~~ department in the licensure and regulation
18 of behavioral health professionals, programs, and facilities; (h)
19 cooperation with the ~~Department of Health and Human Services~~
20 ~~Finance and Support~~ department in the provision of behavioral
21 health services under the medical assistance program; (i) audits
22 of behavioral health programs and services; and (j) promotion of
23 activities in research and education to improve the quality of
24 behavioral health services, recruitment and retention of behavioral
25 health professionals, and access to behavioral health programs and

1 services.

2 (2) The department shall adopt and promulgate rules and
3 regulations to carry out the Nebraska Behavioral Health Services
4 Act.

5 Sec. 457. Section 71-809, Revised Statutes Cumulative
6 Supplement, 2006, is amended to read:

7 71-809 (1) Each regional behavioral health authority
8 shall be responsible for the development and coordination of
9 publicly funded behavioral health services within the behavioral
10 health region pursuant to rules and regulations adopted and
11 promulgated by the department, including, but not limited to,
12 (a) administration and management of the regional behavioral
13 health authority, (b) integration and coordination of the public
14 behavioral health system within the behavioral health region, (c)
15 comprehensive planning for the provision of an appropriate array
16 of community-based behavioral health services and continuum of
17 care for the region, (d) submission for approval by the division
18 of an annual budget and a proposed plan for the funding and
19 administration of publicly funded behavioral health services within
20 the region, (e) submission of annual reports and other reports as
21 required by the division, (f) initiation and oversight of contracts
22 for the provision of publicly funded behavioral health services,
23 and (g) coordination with the division in conducting audits of
24 publicly funded behavioral health programs and services.

25 (2) Except for services being provided by a regional

1 behavioral health authority on July 1, 2004, under applicable state
2 law in effect prior to such date, no regional behavioral health
3 authority shall provide behavioral health services funded in whole
4 or in part with revenue received and administered by the division
5 under the Nebraska Behavioral Health Services Act unless:

6 (a) There has been a public competitive bidding process
7 for such services;

8 (b) There are no qualified and willing providers to
9 provide such services; and

10 (c) The regional behavioral health authority receives
11 written authorization from the ~~administrator~~ director and enters
12 into a contract with the division to provide such services.

13 (3) Each regional behavioral health authority shall
14 comply with all applicable rules and regulations of the department
15 relating to the provision of behavioral health services by such
16 authority, including, but not limited to, rules and regulations
17 which (a) establish definitions of conflicts of interest for
18 regional behavioral health authorities and procedures in the event
19 such conflicts arise, (b) establish uniform and equitable public
20 bidding procedures for such services, and (c) require each regional
21 behavioral health authority to establish and maintain a separate
22 budget and separately account for all revenue and expenditures for
23 the provision of such services.

24 Sec. 458. Section 71-811, Revised Statutes Cumulative
25 Supplement, 2006, is amended to read:

1 71-811 The division shall coordinate the integration
2 and management of all funds appropriated by the Legislature or
3 otherwise received by the ~~Nebraska Health and Human Services System~~
4 department from any other public or private source ~~and designated~~
5 ~~by the Policy Cabinet~~ for the provision of behavioral health
6 services to ensure the statewide availability of an appropriate
7 array of community-based behavioral health services and continuum
8 of care and the allocation of such funds to support the consumer
9 and his or her plan of treatment.

10 Sec. 459. Section 71-812, Revised Statutes Cumulative
11 Supplement, 2006, is amended to read:

12 71-812 (1) The Behavioral Health Services Fund is
13 created. The fund shall be administered by the division and
14 shall contain cash funds appropriated by the Legislature or
15 otherwise received by the ~~Nebraska Health and Human Services System~~
16 department for the provision of behavioral health services from any
17 other public or private source and directed by ~~the Policy Cabinet~~
18 ~~or~~ the Legislature for credit to the fund.

19 (2) The fund shall be used to encourage and facilitate
20 the statewide development and provision of community-based
21 behavioral health services, including, but not limited to, (a) the
22 provision of grants, loans, and other assistance for such purpose
23 and (b) reimbursement to providers of such services.

24 (3)(a) Money transferred to the fund under section
25 76-903 shall be used for housing-related assistance for very

1 low-income adults with serious mental illness, except that if
2 the division determines that all housing-related assistance
3 obligations under this subsection have been fully satisfied,
4 the division may distribute any excess, up to twenty percent
5 of such money, to regional behavioral health authorities for
6 acquisition or rehabilitation of housing to assist such persons.
7 The division shall manage and distribute such funds based upon
8 a formula established by the division, in consultation with
9 regional behavioral health authorities and the ~~Department of Health~~
10 ~~and Human Services Finance and Support~~, department, in a manner
11 consistent with and reasonably calculated to promote the purposes
12 of the public behavioral health system enumerated in section
13 71-803. The division shall contract with each regional behavioral
14 health authority for the provision of such assistance. Each
15 regional behavioral health authority may contract with qualifying
16 public, private, or nonprofit entities for the provision of such
17 assistance.

18 (b) For purposes of this subsection:

19 (i) Adult with serious mental illness means a person
20 eighteen years of age or older who has, or at any time during
21 the immediately preceding twelve months has had, a diagnosable
22 mental, behavioral, or emotional disorder of sufficient duration
23 to meet diagnostic criteria identified in the most recent edition
24 of the Diagnostic and Statistical Manual of Mental Disorders and
25 which has resulted in functional impairment that substantially

1 interferes with or limits one or more major life functions. Serious
2 mental illness does not include DSM V codes, substance abuse
3 disorders, or developmental disabilities unless such conditions
4 exist concurrently with a diagnosable serious mental illness;

5 (ii) Housing-related assistance includes rental payments,
6 utility payments, security and utility deposits, and other related
7 costs and payments; and

8 (iii) Very low-income means a household income of fifty
9 percent or less of the applicable median family income estimate as
10 established by the United States Department of Housing and Urban
11 Development.

12 (4) 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. 460. Section 71-814, Revised Statutes Cumulative
17 Supplement, 2006, is amended to read:

18 71-814 (1) The State Advisory Committee on Mental Health
19 Services is created. Members of the committee shall have a
20 demonstrated interest and commitment and specialized knowledge,
21 experience, or expertise relating to the provision of mental health
22 services in the State of Nebraska. The committee shall consist of
23 twenty-three members appointed by the Governor as follows: (a) One
24 regional governing board member, (b) one regional administrator,
25 (c) twelve consumers of behavioral health services or their family

1 members, (d) two providers of behavioral health services, (e) two
2 representatives from the State Department of Education, including
3 one representative from the Division of Vocational Rehabilitation
4 of the State Department of Education, (f) three representatives
5 from the ~~Nebraska Department of Health and Human Services System~~
6 representing mental health, social services, and medicaid, (g)
7 one representative from the Nebraska Commission on Law Enforcement
8 and Criminal Justice, and (h) one representative from the Housing
9 Office of the Community and Rural Development Division of the
10 Department of Economic Development.

11 (2) The committee shall be responsible to the division
12 and shall (a) serve as the state's mental health planning council
13 as required by Public Law 102-321, (b) conduct regular meetings,
14 (c) provide advice and assistance to the division relating to
15 the provision of mental health services in the State of Nebraska,
16 including, but not limited to, the development, implementation,
17 provision, and funding of organized peer support services, (d)
18 promote the interests of consumers and their families, including,
19 but not limited to, their inclusion and involvement in all aspects
20 of services design, planning, implementation, provision, education,
21 evaluation, and research, (e) provide reports as requested by the
22 division, and (f) engage in such other activities as directed or
23 authorized by the division.

24 Sec. 461. Section 71-916, Revised Statutes Cumulative
25 Supplement, 2006, is amended to read:

1 71-916 (1) The Department of Health and Human Services
2 shall provide appropriate training to members and alternate members
3 of each mental health board and shall consult with consumer and
4 family advocacy groups in the development and presentation of such
5 training. Members and alternate members shall be reimbursed for any
6 actual and necessary expenses incurred in attending such training
7 in a manner and amount determined by the presiding judge of the
8 district court. No person shall remain on a mental health board
9 or be eligible for appointment or reappointment as a member or
10 alternate member of such board unless he or she has attended
11 and satisfactorily completed such training pursuant to rules and
12 regulations adopted and promulgated by the department.

13 (2) The ~~Director of Health and Human Services~~ department
14 shall provide the mental health boards with blanks for warrants,
15 certificates, and other forms and printed copies of applicable
16 rules and regulations of the department that will enable the boards
17 to carry out their powers and duties under the Nebraska Mental
18 Health Commitment Act or the Sex Offender Commitment Act.

19 Sec. 462. Section 71-919, Revised Statutes Cumulative
20 Supplement, 2006, is amended to read:

21 71-919 (1) A law enforcement officer who has probable
22 cause to believe that a person is mentally ill and dangerous or
23 a dangerous sex offender and that the harm described in section
24 71-908 or subdivision (1) of section 83-174.01 is likely to occur
25 before mental health board proceedings under the Nebraska Mental

1 Health Commitment Act or the Sex Offender Commitment Act may be
2 initiated to obtain custody of the person may take such person into
3 emergency protective custody, cause him or her to be taken into
4 emergency protective custody, or continue his or her custody if
5 he or she is already in custody. Such person shall be admitted to
6 an appropriate and available medical facility, jail, or Department
7 of Correctional Services facility as provided in subsection (2) of
8 this section. Each county shall make arrangements with appropriate
9 facilities inside or outside the county for such purpose and shall
10 pay the cost of the emergency protective custody of persons from
11 such county in such facilities. A mental health professional who
12 has probable cause to believe that a person is mentally ill and
13 dangerous or a dangerous sex offender may cause such person to be
14 taken into custody and shall have a limited privilege to hold such
15 person until a law enforcement officer or other authorized person
16 arrives to take custody of such person.

17 (2) (a) A person taken into emergency protective custody
18 under this section shall be admitted to an appropriate and
19 available medical facility unless such person has a prior
20 conviction for a sex offense listed in section 29-4003.

21 (b) A person taken into emergency protective custody
22 under this section who has a prior conviction for a sex offense
23 listed in section 29-4003 shall be admitted to a jail or Department
24 of Correctional Services facility unless a medical or psychiatric
25 emergency exists for which treatment at a medical facility is

1 required. The person in emergency protective custody shall remain
2 at the medical facility until the medical or psychiatric emergency
3 has passed and it is safe to transport such person, at which time
4 the person shall be transferred to an available jail or Department
5 of Correctional Services facility.

6 (3) Upon admission to a facility of a person taken into
7 emergency protective custody by a law enforcement officer under
8 this section, such officer shall execute a written certificate
9 prescribed and provided by the ~~Director~~ Department of Health and
10 Human Services. The certificate shall allege the officer's belief
11 that the person in custody is mentally ill and dangerous or a
12 dangerous sex offender and shall contain a summary of the person's
13 behavior supporting such allegations. A copy of such certificate
14 shall be immediately forwarded to the county attorney.

15 (4) The administrator of the facility shall have such
16 person evaluated by a mental health professional as soon as
17 reasonably possible but not later than thirty-six hours after
18 admission. The mental health professional shall not be the mental
19 health professional who causes such person to be taken into custody
20 under this section and shall not be a member or alternate member
21 of the mental health board that will preside over any hearing
22 under the Nebraska Mental Health Commitment Act or the Sex Offender
23 Commitment Act with respect to such person. A person shall be
24 released from emergency protective custody after completion of such
25 evaluation unless the mental health professional determines, in

1 his or her clinical opinion, that such person is mentally ill and
2 dangerous or a dangerous sex offender.

3 Sec. 463. 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
9 legal counsel, (c) the subject's guardian or conservator, if
10 any, (d) the mental health board having jurisdiction over the
11 subject, (e) persons authorized by an order of a judge or court,
12 (f) persons authorized by written permission of the subject,
13 (g) agents or employees of the Department of Health and Human
14 Services ~~Regulation and Licensure~~ upon delivery of a subpoena
15 from the department in connection with a licensing or licensure
16 investigation by the department, (h) individuals authorized to
17 receive notice of the release of a sex offender pursuant to section
18 83-174, (i) the Nebraska State Patrol or the ~~Department of Health~~
19 ~~and Human Services~~ department pursuant to section 69-2409.01, or
20 (j) the Office of Parole Administration if the subject meets the
21 requirements for lifetime community supervision pursuant to section
22 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

1 the district court of the county where the mental health board
2 proceedings were held or of the county where the treatment facility
3 is located may order that the records not be made available to
4 the subject if, in the judgment of the court, the availability of
5 such records to the subject will adversely affect his or her mental
6 illness or personality disorder and the treatment thereof.

7 (3) When a subject is absent without authorization from
8 a treatment facility or program described in section 71-939 or
9 71-1223 and is considered to be dangerous to others, the subject's
10 name and description and a statement that the subject is believed
11 to be considered dangerous to others may be disclosed in order to
12 aid in the subject's apprehension and to warn the public of such
13 danger.

14 Sec. 464. Section 71-1001, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 71-1001 The heads of the anatomy departments of the
17 medical schools and colleges of this state, one professor of
18 anatomy appointed by the head of the anatomy department from each
19 medical school or college of this state, one professor of anatomy
20 appointed from each dental school or college of this state, and one
21 layperson appointed by the Department of Health and Human Services
22 ~~Regulation and Licensure~~ shall constitute the State Anatomical
23 Board of the State of Nebraska for the distribution, delivery, and
24 use of certain dead human bodies, described in section 71-1002,
25 to and among such schools, colleges, and persons as are entitled

1 thereto under the provisions of such section. The board shall have
2 power to establish rules and regulations for its government and
3 for the collection, storage, and distribution of dead human bodies
4 for anatomical purposes. It shall have power to appoint and remove
5 its officers and agents. It shall keep minutes of its meetings. It
6 shall cause a record to be kept of all of its transactions, of
7 bodies received and distributed by it, and of the school, college,
8 or person receiving every such body, and its records shall be open
9 at all times to the inspection of each member of the board and to
10 every county attorney within this state.

11 Sec. 465. Section 71-1301, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 71-1301 For purposes of sections 71-1301 to 71-1306 and
14 71-1326 to 71-1354, unless the context otherwise requires:

15 (1) Accredited school of mortuary science means a school
16 of the same type as those rated Class A by the Conference of
17 Funeral Service Examining Boards of the United States, Inc.,
18 approved by the department upon recommendation of the board;

19 (2) Apprentice means a person registered with the
20 department as an apprentice who is completing a twelve-month
21 apprenticeship under the supervision of a licensed funeral director
22 and embalmer practicing in the State of Nebraska. The licensed
23 funeral director and embalmer is responsible for all funeral
24 assists and embalmings completed by the apprentice;

25 (3) Board means the Board of Funeral Directing and

1 Embalming;

2 (4) Branch establishment means a place of business
3 situated at a specific street address or location which is a
4 subsidiary of a licensed funeral establishment, which contains a
5 casket display room, a viewing area, or an area for conducting
6 funeral services, or all of them, and where any portion of the
7 funeral service or arrangements for the disposition of a dead human
8 body is conducted;

9 (5) Casket means a receptacle for a dead human body and
10 does not include vaults, lawn crypts, mausoleums, or other outside
11 receptacles for caskets;

12 (6) Crematory authority means the legal entity subject to
13 licensure by the department to maintain and operate a crematory and
14 perform cremation;

15 (7) Department means the Division of Public Health of the
16 Department of Health and Human Services; ~~Regulation and Licensure;~~

17 (8) Embalming means the practice of preparing a dead
18 human body for burial or other final disposal by a licensed funeral
19 director and embalmer or an apprentice, requesting and obtaining
20 burial or removal permits, or assuming any of the other duties
21 incident to the practice of embalming. Any person who publicly
22 professes to be a funeral director and embalmer or an apprentice is
23 deemed to be practicing embalming. The performance of the following
24 acts is also deemed to be the practice of embalming: (a) The
25 disinfection and preservation of dead human beings, entire or in

1 part; and (b) the attempted disinfection and preservation thereof
2 by the use or application of chemical substances, fluids, or gases
3 ordinarily used, prepared, or intended for such purposes, either by
4 outward application of such chemical substances, fluids, or gases
5 on the body or by introducing them into the body, by vascular or
6 hypodermic injection, or by direct introduction into the organs or
7 cavities;

8 (9) Funeral directing means (a) counseling families or
9 next of kin in regard to the conduct of a funeral service for a
10 dead human body for burial, disposition, or cremation or directing
11 or supervising burial, disposition, or cremation of dead human
12 bodies, (b) providing for or maintaining a funeral establishment,
13 or (c) the act of representing oneself as or using in connection
14 with one's name the title of funeral director, mortician, or any
15 other title implying that he or she is engaged in the business of
16 funeral directing;

17 (10) Funeral establishment means a place of business
18 situated at a specific street address or location devoted to the
19 care and preparation of dead human bodies for burial, disposition,
20 or cremation or to conducting or arranging funeral services for
21 dead human bodies;

22 (11) Licensee means a person licensed by the department
23 as a funeral director and embalmer on or after January 1, 1994,
24 or a person licensed as a funeral director or embalmer prior to
25 January 1, 1994;

1 (12) Licensure examination means a national standardized
2 examination, the state jurisprudence examination, and the vital
3 statistic forms examination; and

4 (13) Supervision means the direct oversight or the easy
5 availability of the supervising funeral director and embalmer. The
6 first twenty-five funeral assists and embalmings shall be completed
7 under direct onsite supervision of the supervising funeral director
8 and embalmer.

9 Sec. 466. Section 71-1333.01, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 71-1333.01 (1) The department shall deny an application
12 for a license as a funeral establishment or branch establishment,
13 revoke or suspend a license, or refuse renewal of such a license on
14 any of the following grounds:

15 (a) Conviction of any crime involving moral turpitude;

16 (b) Obtaining a license as a funeral establishment or a
17 branch establishment by false representation or fraud;

18 (c) Operating a funeral establishment or branch
19 establishment without a manager responsible for the operations of
20 the establishment;

21 (d) A conviction of a violation of any of the provisions
22 of sections 71-147, 71-148, 71-1301 to 71-1306, and 71-1326 to
23 71-1354;

24 (e) Unprofessional conduct, which is hereby defined to
25 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

1 subpoenaed by either party and shall be allowed a fee at a rate
2 prescribed by the rules and regulations of the department.

3 (3) The proceeding shall be summary in its nature and
4 triable as an equity action. Affidavits may be received in evidence
5 in the discretion of the department. The department shall have the
6 power to administer oaths, to subpoena witnesses and compel their
7 attendance, and to issue subpoenas duces tecum and require the
8 production of books, accounts, and documents in the same manner
9 and to the same extent as the district courts of the state.
10 Depositions may be used by either party. Upon the completion of any
11 hearing, the ~~director~~ Director of Public Health may, through entry
12 of an order, exercise ~~in his or her discretion~~ any or all of the
13 following powers:

14 (a) Issue a censure against the manager;

15 (b) Place the manager on probation;

16 (c) Place a limitation or limitations on the license and
17 upon the right of the manager to operate a funeral establishment
18 or branch establishment to the extent, scope, or type of operation,
19 for such time, and under such conditions as the director finds
20 necessary and proper. The director shall consult with the board in
21 all instances prior to issuing an order of limitation;

22 (d) Impose a civil penalty not to exceed twenty thousand
23 dollars;

24 (e) Enter an order of suspension of the license;

25 (f) Enter an order of revocation of the license; or

1 (g) Dismiss the action.

2 (4) The manager of a funeral establishment or branch
3 establishment shall not operate such establishment after its
4 license is revoked or during the time for which it is suspended.
5 If a funeral establishment or branch establishment license is
6 suspended, the suspension shall be for a definite period of time
7 to be fixed by the ~~director~~ Director of Public Health. Such
8 license shall be automatically reinstated upon the expiration of
9 such period if the current renewal fees have been paid. If such
10 license is revoked, such revocation shall be permanent, except that
11 at any time after the expiration of two years application may be
12 made for reinstatement of any manager whose funeral establishment
13 or branch establishment license has been revoked. Such application
14 shall be addressed to the director but may not be received or filed
15 by him or her unless accompanied by a written recommendation of
16 reinstatement by the board.

17 (5) The amount of any civil penalty assessed under
18 this section shall be based on the severity of the violation.
19 If any violation is a repeated or continuing violation, each
20 violation or each day a violation continues shall constitute a
21 separate violation for the purpose of computing the applicable
22 civil penalty, if any. The department may adopt and promulgate the
23 necessary rules and regulations concerning notice and hearing of
24 such application. Any civil penalty assessed and unpaid under this
25 section shall constitute a debt to the State of Nebraska which

1 may be collected in the manner of a lien foreclosure or sued for
2 and recovered in a proper form of action in the name of the state
3 in the district court of the county in which the violator resides
4 or owns property. The department shall remit any collected civil
5 penalty to the State Treasurer, within thirty days after receipt,
6 for distribution in accordance with Article VII, section 5, of
7 the Constitution of Nebraska. The department shall within thirty
8 days from receipt remit any collected civil penalty to the State
9 Treasurer for credit to the permanent school fund.

10 Sec. 467. Section 71-1340, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 71-1340 A decedent, prior to his or her death, may direct
13 the preparation for the final disposition of his or her remains
14 by written instructions. If such instructions are in a will or
15 other written instrument, the decedent may direct that the whole
16 or any part of such remains be given to a teaching institution,
17 university, college, or legally licensed hospital, to the ~~Director~~
18 ~~of Regulation and Licensure,~~ Director of Public Health, or to or
19 for the use of any nonprofit blood bank, artery bank, eye bank,
20 or other therapeutic service operated by any agency approved by
21 the ~~Director of Regulation and Licensure~~ director under rules and
22 regulations established by the director. The person or persons
23 otherwise entitled to control the disposition of the remains under
24 this section shall faithfully carry out the directions of the
25 decedent.

1 If such instructions are contained in a will or other
2 written instrument, they shall be immediately carried out,
3 regardless of the validity of the will in other respects or of the
4 fact that the will may not be offered for or admitted to probate
5 until a later date.

6 This section shall be administered and construed to
7 the end that such expressed instructions of any person shall be
8 faithfully and promptly performed.

9 A funeral director and embalmer, physician, or cemetery
10 authority shall not be liable to any person or persons for
11 carrying out such instructions of the decedent, and any teaching
12 institution, university, college, or legally licensed hospital or
13 the ~~Director of Regulation and Licensure~~ Director of Public Health
14 shall not be liable to any person or persons for accepting the
15 remains of any deceased person under a will or other written
16 instrument as set forth in this section.

17 Sec. 468. Section 71-1341, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 71-1341 A written authorization for an autopsy given by
20 the survivor or survivors, as enumerated in section 71-1339, having
21 the right to control the disposition of remains may, subject to
22 section 23-1824 and when not inconsistent with any directions given
23 by the decedent pursuant to section 71-1340, include authorization
24 for the removal of any specifically named organ or organs for
25 therapeutic or scientific purposes. Pursuant to any such written

1 authorization, any structure or organ may be given to the ~~Director~~
2 ~~of Regulation and Licensure~~ Director of Public Health or to
3 any other therapeutic service operated by any nonprofit agency
4 approved by the ~~Director of Regulation and Licensure~~, director,
5 including, but not limited to, a teaching institution, university,
6 college, legally licensed hospital, nonprofit blood bank, nonprofit
7 artery bank, nonprofit eye bank, or nationally recognized nonprofit
8 hormone and pituitary program. The person or persons performing any
9 autopsy shall do so within a reasonable time and without delay and
10 shall not exceed the removal permission contained in such written
11 authorization, and the remains shall not be significantly altered
12 in external appearance nor shall any portion thereof be removed for
13 purposes other than those expressly permitted in this section.

14 Sec. 469. Section 71-1356, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 71-1356 For purposes of the Cremation of Human Remains
17 Act, unless the context otherwise requires:

18 (1) Alternative container means a container in which
19 human remains are placed in a cremation chamber for cremation;

20 (2) Authorizing agent means a person vested with the
21 right to control the disposition of human remains pursuant to
22 section 71-1339;

23 (3) Casket means a rigid container made of wood, metal,
24 or other similar material, ornamented and lined with fabric, which
25 is designed for the encasement of human remains;

1 (4) Cremated remains means the residue of human
2 remains recovered after cremation and the processing of such
3 remains by pulverization, leaving only bone fragments reduced to
4 unidentifiable dimensions, and the unrecoverable residue of any
5 foreign matter, such as eyeglasses, bridgework, or other similar
6 material, that was cremated with the human remains;

7 (5) Cremated remains receipt form means a form provided
8 by a crematory authority to an authorizing agent or his or her
9 representative that identifies cremated remains and the person
10 authorized to receive such remains;

11 (6) Cremation means the technical process that uses heat
12 and evaporation to reduce human remains to bone fragments;

13 (7) Cremation chamber means the enclosed space within
14 which a cremation takes place;

15 (8) Crematory means a building or portion of a building
16 which contains a cremation chamber and holding facility;

17 (9) Crematory authority means the legal entity subject to
18 licensure by the department to maintain and operate a crematory and
19 perform cremation;

20 (10) Crematory operator means a person who is responsible
21 for the operation of a crematory;

22 (11) Delivery receipt form means a form provided by a
23 funeral establishment to a crematory authority to document the
24 receipt of human remains by such authority for the purpose of
25 cremation;

1 (12) Department means the Division of Public Health
2 of the Department of Health and Human Services; ~~Regulation and~~
3 ~~Licensure;~~

4 (13) Director means the Director of ~~Regulation and~~
5 ~~Licensure;~~ Public Health of the Division of Public Health;

6 (14) Funeral director has the same meaning as in section
7 71-507;

8 (15) Funeral establishment has the same meaning as in
9 section 71-1301;

10 (16) Holding facility means the area of a crematory
11 designated for the retention of human remains prior to cremation
12 and includes a refrigerated facility;

13 (17) Human remains means the body of a deceased person,
14 or a human body part, in any stage of decomposition and includes
15 limbs or other portions of the anatomy that are removed from a
16 person or human remains for medical purposes during treatment,
17 surgery, biopsy, autopsy, or medical research;

18 (18) Permanent container means a receptacle made of
19 durable material for the long-term placement of cremated remains;
20 and

21 (19) Temporary container means a receptacle made of
22 cardboard, plastic, or other similar material in which cremated
23 remains are placed prior to the placement of such remains in an urn
24 or other permanent container.

25 Sec. 470. Section 71-1363, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 71-1363 (1) The fee for an initial or renewal license as
3 a crematory authority shall include a fee of three hundred dollars.

4 (2) If the license application is denied, the license fee
5 shall be returned to the applicant, except that the department may
6 retain up to twenty-five dollars as an administrative fee and may
7 retain the entire license fee if an inspection has been completed
8 prior to such denial.

9 (3) The department shall collect the same fee as provided
10 in subsection (1) of this section for reinstatement of a license
11 that has lapsed or has been suspended. The department shall collect
12 a fee of ten dollars for a duplicate original license.

13 (4) The department shall collect a fee of twenty-five
14 dollars for a certified statement that a crematory authority is
15 licensed in this state and a fee of five dollars for verification
16 that a crematory authority is licensed in this state.

17 (5) The department shall adopt and promulgate rules and
18 regulations for the establishment of fees under the Cremation of
19 Human Remains Act.

20 (6) The department shall collect fees authorized under
21 the act and shall remit such fees to the State Treasurer for
22 credit to the ~~Department of Health and Human Services Regulation~~
23 ~~and Licensure~~ Health and Human Services Cash Fund. Such fees shall
24 only be used for activities related to the licensure of crematory
25 authorities.

1 Sec. 471. Section 71-1367, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 71-1367 The department may deny or refuse to renew
4 a license under the Cremation of Human Remains Act or take
5 disciplinary action against a crematory authority licensed under
6 the act as provided in section 71-1368 on any of the following
7 grounds:

8 (1) Violation of the Cremation of Human Remains Act or
9 rules and regulations adopted and promulgated under the act;

10 (2) Conviction of any crime involving moral turpitude;

11 (3) Conviction of a misdemeanor or felony under state
12 law, federal law, or the law of another jurisdiction which, if
13 committed within this state, would have constituted a misdemeanor
14 or felony and which has a rational connection with the fitness or
15 capacity of the crematory authority to operate a crematory;

16 (4) Conviction of a violation pursuant to section
17 71-1371;

18 (5) Obtaining a license as a crematory authority by false
19 representation or fraud;

20 (6) Misrepresentation or fraud in the operation of a
21 crematory; or

22 (7) Failure to allow access by an agent or employee of
23 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~~ to a crematory

1 operated by the crematory authority for the purposes of inspection,
2 investigation, or other information collection activities necessary
3 to carry out the duties of such department.

4 Sec. 472. Section 71-1368, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 71-1368 (1) The department may impose any one or more
7 of the following types of disciplinary action against a crematory
8 authority licensed under the Cremation of Human Remains Act:

9 (a) A fine not to exceed five hundred dollars per
10 violation;

11 (b) A limitation on the license and upon the right of the
12 crematory authority to operate a crematory to the extent, scope, or
13 type of operation, for such time, and under such conditions as the
14 director finds necessary and proper;

15 (c) Placement of the license on probation for a period
16 not to exceed two years during which the crematory may continue to
17 operate under terms and conditions fixed by the order of probation;

18 (d) Suspension of the license for a period not to exceed
19 two years during which the crematory may not operate; and

20 (e) Revocation and permanent termination of the license.

21 (2) Any fine imposed and unpaid under the Cremation of
22 Human Remains Act shall constitute a debt to the State of Nebraska
23 which may be collected in the manner of a lien foreclosure or sued
24 for and recovered in any proper form of action in the name of the
25 State of Nebraska in the district court of the county in which

1 the crematory is located. The department shall remit fines to the
2 State Treasurer, within thirty days after receipt, for distribution
3 in accordance with Article VII, section 5, of the Constitution of
4 Nebraska. ~~The department shall, within thirty days after receipt,~~
5 ~~remit any such fines to the State Treasurer for credit to the~~
6 ~~permanent school fund.~~

7 Sec. 473. Section 71-1405, Revised Statutes Cumulative
8 Supplement, 2006, is amended to read:

9 71-1405 (1) Within thirty days after the date of the
10 birth of any child born in this state with visible congenital
11 deformities, the physician, certified nurse midwife, or other
12 person in attendance upon such birth shall prepare and file with
13 the Department of Health and Human Services ~~Finance and Support~~
14 a statement setting forth such visible congenital deformity. The
15 form of such statement shall be prepared by the ~~Director of Finance~~
16 ~~and Support~~ department and shall be a part of the birth report
17 furnished by the department.

18 (2) For purposes of this section, congenital deformities
19 include a cleft lip, cleft palate, hernia, congenital cataract,
20 or disability resulting from congenital or acquired heart disease,
21 or any congenital abnormality or orthopedic condition that can be
22 cured or materially improved. The orthopedic condition or deformity
23 includes any deformity or disease of childhood generally recognized
24 by the medical profession, and it includes deformities resulting
25 from burns.

1 Sec. 474. 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 care
7 or management of the board, the board and the director selected
8 pursuant to section 71-1616 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~~ and the principles of public health
13 and sanitation and the remedial care and treatment of the indigent
14 sick people recognized by the medical profession.

15 Sec. 475. 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;

1 (2) County, district, or city-county health department
2 means a governmental entity approved by the Department of
3 Health and Human Services ~~Regulation and Licensure~~ as a local
4 full-time public health service which (a) utilizes local, state,
5 federal, and other funds or any combination thereof, (b) employs
6 qualified public health medical, nursing, environmental health,
7 health education, and other essential personnel who work under
8 the direction and supervision of a full-time qualified medical
9 director or of a full-time qualified lay administrator and are
10 assisted at least part time by at least one medical consultant who
11 shall be a licensed physician, and (c) is operated in conformity
12 with the rules, regulations, and policies of the Department of
13 Health and Human Services. ~~the Department of Health and Human~~
14 ~~Services Regulation and Licensure,~~ and the Department of Health and
15 ~~Human Services Finance and Support.~~ The medical director or lay
16 administrator shall be called the health director; and

17 (3) Local public health department means a county,
18 district, or city-county health department.

19 Sec. 476. Section 71-1628, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 71-1628 The county board of any county may (1) make an
22 agreement with the Department of Health and Human Services, ~~the~~
23 ~~Department of Health and Human Services Regulation and Licensure,~~
24 ~~or the Department of Health and Human Services Finance and Support~~
25 relative to the expenditure of local, state, federal, and other

1 funds or any combination thereof, available for public health in
2 such county; (2) after notice and public hearing, establish and
3 maintain a single full-time local health department for such county
4 and any other counties which combine for that purpose and, pursuant
5 to such combination or agreement, such counties may cooperate
6 with one another and the Department of Health and Human Services
7 ~~Regulation and Licensure~~ and may contribute to a joint fund in
8 carrying out the purpose and intent of sections 71-1626 to 71-1636.
9 The duration and nature of such agreement shall be evidenced by
10 the resolutions of the county boards of such counties, and such
11 agreement shall be submitted to and approved by the Department
12 of Health and Human Services; Regulation and Licensure; or (3)
13 cooperate with any city in the establishment and maintenance of
14 a city-county health department as provided in section 71-1630.
15 The duration and nature of such an agreement shall be evidenced
16 by resolutions of the city council of the city and the county
17 board participating, and such agreement shall be submitted to
18 and approved by the Department of Health and Human Services.
19 ~~Regulation and Licensure~~. A city-county health department shall be
20 administered as provided in the agreement between the county and
21 the city and shall be considered a state-approved, local, full-time
22 public health service.

23 Sec. 477. Section 71-1628.05, Revised Statutes Cumulative
24 Supplement, 2006, is amended to read:

25 71-1628.05 Each local public health department shall

1 prepare an annual report regarding the core public health functions
2 carried out by the department in the prior fiscal year. The report
3 shall be submitted to the Department of Health and Human Services
4 ~~Regulation and Licensure~~ by October 1. The Department of Health and
5 Human Services ~~Regulation and Licensure~~ shall compile the reports
6 and submit the results to the Health and Human Services Committee
7 of the Legislature by December 1.

8 Sec. 478. Section 71-1628.06, Revised Statutes Cumulative
9 Supplement, 2006, is amended to read:

10 71-1628.06 The Department of Health and Human Services
11 ~~Regulation and Licensure~~ shall employ two full-time persons with
12 expertise in the public health field to provide technical expertise
13 in carrying out core public health functions and essential elements
14 and coordinate the dissemination of materials to the local public
15 health departments.

16 Sec. 479. Section 71-1628.07, Revised Statutes Cumulative
17 Supplement, 2006, is amended to read:

18 71-1628.07 (1) The Department of Health and Human
19 Services ~~Regulation and Licensure~~ shall establish a satellite
20 office of minority health in each congressional district to
21 coordinate and administer state policy relating to minority health.
22 Each office shall implement a minority health initiative in
23 counties with a minority population of at least five percent of the
24 total population of the county as determined by the most recent
25 federal decennial census which shall target, but not be limited

1 to, infant mortality, cardiovascular disease, obesity, diabetes,
2 and asthma.

3 (2) Each office shall prepare an annual report regarding
4 minority health initiatives implemented in the immediately
5 preceding fiscal year. The report shall be submitted to the
6 department by October 1. The department shall submit such reports
7 to the Health and Human Services Committee of the Legislature by
8 December 1.

9 Sec. 480. Section 71-1630, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 71-1630 (1) When a health department has been established
12 by the county board of a county and approved by the Department
13 of Health and Human Services ~~Regulation and Licensure~~ as a county
14 health department, the county board of such county shall appoint
15 a board of health which shall consist of the following members:
16 (a) One member of the county board; (b) one dentist; (c) one
17 physician; and (d) six public-spirited men or women interested in
18 the health of the community. The physician and dentist shall each
19 serve an initial term of three years. Three public-spirited men
20 or women shall each serve an initial term of three years, and
21 three public-spirited men or women shall each serve an initial
22 term of two years. After the initial terms of office expire, each
23 new appointment shall be for a term of three years. Appointments
24 to fill any vacancies shall be for the unexpired term of the
25 member whose term is being filled by such appointment. A county

1 association or society of dentists or physicians or its managing
2 board may submit each year to the county board a list of three
3 persons of recognized ability in such profession. If such a list
4 is submitted, the county board, in making an appointment for such
5 profession, shall consider the names on the list and may appoint
6 one of the persons so named.

7 (2) When a district health department has been
8 established by a joint resolution of the county boards of each
9 county in a district health department, the county boards of such
10 district shall meet and establish a district board of health with
11 due consideration for a fair and equitable representation from
12 the entire area to be served. The district board of health shall
13 consist of the following members: (a) One member of each county
14 board in the district, (b) at least one physician, (c) at least
15 one dentist, and (d) one or more public-spirited men or women
16 interested in the health of the community from each county in the
17 district. One-third of the members shall be appointed for terms
18 of one year, one-third for terms of two years, and one-third for
19 terms of three years. After their terms of office expire, each
20 new appointment shall be for a term of three years. Appointments
21 to fill any vacancies shall be for the unexpired terms. A county
22 association or society of dentists or physicians or its managing
23 board may submit each year to the county boards a list of three
24 persons of recognized ability in such profession. If such a list
25 is submitted, the county boards, in making an appointment for such

1 profession, shall consider the names on the list and may appoint
2 one of the persons so named.

3 (3) Except as provided in subsection (4) of this section,
4 when the county board of any county and the city council of
5 any city located in such county have executed an agreement,
6 approved by the Department of Health and Human Services, ~~Regulation~~
7 ~~and Licensure~~, for maintaining a city-county health department,
8 the city and county shall establish a city-county board of
9 health. It shall consist of the following members selected by
10 a majority vote of the city council and the county board, with
11 due consideration to be given in an endeavor to secure a fair and
12 equitable representation from the entire area to be served: (a)
13 One representative of the county board, (b) one representative from
14 the city council, (c) one physician, (d) one dentist, and (e) five
15 public-spirited men or women, not employed in the health industry
16 or in the health professions, who are interested in the health
17 of the community. One-third of its members shall be appointed for
18 terms of one year, one-third for terms of two years, and one-third
19 for terms of three years. After their terms of office expire, each
20 new appointment shall be for a period of three years. A county
21 association or society of dentists or physicians or its managing
22 board may submit each year to the city council and the county board
23 a list of three persons of recognized ability in such profession.
24 If such a list is submitted, the city council and the county board,
25 in making an appointment for such profession, shall consider the

1 names on the list and may appoint one of the persons so named.

2 (4) (a) When the county board of any county having a
3 population of more than two hundred thousand inhabitants and the
4 city council of any city located in such county have executed an
5 agreement, approved by the Department of Health and Human Services,
6 ~~Regulation and Licensure~~, for maintaining a city-county health
7 department on or after January 1, 1997, the city and county shall
8 establish a city-county board of health. The board shall consist
9 of the following members to be appointed by the mayor with the
10 consent of the city council and county board: One representative
11 of the county board, one representative from the city council, one
12 physician, one dentist, and five public-spirited persons who are
13 interested in the health of the community. Three of the members
14 shall be appointed for terms of one year, three for terms of two
15 years, and three for terms of three years. After the initial terms
16 of office expire, each successor member shall be appointed for a
17 term of three years. The physician and dentist members shall be
18 appointed as provided in this subdivision. The mayor shall invite
19 the local county association or society of dentists or physicians
20 or its managing board to timely submit to the mayor a list of
21 three persons of recognized ability in the profession. A list
22 is timely submitted if it is submitted within sixty days after
23 the mayor's invitation. If the list is not timely submitted, the
24 mayor may consider the list timely submitted at any time prior to
25 making an appointment, otherwise the mayor shall appoint a person

1 of recognized ability in the profession. If the list is timely
2 submitted, the mayor shall consider the names on the list and shall
3 either appoint one of the persons on the list or invite a list of
4 three new names using the process provided in this subdivision.

5 (b) The board of health shall, immediately after
6 appointment, meet and organize by the election of one of its own
7 members as president and one as vice president. The board members
8 may elect such other officers as they deem necessary and may adopt
9 and promulgate rules for the guidance of the board which are not
10 inconsistent with law or the agreement creating the board. If
11 any board member resigns or ceases to meet the requirements for
12 eligibility on the board, or if there is any other vacancy on the
13 board, the mayor shall appoint another representative to serve for
14 the member's unexpired term subject to consent by a majority vote
15 of both the city council and the county board. Any appointment to
16 fill a vacancy on the board shall be for the unexpired term of the
17 member whose vacancy is being filled.

18 (c) The board of health shall have the following duties:

19 (i) Assessment of community health status and available
20 resources for health matters, including collecting and analyzing
21 relevant data and annually reporting and making recommendations on
22 improving public health matters to the mayor, city council, and
23 county board;

24 (ii) Policy development for proposals before the board
25 of health, the city council, and the county board to support and

1 improve public health, including appointing, with the approval of
2 the mayor, city council, and county board, advisory committees to
3 the board of health to facilitate community development functions
4 and coalition building related to public health and adopting
5 and approving official health department policies consistent with
6 applicable law and approved by the affirmative vote of not less
7 than five board members at a regular meeting of the board in the
8 following areas:

9 (A) Community health services and health promotion and
10 outreach, specifically including policies related to the following:

11 (I) Client services and fees;

12 (II) Standing orders, supervision, screening, and
13 emergency and referral protocols and procedures;

14 (III) Monitoring and reporting; and

15 (IV) Communicable disease investigation, immunization,
16 vaccination, testing, and prevention measures, including measures
17 to arrest the progress of communicable diseases;

18 (B) Environmental health, specifically including policies
19 related to the following:

20 (I) Permitting, inspection, and enforcement;

21 (II) Monitoring, sampling, and reporting;

22 (III) Technical assistance and plan review; and

23 (IV) Prevention measures;

24 (C) Investigating and controlling diseases and injury,
25 specifically including policies related to the following:

- 1 (I) Permitting, inspection, and enforcement;
- 2 (II) Monitoring, sampling, and reporting;
- 3 (III) Technical assistance and plan review; and
- 4 (IV) Prevention measures; and
- 5 (D) Other health matters as may be requested by the city
- 6 council or county board; and
- 7 (iii) Assurance that needed services are available
- 8 through public or private sources in the community, including:
- 9 (A) Acting in an advisory capacity to review and
- 10 recommend changes to ordinances, resolutions, and resource
- 11 allocations before the city council or county board related to
- 12 health matters;
- 13 (B) Annually reviewing and recommending changes in the
- 14 proposed budget for resource allocations related to the health
- 15 department as provided in the city-county agreement; and
- 16 (C) Monitoring and reviewing the enforcement of laws and
- 17 regulations of the board of health, city council, and county board
- 18 related to public health in the community.
- 19 (d) The mayor of the city shall appoint, with the
- 20 approval of the board of health, city council, and county board,
- 21 the health director of the health department. The health director
- 22 shall be a member of the unclassified service of the city under
- 23 the direction and supervision of the mayor. The health director
- 24 shall be well-trained in public health work, but he or she need
- 25 not be a graduate of an accredited medical school. If the health

1 director is not a graduate of an accredited medical school, the
2 health director shall be assisted at least part time by at least
3 one medical consultant who is a licensed physician. The mayor shall
4 submit the health department budget to the city council and county
5 board. The mayor shall also provide budget information to the board
6 of health with sufficient time to allow such board to consider
7 such information. The mayor may enter into contracts and accept
8 grants on behalf of the health department. The mayor may terminate
9 the health director with approval of a majority vote of the city
10 council, the county board, and the board of health. The health
11 director shall:

12 (i) Provide administrative supervision of the health
13 department;

14 (ii) Make all necessary sanitary and health
15 investigations and inspections;

16 (iii) Investigate the existence of any contagious or
17 infectious disease and adopt measures to arrest the progress of the
18 disease;

19 (iv) Distribute free, as the local needs may require, all
20 vaccines, drugs, serums, and other preparations obtained from the
21 Department of Health and Human Services or otherwise provided for
22 public health purposes;

23 (v) Give professional advice and information to school
24 authorities and other public agencies on all matters pertaining to
25 sanitation and public health;

1 (vi) Inform the board of health when the city council or
2 county board is considering proposals related to health matters or
3 has otherwise requested recommendations from the board of health;

4 (vii) Inform the board of health of developments in the
5 field of public health and of any need for updating or adding to or
6 deleting from the programs of the health department; and

7 (viii) Perform duties and functions as otherwise provided
8 by law.

9 Sec. 481. Section 71-1631, Revised Statutes Cumulative
10 Supplement, 2006, is amended to read:

11 71-1631 Except as provided in subsection (4) of section
12 71-1630, the board of health of each county, district, or
13 city-county health department organized under sections 71-1626
14 to 71-1636 shall, immediately after appointment, meet and organize
15 by the election of one of its own members as president, one as
16 vice president, and another as secretary and, either from its own
17 members or otherwise, a treasurer and shall have the power set
18 forth in this section. The board may elect such other officers
19 as it may deem necessary and may adopt and promulgate such rules
20 and regulations for its own guidance and for the government of
21 such health department as may be necessary, not inconsistent with
22 sections 71-1626 to 71-1636. The board of health shall, with the
23 approval of the county board and the municipality, whenever a city
24 is a party in such a city-county health department:

25 (1) Select the health director of such department who

1 shall be (a) well-trained in public health work though he or she
2 need not be a graduate of an accredited medical school, but if he
3 or she is not such a graduate, he or she shall be assisted at
4 least part time by at least one medical consultant who shall be
5 a licensed physician, (b) qualified in accordance with the state
6 personnel system, and (c) approved by the Department of Health and
7 Human Services; ~~Regulation and Licensure;~~

8 (2) Hold an annual meeting each year, at which meeting
9 officers shall be elected for the ensuing year;

10 (3) Hold meetings quarterly each year;

11 (4) Hold special meetings upon a written request signed
12 by two of its members and filed with the secretary;

13 (5) Provide suitable offices, facilities, and equipment
14 for the health director and assistants and their pay and traveling
15 expenses in the performance of their duties, with mileage to be
16 computed at the rate provided in section 81-1176;

17 (6) Publish, on or soon after the second Tuesday in July
18 of each year, in pamphlet form for free distribution, an annual
19 report showing (a) the condition of its trust for each year, (b)
20 the sums of money received from all sources, giving the name of any
21 donor, (c) how all money has been expended and for what purpose,
22 and (d) such other statistics and information with regard to the
23 work of such health department as may be of general interest;

24 (7) Enact rules and regulations, subsequent to public
25 hearing held after due public notice of such hearing by publication

1 at least once in a newspaper having general circulation in the
2 county or district at least ten days prior to such hearing,
3 and enforce the same for the protection of public health and
4 the prevention of communicable diseases within its jurisdiction,
5 subject to the review and approval of such rules and regulations
6 by the Department of Health and Human Services; ~~Regulation and~~
7 ~~Licensure;~~

8 (8) Make all necessary sanitary and health investigations
9 and inspections;

10 (9) In counties having a population of more than
11 three hundred thousand inhabitants, enact rules and regulations
12 for the protection of public health and the prevention of
13 communicable diseases within the district, except that such rules
14 and regulations shall have no application within the jurisdictional
15 limits of any city of the metropolitan class and shall not be in
16 effect until (a) thirty days after the completion of a three-week
17 publication in a legal newspaper, (b) approved by the county
18 attorney with his or her written approval attached thereto, and (c)
19 filed in the office of the county clerk of such county;

20 (10) Investigate the existence of any contagious or
21 infectious disease and adopt measures, with the approval of the
22 Department of Health and Human Services, ~~Regulation and Licensure,~~
23 to arrest the progress of the same;

24 (11) Distribute free as the local needs may require all
25 vaccines, drugs, serums, and other preparations obtained from the

1 Department of Health and Human Services or purchased for public
2 health purposes by the county board;

3 (12) Upon request, give professional advice and
4 information to all city, village, and school authorities on all
5 matters pertaining to sanitation and public health;

6 (13) Fix the salaries of all employees, including the
7 health director. Such city-county health department may also
8 establish an independent pension plan, retirement plan, or health
9 insurance plan or, by agreement with any participating city or
10 county, provide for the coverage of officers and employees of
11 such city-county health department under such city or county
12 pension plan, retirement plan, or health insurance plan. Officers
13 and employees of a county health department shall be eligible
14 to participate in the county pension plan, retirement plan, or
15 health insurance plan of such county. Officers and employees of a
16 district health department formed by two or more counties shall be
17 eligible to participate in the county retirement plan unless the
18 district health department establishes an independent pension plan
19 or retirement plan for its officers or employees;

20 (14) Establish fees for the costs of all services,
21 including those services for which third-party payment is
22 available; and

23 (15) In addition to powers conferred elsewhere in the
24 laws of the state and notwithstanding any other law of the state,
25 implement and enforce an air pollution control program under

1 subdivision (23) of section 81-1504 or subsection (1) of section
2 81-1528, which program shall be consistent with the federal Clean
3 Air Act, as amended, 42 U.S.C. 7401 et seq. Such powers shall
4 include without limitation those involving injunctive relief, civil
5 penalties, criminal fines, and burden of proof. Nothing in this
6 section shall preclude the control of air pollution by resolution,
7 ordinance, or regulation not in actual conflict with the state air
8 pollution control regulations.

9 Sec. 482. Section 71-1635, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 71-1635 When the county board of any county or counties
12 creates a health department as provided by sections 71-1626 to
13 71-1636, every other local, municipal, or county public health
14 agency or department, except city or county hospitals, may be
15 abolished, and such county or district health department may be
16 given full control over all health matters in the county or
17 counties, including all municipalities in the county in conformity
18 with the rules, regulations, and policies of the Department of
19 Health and Human Services. ~~7 the Department of Health and Human~~
20 ~~Services Regulation and Licensure, and the Department of Health~~
21 ~~and Human Services Finance and Support.~~ When a city has joined
22 in the establishment of a city-county health department, such
23 city-county health department may be given such control over all
24 health matters in the city as may be provided by agreement between
25 the county and the city with the approval of the Department of

1 Health and Human Services. ~~Regulation and Licensure.~~ If the health
2 department in a county or city is changed, any lawful ordinance,
3 resolution, regulation, policy, or procedure relating to any of the
4 functions conferred by sections 71-1626 to 71-1636 of the former
5 health department shall remain in full force and effect until it
6 is repealed or replaced or until it conflicts with a subsequently
7 enacted measure.

8 Sec. 483. Section 71-1637, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 71-1637 (1) Any city by its mayor and council or by
11 its commission, any village by its village board, any county by
12 its board of supervisors or commissioners, or any township by its
13 electors shall have power to employ a visiting community nurse,
14 a home health nurse, or a home health agency defined in section
15 71-417 and the rules and regulations adopted and promulgated
16 under the Health Care Facility Licensure Act. Such nurses or
17 home health agency shall do and perform such duties as the city,
18 village, county, or township, by their officials and electors,
19 shall prescribe and direct. The city, village, county, or township
20 shall have the power to levy a tax, not exceeding three and
21 five-tenths cents on each one hundred dollars on the taxable
22 valuation of the taxable property of such city, village, county, or
23 township, for the purpose of paying the salary and expenses of such
24 nurses or home health agency. The levy shall be subject to sections
25 77-3442 and 77-3443. The city, village, county, or township shall

1 have the power to constitute and empower such nurses or home health
 2 agency with police power to carry out the order of such city,
 3 village, county, or township.

4 (2) The governing body of any city, village, county,
 5 or township may contract with any visiting nurses association,
 6 licensed hospital home health agency, or other licensed home health
 7 agency, including those operated by the Department of Health and
 8 Human Services, to perform the duties contemplated in subsection
 9 (1) of this section, subject to the supervision of the governing
 10 body, and may pay the expense of such contract out of the general
 11 funds of the city, village, 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 Sec. 484. Section 71-1710, Reissue Revised Statutes of
 22 Nebraska, is amended to read:

23 71-1710 Department means the Department of Health and
 24 Human Services. ~~Regulation and Licensure.~~

25 Sec. 485. Section 71-1729, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2 71-1729 For purposes of the Certified Registered Nurse
3 Anesthetist Act, unless the context otherwise requires:

4 (1) Board means the Board of Advanced Practice Registered
5 Nurses;

6 (2) Certified registered nurse anesthetist means a
7 licensed registered nurse holding a certificate issued under the
8 act;

9 (3) Department means the Department of Health and Human
10 Services; ~~Regulation and Licensure;~~

11 (4) Licensed practitioner means any physician or
12 osteopathic physician licensed to prescribe, diagnose, and treat as
13 prescribed in sections 71-1,102 and 71-1,137; and

14 (5) Practice of anesthesia means (a) the performance
15 of or the assistance in any act involving the determination,
16 preparation, administration, or monitoring of any drug used to
17 render an individual insensible to pain for procedures requiring
18 the presence of persons educated in the administration of
19 anesthetics or (b) the performance of any act commonly the
20 responsibility of educated anesthesia personnel. Practice of
21 anesthesia includes the use of those techniques which are deemed
22 necessary for adequacy in performance of anesthesia administration.
23 Nothing in the Certified Registered Nurse Anesthetist Act prohibits
24 routine administration of a drug by a duly licensed registered
25 nurse, licensed practical nurse, or other duly authorized person

1 for the alleviation of pain or prohibits the practice of anesthesia
2 by students enrolled in an accredited school of nurse anesthesia
3 when the services performed are a part of the course of study and
4 are under the supervision of a licensed practitioner or certified
5 registered nurse anesthetist.

6 Sec. 486. Section 71-1745, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 71-1745 Department shall mean the Department of Health
9 and Human Services, ~~Regulation and Licensure.~~

10 Sec. 487. Section 71-1774, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 71-1774 For purposes of the Licensed Practical
13 Nurse-Certified Act:

14 (1) Administration includes observing, initiating,
15 monitoring, discontinuing, maintaining, regulating, adjusting,
16 documenting, assessing, planning, intervening, and evaluating;

17 (2) Approved certification course means a course for
18 the education and training of a licensed practical nurse-certified
19 which the board has approved;

20 (3) Board means the Board of Nursing;

21 (4) Department means the Department of Health and Human
22 Services, ~~Regulation and Licensure.~~

23 (5) Direct supervision means that the responsible
24 licensed practitioner or registered nurse is physically present in
25 the clinical area and is available to assess, evaluate, and respond

1 immediately;

2 (6) Initial venipuncture means the initiation of
3 intravenous therapy based on a new order from a licensed
4 practitioner for an individual for whom a previous order for
5 intravenous therapy was not in effect;

6 (7) Intravenous therapy means the therapeutic infusion or
7 injection of substances through the venous system;

8 (8) Licensed practical nurse-certified means a licensed
9 practical nurse who meets the standards established pursuant to
10 section 71-1777 and who holds a valid certificate issued by the
11 department pursuant to the act;

12 (9) Licensed practitioner means any person authorized by
13 state law to prescribe intravenous therapy; and

14 (10) Pediatric patient means a patient who is both
15 younger than eighteen years old and under the weight of thirty-five
16 kilograms.

17 Sec. 488. Section 71-1798.01, Revised Statutes Cumulative
18 Supplement, 2006, is amended to read:

19 71-1798.01 The Board of Nursing shall recommend annually
20 to the ~~Director of Regulation and Licensure~~ Department of Health
21 and Human Services the percentage of all nursing fees collected
22 during the year that are to be used to cover the cost of the
23 Nebraska Center for Nursing, except that the percentage shall not
24 be greater than fifteen percent of the biennial revenue derived
25 from the fees.

1 Sec. 489. Section 71-1799, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 71-1799 (1) The Nebraska Center for Nursing Board is
4 created. The board shall be a policy-setting board for the Nebraska
5 Center for Nursing. The board shall be appointed by the Governor as
6 follows:

7 (a) Ten members, at least three of whom shall be
8 registered nurses, one of whom shall be a licensed practical nurse,
9 one of whom shall be a representative of the hospital industry,
10 and one of whom shall be a representative of the long-term care
11 industry;

12 (b) One nurse educator recommended by the Board of
13 Regents of the University of Nebraska;

14 (c) One nurse educator recommended by the Nebraska
15 Community College Association;

16 (d) One nurse educator recommended by the Nebraska
17 Association of Independent Colleges and Universities; and

18 (e) Three members recommended by the State Board of
19 Health.

20 (2) The initial terms of the members of the Nebraska
21 Center for Nursing Board shall be:

22 (a) Five of the ten members appointed under subdivision
23 (1)(a) of this section shall serve for one year and five shall
24 serve for two years;

25 (b) The member recommended by the Board of Regents shall

1 serve for three years;

2 (c) The member recommended by the Nebraska Community
3 College Association shall serve for two years;

4 (d) The member recommended by the Nebraska Association of
5 Independent Colleges and Universities shall serve for one year; and

6 (e) The members recommended by the State Board of Health
7 shall serve for three years.

8 The initial appointments shall be made within sixty days
9 after July 13, 2000. After the initial terms expire, the terms of
10 all of the members shall be three years with no member serving more
11 than two consecutive terms.

12 (3) The Nebraska Center for Nursing Board shall have the
13 following powers and duties:

14 (a) To determine operational policy;

15 (b) To elect a chairperson and officers to serve two-year
16 terms. The chairperson and officers may not succeed themselves;

17 (c) To establish committees of the board as needed;

18 (d) To appoint a multidisciplinary advisory council for
19 input and advice on policy matters;

20 (e) To implement the major functions of the Nebraska
21 Center for Nursing; and

22 (f) To seek and accept nonstate funds for carrying out
23 center policy.

24 (4) The board members shall be reimbursed for their
25 actual and necessary expenses as provided in sections 81-1174 to

1 81-1177.

2 (5) The Department of Health and Human Services
3 ~~Regulation and Licensure~~ shall provide administrative support for
4 the board. The board may contract for additional support not
5 provided by the department.

6 Sec. 490. Section 71-17,102, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 71-17,102 For purposes of the Nursing Student Loan Act:

9 (1) Approved nursing program means a program offered by
10 a public or private institution in this state (a) which consists
11 of courses of instruction in regularly scheduled classes leading
12 to a master of science degree, a bachelor of science degree,
13 an associate degree, or a diploma in nursing or (b) for the
14 preparation for licensure as a licensed practical nurse available
15 to regularly enrolled undergraduate or graduate students;

16 (2) Department means the Department of Health and Human
17 Services; ~~Regulation and Licensure;~~

18 (3) Nontraditional student means a student who has not
19 attended classes as a regular full-time student for at least three
20 years; and

21 (4) Practice of nursing has the definition found in
22 section 71-1,132.05.

23 Sec. 491. Section 71-17,109, Revised Statutes Cumulative
24 Supplement, 2006, is amended to read:

25 71-17,109 For purposes of the Nursing Faculty Student

1 Loan Act:

2 (1) Approved nursing program means a program offered by a
3 public or private postsecondary educational institution in Nebraska

4 (a) which consists of courses of instruction in regularly scheduled
5 classes leading to a master of science degree, a bachelor of
6 science degree, an associate degree, or a diploma in nursing or

7 (b) for the preparation for licensure as a licensed practical nurse
8 available to regularly enrolled undergraduate or graduate students;

9 (2) Department means the Department of Health and Human
10 Services; ~~and Regulation and Licensure; and~~

11 (3) Masters or doctoral accredited nursing program means
12 a postgraduate nursing education program that has been accredited
13 by a nationally recognized accrediting agency and offered by
14 a public or private postsecondary educational institution in
15 Nebraska.

16 Sec. 492. Section 71-17,113, Revised Statutes Cumulative
17 Supplement, 2006, is amended to read:

18 71-17,113 Beginning January 1, 2006, through December 31,
19 2007, the ~~Department of Health and Human Services Regulation and~~
20 ~~Licensure~~ department shall charge a fee of one dollar, in addition
21 to any other fee, for each license renewal for a registered nurse
22 or licensed practical nurse pursuant to section 71-1,132.20. Such
23 fee shall be collected at the time of renewal and remitted to the
24 State Treasurer for credit to the Nursing Faculty Student Loan Cash
25 Fund.

1 Sec. 493. Section 71-17,118, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 71-17,118 For purposes of the Clinical Nurse Specialist
4 Practice Act:

5 (1) Approved certifying body means a national
6 certification organization which (a) is approved by the board,
7 (b) certifies qualified licensed registered nurses for advanced
8 practice, (c) has eligibility requirements related to education and
9 practice, and (d) offers an examination in an area of practice
10 which meets psychometric guidelines and tests approved by the
11 board;

12 (2) Board means the Board of Advanced Practice Registered
13 Nurses;

14 (3) Clinical nurse specialist means a registered nurse
15 who meets the requirements of section 71-17,119 and who holds a
16 certificate issued under the Clinical Nurse Specialist Practice
17 Act; and

18 (4) Department means the Department of Health and Human
19 Services. ~~Regulation and Licensure.~~

20 Sec. 494. Section 71-1802, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 71-1802 ~~The Director of Regulation and Licensure~~
23 Department of Health and Human Services is hereby authorized to
24 issue permits for the use of the ~~aforesaid materials~~ pathogenic
25 microorganisms described in section 71-1801 in the prevention

1 or control of diseases in humans, if in ~~his or her~~ the
2 opinion of the department there is sufficient warrant for their
3 utilization for ~~the aforesaid~~ such purpose. The ~~Director of~~
4 ~~Regulation and Licensure~~ department shall certify to the State
5 Veterinarian the materials or substances that ~~he or she~~ considers
6 contain live microorganisms which are pathogenic to humans. The
7 ~~director~~ department is further authorized to promulgate rules and
8 regulations to carry out the provisions of this section.

9 Sec. 495. Section 71-1803, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 71-1803 The State Veterinarian is hereby authorized to
12 issue permits for the use of the ~~aforesaid materials~~ pathogenic
13 microorganisms described in section 71-1801 in the prevention or
14 control of diseases of animals, if in ~~his or her~~ the opinion of the
15 Department of Health and Human Services there is sufficient warrant
16 for their utilization for ~~the aforesaid~~ such purpose. In carrying
17 out the duties of this section with reference to animals, the
18 State Veterinarian shall take into consideration the certification
19 made by the ~~Director of Regulation and Licensure~~ Department of
20 Health and Human Services as provided for in section 71-1802. The
21 State Veterinarian is further authorized to promulgate rules and
22 regulations to carry out the provisions of this section.

23 Sec. 496. Section 71-1804, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 71-1804 The permits, issued under the provisions of

1 sections 71-1802 and 71-1803, shall be valid for the period
2 of one year, or part thereof, expiring on December 31 of each
3 year. However, all such permits must remain subject to abrogation
4 and renewal, if in the opinion of the ~~Director of Regulation~~
5 ~~and Licensure~~ Department of Health and Human Services or State
6 Veterinarian there is sufficient warrant for such abrogation or
7 renewal.

8 Sec. 497. Section 71-1903, Revised Statutes Cumulative
9 Supplement, 2006, is amended to read:

10 71-1903 (1) Before issuance of a license under
11 sections 71-1901 to 71-1906.01, the department shall cause such
12 investigation to be made as it deems necessary to determine if
13 the character of the applicant, any member of the applicant's
14 household, or the person in charge of the service and the place
15 where the foster care is to be furnished are such as to ensure the
16 proper care and treatment of children. The department may request
17 the State Fire Marshal to inspect such places for fire safety
18 pursuant to section 81-502. The State Fire Marshal shall assess a
19 fee for such inspection pursuant to section 81-505.01, payable by
20 the licensee or applicant for a license, except that the department
21 may pay the fee for inspection for fire safety of foster family
22 homes as defined in section 71-1902. The department may ~~request the~~
23 ~~Department of Health and Human Services Regulation and Licensure to~~
24 conduct sanitation and health standards investigations pursuant to
25 subsection (2) of this section. The ~~Department of Health and Human~~

1 ~~Services department~~ may also, at any time it sees fit, cause an
2 inspection to be made of the place where any licensee is furnishing
3 foster care to see that such service is being properly conducted.

4 (2) ~~The Department of Health and Human Services~~
5 ~~Regulation and Licensure shall make an investigation and report~~
6 ~~to the Department of Health and Human Services,~~ within thirty
7 days after receipt of the request from the Department of Health
8 and Human Services, The department shall make an investigation
9 and report of all facilities and programs of licensed providers
10 of foster care programs subject to this section or applicants
11 for licenses to provide such programs to determine if the place
12 or places to be covered by such licenses meet standards of
13 health and sanitation set by the Department of Health and Human
14 ~~Services department~~ for the care and protection of the child or
15 children who may be placed in such facilities and programs. The
16 ~~Department of Health and Human Services Regulation and Licensure~~
17 department may delegate the investigation authority to qualified
18 local environmental health personnel.

19 (3) Before the foster care placement of any child in
20 Nebraska by the Department of Health and Human Services on and
21 after July 16, 2004, department, the department shall require
22 a national criminal history record information check of the
23 prospective foster parent of such child and each member of such
24 prospective foster parent's household who is eighteen years of
25 age or older. The department shall provide two sets of legible

1 fingerprints for such persons to the Nebraska State Patrol for
2 submission to the Federal Bureau of Investigation. The Nebraska
3 State Patrol shall conduct a criminal history record information
4 check of such persons and shall submit such fingerprints to the
5 Federal Bureau of Investigation for a national criminal history
6 record information check. The criminal history record information
7 check shall include information from federal repositories of such
8 information and repositories of such information in other states
9 if authorized by federal law. The Nebraska State Patrol shall
10 issue a report of the results of such criminal history record
11 information check to the department. The department shall pay
12 a fee to the Nebraska State Patrol for conducting such check.
13 Information received from the criminal history record information
14 check required under this subsection shall be used solely for the
15 purpose of evaluating and confirming information provided by such
16 persons for providing foster care or for the finalization of an
17 adoption. A child may be placed in foster care by the department
18 prior to the completion of a criminal history record information
19 check under this subsection in emergency situations as determined
20 by the department.

21 Sec. 498. Section 71-1909, Revised Statutes Cumulative
22 Supplement, 2006, is amended to read:

23 71-1909 (1) The purposes of the Child Care Licensing Act
24 are to provide:

25 (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~~ department with authority to coordinate
4 the 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. 499. 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; ~~and Regulation and Licensure;~~

16 ~~(2) Director means the Director of Regulation and~~
17 ~~Licensure; and~~

18 ~~(3)-(a)~~ (2) (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.

1 (b) Program does not include casual care at irregular
2 intervals, a recreation camp as defined in section 71-3101,
3 classes or services provided by a religious organization other
4 than child care or a preschool or nursery school, a preschool
5 program conducted in a school approved pursuant to section 79-318,
6 services provided only to school-age children during the summer and
7 other extended breaks in the school year, or foster care as defined
8 in section 71-1901.

9 Sec. 500. Section 71-1913.01, Revised Statutes Cumulative
10 Supplement, 2006, is amended to read:

11 71-1913.01 (1) Each program shall require the parent or
12 guardian of each child enrolled in such program to present within
13 thirty days after enrollment and periodically thereafter (a) proof
14 that the child is protected by age-appropriate immunization against
15 measles, mumps, rubella, poliomyelitis, diphtheria, pertussis,
16 tetanus, and haemophilus influenzae type B and such other diseases
17 as the ~~Department of Health and Human Services Regulation and~~
18 ~~Licensure department~~ may from time to time specify based on then
19 current medical and scientific knowledge, (b) certification by a
20 physician, an advanced practice registered nurse practicing under
21 and in accordance with his or her respective certification act,
22 or a physician assistant that immunization is not appropriate for
23 a stated medical reason, or (c) a written statement that the
24 parent or guardian does not wish to have such child so immunized
25 and the reasons therefor. The program shall exclude a child from

1 attendance until such proof, certification, or written statement is
2 provided. At the time the parent or guardian is notified that such
3 information is required, he or she shall be notified in writing of
4 his or her right to submit a certification or written statement
5 pursuant to subdivision (b) or (c) of this subsection.

6 (2) Each program shall keep the written record of
7 immunization, the certification, or the written statement of the
8 parent or guardian. Such record, certification, or statement shall
9 be kept by the program as part of the child's file, shall be
10 available onsite to the ~~Department of Health and Human Services~~
11 ~~and the Department of Health and Human Services Regulation and~~
12 ~~Licensure, department,~~ and shall be filed with the ~~Department of~~
13 ~~Health and Human Services~~ department for review and inspection.
14 Each program shall report to the ~~Department of Health and Human~~
15 ~~Services~~ department by November 1 of each year the status of
16 immunization for children enrolled as of September 30 of that year,
17 and children who have reached kindergarten age and who are enrolled
18 in public or private school need not be included in the report.

19 Sec. 501. Section 71-1913.02, Revised Statutes Cumulative
20 Supplement, 2006, is amended to read:

21 71-1913.02 (1) The ~~Department of Health and Human~~
22 ~~Services Regulation and Licensure~~ department shall perform annually
23 a random audit of the reports submitted under section 71-1913.01
24 to check for compliance with such section on an annual basis and
25 such other audits and inspections as are necessary to prevent the

1 introduction or spread of disease. Audit results shall be reported
2 to the ~~Department of Health and Human Services~~ department.

3 (2) If the ~~Department of Health and Human Services or the~~
4 ~~Department of Health and Human Services Regulation and Licensure~~
5 department discovers noncompliance with section 71-1913.01, the
6 ~~Department of Health and Human Services Regulation and Licensure~~
7 department shall allow a noncomplying program thirty days to
8 correct deficiencies.

9 (3) The ~~Department of Health and Human Services and~~
10 ~~the Department of Health and Human Services Regulation and~~
11 ~~Licensure~~ department shall develop and provide educational and
12 other materials to programs and the public as may be necessary to
13 implement section 71-1913.01.

14 Sec. 502. Section 71-1913.03, Revised Statutes Cumulative
15 Supplement, 2006, is amended to read:

16 71-1913.03 The ~~Department of Health and Human Services~~
17 ~~Regulation and Licensure~~ department shall adopt and promulgate
18 rules and regulations relating to the required levels of
19 protection, using as a guide the recommendations of the American
20 Academy of Pediatrics and the Advisory Committee on Immunization
21 Practices of the Centers for Disease Control and Prevention of
22 the United States Department of Health and Human Services, Public
23 Health Service, and the methods, manner, and frequency of reporting
24 of each child's immunization status. The ~~Department of Health~~
25 ~~and Human Services Regulation and Licensure~~ department shall

1 furnish each program with copies of such rules and regulations
2 and any other material which will assist in carrying out section
3 71-1913.01.

4 Sec. 503. Section 71-1914, Revised Statutes Cumulative
5 Supplement, 2006, is amended to read:

6 71-1914 (1) The department shall be the state's
7 coordinating agency for licensure and regulation of programs in
8 this state in order to (a) provide efficient services pursuant to
9 the Child Care Licensing Act, (b) avoid duplication of services,
10 and (c) prevent an unnecessary number of inspections of any
11 program. The department may request cooperation and assistance from
12 local and state agencies and such agencies shall promptly respond.
13 The extent of an agency's cooperation may be included in the report
14 to the Legislature pursuant to section 43-3402.

15 (2) A city, village, or county may adopt rules,
16 regulations, or ordinances establishing physical well-being and
17 safety standards for programs whether or not the persons providing
18 such programs are subject to licensure under section 71-1911.
19 Such rules, regulations, or ordinances shall be as stringent as
20 or more stringent than the department's rules and regulations for
21 licensees pursuant to the Child Care Licensing Act. The city,
22 village, or county adopting such rules, regulations, or ordinances
23 and the department shall coordinate the inspection and supervision
24 of licensees to avoid duplication of inspections. A city, village,
25 or county shall report any violation of such rules, regulations,

1 or ordinances to the ~~director~~ department. The city, village, or
2 county may administer and enforce such rules, regulations, and
3 ordinances. Enforcement of provisions of the Child Care Licensing
4 Act or rules or regulations adopted and promulgated under the act
5 shall be by the department pursuant to sections 71-1919 to 71-1923.

6 Sec. 504. Section 71-1915, Revised Statutes Cumulative
7 Supplement, 2006, is amended to read:

8 71-1915 (1) Whenever the ~~director~~ department finds that
9 an emergency exists requiring immediate action to protect the
10 physical well-being and safety of a child in a program, the
11 ~~director~~ department may, without notice or hearing, issue an order
12 declaring the existence of such an emergency and requiring that
13 such action be taken as the ~~director~~ department deems necessary to
14 meet the emergency. The order may include an immediate prohibition
15 on the care of children by the licensee other than children of
16 the licensee. An order under this subsection shall be effective
17 immediately. Any person to whom the order is directed shall comply
18 immediately, and upon application to the ~~director~~, department, the
19 person shall be afforded a hearing as soon as possible and not
20 later than ten days after his or her application for the hearing.
21 On the basis of such hearing the ~~director~~ department shall continue
22 to enforce ~~his or her~~ such order or rescind or modify it.

23 (2) The ~~director~~ department may petition the appropriate
24 district court for an injunction whenever ~~he or she~~ believes
25 there is the belief that any person is violating the Child Care

1 Licensing Act, an order issued pursuant to the act, or any rule or
2 regulation adopted and promulgated pursuant to the act. It shall be
3 the duty of each county attorney or the Attorney General to whom
4 the ~~director~~ department reports a violation to cause appropriate
5 proceedings to be instituted without delay to ensure compliance
6 with the act, rules, regulations, and orders.

7 Sec. 505. Section 71-1919, Revised Statutes Cumulative
8 Supplement, 2006, is amended to read:

9 71-1919 The department may deny the issuance of or take
10 disciplinary action against a license issued under the Child Care
11 Licensing Act on any of the following grounds:

12 (1) Failure to meet or violation of any of the
13 requirements of the Child Care Licensing Act or the rules and
14 regulations adopted and promulgated under the act;

15 (2) Violation of an order of the ~~director~~ department
16 under the act;

17 (3) Conviction of, or substantial evidence of committing
18 or permitting, aiding, or abetting another to commit, any unlawful
19 act, including, but not limited to, unlawful acts committed by an
20 applicant or licensee under the act, household members who reside
21 at the place where the program is provided, or employees of the
22 applicant or licensee that involve:

23 (a) Physical abuse of children or vulnerable adults as
24 defined in section 28-371;

25 (b) Endangerment or neglect of children or vulnerable

- 1 adults;
- 2 (c) Sexual abuse, sexual assault, or sexual misconduct;
- 3 (d) Homicide;
- 4 (e) Use, possession, manufacturing, or distribution of a
5 controlled substance listed in section 28-405;
- 6 (f) Property crimes, including, but not limited to,
7 fraud, embezzlement, and theft by deception; and
- 8 (g) Use of a weapon in the commission of an unlawful act;
- 9 (4) Conduct or practices detrimental to the health or
10 safety of a person served by or employed at the program;
- 11 (5) Failure to allow an agent or employee of the
12 ~~Department of Health and Human Services, the Department of Health~~
13 ~~and Human Services Finance and Support, or the Department of Health~~
14 ~~and Human Services Regulation and Licensure~~ department access to
15 the program for the purposes of inspection, investigation, or other
16 information collection activities necessary to carry out the duties
17 of ~~such departments;~~ the department;
- 18 (6) Failure to allow state or local inspectors,
19 investigators, or law enforcement officers access to the program
20 for the purposes of investigation necessary to carry out their
21 duties;
- 22 (7) Failure to meet requirements relating to sanitation,
23 fire safety, and building codes;
- 24 (8) Failure to comply with or violation of the Medication
25 Aide Act;

1 (9) Failure to file a report of suspected abuse or
2 neglect as required by sections 28-372 and 28-711;

3 (10) Violation of any city, village, or county rules,
4 regulations, or ordinances regulating licensees; or

5 (11) Failure to pay fees required under the Child Care
6 Licensing Act.

7 Sec. 506. Section 71-1922, Revised Statutes Cumulative
8 Supplement, 2006, is amended to read:

9 71-1922 (1) If the department determines to deny the
10 issuance of or take disciplinary action against a license under
11 the Child Care Licensing Act, the department shall send to the
12 applicant or licensee, by certified mail to the address of the
13 applicant or licensee, a notice setting forth the determination,
14 the particular reasons for the determination, including a specific
15 description of the nature of the violation and the statute, rule,
16 regulation, or order violated, and the type of disciplinary action
17 which is pending. A copy of the notice shall also be mailed to the
18 person in charge of the program if the licensee is not actually
19 involved in the daily operation of the program. If the licensee
20 is a corporation, a copy of the notice shall be sent to the
21 corporation's registered agent.

22 (2) The denial or disciplinary action shall become final
23 fifteen days after the mailing of the notice unless the applicant
24 or licensee, within such fifteen-day period, makes a written
25 request for a hearing. The license shall continue in effect

1 until the final order of the ~~director~~ department if a hearing is
2 requested. If the ~~director~~ department does not receive such request
3 within such fifteen-day period, the action of the department shall
4 be final.

5 Sec. 507. Section 71-2002, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 71-2002 For purposes of the State Hospital Survey and
8 Construction Act: As used in sections 71-2001 to 71-2016, unless
9 the context otherwise requires:

10 (1) ~~Director~~ shall mean the Director of Regulation and
11 ~~Licensure~~; Department shall mean the Department of Health and Human
12 Services;

13 (2) The federal act shall mean, but is not restricted to,
14 Public Law 88-156, Public Law 88-164, Public Law 88-581, Public Law
15 88-443, and other measures of similar intent which have been, or
16 may in the future be, passed by the Congress of the United States;

17 (3) The Surgeon General shall mean the Surgeon General
18 of the Public Health Service of the United States or such other
19 federal office or agency responsible for the administration of the
20 federal Hospital Survey and Construction Act, 42 U.S.C. 291 and
21 amendments thereto;

22 (4) Hospital includes, but is not restricted to,
23 facilities or parts of facilities, which provide space for public
24 health centers, mental health clinics, and general, tuberculosis,
25 mental, long-term care, and other types of hospitals, and related

1 facilities, such as homes for the aged or infirm, laboratories,
2 out-patient departments, nurses' home and educational facilities,
3 and central service facilities operated in connection with
4 hospitals;

5 (5) Public health center shall mean a publicly owned
6 facility for providing public health services, including related
7 facilities such as laboratories, clinics, and administrative
8 offices operated in connection with public health centers; and

9 (6) Nonprofit hospital shall mean any hospital owned and
10 operated by a corporation or association, no part of the net
11 earnings of which inures, or may lawfully inure, to the benefit of
12 any private shareholder or individual.

13 Sec. 508. Section 71-2003, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 71-2003 ~~The Department of Health and Human Services~~
16 ~~Regulation and Licensure~~ department shall constitute the sole
17 agency of the state for the purpose of (1) making an inventory
18 of existing hospitals, surveying the need for construction of
19 hospitals, and developing a program of hospital construction as
20 provided in section 71-2007, and (2) developing and administering
21 a state plan for the construction of public and other nonprofit
22 hospitals as provided in ~~sections 71-2008 to 71-2016.~~ the State
23 Hospital Survey and Construction Act.

24 Sec. 509. Section 71-2004, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 71-2004 In carrying out the purposes of ~~sections 71-2001~~
2 ~~to 71-2016,~~ the State Hospital Survey and Construction Act, the
3 ~~director~~ department is authorized and directed:

4 (1) To require such reports, make such inspections and
5 investigations, and prescribe such regulations as he ~~or she~~ it
6 deems necessary;

7 (2) To provide such methods of administration, appoint
8 an assistant director and other personnel of the division, and
9 take such other action as may be necessary to comply with the
10 requirements of the federal act and the regulations thereunder;

11 (3) To procure ~~in his or her discretion~~ the temporary or
12 intermittent services of experts or consultants or organizations
13 thereof, by contract, when such services are to be performed
14 on a part-time or fee-for-service basis and do not involve the
15 performance of administrative duties;

16 (4) To the extent ~~that he or she considers~~ desirable to
17 effectuate the purposes of ~~sections 71-2001 to 71-2016,~~ the State
18 Hospital Survey and Construction Act, to enter into agreements
19 for the utilization of the facilities and services of other
20 departments, agencies, and institutions, public or private;

21 (5) To accept on behalf of the state and to deposit
22 with the State Treasurer any grant, gift, or contribution made
23 to assist in meeting the cost of carrying out the purposes of
24 ~~sections 71-2001 to 71-2016,~~ the act and to expend the same for
25 such purpose; and

1 (6) To match funds with federal grants when required
2 in order to obtain such funds in carrying out the ~~provisions of~~
3 ~~sections 71-2001 to 71-2016.~~ act.

4 Sec. 510. Section 71-2006, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 71-2006 Such money as may be appropriated by the
7 Legislature for the administration of ~~sections 71-2001 to 71-2016~~
8 the State Hospital Survey and Construction Act shall be expended
9 upon proper certification by the ~~director~~ department as provided by
10 law.

11 Sec. 511. Section 71-2007, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 71-2007 The ~~director~~ department is authorized and
14 directed to make an inventory of existing hospitals and medical
15 facilities, including, but not restricted to, public, nonprofit and
16 proprietary hospitals and other medical facilities, to accumulate
17 pertinent comparable statistical data from existing hospitals
18 and medical facilities, to survey the need for construction or
19 expansion of hospitals and, on the basis of such statistical
20 data, inventory and survey, and to develop a program for the
21 construction or expansion of such public and other nonprofit
22 hospitals and medical facilities as will, in conjunction with
23 existing facilities, afford the necessary physical facilities for
24 furnishing adequate hospital, clinic, and other essential health
25 services without duplication or fragmentation of such facilities or

1 services to all the people of the state.

2 Sec. 512. Section 71-2009, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 71-2009 The ~~director~~ department is authorized to make
5 application to the Surgeon General for federal funds to assist in
6 carrying out the activities ~~herein~~ provided in the State Hospital
7 Survey and Construction Act. Such funds shall be deposited in the
8 state treasury and shall be available when appropriated, ~~to the~~
9 ~~director~~ for expenditure for carrying out the purposes of ~~sections~~
10 ~~71-2008 to 71-2016~~. the act. Any such funds received and not
11 expended for such purposes shall be repaid to the Treasury of the
12 United States.

13 Sec. 513. Section 71-2010, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 71-2010 The ~~director~~ department shall prepare and submit
16 to the Surgeon General a state plan which shall include the
17 hospital construction program developed under ~~sections 71-2008~~
18 ~~to 71-2016~~, the State Hospital Survey and Construction Act, and
19 which shall provide for the establishment, administration, and
20 operation of hospital and medical facility construction activities
21 in accordance with the requirements of the federal act and
22 regulations thereunder. The ~~director~~ department shall, prior to
23 the submission of such plan to the Surgeon General, give adequate
24 publicity to a general description of all the provisions proposed
25 to be included therein, and hold a public hearing at which all

1 persons or organizations with a legitimate interest in such plan
2 may be given an opportunity to express their views. After approval
3 of the plan by the Surgeon General, the ~~director~~ department shall
4 make the plan, or plans, or a copy thereof, available upon request
5 to all interested persons or organizations. The ~~director~~ department
6 shall from time to time review the hospital construction program
7 and submit to the Surgeon General any modifications ~~thereof which~~
8 ~~he may find~~ necessary, and may submit to the Surgeon General such
9 modifications of the state plan, or plans, not inconsistent with
10 the requirements of the federal act. 7 ~~as he may deem advisable.~~

11 Sec. 514. Section 71-2011, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 71-2011 The ~~director~~ department shall by regulation
14 prescribe minimum standards for the maintenance and operation
15 of hospitals and other medical facilities which receive federal aid
16 for construction under the state plan.

17 Sec. 515. Section 71-2013, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 71-2013 Applications for hospital construction projects
20 for which federal funds are requested shall be submitted to
21 the ~~director~~ department and may be submitted by the state or
22 any political subdivision thereof or by any public or nonprofit
23 agency authorized to construct and operate a hospital. Each such
24 application shall conform to federal and state requirements.

25 Sec. 516. Section 71-2014, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 71-2014 The ~~director~~ department shall afford to every
3 applicant for a construction project an opportunity for a fair
4 hearing. If the ~~director~~, department, after affording reasonable
5 opportunity for development and presentation of applications in the
6 order of relative need, finds that a project application complies
7 with the requirements of section 71-2013 and is otherwise in
8 conformity with the state plan, ~~he shall approve~~ such application
9 shall be approved and shall ~~recommend and forward it~~ be recommended
10 and forwarded to the Surgeon General.

11 Sec. 517. Section 71-2015, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 71-2015 From time to time the ~~director~~ department shall
14 inspect each construction project approved by the Surgeon General
15 and, if the inspection so warrants, the ~~director~~ department shall
16 certify to the Surgeon General that work has been performed upon
17 the project, or purchases have been made, in accordance with
18 the approved plans and specifications, and that payment of an
19 installment of federal funds is due to the applicant.

20 Sec. 518. Section 71-2081, Revised Statutes Cumulative
21 Supplement, 2006, is amended to read:

22 71-2081 For each hospital uniform billing form on which
23 a diagnosis code for the external cause of an injury, poisoning,
24 or adverse effect is entered pursuant to section 71-2080, each
25 hospital in this state ~~may~~ shall submit data to the Department

1 of Health and Human Services. ~~Regulation and Licensure beginning~~
2 ~~January 1, 1994, and shall submit data to the department beginning~~
3 ~~January 1, 1995.~~ Such data shall be submitted quarterly and
4 shall include, but not be limited to, the diagnosis code for the
5 external cause of an injury, poisoning, or adverse effect, other
6 diagnosis codes, the procedure codes, admission date, discharge
7 date, disposition code, and demographic data to include, but not be
8 limited to, the birthdate, sex, city and county of residence, and
9 zip code of residence for every patient discharged from a hospital,
10 receiving outpatient services, or released from observation for
11 whom a diagnosis code for the external cause of an injury,
12 poisoning, or adverse effect is recorded pursuant to section
13 71-2080. This data shall be submitted to the department in written
14 or computer form. The data provided to the department under
15 this section shall be classified for release as determined by
16 the department only in aggregate data reports created by the
17 department. Such aggregate data reports shall be considered public
18 documents.

19 Sec. 519. Section 71-2082, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 71-2082 The Department of Health and Human Services
22 ~~Regulation and Licensure~~ shall adopt and promulgate rules and
23 regulations governing the recordation, acquisition, compilation,
24 and dissemination of all data collected pursuant to sections
25 71-2078 to 71-2082.

1 Sec. 520. Section 71-2084, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 71-2084 For purposes of sections 71-2084 to 71-2096:

4 (1) Department means the Department of Health and Human
5 Services; and Regulation and Licensure;

6 ~~(2) Director means the Director of Regulation and~~
7 ~~Licensure; and~~

8 ~~(3) (2) Health care facility means a health care facility~~
9 subject to licensing under the Health Care Facility Licensure Act.

10 Sec. 521. Section 71-2086, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 71-2086 (1) The department shall file the petition for
13 the appointment of a receiver provided for in section 71-2085 in
14 the district court of the county where the health care facility
15 is located and shall request that a receiver be appointed for the
16 health care facility.

17 (2) The court shall expeditiously hold a hearing on
18 the petition within seven days after the filing of the petition.
19 The ~~director~~ department shall present evidence at the hearing in
20 support of the petition. The licensee, owner, or operator may
21 also present evidence, and both parties may subpoena witnesses.
22 The court may appoint a temporary receiver for the health care
23 facility ex parte if the ~~director~~, department, by affidavit, states
24 that an emergency exists which presents an imminent danger of
25 death or physical harm to the residents or patients of the health

1 care facility. If a temporary receiver is appointed, notice of
2 the petition and order shall be served on the licensee, owner,
3 operator, or administrator of the health care facility within
4 seventy-two hours after the entry of the order. The petition and
5 order may be served by any method specified in section 25-505.01 or
6 the court may permit substitute or constructive service as provided
7 in section 25-517.02 when service cannot be made with reasonable
8 diligence by any of the methods specified in section 25-505.01. A
9 hearing on the petition and temporary order shall be held within
10 seventy-two hours after notice has been served unless the licensee,
11 owner, or operator consents to a later date. After the hearing
12 the court may terminate, continue, or modify the temporary order.
13 If the court determines that the department did not have probable
14 cause to submit the affidavit in support of the appointment of
15 the temporary receiver, the court shall have the jurisdiction to
16 determine and award compensatory damages against the state to the
17 owner or operator. If the licensee, owner, or operator informs the
18 court at or before the time set for hearing that he or she does not
19 object to the petition, the court shall waive the hearing and at
20 once appoint a receiver for the health care facility.

21 (3) The purpose of a receivership created under this
22 section is to safeguard the health, safety, and continuity of
23 care of residents and patients and to protect them from adverse
24 health effects. A receiver shall not take any actions or assume any
25 responsibilities inconsistent with this purpose. No person shall

1 impede the operation of a receivership created under this section.
2 After the appointment of a receiver, there shall be an automatic
3 stay of any action that would interfere with the functioning of the
4 health care facility, including, but not limited to, cancellation
5 of insurance policies executed by the licensee, owner, or operator,
6 termination of utility services, attachments or setoffs of resident
7 trust funds or working capital accounts, and repossession of
8 equipment used in the health care facility. The stay shall not
9 apply to any licensure, certification, or injunctive action taken
10 by the department.

11 Sec. 522. Section 71-2096, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 71-2096 (1) Any person who prevents or interferes with or
14 attempts to impede in any way any duly authorized representative
15 of the department in the lawful enforcement of sections 71-2084 to
16 71-2096 shall be guilty of a Class IV misdemeanor. For purposes of
17 this subsection, lawful enforcement includes, but is not limited
18 to, (a) contacting or interviewing any resident or patient of a
19 health care facility in private at any reasonable hour and without
20 advance notice, (b) examining any relevant books or records of a
21 health care facility, or (c) preserving evidence of any violations
22 of sections 71-2084 to 71-2096.

23 (2) The county attorney of the county in which the health
24 care facility is located or the Attorney General may be requested
25 by the ~~director~~ department to initiate prosecution.

1 Sec. 523. Section 71-2097, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 71-2097 For purposes of sections 71-2097 to 71-20,101:

4 (1) Civil penalties include any remedies required under
5 federal law and include the imposition of monetary penalties;

6 (2) Department means the Department of Health and Human
7 Services;

8 ~~(2)~~ (3) Federal regulations for participation in the
9 medicaid program means the regulations found in 42 C.F.R. parts
10 442 and 483, as amended, for participation in the medicaid program
11 under Title XIX of the federal Social Security Act, as amended; and

12 ~~(3)~~ (4) Nursing facility means any intermediate care
13 facility or nursing facility, as defined in sections 71-420 and
14 71-424, which receives federal and state funds under Title XIX of
15 the federal Social Security Act, as amended.

16 Sec. 524. Section 71-2098, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 71-2098 (1) ~~The Department of Health and Human Services~~
19 ~~Finance and Support~~ department may assess, enforce, and collect
20 civil penalties against a nursing facility which the ~~Department~~
21 ~~of Health and Human Services Regulation and Licensure~~ department
22 has found in violation of federal regulations for participation
23 in the medicaid program pursuant to the authority granted to the
24 ~~Department of Health and Human Services Regulation and Licensure~~
25 department under section 81-604.03.

1 (2) If the ~~Department of Health and Human Services~~
2 ~~Regulation and Licensure~~ department finds that a violation is life
3 threatening to one or more residents or creates a direct threat
4 of serious adverse harm to one or more residents, a civil penalty
5 shall be imposed for each day the deficiencies which constitute
6 the violation exist. The ~~Department of Health and Human Services~~
7 ~~Finance and Support~~ department may assess an appropriate civil
8 penalty for other violations based on the nature of the violation.
9 Any monetary penalty assessed shall not be less than fifty dollars
10 nor more than ten thousand dollars for each day the facility is
11 found to be in violation of such federal regulations. Monetary
12 penalties assessed shall include interest at the rate specified in
13 section 45-104.02, as such rate may from time to time be adjusted.

14 Sec. 525. Section 71-2099, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 71-2099 The ~~Department of Health and Human Services~~
17 ~~Finance and Support~~ department shall adopt criteria for determining
18 the type and amount of the civil penalty assessed under section
19 71-2098. Such criteria shall include, but need not be limited to,
20 consideration of the following factors:

21 (1) The period of time over which the violation occurred;

22 (2) The frequency of the violation;

23 (3) The nursing facility's history concerning the type of
24 violation for which the civil penalty is assessed;

25 (4) The nursing facility's intent or reason for the

1 violation;

2 (5) The effect, if any, of the violation on the health,
3 safety, security, or welfare of the residents;

4 (6) The existence of other violations, in combination
5 with the violation for which the civil penalty is assessed, which
6 increase the threat to the health, safety, security, rights, or
7 welfare of the residents;

8 (7) The accuracy, thoroughness, and availability of
9 records regarding the violation, which the nursing facility is
10 required to maintain; and

11 (8) The number of additional related violations occurring
12 within the same time span as the violation in question.

13 Sec. 526. Section 71-20,100, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 71-20,100 (1) The Nursing Facility Penalty Cash Fund is
16 created. Monetary penalties collected by the ~~Department of Health~~
17 ~~and Human Services Finance and Support~~ department pursuant to
18 section 71-2098 shall be remitted to the State Treasurer for credit
19 to such fund. The state investment officer shall invest any money
20 in the fund available for investment pursuant to the Nebraska
21 Capital Expansion Act and the Nebraska State Funds Investment Act.

22 (2) The ~~Department of Health and Human Services~~
23 ~~Finance and Support~~ department shall adopt and promulgate rules
24 and regulations which establish circumstances under which the
25 department may distribute funds from the Nursing Facility Penalty

1 Cash Fund to protect the health or property of individuals residing
2 in nursing facilities which the ~~Department of Health and Human~~
3 ~~Services Regulation and Licensure~~ department has found in violation
4 of federal regulations for participation in the medicaid program.
5 Circumstances considered as a basis for distribution from the fund
6 include paying costs to:

- 7 (a) Relocate residents to other facilities;
8 (b) Maintain the operation of a nursing facility pending
9 correction of violations;
10 (c) Close a nursing facility; and
11 (d) Reimburse residents for personal funds lost.

12 Sec. 527. Section 71-20,101, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 71-20,101 The ~~Department of Health and Human Services~~
15 ~~Finance and Support~~ department shall adopt and promulgate rules and
16 regulations to carry out sections 71-2097 to 71-20,101, including
17 rules and regulations for notice and appeal procedures.

18 Sec. 528. Section 71-20,103, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 71-20,103 For purposes of the Nonprofit Hospital Sale
21 Act:

- 22 (1) Department means the Department of Health and Human
23 Services; ~~Regulation and Licensure~~;
24 (2) Hospital has the meaning found in section 71-419;
25 (3) Acquisition means any acquisition by a person or

1 persons of an ownership or controlling interest in a hospital,
2 whether by purchase, merger, lease, gift, or otherwise, which
3 results in a change of ownership or control of twenty percent or
4 greater or which results in the acquiring person or persons holding
5 a fifty percent or greater interest in the ownership or control
6 of a hospital, but acquisition does not include the acquisition
7 of an ownership or controlling interest in a hospital owned by
8 a nonprofit corporation if the transferee (a) is a nonprofit
9 corporation having a substantially similar charitable health care
10 purpose as the transferor or is a governmental entity, (b) is
11 exempt from federal income tax under section 501(c)(3) of the
12 Internal Revenue Code or as a governmental entity, and (c) will
13 maintain representation from the affected community on the local
14 board; and

15 (4) Person has the meaning found in section 71-5803.12.

16 Sec. 529. Section 71-20,113, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 71-20,113 Any acquisition of a hospital before April 16,
19 1996, and any acquisition in which an application for a certificate
20 of need under the Nebraska Health Care Certificate of Need Act
21 has been granted by the ~~department~~ Department of Health and Human
22 Services Regulation and Licensure before April 16, 1996, is not
23 subject to the Nonprofit Hospital Sale Act.

24 Sec. 530. Section 71-2201, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 71-2201 There is created a Maternal and Child Health and
2 Public Health Work Fund in the treasury of the State of Nebraska,
3 to be administered by the ~~Director~~ Department of Health and Human
4 Services for maternal and child health and for public health work,
5 as provided by law. Any money in the fund available for investment
6 shall be invested by the state investment officer pursuant to
7 the Nebraska Capital Expansion Act and the Nebraska State Funds
8 Investment Act.

9 Sec. 531. Section 71-2202, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 71-2202 The ~~Director~~ Department of Health and Human
12 Services shall administer the fund for maternal and child health
13 and public health services throughout the State of Nebraska.
14 Seventy-five percent of the fund shall be used for maternal and
15 child health activities in this state, and twenty-five percent
16 shall be used for public health work, if such amounts are needed
17 therefor.

18 Sec. 532. Section 71-2203, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 71-2203 Disbursements from the fund referred to in
21 section 71-2201 shall be made upon vouchers signed by ~~the Director~~
22 an authorized representative of the Department of Health and Human
23 Services and warrants approved by the Director of Administrative
24 Services.

25 Sec. 533. Section 71-2207, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 71-2207 The funds allocated for maternal and child
3 health in this state shall be used and distributed subject to
4 the supervision of the ~~Director~~ Department of Health and Human
5 Services: (1) For promoting the health of mothers and children,
6 especially in rural areas, suffering from some economic distress;
7 (2) for the establishment, extension, and improvement of local
8 maternal and child health services to be administered by local
9 child health units; and (3) for demonstration services in needy
10 areas and among groups in special need. The ~~director~~ department
11 shall also cooperate with licensed physicians and surgeons and
12 with nursing and welfare groups and organizations for the purposes
13 herein expressed.

14 Sec. 534. Section 71-2208, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 71-2208 The ~~Director~~ Department of Health and Human
17 Services shall make quarterly or more frequent reports of the
18 administration of sections 71-2205 to 71-2208, and all expenditures
19 thereunder, to the Chief of the Children's Bureau of the United
20 States Department of Labor, and shall comply with requests for
21 information from the Secretary of Labor of the United States or his
22 or her agencies, if federal funds are granted to this state for the
23 purposes mentioned in such sections.

24 Sec. 535. Section 71-2304, Revised Statutes Cumulative
25 Supplement, 2006, is amended to read:

1 71-2304 (1) The Legislature shall appropriate funds
2 to create a coordinated program of education and treatment for
3 individuals that participate in prostitution-related activities as
4 described in section 28-801.

5 (2) The Department of Health and Human Services, ~~Finance~~
6 ~~and Support~~, in consultation with the regional behavioral health
7 authorities, shall distribute funds to regional behavioral health
8 authorities that can demonstrate to the department a high incidence
9 of prostitution within the behavioral health region. The department
10 may consider the following criteria for regional behavioral health
11 funding under this section:

12 (a) The number of criminal convictions for
13 prostitution-related activities within the counties that comprise
14 the regional behavioral health authority;

15 (b) Evidence that prostitution-related activities are
16 impacting residential areas and businesses and the quality of life
17 of residents in such areas and businesses is negatively impacted;

18 (c) The amount of local law enforcement resources devoted
19 specifically to curtailing prostitution-related activity;

20 (d) Evidence that the regional behavioral health
21 authorities consulted with recognized neighborhood and business
22 associations within geographic proximity to concentrated areas of
23 prostitution; and

24 (e) The amount of local subdivision treatment funding.

25 Each regional behavioral health authority may contract

1 with qualifying public, private, or nonprofit entities for the
2 provision of such education and treatment. Such qualifying entities
3 may obtain additional funding from cities and counties to provide a
4 coordinated program of treatment and education for individuals that
5 participate in prostitution-related activities.

6 Sec. 536. Section 71-2305, Revised Statutes Cumulative
7 Supplement, 2006, is amended to read:

8 71-2305 The Department of Health and Human Services
9 Finance and Support shall adopt and promulgate rules and
10 regulations to carry out the Nebraska Prostitution Intervention and
11 Treatment Act.

12 Sec. 537. Section 71-2407, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 71-2407 (1) Any person operating a mail service pharmacy
15 outside of the State of Nebraska shall obtain a mail service
16 pharmacy license prior to shipping, mailing, or in any manner
17 delivering dispensed prescription drugs as defined in section
18 71-1,142 into the State of Nebraska.

19 (2) To be qualified to hold a mail service pharmacy
20 license, a person shall:

21 (a) Hold a pharmacy license or permit issued by and valid
22 in the state in which the person is located and from which such
23 prescription drugs will be shipped, mailed, or otherwise delivered;

24 (b) Be located and operating in a state in which the
25 requirements and qualifications for obtaining and maintaining a

1 pharmacy license or permit are considered by the Department of
2 Health and Human Services, ~~Regulation and Licensure~~, with the
3 approval of the Board of Pharmacy, to be substantially equivalent
4 to the requirements of the Health Care Facility Licensure Act;

5 (c) Designate the Secretary of State as his, her, or its
6 agent for service of process in this state; and

7 (d) Employ on a full-time basis at least one pharmacist
8 who holds a current unrestricted pharmacist license issued
9 under the Uniform Licensing Law who shall be responsible for
10 compliance by the mail service pharmacy with the Mail Service
11 Pharmacy Licensure Act. The mail service pharmacy shall notify
12 the department when such pharmacist is no longer employed by such
13 pharmacy.

14 (3) To obtain a mail service pharmacy license, a person
15 shall:

16 (a) File an application on a form developed by the
17 department; and

18 (b) Pay a fee equivalent to the fee for a pharmacy
19 license in the State of Nebraska pursuant to section 71-434.

20 (4) This section does not apply to prescription drugs
21 mailed, shipped, or otherwise delivered by a pharmaceutical company
22 to a laboratory for the purpose of conducting clinical research.

23 Sec. 538. Section 71-2408, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 71-2408 (1) The Department of Health and Human Services,

1 ~~Regulation and Licensure~~, after notice and an opportunity for
2 a hearing, may deny, refuse renewal of, revoke, or otherwise
3 discipline or restrict the license of a mail service pharmacy for
4 (a) any discipline of the pharmacy license held by such pharmacy
5 in another state pursuant to subdivision (2)(a) of section 71-2407,
6 (b) any violation of the Mail Service Pharmacy Licensure Act or
7 rules and regulations adopted and promulgated under the act, or (c)
8 conduct by such pharmacy which in this state presents a threat to
9 the public health and safety or a danger of death or physical harm.

10 (2) The department, upon the recommendation of the Board
11 of Pharmacy, shall notify the Attorney General of any possible
12 violations of the Mail Service Pharmacy Licensure Act. If the
13 Attorney General has reason to believe that an out-of-state person
14 is operating in violation of the act, he or she shall commence
15 an action in the district court of Lancaster County to enjoin any
16 such person from further mailing, shipping, or otherwise delivering
17 prescription drugs into the State of Nebraska.

18 Sec. 539. Section 71-2409, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 71-2409 The Department of Health and Human Services
21 ~~Regulation and Licensure~~ shall, upon the recommendation of the
22 Board of Pharmacy, adopt and promulgate rules and regulations
23 necessary to carry out the Mail Service Pharmacy Licensure Act.

24 Sec. 540. Section 71-2411, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 71-2411 For purposes of the Emergency Box Drug Act:

2 (1) Authorized personnel shall mean any medical doctor,
3 doctor of osteopathy, registered nurse, licensed practical nurse,
4 pharmacist, or physician's assistant;

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

7 (3) Drug shall mean any prescription drug or device
8 or legend drug or device defined under section 71-1,142, any
9 nonprescription drug as defined under section 71-1,142, any
10 controlled substance as defined under section 28-405, or any device
11 as defined under section 71-1,142;

12 (4) Emergency box drugs shall mean drugs required to meet
13 the immediate therapeutic needs of patients when the drugs are not
14 available from any other authorized source in time to sufficiently
15 prevent risk of harm to such patients by the delay resulting from
16 obtaining such drugs from such other authorized source;

17 (5) Institution shall mean an intermediate care facility,
18 an intermediate care facility for the mentally retarded, a mental
19 health center, a nursing facility, and a skilled nursing facility,
20 as such terms are defined in sections 71-420, 71-421, 71-423,
21 71-424, and 71-429;

22 (6) Institutional pharmacy shall mean the physical
23 portion of an institution engaged in the compounding, dispensing,
24 and labeling of drugs which is operating pursuant to a pharmacy
25 license issued by the department under the Health Care Facility

1 Licensure Act;

2 (7) Multiple dose vial shall mean any bottle in which
3 more than one dose of a liquid drug is stored or contained; and

4 (8) Supplying pharmacist shall mean the pharmacist in
5 charge of an institutional pharmacy or a pharmacist who provides
6 emergency box drugs to an institution pursuant to the Emergency
7 Box Drug Act. Supplying pharmacist shall not include any agent or
8 employee of the supplying pharmacist who is not a pharmacist.

9 Sec. 541. Section 71-2423, Revised Statutes Cumulative
10 Supplement, 2006, is amended to read:

11 71-2423 For purposes of the Cancer Drug Repository
12 Program Act:

13 (1) Cancer drug means a prescription drug used to treat
14 (a) cancer or its side effects or (b) the side effects of a
15 prescription drug used to treat cancer or its side effects;

16 (2) Department means the Department of Health and Human
17 Services; ~~Regulation and Licensure;~~

18 (3) Health care facility has the definition found in
19 section 71-413;

20 (4) Health clinic has the definition found in section
21 71-416;

22 (5) Hospital has the definition found in section 71-419;

23 (6) Participant means a physician's office, pharmacy,
24 hospital, or health clinic that has elected to voluntarily
25 participate in the program and that accepts donated cancer drugs

1 under the rules and regulations adopted and promulgated by the
2 department for the program;

3 (7) Pharmacy has the definition found in section 71-425;

4 (8) Physician's office means the office of a person
5 licensed to practice medicine and surgery or osteopathic medicine
6 and surgery;

7 (9) Prescribing practitioner means a health care
8 practitioner licensed under the Uniform Licensing Law who is
9 authorized to prescribe cancer drugs;

10 (10) Prescription drug has the definition found in
11 section 71-1,142; and

12 (11) Program means the cancer drug repository program
13 established pursuant to section 71-2424.

14 Sec. 542. Section 71-2431, Revised Statutes Cumulative
15 Supplement, 2006, is amended to read:

16 71-2431 (1) Prescription drugs or devices which have been
17 delivered to a community health center for dispensing to a patient
18 of such health center pursuant to a valid prescription, but which
19 are not dispensed or administered to such patient, may be delivered
20 to a pharmacist or pharmacy under contract with the community
21 health center for relabeling and redispensing to another patient of
22 such health center pursuant to a valid prescription, ~~except that:~~
23 if:

24 (a) The decision to accept delivery of the drug or device
25 for relabeling and redispensing ~~shall rest~~ rests solely with the

1 contracting pharmacist or pharmacy;

2 (b) The drug or device ~~shall have~~ has been in the control
3 of the community health center at all times;

4 (c) The drug or device ~~shall be~~ is in the original and
5 unopened labeled container with a tamper-evident seal intact. Such
6 container shall bear the expiration date or calculated expiration
7 date and lot number; and

8 (d) The relabeling and redispensing is not otherwise
9 prohibited by law.

10 (2) For purposes of this section:

11 (a) Administer has the definition found in section
12 71-1,142;

13 (b) Calculated expiration date has the definition found
14 in section 71-1,147.53;

15 (c) Community health center means a community health
16 center established pursuant to the Health Centers Consolidation Act
17 of 1996, 42 U.S.C. 201 et seq., as such act existed on May 7, 2005;

18 (d) Deliver or delivery has the definition found in
19 section 71-1,142;

20 (e) Dispense or dispensing has the definition found in
21 section 71-1,142;

22 (f) Prescription has the definition found in section
23 71-1,142; and

24 (g) Prescription drug or device has the definition found
25 in section 71-1,142.

1 (3) The Department of Health and Human Services, Regulation and Licensure,
2 ~~Regulation and Licensure~~, in consultation with the Board of
3 Pharmacy, may adopt and promulgate rules and regulations to carry
4 out this section.

5 Sec. 543. 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) Law enforcement agency has the meaning found in
20 section 81-1401;

21 (5) Local public health department has the meaning found
22 in section 71-1626;

23 (6) Methamphetamine means methamphetamine, its salts,
24 optical isomers, and salts of its isomers; and

25 (7) Rehabilitate or rehabilitation means all actions

1 necessary to ensure that contaminated property is safe for human
2 habitation or use.

3 Sec. 544. Section 71-2437, Revised Statutes Cumulative
4 Supplement, 2006, is amended to read:

5 71-2437 For purposes of the Immunosuppressant Drug
6 Repository Program Act:

7 (1) Department means the Department of Health and Human
8 Services; ~~Regulation and Licensure;~~

9 (2) Immunosuppressant drug means anti-rejection drugs
10 that are used to reduce the body's immune system response to
11 foreign material and inhibit a transplant recipient's immune system
12 from rejecting a transplanted organ. Immunosuppressant drugs are
13 available only as prescription drugs and come in tablet, capsule,
14 and liquid forms. The recommended dosage depends on the type
15 and form of immunosuppressant drug and the purpose for which
16 it is being used. Immunosuppressant drug does not include drugs
17 prescribed for inpatient use;

18 (3) Participant means a transplant center that has
19 elected to voluntarily participate in the program, that has
20 submitted written notification to the department of its intent
21 to participate in the program, and that accepts donated
22 immunosuppressant drugs under the rules and regulations adopted and
23 promulgated by the department for the program;

24 (4) Prescribing practitioner means a health care
25 practitioner licensed under the Uniform Licensing Law who is

1 authorized to prescribe immunosuppressant drugs;

2 (5) Prescription drug has the definition found in section
3 71-1,142;

4 (6) Program means the immunosuppressant drug repository
5 program established pursuant to section 71-2438;

6 (7) Transplant center means a hospital that operates
7 an organ transplant program, including qualifying patients for
8 transplant, registering patients on the national waiting list,
9 performing transplant surgery, and providing care before and after
10 transplant; and

11 (8) Transplant program means the organ-specific facility
12 within a transplant center. A transplant center may have transplant
13 programs for the transplantation of hearts, lungs, livers, kidneys,
14 pancreata, or intestines.

15 Sec. 545. Section 71-2503, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 71-2503 Every person who disposes of or sells at retail
18 or furnishes any of the poisons in section 71-2501 or any
19 other poisons which the Department of Health and Human Services
20 ~~Regulation and Licensure~~ may from time to time designate, as
21 provided in section 71-2506, shall, before delivery, enter in a
22 book kept for that purpose, to be known as the Poison Register,
23 the date of sale, the name and address of the purchaser, the name
24 and quantity of the poison, the purpose for which it is purchased,
25 and the name of the dispenser, and such record shall be signed

1 by the person to whom the poison is delivered. Such record shall
2 be kept in the form prescribed by the department, and the book
3 containing the same must be always open for inspection by the
4 proper authorities, and must be preserved for at least two years
5 after the last entry.

6 Sec. 546. Section 71-2506, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 71-2506 Whenever, in the judgment of the ~~Director of~~
9 ~~Regulation and Licensure,~~ Department of Health and Human Services,
10 it shall become necessary for the protection of the public, to
11 add any poison, not specifically enumerated in section 71-2501, the
12 ~~Department of Health and Human Services Regulation and Licensure~~
13 department shall have printed a revised schedule of all poisons
14 coming under section 71-2501. The department shall forward by mail
15 one copy to each person registered upon its books and to every
16 person applying for same, and the revised schedule shall carry an
17 effective date for the new poisons added. No poison shall be added
18 by the ~~director~~ department under this section unless the same shall
19 be as toxic in its effect as any of the poisons enumerated under
20 section 71-2501. Whenever the ~~director~~ department shall propose
21 to bring any additional poisons under such section, the proposal
22 shall be set down for hearing. At least ten days' notice of such
23 hearing shall be given by the ~~director.~~ department. The notice
24 shall designate the poison to be added and shall state the time
25 and place of the hearing. Such notice shall be given by such

1 means as the ~~director~~ department shall determine to be reasonably
2 calculated to notify the various interested parties. The ~~director~~
3 department shall have the power to adopt and promulgate such rules
4 and regulations with respect to the conduct of such hearings as may
5 be necessary. Any person aggrieved by any order of the ~~director~~
6 department passed pursuant to this section may appeal such order,
7 and the appeal shall be in accordance with the Administrative
8 Procedure Act.

9 Sec. 547. Section 71-2509, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 71-2509 The ~~Director~~ of Regulation and Licensure
12 Department of Health and Human Services may, by regulation,
13 whenever in his or her opinion such action becomes necessary for
14 the protection of the public, prohibit the sale of any poison,
15 subject to the provisions of this section, except upon the original
16 written order or prescription of those practitioners of the healing
17 arts, named in section 71-102, who are duly authorized by law
18 to administer or professionally use those poisons specifically
19 named in section 71-2501. Whenever in the opinion of the ~~director~~
20 department it is in the interest of the public health, he or she
21 the department is empowered to adopt rules and regulations, not
22 inconsistent with the provisions of sections 71-2501 to 71-2511,
23 further restricting or prohibiting the retail sale of any poison.
24 The rules and regulations must be applicable to all persons alike,
25 and it shall be the duty of the ~~director~~, department, upon request,

1 to furnish any person, authorized by sections 71-2501 to 71-2511
2 to sell or dispense any poisons, with a list of all articles,
3 preparations, and compounds the sale of which is prohibited or
4 regulated by ~~said~~ such sections.

5 Sec. 548. Section 71-2511, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 71-2511 Any person, partnership, limited liability
8 company, association, or corporation violating any of the
9 provisions of sections 71-2502 to 71-2511 or any of the rules
10 or regulations passed adopted and promulgated by the Director of
11 Regulation and Licensure Department of Health and Human Services
12 pursuant to ~~the~~ sections 71-2502 to 71-2511 shall be deemed guilty
13 of a Class V misdemeanor.

14 Sec. 549. Section 71-2610, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 71-2610 ~~(1)~~ The State Board of Health shall advise the
17 Division of Public Health of the Department of Health and Human
18 Services ~~Regulation and Licensure~~ regarding:

19 ~~(a)~~ (1) Rules and regulations for the government of the
20 ~~department;~~ division;

21 ~~(b)~~ (2) The policies of the ~~department~~ division as they
22 relate to support provided to the board;

23 ~~(c)~~ (3) The policies of the ~~department~~ division
24 concerning the professions and occupations described in section
25 71-2610.01;

1 ~~(d)~~ (4) Communication and cooperation among the
2 professional boards; and

3 ~~(e)~~ (5) Plans of organization or reorganization of the
4 ~~department.~~ division.

5 ~~(2) Upon request of the Policy Cabinet, the board shall~~
6 ~~advise them on matters pertaining to public health.~~

7 Sec. 550. Section 71-2610.01, Revised Statutes Cumulative
8 Supplement, 2006, is amended to read:

9 71-2610.01 The State Board of Health shall:

10 (1) Adopt and promulgate rules and regulations for the
11 government of the professions and occupations licensed, certified,
12 registered, or issued permits by the Division of Public Health
13 of the Department of Health and Human Services, ~~Regulation and~~
14 ~~Licensure,~~ including rules and regulations necessary to implement
15 laws enforced by the ~~department.~~ division. These professions and
16 occupations are those subject to the Advanced Practice Registered
17 Nurse Licensure Act, the Asbestos Control Act, the Certified
18 Registered Nurse Anesthetist Act, the Clinical Nurse Specialist
19 Practice Act, the Licensed Practical Nurse-Certified Act, the
20 Nebraska Certified Nurse Midwifery Practice Act, the Nebraska
21 Cosmetology Act, the Nurse Practice Act, the Nurse Practitioner
22 Act, the Occupational Therapy Practice Act, the Radiation Control
23 Act, the Residential Lead-Based Paint Professions Certification
24 Act, the Uniform Controlled Substances Act, the Uniform Licensing
25 Law, the Wholesale Drug Distributor Licensing Act, or sections

1 71-102, 71-3702 to 71-3715, 71-4701 to 71-4719, and 71-6053 to
2 71-6068;

3 (2) Serve in an advisory capacity for other rules and
4 regulations adopted and promulgated by the ~~department,~~ division,
5 including those for health care facilities and environmental health
6 services;

7 (3) Carry out its powers and duties under the Nebraska
8 Regulation of Health Professions Act;

9 (4) Appoint and remove for cause members of
10 health-related professional boards as provided in sections
11 71-111, 71-112, and 71-118;

12 (5) At the discretion of the board, help mediate issues
13 related to the regulation of health care professions except issues
14 related to the discipline of health care professionals; and

15 (6) Have the authority to participate in the periodic
16 review of the regulation of health care professions.

17 All funds rendered available by law may be used by the
18 board in administering and effecting such purposes.

19 Sec. 551. Section 71-2617, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 71-2617 There is hereby created in the Department of
22 Health and Human Services ~~Regulation and Licensure~~ a cash fund to
23 be known as the Health and Human Services Reimbursement Fund. Any
24 money in the Department of Health and Human Services Regulation
25 and Licensure Reimbursement Fund on the operative date of this act

1 shall be transferred to the Health and Human Services Reimbursement
2 Fund. The fund shall be used for payment of services performed for
3 the ~~Department of Health and Human Services Finance and Support~~
4 department for inspection and licensing of hospitals and nursing
5 homes under Title XIX of the federal Social Security Act. ~~Any money~~
6 ~~in the Department of Health Reimbursement Fund on January 1, 1997,~~
7 ~~shall be transferred to the Department of Health and Human Services~~
8 ~~Regulation and Licensure Reimbursement Fund.~~ Any money in the fund
9 available for investment shall be invested by the state investment
10 officer pursuant to the Nebraska Capital Expansion Act and the
11 Nebraska State Funds Investment Act.

12 Sec. 552. Section 71-2619, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 71-2619 (1) The Department of Health and Human Services
15 ~~Regulation and Licensure~~ may by regulation establish fees to defray
16 the costs of providing specimen containers, shipping outfits, and
17 related supplies and fees to defray the costs of certain laboratory
18 examinations as requested by individuals, firms, corporations, or
19 governmental agencies in the state. Fees for the provision of
20 certain classes of shipping outfits or specimen containers shall
21 be no more than the actual cost of materials, labor, and delivery.
22 Fees for the provision of shipping outfits may be made when no
23 charge is made for service.

24 (2) Fees may be established by regulation for chemical
25 or microbiological examinations of various categories of water

1 samples. Fees established for examination of water to ascertain
2 qualities for domestic, culinary, and associated uses shall be
3 set to defray no more than the actual cost of the tests
4 in the following categories: (a) Inorganic chemical assays; (b)
5 organic pollutants; and (c) bacteriological examination to indicate
6 sanitary quality as coliform density by membrane filter test or
7 equivalent test.

8 (3) Fees for examinations of water from lakes, streams,
9 impoundments, or similar sources, from wastewaters, or from ground
10 water for industrial or agricultural purposes may be charged
11 in amounts established by regulation but shall not exceed one
12 and one-half times the limits set by ~~department~~ regulation for
13 examination of domestic waters.

14 (4) Fees may be established by regulation for chemical
15 or microbiological examinations of various categories of samples to
16 defray no more than the actual cost of testing. Such fees may be
17 charged for:

18 (a) Any specimen submitted for radiochemical analysis or
19 characterization;

20 (b) Any material submitted for chemical characterization
21 or quantitation; and

22 (c) Any material submitted for microbiological
23 characterization.

24 (5) Fees may be established by regulation for the
25 examinations of certain categories of biological and clinical

1 specimens to defray no more than the actual costs of testing.
2 Such fees may be charged for examinations pursuant to law or
3 ~~departmental~~ regulation of:

4 (a) Any specimen submitted for chemical examination for
5 assessment of health status or functional impairment;

6 (b) Any specimen submitted for microbiological
7 examination which is not related to direct human contact with the
8 microbiological agent; and

9 (c) A specimen submitted for microbiological examination
10 or procedure by an individual, firm, corporation, or governmental
11 unit other than the ~~Department of Health and Human Services~~
12 ~~Regulation and Licensure~~ department.

13 (6) The department shall not charge fees for tests that
14 include microbiological isolation, identification examination, or
15 other laboratory examination for the following:

16 (a) A contagious disease when the ~~Department of~~
17 ~~Health and Human Services Regulation and Licensure~~ department is
18 authorized by law or ~~regulations~~ regulation to directly supervise
19 the prevention, control, or surveillance of such contagious
20 disease;

21 (b) Any emergency when the health of the people of any
22 part of the state is menaced or exposed pursuant to section 71-502;
23 and

24 (c) When adopting or enforcing special quarantine and
25 sanitary regulations authorized by the department.

1 (7) Combinations of different tests or groups of tests
2 submitted together may be offered at rates less than those set for
3 individual tests as allowed in this section and shall defray the
4 actual costs.

5 (8) Fees may be established by regulation to defray no
6 more than the actual costs of conducting qualifying inspections
7 in order to make laboratory agreements between the department and
8 laboratories other than the Department of Health and Human Services
9 ~~Regulation and Licensure~~ Laboratory for the purpose of conducting
10 analyses of drinking water as prescribed in section 71-5306. The
11 inspection fees shall be collected on an annual schedule from those
12 laboratories which enter into an agreement with the department
13 for the purpose of conducting laboratory analyses of water. Such
14 fees shall not exceed the amount in the following categories:

15 (a) Bacteriological examination agreement, one hundred and fifty
16 dollars; (b) inorganic chemical analyses agreement, one hundred
17 dollars; (c) heavy metal analyses agreement, two hundred dollars;
18 (d) organic chemical analyses agreement, two hundred dollars; and
19 (e) radiochemical analyses agreement, two hundred dollars.

20 (9) All fees collected pursuant to this section shall be
21 deposited in the state treasury and credited to the ~~Department of~~
22 ~~Health and Human Services Regulation and Licensure~~ Health and Human
23 Services Cash Fund.

24 Sec. 553. Section 71-2620, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 71-2620 The Department of Health and Human Services
2 ~~Regulation and Licensure~~ may enter into agreements, not exceeding
3 one year in duration, with any other governmental agency relative
4 to the provision of certain laboratory tests and services to
5 the agency. Such services shall be provided as stipulated in the
6 agreement and for such fee, either lump sum or by the item, as
7 is mutually agreed upon and as complies with the provisions of
8 section 71-2619. All laboratories performing human genetic testing
9 for clinical diagnosis and treatment purposes shall be accredited
10 by the College of American Pathologists or by any other national
11 accrediting body or public agency which has requirements that are
12 substantially equivalent to or more comprehensive than those of the
13 college.

14 Sec. 554. Section 71-2621, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 71-2621 All fees collected for laboratory tests and
17 services pursuant to sections 71-2619 and 71-2620 shall be paid
18 into the state treasury and by the State Treasurer credited to the
19 ~~Department of Health and Human Services Regulation and Licensure~~
20 Health and Human Services Cash Fund, which shall be used to
21 partially defray the costs of labor, operations, supplies, and
22 materials in the operations of the Department of Health and Human
23 Services. ~~Regulation and Licensure.~~

24 Sec. 555. Section 71-2622, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 71-2622 The Department of Health and Human Services
2 ~~Regulation and Licensure~~ shall collect a fee of not less than sixty
3 nor more than one hundred dollars, as determined by ~~departmental~~
4 regulation, for each inspection of private water supply or private
5 sewage disposal facilities requested of and made by the department
6 in order for the person requesting the inspection to qualify for
7 any type of commercial loan, guarantee, or other type of payment
8 or benefit from any commercial agency or enterprise to the person
9 applying for or receiving the same or to meet the requirements of
10 any federal governmental agency, including, but not limited to, the
11 Farmers Home Administration, the Federal Housing Administration,
12 and the United States Department of Veterans Affairs, that such an
13 inspection be conducted as a condition of applying for or receiving
14 any type of grant, loan, guarantee, or other type of payment or
15 benefit from such agency to the person applying for or receiving
16 the same. All fees so collected shall be paid into the state
17 treasury and by the State Treasurer credited to the ~~Department of~~
18 ~~Health and Human Services Regulation and Licensure~~ Health and Human
19 Services Cash Fund.

20 Sec. 556. Section 71-3101, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 71-3101 As used in sections 71-3101 to 71-3107, unless
23 the context otherwise requires:

24 (1) Recreation camp shall mean one or more temporary or
25 permanent tents, buildings, structures, or site pads, together with

1 the tract of land appertaining thereto, established or maintained
2 for more than a forty-eight-hour period as living quarters or sites
3 used for purposes of sleeping or the preparation and the serving of
4 food extending beyond the limits of a family group for children or
5 adults, or both, for recreation, education, or vacation purposes,
6 and including facilities located on either privately or publicly
7 owned lands except hotels or inns;

8 (2) Person shall mean any individual or group of
9 individuals, association, partnership, limited liability company,
10 or corporation; and

11 (3) Department shall mean the Department of Health and
12 Human Services. ~~Regulation and Licensure.~~

13 Sec. 557. Section 71-3102, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 71-3102 Before any person shall directly or indirectly
16 operate a recreation camp he or she shall make an application
17 to the department and receive a valid permit for the operation
18 of such camp. Application for such a permit shall be made at
19 least thirty days prior to the proposed operation of the camp and
20 shall be on forms supplied by the department upon request. The
21 application shall be in such form and contain such information as
22 the department may deem necessary to its determination that the
23 recreation camp will be operated and maintained in such a manner
24 as to protect and preserve the health and safety of the persons
25 using the camp and shall be accompanied by an annual fee. The

1 department may establish fees by regulation to defray the actual
2 costs of issuing the permit, conducting inspections, and other
3 expenses incurred by the department in carrying out this section.
4 If the applicant is an individual, the application shall include
5 the applicant's social security number. Where a person operates or
6 is seeking to operate more than one recreation camp, a separate
7 application shall be made for each camp. Such a permit shall not
8 be transferable or assignable. It shall expire one year from the
9 date of its issuance, upon a change of operator of the camp,
10 or upon revocation. If the department finds, after investigation,
11 that the camp or the proposed operation thereof conforms, or will
12 conform, to the minimum standards for recreation camps, a permit on
13 a form prescribed by the department shall be issued for operation
14 of the camp. All fees shall be remitted to the State Treasurer for
15 credit to the ~~Department of Health and Human Services Regulation~~
16 ~~and Licensure~~ Health and Human Services Cash Fund.

17 Sec. 558. Section 71-3104, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 71-3104 (1) A permit may be temporarily suspended by
20 the ~~Director of Regulation and Licensure~~ department for failure to
21 protect the health and safety of the occupants of the camp, or
22 a failure to comply with the camp regulations prescribed by the
23 department.

24 (2) A permit may be revoked at any time, after notice and
25 opportunity for a fair hearing held by the ~~Director of Regulation~~

1 ~~and Licensure, department, if the director finds it is found that~~
2 the camp for which the permit is issued is maintained or operated
3 in violation of law or of any regulations applicable to a camp or
4 in violation of the conditions stated in the permit. A new permit
5 shall not be issued until the department is satisfied that the camp
6 will be operated in compliance with the law and regulations.

7 Sec. 559. Section 71-3305, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 71-3305 (1) Except as provided in subsection (2) of
10 this section, any political subdivision as defined in section
11 13-702, that provides the water supply of any city or village for
12 human consumption shall add fluoride to such water supply in the
13 amount and manner prescribed by the rules and regulations of the
14 Department of Health and Human Services. ~~Regulation and Licensure.~~

15 (2) Fluoride shall not be added to the water supply of
16 any city or village in which the voters have, after September 2,
17 1973, adopted an ordinance by initiative prohibiting the adding of
18 fluoride to its water supply. The procedure for the adoption of
19 any such ordinance shall be that provided in sections 18-2501 to
20 18-2536. No such ordinance may be adopted in a city or village
21 receiving, or which has contracted to receive, its water supply,
22 or any part thereof, from another political subdivision, or public
23 or private entity, which adds fluoride to its water supply in
24 compliance with subsection (1) of this section, or section 71-3306,
25 or which has available only purchased fluoridated water with which

1 to supply such city or village.

2 Sec. 560. Section 71-3306, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 71-3306 Any public or private entity not included in
5 section 71-3305 which provides a water supply for human consumption
6 and which is not required to add fluoride to such water supply
7 may add fluoride to such water supply in the amount and manner
8 prescribed by the rules and regulations of the Department of Health
9 and Human Services, ~~Regulation and Licensure.~~

10 Sec. 561. Section 71-3401, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 71-3401 Any person, hospital, sanitarium, nursing
13 home, rest home, or other organization may provide information,
14 interviews, reports, statements, memoranda, or other data relating
15 to the condition and treatment of any person to the Department of
16 Health and Human Services, ~~Regulation and Licensure,~~ the Nebraska
17 Medical Association or any of its allied medical societies,
18 the Nebraska Association of Hospitals and Health Systems, any
19 inhospital staff committee, or any joint venture of such entities
20 to be used in the course of any study for the purpose of reducing
21 morbidity or mortality, and no liability of any kind or character
22 for damages or other relief shall arise or be enforced against
23 any person or organization by reason of having provided such
24 information or material, by reason of having released or published
25 the findings and conclusions of such groups to advance medical

1 research and medical education, or by reason of having released or
2 published generally a summary of such studies.

3 Sec. 562. Section 71-3402, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 71-3402 The Department of Health and Human Services,
6 ~~Regulation and Licensure,~~ the Nebraska Medical Association or
7 any of its allied medical societies, the Nebraska Association
8 of Hospitals and Health Systems, any inhospital staff committee,
9 or any joint venture of such entities shall use or publish the
10 material specified in section 71-3401 only for the purpose of
11 advancing medical research or medical education in the interest
12 of reducing morbidity or mortality, except that a summary of such
13 studies may be released by any such group for general publication.
14 In all events the identity of any person whose condition or
15 treatment has been studied shall be confidential and shall not be
16 revealed under any circumstances.

17 Sec. 563. Section 71-3406, Revised Statutes Cumulative
18 Supplement, 2006, is amended to read:

19 71-3406 (1) The ~~Director~~ chief executive officer of the
20 Department of Health and Human Services shall appoint a minimum
21 of eight and a maximum of twelve members to the State Child
22 Death Review Team. The core members shall be (a) a physician
23 employed by the Nebraska Health and Human Services System, as
24 ~~referred to in section 81-3006,~~ department, who shall be a
25 permanent member and shall serve as the chairperson of the

1 team, (b) a senior staff member with child protective services
2 of the ~~Department of Health and Human Services~~, department, (c)
3 a forensic pathologist, (d) a law enforcement representative, and
4 (e) an attorney. The remaining members appointed may be, but shall
5 not be limited to, the following: A county attorney; a Federal
6 Bureau of Investigation agent responsible for investigations on
7 Native American reservations; a social worker; and members of
8 organizations which represent hospitals or physicians.

9 (2) Members shall serve four-year terms with the
10 exception of the chairperson. In the absence of the chairperson,
11 the ~~Director of Health and Human Services~~ chief executive
12 officer may appoint another member of the core team to serve as
13 chairperson.

14 (3) The team shall not be considered a public body for
15 purposes of the Open Meetings Act. The team shall meet a minimum
16 of four times a year. Members of the team shall be reimbursed for
17 their actual and necessary expenses as provided in sections 81-1174
18 to 81-1177.

19 Sec. 564. Section 71-3410, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 71-3410 Upon request the team shall be immediately
22 provided:

23 (1) Information and records maintained by a provider
24 of medical, dental, prenatal, and mental health care, including
25 medical reports, autopsy reports, and emergency and paramedic

1 records; and

2 (2) All information and records maintained by any state,
3 county, or local government agency, including, but not limited to,
4 birth and death certificates, law enforcement investigative data
5 and reports, coroner investigative data and reports, parole and
6 probation information and records, and information and records of
7 any social services agency that provided services to the child or
8 the child's family.

9 The ~~Director~~ Department of Health and Human Services
10 shall have the authority to issue subpoenas to compel production
11 of any of the records and information specified in subdivisions
12 (1) and (2) of this section, except records and information on any
13 child death under active investigation by a law enforcement agency
14 or which is at the time the subject of a criminal prosecution, and
15 shall provide such records and information to the team.

16 Sec. 565. Section 71-3502.01, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 71-3502.01 The ~~Department of Health and Human Services~~
19 ~~Regulation and Licensure~~ department may establish an alternative
20 maximum contaminant level for radon in drinking water by
21 establishing a multimedia radon mitigation program as provided
22 under federal law which may include public education, testing,
23 training, technical assistance, remediation grants, and loan or
24 incentive programs. The purpose of the radon mitigation program
25 shall be to achieve health risk reduction benefits equal to or

1 greater than the health risk reduction benefits that would be
2 achieved if each public water system in the state complied with the
3 maximum contaminant level of three hundred picocuries per liter.

4 Sec. 566. Section 71-3503, Revised Statutes Cumulative
5 Supplement, 2006, is amended to read:

6 71-3503 For purposes of the Radiation Control Act, unless
7 the context otherwise requires:

8 (1) Radiation means ionizing radiation and nonionizing
9 radiation as follows:

10 (a) Ionizing radiation means gamma rays, X-rays, alpha
11 and beta particles, high-speed electrons, neutrons, protons, and
12 other atomic or nuclear particles or rays but does not include
13 sound or radio waves or visible, infrared, or ultraviolet light;
14 and

15 (b) Nonionizing radiation means (i) any electromagnetic
16 radiation which can be generated during the operations of
17 electronic products to such energy density levels as to present
18 a biological hazard to occupational and public health and safety
19 and the environment, other than ionizing electromagnetic radiation,
20 and (ii) any sonic, ultrasonic, or infrasonic waves which are
21 emitted from an electronic product as a result of the operation of
22 an electronic circuit in such product and to such energy density
23 levels as to present a biological hazard to occupational and public
24 health and safety and the environment;

25 (2) Radioactive material means any material, whether

1 solid, liquid, or gas, which emits ionizing radiation
2 spontaneously. Radioactive material includes, but is not
3 limited to, accelerator-produced material, byproduct material,
4 naturally occurring material, source material, and special nuclear
5 material;

6 (3) Radiation-generating equipment means any manufactured
7 product or device, component part of such a product or device,
8 or machine or system which during operation can generate or emit
9 radiation except devices which emit radiation only from radioactive
10 material;

11 (4) Sources of radiation means any radioactive material,
12 any radiation-generating equipment, or any device or equipment
13 emitting or capable of emitting radiation or radioactive material;

14 (5) Undesirable radiation means radiation in such
15 quantity and under such circumstances as determined from time
16 to time by rules and regulations adopted and promulgated by the
17 department;

18 (6) Person means any individual, corporation,
19 partnership, limited liability company, firm, association,
20 trust, estate, public or private institution, group, agency,
21 political subdivision of this state, any other state or
22 political subdivision or agency thereof, and any legal successor,
23 representative, agent, or agency of the foregoing;

24 (7) Registration means registration with the department
25 pursuant to the Radiation Control Act;

1 (8) Department means the Department of Health and Human
2 Services; ~~Regulation and Licensure;~~

3 (9) ~~Coordinator means the Director of Regulation and~~
4 ~~Licensure;~~ Administrator means the administrator of radiation
5 control designated pursuant to section 71-3504;

6 (10) Electronic product means any manufactured product,
7 device, assembly, or assemblies of such products or devices which,
8 during operation in an electronic circuit, can generate or emit a
9 physical field of radiation;

10 (11) License means:

11 (a) A general license issued pursuant to rules and
12 regulations adopted and promulgated by the department without the
13 filing of an application with the department or the issuance of
14 licensing documents to particular persons to transfer, acquire,
15 own, possess, or use quantities of or devices or equipment
16 utilizing radioactive materials;

17 (b) A specific license, issued to a named person upon
18 application filed with the department pursuant to the Radiation
19 Control Act and rules and regulations adopted and promulgated
20 pursuant to the act, to use, manufacture, produce, transfer,
21 receive, acquire, own, or possess quantities of or devices or
22 equipment utilizing radioactive materials;

23 (c) A license issued to a radon measurement specialist,
24 radon measurement technician, radon mitigation specialist, radon
25 mitigation technician, radon measurement business, or radon

1 mitigation business; or

2 (d) A license issued to a medical radiographer or limited
3 radiographer;

4 (12) Byproduct material means:

5 (a) Any radioactive material, except special nuclear
6 material, yielded in or made radioactive by exposure to the
7 radiation incident to the process of producing or utilizing special
8 nuclear material; and

9 (b) The tailings or wastes produced by the extraction
10 or concentration of uranium or thorium from any ore processed
11 primarily for its source material content, including discrete
12 surface wastes resulting from uranium or thorium solution
13 extraction processes. Underground ore bodies depleted by such
14 solution extraction operations do not constitute byproduct
15 material;

16 (13) Source material means:

17 (a) Uranium or thorium or any combination thereof in any
18 physical or chemical form; or

19 (b) Ores which contain by weight one-twentieth of one
20 percent or more of uranium, thorium, or any combination thereof.
21 Source material does not include special nuclear material;

22 (14) Special nuclear material means:

23 (a) Plutonium, uranium 233, or uranium enriched in the
24 isotope 233 or in the isotope 235 and any other material that
25 the United States Nuclear Regulatory Commission pursuant to the

1 provisions of section 51 of the federal Atomic Energy Act of 1954,
2 as amended, determines to be special nuclear material but does not
3 include source material; or

4 (b) Any material artificially enriched by any material
5 listed in subdivision (14)(a) of this section but does not include
6 source material;

7 (15) Users of sources of radiation means:

8 (a) Physicians using radioactive material or
9 radiation-generating equipment for human use;

10 (b) Natural persons using radioactive material or
11 radiation-generating equipment for education, research, or
12 development purposes;

13 (c) Natural persons using radioactive material or
14 radiation-generating equipment for manufacture or distribution
15 purposes;

16 (d) Natural persons using radioactive material or
17 radiation-generating equipment for industrial purposes; and

18 (e) Natural persons using radioactive material or
19 radiation-generating equipment for any other similar purpose;

20 (16) Civil penalty means any monetary penalty levied on
21 a licensee or registrant because of violations of statutes, rules,
22 regulations, licenses, or registration certificates but does not
23 include criminal penalties;

24 (17) Closure means all activities performed at a waste
25 handling, processing, management, or disposal site, such as

1 stabilization and contouring, to assure that the site is in a
2 stable condition so that only minor custodial care, surveillance,
3 and monitoring are necessary at the site following termination of
4 licensed operation;

5 (18) Decommissioning means final operational activities
6 at a facility to dismantle site structures, to decontaminate
7 site surfaces and remaining structures, to stabilize and contain
8 residual radioactive material, and to carry out any other
9 activities to prepare the site for postoperational care;

10 (19) Disposal means the permanent isolation of low-level
11 radioactive waste pursuant to the Radiation Control Act and rules
12 and regulations adopted and promulgated pursuant to such act;

13 (20) Generate means to produce low-level radioactive
14 waste when used in relation to low-level radioactive waste;

15 (21) High-level radioactive waste means:

16 (a) Irradiated reactor fuel;

17 (b) Liquid wastes resulting from the operation of the
18 first cycle solvent extraction system or equivalent and the
19 concentrated wastes from subsequent extraction cycles or the
20 equivalent in a facility for reprocessing irradiated reactor fuel;
21 and

22 (c) Solids into which such liquid wastes have been
23 converted;

24 (22) Low-level radioactive waste means radioactive waste
25 not defined as high-level radioactive waste, spent nuclear fuel,

1 or byproduct material as defined in subdivision (12)(b) of this
2 section;

3 (23) Management of low-level radioactive waste means the
4 handling, processing, storage, reduction in volume, disposal, or
5 isolation of such waste from the biosphere in any manner;

6 (24) Source material mill tailings or mill tailings means
7 the tailings or wastes produced by the extraction or concentration
8 of uranium or thorium from any ore processed primarily for
9 its source material content, including discrete surface wastes
10 resulting from underground solution extraction processes, but
11 not including underground ore bodies depleted by such solution
12 extraction processes;

13 (25) Source material milling means any processing of ore,
14 including underground solution extraction of unmined ore, primarily
15 for the purpose of extracting or concentrating uranium or thorium
16 therefrom and which results in the production of source material
17 and source material mill tailings;

18 (26) Spent nuclear fuel means irradiated nuclear fuel
19 that has undergone at least one year of decay since being used as
20 a source of energy in a power reactor. Spent nuclear fuel includes
21 the special nuclear material, byproduct material, source material,
22 and other radioactive material associated with fuel assemblies;

23 (27) Transuranic waste means radioactive waste material
24 containing alpha-emitting radioactive elements, with radioactive
25 half-lives greater than five years, having an atomic number greater

1 than 92 in concentrations in excess of one hundred nanocuries per
2 gram;

3 (28) Licensed practitioner means a person licensed to
4 practice medicine, dentistry, podiatry, chiropractic, osteopathic
5 medicine and surgery, or as an osteopathic physician;

6 (29) X-ray system means an assemblage of components for
7 the controlled production of X-rays, including, but not limited to,
8 an X-ray high-voltage generator, an X-ray control, a tube housing
9 assembly, a beam-limiting device, and the necessary supporting
10 structures. Additional components which function with the system
11 are considered integral parts of the system;

12 (30) Limited radiographer means a person licensed
13 to practice medical radiography pursuant to subsection (2) of
14 section 71-3515.01. Limited radiographer does not include a person
15 certified under section 71-176.01;

16 (31) Medical radiographer means a person licensed to
17 practice medical radiography pursuant to subsection (1) of section
18 71-3515.01;

19 (32) Medical radiography means the application of
20 radiation to humans for diagnostic purposes, including, but not
21 limited to, adjustment or manipulation of X-ray systems and
22 accessories including image receptors, positioning of patients,
23 processing of films, and any other action that materially affects
24 the radiation dose to patients;

25 (33) Licensed facility operator means any person or

1 entity who has obtained a license under the Low-Level Radioactive
2 Waste Disposal Act to operate a facility, including any person
3 or entity to whom an assignment of a license is approved by the
4 Department of Environmental Quality; and

5 (34) Deliberate misconduct means an intentional act or
6 omission by a person that (a) would intentionally cause a licensee,
7 registrant, or applicant for a license or registration to be
8 in violation of any rule, regulation, or order of or any term,
9 condition, or limitation of any license or registration issued by
10 the department under the Radiation Control Act or (b) constitutes
11 an intentional violation of a requirement, procedure, instruction,
12 contract, purchase order, or policy under the Radiation Control
13 Act by a licensee, a registrant, an applicant for a license or
14 registration, or a contractor or subcontractor of a licensee,
15 registrant, or applicant for a license or registration.

16 Sec. 567. Section 71-3504, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 71-3504 (1) ~~The Director of Regulation and Licensure~~
19 ~~shall be the coordinator of~~ Department of Health and Human Services
20 shall coordinate radiation control activities and may designate
21 ~~a Director of Radiation Control.~~ an administrator of radiation
22 control. ~~The Director of Regulation and Licensure~~ administrator
23 shall:

24 (a) Advise the Governor and agencies of the state on
25 matters relating to radiation; and

1 (b) Coordinate regulatory activities of the state
2 relating to radiation, including cooperation with other states and
3 the federal government.

4 (2) The ~~Director of Regulation and Licensure~~
5 administrator shall:

6 (a) Review before and after the holding of any public
7 hearing required under the Administrative Procedure Act, prior to
8 promulgation, the proposed rules and regulations of all agencies
9 of the state relating to use and control of radiation to assure
10 that such rules and regulations are consistent with rules and
11 regulations of other agencies of the state;

12 (b) When he or she determines that proposed rules or
13 regulations or parts thereof are inconsistent with rules and
14 regulations of other agencies of the state, make an effort
15 to resolve such inconsistencies. Upon notification that such
16 inconsistencies have not been resolved, the Governor may, after
17 consultation with the ~~Director of Regulation and Licensure,~~
18 department, find that the proposed rules and regulations or parts
19 thereof are inconsistent with rules and regulations of other
20 agencies of the state or the federal government and may issue
21 an order to that effect, in which event the proposed rules and
22 regulations or parts thereof shall not become effective. The
23 Governor may, in the alternative, upon a similar determination,
24 direct the appropriate agency or agencies to amend or repeal
25 existing rules and regulations to achieve consistency with the

1 proposed rules and regulations;

2 (c) Advise, consult, and cooperate with other agencies
3 of the state, the federal government, other states, interstate
4 agencies, political subdivisions, and other organizations concerned
5 with control of sources of radiation; and

6 (d) Collect and disseminate information relating to the
7 control of sources of radiation and maintain (i) a file of all
8 registrants, license applications, issuances, denials, amendments,
9 transfers, renewals, modifications, inspections, recommendations
10 pertaining to radiation, suspensions, and revocations, (ii) a file
11 of registrants possessing or using sources of radiation requiring
12 registration under the Radiation Control Act and any administrative
13 or judicial action pertaining to such registration, and (iii) a
14 file of all rules and regulations relating to the regulation of
15 sources of radiation, pending or promulgated, and proceedings on
16 such rules and regulations thereon.

17 (3) The several agencies of the state and political
18 subdivisions shall keep the ~~coordinator~~ administrator fully and
19 currently informed as to their activities relating to development
20 of new uses and regulation of sources of radiation.

21 Sec. 568. Section 71-3505, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 71-3505 Matters relative to radiation as they relate to
24 occupational and public health and safety and the environment shall
25 be a responsibility of the department. The department shall:

1 (1) Develop comprehensive policies and programs for the
2 evaluation and determination of undesirable radiation associated
3 with the production, use, storage, or disposal of radiation sources
4 and formulate, adopt, promulgate, and repeal rules and regulations
5 which may provide (a) for registration or licensure under section
6 71-3507 or 71-3509 and (b) for registration or licensure of (i)
7 any other source of radiation, (ii) persons providing services
8 for collection, detection, measurement, or monitoring of sources
9 of radiation, including, but not limited to, radon and its
10 decay products, (iii) persons providing services to reduce the
11 effects of sources of radiation, (iv) persons practicing medical
12 radiography, and (v) persons practicing industrial radiography,
13 as specified by rule or regulation so as to reasonably protect
14 occupational and public health and safety and the environment
15 in a manner compatible with regulatory programs of the federal
16 government. The department for identical purposes may also adopt
17 and promulgate rules and regulations for the issuance of licenses,
18 either general or specific, to persons for the purpose of using,
19 manufacturing, producing, transporting, transferring, receiving,
20 acquiring, owning, or possessing any radioactive material. Such
21 rules and regulations may prohibit the use of radiation for
22 uses found by the department to be detrimental to occupational
23 and public health or safety or the environment and shall carry
24 out the purposes and policies set out in sections 71-3501
25 and 71-3502. Such rules and regulations shall not prohibit

1 or limit the kind or amount of radiation purposely prescribed
2 for or administered to a patient by doctors of medicine and
3 surgery, dentistry, osteopathic medicine, chiropractic, podiatry,
4 and veterinary medicine, while engaged in the lawful practice of
5 such profession, or administered by other professional personnel,
6 such as allied health personnel, medical radiographers, limited
7 radiographers, nurses, and laboratory workers, acting under the
8 supervision of a licensed practitioner. Violation of rules and
9 regulations adopted and promulgated by the department pursuant to
10 the Radiation Control Act shall be due cause for the suspension,
11 revocation, or limitation of a license issued by the department.
12 Any licensee may request a hearing before the department on the
13 issue of such suspension, revocation, or limitation. Procedures for
14 notice and opportunity for a hearing before the department shall be
15 pursuant to the Administrative Procedure Act. The decision of the
16 department may be appealed, and the appeal shall be in accordance
17 with the Administrative Procedure Act;

18 (2) Have the authority to accept and administer loans,
19 grants, or other funds or gifts, conditional or otherwise, in
20 furtherance of its functions, from the federal government and from
21 other sources, public or private;

22 (3) Encourage, participate in, or conduct studies,
23 investigations, training, research, and demonstrations relating to
24 the control of sources of radiation;

25 (4) Collect and disseminate health education information

1 relating to radiation protection;

2 (5) Make its facilities available so that any person or
3 any agency may request the department to review and comment on
4 plans and specifications of installations submitted by the person
5 or agency with respect to matters of protection and safety for the
6 control of undesirable radiation;

7 (6) Be empowered to inspect radiation sources and their
8 shieldings and surroundings for the determination of any possible
9 undesirable radiation or violations of rules and regulations
10 adopted and promulgated by the department and provide the owner,
11 user, or operator with a report of any known or suspected
12 deficiencies; and

13 (7) Collect a fee for emergency response or environmental
14 surveillance, or both, offsite from each nuclear power plant equal
15 to the cost of completing the emergency response or environmental
16 surveillance and any associated report. In no event shall the
17 fee for any nuclear power plant exceed the lesser of the
18 actual costs of such activities or fifty-three thousand dollars
19 per annum. Commencing July 1, 1997, the accounting division
20 of the Department of Administrative Services shall recommend an
21 inflationary adjustment equivalent which shall be based upon the
22 Consumer Price Index for All Urban Consumers of the United States
23 Department of Labor, Bureau of Labor Statistics, and shall not
24 exceed five percent per annum. Such adjustment shall be applied to
25 the annual fee for nuclear power plants. The fee collected shall be

1 credited to the ~~Department of Health and Human Services Regulation~~
2 ~~and Licensure~~ Health and Human Services Cash Fund. This fee shall
3 be used solely for the purpose of defraying the direct costs of the
4 emergency response and environmental surveillance at Cooper Nuclear
5 Station and Fort Calhoun Station conducted by the department. The
6 department may charge additional fees when mutually agreed upon for
7 services, training, or equipment that are a part of or in addition
8 to matters in this section.

9 Sec. 569. Section 71-3508.03, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 71-3508.03 (1) The department shall establish by rule
12 and regulation annual fees for the radioactive materials licenses,
13 for inspections of radioactive materials, for the registration
14 and inspection of radiation-generating equipment and other sources
15 of radiation, and for radon measurement and mitigation business
16 licenses and inspections of radon mitigation systems installations
17 under the Radiation Control Act. The annual fee for registration
18 and inspection of X-ray radiation generating equipment used to
19 diagnose conditions in humans or animals shall not exceed seventy
20 dollars per X-ray machine. The department shall also establish by
21 rule and regulation additional fees for environmental surveillance
22 activities performed by the department to assess the radiological
23 impact of activities conducted by licensees and registrants. Such
24 activities shall not duplicate surveillance programs approved by
25 the federal Nuclear Regulatory Commission and conducted by entities

1 licensed by such commission. No fee shall exceed the actual cost to
2 the department for administering the act. The fees collected shall
3 be remitted to the State Treasurer for credit to the ~~Department of~~
4 ~~Health and Human Services Regulation and Licensure~~ Health and Human
5 Services Cash Fund and shall be used solely for the purpose of
6 defraying the direct and indirect costs of administering the act.
7 The department shall collect such fees.

8 (2) The department may, upon application by an interested
9 person or on its own initiative, grant such exemptions from
10 the requirements of this section as it determines are in the
11 public interest. Applications for exemption under this subsection
12 may include, but shall not be limited to, the use of licensed
13 materials for educational or noncommercial displays or scientific
14 collections.

15 (3) When a registrant or licensee fails to pay
16 the applicable fee, the department may suspend or revoke the
17 registration or license or may issue an appropriate order.

18 (4) The department shall establish and collect fees for
19 licenses for individuals engaged in radon detection, measurement,
20 and mitigation as provided in section 71-162.

21 Sec. 570. Section 71-3508.04, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 71-3508.04 (1) For licensed activities involving source
24 material milling, source material mill tailings, and management
25 of low-level radioactive waste, the department shall, and for

1 other classes of licensed activities the department may, adopt
2 and promulgate rules and regulations which establish standards and
3 procedures to ensure that the licensee will provide an adequate
4 surety or other financial arrangement to permit the completion
5 of all requirements established by the department for the
6 licensure, regulation, decontamination, closure, decommissioning,
7 and reclamation of sites, structures, and equipment used in
8 conjunction with such licensed activity in case the licensee
9 should default for any reason in performing such requirements.
10 All sureties required which are forfeited shall be paid to the
11 department and remitted to the State Treasurer for credit to the
12 ~~Department of Health and Human Services Regulation and Licensure~~
13 Health and Human Services Cash Fund. Money in such fund remitted
14 pursuant to this subsection shall be expended by the department as
15 necessary to complete the closure and reclamation requirements and
16 shall not be used for normal operating expenses of the department.

17 (2) For licensed activities involving the disposal
18 of source material mill tailings and management of low-level
19 radioactive waste, the department shall, and for other classes of
20 licensed activities when radioactive material which will require
21 surveillance or care is likely to remain at the site after the
22 licensed activities cease the department may, adopt and promulgate
23 rules and regulations which establish standards and procedures
24 to ensure that the licensee, before termination of the license,
25 will make available such funding arrangements as may be necessary

1 to provide for long-term site surveillance and care. All such
2 funds collected from licensees shall be paid to the department
3 and remitted to the State Treasurer for credit to the fund. All
4 funds accrued as interest on money credited to the fund pursuant
5 to this subsection may be expended by the department for the
6 continuing long-term surveillance, maintenance, and other care of
7 facilities from which such funds are collected as necessary for
8 protection of the occupational and public health and safety and the
9 environment. If title to and custody of any radioactive material
10 and its disposal site are transferred to the United States upon
11 termination of any license for which funds have been collected
12 for such long-term care, the collected funds and interest accrued
13 thereon shall be transferred to the United States.

14 (3) The sureties or other financial arrangements and
15 funds required by this section shall be established in amounts
16 sufficient to ensure compliance with standards, if any, established
17 by the department pertaining to licensure, regulation, closure,
18 decommissioning, reclamation, and long-term site surveillance and
19 care of such facilities and sites.

20 (4) To provide for the proper care and surveillance of
21 sites subject to subsection (2) of this section which are not
22 subject to section 71-3508.01 or 71-3508.02, the state may acquire
23 by gift or transfer from another governmental agency or private
24 person any land and appurtenances necessary to fulfill the purposes
25 of this section. Any such gift or transfer shall be subject to

1 approval and acceptance by the Legislature.

2 (5) The department may by contract, agreement, lease, or
3 license with any person, including another state agency, provide
4 for the decontamination, closure, decommissioning, reclamation,
5 surveillance, or other care of a site subject to this section as
6 needed to carry out the purposes of this section.

7 (6) If a person licensed by any governmental agency other
8 than the department desires to transfer a site to the state for the
9 purpose of administering or providing long-term care, a lump-sum
10 deposit shall be made to the department and remitted to the State
11 Treasurer for credit to the ~~Department of Health and Human Services~~
12 ~~Regulation and Licensure~~ Health and Human Services Cash Fund. The
13 amount of such deposit shall be determined by the department taking
14 into account the factors stated in subsections (1) and (2) of this
15 section.

16 Sec. 571. Section 71-3513, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 71-3513 (1) In any proceeding for the issuance or
19 modification of rules or regulations relating to control of sources
20 of radiation, the department shall provide an opportunity for
21 public participation through written comments and a public hearing.

22 (2) In any proceeding for the denial of an application
23 for a license or for the amendment, suspension, or revocation of a
24 license, the department shall provide the applicant or licensee an
25 opportunity for a hearing on the record.

1 (3) In any proceeding for licensing ores processed
2 primarily for their source material content and management of
3 byproduct material and source material mill tailings, or for
4 licensing management of low-level radioactive waste, the department
5 shall provide:

6 (a) An opportunity, after public notice, for written
7 comments and a public hearing with a transcript;

8 (b) An opportunity for cross-examination; and

9 (c) A written determination of the action to be taken
10 which is based upon findings included in the determination and upon
11 evidence presented during the public comment period.

12 (4) In any proceeding for licensing ores processed
13 primarily for their source material content and disposal of
14 byproduct material and source material mill tailings, or for
15 licensing management of low-level radioactive waste, the department
16 shall prepare, for each licensed activity which has a significant
17 impact on the occupational or public health and safety or the
18 environment, a written analysis of the impact of such licensed
19 activity. The analysis shall be available to the public before the
20 commencement of the hearing and shall include:

21 (a) An assessment of the radiological and nonradiological
22 impacts to the public health;

23 (b) An assessment of any impact on any waterway and
24 ground water;

25 (c) Consideration of alternatives, including alternative

1 sites and engineering methods, to the activities to be conducted;
2 and

3 (d) Consideration of the long-term impacts, including
4 decommissioning, decontamination, and reclamation of facilities and
5 sites associated with the licensed activities and management of
6 any radioactive materials which will remain on the site after such
7 decommissioning, decontamination, and reclamation.

8 (5) The department shall prohibit any major construction
9 with respect to any activity for which an environmental impact
10 analysis is required by this section prior to completion of such
11 analysis.

12 (6) Whenever the department finds that an emergency
13 exists with respect to radiation requiring immediate action
14 to protect occupational or public health and safety or the
15 environment, the department may, without notice, hearing, or
16 submission to the ~~coordinator~~, administrator, issue a regulation
17 or order reciting the existence of such emergency and requiring
18 that such action be taken as is necessary to meet the emergency.
19 Notwithstanding any provisions of the Radiation Control Act, such
20 regulation or order shall be effective immediately. Any person to
21 whom such regulation or order is directed shall comply immediately,
22 but on application to the department shall be afforded a hearing
23 not less than fifteen days and not more than thirty days after
24 filing of the application. On the basis of such hearing, the
25 emergency regulation or order shall be continued, modified, or

1 revoked within thirty days after such hearing, and the department
2 shall mail the applicant a copy of its findings of fact and
3 determination.

4 (7) Any final department action or order entered
5 pursuant to subsection (1), (2), (3), or (6) of this section
6 may be appealed, and the appeal shall be in accordance with the
7 Administrative Procedure Act.

8 Sec. 572. Section 71-3516.01, Revised Statutes Cumulative
9 Supplement, 2006, is amended to read:

10 71-3516.01 (1) The department shall keep any source of
11 radiation impounded under section 71-3516 for as long as it is
12 needed as evidence for any hearing.

13 (2) Prior to the issuance of an order of disposition for
14 an impounded source of radiation, the department shall notify in
15 writing any person, known by the department to claim an interest
16 in the source of radiation, that the department intends to dispose
17 of the source of radiation. Notice shall be served by personal
18 service, by certified or registered mail to the last-known address
19 of the person, or by publication. Notice by publication shall
20 only be made if personal service or service by mail cannot be
21 effectuated.

22 (3) Within fifteen days after service of the notice under
23 subsection (2) of this section, any person claiming an interest
24 in the impounded source of radiation may request, in writing, a
25 hearing before the department to determine possession of the source

1 of radiation. The hearing shall be held in accordance with rules
2 and regulations adopted and promulgated by the department. If the
3 department determines that the person claiming an interest in the
4 source of radiation has proven by a preponderance of the evidence
5 that such person (a) had not used or intended to use the source
6 of radiation in violation of the Radiation Control Act, (b) has
7 an interest in the source of radiation acquired in good faith as
8 an owner, a lien holder, or otherwise, and (c) has the authority
9 under the act to possess such source of radiation, the department
10 shall order that possession of the source of radiation be given to
11 such person. If possession of the impounded source of radiation is
12 not given to the person requesting the hearing, such person may
13 appeal the decision of the department, and the appeal shall be in
14 accordance with the Administrative Procedure Act. If possession of
15 the impounded source of radiation is not given to the person so
16 appealing, the department shall order such person to pay for the
17 costs of the hearing, storage fees, and any other reasonable and
18 necessary expenses related to the impounded source of radiation.

19 (4) If possession of the impounded source of radiation is
20 not given to the person requesting the hearing under subsection (3)
21 of this section, the department shall issue an order of disposition
22 for the source of radiation and shall dispose of the source of
23 radiation as directed in the order. Disposition methods are at the
24 discretion of the department and may include, but are not limited
25 to, (a) sale of the source of radiation to a person authorized to

1 possess the source of radiation under the act, (b) transfer to the
2 manufacturer of the source of radiation, or (c) destruction of the
3 source of radiation. The order of disposition shall be considered a
4 transfer of title of the source of radiation.

5 (5) If expenses related to the impounded source of
6 radiation are not paid under subsection (3) of this section, the
7 department shall pay such expenses from:

8 (a) Proceeds from the sale of the source of radiation, if
9 sold; or

10 (b) Available funds in the ~~Department of Health and Human~~
11 ~~Services Regulation and Licensure~~ Health and Human Services Cash
12 Fund.

13 Sec. 573. Section 71-3517, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 71-3517 (1) Any person who violates any of the provisions
16 of the Radiation Control Act shall be guilty of a Class IV
17 misdemeanor.

18 (2) In addition to the penalty provided in subsection
19 (1) of this section, any person who violates any provision of the
20 Radiation Control Act or any rule, regulation, or order issued
21 pursuant to such act or any term, condition, or limitation of any
22 license or registration certificate issued pursuant to such act
23 shall be subject to:

24 (a) License revocation, suspension, modification,
25 condition, or limitation;

1 (b) The imposition of a civil penalty; or

2 (c) The terms of any appropriate order issued by the
3 department.

4 (3) Whenever the department proposes to subject a person
5 to the provisions of subsection (2) of this section, the department
6 shall notify the person in writing (a) setting forth the date,
7 facts, and nature of each act or omission with which the person
8 is charged, (b) specifically identifying the particular provision
9 or provisions of the section, rule, regulation, order, license, or
10 registration certificate involved in the violation, and (c) of the
11 sanction or order to be imposed. If a civil penalty is imposed, the
12 notice shall include a statement that it can be collected by civil
13 action. The notice shall be delivered to each alleged violator by
14 personal service, by certified or registered mail to his or her
15 last-known address, or by publication. Notice by publication shall
16 only be made if personal service or service by mail cannot be
17 effectuated. The sanction or order in the notice shall become final
18 thirty days after the mailing of the notice unless the applicant,
19 registrant, or licensee, within the thirty-day period, requests, in
20 writing, a hearing before the department. If the notice is served
21 by personal service or publication, the sanction or order shall
22 become final thirty days after completion of such service unless
23 the applicant, registrant, or licensee, within the thirty-day
24 period, requests, in writing, a hearing before the department.

25 (4) Hearings held pursuant to subsection (3) of this

1 section shall be held in accordance with rules and regulations
2 adopted and promulgated by the department and shall provide for
3 the alleged violator to present such evidence as may be proper.
4 Witnesses may be subpoenaed by either party and shall be allowed
5 fees at a rate prescribed by the rules and regulations of the
6 department. A full and complete record shall be kept of the
7 proceedings.

8 (5) Following the hearing, the ~~director~~ department shall
9 determine whether the charges are true or not, and if true, the
10 ~~director~~ department may (a) issue a declaratory order finding the
11 charges to be true, (b) revoke, suspend, modify, condition, or
12 limit the license, (c) impose a civil penalty in an amount not to
13 exceed ten thousand dollars for each violation, or (d) enter an
14 appropriate order. If any violation is a continuing one, each day
15 of such violation shall constitute a separate violation for the
16 purpose of computing the applicable civil penalty and the amount
17 of the penalty shall be based on the severity of the violation. A
18 copy of such decision setting forth the finding of facts and the
19 particular reasons upon which it is based shall be sent by either
20 certified or registered mail to the alleged violator. The decision
21 may be appealed, and the appeal shall be in accordance with the
22 Administrative Procedure Act.

23 (6) Any civil penalty assessed and unpaid under
24 subsection (5) of this section shall constitute a debt to the
25 State of Nebraska which may be collected in the manner of a lien

1 foreclosure or sued for and recovered in any proper form of action
2 in the name of the State of Nebraska in the district court of
3 the county in which the violator resides or owns property. The
4 department shall, within thirty days from receipt, ~~transmit~~ remit
5 any collected civil penalty to the State Treasurer for ~~deposit in~~
6 ~~the permanent school fund.~~ distribution in accordance with Article
7 VII, section 5, of the Constitution of Nebraska.

8 Sec. 574. Section 71-3524, Revised Statutes Cumulative
9 Supplement, 2006, is amended to read:

10 71-3524 For purposes of sections 71-3523 to 71-3528:

11 (1) Department means the Department of Health and Human
12 Services; ~~Regulation and Licensure;~~

13 (2) High-level radioactive waste has the definition found
14 in section 81-1589; and

15 (3) Transuranic waste means radioactive waste material
16 containing alpha-emitting radioactive elements, with radioactive
17 half-lives greater than five years, having an atomic number greater
18 than 92 in concentrations in excess of one hundred nanocuries per
19 gram.

20 Sec. 575. Section 71-3526, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 71-3526 The Radiation Transportation Emergency Response
23 Cash Fund is created. The fund shall consist of fees credited
24 pursuant to section 71-3525. The fund shall be used for the
25 purposes stated in such section. The Director-State Engineer,

1 the Superintendent of Law Enforcement and Public Safety, the
2 ~~Director of Regulation and Licensure,~~ chief executive officer of
3 the department, the Adjutant General as director of the Nebraska
4 Emergency Management Agency, and the executive director of the
5 Public Service Commission, or their designees, shall meet at least
6 annually to recommend changes in the fees charged and allocation
7 of the fees collected among participating agencies based upon
8 their respective costs in carrying out such section. Any money in
9 the fund available for investment shall be invested by the state
10 investment officer pursuant to the Nebraska Capital Expansion Act
11 and the Nebraska State Funds Investment Act.

12 Sec. 576. Section 71-3601, Revised Statutes Cumulative
13 Supplement, 2006, is amended to read:

14 71-3601 For purposes of the Tuberculosis Detection and
15 Prevention Act:

16 (1) Communicable tuberculosis means tuberculosis
17 manifested by a laboratory report of sputum or other body fluid
18 or excretion found to contain tubercle bacilli or by chest X-ray
19 findings interpreted as active tuberculosis by competent medical
20 authority;

21 (2) Department means the Department of Health and Human
22 Services; ~~Regulation and Licensure;~~

23 (3) Facility means a structure in which suitable
24 isolation for tuberculosis can be given and which is approved
25 by the department for the detention of recalcitrant tuberculosis

1 persons;

2 (4) Local health officer means (a) the health director of
3 a local public health department as defined in section 71-1626 or
4 (b) the medical advisor to the board of health of a county, city,
5 or village;

6 (5) Recalcitrant tuberculous person means a person
7 affected with tuberculosis in an active stage who by his or her
8 conduct or mode of living endangers the health and well-being of
9 other persons, by exposing them to tuberculosis, and who refuses
10 to accept adequate treatment; and

11 (6) State health officer means ~~the Director of Regulation~~
12 ~~and Licensure or~~ the chief medical officer as described in section
13 ~~81-3201. 6 of this act.~~

14 Sec. 577. Section 71-3610, Revised Statutes Cumulative
15 Supplement, 2006, is amended to read:

16 71-3610 The expenses incurred in the care, maintenance,
17 and treatment of patients committed under the Tuberculosis
18 Detection and Prevention Act shall be paid from state funds
19 appropriated to the ~~Department of Health and Human Services Finance~~
20 ~~and Support department~~ department for the purpose of entering into agreements
21 with qualified health care facilities so as to provide for the
22 care, maintenance, and treatment of such patients and those other
23 persons having communicable tuberculosis who voluntarily agree to
24 and accept care and treatment.

25 Sec. 578. Section 71-3702, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 71-3702 For purposes of sections 71-3702 to 71-3715,
3 unless the context otherwise requires:

4 (1) Board ~~shall mean~~ means the Board of Registration for
5 Environmental Health Specialists;

6 (2) Environmental health specialist ~~shall mean~~ means a
7 person who by education and experience in the physical, biological,
8 and sanitary sciences is qualified to carry out educational,
9 investigational, and technical duties in the field of environmental
10 sanitation;

11 (3) Registered environmental health specialist ~~shall mean~~
12 means a person who has the educational requirements and has had
13 experience in the field of environmental sanitation required by
14 section 71-3703 and is registered in accordance with sections
15 71-3702 to 71-3715;

16 (4) Trainee ~~shall mean~~ means a person who is qualified by
17 education but does not have at least one full year of experience
18 in the field of environmental sanitation and is registered in
19 accordance with sections 71-3702 to 71-3715;

20 (5) Certificate of registration ~~shall mean~~ means a
21 document issued as evidence of registration and qualification
22 to practice as an environmental health specialist or trainee under
23 sections 71-3702 to 71-3715, bearing the designation Registered
24 Environmental Health Specialist or Trainee, and showing the name of
25 the person, date of issue, serial number, seal, and signatures of

1 the members of the board authorized to grant such certificates; and

2 (6) Department ~~shall mean~~ means the Department of Health
3 and Human Services. ~~Regulation and Licensure.~~

4 Sec. 579. Section 71-3706, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 71-3706 The Board of Registration for Environmental
7 Health Specialists shall consist of six members appointed by
8 the State Board of Health. One member shall be a layperson who
9 is at least the age of majority, who has been a resident of the
10 state for at least five years immediately preceding appointment,
11 and who is a representative of consumer viewpoints. Each of the
12 other members shall have been engaged in environmental health for
13 at least ten years, shall have had responsible charge of work for
14 at least five years at the time of his or her appointment, and
15 shall be a registered environmental health specialist. Each member
16 of the Board of Registration for Environmental Health Specialists
17 shall receive as compensation not more than twenty-five dollars
18 per day for each day actually spent in traveling to and from and
19 while attending sessions of the board and its committees, and each
20 member shall also receive the necessary expenses incident to the
21 performance of his or her duties as provided by sections 81-1174 to
22 81-1177 and subject to section 71-3708.01.

23 ~~The Department of Health and Human Services Regulation~~
24 ~~and Licensure~~ department shall adopt and promulgate rules and
25 regulations which establish definitions of conflicts of interest

1 for members of the board and which establish procedures in the case
2 such a conflict arises.

3 Sec. 580. Section 71-4302, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 71-4302 The Department of Health and Human Services
6 ~~Regulation and Licensure~~ shall prepare, adopt, and have printed
7 minimum sanitary and safety requirements in the form of regulations
8 for the design, construction, equipment, and operation of swimming
9 pools and bather preparation facilities. Such requirements shall
10 include, but not be limited to, provisions for waiver or variance
11 of design standards and the circumstances under which such waiver
12 or variance may be granted.

13 Sec. 581. Section 71-4303, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 71-4303 No swimming pool shall be constructed after
16 January 1, 1970, unless and until plans, specifications, and any
17 additional information relative to such pool as may be requested
18 by the Department of Health and Human Services ~~Regulation and~~
19 ~~Licensure~~ shall have been submitted to such department and after
20 review by such department found to comply with the minimum sanitary
21 and safety requirements provided in section 71-4302 and a permit
22 for the construction of the pool issued by such department.

23 Sec. 582. Section 71-4304, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 71-4304 After January 1, 1970, swimming pools shall have

1 equipment and shall be operated so as to comply with the minimum
2 sanitary and safety requirements provided in section 71-4302.
3 After such date no swimming pool shall operate until it has
4 received a permit from the Department of Health and Human Services,
5 ~~Regulation and Licensure~~. Application for a permit to operate
6 shall be submitted on forms provided by such department. Swimming
7 pools constructed prior to January 1, 1970, which do not fully
8 comply with the minimum sanitary and safety requirements as regards
9 design and construction may be continued in use for such period
10 as the ~~Department of Health and Human Services Regulation and~~
11 ~~Licensure~~ department may authorize if the equipment and operation
12 of such swimming pool comply with the minimum sanitary and safety
13 requirements.

14 Sec. 583. Section 71-4305, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 71-4305 (1) The Department of Health and Human Services
17 ~~Regulation and Licensure~~ shall make at least one inspection every
18 year of each swimming pool to determine that such swimming pool
19 complies with the minimum sanitary and safety requirements.

20 (2) The owner and operator of any swimming pool shall
21 submit such operation and analytical records as may be requested
22 at any time by the department to determine the sanitary and safety
23 condition of the swimming pool.

24 (3) The department shall adopt and promulgate rules and
25 regulations which classify swimming pools on the basis of criteria

1 deemed appropriate by the department. The department shall charge
2 engineering firms, swimming pool owners, and other appropriate
3 parties fees established by rules and regulations for the review
4 of plans and specifications of a swimming pool, the issuance of
5 a license or permit, the inspection of a swimming pool, and any
6 other services rendered at a rate which defrays no more than
7 the actual cost of the services provided. All fees shall be paid
8 as a condition of annual renewal of licensure or of continuance
9 of licensure. All fees collected under this subsection shall be
10 remitted to the State Treasurer for credit to the ~~Department of~~
11 ~~Health and Human Services Regulation and Licensure~~ Health and Human
12 Services Cash Fund. The department shall not charge a municipal
13 corporation an inspection fee for an inspection of a swimming pool
14 owned by such municipal corporation.

15 (4) The department shall establish and collect fees for
16 certificates of competency for swimming pool operators as provided
17 in section 71-162.

18 Sec. 584. Section 71-4306, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 71-4306 Whenever any duly authorized representative of
21 the Department of Health and Human Services ~~Regulation and~~
22 ~~Licensure~~ shall find that a swimming pool is being constructed,
23 equipped, or operated in violation of any of the provisions of
24 sections 71-4301 to 71-4307, the department may grant such time
25 as in its opinion may reasonably be necessary for changing the

1 construction or providing for the proper operation of the swimming
2 pool to meet the provisions of sections 71-4301 to 71-4307. If
3 and when the duly authorized representative of the department upon
4 inspection and investigation of a swimming pool considers that the
5 conditions are such as to warrant prompt closing of such swimming
6 pool until the provisions of sections 71-4301 to 71-4307 are
7 complied with, he or she shall notify the owner or operator of the
8 swimming pool to prohibit any person from using the swimming pool
9 and upon such notification to the sheriff and the county attorney
10 of the county in which such pool is located, it shall be the
11 duty of such county attorney and sheriff to see that the notice
12 of the representative of the department shall be enforced. If and
13 when the owner or operator of the pool has, in the opinion of the
14 department, met the provisions of sections 71-4301 to 71-4307, the
15 department may in writing authorize the use again of such swimming
16 pool.

17 Sec. 585. Section 71-4401, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 71-4401 For purposes of sections 71-4401 to 71-4412,
20 unless the context otherwise requires:

21 (1) Domestic animal shall mean any dog or cat, and cat
22 shall mean a cat which is a household pet;

23 (2) Vaccination against rabies shall mean the inoculation
24 of a domestic animal with a rabies vaccine as approved by the
25 rules and regulations adopted and promulgated by the ~~Department~~

1 ~~of Health and Human Services Regulation and Licensure.~~ department.

2 Such vaccination shall be performed by a veterinarian duly licensed
3 to practice veterinary medicine in the State of Nebraska;

4 (3) Compendium shall mean the compendium of animal rabies
5 vaccine as provided by the National Association of State Public
6 Health Veterinarians;

7 (4) Department shall mean the Department of Health and
8 Human Services; ~~Regulation and Licensure;~~

9 (5) Own, unless otherwise specified, shall mean to
10 possess, keep, harbor, or have control of, charge of, or custody of
11 a domestic animal. This term shall not apply to domestic animals
12 owned by other persons which are temporarily maintained on the
13 premises of a veterinarian or kennel operator for a period of not
14 more than thirty days;

15 (6) Owner shall mean any person possessing, keeping,
16 harboring, or having charge or control of any domestic animal or
17 permitting any domestic animal to habitually be or remain on or
18 be lodged or fed within such person's house, yard, or premises.
19 This term shall not apply to veterinarians or kennel operators
20 temporarily maintaining on their premises domestic animals owned by
21 other persons for a period of not more than thirty days; and

22 (7) Rabies control authority shall mean county, township,
23 city, or village health and law enforcement officials who shall
24 enforce sections 71-4401 to 71-4412 relating to the vaccination and
25 impoundment of domestic animals. Such public officials shall not

1 be responsible for any accident or disease of a domestic animal
2 resulting from the enforcement of such sections.

3 Sec. 586. Section 71-4621, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 71-4621 As used in the Uniform Standard Code for Mobile
6 Home Parks, unless the context otherwise requires:

7 (1) Mobile home ~~shall mean~~ means a movable or portable
8 dwelling constructed to be towed on its own chassis, connected to
9 utilities, and designed with or without a permanent foundation for
10 year-round living. It may consist of one or more units that can be
11 telescoped when towed and expanded later for additional capacity,
12 or of two or more units, separately towable but designed to be
13 joined into one integral unit. Mobile home includes ~~and shall~~
14 ~~include~~ a manufactured home as defined in section 71-4603;

15 (2) Mobile home lot ~~shall mean~~ means a designated portion
16 of a mobile home park designed for the accommodation of one mobile
17 home and its accessory buildings or structures for the exclusive
18 use of the occupants;

19 (3) Mobile home park ~~shall mean~~ means a parcel or
20 contiguous parcels of land which have been so designated and
21 improved that it contains two or more mobile home lots available
22 to the general public for the placement thereon of mobile homes
23 for occupancy. The term mobile home park shall not be construed
24 to include mobile homes, buildings, tents, or other structures
25 temporarily maintained by any individual, corporation, limited

1 liability company, company, or other entity on its own premises and
2 used exclusively to house its own labor force;

3 (4) Department ~~shall mean~~ means the Department of Health
4 and Human Services; ~~and Regulation and Licensure; and~~

5 (5) Person ~~shall mean~~ means any individual, firm,
6 partnership, limited liability company, corporation, company,
7 association, joint-stock company or association, political
8 subdivision, governmental agency, or other legal entity, and ~~shall~~
9 ~~include~~ includes any trustee, receiver, assignee, or other legal
10 representative thereof.

11 Sec. 587. Section 71-4624, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 71-4624 (1) The application for the first or initial
14 annual license shall be submitted with the requirements mentioned
15 in section 71-4623 accompanied by the appropriate fees. The
16 ~~Department of Health and Human Services Regulation and Licensure~~
17 department by regulation shall charge engineering firms, mobile
18 home park owners and operators, and other appropriate parties
19 fees established by regulation for the review of plans and
20 specifications of a mobile home park, the issuance of a license
21 or permit, the inspection of a mobile home park, and any other
22 services rendered at a rate which defrays no more than the actual
23 costs of the services provided. All fees shall be paid as a
24 condition of annual renewal of licensure or of continuance of
25 licensure.

1 (2) All fees collected by the department shall be
2 remitted to the State Treasurer for credit to the ~~Department~~
3 ~~of Health and Human Services Regulation and Licensure~~ Health and
4 Human Services Cash Fund. Money credited to the fund pursuant to
5 this section shall be used by the department for the purpose of
6 administering the Uniform Standard Code for Mobile Home Parks.

7 (3) When any application is received, the department
8 shall cause the mobile home park and appurtenances to be inspected
9 by representatives of the department. When such inspection has
10 been made and the department finds that all of the provisions of
11 the Uniform Standard Code for Mobile Home Parks and the rules,
12 regulations, and standards of the department have been met by the
13 applicant, the department shall issue an annual license. Inspection
14 by the department or its authorized representatives at any time of
15 a mobile home park shall be a condition of continued licensure.

16 Sec. 588. Section 71-4635, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 71-4635 The Department of Health and Human Services
19 ~~Regulation and Licensure~~ may request the State Fire Marshal to
20 inspect for fire safety any mobile home park for which a license
21 or renewal of a license is sought, pursuant to section 81-502. The
22 State Fire Marshal shall assess a fee for such inspection pursuant
23 to section 81-505.01 and payable by the licensee or applicant for a
24 license. The authority to make such investigations may be delegated
25 to qualified local fire prevention personnel pursuant to section

1 81-502.

2 Sec. 589. Section 71-4701, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 71-4701 As used in sections 71-4701 to 71-4719, unless
5 the context otherwise requires:

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

8 (2) License shall mean a license issued by the state
9 under such sections to hearing aid instrument dispensers and
10 fitters;

11 (3) Temporary license shall mean a license issued while
12 the applicant is in training to become a licensed hearing aid
13 instrument dispenser and fitter;

14 (4) Board shall mean the Board of Hearing Aid Instrument
15 Dispensers and Fitters;

16 (5) Hearing aid shall mean any wearable instrument or
17 device designed for or offered for the purpose of aiding or
18 compensating for impaired human hearing and any parts, attachments,
19 or accessories, including earmold, but excluding batteries and
20 cords. A hearing aid shall also be known as a hearing instrument;

21 (6) Practice of fitting hearing aids shall mean the
22 measurement of human hearing by means of an audiometer or by
23 other means approved by the board solely for the purpose of making
24 selections, adaptations, or sale of hearing aids. The term also
25 includes the making of impressions for earmolds. A dispenser, at

1 the request of a physician or a member of related professions, may
2 make audiograms for the professional's use in consultation with the
3 hard-of-hearing; and

4 (7) Sell, sale, or dispense shall mean any transfer of
5 title or of the right to use by lease, bailment, or any other
6 contract, excluding (a) wholesale transactions with distributors
7 or dispensers and (b) distribution of hearing aids by nonprofit
8 service organizations at no cost to the recipient for the hearing
9 aid.

10 Sec. 590. Section 71-4728.05, Revised Statutes Cumulative
11 Supplement, 2006, is amended to read:

12 71-4728.05 (1) The commission shall appoint the
13 Interpreter Review Board as required in section 20-156.

14 ~~(2) Until July 14, 2006, the board shall consist of the~~
15 ~~following members, of whom the majority shall have knowledge of~~
16 ~~sign language.~~

17 ~~(a) The Director of Health and Human Services or his or~~
18 ~~her designee.~~

19 ~~(b) The executive director of the commission or his or~~
20 ~~her designee.~~

21 ~~(c) Two deaf or hard of hearing persons.~~

22 ~~(d) Two licensed interpreters; and~~

23 ~~(e) Two members representing local government.~~

24 ~~(3) (2) Members of the Interpreter Review Board serving~~
25 ~~on July 14, 2006, shall have their terms extended to June 30, 2007.~~

1 ~~After that date, membership on the board shall be as follows:~~

2 (a) ~~The Director of Health and Human Services or his or~~
3 ~~her designee~~ A representative of the Department of Health and Human
4 Services and the executive director of the commission or his or
5 her designee, both of whom shall serve continuously and without
6 limitation;

7 (b) One qualified interpreter, appointed for a term to
8 expire on June 30, 2008;

9 (c) One representative of local government, appointed for
10 a term to expire on June 30, 2008;

11 (d) One deaf or hard of hearing person, appointed for a
12 term to expire on June 30, 2009;

13 (e) One qualified interpreter, appointed for a term to
14 expire on June 30, 2009;

15 (f) One deaf or hard of hearing person, appointed for a
16 term to expire on June 30, 2010; and

17 (g) One representative of local government, appointed for
18 a term to expire on June 30, 2010.

19 ~~(4)~~ (3) Upon the expiration of the terms described in
20 subsection ~~(3)~~ (2) of this section, members other than those
21 identified in subdivision ~~(3)(a)~~ (2)(a) of this section shall be
22 appointed for terms of three years. No such member may serve more
23 than two consecutive three-year terms beginning June 30, 2007,
24 except that members whose terms have expired shall continue to
25 serve until their successors have been appointed and qualified.

1 ~~(5)~~ (4) 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)~~ (5) The board shall establish policies, standards,
13 and procedures for evaluating and licensing interpreters,
14 including, but not limited to, testing, training, issuance,
15 renewal, and denial of licenses, continuing education and
16 continuing competency assessment, investigation of complaints, and
17 disciplinary actions against a license pursuant to section 20-156.

18 Sec. 591. 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 shall determine and implement the most

1 appropriate system for this state which is available to track
2 newborns and infants identified with a hearing loss. It is
3 the intent of the Legislature that the tracking system provide
4 the department and Legislature with the information necessary
5 to effectively plan and establish a comprehensive system of
6 developmentally appropriate services for newborns and infants who
7 have a potential hearing loss or who have been found to have
8 a hearing loss and shall reduce the likelihood of associated
9 disabling conditions for such newborns and infants.

10 Sec. 592. Section 71-4738, Revised Statutes Cumulative
11 Supplement, 2006, is amended to read:

12 71-4738 The Department of Health and Human Services
13 ~~Regulation and Licensure~~ shall apply for all available federal
14 funding to implement the Infant Hearing Act.

15 Sec. 593. Section 71-4739, Revised Statutes Cumulative
16 Supplement, 2006, is amended to read:

17 71-4739 (1) Every birthing facility shall annually report
18 to the Department of Health and Human Services ~~Regulation and~~
19 ~~Licensure~~ the number of:

20 (a) Newborns born;

21 (b) Newborns and infants recommended for a hearing
22 screening test;

23 (c) Newborns who received a hearing screening test during
24 birth admission;

25 (d) Newborns who passed a hearing screening test during

1 birth admission if administered;

2 (e) Newborns who did not pass a hearing screening test
3 during birth admission if administered; and

4 (f) Newborns recommended for monitoring, intervention,
5 and followup care.

6 (2) Every confirmatory testing facility shall annually
7 report to the Department of Health and Human Services ~~Regulation~~
8 ~~and Licensure~~ the number of:

9 (a) Newborns and infants who return for a followup
10 hearing test;

11 (b) Newborns and infants who do not have a hearing loss
12 based upon the followup hearing test; and

13 (c) Newborns and infants who are shown to have a hearing
14 loss based upon the followup hearing test.

15 Sec. 594. Section 71-4740, Revised Statutes Cumulative
16 Supplement, 2006, is amended to read:

17 71-4740 (1) Every birthing facility shall educate the
18 parents of newborns born in such facilities of the importance
19 of receiving a hearing screening test and any necessary followup
20 care. This educational information shall explain, in lay terms,
21 the hearing screening test, the likelihood of the newborn having
22 a hearing loss, followup procedures, and community resources,
23 including referral for early intervention services under the
24 Early Intervention Act. The educational information shall also
25 include a description of the normal auditory, speech, and

1 language developmental process in children. Education shall not be
2 considered a substitute for the hearing screening test.

3 (2) If a newborn is not born in a birthing facility, the
4 Department of Health and Human Services ~~Regulation and Licensure~~
5 shall educate the parents of such newborns of the importance of
6 receiving a hearing screening test and any necessary followup care.
7 The department shall also give parents information to assist them
8 in having the test performed within three months after the date of
9 the child's birth.

10 Sec. 595. Section 71-4741, Revised Statutes Cumulative
11 Supplement, 2006, is amended to read:

12 71-4741 (1) The Department of Health and Human Services
13 ~~Regulation and Licensure~~ shall determine which birthing facilities
14 are administering hearing screening tests to newborns and infants
15 on a voluntary basis and the number of newborns and infants
16 screened. The department shall annually report to the Legislature
17 the number of:

18 (a) Birthing facilities administering voluntary hearing
19 screening tests during birth admission;

20 (b) Newborns screened as compared to the total number of
21 newborns born in such facilities;

22 (c) Newborns who passed a hearing screening test during
23 birth admission if administered;

24 (d) Newborns who did not pass a hearing screening test
25 during birth admission if administered; and

1 (e) Newborns recommended for followup care.

2 (2) The ~~department,~~ Department of Health and Human
3 Services, in consultation with the State Department of Education,
4 birthing facilities, and other providers, shall develop approved
5 screening methods and protocol for statewide hearing screening
6 tests of substantially all newborns and infants.

7 (3) Subject to available appropriations, the Department
8 of Health and Human Services ~~Regulation and Licensure~~ shall make
9 the report described in this section available.

10 Sec. 596. Section 71-4742, Revised Statutes Cumulative
11 Supplement, 2006, is amended to read:

12 71-4742 (1) Each birthing facility shall include a
13 hearing screening test as part of its standard of care for newborns
14 and shall establish a mechanism for compliance review. A hearing
15 screening test shall be conducted on no fewer than ninety-five
16 percent of the newborns born in this state.

17 (2) If the number of newborns receiving a hearing
18 screening test does not equal or exceed ninety-five percent of
19 the total number of newborns born in this state on or before
20 December 1, 2003, or falls below ninety-five percent at any time
21 thereafter, the Department of Health and Human Services ~~Regulation~~
22 ~~and Licensure~~ shall immediately adopt and promulgate rules and
23 regulations implementing a hearing screening program. The hearing
24 screening program shall provide for a hearing screening test that
25 every newborn born in this state shall undergo and shall provide

1 that the hearing screening test be completed during birth admission
2 or, if that is not possible, no later than three months after
3 birth. Notwithstanding this section, it is the goal of this state
4 to achieve a one-hundred-percent screening rate.

5 Sec. 597. Section 71-4743, Revised Statutes Cumulative
6 Supplement, 2006, is amended to read:

7 71-4743 The Department of Health and Human Services
8 ~~Regulation and Licensure~~ and the State Department of Education
9 shall establish guidelines for when a referral shall be made for
10 early intervention services under the Early Intervention Act. The
11 guidelines shall include a request for an individual evaluation of
12 a child suspected of being deaf or hard of hearing as defined in
13 section 79-1118.01.

14 Sec. 598. Section 71-4744, Revised Statutes Cumulative
15 Supplement, 2006, is amended to read:

16 71-4744 The Department of Health and Human Services
17 ~~Regulation and Licensure~~ shall adopt and promulgate rules and
18 regulations necessary to implement the Infant Hearing Act.

19 Sec. 599. Section 71-4813, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 71-4813 When an autopsy is performed by the physician
22 authorized by the county coroner to perform such autopsy, the
23 physician or an appropriately qualified designee with training
24 in ophthalmologic techniques, as provided for in subsection (2)
25 of section 71-4807, may remove eye tissue of the decedent for

1 the purpose of transplantation. The physician may also remove
2 the pituitary gland for the purpose of research and treatment of
3 hypopituitary dwarfism and of other growth disorders. Removal of
4 the eye tissue or the pituitary gland shall only take place if the:

5 (1) Autopsy was authorized by the county coroner;

6 (2) County coroner receives permission from the person
7 having control of the disposition of the decedent's remains
8 pursuant to section 71-1339; and

9 (3) Removal of eye tissue or of the pituitary gland will
10 not interfere with the course of any subsequent investigation or
11 alter the decedent's post mortem facial appearance.

12 The removed eye tissue or pituitary gland shall be
13 transported to the ~~Director of Regulation and Licensure~~ Department
14 of Health and Human Services or any desired institution or health
15 facility as prescribed by section 71-1341.

16 Sec. 600. Section 71-4816, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 71-4816 (1) ~~On or after July 1, 1989, the~~ The physician
19 responsible for the completion and signing of the portion of the
20 certificate of death entitled medical certificate of death or, if
21 there is no such physician, the person responsible for signing the
22 certificate of death shall attest on the death certificate whether
23 organ or tissue donation was considered and whether consent was
24 granted.

25 (2) ~~After July 1, 1988, the~~ The Department of Health

1 and Human Services ~~Regulation and Licensure~~ shall make available
2 the number of organ and tissue donors in Nebraska for statistical
3 purposes.

4 Sec. 601. Section 71-4819, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 71-4819 (1) The ~~Director~~ Department of Health and Human
7 Services shall educate residents of the state about:

8 (a) The need for bone marrow donors;

9 (b) The procedures required to become registered as
10 a potential bone marrow donor, including the procedures for
11 determining tissue type; and

12 (c) The medical procedures a donor must undergo to donate
13 bone marrow and the attendant risks of the procedures.

14 (2) The ~~director~~ department shall make special efforts
15 to educate and recruit persons of racial and ethnic minorities to
16 volunteer as potential bone marrow donors.

17 (3) The ~~director~~ department may use the press, radio,
18 and television and may place educational materials in appropriate
19 health care facilities, blood banks, and state and local agencies.
20 The ~~Director of Health and Human Services,~~ department, in
21 conjunction with the Director of Motor Vehicles, shall make
22 educational materials available at all places where motor vehicle
23 operators' licenses are issued or renewed.

24 Sec. 602. Section 71-5175, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 71-5175 For purposes of the Emergency Medical Services
2 Act:

3 (1) Ambulance means any privately or publicly owned motor
4 vehicle or aircraft that is especially designed, constructed or
5 modified, and equipped and is intended to be used and is maintained
6 or operated for the overland or air transportation of patients
7 upon the streets, roads, highways, airspace, or public ways in this
8 state, including funeral coaches or hearses, or any other motor
9 vehicles or aircraft used for such purposes;

10 (2) Board means the Board of Emergency Medical Services;

11 (3) Department means the Department of Health and Human
12 Services; ~~Regulation and Licensure;~~

13 (4) Emergency medical service means the organization
14 responding to a perceived individual need for immediate medical
15 care in order to prevent loss of life or aggravation of
16 physiological or psychological illness or injury;

17 (5) Out-of-hospital emergency care provider includes
18 all certification classifications of emergency care providers
19 established pursuant to the act;

20 (6) Patient means an individual who either identifies
21 himself or herself as being in need of medical attention or upon
22 assessment by an out-of-hospital emergency care provider has an
23 injury or illness requiring treatment;

24 (7) Person means an individual, firm, partnership,
25 limited liability company, corporation, company, association, or

1 joint-stock company or association or group of individuals acting
2 together for a common purpose and includes the State of Nebraska
3 and any agency or political subdivision of the state;

4 (8) Physician medical director means a qualified
5 physician who is responsible for the medical supervision of
6 out-of-hospital emergency care providers and verification of skill
7 proficiency of out-of-hospital emergency care providers pursuant
8 to section 71-5178;

9 (9) Protocol means a set of written policies,
10 procedures, and directions from a physician medical director to
11 an out-of-hospital emergency care provider concerning the medical
12 procedures to be performed in specific situations;

13 (10) Qualified physician means an individual who is
14 licensed to practice medicine and surgery pursuant to sections
15 71-1,102 to 71-1,107.14 or osteopathic medicine and surgery
16 pursuant to sections 71-1,137 to 71-1,141 and meets any other
17 requirements established by rule and regulation;

18 (11) Qualified physician surrogate means a qualified,
19 trained medical person designated by a qualified physician in
20 writing to act as an agent for the physician in directing
21 the actions or recertification of out-of-hospital emergency care
22 providers; and

23 (12) Standing order means a direct order from the
24 physician medical director to perform certain tasks for a patient
25 under a specific set of circumstances.

1 Sec. 603. Section 71-5192, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 71-5192 An out-of-hospital emergency care provider or
4 emergency medical service holding a valid certificate or license
5 issued by the ~~department~~ State of Nebraska prior to July 1,
6 1998, may perform any practice or procedure authorized for a
7 holder of that type of certificate or license in accordance with
8 rules and regulations in effect immediately prior to July 1,
9 1998, and until the rules and regulations are amended or repealed
10 pursuant to the Emergency Medical Services Act. A certificate or
11 license may be issued or renewed and will expire in accordance
12 with the rules and regulations adopted pursuant to the Emergency
13 Medical Technician-Paramedic Act, the First Responders Emergency
14 Rescue Act, and sections 71-5101 to 71-5165 until those rules
15 and regulations are amended or repealed pursuant to the Emergency
16 Medical Services Act.

17 Sec. 604. Section 71-5197, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 71-5197 The department may accept from any person, in
20 the name of and for the state, services, equipment, supplies,
21 materials, or funds by way of bequest, gift, or grant for the
22 purposes of promoting emergency medical care. Any such funds
23 received shall be remitted to the state treasury and shall be
24 credited by the State Treasurer to the ~~Department of Health and~~
25 ~~Human Services Regulation and Licensure~~ Health and Human Services

1 Cash Fund.

2 Sec. 605. Section 71-51,102, Revised Statutes Cumulative
3 Supplement, 2006, is amended to read:

4 71-51,102 (1) For purposes of this section:

5 (a) Automated external defibrillator means a device that:

6 (i) Is capable of recognizing the presence or absence
7 of ventricular fibrillation or rapid ventricular tachycardia and
8 is capable of determining, without intervention of an operator,
9 whether defibrillation should be performed; and

10 (ii) Automatically charges and requests delivery of an
11 electrical impulse to an individual's heart when it has identified
12 a condition for which defibrillation should be performed;

13 (b) Emergency medical service means an emergency medical
14 service as defined in section 71-5175;

15 (c) Health care facility means a health care facility as
16 defined in section 71-413;

17 (d) Health care practitioner facility means a health care
18 practitioner facility as defined in section 71-414; and

19 (e) Health care professional means any person who is
20 licensed, certified, or registered by the Department of Health
21 and Human Services ~~Regulation and Licensure~~ and who is authorized
22 within his or her scope of practice to use an automated external
23 defibrillator.

24 (2) Except for the action or omission of a health
25 care professional acting in such capacity or in a health care

1 facility, no person who delivers emergency care or treatment
2 using an automated external defibrillator shall be liable in any
3 civil action to respond in damages as a result of his or her
4 acts of commission or omission arising out of and in the course
5 of rendering such care or treatment in good faith. Nothing in
6 this subsection shall be construed to (a) grant immunity for
7 any willful, wanton, or grossly negligent acts of commission or
8 omission or (b) limit the immunity provisions for certain health
9 care professionals as provided in section 71-5194.

10 (3) A person acquiring an automated external
11 defibrillator shall notify the local emergency medical service
12 of the existence, location, and type of the defibrillator and
13 of any change in the location of such defibrillator unless the
14 defibrillator was acquired for use in a private residence, a health
15 care facility, or a health care practitioner facility.

16 Sec. 606. Section 71-51,103, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 71-51,103 There is hereby created the Nebraska Emergency
19 Medical System Operations Fund. The fund may receive gifts,
20 bequests, grants, fees, or other contributions or donations from
21 public or private entities. The fund shall be used to carry
22 out the purposes of the Statewide Trauma System Act and the
23 Emergency Medical Services Act, including activities related to the
24 design, maintenance, or enhancement of the statewide trauma system,
25 support of emergency medical services programs, and support for the

1 emergency medical services programs for children. The ~~Director of~~
2 Regulation and Licensure Department of Health and Human Services
3 shall annually, on or before January 1, submit a report to the
4 Legislature which includes a general accounting of the income
5 and expenditures of the fund. Any money in the fund available
6 for investment shall be invested by the state investment officer
7 pursuant to the Nebraska Capital Expansion Act and the Nebraska
8 State Funds Investment Act.

9 Sec. 607. Section 71-5205, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 71-5205 The family practice residency program may be
12 funded in part by grants provided by the Department of Health and
13 Human Services ~~Finance and Support or other~~ or agencies of the
14 federal government. If such grants are provided, the Legislature
15 shall not provide funding for such program.

16 Sec. 608. Section 71-5301, Revised Statutes Cumulative
17 Supplement, 2006, is amended to read:

18 71-5301 For purposes of the Nebraska Safe Drinking Water
19 Act, unless the context otherwise requires:

20 (1) Council means the Advisory Council on Public Water
21 Supply;

22 (2) Department means the Division of Public Health of the
23 Department of Health and Human Services;

24 ~~(2)~~ (3) Director means the Director of Regulation and
25 Licensure Public Health of the Division of Public Health or his or

1 her authorized representative;

2 ~~(3)~~ (4) Designated agent means any political subdivision
3 or corporate entity having the demonstrated capability and
4 authority to carry out in whole or in part the Nebraska Safe
5 Drinking Water Act and with which the ~~Director of Regulation and~~
6 ~~Licensure~~ director has consummated a legal and binding contract
7 covering specifically delegated responsibilities;

8 ~~(4)~~ (5) Major construction, extension, or alteration
9 means those structural changes that affect the source of supply,
10 treatment processes, or transmission of water to service areas but
11 does not include the extension of service mains within established
12 service areas;

13 ~~(5)~~ (6) Operator means the individual or individuals
14 responsible for the continued performance of the water supply
15 system or any part of such system during assigned duty hours;

16 ~~(6)~~ (7) Owner means any person owning or operating a
17 public water system;

18 ~~(7)~~ (8) Person means any individual, firm, partnership,
19 limited liability company, association, company, corporation,
20 political subdivision, or other entity;

21 ~~(8)~~ (9) Water supply system means all sources of water
22 and their surroundings under the control of one owner and includes
23 all structures, conduits, and appurtenances by means of which such
24 water is collected, treated, stored, or delivered except service
25 pipes between street mains and buildings and the plumbing within or

1 in connection with the buildings served;

2 ~~(9)(a)~~ (10)(a) Public water system means a system for
3 providing the public with water for human consumption through pipes
4 or, after August 5, 1998, other constructed conveyances, if such
5 system has at least fifteen service connections or regularly serves
6 an average of at least twenty-five individuals daily at least sixty
7 days per year. Public water system includes (i) any collection,
8 treatment, storage, and distribution facilities under control of
9 the operator of such system and used primarily in connection
10 with such system and (ii) any collection or pretreatment storage
11 facilities not under such control which are used primarily in
12 connection with such system. Public water system does not include
13 a special irrigation district. A public water system is either a
14 community water system or a noncommunity water system.

15 (b) Service connection does not include a connection to
16 a system that delivers water by a constructed conveyance other
17 than a pipe if (i) the water is used exclusively for purposes
18 other than residential uses, consisting of drinking, bathing,
19 cooking, and other similar uses, (ii) the department determines
20 that alternative water to achieve the equivalent level of public
21 health protection provided by the Nebraska Safe Drinking Water Act
22 and rules and regulations under the act is provided for residential
23 or similar uses for drinking and cooking, or (iii) the department
24 determines that the water provided for residential or similar uses
25 for drinking, cooking, and bathing is centrally treated or treated

1 at the point of entry by the provider, a pass-through entity, or
2 the user to achieve the equivalent level of protection provided by
3 the Nebraska Safe Drinking Water Act and the rules and regulations
4 under the act.

5 (c) Special irrigation district means an irrigation
6 district in existence prior to May 18, 1994, that provides
7 primarily agricultural service through a piped water system with
8 only incidental residential or similar use if the system or the
9 residential or similar users of the system comply with exclusion
10 provisions of subdivision (b) (ii) or (iii) of this subdivision;

11 ~~(10)~~ (11) Drinking water standards means rules and
12 regulations adopted and promulgated pursuant to section 71-5302
13 which (a) establish maximum levels for harmful materials which, in
14 the judgment of the ~~Director of Regulation and Licensure,~~ director,
15 may have an adverse effect on the health of persons and (b) apply
16 only to public water systems;

17 ~~(11)~~ (12) Lead free (a) when used with respect to solders
18 and flux means solders and flux containing not more than two-tenths
19 percent lead, (b) when used with respect to pipes and pipe fittings
20 means pipes and pipe fittings containing not more than eight
21 percent lead, and (c) when used with respect to plumbing fittings
22 and fixtures intended by the manufacturer to dispense water for
23 human ingestion means fittings and fixtures that are in compliance
24 with standards established in accordance with 42 U.S.C. 300g-6(e)
25 as such section existed on July 16, 2004;

1 ~~(12)~~ (13) Community water system means a public water
2 system that (a) serves at least fifteen service connections used
3 by year-round residents of the area served by the system or (b)
4 regularly serves at least twenty-five year-round residents;

5 ~~(13)~~ (14) Noncommunity water system means a public water
6 system that is not a community water system;

7 ~~(14)~~ (15) Nontransient noncommunity water system means a
8 public water system that is not a community water system and that
9 regularly serves at least twenty-five of the same individuals over
10 six months per year;

11 ~~(15)~~ (16) Small system means a public water system that
12 regularly serves less than ten thousand individuals; and

13 ~~(16)~~ (17) Probation means a disciplinary action not to
14 exceed two years in length during which a certificate holder may
15 continue to operate under terms and conditions fixed by the order
16 of probation.

17 Sec. 609. Section 71-5302, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 71-5302 (1) ~~The Director of Regulation and Licensure~~
20 director shall adopt and promulgate necessary minimum drinking
21 water standards, in the form of rules and regulations, to insure
22 that drinking water supplied to consumers through all public
23 water systems shall not contain amounts of chemical, radiological,
24 physical, or bacteriological material determined by the ~~Director of~~
25 ~~Regulation and Licensure~~ director to be harmful to human health.

1 (2) ~~The Director of Regulation and Licensure~~ director
2 may adopt and promulgate rules and regulations to require the
3 monitoring of drinking water supplied to consumers through
4 public water systems for chemical, radiological, physical, or
5 bacteriological material determined by the ~~Director of Regulation~~
6 ~~and Licensure~~ director to be potentially harmful to human health.

7 (3) In determining what materials are harmful or
8 potentially harmful to human health and in setting maximum
9 levels for such harmful materials, the ~~Director of Regulation and~~
10 ~~Licensure~~ director shall be guided by:

11 (a) General knowledge of the medical profession and
12 related scientific fields as to materials and substances which are
13 harmful to humans if ingested through drinking water; and

14 (b) General knowledge of the medical profession and
15 related scientific fields as to the maximum amounts of such harmful
16 materials which may be ingested by human beings, over varying
17 lengths of time, without resultant adverse effects on health.

18 (4) Subject to section 71-5310, state drinking water
19 standards shall apply to each public water system in the state,
20 except that such standards shall not apply to a public water
21 system:

22 (a) Which consists only of distribution and storage
23 facilities and does not have any collection and treatment
24 facilities;

25 (b) Which obtains all of its water from, but is not

1 owned or operated by, a public water system to which such standards
2 apply;

3 (c) Which does not sell water to any person; and

4 (d) Which is not a carrier which conveys passengers in
5 interstate commerce.

6 (5) ~~The Director of Regulation and Licensure~~ director may
7 adopt alternative monitoring requirements for public water systems
8 in accordance with section 1418 of the federal Safe Drinking Water
9 Act, as such section existed on May 22, 2001.

10 (6) ~~The Director of Regulation and Licensure~~ director may
11 adopt a system for the ranking of safe drinking water projects
12 with known needs or for which loan applications have been received
13 by the ~~Department of Health and Human Services Regulation and~~
14 ~~Licensure~~ director or the Department of Environmental Quality. In
15 establishing the ranking system the ~~Director of Regulation and~~
16 ~~Licensure~~ director shall consider, among other things, the risk to
17 human health, compliance with the federal Safe Drinking Water Act,
18 as the act existed on May 22, 2001, and assistance to systems most
19 in need based upon affordability criteria adopted by the ~~Director~~
20 ~~of Regulation and Licensure.~~ director. This priority system shall
21 be reviewed annually by the ~~Director of Regulation and Licensure.~~
22 director.

23 Sec. 610. Section 71-5303, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 71-5303 (1) No person shall operate or maintain a public

1 water system without first obtaining a permit to operate such
2 system from the director. No fee shall be charged for the issuance
3 of such permit.

4 (2) The director shall inspect public water systems and
5 report findings to the owner, publish a list of those systems
6 not in compliance, and promote the training of and certify
7 the competence of operators. The director may deny, revoke,
8 suspend, or refuse renewal of a permit or certification, place
9 a certificate holder on probation, issue administrative orders
10 scheduling action to be taken, take emergency action as provided
11 in section 71-5304.01, and seek a temporary or permanent injunction
12 or such other legal process as is deemed necessary to obtain
13 compliance with the Nebraska Safe Drinking Water Act.

14 (3) ~~The Department of Health and Human Services~~
15 ~~Regulation and Licensure~~ department may deny, revoke, suspend, or
16 refuse to renew a permit or certification or place a certificate
17 holder on probation for noncompliance with the act, the rules and
18 regulations adopted and promulgated under the act, or the terms of
19 a variance or exemption issued pursuant to section 71-5310.

20 (4) Any person shall be granted, upon request, an
21 opportunity for a hearing before the department under the
22 Administrative Procedure Act prior to the denial or revocation of
23 a permit or certification or the placement of a certificate holder
24 on probation. The denial, revocation, or the placement on probation
25 by the department may be appealed, and the appeal shall be in

1 accordance with the Administrative Procedure Act.

2 Sec. 611. Section 71-5304.01, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 71-5304.01 (1) Whenever the ~~Director of Regulation and~~
5 ~~Licensure~~ director has reason to believe that a violation of any
6 provision of the Nebraska Safe Drinking Water Act, any rule or
7 regulation adopted and promulgated under such act, or any term
8 of a variance or exemption issued pursuant to section 71-5310
9 has occurred, he or she may cause an administrative order to be
10 served upon the permittee or permittees alleged to be in violation.
11 Such order shall specify the violation and the facts alleged to
12 constitute a violation and shall order that necessary corrective
13 action be taken within a reasonable time to be prescribed in such
14 order. Any such order shall become final unless the permittee
15 or permittees named in the order request in writing a hearing
16 before the ~~Director of Regulation and Licensure~~ director no later
17 than thirty days after the date such order is served. In lieu of
18 such order, the ~~Director of Regulation and Licensure~~ director may
19 require that the permittee or permittees appear before the ~~Director~~
20 ~~of Regulation and Licensure~~ director at a time and place specified
21 in the notice and answer the charges. The notice shall be served
22 on the permittee or permittees alleged to be in violation not less
23 than thirty days before the time set for the hearing.

24 (2) Whenever the ~~Director of Regulation and Licensure~~
25 director finds that an emergency exists requiring immediate action

1 to protect the public health and welfare concerning a material
2 which is determined by the ~~Director of Regulation and Licensure~~
3 director to be harmful or potentially harmful to human health,
4 the ~~Director of Regulation and Licensure~~ director may, without
5 notice or hearing, issue an order reciting the existence of such an
6 emergency and requiring that such action be taken as the ~~Director~~
7 ~~of Regulation and Licensure~~ director deems necessary to meet the
8 emergency. Such order shall be effective immediately. Any person
9 to whom such order is directed shall comply immediately and, on
10 written application to the ~~Director of Regulation and Licensure,~~
11 director, shall be afforded a hearing as soon as possible and
12 not later than ten days after receipt of such application by such
13 affected person. On the basis of such hearing, the ~~Director of~~
14 ~~Regulation and Licensure~~ director shall continue such order in
15 effect, revoke it, or modify it.

16 (3) The ~~Director of Regulation and Licensure~~ director
17 shall afford to the alleged violator an opportunity for a fair
18 hearing before the ~~Department of Health and Human Services~~
19 ~~Regulation and Licensure~~ director under the Administrative
20 Procedure Act.

21 (4) In addition to any other remedy provided by law, the
22 ~~Director of Regulation and Licensure~~ director may issue an order
23 assessing an administrative penalty upon a violator.

24 (5) The range of administrative penalties assessed under
25 this section for a public water system serving ten thousand or

1 more persons shall be not less than one thousand dollars per day
2 or part thereof for each violation, not to exceed twenty-five
3 thousand dollars in the aggregate. Administrative penalties for
4 a small system shall be not more than five hundred dollars
5 per day or part thereof for each violation, not to exceed
6 five thousand dollars in the aggregate. In determining the
7 amount of the administrative penalty, the department shall take
8 into consideration all relevant circumstances, including, but not
9 limited to, the harm or potential harm which the violation causes
10 or may cause, the violator's previous compliance record, the
11 nature and persistence of the violation, any corrective actions
12 taken, and any other factors which the department may reasonably
13 deem relevant. The administrative penalty assessment shall state
14 specific amounts to be paid for each violation identified in the
15 order.

16 (6) An administrative penalty shall be paid within sixty
17 days after the date of issuance of the order assessing the penalty.
18 Any person who fails to pay an administrative penalty by the
19 final due date shall be liable to the state for the penalty
20 amount plus any statutory interest rate applicable to judgments.
21 An order under this section imposing an administrative penalty may
22 be appealed to the ~~Director of Regulation and Licensure~~ director
23 in the manner provided for in subsection (1) of this section.
24 Any administrative penalty paid pursuant to this section shall be
25 remitted to the State Treasurer for ~~credit to the permanent school~~

1 ~~fund.~~ distribution in accordance with Article VII, section 5, of
2 the Constitution of Nebraska. An action may be brought in the
3 appropriate court to collect any unpaid administrative penalty and
4 for attorney's fees and costs incurred directly in the collection
5 of the penalty.

6 Sec. 612. Section 71-5304.02, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 71-5304.02 (1) The director may require a public water
9 system to give notice to the persons served by the system and
10 to the ~~Department of Health and Human Services Regulation and~~
11 ~~Licensure~~ department whenever the system:

12 (a) Is not in compliance with an applicable maximum
13 contaminant level or treatment technique requirement of or a
14 testing procedure prescribed by rules and regulations adopted and
15 promulgated under the Nebraska Safe Drinking Water Act;

16 (b) Fails to perform monitoring, testing, analyzing, or
17 sampling as required;

18 (c) Is subject to a variance or exemption; or

19 (d) Is not in compliance with the requirements prescribed
20 by a variance or exemption.

21 (2) The director may require a public water system to
22 give notice to the persons served by the public water system of
23 potential sources of contamination as identified by the director
24 under subsection (2) of section 71-5302, of possible health effects
25 of such contamination, and of possible mitigation measures.

1 (3) The director shall by rule and regulation prescribe
2 the form and manner for giving such notice.

3 Sec. 613. Section 71-5305.01, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 71-5305.01 All new community water systems and new
6 nontransient noncommunity water systems commencing operation after
7 October 1, 1999, shall demonstrate technical, managerial, and
8 financial capacity to operate under the Nebraska Safe Drinking
9 Water Act.

10 The ~~Director of Regulation and Licensure~~ director
11 may adopt and promulgate rules and regulations to determine
12 demonstration requirements for technical, managerial, and financial
13 capacity of community water systems and nontransient noncommunity
14 water systems.

15 Sec. 614. Section 71-5305.02, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 71-5305.02 The ~~Department of Health and Human Services~~
18 ~~Regulation and Licensure~~ department shall develop a capacity
19 development strategy to assist public water systems in acquiring
20 and maintaining technical, managerial, and financial capacity
21 pursuant to section 71-5305.01. The department shall consider
22 and solicit public comment on:

23 (1) The methods or criteria the department will use to
24 identify and prioritize the public water systems most in need of
25 improving technical, managerial, and financial capacity;

1 (2) A description of the institutional, regulatory,
2 financial, tax, or legal factors at the federal, state, or local
3 level that encourage or impair capacity development;

4 (3) A description of how the department will:

5 (a) Assist public water systems in complying with the
6 Nebraska Safe Drinking Water Act;

7 (b) Encourage the development of partnerships between
8 public water systems to enhance the technical, managerial, and
9 financial capacity of the systems; and

10 (c) Assist public water systems in the training and
11 certification of operators; and

12 (4) A description of how the department will establish a
13 baseline and measure improvements in capacity with respect to the
14 act.

15 Sec. 615. Section 71-5306, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 71-5306 (1) To carry out the provisions and purposes of
18 the Nebraska Safe Drinking Water Act, the director may:

19 (a) Enter into agreements, contracts, or cooperative
20 arrangements, under such terms as are deemed appropriate,
21 with other state, federal, or interstate agencies or with
22 municipalities, educational institutions, local health departments,
23 or other organizations, entities, or individuals;

24 (b) Require all laboratory analyses to be performed
25 at the Department of Health and Human Services ~~Regulation and~~

1 ~~Licensure~~ Laboratory, or at any other certified laboratory which
2 has entered into an agreement with the ~~Department of Health and~~
3 ~~Human Services Regulation and Licensure~~ department therefor, and
4 establish and collect fees for making laboratory analyses of
5 water samples pursuant to sections 71-2619 to 71-2621, except that
6 subsection (6) of section 71-2619 shall not apply for purposes of
7 the Nebraska Safe Drinking Water Act. Inspection fees for making
8 other laboratory agreements shall be established and collected
9 pursuant to sections 71-2619 to 71-2621;

10 (c) Certify laboratories performing tests on water that
11 is intended for human consumption. The director may establish,
12 through rules and regulations, standards for certification.
13 Such standards may include requirements for staffing, equipment,
14 procedures, and methodology for conducting laboratory tests,
15 quality assurance and quality control procedures, and communication
16 of test results. Such standards shall be consistent with
17 requirements for performing laboratory tests established by
18 the federal Environmental Protection Agency to the extent such
19 requirements are consistent with state law. The director may accept
20 accreditation by a recognized independent accreditation body,
21 public agency, or federal program which has standards that are at
22 least as stringent as those established pursuant to this section.
23 The director may adopt and promulgate rules and regulations which
24 list accreditation bodies, public agencies, and federal programs
25 that may be accepted as evidence that a laboratory meets the

1 standards for certification. Inspection fees for certifying other
2 laboratories shall be established and collected to defray the cost
3 of the inspections;

4 (d) Receive financial and technical assistance from an
5 agency of the federal government or from any other public or
6 private agency;

7 (e) Enter the premises of a public water system at any
8 time for the purpose of conducting monitoring, making inspections,
9 or collecting water samples for analysis;

10 (f) Delegate those responsibilities and duties as deemed
11 appropriate for the purpose of administering the requirements of
12 the Nebraska Safe Drinking Water Act, including entering into
13 agreements with designated agents which shall perform specifically
14 delegated responsibilities and possess specifically delegated
15 powers;

16 (g) Require the owner and operator of a public water
17 system to establish and maintain records, make reports, and
18 provide information as the ~~Department of Health and Human Services~~
19 ~~Regulation and Licensure~~ department may reasonably require by
20 regulation to enable it to determine whether such owner or operator
21 has acted or is acting in compliance with the Nebraska Safe
22 Drinking Water Act and rules and regulations adopted pursuant
23 thereto. The department or its designated agent shall have access
24 at all times to such records and reports; and

25 (h) Assess by regulation a fee for any review of plans

1 and specifications pertaining to a public water system governed by
2 section 71-5305 in order to defray no more than the actual cost of
3 the services provided.

4 (2) All such fees collected by the ~~Department of Health~~
5 ~~and Human Services Regulation and Licensure~~ department shall be
6 remitted to the State Treasurer for credit to the Safe Drinking
7 Water Act Cash Fund, which is hereby created. Such fund shall
8 be used by the department for the purpose of administering the
9 Nebraska Safe Drinking Water Act. Any money in the fund available
10 for investment shall be invested by the state investment officer
11 pursuant to the Nebraska Capital Expansion Act and the Nebraska
12 State Funds Investment Act.

13 Sec. 616. Section 71-5310, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 71-5310 (1) The director, with the approval of the
16 council, may authorize variances or exemptions from the drinking
17 water standards issued pursuant to section 71-5302 under conditions
18 and in such manner as they deem necessary and desirable. Such
19 variances or exemptions shall be permitted under conditions and in
20 a manner which are not less stringent than the conditions under,
21 and the manner in which, variances and exemptions may be granted
22 under the federal Safe Drinking Water Act as the act existed on
23 July 20, 2002.

24 (2) Prior to granting a variance or an exemption,
25 the director shall provide notice, in a newspaper of general

1 circulation serving the area served by the public water system, of
2 the proposed exemption or variance and that interested persons may
3 request a public hearing on the proposed exemption or variance. The
4 director may require the system to provide other appropriate notice
5 as he or she deems necessary to provide adequate notice to persons
6 served by the system.

7 If a public hearing is requested, the director shall
8 set a time and place for the hearing and such hearing shall
9 be held before the ~~Department of Health and Human Services~~
10 ~~Regulation and Licensure~~ department prior to the variance or
11 exemption being issued. Frivolous and insubstantial requests for a
12 hearing may be denied by the director. An exemption or variance
13 shall be conditioned on monitoring, testing, analyzing, or other
14 requirements to insure the protection of the public health. A
15 variance or an exemption granted shall include a schedule of
16 compliance under which the public water system is required to meet
17 each contaminant level or treatment technique requirement for which
18 a variance or an exemption is granted within a reasonable time as
19 specified by the director with the approval of the council.

20 Sec. 617. Section 71-5310.01, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 71-5310.01 Except as otherwise expressly provided, any
23 notice, order, or other instrument issued by or under authority
24 of the director under the Nebraska Safe Drinking Water Act may
25 be served on any person affected by such notice, order, or other

1 instrument, personally or by publication, and proof of such service
2 may be made in like manner as in case of service of a summons
3 in a civil action, such proof to be filed in the office of the
4 ~~Department of Health and Human Services Regulation and Licensure,~~
5 department, or such service may be made by mailing a copy of the
6 notice, order, or other instrument by certified or registered mail
7 directed to the person affected at his or her last-known post
8 office address as shown by the files or records of the department,
9 and proof of service may be made by the affidavit of the person who
10 did the mailing and filed in the office of the department.

11 Every certificate or affidavit of service made and filed
12 as provided in this section shall be prima facie evidence of the
13 facts stated in such certificate or affidavit, and a certified copy
14 shall have like force and effect.

15 Sec. 618. Section 71-5311, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 71-5311 (1) There is hereby established the Advisory
18 Council on Public Water Supply which shall advise and assist the
19 department in administering the Nebraska Safe Drinking Water Act.

20 (2) The council shall be composed of seven members
21 appointed by the Governor, (a) one of whom shall be a professional
22 engineer, (b) one of whom shall be a licensed physician, (c) two
23 of whom shall be consumers of a public water system, (d) two of
24 whom shall be operators of a public water system who possess a
25 certificate of competency issued by the ~~Department of Health and~~

1 ~~Human Services Regulation and Licensure~~ department to operate a
2 public water system. One such operator shall represent a system
3 serving a population of five thousand or less, and one such
4 operator shall represent a system serving a population of more
5 than five thousand, and (e) one of whom shall be, at the time of
6 appointment, (i) an individual who owns a public water system, (ii)
7 a member of the governing board of a public or private corporation
8 which owns a public water system, or (iii) in the case of a
9 political subdivision which owns a public water system, a member
10 of the subdivision's governing board or board of public works
11 or similar board which oversees the operation of a public water
12 system.

13 Any owner or operator of a public water system serving
14 on the council on March 2, 1989, shall continue to serve until the
15 term of such member expires. As his or her term expires, such owner
16 or operator shall be replaced by a person qualified as prescribed
17 in subdivisions (d) and (e) of this subsection respectively.

18 (3) All members shall be appointed for three-year terms.
19 No member shall serve more than three consecutive three-year terms.
20 Each member shall hold office until the expiration of his or her
21 term or until a successor has been appointed. Any vacancy occurring
22 in council membership, other than by expiration of term, shall be
23 filled within sixty days by the Governor by appointment from the
24 appropriate category for the unexpired term.

25 (4) The council shall meet not less than once each year.

1 Special meetings of the council may be called by the director
2 or upon the written request of any two members of the council
3 explaining the reason for such meeting. The place of the meeting
4 shall be set by the director. Such officers as the council deems
5 necessary shall be elected every three years beginning with the
6 first meeting in the year 1990. A majority of the members of the
7 council shall constitute a quorum for the transaction of business.
8 Representatives of the department shall attend each meeting. Every
9 act of the majority of the members of the council shall be deemed
10 to be the act of the council.

11 (5) No member of the council shall receive any
12 compensation, but each member shall be entitled, while serving on
13 the business of the council, to receive his or her travel and other
14 necessary expenses while so serving away from his or her place of
15 residence as provided in sections 81-1174 to 81-1177.

16 Sec. 619. Section 71-5311.02, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 71-5311.02 The ~~Director of Regulation and Licensure~~
19 director shall make every effort to obtain voluntary compliance
20 through warning, conference, or any other appropriate means prior
21 to initiating enforcement proceedings, except that such requirement
22 shall not be construed to alter enforcement duties or requirements
23 of the ~~Director of Regulation and Licensure~~ director and the
24 department.

25 Sec. 620. Section 71-5318, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 71-5318 (1) The Drinking Water Facilities Loan Fund is
3 created. The fund shall be held as a trust fund for the purposes
4 and uses described in the Drinking Water State Revolving Fund Act.

5 The fund shall consist of federal capitalization grants,
6 state matching appropriations, proceeds of state match bond issues
7 credited to the fund, repayments of principal and interest on
8 loans, and other money designated for the fund. The director
9 may make loans from the fund pursuant to the Drinking Water
10 State Revolving Fund Act and may conduct activities related to
11 financial administration of the fund, administration or provision
12 of technical assistance through public water system source water
13 assessment programs, and implementation of a source water petition
14 program under the Safe Drinking Water Act. The state investment
15 officer shall invest any money in the fund available for investment
16 pursuant to the Nebraska Capital Expansion Act and the Nebraska
17 State Funds Investment Act, except that any bond proceeds in
18 the fund shall be invested in accordance with the terms of the
19 documents under which the bonds are issued. The state investment
20 officer may direct that the bond proceeds shall be deposited with
21 the bond trustee for investment. Investment earnings shall be
22 credited to the fund.

23 The department may create or direct the creation of
24 accounts within the fund as the department determines to be
25 appropriate and useful in administering the fund and in providing

1 for the security, investment, and repayment of bonds.

2 The fund and the assets thereof may be used, to the
3 extent permitted by the Safe Drinking Water Act and the regulations
4 adopted and promulgated pursuant to such act, to pay or to secure
5 the payment of bonds and the interest thereon, except that amounts
6 deposited into the fund from state appropriations and the earnings
7 on such appropriations may not be used to pay or to secure the
8 payment of bonds or the interest thereon.

9 (2) The Land Acquisition and Source Water Loan Fund is
10 created. The fund shall be held as a trust for the purposes and
11 uses described in the Drinking Water State Revolving Fund Act.

12 The fund shall consist of federal capitalization grants,
13 state matching appropriations, proceeds of state match bond issues
14 credited to the fund, repayments of principal and interest on
15 loans, and other money designated for the fund. The director may
16 make loans from the fund pursuant to the Drinking Water State
17 Revolving Fund Act and may, in consultation with the Director of
18 ~~Regulation and Licensure,~~ Public Health of the Division of Public
19 Health, conduct activities other than the making of loans permitted
20 under section 1452(k) of the Safe Drinking Water Act. The state
21 investment officer shall invest any money in the fund available for
22 investment pursuant to the Nebraska Capital Expansion Act and the
23 Nebraska State Funds Investment Act, except that any bond proceeds
24 in the fund shall be invested in accordance with the terms of the
25 documents under which the bonds are issued. The state investment

1 officer may direct that the bond proceeds shall be deposited with
2 the bond trustee for investment. Investment earnings shall be
3 credited to the fund.

4 The department may create or direct the creation of
5 accounts within the fund as the department determines to be
6 appropriate and useful in administering the fund and in providing
7 for security, investment, and repayment of bonds.

8 The fund and assets thereof may be used, to the extent
9 permitted by the Safe Drinking Water Act and the regulations
10 adopted and promulgated pursuant to such act, to pay or secure
11 the payment of bonds and the interest thereon, except that amounts
12 credited to the fund from state appropriations and the earnings on
13 such appropriations may not be used to pay or to secure the payment
14 of bonds or the interest thereon.

15 The director may transfer any money in the Land
16 Acquisition and Source Water Loan Fund to the Drinking Water
17 Facilities Loan Fund.

18 (3) There is hereby created the Drinking Water
19 Administration Fund. Any funds available for administering loans
20 or fees collected pursuant to the Drinking Water State Revolving
21 Fund Act shall be remitted to the State Treasurer for credit to
22 such fund. The fund shall be administered by the department for the
23 purposes of the act. The state investment officer shall invest any
24 money in the fund available for investment pursuant to the Nebraska
25 Capital Expansion Act and the Nebraska State Funds Investment Act.

1 Investment earnings shall be credited to the fund.

2 Sec. 621. Section 71-5322, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 71-5322 The department shall have the following powers
5 and duties:

6 (1) The power to establish a program to make loans
7 to owners of public water systems, individually or jointly, for
8 construction or modification of safe drinking water projects in
9 accordance with the Drinking Water State Revolving Fund Act and
10 the rules and regulations of the council adopted and promulgated
11 pursuant to such act;

12 (2) The power, if so authorized by the council pursuant
13 to section 71-5321, to execute and deliver documents obligating
14 the Drinking Water Facilities Loan Fund or the Land Acquisition
15 and Source Water Loan Fund and the assets thereof to the extent
16 permitted by section 71-5318 to repay, with interest, loans to
17 or credits into such funds and to execute and deliver documents
18 pledging to the extent permitted by section 71-5318 all or part of
19 such funds and assets to secure, directly or indirectly, the loans
20 or credits;

21 (3) The duty to prepare an annual report for the Governor
22 and the Legislature;

23 (4) The duty to establish fiscal controls and accounting
24 procedures sufficient to assure proper accounting during
25 appropriate accounting periods, including the following:

1 (a) Accounting from the Nebraska Investment Finance
2 Authority for the costs associated with the issuance of bonds
3 pursuant to the act;

4 (b) Accounting for payments or deposits received by the
5 funds;

6 (c) Accounting for disbursements made by the funds; and

7 (d) Balancing the funds at the beginning and end of the
8 accounting period;

9 (5) The duty to establish financial capability
10 requirements that assure sufficient revenue to operate and maintain
11 a facility for its useful life and to repay the loan for such
12 facility;

13 (6) The power to determine the rate of interest to be
14 charged on a loan in accordance with the rules and regulations
15 adopted and promulgated by the council;

16 (7) The power to develop an intended use plan, in
17 consultation with the Director of ~~Regulation and Licensure~~, Public
18 Health of the Division of Public Health, for adoption by the
19 council;

20 (8) The power to enter into required agreements with the
21 United States Environmental Protection Agency pursuant to the Safe
22 Drinking Water Act; and

23 (9) Such other powers as may be necessary and appropriate
24 for the exercise of the duties created under the Drinking Water
25 State Revolving Fund Act.

1 Sec. 622. Section 71-5402, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 71-5402 For purposes of the Nebraska Drug Product
4 Selection Act, unless the context otherwise requires:

5 (1) Bioequivalent means drug products: (a) That are
6 legally marketed under regulations promulgated by the federal
7 Food and Drug Administration; (b) that are the same dosage form
8 of the identical active ingredients in the identical amounts
9 as the drug product prescribed; (c) that comply with compendial
10 standards and are consistent from lot to lot with respect to (i)
11 purity of ingredients, (ii) weight variation, (iii) uniformity of
12 content, and (iv) stability; and (d) for which the federal Food and
13 Drug Administration has established bioequivalent standards or has
14 determined that no bioequivalence problems exist;

15 (2) Board means the Board of Pharmacy;

16 (3) Brand name means the proprietary or trade name
17 selected by the manufacturer, distributor, or packager for a drug
18 product and placed upon the labeling of such product at the time
19 of packaging;

20 (4) Chemically equivalent means drug products that
21 contain amounts of the identical therapeutically active ingredients
22 in the identical strength, quantity, and dosage form and that meet
23 present compendial standards;

24 (5) Department means the Department of Health and Human
25 Services; ~~Regulation and Licensure;~~

1 (6) Drug product means any drug or device as defined in
2 section 71-1,142;

3 (7) Drug product select means to dispense, without the
4 practitioner's express authorization, an equivalent drug product in
5 place of the brand-name drug product contained in a medical order
6 of such practitioner;

7 (8) Equivalent means drug products that are both
8 chemically equivalent and bioequivalent;

9 (9) Generic name means the official title of a drug or
10 drug combination as determined by the United States Adopted Names
11 Council and accepted by the federal Food and Drug Administration of
12 those drug products having the same active chemical ingredients in
13 the same strength and quantity;

14 (10) Medical order has the definition found in section
15 71-1,142;

16 (11) Pharmacist means a pharmacist licensed under the
17 Uniform Licensing Law; and

18 (12) Practitioner has the definition found in section
19 71-1,142.

20 Sec. 623. Section 71-5647, Revised Statutes Cumulative
21 Supplement, 2006, is amended to read:

22 71-5647 The Office of Rural Health is hereby created
23 within the Department of Health and Human Services. ~~Regulation and~~
24 ~~Licensure.~~ The office shall have the following powers and duties:

25 (1) To assist rural residents in obtaining high quality

1 health care which includes the following:

2 (a) Assist in the recruitment and retention of health
3 care professionals to rural areas, including specifically
4 physicians and nurses;

5 (b) Assist rural communities in maintaining the viability
6 of hospital services whenever feasible or, for communities in
7 transition, in developing alternative systems to provide equivalent
8 quality care to their residents;

9 (c) Assist rural communities in planning to meet changes
10 needed due to the changing rural economy and demographics or new
11 technology;

12 (d) Assist in the development of health care networks
13 or cooperative ventures among rural communities or health care
14 providers;

15 (e) Assist in promoting or developing demonstration
16 projects to identify and establish alternative health care systems;
17 and

18 (f) Assist rural communities in developing and
19 identifying leaders and leadership skills among their residents
20 to enable such communities to work toward appropriate and
21 cost-effective solutions to the health care issues that confront
22 them;

23 (2) To develop a comprehensive rural health policy to
24 serve as a guide for the development of programs of the department
25 aimed at improving health care in rural Nebraska and a rural health

1 action plan to guide implementation of the policy;

2 (3) To establish liaison with other state agency efforts
3 in the area of rural development and human services delivery
4 to ensure that the programs of the office are appropriately
5 coordinated with these efforts and to encourage use of the
6 comprehensive rural health policy by other agencies as a guide
7 to their plans and programs affecting rural health;

8 (4) To develop and maintain an appropriate data system to
9 identify present and potential rural health issues and to evaluate
10 the effectiveness of programs and demonstration projects;

11 (5) To encourage and facilitate increased public
12 awareness of issues affecting rural health care;

13 (6) To carry out its duties under the Rural Health
14 Systems and Professional Incentive Act;

15 (7) To carry out the duties required by section
16 71-5206.01; and

17 (8) To carry out related duties as directed by the
18 ~~Director of Regulation and Licensure.~~ Department of Health and
19 Human Services.

20 Sec. 624. Section 71-5649, Revised Statutes Cumulative
21 Supplement, 2006, is amended to read:

22 71-5649 The Legislature shall appropriate sufficient
23 funds to the Department of Health and Human Services ~~Regulation and~~
24 ~~Licensure~~ to enable the Office of Rural Health to carry out its
25 duties pursuant to section 71-5647.

1 Sec. 625. Section 71-5653, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 71-5653 For purposes of the Rural Health Systems and
4 Professional Incentive Act:

5 (1) Approved medical specialty means family practice,
6 general practice, general internal medicine, general pediatrics,
7 general surgery, obstetrics/gynecology, and psychiatry;

8 (2) Approved dental specialty means general practice,
9 pediatric dentistry, and oral surgery;

10 (3) Approved mental health practice program means an
11 approved educational program consisting of a master's or doctorate
12 degree with the focus being primarily therapeutic mental health and
13 meeting the educational requirements for licensure in mental health
14 practice or psychology by the department;

15 (4) Commission means the Nebraska Rural Health Advisory
16 Commission;

17 (5) Department means the Division of Public Health of the
18 Department of Health and Human Services; Regulation and Licensure;

19 (6) Doctorate-level mental health student means a
20 graduate student enrolled in or accepted for enrollment in an
21 approved mental health practice program leading to a doctorate
22 degree and meeting the educational requirements for licensure in
23 psychology by the department;

24 (7) Full-time practice means a minimum of forty hours per
25 week;

1 (8) Health care means both somatic and mental health care
2 services;

3 (9) Master's level mental health student means a graduate
4 student enrolled in or accepted for enrollment in an approved
5 mental health practice program leading to a master's degree and
6 meeting the educational requirements for licensure in mental health
7 practice by the department;

8 (10) Office means the Office of Rural Health;

9 (11) Qualified educational debts means government and
10 commercial loans obtained by students for postsecondary education
11 tuition, other educational expenses, and reasonable living
12 expenses, as determined by the department, but does not include
13 loans received under the act or the Nebraska Medical Student
14 Assistance Act; and

15 (12) Rural means located within any county in Nebraska
16 having a population of less than fifteen thousand inhabitants and
17 not included within a metropolitan statistical area as defined by
18 the United States Department of Commerce, Bureau of the Census.

19 Sec. 626. Section 71-5654, Revised Statutes Cumulative
20 Supplement, 2006, is amended to read:

21 71-5654 The Nebraska Rural Health Advisory Commission is
22 hereby created as the direct and only successor to the Commission
23 on Rural Health Manpower. The Nebraska Rural Health Advisory
24 Commission shall consist of thirteen members as follows:

25 (1) ~~The Director of Regulation and Licensure or his or~~

1 ~~her designee and the Director of Health and Human Services or his~~
2 ~~or her designee, The Director of Public Health of the Division of~~
3 ~~Public Health or his or her designee and another representative of~~
4 ~~the Department of Health and Human Services; and~~

5 (2) Eleven members to be appointed by the Governor with
6 the advice and consent of the Legislature as follows:

7 (a) One representative of each medical school located in
8 the state involved in training family physicians and one physician
9 in family practice residency training; and

10 (b) From rural areas one physician, one consumer
11 representative, one hospital administrator, one nursing home
12 administrator, one nurse, one physician assistant, one mental
13 health practitioner or psychologist licensed under the requirements
14 of section 71-1,206.15 or the equivalent thereof, and one dentist.

15 Members shall serve for terms of three years. When a
16 vacancy occurs, appointment to fill the vacancy shall be made
17 for the balance of the term. All appointed members shall be
18 citizens and residents of Nebraska. The appointed membership of
19 the commission shall, to the extent possible, represent the three
20 congressional districts equally.

21 Sec. 627. Section 71-5655, Revised Statutes Cumulative
22 Supplement, 2006, is amended to read:

23 71-5655 The purpose of the commission shall be to
24 advise the ~~Department of Health and Human Services Regulation~~
25 ~~and Licensure,~~ department, the Legislature, the Governor, the

1 University of Nebraska, and the citizens of Nebraska regarding all
2 aspects of rural health care and to advise the office regarding
3 the administration of the Rural Health Systems and Professional
4 Incentive Act.

5 Sec. 628. Section 71-5681, Revised Statutes Cumulative
6 Supplement, 2006, is amended to read:

7 71-5681 The Legislature hereby finds and declares that:

8 (1) Eighty-eight of Nebraska's ninety-three counties are
9 classified as mental and behavioral health profession shortage
10 areas by the federal Health Resources and Services Administration
11 and the Nebraska Department of Health and Human Services;

12 (2) The Department of Health and Human Services
13 ~~Regulation and Licensure~~ reports that seventy-four percent of the
14 state's psychiatrists, psychologists, and licensed mental health
15 practitioners live and practice in the urban areas of Omaha and
16 Lincoln, which leaves the remaining seventy-two thousand square
17 miles of Nebraska to be covered by approximately one-fourth of the
18 professionals licensed to practice behavioral health in Nebraska;

19 (3) Thirty-eight Nebraska counties have one or no
20 licensed behavioral health professional; and

21 (4) Reductions in federal funding will result in the
22 elimination of over five thousand five hundred behavioral health
23 patient visits in rural Nebraska.

24 Sec. 629. Section 71-5707, Revised Statutes Cumulative
25 Supplement, 2006, is amended to read:

1 71-5707 (1) No person shall smoke in a public place
2 or at a public meeting except in designated smoking areas. This
3 subsection does not apply in cases in which an entire room or hall
4 is used for a private social function and seating arrangements are
5 under the control of the sponsor of the function and not of the
6 proprietor or person in charge of such room or hall.

7 (2) With respect to factories, warehouses, and similar
8 places of work not usually frequented by the general public, the
9 Department of Health and Human Services ~~Regulation and Licensure~~
10 shall, in consultation with the Department of Labor, establish
11 rules to restrict or prohibit smoking in those places of work where
12 the close proximity of workers or the inadequacy of ventilation
13 causes smoke pollution detrimental to the health and comfort of
14 nonsmoking employees.

15 (3) No person shall smoke at a site where child care
16 programs required to be licensed under section 71-1911 are
17 provided. This subsection applies to a child care program located
18 in the home of the provider only during times one or more client's
19 children are present in any part of the home.

20 (4) Smoking is prohibited in all vehicles owned or leased
21 by the state and in all buildings, and the area within ten feet
22 of any entrance of such buildings, which are owned, leased, or
23 occupied by the state except as provided in subsections (5), (6),
24 and (7) of this section.

25 (5) The following buildings or areas within buildings in

1 which persons reside or lodge may be exempt from this section:

2 (a) Nebraska veterans homes established pursuant to section 80-315;

3 (b) private residences; (c) facilities and institutions under the

4 control of the Department of Health and Human Services; and (d)

5 overnight lodging facilities and buildings managed by the Game

6 and Parks Commission, but no more than twenty-five percent of the

7 overnight lodging facilities at each park location shall permit

8 smoking.

9 (6) Designated smoking areas not to exceed fifty percent

10 of the space used by the public may be established in state-owned

11 buildings at the Nebraska State Fairgrounds that possess a Class C,

12 I, or M license for the sale of alcoholic liquor for consumption on

13 the premises under the Nebraska Liquor Control Act.

14 (7) Smoking may be permitted in no more than forty

15 percent of the residential housing rooms or units owned or leased

16 on each campus under the control of the Board of Regents of the

17 University of Nebraska or the Board of Trustees of the Nebraska

18 State Colleges.

19 Sec. 630. Section 71-5710, Reissue Revised Statutes of

20 Nebraska, is amended to read:

21 71-5710 The Department of Health and Human Services

22 ~~Regulation and Licensure shall, not later than January 1, 1980,~~

23 shall adopt and promulgate rules and regulations necessary and

24 reasonable to implement the provisions of sections 71-5701 to

25 71-5713. ~~The Department of Health and Human Services Regulation~~

1 ~~and Licensure~~ department shall consult with interested persons
2 and professional organizations before promulgating such rules and
3 regulations.

4 Sec. 631. Section 71-5711, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 71-5711 The Department of Health and Human Services
7 ~~Regulation and Licensure~~ may, upon request, waive the provisions of
8 sections 71-5701 to 71-5713 if it determines there are compelling
9 reasons to do so and a waiver will not significantly affect the
10 health and comfort of nonsmokers.

11 Sec. 632. Section 71-5713, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 71-5713 The Department of Health and Human Services
14 ~~Regulation and Licensure~~ or a local public health department as
15 defined in section 71-1626 may institute an action in any court
16 with jurisdiction to enjoin any violation of the Nebraska Clean
17 Indoor Air Act. Any interested party may report possible violations
18 of the act to such departments.

19 Sec. 633. Section 71-5714, Revised Statutes Cumulative
20 Supplement, 2006, is amended to read:

21 71-5714 The Tobacco Prevention and Control Cash Fund
22 is created. The fund shall be used for a comprehensive statewide
23 tobacco-related public health program administered by the
24 Department of Health and Human Services ~~Regulation and Licensure~~
25 which includes, but is not limited to (1) community programs

1 to reduce tobacco use, (2) chronic disease programs, (3) school
2 programs, (4) statewide programs, (5) enforcement, (6) counter
3 marketing, (7) cessation programs, (8) surveillance and evaluation,
4 and (9) administration. Any money in the Tobacco Prevention and
5 Control Cash Fund available for investment shall be invested by the
6 state investment officer pursuant to the Nebraska Capital Expansion
7 Act and the Nebraska State Funds Investment Act.

8 Sec. 634. Section 71-5803.04, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 71-5803.04 Department means the Department of Health and
11 Human Services. ~~Regulation and Licensure.~~

12 Sec. 635. Section 71-5829.05, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 71-5829.05 If two or more applications are submitted
15 within thirty days after the receipt of the first application
16 for the same health planning region and the approval of all
17 the applications would result in long-term care beds in the
18 health planning region in excess of the long-term care bed need
19 established in section 71-5829.04, the department shall grant
20 the application and issue a certificate of need, subject to any
21 reduction in beds required by section 71-5846 to the applicant
22 which is better able to: (1) Provide quality care; (2) operate
23 a long-term care facility in a cost-effective manner based on
24 annual cost reports submitted to the ~~Department of Health and Human~~
25 ~~Services Finance and Support;~~ department; (3) accumulate financial

1 resources to complete the project; and (4) serve medicare,
2 medicaid, and medically indigent long-term care patients in the
3 area. The department shall show a preference to an application
4 filed by an applicant with facilities in Nebraska. Information to
5 make these determinations shall be limited to the application and
6 data currently collected by the state. If the applicant does not
7 have a facility in Nebraska, the department may request information
8 from other states in which the applicant is offering services to
9 make its determination.

10 Sec. 636. Section 71-5859, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 71-5859 The department shall adopt and promulgate rules
13 and regulations establishing procedures in accordance with the
14 Administrative Procedure Act by which the applicant may appeal
15 a decision by the department, ~~to the Director of Regulation~~
16 ~~and Licensure.~~ The applicant may appeal a final decision of the
17 ~~director~~ department to the district court in accordance with the
18 Administrative Procedure Act.

19 Sec. 637. Section 71-5903, Revised Statutes Cumulative
20 Supplement, 2006, is amended to read:

21 71-5903 For purposes of the Assisted-Living Facility Act:

22 (1) Activities of daily living means transfer,
23 ambulation, exercise, toileting, eating, self-administration of
24 medication, and similar activities;

25 (2) Administrator means the operating officer of an

1 assisted-living facility and includes a person with a title such
2 as administrator, chief executive officer, manager, superintendent,
3 director, or other similar designation;

4 (3) Assisted-living facility has the same meaning as in
5 section 71-406;

6 (4) Authorized representative means (a) a person holding
7 a durable power of attorney for health care, (b) a guardian, or (c)
8 a person appointed by a court to manage the personal affairs of a
9 resident of an assisted-living facility other than the facility;

10 (5) Chemical restraint means a psychopharmacologic drug
11 that is used for discipline or convenience and is not required to
12 treat medical symptoms;

13 (6) Complex nursing interventions means interventions
14 which require nursing judgment to safely alter standard procedures
15 in accordance with the needs of the resident, which require nursing
16 judgment to determine how to proceed from one step to the next,
17 or which require a multidimensional application of the nursing
18 process. Complex nursing interventions does not include a nursing
19 assessment;

20 (7) Department means the Department of Health and Human
21 Services; ~~Regulation and Licensure;~~

22 (8) Health maintenance activities means noncomplex
23 interventions which can safely be performed according to exact
24 directions, which do not require alteration of the standard
25 procedure, and for which the results and resident responses are

1 predictable;

2 (9) Personal care means bathing, hair care, nail care,
3 shaving, dressing, oral care, and similar activities;

4 (10) Physical restraint means any manual method or
5 physical or mechanical device, material, or equipment attached
6 or adjacent to the resident's body that he or she cannot remove
7 easily and that restricts freedom of movement or normal access to
8 his or her own body; and

9 (11) Stable or predictable means that a resident's
10 clinical and behavioral status and nursing care needs are
11 determined to be (a) nonfluctuating and consistent or (b)
12 fluctuating in an expected manner with planned interventions,
13 including an expected deteriorating condition.

14 Sec. 638. Section 71-6010, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 71-6010 Department shall mean the Department of Health
17 and Human Services. ~~Regulation and Licensure.~~

18 Sec. 639. Section 71-6018.01, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 71-6018.01 (1) Unless a waiver is granted pursuant to
21 subsection (2) of this section, a nursing facility shall use the
22 services of (a) a licensed registered nurse for at least eight
23 consecutive hours per day, seven days per week and (b) a licensed
24 registered nurse or licensed practical nurse on a twenty-four-hour
25 basis seven days per week. Except when waived under subsection

1 (2) of this section, a nursing facility shall designate a licensed
2 registered nurse or licensed practical nurse to serve as a charge
3 nurse on each tour of duty. The Director of Nursing Services shall
4 be a licensed registered nurse, and this requirement shall not be
5 waived. The Director of Nursing Services may serve as a charge
6 nurse only when the nursing facility has an average daily occupancy
7 of sixty or fewer residents.

8 (2) The department may waive either the requirement that
9 a nursing facility or long-term care hospital certified under
10 Title XIX of the federal Social Security Act, as amended, use
11 the services of a licensed registered nurse for at least eight
12 consecutive hours per day, seven days per week, or the requirement
13 that a nursing facility or long-term care hospital certified under
14 Title XIX of the federal Social Security Act, as amended, use the
15 services of a licensed registered nurse or licensed practical nurse
16 on a twenty-four-hour basis seven days per week, including the
17 requirement for a charge nurse on each tour of duty, if:

18 (a)(i) The facility or hospital demonstrates to the
19 satisfaction of the department that it has been unable, despite
20 diligent efforts, including offering wages at the community
21 prevailing rate for the facilities or hospitals, to recruit
22 appropriate personnel;

23 (ii) The department determines that a waiver of the
24 requirement will not endanger the health or safety of individuals
25 staying in the facility or hospital; and

1 (iii) The department finds that, for any periods in which
2 licensed nursing services are not available, a licensed registered
3 nurse or physician is obligated to respond immediately to telephone
4 calls from the facility or hospital; or

5 (b) ~~The Department of Health and Human Services Finance~~
6 ~~and Support~~ department has been granted any waiver by the federal
7 government of staffing standards for certification under Title
8 XIX of the federal Social Security Act, as amended, and the
9 requirements of subdivisions (a)(ii) and (iii) of this subsection
10 have been met.

11 (3) ~~The Department of Health and Human Services Finance~~
12 ~~and Support~~ department shall apply for such a waiver from the
13 federal government to carry out subdivision (1)(b) of this section.

14 (4) A waiver granted under this section shall be subject
15 to annual review by the department. As a condition of granting
16 or renewing a waiver, a facility or hospital may be required to
17 employ other qualified licensed personnel. The department may grant
18 a waiver under this section if it determines that the waiver will
19 not cause the State of Nebraska to fail to comply with any of
20 the applicable requirements of medicaid so as to make the state
21 ineligible for the receipt of all funds to which it might otherwise
22 be entitled.

23 (5) The department shall provide notice of the granting
24 of a waiver to the office of the state long-term care ombudsman
25 and to the Nebraska Advocacy Services or any successor designated

1 for the protection of and advocacy for persons with mental illness
2 or mental retardation. A nursing facility granted a waiver shall
3 provide written notification to each resident of the facility or,
4 if appropriate, to the guardian, legal representative, or immediate
5 family of the resident.

6 Sec. 640. Section 71-6019, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 71-6019 Any employee, representative, or agent of the
9 ~~Department of Health and Human Services,~~ department, the office of
10 the state long-term care ombudsman, a law enforcement agency, or
11 the local county attorney shall be permitted access at any hour
12 to any resident of any nursing home. Friends and relatives of
13 a resident shall have access during normal visiting and business
14 hours of the facility. Representatives of community legal services
15 programs, volunteers, and members of community organizations shall
16 have access, after making arrangements with proper personnel of the
17 home, during regular visiting and business hours if the purpose of
18 such access is to:

19 (1) Visit, talk with, and make personal, social, and
20 legal services available to all residents;

21 (2) Inform residents of their rights and entitlements and
22 their corresponding obligations under federal and state laws by
23 means of educational materials and discussions in groups and with
24 individual residents;

25 (3) Assist residents in asserting their legal rights

1 regarding claims for public assistance, medical assistance, and
2 social security benefits, as well as in all other matters in which
3 residents are aggrieved. Assistance may include counseling and
4 litigation; or

5 (4) Engage in other methods of asserting, advising, and
6 representing residents so as to extend to them full enjoyment of
7 their rights.

8 Sec. 641. Section 71-6021, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 71-6021 (1) Notwithstanding the provisions of sections
11 71-6019 and 71-6020, the administrator of a nursing home may refuse
12 access to the nursing home to any person if the presence of such
13 person in the nursing home would be injurious to the health and
14 safety of a resident or would threaten the security of the property
15 of a resident or the nursing home or if the person seeks access to
16 the nursing home for commercial purposes. Any person refused access
17 to a nursing home may, within thirty days of such refusal, request
18 a hearing by the department. The wrongful refusal of a nursing home
19 to grant access to any person as required in sections 71-6019 and
20 71-6020 shall constitute a violation of the Nebraska Nursing Home
21 Act. A nursing home may appeal any citation issued pursuant to this
22 section in the manner provided in sections 71-452 to 71-455.

23 (2) Nothing in sections 71-6019 to 71-6021 shall be
24 construed to prevent (a) an employee of the Department of
25 Health and Human Services, the Department of Health and Human

1 ~~Services Regulation and Licensure, or the Department of Health~~
2 ~~and Human Services Finance and Support, department,~~ acting in
3 his or her official capacity, from entering a nursing home for
4 any inspection authorized by the act or any rule or regulation
5 adopted and promulgated pursuant thereto or (b) a state long-term
6 care ombudsman or an ombudsman advocate, acting in his or her
7 official capacity, from entering a nursing home to conduct an
8 investigation authorized by any rules and regulations promulgated
9 by the ~~Department of Health and Human Services, department.~~

10 Sec. 642. Section 71-6038, Revised Statutes Cumulative
11 Supplement, 2006, is amended to read:

12 71-6038 For purposes of sections 71-6038 to 71-6042:

13 (1) Complicated feeding problems include, but are not
14 limited to, difficulty swallowing, recurrent lung aspirations, and
15 tube or parenteral or intravenous feedings;

16 (2) Department means the Department of Health and Human
17 Services; ~~Regulation and Licensure;~~

18 (3) Nursing assistant means any person employed by a
19 nursing home for the purpose of aiding a licensed registered or
20 practical nurse through the performance of nonspecialized tasks
21 related to the personal care and comfort of residents other than a
22 paid dining assistant or a licensed registered or practical nurse;

23 (4) Nursing home means any facility or a distinct part
24 of any facility that provides care as defined in sections 71-420,
25 71-421, 71-422, 71-424, and 71-429; and

1 (5) Paid dining assistant means any person employed by
2 a nursing home for the purpose of aiding a licensed registered
3 or practical nurse through the feeding of residents other than a
4 nursing assistant or a licensed registered or practical nurse.

5 Sec. 643. Section 71-6042, Revised Statutes Cumulative
6 Supplement, 2006, is amended to read:

7 71-6042 The ~~department~~ chief medical officer as
8 designated in section 6 of this act shall have the authority to
9 enforce sections 71-6038 to 71-6042 and rules and regulations
10 adopted under section 71-6041 by any of the following means:
11 Denial, suspension, restriction, or revocation of a nursing
12 home's license, refusal of the renewal of a nursing home's
13 license, restriction of a nursing home's admissions, or any other
14 enforcement provision granted to the department.

15 Sec. 644. Section 71-6043, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 71-6043 As used in sections 71-6043 to 71-6052, unless
18 the context otherwise requires:

19 (1) Council ~~shall mean~~ means the Nursing Home Advisory
20 Council as established by sections 71-6043 to 71-6052;

21 (2) Department ~~shall mean~~ means the Division of Public
22 Health of the Department of Health and Human Services; Regulation
23 and Licensure; and

24 (3) Nursing home ~~shall mean~~ means a nursing facility or a
25 skilled nursing facility as defined in section 71-424 or 71-429.

1 Sec. 645. Section 71-6045, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 71-6045 The council shall consist of sixteen members
4 appointed by the Governor as follows:

5 (1) One member shall be a licensed registered nurse in
6 the State of Nebraska;

7 (2) One member shall be a licensed physician and surgeon
8 in the State of Nebraska;

9 (3) One member shall be a licensed dentist in the State
10 of Nebraska;

11 (4) One member shall be a licensed pharmacist in the
12 State of Nebraska;

13 (5) ~~One member~~ Three members shall be a ~~representative~~
14 representatives of the Department of Health and Human Services with
15 interest in or responsibilities for aging programs, medicaid, and
16 regulation and licensure of nursing homes;

17 ~~(6) One member shall be a representative of the~~
18 ~~Department of Health and Human Services Regulation and Licensure;~~

19 ~~(7) One member shall be a representative of the~~
20 ~~Department of Health and Human Services Finance and Support;~~

21 ~~(8)~~ (6) One member shall be a representative of an agency
22 of state or local government, other than the Department of Health
23 and Human Services, Regulation and Licensure, with interests in or
24 responsibilities for nursing homes or programs related thereto;

25 ~~(9)~~ (7) Four members shall be laypersons representative

1 of the public;

2 ~~(10)~~ (8) Two members shall be administrators or owners of
3 proprietary nursing homes; and

4 ~~(11)~~ (9) Two members shall be administrators or owners of
5 voluntary nursing homes.

6 Members serving on the operative date of this act may
7 serve until a replacement is appointed.

8 Sec. 646. Section 71-6048, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 71-6048 The council shall meet at least once during each
11 calendar year and upon call of its chairperson or at the written
12 request of a majority of its members. The council shall annually
13 elect one of its members as chairperson and one of its members as
14 secretary. The Director of Regulation and Licensure Public Health
15 or his or her designee shall represent the department at all
16 meetings.

17 Sec. 647. Section 71-6053, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 71-6053 For the purpose of sections 71-6053 to 71-6068,
20 unless the context otherwise requires:

21 (1) Accredited institution means a postsecondary
22 educational institution approved by the board;

23 (2) Active license means a license issued by the board to
24 an administrator who meets the continuing competency requirements
25 and who submits the required fee;

1 (3) Administrator or nursing home administrator means
2 any individual who meets the education and training requirements
3 of section 71-6054 and is responsible for planning, organizing,
4 directing, and controlling the operation of a home for the aged
5 or infirm, a nursing home, or an integrated system or who in
6 fact performs such functions, whether or not such functions
7 are shared by one or more other persons. Notwithstanding this
8 subdivision or any other provision of law, the administrator of
9 an intermediate care facility for the mentally retarded may be
10 either a licensed nursing home administrator or a qualified mental
11 retardation professional;

12 (4) Administrator-in-training means a person who is
13 undergoing training to become a nursing home administrator and
14 is directly supervised in a home for the aged or infirm or nursing
15 home by a certified preceptor;

16 (5) Board means the Board of Examiners in Nursing Home
17 Administration;

18 (6) Certified preceptor means a person who is currently
19 licensed by the State of Nebraska as a nursing home administrator,
20 has three years of experience as a nursing home administrator, has
21 practiced within the last two years in a home for the aged or
22 infirm or a nursing home, and is approved by the board to supervise
23 an administrator-in-training or a person in a mentoring program;

24 (7) Core educational requirements means courses necessary
25 for licensure as a nursing home administrator and includes

1 courses in patient care and services, social services, financial
2 management, administration, and rules, regulations, and standards
3 relating to the operation of a health care facility;

4 (8) Degree or advanced degree means a baccalaureate,
5 master's, or doctorate degree from an accredited institution and
6 which includes studies in the core educational requirements;

7 (9) Degree or advanced degree in health care means a
8 baccalaureate, master's, or doctorate degree from an accredited
9 institution in health care, health care administration, or
10 services;

11 (10) Department means the Department of Health and Human
12 Services; ~~Regulation and Licensure;~~

13 (11) Home for the aged or infirm or nursing home means
14 any institution or facility licensed as a nursing facility or a
15 skilled nursing facility by the department pursuant to the Health
16 Care Facility Licensure Act, whether proprietary or nonprofit,
17 including, but not limited to, homes for the aged or infirm owned
18 or administered by the federal or state government or an agency or
19 political subdivision thereof;

20 (12) Integrated system means a health and human services
21 organization offering different levels of licensed care or
22 treatment on the same premises;

23 (13) Internship means that aspect of the educational
24 program of the associate degree in long-term care administration
25 which allows for practical experience in a home for the aged

1 or infirm or nursing home and occurs under the supervision of a
2 certified preceptor;

3 (14) License means permission to engage in nursing home
4 administration which would otherwise be unlawful in this state in
5 the absence of such permission and which is granted to individuals
6 who meet prerequisites and qualifications that allow them to
7 perform nursing home administration tasks and use the title nursing
8 home administrator;

9 (15) Nursing degree means a degree or diploma in nursing
10 from an accredited program of nursing approved by the Board of
11 Nursing;

12 (16) Previous work experience means at least two years
13 working full time in a nursing home or home for the aged or infirm
14 or previous work experience in health care administration; and

15 (17) Previous work experience in health care
16 administration means at least two years working full time
17 as an administrator or director of nursing of a hospital with a
18 long-term care unit or assisted-living facility or director of
19 nursing in a nursing home or home for the aged or infirm.

20 Sec. 648. Section 71-6059, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 71-6059 Every license shall be in the form of a
23 certificate under the name and seal of the department and signed
24 by the chairperson, the vice-chairperson, the secretary of the
25 board, and ~~the Director of Regulation and Licensure or his or~~

1 ~~her designee.~~ a representative of the department. A copy of
2 all licenses shall be retained in the department and shall be
3 given the same number as has been assigned to the licensee in
4 the other records of the department. Every licensed nursing home
5 administrator shall keep such license displayed in the office or in
6 the place where he or she practices.

7 Sec. 649. Section 71-6065, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 71-6065 (1) The Board of Examiners in Nursing Home
10 Administration is created. The board shall be under the supervision
11 of the department and shall consist of a designated representative
12 of the ~~Policy Cabinet described in section 81-3009~~ department and
13 the following members appointed by the State Board of Health: (a)
14 Two members who hold active licenses and are currently employed in
15 the management, operation, or ownership of proprietary homes for
16 the aged or infirm or nursing homes that serve the aged or infirm
17 in Nebraska; (b) two members who hold active licenses and are
18 currently employed in the management or operation of a nonprofit
19 home for the aged or infirm or nursing home or hospital caring
20 for chronically ill or infirm, aged patients; (c) one member who
21 is a member of the faculty of a college or university located in
22 the state who is actively engaged in a teaching program relating
23 to business administration, social work, gerontology, or some other
24 aspect of the administration of health care facilities; (d) one
25 member who is a licensed physician and surgeon with a demonstrated

1 interest in long-term care; (e) one member who is a licensed
2 registered nurse; and (f) two members who are laypersons, at
3 least the age of majority, residents of this state for at least
4 five years preceding appointment, and representative of consumer
5 viewpoints. The members of the board shall serve as members of such
6 board until the expiration of their respective terms or until their
7 successors have been appointed and qualified. Each appointed member
8 who is an administrator shall be licensed pursuant to sections
9 71-6053 to 71-6068.

10 (2) The appointed members shall be appointed for terms of
11 three years, and the terms shall be staggered so that the terms of
12 three appointed members of the board expire each year. The term of
13 each member shall commence on the first day of December following
14 the expiration of the term of the member whom such person succeeds.
15 A vacancy in any appointive position on the board shall be filled
16 for the unexpired portion of the term by appointment by the State
17 Board of Health in the same manner as original appointments are
18 made. Appointed members shall serve until their successors are
19 appointed and qualified.

20 (3) The State Board of Health shall have power to remove
21 from office at any time any member of the board after a public
22 hearing pursuant to the Administrative Procedure Act for physical
23 or mental incapacity to carry out the duties of a board member, for
24 continued neglect of duty, for incompetency, for acting beyond the
25 individual member's scope of authority, for malfeasance in office,

1 for any cause for which a license may be suspended or revoked, or
2 for a lack of licensure.

3 (4) The department shall adopt and promulgate rules and
4 regulations which establish definitions of conflicts of interest
5 for members of the board and which establish procedures in the case
6 such a conflict arises.

7 Sec. 650. Section 71-6068, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 71-6068 Whenever the ~~Department of Health and Human~~
10 ~~Services Regulation and Licensure~~ department conducts an
11 investigation or hearing regarding loss of medicaid or medicare
12 certification of a nursing home or suspension or revocation of
13 the license of a nursing home, the board may hold a hearing to
14 determine whether there is cause to suspend, limit, revoke, or deny
15 the license of a nursing home administrator.

16 Sec. 651. Section 71-6103, Revised Statutes Cumulative
17 Supplement, 2006, is amended to read:

18 71-6103 For purposes of the Occupational Therapy Practice
19 Act, unless the context otherwise requires:

20 (1) Active license means the license of a person who is
21 acting, practicing, functioning, and working in compliance with the
22 requirements of a license;

23 (2) Association means a recognized national or state
24 association for occupational therapy;

25 (3) Board means the Board of Occupational Therapy

1 Practice established by section 71-6115;

2 (4) Credentialing means the process of obtaining state
3 approval to provide health care services or human services or to
4 change aspects of a current approval and includes, but is not
5 limited to, granting permission to use a protected title that
6 signifies that a person is qualified to provide the services within
7 the scope of practice of a profession;

8 (5) Deep thermal agent modalities means therapeutic
9 ultrasound and phonophoresis. Deep thermal agent modalities does
10 not include the use of diathermy or lasers;

11 (6) Department means the Division of Public Health of the
12 Department of Health and Human Services; Regulation and Licensure;

13 (7) Electrotherapeutic agent modalities means
14 neuromuscular electrical stimulation, transcutaneous electrical
15 nerve stimulation, and iontophoresis. Electrotherapeutic agent
16 modalities does not include the use of ultraviolet light;

17 (8) Mechanical devices means intermittent compression
18 devices. Mechanical devices does not include devices to perform
19 spinal traction;

20 (9) Occupational therapist means a person holding an
21 active license to practice occupational therapy;

22 (10)(a) Occupational therapy means the use of purposeful
23 activity with individuals who are limited by physical injury
24 or illness, psychosocial dysfunction, developmental or learning
25 disabilities, or the aging process in order to maximize independent

1 function, prevent further disability, and achieve and maintain
2 health and productivity.

3 (b) Occupational therapy encompasses evaluation,
4 treatment, and consultation and may include (i) remediation
5 or restoration of performance abilities that are limited due
6 to impairment in biological, physiological, psychological, or
7 neurological processes, (ii) adaptation of task, process, or the
8 environment, or the teaching of compensatory techniques, in order
9 to enhance performance, (iii) disability prevention methods and
10 techniques which facilitate the development or safe application
11 of performance skills, and (iv) health promotion strategies and
12 practices which enhance performance abilities;

13 (11) Occupational therapy aide means a person who is
14 not licensed by the board and who provides supportive services to
15 occupational therapists and occupational therapy assistants;

16 (12) Occupational therapy assistant means a person
17 holding an active license to assist in the practice of occupational
18 therapy;

19 (13) Physical agent modalities means modalities that
20 produce a biophysiological response through the use of water,
21 temperature, sound, electricity, or mechanical devices; and

22 (14) Superficial thermal agent modalities means hot
23 packs, cold packs, ice, fluidotherapy, paraffin, water, and
24 other commercially available superficial heating and cooling
25 technologies.

1 Sec. 652. Section 71-6208, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 71-6208 Director shall mean the Director of ~~Regulation~~
4 ~~and Licensure.~~ Public Health of the Division of Public Health.

5 Sec. 653. Section 71-6221, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 71-6221 (1) After January 1, 1985, a health profession
8 shall be regulated by the state only when:

9 (a) Unregulated practice can clearly harm or endanger the
10 health, safety, or welfare of the public and the potential for
11 the harm is easily recognizable and not remote or dependent upon
12 tenuous argument;

13 (b) Regulation of the profession does not impose
14 significant new economic hardship on the public, significantly
15 diminish the supply of qualified practitioners, or otherwise create
16 barriers to service that are not consistent with the public welfare
17 and interest;

18 (c) The public needs, and can reasonably be expected
19 to benefit from, assurance of initial and continuing professional
20 ability by the state; and

21 (d) The public cannot be effectively protected by other
22 means in a more cost-effective manner.

23 (2) If it is determined that practitioners of a health
24 profession not currently regulated are prohibited from the full
25 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

1 (d) The public cannot be effectively protected by other
2 means in a more cost-effective manner.

3 (4) The ~~Department of Health and Human Services~~
4 ~~Regulation and Licensure~~ Division of Public Health shall, by rule
5 and regulation, establish standards for the application of each
6 criterion which shall be used by the review bodies in recommending
7 whether proposals for credentialing or change in scope of practice
8 meet the criteria.

9 Sec. 654. Section 71-6301, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 71-6301 For purposes of the Asbestos Control Act, unless
12 the context otherwise requires:

13 (1) Asbestos means asbestiform varieties of chrysotile,
14 crocidolite, amosite, anthophyllite, tremolite, and actinolite;

15 (2) Asbestos encapsulation project means activities which
16 include the coating of asbestos-containing surface material with a
17 bridging or penetrating type of sealing material for the intended
18 purpose of preventing the continued release of asbestos fibers
19 from the material into the air. Such project does not include the
20 repainting of a previously painted nonfriable asbestos-containing
21 surface which is not damaged primarily for improving the appearance
22 of such surface;

23 (3) Asbestos enclosure project means activities which
24 physically isolate friable asbestos and which control and contain
25 fibers released from asbestos-containing material by constructing a

1 permanent airtight barrier between the asbestos-containing material
2 and the occupied building space;

3 (4) Asbestos occupation means an inspector, management
4 planner, project designer, project monitor, supervisor, or worker;

5 (5) Asbestos project means an asbestos enclosure project,
6 an asbestos encapsulation project, an asbestos removal project,
7 an asbestos-related demolition project, or an asbestos-related
8 dismantling project but does not include (a) any activities which
9 affect three square feet or less or three linear feet or less
10 of asbestos-containing material on or in a structure or equipment
11 or any appurtenances thereto or (b) any activities physically
12 performed by a homeowner, a member of the homeowner's family, or an
13 unpaid volunteer on or in the homeowner's residential property of
14 four units or less;

15 (6) Asbestos removal project means activities which
16 include the physical removal of friable asbestos-containing
17 material from the surface of a structure or from equipment which
18 is intended to remain in place after the removal. Such project
19 also includes the physical removal of asbestos from a structure or
20 equipment after such structure or equipment has been removed as
21 part of an asbestos-related dismantling project;

22 (7) Asbestos-related demolition project means activities
23 which include the razing of all or a portion of a structure
24 which contains friable asbestos-containing materials or other
25 asbestos-containing materials which may become friable when such

1 materials are cut, crushed, ground, abraded, or pulverized;

2 (8) Asbestos-related dismantling project means activities
3 which include the disassembly, handling, and moving of the
4 components of any structure or equipment which has been coated with
5 asbestos-containing material without first removing such material
6 from the structure or from the equipment;

7 (9) Business entity means a partnership, limited
8 liability company, firm, association, corporation, sole
9 proprietorship, public entity, or other public or private
10 business concern involved in an asbestos project except an entity
11 solely involved as a management planner or project designer;

12 (10) Certificate means an authorization issued by the
13 department permitting an individual person to work in an asbestos
14 occupation;

15 (11) Demolition means the wrecking, razing, or removal of
16 any structure or load-supporting structural item of any structure,
17 including any related material handling operations, and includes
18 the intentional burning of any structure;

19 (12) Department means the Department of Health and Human
20 Services; ~~Regulation and Licensure;~~

21 ~~(13) Director means the Director of Regulation and~~
22 ~~Licensure or his or her designee;~~

23 ~~(14)~~ (13) Enclosure means the construction of an
24 airtight, impermeable, permanent barrier around asbestos-containing
25 material to control the release of asbestos fibers into the air;

1 ~~(15)~~ (14) Friable asbestos means asbestos in a form which
2 can be crumbled, pulverized, or reduced to powder by hand pressure;

3 ~~(16)~~ (15) Inspector means an individual who is certified
4 by the department to identify and assess the condition of
5 asbestos-containing material;

6 ~~(17)~~ (16) Instructor means an individual who is approved
7 by the department to teach an asbestos-related training course;

8 ~~(18)~~ (17) License means an authorization issued by the
9 department permitting a business entity to engage in an asbestos
10 project;

11 ~~(19)~~ (18) Management planner means an individual who is
12 certified by the department to assess the hazard of materials
13 containing asbestos, to determine the appropriate response actions,
14 and to write management plans;

15 ~~(20)~~ (19) Project designer means an individual who
16 is certified by the department to formulate plans and write
17 specifications for conducting asbestos projects;

18 ~~(21)~~ (20) Project monitor means an individual who
19 is certified by the department to observe abatement activities
20 performed by contractors, to represent the building owner to ensure
21 work is completed according to specifications and in compliance
22 with statutes and regulations, and to perform air monitoring to
23 determine final clearance;

24 ~~(22)~~ (21) Project review means review of a licensed
25 business entity's proposed asbestos project;

1 ~~(23)~~ (22) Renovation means the altering of a structure,
2 one or more structural items, or one or more equipment items in
3 any way, including any asbestos project performed on a structure,
4 structural item, or equipment item;

5 ~~(24)~~ (23) Supervisor means an individual who is certified
6 by the department to supervise and direct an asbestos project
7 in accordance with the Asbestos Control Act and the rules and
8 regulations adopted and promulgated pursuant to such act; and

9 ~~(25)~~ (24) Worker means an individual who is certified
10 by the department to clean, handle, repair, remove, encapsulate,
11 haul, dispose of, or otherwise work with asbestos material in a
12 nonsupervisory capacity.

13 Sec. 655. Section 71-6303, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 71-6303 (1) The department shall administer the Asbestos
16 Control Act.

17 (2) The department shall adopt and promulgate rules and
18 regulations necessary to carry out the act. The department shall
19 adopt state standards governing asbestos projects and may adopt
20 or incorporate part or all of any federal standards in the state
21 standards so long as state standards are no less stringent than
22 federal standards.

23 (3) The department shall prescribe fees based upon the
24 following schedule:

25 (a) For a business entity license or license renewal, not

1 less than two thousand dollars or more than five thousand dollars;

2 (b) For waiver on an emergency basis of a business entity
3 license, not less than two thousand dollars or more than five
4 thousand dollars;

5 (c) For waiver of a license for a business entity not
6 primarily engaged in asbestos projects, not less than two thousand
7 dollars or more than five thousand dollars;

8 (d) For approval of an initial training course, not less
9 than one thousand dollars or more than two thousand five hundred
10 dollars, which fee shall include one onsite inspection if the
11 inspection is required by the department;

12 (e) For approval of a review course or a four-hour
13 course on Nebraska law, rules, and regulations, not less than five
14 hundred dollars or more than one thousand dollars, which fee shall
15 include one onsite inspection if the inspection is required by the
16 department;

17 (f) For an onsite inspection of an asbestos project other
18 than an initial inspection, not less than one hundred fifty dollars
19 or more than two hundred fifty dollars. Such fees shall not be
20 assessed for more than three onsite inspections per year during the
21 period an actual asbestos project is in progress; and

22 (g) For a project review of each asbestos project of a
23 licensed business entity which is equal to or greater than two
24 hundred sixty linear feet or any combination which is equal to
25 or greater than one hundred sixty square feet and linear feet,

1 including any initial onsite inspection, not less than two hundred
2 dollars or more than five hundred dollars.

3 Any such applicant whose application is rejected shall
4 be allowed the return of the application fee, except that an
5 administrative charge of three hundred dollars for a license and
6 one hundred dollars for approval of a training course shall be
7 retained by the department.

8 All fees shall be based on the costs of administering
9 the Asbestos Control Act. In addition to the fees prescribed in
10 this section, the department may charge and receive the actual
11 costs for board, room, and travel by employees in excess of three
12 hundred dollars, which costs shall not exceed the amounts allowable
13 in sections 81-1174 to 81-1177. All such fees collected by the
14 department shall be remitted to the State Treasurer for credit
15 to the ~~Department of Health and Human Services Regulation and~~
16 ~~Licensure~~ Health and Human Services Cash Fund. Money credited to
17 the fund pursuant to this section shall be used by the department
18 for the purpose of administering the act.

19 (4) At least once a year during the continuation of an
20 asbestos project, the department shall conduct an onsite inspection
21 of each licensed business entity's procedures for performing
22 asbestos projects.

23 (5) The department may enter into agreements or contracts
24 with public agencies to conduct any inspections required under the
25 act.

1 (6) The department shall adopt and promulgate rules and
2 regulations defining work practices for asbestos projects. The
3 department may provide for alternatives to specific work practices
4 when the health, safety, and welfare of all classes of asbestos
5 occupations and the general public are adequately protected.

6 (7) The department may apply for and receive funds from
7 the federal government and any other public or private entity for
8 the purposes of administering the act.

9 (8) The department shall establish and collect fees
10 for issuance and renewal of certificates as provided in section
11 71-162 for persons certified under section 71-6310. The department
12 shall adopt and promulgate rules and regulations to establish
13 continuing competency requirements for persons certified under
14 the act. Continuing education is sufficient to meet continuing
15 competency requirements. The requirements may also include, but not
16 be limited to, one or more of the continuing competency activities
17 listed in section 71-161.09 which a certified person may select as
18 an alternative to continuing education.

19 Sec. 656. 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~~, department, there is created a situation
23 of present and severe danger which poses an immediate threat to
24 the public health, safety, and welfare, the ~~director~~ department
25 may waive the requirement for licensure or certification upon

1 application and payment of the fee prescribed by the department.
2 Such emergency waiver shall be limited to the time required to take
3 protective measures.

4 (2) The department may, on a case-by-case basis, approve
5 an alternative to a specific worker protection requirement for
6 an asbestos project if the business entity submits a written
7 description of the alternative procedure and demonstrates to the
8 department's satisfaction that the proposed alternative procedure
9 provides equivalent protection to the health, safety, and welfare
10 of all classes of asbestos occupations and the general public.

11 (3) If the business entity is not primarily engaged in
12 asbestos projects, the department may waive the requirement for
13 a license upon application and payment of the fee prescribed by
14 the department if worker protection requirements are met or an
15 alternative procedure is approved pursuant to subsection (2) of
16 this section and the health, safety, and welfare of the general
17 public is protected.

18 Sec. 657. Section 71-6319.15, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 71-6319.15 Department means the Department of Health and
21 Human Services. ~~Regulation and Licensure.~~

22 Sec. 658. Section 71-6319.28, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 71-6319.28 Lead-based paint hazard means any condition
25 that causes exposure to lead from lead-contaminated dust,

1 lead-contaminated soil, or lead-contaminated paint that is
2 deteriorated paint or is present in accessible surfaces, friction
3 surfaces, or impact surfaces that would result in adverse human
4 health effects as identified by the ~~director~~, department.

5 Sec. 659. Section 71-6319.30, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 71-6319.30 Lead-contaminated dust means surface dust in
8 a residential dwelling or child-occupied facility that contains
9 an area or mass concentration of lead at or in excess of levels
10 identified by the ~~director~~, department.

11 Sec. 660. Section 71-6319.31, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 71-6319.31 Lead-contaminated soil means bare soil on
14 residential real property or on the property of a child-occupied
15 facility that contains lead at or in excess of levels identified by
16 the ~~director~~, department.

17 Sec. 661. Section 71-6321, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 71-6321 (1) The department shall administer the
20 Residential Lead-Based Paint Professions Certification Act.

21 (2) The department shall adopt and promulgate rules and
22 regulations necessary to carry out such act. The department shall
23 adopt state standards governing abatement projects and may adopt
24 or incorporate part or all of any federal standards in such state
25 standards so long as state standards are no less stringent than

1 federal standards.

2 (3) The department shall prescribe fees based upon the
3 following schedule:

4 (a) For an annual firm certificate or certificate
5 renewal, not less than two hundred dollars or more than five
6 hundred dollars;

7 (b) For accreditation of a training program, not less
8 than one thousand dollars or more than two thousand five hundred
9 dollars, which fee shall include one onsite inspection if such
10 inspection is required by the department;

11 (c) For accreditation of a review course or a course on
12 Nebraska law, rules, and regulations, not less than five hundred
13 dollars or more than one thousand dollars, which fee shall include
14 one onsite inspection if such inspection is required by the
15 department;

16 (d) For onsite inspections other than initial
17 inspections, not less than one hundred fifty dollars or more than
18 two hundred fifty dollars. Such fees shall not be assessed for more
19 than three onsite inspections per year during the period an actual
20 abatement project is in progress; and

21 (e) For a project review of each abatement project of a
22 certified firm, not less than two hundred dollars or more than five
23 hundred dollars.

24 Any such applicant whose application is rejected shall
25 be allowed the return of the application fee, except that an

1 administrative charge of one hundred dollars for a firm certificate
2 and for accreditation of a training program shall be retained by
3 the department.

4 All fees shall be based on the costs of administering
5 the act. In addition to the fees prescribed in this section, the
6 department may charge and receive the actual costs for board,
7 room, and travel by employees in excess of three hundred dollars,
8 which costs shall not exceed the amounts allowable in sections
9 81-1174 to 81-1177. All such fees collected by the department shall
10 be remitted to the State Treasurer for credit to the ~~Department~~
11 ~~of Health and Human Services Regulation and Licensure~~ Health and
12 Human Services Cash Fund. Money credited to the fund pursuant to
13 this section shall be used by the department for the purpose of
14 administering the act.

15 (4) At least once a year during the continuation of
16 an abatement project the department shall conduct an onsite
17 inspection of each certified firm's procedures for performing
18 abatement projects.

19 (5) The department may enter into agreements or contracts
20 with public agencies to conduct any inspections required under
21 the act if such agencies have the appropriate certification or
22 accreditation as described in the act.

23 (6) The department shall adopt and promulgate rules
24 and regulations defining work practices for abatement projects,
25 for the certification of lead-based paint professions, for the

1 accreditation of training programs, for the accreditation of
2 training program providers, for the dissemination of prerenovation
3 information to homeowners and occupants, for the facilitation
4 of compliance with federal lead-based paint hazard control grant
5 programs, and for the implementation of lead-based paint compliance
6 monitoring and enforcement activities. The department may provide
7 for alternatives to specific work practices when the health,
8 safety, and welfare of all classes of lead-based paint professions
9 and the general public are adequately protected.

10 (7) The department may apply for and receive funds from
11 the federal government and any other public or private entity
12 for the purposes of administering the act. Any funds applied for,
13 received, or used by the department or any political subdivision
14 from the federal government or any public entity may be used only
15 to abate lead-based paint hazards and for the administration of
16 lead-based paint programs which address health and environmental
17 hazards caused by lead-based paint.

18 (8) The department shall establish and collect
19 certification fees and recertification fees as provided in
20 section 71-162 for individuals certified under section 71-6326.
21 The department shall adopt and promulgate rules and regulations
22 to establish continuing competency requirements for persons
23 certified under the act. Continuing education is sufficient to
24 meet continuing competency requirements. The requirements may also
25 include, but not be limited to, one or more of the continuing

1 competency activities listed in section 71-161.09 which a certified
2 person may select as an alternative to continuing education.

3 Sec. 662. Section 71-6602, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 71-6602 As used in sections 71-6601 to 71-6615, unless
6 the context otherwise requires:

7 (1) Activities of daily living ~~shall mean~~ means
8 assistance with ambulation, toileting, feeding, and similar
9 activities;

10 (2) Basic therapeutic care ~~shall mean~~ means basic health
11 care procedures, including, but not limited to, measuring vital
12 signs, applying hot and cold applications and nonsterile dressings,
13 and assisting with, but not administering, internal and external
14 medications which are normally self-administered. Basic therapeutic
15 care ~~shall~~ does not include health care procedures which require
16 the exercise of nursing or medical judgment;

17 (3) Department ~~shall mean~~ means the Department of Health
18 and Human Services; ~~Regulation and Licensure;~~

19 (4) Home health agency ~~shall mean~~ means a home health
20 agency as defined in section 71-417;

21 (5) Home health aide ~~shall mean~~ means a person who
22 is employed by a home health agency to provide personal care,
23 assistance with the activities of daily living, and basic
24 therapeutic care to patients of the home health agency;

25 (6) Personal care ~~shall mean~~ means bathing, hair care,

1 nail care, shaving, dressing, oral care, and similar activities;

2 (7) Supervised practical training ~~shall mean~~ means
3 training in a laboratory or other setting in which the trainee
4 demonstrates knowledge while performing tasks on an individual
5 under the direct supervision of a registered nurse or licensed
6 practical nurse; and

7 (8) Vital signs ~~shall mean~~ means temperature, pulse,
8 respiration, and blood pressure.

9 Sec. 663. Section 71-6721, Revised Statutes Cumulative
10 Supplement, 2006, is amended to read:

11 71-6721 For purposes of the Medication Aide Act:

12 (1) Ability to take medications independently means the
13 individual is physically capable of (a) the act of taking or
14 applying a dose of a medication, (b) taking or applying the
15 medication according to a specific prescription or recommended
16 protocol, and (c) observing and monitoring himself or herself for
17 desired effect, side effects, interactions, and contraindications
18 of the medication and taking appropriate actions based upon those
19 observations;

20 (2) Administration of medication includes, but is not
21 limited to (a) providing medications for another person according
22 to the five rights, (b) recording medication provision, and (c)
23 observing, monitoring, reporting, and otherwise taking appropriate
24 actions regarding desired effects, side effects, interactions, and
25 contraindications associated with the medication;

1 (3) Caretaker means a parent, foster parent, family
2 member, friend, or legal guardian who provides care for an
3 individual;

4 (4) Child care facility means an entity or a person
5 licensed under the Child Care Licensing Act;

6 (5) Competent individual means an adult who is the
7 ultimate recipient of medication and who has the capability and
8 capacity to make an informed decision about taking medications;

9 (6) Department means the Department of Health and Human
10 Services; ~~Regulation and Licensure;~~

11 (7) Direction and monitoring means the acceptance
12 of responsibility for observing and taking appropriate action
13 regarding any desired effects, side effects, interactions, and
14 contraindications associated with the medication by a (a) competent
15 individual for himself or herself, (b) caretaker, or (c) licensed
16 health care professional;

17 (8) Facility means a health care facility or health care
18 service as defined in section 71-413 or 71-415 or an entity or
19 person certified by the ~~Department of Health and Human Services~~
20 ~~Regulation and Licensure or the Department of Health and Human~~
21 ~~Services Finance and Support~~ department to provide home and
22 community-based services;

23 (9) Five rights means getting the right drug to the right
24 recipient in the right dosage by the right route at the right time;

25 (10) Health care professional means an individual for

1 whom administration of medication is included in the scope of
2 practice;

3 (11) Home means the residence of an individual but does
4 not include any facility or school;

5 (12) Intermediate care facility for the mentally retarded
6 has the definition found in section 71-421;

7 (13) Informed decision means a decision made knowingly,
8 based upon capacity to process information about choices and
9 consequences, and made voluntarily;

10 (14) Medication means any prescription or nonprescription
11 drug intended for treatment or prevention of disease or to affect
12 body function in humans;

13 (15) Medication aide means an individual who is listed on
14 the medication aide registry operated by the ~~Department of Health~~
15 ~~and Human Services Regulation and Licensure~~, department;

16 (16) Nonprescription drug has the definition found in
17 section 71-1,142;

18 (17) Nursing home means any facility or a distinct part
19 of any facility that provides care as defined in sections 71-420,
20 71-422, 71-424, and 71-429;

21 (18) Prescription drug has the definition of prescription
22 drug or device as found in section 71-1,142;

23 (19) Provision of medication means the component of the
24 administration of medication that includes giving or applying a
25 dose of a medication to an individual and includes helping an

1 individual in giving or applying such medication to himself or
2 herself;

3 (20) PRN means an administration scheme in which a
4 medication is not routine, is taken as needed, and requires
5 assessment for need and effectiveness;

6 (21) Recipient means a person who is receiving
7 medication;

8 (22) Routine, with reference to medication, means the
9 frequency of administration, amount, strength, and method are
10 specifically fixed; and

11 (23) School means an entity or person meeting the
12 requirements for a school set by Chapter 79.

13 Sec. 664. Section 71-6724, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 71-6724 A medication aide, a facility using a medication
16 aide, a child care facility using the services of a person licensed
17 to operate a child care facility or a staff member of a child care
18 facility, or a school using the services of a staff member of the
19 school shall keep and maintain accurate medication administration
20 records. The medication administration records shall be available
21 to the Department of Health and Human Services ~~Regulation and~~
22 ~~Licensure,~~ the Department of Health and Human Services, and the
23 State Department of Education for inspection and copying. The
24 medication administration records shall include information and
25 data the departments require by rules and regulations adopted under

1 the Medication Aide Act.

2 Sec. 665. Section 71-6725, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 71-6725 (1) The minimum competencies for a medication
5 aide, a person licensed to operate a child care facility or a staff
6 member of a child care facility, or a staff member of a school
7 shall include (a) maintaining confidentiality, (b) complying with
8 a recipient's right to refuse to take medication, (c) maintaining
9 hygiene and current accepted standards for infection control, (d)
10 documenting accurately and completely, (e) providing medications
11 according to the five rights, (f) having the ability to understand
12 and follow instructions, (g) practicing safety in application
13 of medication procedures, (h) complying with limitations and
14 conditions under which a medication aide may provide medications,
15 and (i) having an awareness of abuse and neglect reporting
16 requirements and any other areas as shall be determined by rules or
17 regulations.

18 (2) The Department of Health and Human Services
19 ~~Regulation and Licensure~~ shall adopt and promulgate rules and
20 regulations setting minimum standards for competencies listed
21 in subsection (1) of this section and methods for competency
22 assessment of medication aides. The Department of Health and Human
23 Services shall adopt and promulgate rules and regulations setting
24 methods for competency assessment of the person licensed to operate
25 a child care facility or staff of child care facilities. The

1 State Department of Education shall adopt and promulgate rules and
2 regulations setting methods for competency assessment of the school
3 staff member.

4 (3) A medication aide (except one who is employed by
5 a nursing home, an intermediate care facility for the mentally
6 retarded, or an assisted-living facility), a person licensed to
7 operate a child care facility or a staff member of a child care
8 facility, or a staff member of a school shall not be required to
9 take a course. The medication aide shall be assessed to determine
10 that the medication aide has the competencies listed in subsection
11 (1) of this section.

12 (4) A medication aide providing services in an
13 assisted-living facility as defined in section 71-406, a nursing
14 home, or an intermediate care facility for the mentally retarded
15 shall be required to have completed a forty-hour course on
16 the competencies listed in subsection (1) of this section and
17 competency standards established through rules and regulations
18 as provided for in subsection (2) of this section, except that
19 a medication aide who has, prior to January 1, 2003, completed
20 a twenty-hour course and passed an examination developed and
21 administered by the Department of Health and Human Services
22 ~~Regulation and Licensure~~ may complete a second twenty-hour course
23 supplemental to the first twenty-hour course in lieu of completing
24 the forty-hour course. The department shall adopt and promulgate
25 rules and regulations regarding the procedures and criteria

1 for curriculum. Competency assessment shall include passing an
2 examination developed and administered by the department. Criteria
3 for establishing a passing standard for the examination shall be
4 established in rules and regulations.

5 (5) Medication aides providing services in nursing homes
6 or intermediate care facilities for the mentally retarded shall
7 also meet the requirements set forth in section 71-6039.

8 Sec. 666. Section 71-6732, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 71-6732 Except as provided by section 71-6731, an
11 applicant or registrant who desires to contest an action or to
12 further contest an affirmed or modified action shall do so in the
13 manner provided in the Administrative Procedure Act for contested
14 cases. The chief medical officer as designated in section 6 of
15 this act shall be the decisionmaker in a contested case under this
16 section. The hearings on a petition for judicial review of any
17 final decision regarding an action for an alleged violation shall
18 be set for hearing at the earliest possible date. The times for
19 pleadings and hearings in such action shall be set by the judge of
20 the court with the object of securing a decision at the earliest
21 possible time.

22 Sec. 667. Section 71-6743, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 71-6743 The Department of Health and Human Services
25 ~~Regulation and Licensure~~ may adopt and promulgate rules and

1 regulations which shall ensure proper storage, handling, and
2 disposal of medication in facilities and schools as defined in
3 section 71-6721.

4 Sec. 668. Section 71-7012, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 71-7012 The Breast and Cervical Cancer Advisory Committee
7 is established. The committee consists of the members of the
8 Mammography Screening Committee serving immediately prior to
9 September 9, 1995, and eight additional members appointed by the
10 ~~Director of Health and Human Services~~ chief executive officer of
11 the department or his or her designee who have expertise or a
12 personal interest in cervical cancer. The committee shall consist
13 of not more than twenty-four volunteer members, at least eight
14 of whom are women, appointed by the ~~director~~ chief executive
15 officer or his or her designee. Members of the committee shall be
16 persons interested in health care, the promotion of breast cancer
17 screening, and cervical cancer and shall be drawn from both the
18 private sector and the public sector. At least one member shall be
19 a person who has or who has had breast cancer, one member shall be
20 a radiologist, and one member shall be a medical radiographer.

21 Of the initial members of the committee, four shall be
22 appointed for terms of one year and four shall be appointed for
23 terms of two years. Thereafter all appointments shall be for terms
24 of two years. All members shall serve until their successors are
25 appointed. No member shall serve more than two successive two-year

1 terms. Vacancies in the membership of the committee for any cause
2 shall be filled by appointment by the ~~director~~ chief executive
3 officer or his or her designee for the unexpired term.

4 Duties of the committee shall include, but not be limited
5 to, recommending guidelines for the program established under
6 section 71-7002, developing and monitoring the schedule of fees
7 established pursuant to section 71-7009, encouraging payment of
8 public and private funds to the Breast and Cervical Cancer Cash
9 Fund, researching and recommending to the department reimbursement
10 limits, planning and implementing outreach and educational programs
11 to Nebraska women, advising the department on its operation of the
12 early detection of breast and cervical cancer grant from the United
13 States Department of Health and Human Services, encouraging payment
14 of public and private funds to the fund, and researching and
15 recommending to the department appropriate definitive diagnostic
16 procedures which may be reimbursed. Members of the committee shall
17 be reimbursed for their actual and necessary expenses as provided
18 in sections 81-1174 to 81-1177.

19 Sec. 669. Section 71-7105, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 71-7105 There is hereby created the Critical Incident
22 Stress Management Council. The council shall be composed of ~~the~~
23 ~~Director of Regulation and Licensure, the Director of Health and~~
24 ~~Human Services, two representatives of the Department of Health and~~
25 Human Services, the State Fire Marshal, the Superintendent of Law

1 Enforcement and Public Safety, and the Adjutant General as director
2 of the Nebraska Emergency Management Agency. The council shall
3 specify the organizational and operational goals for the program
4 and shall provide overall policy direction for the program.

5 Sec. 670. Section 71-7107, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 71-7107 The Department of Health and Human Services
8 ~~Regulation and Licensure~~ shall be the lead agency for the program.

9 The department shall:

- 10 (1) Provide office support to program activities;
- 11 (2) Provide necessary equipment for the program and
12 participants;
- 13 (3) Provide staff support to the council;
- 14 (4) Adopt and promulgate rules and regulations to
15 implement the program;
- 16 (5) Recruit hospital personnel and emergency medical
17 workers to be trained as critical incident stress management peers;
- 18 (6) Participate in the training and continuing education
19 of such peers and mental health professionals; and
- 20 (7) Appoint a director for the program who shall be an
21 employee of the department and shall be the chairperson of the
22 committee.

23 Sec. 671. Section 71-7110, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 71-7110 Each critical incident stress management

1 region shall have a regional management committee composed of
2 representatives of the Department of Health and Human Services,
3 ~~Regulation and Licensure~~, the State Fire Marshal, and the Nebraska
4 State Patrol and a regional clinical director. The regional
5 clinical director shall have a graduate degree in a mental health
6 discipline. The regional management committee shall be responsible
7 for the implementation and coordination of the program in the
8 region according to the specifications developed by the council
9 and Interagency Management Committee. The regional management
10 committee shall develop critical incident stress management teams
11 to facilitate the stress management process.

12 Sec. 672. Section 71-7434, Revised Statutes Cumulative
13 Supplement, 2006, is amended to read:

14 71-7434 Department means the Department of Health and
15 Human Services. ~~Regulation and Licensure.~~

16 Sec. 673. Section 71-7450, Revised Statutes Cumulative
17 Supplement, 2006, is amended to read:

18 71-7450 (1) Licensure activities under the Wholesale Drug
19 Distributor Licensing Act shall be funded by license fees. An
20 applicant for an initial or renewal license under the act shall pay
21 a license fee as provided in this section.

22 (2) License fees shall include (a) a base fee of fifty
23 dollars and (b) an additional fee of not more than five hundred
24 dollars based on variable costs to the department of inspections
25 and of receiving and investigating complaints, other similar direct

1 and indirect costs, and other relevant factors as determined by the
2 department.

3 (3) If the licensure application is denied, the license
4 fee shall be returned to the applicant, except that the department
5 may retain up to twenty-five dollars as an administrative fee
6 and may retain the entire license fee if an inspection has been
7 completed prior to such denial.

8 (4) The department shall also collect a fee for
9 reinstatement of a license that has lapsed or has been suspended or
10 revoked. The department shall collect a fee of ten dollars for a
11 duplicate original license.

12 (5) The department shall remit all license fees collected
13 under this section to the State Treasurer for credit to the
14 ~~Department of Health and Human Services Regulation and Licensure~~
15 Health and Human Services Cash Fund. License fees collected under
16 this section shall only be used for activities related to the
17 licensure of wholesale drug distributors.

18 Sec. 674. Section 71-7457, Revised Statutes Cumulative
19 Supplement, 2006, is amended to read:

20 71-7457 (1) A wholesale drug distributor license may be
21 denied, refused renewal, suspended, limited, or revoked by the
22 ~~Director of Regulation and Licensure~~ department when the ~~director~~
23 department finds that the applicant or licensee has violated any
24 provisions of the Wholesale Drug Distributor Licensing Act or of
25 the rules and regulations adopted and promulgated under the act or

1 has committed any acts or offenses set forth in section 71-147,
2 71-148, or 71-7459. All actions and proceedings shall be carried
3 out as specified in sections 71-147 to 71-161.19.

4 (2) For purposes of this section, applicant or licensee
5 includes, but is not limited to, the board of directors, chief
6 executive officer, and other officers of the applicant or the
7 entity to which the license is issued and the manager of each site
8 if more than one site is located in this state.

9 Sec. 675. Section 71-7603, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 71-7603 ~~The Director of Health and Human Services, the~~
12 ~~Director of Regulation and Licensure, and the Director of Finance~~
13 ~~and Support~~ Department of Health and Human Services shall annually
14 report to the Governor and the Legislature on the status of health
15 care expenditures in Nebraska. Such report shall also address the
16 access of Nebraskans to health care services, issues related to
17 quality assurance, differences in the health care status of persons
18 in different parts of Nebraska, changes needed in the education
19 of health care personnel in Nebraska, and recommendations for
20 improvements in the health care delivery system generally.

21 Sec. 676. Section 71-7606, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 71-7606 (1) The purpose of the Nebraska Health Care
24 Funding Act is to provide for the use of dedicated revenue for
25 health-care-related expenditures.

1 (2) Any funds appropriated or distributed under the act
2 shall not be considered ongoing entitlements or obligations on the
3 part of the State of Nebraska and shall not be used to replace
4 existing funding for existing programs.

5 (3) No funds appropriated or distributed under the act
6 shall be used for abortion, abortion counseling, referral for
7 abortion, school-based health clinics, or research or activity of
8 any kind involving the use of human fetal tissue obtained in
9 connection with the performance of an induced abortion or involving
10 the use of human embryonic stem cells or for the purpose of
11 obtaining other funding for such use.

12 (4) The Department of Health and Human Services ~~and the~~
13 ~~Department of Health and Human Services Finance and Support~~ shall
14 report annually to the Legislature and the Governor regarding the
15 use of funds appropriated under the act and the outcomes achieved
16 from such use.

17 Sec. 677. Section 71-7607, Revised Statutes Cumulative
18 Supplement, 2006, is amended to read:

19 71-7607 (1) The Nebraska Medicaid Intergovernmental Trust
20 Fund is created. The fund shall include revenue received from
21 governmental nursing facilities receiving payments for nursing
22 facility services under the medical assistance program established
23 pursuant to the Medical Assistance Act. The Department of Health
24 and Human Services ~~Finance and Support~~ shall remit such revenue to
25 the State Treasurer for credit to the fund. The department shall

1 adopt and promulgate rules and regulations to establish procedures
2 for participation by governmental nursing facilities and for the
3 receipt of such revenue under this section. Money from the Nebraska
4 Medicaid Intergovernmental Trust Fund shall be transferred to the
5 Nebraska Health Care Cash Fund as provided in section 71-7611.

6 (2) The department may use revenue in the Nebraska
7 Medicaid Intergovernmental Trust Fund to offset any unanticipated
8 reductions in medicaid funds received under this section.

9 (3) Any money in the Nebraska Medicaid Intergovernmental
10 Trust Fund available for investment shall be invested by the state
11 investment officer pursuant to the Nebraska Capital Expansion Act
12 and the Nebraska State Funds Investment Act.

13 Sec. 678. Section 71-7608, Revised Statutes Cumulative
14 Supplement, 2006, is amended to read:

15 71-7608 The Nebraska Tobacco Settlement Trust Fund is
16 created. The fund shall include any settlement payments or other
17 revenue received by the State of Nebraska in connection with any
18 tobacco-related litigation to which the State of Nebraska is a
19 party. The Department of Health and Human Services ~~Finance and~~
20 ~~Support~~ shall remit such revenue to the State Treasurer for credit
21 to the fund, except that of such revenue received on or after
22 April 1, 2005, two million five hundred thousand dollars shall be
23 credited annually to the Tobacco Prevention and Control Cash Fund.
24 Subject to the terms and conditions of such litigation, money from
25 the Nebraska Tobacco Settlement Trust Fund shall be transferred to

1 the Nebraska Health Care Cash Fund as provided in section 71-7611.
2 Any money in the Nebraska Tobacco Settlement Trust Fund available
3 for investment shall be invested by the state investment officer
4 pursuant to the Nebraska Capital Expansion Act and the Nebraska
5 State Funds Investment Act.

6 Sec. 679. Section 71-7614, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 71-7614 (1) The Nebraska Health Care Council is created.
9 The council shall consist of a chairperson and eight additional
10 members appointed by the Governor with the approval of a majority
11 of the Legislature. The members shall be appointed for staggered
12 three-year terms. The council shall include at least one consumer,
13 one health care provider, and one member of a racial or ethnic
14 minority. ~~The Director of Finance and Support or his or her~~
15 ~~designee~~ The chief executive officer of the Department of Health
16 and Human Services or his or her designee shall be a nonvoting,
17 ex officio member of the council. Any vacancy shall be filled in
18 the same manner as the original appointment for the unexpired
19 term. Members of the council shall be reimbursed for their
20 actual and necessary expenses as provided in sections 81-1174
21 to 81-1177. ~~The Department of Health and Human Services Finance~~
22 ~~and Support~~ department shall provide staff support for the council.
23 ~~The Department of Health and Human Services and the Department~~
24 ~~of Health and Human Services Regulation and Licensure shall also~~
25 ~~assist the Department of Health and Human Services Finance and~~

1 ~~Support~~ and shall assist the council as may be necessary.

2 (2) Funds as appropriated by the Legislature from the
3 Nebraska Health Care Cash Fund shall be used for grants awarded
4 by the council for public health purposes as defined by the
5 council and adopted in rules and regulations of the ~~Department of~~
6 ~~Health and Human Services Finance and Support~~ department. At least
7 fifteen percent of the funds appropriated for such grants shall
8 be awarded by the council to improve racial and ethnic minority
9 health. Grants awarded under this section shall not exceed three
10 years in duration, except that extensions of up to one year may
11 be granted by the council for good cause. The council shall report
12 all such extensions to the ~~Department of Health and Human Services~~
13 ~~Finance and Support~~ department and to the Health and Human Services
14 Committee of the Legislature.

15 (3) The ~~Department of Health and Human Services Finance~~
16 ~~and Support~~ department shall:

17 (a) In consultation with the council, develop criteria
18 for the awarding of grants from the fund pursuant to this section;

19 (b) Approve or disapprove decisions by the council
20 regarding the selection of projects to be funded and the
21 distribution of project funding;

22 (c) In consultation with the council, establish
23 standards, formats, procedures, and timelines for the successful
24 implementation of approved projects;

25 (d) In consultation with the council, assist grant

1 recipients in determining the effectiveness of the project and
2 measure the accomplishment of the grant objectives;

3 (e) Provide annual reports to the Governor and the
4 Legislature concerning the projects. Each report shall include
5 a listing of priorities established by the council for grants
6 awarded under this section, the number of applicants and approved
7 applicants for such grants, an overview of the various funded
8 projects, and detailed reports of the cost of such projects;

9 (f) In consultation with the council, adopt and
10 promulgate rules and regulations establishing criteria, standards,
11 and procedures regarding the selection and administration of funded
12 projects; and

13 (g) Require recipients of grants under this section to
14 provide such data relating to the funded projects as the department
15 deems necessary.

16 Sec. 680. Section 71-7617, Revised Statutes Cumulative
17 Supplement, 2006, is amended to read:

18 71-7617 The Department of Health and Human Services
19 ~~Regulation and Licensure~~ shall contract with the health clinics
20 of Nebraska's federally recognized Native American tribes, Indian
21 health organizations, or other public health organizations that
22 have a substantial Native American clientele to provide educational
23 and public health services targeted to Native American populations.
24 The following educational and public health services may be
25 considered by the department for such contracts:

1 (1) Identification and enrollment of children in state
2 and federal programs providing access to health insurance or health
3 care;

4 (2) Efforts to educate children and adults about the
5 health risks associated with smoking and tobacco use, alcohol
6 abuse, and other substances that threaten health and well-being and
7 other activities designed to reduce the rate of substance abuse;

8 (3) Prenatal care education for women and notification of
9 programs that improve prenatal care;

10 (4) Education focusing on proper diet and the importance
11 of physical activity to good health;

12 (5) Blood pressure and cholesterol screenings;

13 (6) Support of efforts to identify children and adults at
14 risk for depression and other mental health conditions and provide
15 mental health counseling to prevent suicide;

16 (7) Parenting classes and the promotion of such programs;

17 (8) Efforts to discourage drinking and driving and to
18 encourage the use of seat belts;

19 (9) Tests and education for acquired immunodeficiency
20 syndrome and other sexually transmitted diseases;

21 (10) Tests for pregnancy and referrals to prenatal care
22 when directed;

23 (11) Educational efforts aimed at reducing teen
24 pregnancies and other unintended pregnancies;

25 (12) Case management for pregnant women, children, or

1 adults with special health care needs;

2 (13) Efforts to make health care prevention services more
3 affordable or accessible;

4 (14) Matching funds for state and federal programs
5 designed to address public health needs;

6 (15) Staffing needs for public health services or
7 education including the recruitment and training of Native American
8 providers;

9 (16) Cervical and breast cancer detection services
10 and other prevention components of comprehensive women's health
11 services;

12 (17) Education to prevent and reduce the occurrence of
13 diabetes; and

14 (18) Other prevention or educational activities or
15 programs that address the health, safety, or self-sufficiency of
16 Native American persons.

17 Sec. 681. Section 71-7618, Revised Statutes Cumulative
18 Supplement, 2006, is amended to read:

19 71-7618 During each fiscal year, the ~~Director of~~
20 ~~Regulation and Licensure~~ Department of Health and Human Services
21 shall contract with the health clinics of Nebraska's federally
22 recognized Native American tribes as approved by the tribal
23 councils, Indian health organizations, or other public health
24 organizations that have a substantial Native American clientele to
25 provide educational and public health services pursuant to section

1 71-7617. The ~~director~~ department shall fund all eligible contracts
2 until the appropriation to this program is depleted, but shall give
3 priority to contracts which meet the following criteria:

4 (1) Programs or activities that directly impact the
5 health and well-being of children;

6 (2) Programs or activities which serve the greater number
7 of people over the longest period of time;

8 (3) Programs or activities that are part of a larger plan
9 for strategic public health planning and implementation;

10 (4) Current programs or activities that have demonstrated
11 success in improving public health or new programs or activities
12 modeled on successful programs and activities; and

13 (5) Programs or activities that focus on primary
14 prevention and show promise in reducing future health care
15 expenditures.

16 Sec. 682. Section 71-7619, Revised Statutes Cumulative
17 Supplement, 2006, is amended to read:

18 71-7619 The Department of Health and Human Services
19 ~~Regulation and Licensure~~ shall provide technical assistance and
20 assessment of needs evaluations upon request to aid tribal councils
21 in the development of contract proposals.

22 Sec. 683. Section 71-7620, Revised Statutes Cumulative
23 Supplement, 2006, is amended to read:

24 71-7620 The recipients of funds under the Native American
25 Public Health Act shall submit a report on the activities funded

1 each fiscal year. The report shall provide information as required
2 by the ~~Director of Regulation and Licensure~~ Department of Health
3 and Human Services to determine the effectiveness of the contract
4 in meeting the goals of the Native American Public Health Act.

5 Sec. 684. Section 71-7621, Revised Statutes Cumulative
6 Supplement, 2006, is amended to read:

7 71-7621 If the ~~Director of Regulation and Licensure~~
8 Department of Health and Human Services determines that services
9 are not being delivered in accordance with the contract, the
10 ~~director~~ department may seek to recapture all or a portion of funds
11 expended.

12 Sec. 685. Section 71-7622, Revised Statutes Cumulative
13 Supplement, 2006, is amended to read:

14 71-7622 The Department of Health and Human Services
15 ~~Regulation and Licensure~~ shall adopt and promulgate rules and
16 regulations to carry out the Native American Public Health Act
17 and shall adhere to already established or adopted and promulgated
18 rules and regulations for contracted services under the act.

19 Sec. 686. Section 71-7702, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 71-7702 For purposes of the Health Care Facility-Provider
22 Cooperation Act:

23 (1) Community planning ~~shall mean~~ means a plan which
24 identifies (a) health-care-related resources, facilities, and
25 services within the community, (b) the health care needs of the

1 community, (c) gaps in services, (d) duplication of services, and
2 (e) ways to meet health care needs;

3 (2) Cooperative agreement ~~shall mean~~ means an agreement
4 among two or more health care facilities or other providers
5 for the sharing, allocation, or referral of patients, personnel,
6 instructional programs, equipment, support services and facilities,
7 or medical, diagnostic, or laboratory facilities or procedures or
8 other services traditionally offered or purchased by health care
9 facilities or other providers;

10 (3) Department ~~shall mean~~ means the Department of Health
11 and Human Services; ~~Regulation and Licensure;~~

12 (4) Health care facility ~~shall mean+~~ means:

13 (a) Any facility required to be licensed under the Health
14 Care Facility Licensure Act or, if in another state, licensed in
15 such state; and

16 (b) Any parent of a health care facility, health
17 care facility subsidiary, or health care facility affiliate that
18 provides medical or medically related diagnostic and laboratory
19 services or engages in ancillary activities supporting those
20 services; and

21 (5) Provider ~~shall mean~~ means any person licensed to
22 provide health care services under Chapter 71 and engaged in the
23 practice of medicine and surgery, osteopathic medicine, pharmacy,
24 optometry, podiatry, physical therapy, or nursing.

25 Sec. 687. Section 71-8008, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 71-8008 The Department of Health and Human Services
3 ~~Regulation and Licensure~~ may adopt and promulgate rules and
4 regulations to implement the Certified Industrial Hygienist Title
5 Protection Act and to further regulate the use of the term
6 certified industrial hygienist.

7 Sec. 688. Section 71-8211, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 71-8211 Department means the Division of Public Health
10 of the Department of Health and Human Services. ~~Regulation and~~
11 ~~Licensure.~~

12 Sec. 689. Section 71-8228, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 71-8228 Regional medical director means a physician
15 licensed under the Uniform Licensing Law who shall report to
16 the ~~Director of Regulation and Licensure~~ Director of Public Health
17 and carry out the regional plan for his or her region.

18 Sec. 690. Section 71-8231, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 71-8231 State trauma medical director means a physician
21 licensed under the Uniform Licensing Law who reports to the
22 ~~Director of Regulation and Licensure~~ Director of Public Health and
23 carries out duties under the Statewide Trauma System Act.

24 Sec. 691. Section 71-8236, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 71-8236 The State Trauma Advisory Board is created.
2 The board shall be composed of representatives knowledgeable in
3 emergency medical services and trauma care, including emergency
4 medical providers such as physicians, nurses, hospital personnel,
5 prehospital or out-of-hospital providers, local government
6 officials, state officials, consumers, and persons affiliated
7 professionally with health science schools. The ~~Director of~~
8 ~~Regulation and Licensure~~ Director of Public Health or his or her
9 designee shall appoint the members of the board for staggered terms
10 of three years each. The department shall provide administrative
11 support to the board. All members of the board may be reimbursed
12 for their actual and necessary expenses incurred in the performance
13 of their duties as such members as provided in sections 81-1174
14 to 81-1177. The terms of members representing the same field shall
15 not expire at the same time.

16 The board shall elect a chairperson and a
17 vice-chairperson whose terms of office shall be for two years. The
18 board shall meet at least twice per year by written request of
19 the director or the chairperson.

20 Sec. 692. Section 71-8239, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 71-8239 (1) The department, in consultation with and
23 having solicited the advice of the State Trauma Advisory Board,
24 shall establish the statewide trauma system.

25 (2) The department, with the advice of the board, shall

1 adopt and promulgate rules and regulations to carry out the
2 Statewide Trauma System Act.

3 (3) The ~~Director of Regulation and Licensure~~ Director of
4 Public Health or his or her designee shall appoint the state trauma
5 medical director and the regional medical directors.

6 Sec. 693. Section 71-8312, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 71-8312 The Department of Health and Human Services
9 ~~Regulation and Licensure~~ shall periodically examine and reexamine
10 the regulations, processes, and results of the facility regulation
11 system. Changes in the facility regulation system should occur
12 whenever the department finds that:

13 (1) A program or procedure is not needed to ensure the
14 protection of the public health, safety, or welfare or a program
15 or procedure is not providing adequate protection of the public
16 health, safety, or welfare;

17 (2) A program or procedure has been more detrimental
18 than beneficial to the fulfillment of the department's regulatory
19 responsibilities as defined by law or has diminished the supply of
20 qualified providers or the public's access to needed services; or

21 (3) There are alternatives to a program or procedure that
22 would more cost effectively fulfill the department's duties and
23 responsibilities.

24 Sec. 694. Section 71-8313, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 71-8313 The Department of Health and Human Services
2 ~~Regulation and Licensure~~ shall review the regulation or proposed
3 regulation of categories of facilities based on the criteria
4 in sections 71-8301 to 71-8314. On or before November 1 of
5 each year, the department shall provide the Legislature with
6 recommendations for credentialing of categories of facilities not
7 previously regulated and changes in the statutes governing the
8 credentialing of categories of facilities.

9 Sec. 695. Section 71-8503, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 71-8503 For purposes of the Nebraska Telehealth Act:

12 (1) Department means the Department of Health and Human
13 Services; ~~Finance and Support;~~

14 (2) Health care practitioner means a Nebraska
15 medicaid-enrolled provider who is licensed, registered, or
16 certified to practice in this state by the ~~Department of Health and~~
17 ~~Human Services Regulation and Licensure;~~ department;

18 (3) Telehealth means the use of telecommunications
19 technology by a health care practitioner to deliver health care
20 services within his or her scope of practice at a site other than
21 the site where the patient is located; and

22 (4) Telehealth consultation means any contact between a
23 patient and a health care practitioner relating to the health care
24 diagnosis or treatment of such patient through telehealth but does
25 not include a telephone conversation, electronic mail message, or

1 facsimile transmission between a health care practitioner and a
2 patient or a consultation between two health care practitioners.

3 Sec. 696. Section 72-249, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 72-249 The Governor of the state is empowered and
6 directed to receive from the United States all money that may
7 be due or may become due to the state, and it shall be his or
8 her duty to deposit the same without delay in the treasury of the
9 state, taking the State Treasurer's receipts therefor. All money
10 received from the United States, for the particular benefit of
11 any institution, department, or activity under the jurisdiction of
12 the Department of Health and Human Services, or the Department
13 of Correctional Services, ~~or the Department of Health and Human~~
14 ~~Services Finance and Support~~, shall be paid to the particular
15 institution, department, or activity for the benefit of which
16 it was received, as directed by the proper department, and by
17 such institution, department, or activity deposited with the State
18 Treasurer not later than the first day of the month following that
19 in which received.

20 Sec. 697. Section 75-303.01, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 75-303.01 The Department of Health and Human Services
23 ~~Finance and Support~~ or any agency organized under the Nebraska
24 Community Aging Services Act may contract for transportation for
25 its clients with a contractor which does not hold a certificate or

1 which is not otherwise exempt under section 75-303 only if:

2 (1) The proposed contractor is the individual who will
3 personally drive the vehicle in question;

4 (2) The only compensation to the contractor for the
5 transportation is paid by the department at a rate no greater
6 than that provided for reimbursement of state employees pursuant to
7 section 81-1176 for the costs incurred in the transportation; and

8 (3) (a) There is no regulated motor carrier serving the
9 area in which the client needs transportation, (b) the regulated
10 motor carrier serving the area is incapable of providing the
11 specific service in question by its own written statement or as
12 determined by the commission upon application of the regulated
13 motor carrier or the department, or (c) the regulated carrier
14 cannot or will not provide such service at the rate specified in
15 subsection (2) of section 75-303.02.

16 Sec. 698. Section 75-303.02, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 75-303.02 (1) The commission, in consultation with the
19 Department of Health and Human Services, ~~Finance and Support,~~
20 shall adopt and promulgate rules and regulations governing minimum
21 liability insurance requirements, equipment standards, driver
22 qualification requirements, and the issuance and filing of notice
23 for any contractor utilized by the department or any agency
24 organized under the Nebraska Community Aging Services Act pursuant
25 to section 75-303.01.

1 (2) The ~~Department of Health and Human Services~~
2 department or any agency organized under the Nebraska Community
3 Aging Services Act shall reimburse common and contract carriers
4 for transportation of passengers at a rate not to exceed the rate
5 of reimbursement pursuant to section 81-1176 multiplied by three.
6 The maximum reimbursement rate provided for in this subsection
7 shall not apply when the carrier (a) transports such person
8 wholly within the corporate limits of the city or village where
9 the transportation of the person originated or (b) transports
10 a disabled person as defined by the federal Americans with
11 Disabilities Act of 1990 in a vehicle that is compliant with
12 the regulations providing for the transportation of such disabled
13 person.

14 Sec. 699. Section 75-303.03, Revised Statutes Cumulative
15 Supplement, 2006, is amended to read:

16 75-303.03 (1) The Department of Health and Human Services
17 ~~Finance and Support~~ may reimburse an individual for the costs
18 incurred by such individual in the transportation of a person
19 eligible to receive transportation services through the ~~Nebraska~~
20 ~~Health and Human Services System~~ department if:

21 (a) The individual is under contract with the ~~Nebraska~~
22 ~~Health and Human Services System~~ department and provides
23 transportation to the eligible person; and

24 (b) The eligible person has chosen the individual to
25 provide the transportation.

1 (2) The department shall reimburse for the costs incurred
2 in the transportation at a rate no greater than that provided for
3 reimbursement of state employees pursuant to section 81-1176.

4 (3) Transportation provided to an eligible person by
5 an individual pursuant to this section does not constitute
6 transportation for hire.

7 (4) The department may adopt and promulgate rules and
8 regulations to implement this section.

9 Sec. 700. Section 76-1304, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 76-1304 Unless the method of disposition is adopted for
12 the purpose of evasion of the provisions of sections 76-1301 to
13 76-1315, such provisions shall not apply to offers or dispositions
14 of any lot or unit in a retirement subdivision or community by
15 a purchaser for his or her own account in a single or isolated
16 transaction, nor shall such provisions apply to the following:

17 (1) Offers or dispositions of evidences of indebtedness
18 secured by a mortgage or deed of trust of real estate;

19 (2) Offers or dispositions of securities or units of
20 interest issued by a real estate investment trust regulated under
21 any state or federal statute;

22 (3) The sale or lease of real estate under or pursuant to
23 court order;

24 (4) The disposition in any manner whatsoever of any unit
25 of public housing under the administrative jurisdiction of a local

1 public housing authority;

2 (5) Offers or dispositions of securities currently
3 registered with the Director of Banking and Finance and under the
4 provisions of the Securities Act of Nebraska; and

5 (6) Health care facilities licensed by the Department of
6 Health and Human Services ~~Regulation and Licensure~~ under the Health
7 Care Facility Licensure Act.

8 Sec. 701. Section 76-14,102, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 76-14,102 If there is noncompliance by a tenant with
11 section 76-1493 materially affecting health and safety or any
12 condition which is ordered to be changed by the State Fire Marshal,
13 the State Electrical Board, the Department of Health and Human
14 Services, ~~Regulation and Licensure~~, or any other regulatory body
15 with jurisdiction over either the park or the mobile home space
16 that can be remedied by repair, replacement of a damaged item, or
17 cleaning, and the tenant fails to comply as promptly as conditions
18 require in case of emergency or within fourteen days after written
19 notice by the landlord specifying the breach and requesting that
20 the tenant remedy the breach or take reasonable steps to remedy it
21 within that period of time, the landlord may enter the mobile home
22 space, cause the work to be done in a skillful manner, and submit
23 an itemized bill for the actual and reasonable cost or the fair and
24 reasonable value as additional rent on the next date when periodic
25 rent is due or, if the rental agreement has been terminated, for

1 immediate payment. If the landlord is assessed any fine, cost, or
2 charge as a result of the tenant's failure to comply with an order
3 issued by the State Fire Marshal, the State Electrical Board, the
4 Department of Health and Human Services, ~~Regulation and Licensure,~~
5 or any other regulatory body with jurisdiction over either the park
6 or the mobile home space, the landlord may require the tenant to
7 pay such fine, cost, or charge.

8 Sec. 702. Section 77-912, Revised Statutes Cumulative
9 Supplement, 2006, is amended to read:

10 77-912 The Director of Insurance shall transmit fifty
11 percent of the taxes paid in conformity with Chapter 44, article 1,
12 and Chapter 77, article 9, to the State Treasurer, forty percent of
13 such taxes paid to the General Fund, and ten percent of such taxes
14 paid to the Mutual Finance Assistance Fund promptly upon completion
15 of his or her audit and examination and in no event later than May
16 1 of each year, except that:

17 (1) All fire insurance taxes paid pursuant to sections
18 44-150 and 81-523 shall be remitted to the State Treasurer for
19 credit to the General Fund;

20 (2) All workers' compensation insurance taxes paid
21 pursuant to section 44-150 shall be remitted to the State Treasurer
22 for credit to the Compensation Court Cash Fund;

23 (3) Commencing with the premium and related retaliatory
24 taxes for the taxable year ending December 31, 2001, and for each
25 taxable year thereafter, all premium and related retaliatory taxes

1 imposed by section 44-150 or 77-908 paid by insurers writing health
2 insurance in this state shall be remitted to the Comprehensive
3 Health Insurance Pool Distributive Fund; and

4 (4) All taxes paid pursuant to section 77-908 for
5 capitation payments made in accordance with the Medical Assistance
6 Act shall be remitted to the ~~Department of Health and Human~~
7 ~~Services Finance and Support~~ Health and Human Services Cash Fund.

8 Sec. 703. Section 77-2602, Revised Statutes Cumulative
9 Supplement, 2006, is amended to read:

10 77-2602 (1) Every person engaged in distributing or
11 selling cigarettes at wholesale in this state shall pay to the
12 Tax Commissioner of this state a special privilege tax. This shall
13 be in addition to all other taxes. It shall be paid prior to
14 or at the time of the sale, gift, or delivery to the retail
15 dealer in the several amounts as follows: On each package of
16 cigarettes containing not more than twenty cigarettes, sixty-four
17 cents per package; and on packages containing more than twenty
18 cigarettes, the same tax as provided on packages containing not
19 more than twenty cigarettes for the first twenty cigarettes in each
20 package and a tax of one-twentieth of the tax on the first twenty
21 cigarettes on each cigarette in excess of twenty cigarettes in each
22 package.

23 (2) Commencing July 1, 1994, and continuing until October
24 1, 2004, the State Treasurer shall place the equivalent of
25 twenty-one cents of such tax in the General Fund. Commencing

1 October 1, 2004, the State Treasurer shall place the equivalent
2 of forty-nine cents of such tax in the General Fund. The State
3 Treasurer shall reduce the amount placed in the General Fund under
4 this subsection by the amount prescribed in subdivision (3)(d) of
5 this section. For purposes of this section, the equivalent of a
6 specified number of cents of the tax shall mean that portion of the
7 proceeds of the tax equal to the specified number divided by the
8 tax rate per package of cigarettes containing not more than twenty
9 cigarettes.

10 (3) The State Treasurer shall distribute the remaining
11 proceeds of such tax in the following order:

12 (a) First, beginning July 1, 1980, the State Treasurer
13 shall place the equivalent of one cent of such tax in the
14 Nebraska Outdoor Recreation Development Cash Fund. For fiscal year
15 distributions occurring after FY1998-99, the distribution under
16 this subdivision shall not be less than the amount distributed
17 under this subdivision for FY1997-98. Any money needed to increase
18 the amount distributed under this subdivision to the FY1997-98
19 amount shall reduce the distribution to the General Fund;

20 (b) Second, beginning July 1, 1993, the State Treasurer
21 shall place the equivalent of three cents of such tax in the
22 ~~Department of Health and Human Services Finance and Support~~ Health
23 and Human Services Cash Fund to carry out sections 81-637 to
24 81-640. For fiscal year distributions occurring after FY1998-99,
25 the distribution under this subdivision shall not be less than the

1 amount distributed under this subdivision for FY1997-98. Any money
2 needed to increase the amount distributed under this subdivision to
3 the FY1997-98 amount shall reduce the distribution to the General
4 Fund;

5 (c) Third, beginning July 1, 2001, and continuing until
6 October 1, 2002, the State Treasurer shall place the equivalent of
7 five cents of such tax in the Building Renewal Allocation Fund.
8 Beginning October 1, 2002, and continuing until all the purposes of
9 the Deferred Building Renewal Act have been fulfilled, the State
10 Treasurer shall place the equivalent of seven cents of such tax
11 in the Building Renewal Allocation Fund. The Legislature shall
12 appropriate each fiscal year all sums inuring to the fund, plus
13 interest earnings, for the Task Force for Building Renewal to be
14 used to carry out its duties and to fulfill the purposes of the
15 Deferred Building Renewal Act. Unexpended balances existing at the
16 end of each fiscal year shall be, and are hereby, reappropriated.
17 The distribution under this subdivision shall not be less than the
18 amount distributed under this subdivision for FY1997-98. Any money
19 needed to increase the amount distributed under this subdivision to
20 the FY1997-98 amount shall reduce the distribution to the General
21 Fund;

22 (d) Fourth, until July 1, 2009, the State Treasurer
23 shall place in the Municipal Infrastructure Redevelopment Fund
24 the sum of five hundred twenty thousand dollars each fiscal year
25 to carry out the Municipal Infrastructure Redevelopment Fund Act.

1 The Legislature shall appropriate the sum of five hundred twenty
2 thousand dollars each year for fiscal year 2003-04 through fiscal
3 year 2008-09;

4 (e) Fifth, beginning July 1, 2001, the State Treasurer
5 shall place the equivalent of two cents of such tax in the
6 Information Technology Infrastructure Fund;

7 (f) Sixth, beginning July 1, 2001, and continuing until
8 June 30, 2016, the State Treasurer shall place one million dollars
9 each fiscal year in the City of the Primary Class Development Fund.
10 If necessary, the State Treasurer shall reduce the distribution of
11 tax proceeds to the General Fund pursuant to subsection (2) of this
12 section by such amount required to fulfill the one million dollars
13 to be distributed pursuant to this subdivision;

14 (g) Seventh, beginning July 1, 2001, and continuing
15 until June 30, 2016, the State Treasurer shall place one million
16 five hundred thousand dollars each fiscal year in the City of
17 the Metropolitan Class Development Fund. If necessary, the State
18 Treasurer shall reduce the distribution of tax proceeds to the
19 General Fund pursuant to subsection (2) of this section by such
20 amount required to fulfill the one million five hundred thousand
21 dollars to be distributed pursuant to this subdivision; and

22 (h) Eighth, beginning October 1, 2002, and continuing
23 until October 1, 2004, the State Treasurer shall place the
24 equivalent of twenty-eight cents of such tax in the Cash Reserve
25 Fund.

1 (4) If, after distributing the proceeds of such tax
2 pursuant to subsections (2) and (3) of this section, any proceeds
3 of such tax remain, the State Treasurer shall place such remainder
4 in the Nebraska Capital Construction Fund.

5 (5) The Legislature hereby finds and determines that the
6 projects funded from the Municipal Infrastructure Redevelopment
7 Fund and the Building Renewal Allocation Fund are of critical
8 importance to the State of Nebraska. It is the intent of the
9 Legislature that the allocations and appropriations made by the
10 Legislature to such funds or, in the case of allocations for
11 the Municipal Infrastructure Redevelopment Fund, to the particular
12 municipality's account not be reduced until all contracts and
13 securities relating to the construction and financing of the
14 projects or portions of the projects funded from such funds or
15 accounts of such funds are completed or paid or, in the case
16 of the Municipal Infrastructure Redevelopment Fund, the earlier
17 of such date or July 1, 2009, and that until such time any
18 reductions in the cigarette tax rate made by the Legislature
19 shall be simultaneously accompanied by equivalent reductions in the
20 amount dedicated to the General Fund from cigarette tax revenue.
21 Any provision made by the Legislature for distribution of the
22 proceeds of the cigarette tax for projects or programs other
23 than those to (a) the General Fund, (b) the Nebraska Outdoor
24 Recreation Development Cash Fund, (c) the ~~Department of Health and~~
25 ~~Human Services Finance and Support~~ Health and Human Services Cash

1 Fund, (d) the Municipal Infrastructure Redevelopment Fund, (e) the
2 Building Renewal Allocation Fund, (f) the Information Technology
3 Infrastructure Fund, (g) the City of the Primary Class Development
4 Fund, (h) the City of the Metropolitan Class Development Fund, and
5 (i) the Cash Reserve Fund shall not be made a higher priority than
6 or an equal priority to any of the programs or projects specified
7 in subdivisions (a) through (i) of this subsection.

8 Sec. 704. Section 77-2704.21, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 77-2704.21 Sales and use taxes shall not be imposed
11 on the gross receipts from the sale, lease, or rental of and
12 the storage, use, or other consumption in this state of the
13 entire purchase price of a motor vehicle purchased when the
14 maximum amount allowed by law is contributed by the United States
15 Department of Veterans Affairs or the Department of Health and
16 Human Services Finance and Support for a disabled person. If the
17 amount contributed is less than the maximum amount, the exemption
18 shall be based on the portion of the purchase price contributed.

19 Sec. 705. Section 77-27,162, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 77-27,162 The Department of Revenue, the Department of
22 Administrative Services, and the Department of Health and Human
23 Services, ~~and the Department of Health and Human Services Finance~~
24 ~~and Support~~ shall develop and implement a collection system to
25 carry out the intent of section 77-27,160.

1 Sec. 706. Section 77-27,222, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 77-27,222 (1) For purposes of this section:

4 (a) Accredited means accredited by the National
5 Association for Family Child Care, the National Association for
6 the Education of Young Children, the National School-Age Care
7 Alliance, or a comparable accreditation process approved by the
8 State Department of Education;

9 (b) Business firm means any business entity, including a
10 corporation, a fiduciary, a sole proprietorship, a partnership, a
11 limited liability company, or a corporation subject to the state
12 income tax imposed by section 77-2715 or 77-2734.02, an insurance
13 company paying premium or related retaliatory taxes in this state
14 pursuant to section 44-150 or 77-908, or a financial institution
15 paying the tax imposed pursuant to sections 77-3801 to 77-3807;

16 (c) Costs incurred by the business firm in providing
17 child care services for children of employees means the amounts
18 expended by the business firm during the year for improvements to
19 the premises for purposes of making the premises suitable in whole
20 or in part for use as a child care facility, including furnishing
21 the facility with fencing, landscaping, sidewalks, furniture,
22 fixtures, equipment, supplies, and other improvements and materials
23 reasonably required to operate a child care facility and the
24 direct operating costs of staffing, operating, and maintaining
25 a child care facility. The costs include the payroll taxes

1 and employee benefit costs of staffing the child care facility
2 and sales and use taxes on purchases included in the costs of
3 providing child care, but not an allocation of the business firm's
4 general, administrative, and other operating expenses. The costs
5 do not include the acquisition of land or the construction of new
6 buildings. The costs include payments to third parties to reimburse
7 the third parties for amounts expended by them and which would have
8 been costs incurred by the business firm in providing child care
9 services if incurred directly by the business firm or to subsidize
10 the cost of providing child care for the children of employees in
11 such third parties' facilities; and

12 (d) Providing child care services means expending funds
13 to improve, furnish, license, accredit, qualify for accreditation,
14 staff, operate, or subsidize a child care facility licensed by the
15 Department of Health and Human Services ~~Regulation and Licensure~~
16 which provides child care services to children of employees of the
17 business firm or contracting with a child care facility licensed by
18 the department to provide child care services to children of such
19 employees.

20 (2) For taxable years beginning or deemed to begin on or
21 after January 1, 2007, under the Internal Revenue Code of 1986, as
22 amended, any business firm which provides child care services shall
23 be allowed a credit against the individual income tax, corporate
24 income tax, premium or related retaliatory tax, or franchise tax
25 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

1 the business firm, or in the case of pass-through entities, the
2 beneficiaries, proprietors, partners, members, or shareholders, for
3 the year in which the costs were incurred. The credit may not
4 be carried forward to the next taxable year. The credit may
5 be taken by the business firm for not more than three taxable
6 years, except that if the child care facility is accredited under
7 section 43-2620 or becomes accredited under section 43-2620 during
8 the three-taxable-year period, the credit may be taken for an
9 additional consecutive two taxable years after the end of the third
10 taxable year for which a credit was taken under this section.

11 (3) Costs incurred by the business firm in providing
12 child care services for children of employees shall be reduced
13 by payments received by the business firm from employees. If
14 the business firm provides child care services for the children
15 of employees and also for the children of non-employees, the
16 direct operating costs of staffing, operating, and maintaining
17 the child care facility, including the related payroll taxes,
18 employee benefits, and sales and use taxes, shall be multiplied
19 by a fraction, the numerator of which is the total child hours of
20 care provided to the children of employees and the denominator of
21 which is the total child hours of care provided in the child care
22 facility. Child hour means one hour of care provided for one child.
23 For purposes of calculating child hours, if the business firm does
24 not in the ordinary course of its business compile the actual child
25 hours of care, it may determine the number of child hours based

1 on a reasonable convention if such convention is used consistently
2 for each year that the credit is claimed or the business firm
3 obtains the advance consent of the Tax Commissioner to change the
4 convention. Costs shall be considered incurred in the taxable year
5 in which they are either accruable or are paid in accordance with
6 the business firm's overall income tax method of accounting.

7 (4) A business firm operating a child care facility on
8 January 1, 2007, shall only qualify for the two years of tax
9 credits allowed under subsection (2) of this section relating to
10 expenditures by the business firm for direct operating costs if the
11 child care facility is accredited after January 1, 2007.

12 (5) A business firm shall not be considered to be
13 providing child care services for purposes of this section unless
14 the child care services are provided to the employees of the firm
15 who qualify under classifications established by the business firm
16 which are found by the Tax Commissioner not to be discriminatory
17 in favor of highly compensated employees. For purposes of this
18 section, highly compensated employee means an employee who was a
19 five-percent owner of the business firm at any time during the
20 year or the preceding year or, for the preceding year, either (a)
21 had compensation from the employer in excess of eighty thousand
22 dollars or (b) was among the highest twenty percent of employees
23 ranked by compensation, whichever results in the smaller group.
24 Whether an employer's classifications are nondiscriminatory shall
25 be determined on the basis of employees' eligibility to place

1 children in the child care facility.

2 (6) No amount paid or incurred by an employer to provide
3 child care assistance to an employee shall qualify for the credit
4 if the amount was paid or incurred pursuant to a salary reduction
5 plan or is not paid for services performed within this state.

6 (7) This section shall only apply to business firms that
7 meet the requirements of this section on or before December 31,
8 2011.

9 (8) If two or more business firms share in the cost of
10 providing child care services for children of such business firms'
11 employees, each business firm shall be allowed a tax credit in
12 proportion to such business firm's share of the total costs.

13 (9) The Department of Revenue and the Department of
14 Insurance shall issue a joint report by December 1, 2008, and by
15 each December 1 thereafter for so long as the credit is effective,
16 that provides the following information:

17 (a) The number of business firms qualifying for the
18 credit under this section during taxable years ending on or before
19 the previous December 31;

20 (b) The number and location by county of child care
21 facilities qualifying for the credit under this section during the
22 taxable years ending on or before the previous December 31;

23 (c) The total child-years of child care provided, the
24 range of child-years of child care provided per qualifying
25 business, and the average and median child-years of care provided

1 per qualifying business, sorted in reasonable groupings by maximum
2 enrollment during the year that include a sufficient number of
3 qualifying businesses in each group to maintain the confidentiality
4 of the taxpayers qualifying for the credit;

5 (d) The percentage of costs paid by the employees in each
6 size grouping in subdivision (c) of this subsection;

7 (e) The percentage of such child-years of care provided
8 in accredited facilities in each size grouping in subdivision (c)
9 of this subsection; and

10 (f) The total credits claimed and the total credits
11 allowed in each size grouping in subdivision (c) of this
12 subsection.

13 (10) The Department of Revenue shall develop a form
14 for claiming the credit allowed by this section stating that any
15 business firm seeking a credit under this section must supply the
16 information listed in subsection (9) of this section as a condition
17 for receiving the credit.

18 (11) The Tax Commissioner and Director of Insurance may
19 adopt and promulgate rules and regulations as necessary to carry
20 out this section.

21 Sec. 707. Section 79-217, Revised Statutes Cumulative
22 Supplement, 2006, is amended to read:

23 79-217 Except as provided in sections 79-221 and 79-222,
24 the school board or board of education of each school district
25 and the governing authority of each private, denominational,

1 or parochial school in this state shall require each student
2 to be protected against measles, mumps, rubella, poliomyelitis,
3 diphtheria, pertussis, and tetanus by immunization prior to
4 enrollment. Any student who does not comply with this section
5 shall not be permitted to continue in school until he or she
6 so complies, except as provided by section 79-222. Each school
7 district shall make diligent efforts to inform families prior to
8 the date of school registration of the immunization requirements
9 of this section.

10 Except as provided in the Childhood Vaccine Act, the cost
11 of such immunization shall be borne by the parent or guardian of
12 each student who is immunized or by the Department of Health and
13 Human Services ~~Regulation and Licensure~~ for those students whose
14 parent or guardian is financially unable to meet such cost.

15 Sec. 708. Section 79-218, Revised Statutes Cumulative
16 Supplement, 2006, is amended to read:

17 79-218 Any school board or board of education of a school
18 district or the governing authority of a private, denominational,
19 or parochial school in this state may request assistance from the
20 Department of Health and Human Services ~~Regulation and Licensure~~ in
21 establishing immunization clinics. Such assistance shall consist of
22 vaccines, serums, and other supplies, services, and guidance from
23 the ~~Director~~ Department of Health and Human Services.

24 Sec. 709. Section 79-219, Revised Statutes Cumulative
25 Supplement, 2006, is amended to read:

1 79-219 The Department of Health and Human Services
2 ~~Regulation and Licensure~~ shall adopt and promulgate rules and
3 regulations relating to the required levels of protection,
4 provisional enrollment under the provisions of section 79-222,
5 the evidence necessary to prove that the required examination or
6 immunization has been received, and the reporting of each student's
7 immunization status. The department may modify, add to, or delete
8 from the list of required immunizations set out in section 79-217.
9 The department shall furnish local school authorities with copies
10 of such rules and regulations and any other material which will
11 assist in the carrying out of sections 79-214 and 79-217 to 79-223.

12 Sec. 710. Section 79-248, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 79-248 Every school district shall cause every child
15 under its jurisdiction to be separately and carefully inspected,
16 except as otherwise provided in this section, to ascertain if such
17 child is suffering from (1) defective sight or hearing, (2) dental
18 defects, or (3) other conditions as prescribed by the Department
19 of Health and Human Services. ~~Regulation and Licensure.~~ If such
20 inspection determines that any child has such condition, the school
21 shall notify the parent of the child in writing of such condition
22 and explain to such parent the necessity of professional attendance
23 for such child. Whenever a child apparently shows symptoms of
24 any contagious or infectious disease, such child shall be sent
25 home immediately or as soon as safe and proper conveyance can

1 be found and the proper school authority, school board, or board
2 of education shall be at once notified. Such student may be
3 excluded from school as provided in section 79-264. No child shall
4 be compelled to submit to a physical examination other than the
5 inspection by the school over the written objection of his or
6 her parent or guardian delivered to the school authorities. Such
7 objection does not exempt the child from the quarantine laws of
8 the state and does not prohibit an examination for infectious or
9 contagious diseases.

10 Sec. 711. Section 79-249, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 79-249 The Department of Health and Human Services
13 ~~Regulation and Licensure~~ shall adopt and promulgate rules
14 and regulations for conducting school health inspections, the
15 qualifications of the person or persons authorized to make such
16 inspections, and the health conditions to be observed and remedied
17 and shall furnish to school authorities regulations and other
18 useful materials for carrying out the purposes of sections 79-248
19 to 79-253.

20 On and after July 1, 1999, no staff member of any school
21 shall administer medication unless the school complies with the
22 applicable requirements of the Medication Aide Act. Notwithstanding
23 any other provision, nothing in the act shall be construed to
24 require any school to employ or use a school nurse or medication
25 aide in order to be in compliance with the act.

1 Sec. 712. Section 79-843, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 79-843 The contracts of the teaching staff and school
4 nurses employed by an educational program administered by the
5 State Department of Education, the Department of Health and Human
6 Services, or a political subdivision of the state, except a school
7 district or an educational service unit, the colleges governed by
8 the Board of Trustees of the Nebraska State Colleges, and any
9 university governed by the Board of Regents of the University of
10 Nebraska shall require the sanction of a majority of the members
11 of the governing board. Except as provided in section 79-845, each
12 such contract shall be deemed renewed and in force and effect until
13 a majority of the governing board votes or the ~~Director~~ Department
14 of Health and Human Services determines, sixty days before the
15 close of the contract period, to amend or terminate the contract
16 for just cause. The department or the secretary of the governing
17 board shall notify each teacher or school nurse in writing at
18 least ninety days before the close of the contract period of any
19 conditions of unsatisfactory performance or a reduction in teaching
20 staff or nursing staff that the department or board considers may
21 be just cause to either amend or terminate the contract for the
22 ensuing year. Any teacher or school nurse so notified shall have
23 the right to file, within five days after receipt of such notice,
24 a written request with the department or board for a hearing
25 before the department or board. Upon receipt of such request, the

1 department or board shall order the hearing to be held within ten
2 days after such receipt and shall give written notice of the time
3 and place of the hearing to the teacher or school nurse. At the
4 hearing, evidence shall be presented in support of the reasons
5 given for considering amendment or termination of the contract and
6 the teacher or school nurse shall be permitted to produce evidence
7 related thereto. The department or board shall render the decision
8 to amend or terminate a contract based on the evidence produced at
9 the hearing.

10 Sec. 713. Section 79-1104.04, Revised Statutes Cumulative
11 Supplement, 2006, is amended to read:

12 79-1104.04 (1) The board of trustees shall include the
13 following six members:

14 (a) The Commissioner of Education or his or her designee;

15 (b) The ~~Director~~ chief executive officer of the
16 Department of Health and Human Services or his or her designee; and

17 (c) The following persons appointed by the Governor, in
18 his or her discretion:

19 (i) Two persons nominated by the endowment provider;

20 (ii) An early childhood professional representing an
21 urban at-risk area appointed pursuant to subsection (5) of this
22 section; and

23 (iii) An early childhood professional representing a
24 rural at-risk county appointed pursuant to subsection (6) of this
25 section.

1 (2) The terms of office for members initially appointed
2 under subsection (1) of this section shall be three years. Upon
3 completion of the initial terms of such members, the Governor shall
4 appoint the two members under subdivision (1)(c)(i) of this section
5 for terms of one and two years, the member under subdivision
6 (1)(c)(ii) of this section for a term of three years, and the
7 member under subdivision (1)(c)(iii) of this section for a term of
8 two years. Succeeding appointees shall be appointed for terms of
9 three years. An appointee to a vacancy occurring from an unexpired
10 term shall serve out the term of his or her predecessor. Members
11 whose terms have expired shall continue to serve until their
12 successors have been appointed and qualified.

13 (3) The board of trustees shall by majority vote annually
14 elect a chairperson from among the members of the board of
15 trustees.

16 (4) The members of the board of trustees shall be
17 reimbursed for their actual and necessary expenses incurred while
18 engaged in the performance of their official duties as provided in
19 sections 81-1174 to 81-1177.

20 (5) The Governor shall identify an at-risk urban area
21 consisting of not less than ten contiguous census tracts, as
22 determined by the United States Bureau of the Census for the 2000
23 United States Census, within a city of the metropolitan class,
24 which each contain a percentage of families below the poverty
25 line of greater than twenty percent, as reported by the United

1 States Bureau of the Census for the 2000 United States Census.
2 The Governor shall request that a committee, consisting of (a)
3 the member of the Legislature representing the district containing
4 the preponderance of geographic area of such at-risk area, (b)
5 the member of the board of county commissioners representing the
6 district containing the preponderance of geographic area of such
7 at-risk area, and (c) the member of the city council representing
8 the district containing the preponderance of geographic area of
9 such at-risk area, develop a list of not less than two and not more
10 than four nominees for appointment to the board of trustees. Upon
11 receipt of a list of nominees signed by at least two members of the
12 committee, the Governor shall, in his or her discretion, appoint a
13 member to the board of trustees from such list of nominees.

14 (6) The Governor shall, in his or her discretion, appoint
15 one member to the board of trustees who resides in a county which
16 does not contain a city of the metropolitan class or a city of
17 the primary class and which contains a percentage of families below
18 the poverty line of greater than eight and one-half percent, as
19 reported by the United States Bureau of the Census for the 2000
20 United States Census.

21 Sec. 714. Section 79-1902, Revised Statutes Cumulative
22 Supplement, 2006, is amended to read:

23 79-1902 (1) The State Department of Education, in
24 cooperation with the Department of Health and Human Services, ~~the~~
25 ~~Department of Health and Human Services Regulation and Licensure,~~

1 ~~and the Department of Health and Human Services Finance and Support~~
2 shall develop a packet entitled "Learning Begins at Birth" to be
3 given to the parents of each child born in this state on and after
4 January 1, 2003.

5 (2) The packet shall contain information about child
6 development, child care, how children learn, children's health
7 including, on and after July 14, 2006, information on the
8 prevention of sudden infant death syndrome and shaken baby
9 syndrome, services available to children and parents, and any
10 other information deemed relevant by the Department of Health
11 and Human Services, ~~the Department of Health and Human Services~~
12 ~~Regulation and Licensure,~~ ~~the Department of Health and Human~~
13 ~~Services Finance and Support,~~ or the State Department of Education.
14 The State Department of Education shall indicate which information
15 in the packet is appropriate for the parents of infants, for the
16 parents of toddlers, and for the parents of preschoolers.

17 (3) The State Department of Education shall develop a
18 variety of types of the packet, based on the needs of parents.
19 The information in the packets may be in the form of printed
20 material or in the form of video tapes, audio cassettes, or other
21 appropriate media.

22 Sec. 715. Section 79-1903, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 79-1903 (1) The Department of Health and Human Services,
25 ~~the Department of Health and Human Services Regulation and~~

1 ~~Licensure, and the Department of Health and Human Services Finance~~
2 ~~and Support~~ shall assist the State Department of Education in
3 developing the packet and shall develop methods of distributing the
4 packet to parents upon the birth of a child in this state beginning
5 on January 1, 2003.

6 (2) The departments shall solicit private financial
7 assistance to carry out their duties under the Nebraska Read,
8 Educate, and Develop Youth Act. The departments shall not endorse
9 any private company or product, but private companies may have
10 their names placed on materials in the packet to help underwrite
11 the costs of developing and distributing the packets.

12 Sec. 716. Section 79-1904, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 79-1904 The READY Cash Fund is created. The fund shall
15 contain money received from private sources to underwrite the
16 costs of the Nebraska Read, Educate, and Develop Youth Act. The
17 fund shall be used by the State Department of Education, and the
18 Department of Health and Human Services, ~~the Department of Health~~
19 ~~and Human Services Regulation and Licensure, and the Department of~~
20 ~~Health and Human Services Finance and Support~~ to aid in carrying
21 out their duties under the act. The fund shall be administered by
22 the Department of Health and Human Services, ~~Finance and Support.~~
23 Any money in the fund available for investment may be invested
24 by the state investment officer pursuant to the Nebraska Capital
25 Expansion Act and the Nebraska State Funds Investment Act.

1 Sec. 717. Section 79-1905, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 79-1905 The State Department of Education~~7~~ and the
4 Department of Health and Human Services~~7~~ ~~the Department of Health~~
5 ~~and Human Services Regulation and Licensure~~7~~~~ and the Department
6 of Health and Human Services Finance and Support shall annually
7 report to the Legislature and the Governor regarding the actions,
8 activities, accomplishments, and shortcomings in carrying out the
9 Nebraska Read, Educate, and Develop Youth Act.

10 Sec. 718. Section 80-314, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 80-314 ~~The Division of Veterans Homes is created within~~
13 ~~the Department of Health and Human Services. The Director of Health~~
14 ~~and Human Services shall appoint a director of the division who~~
15 ~~is responsible to the Director of Health and Human Services. The~~
16 ~~department~~ Division of Veterans' Homes shall be responsible for the
17 management and administration of the homes and the treatment of
18 the members thereof, define the duties of the officers, fix their
19 compensation, and adopt and promulgate rules and regulations. The
20 ~~division director~~ Director of Veterans' Homes and the Director of
21 Veterans' Affairs ~~are jointly responsible for~~ shall jointly develop
22 member grievance procedures, family support programs, volunteer
23 support, policy, and internal standards. The Director of Veterans'
24 Affairs shall have access to all confidential information relating
25 to members' care.

1 Sec. 719. Section 80-316, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 80-316 (1) The purpose of the Division of ~~Veterans~~
4 Veterans' Homes of the Department of Health and Human Services is
5 to provide domiciliary and nursing home care and subsistence to:

6 (a) All persons who served in the armed forces of
7 the United States during a period of war as defined in section
8 80-401.01 and who were discharged or otherwise separated with
9 a characterization of honorable or general (under honorable
10 conditions) if, at the time of making an application for admission
11 to one of the Nebraska veterans homes:

12 (i) The applicant has been a bona fide resident of the
13 State of Nebraska for at least two years;

14 (ii) The applicant has become disabled due to service,
15 old age, or otherwise to an extent that it would prevent such
16 applicant from earning a livelihood; and

17 (iii) The applicant's income from all sources is such
18 that the applicant would be dependent wholly or partially upon
19 public charities for support or the type of care needed is
20 available only at a state institution;

21 (b) The spouse of any such person admitted to one of the
22 homes who has attained the age of fifty years and has been married
23 to such member for at least two years before his or her entrance
24 into the home;

25 (c) Subject to subsection (2) of this section,

1 the surviving spouses and parents of eligible servicemen and
2 servicewomen as defined in subdivision (a) of this subsection who
3 died while in the service of the United States or who have since
4 died of a service-connected disability as determined by the United
5 States Department of Veterans Affairs; and

6 (d) Subject to subsection (2) of this section, the
7 surviving spouses of eligible servicemen or servicewomen as defined
8 in subdivision (a) of this subsection who have since died.

9 (2) The surviving spouses and parents referred to in
10 subdivision (1)(c) or (d) of this section shall be eligible for
11 such care and subsistence if, at the time of applying, they:

12 (a) Have been bona fide residents of the State of
13 Nebraska for at least two years;

14 (b) Have attained the age of fifty years;

15 (c) Are unable to earn a livelihood; and

16 (d) Are dependent wholly or partially upon public
17 charities or the type of care needed is available only at a state
18 institution.

19 (3) No one admitted to one of the Nebraska veterans homes
20 under conditions enumerated in this section shall have a vested
21 right to continued residence in such home if such person ceases to
22 meet any of the eligibility requirements of this section, except
23 that no person who has been regularly admitted shall be denied
24 continued residence solely because of his or her marriage to a
25 member of one of the homes.

1 Sec. 720. Section 80-317, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 80-317 The ~~Board of Inquiry and Review~~ Veterans' Homes
4 Board shall prescribe rules of membership in the Nebraska veterans
5 homes in accordance with sections 80-314 to 80-331. An application
6 for membership in a Nebraska veterans home shall be made to a
7 county veterans service officer who shall coordinate the required
8 financial and medical information and, if necessary, provide an
9 opinion regarding its validity. ~~If it is found that the applicant~~
10 ~~is unable by reason of disability or old age to earn a livelihood~~
11 ~~for himself or herself and is dependent wholly or partially upon~~
12 ~~public charities for maintenance, or the type of care needed is~~
13 ~~available only at a state institution, the~~ The county veterans
14 service officer shall at once forward the application together with
15 his or her finding in regard to the condition of the applicant
16 to the ~~Board of Inquiry and Review,~~ board, whose duty it is to
17 receive, review, and act upon applications for membership. During
18 the interim between meetings of the board, the secretary of the
19 board is authorized to adjudicate applications, subject to the
20 approval of the full board at its next meeting.

21 Sec. 721. Section 80-318, Revised Statutes Cumulative
22 Supplement, 2006, is amended to read:

23 80-318 For the purpose of determining continued
24 eligibility of members to remain in one of the Nebraska veterans
25 homes and for the purpose of recommending matters of policy, rules

1 and regulations, administration, and maintenance pertaining to each
2 of the Nebraska veterans homes, the ~~Board of Inquiry and Review~~
3 Veterans' Homes Board is established. The board shall be composed
4 of the ~~department commander and immediate past commander~~ of two
5 members selected by each of the recognized veterans organizations
6 in Nebraska identified in subdivision (1) of section 80-401.01, and
7 the Director of Veterans' Affairs who shall serve as the permanent
8 board secretary. Such members shall be selected in the manner and
9 serve for such term as the veterans organization may prescribe.
10 If a ~~commander or immediate past commander~~ of member selected
11 by any such veterans organizations organization is unavailable
12 to attend a meeting of the board or unable to serve for any
13 reason, the incumbent department commander of such organization
14 may appoint some other member of his or her organization to
15 serve on the board, in the absence of the department commander
16 ~~or the immediate past department commander, or both.~~ Any of the
17 veterans organizations mentioned in this section may appoint two
18 representatives of their organization to serve on the board in
19 place of the department commander and immediate past department
20 commander. Such representatives shall be selected in the manner and
21 serve for such term as the veterans organization may prescribe. The
22 chairperson shall be selected from among the members of the board.
23 No salary shall be paid to any member of the board, but actual
24 expenses of the members of the board when attending regularly
25 called meetings of that board shall be paid as provided in sections

1 81-1174 to 81-1177 from the administrative funds of the Department
2 of Veterans' Affairs.

3 Sec. 722. Section 80-319, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 80-319 The Board of Inquiry and Review Veterans' Homes
6 Board shall meet at least quarterly and at other times at the
7 request of either the chairperson or the secretary of the board
8 at a site selected by the secretary after consultation with the
9 chairperson. The board shall review all applications submitted for
10 admission to the Nebraska veterans homes system and shall make all
11 final determinations regarding admission, or continued admission,
12 to one of the homes. The board may check periodically on members
13 of the Nebraska veterans homes to determine whether or not their
14 physical or financial status has so changed since admission that
15 they should no longer be maintained there. For purposes of making
16 such determination, the The board has power to subpoena witnesses
17 and take testimony under oath relative to the duties of the board.
18 the corpus of estate, financial status, and income of any member.
19 No specified amount, either as to income or accumulated reserve,
20 shall be arbitrarily fixed for determining the eligibility of an
21 applicant to membership or to continuing rights of membership, but
22 each case shall be considered solely on its merits and the evidence
23 presented. The board shall meet at least quarterly and at other
24 times at the request of either the chairperson or secretary of
25 the board at a site selected by the secretary after consultation

1 ~~with the chairperson. Recommendations of the board shall constitute~~
2 ~~authority for the~~ The Department Division of Veterans' Homes shall
3 consult with the board prior to denying Health and Human Services
4 ~~to deny further residence to members if~~ the board finds should no
5 longer be supported there.

6 Sec. 723. Section 80-320, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 80-320 Nothing in sections 80-314 to 80-331 shall be
9 construed as limiting the authority vested with the Director
10 of ~~Health and Human Services~~ Veterans' Homes to adopt and
11 promulgate rules and regulations, not inconsistent herewith, for
12 the administration of the Nebraska veterans homes. The ~~director,~~
13 Department of Health and Human Services, in conjunction and after
14 consultation with the Board of Inquiry and Review, Veterans' Homes
15 Board, shall adopt and promulgate rules and regulations governing
16 admission to and administration of the homes. ~~authorizing all~~
17 ~~members of a home to perform such duties in the home and on the~~
18 ~~institutional grounds as the member is physically able to perform.~~
19 ~~No member shall be excused from the performance of such duty~~
20 ~~without a disability statement signed by the physician of the home.~~

21 Sec. 724. Section 80-321, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 80-321 Nothing in sections 80-314 to 80-331 shall be
24 construed to deny any person who has been properly admitted to one
25 of the Nebraska veterans homes the privilege of paying the cost of

1 his or her care, or any part thereof, if he or she so desires or if
2 it has been determined by the ~~Board of Inquiry and Review~~ Veterans'
3 Homes Board that his or her financial status is such that he or she
4 should no longer be maintained there at public expense.

5 Sec. 725. Section 80-322, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 80-322 Any veteran, spouse, surviving spouse, or parent
8 admitted to one of the Nebraska veterans homes under section
9 80-316 who has an income in excess of forty dollars per month,
10 including federal pension, compensation, or social security, or has
11 sufficient assets will be required to reimburse the state monthly
12 a reasonable amount for the expense of his or her maintenance.
13 The amount shall be determined by the ~~Board of Inquiry and Review-~~
14 Veterans' Homes Board. All money paid to the state by members of
15 the Nebraska veterans homes in compliance with this section shall
16 be remitted to the State Treasurer for credit to the ~~Department of~~
17 Health and Human Services Health and Human Services Cash Fund.

18 Sec. 726. Section 81-101, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 81-101 The civil administration of the laws of the
21 state is vested in the Governor. For the purpose of aiding
22 the Governor in the execution and administration of the laws,
23 the executive and administrative work shall be divided into the
24 following ~~departments:~~ agencies: (1) Department of Agriculture;
25 (2) Department of Labor; (3) Department of Roads; (4) Department

1 of Natural Resources; (5) Department of Banking and Finance;
2 (6) Department of Insurance; (7) Department of Motor Vehicles;
3 (8) Department of Administrative Services; (9) Department of
4 Economic Development; (10) Department of Correctional Services;
5 (11) Nebraska State Patrol; (12) Department of Health and Human
6 Services; ~~(13) Department of Health and Human Services Regulation~~
7 ~~and Licensure;~~ ~~(14) Department of Health and Human Services~~
8 ~~Finance and Support;~~ and ~~(15) Department of Property Assessment~~
9 ~~and Taxation;~~ and (13) Department of Health and Human Services.

10 Sec. 727. Section 81-102, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 81-102 The Governor shall appoint heads for the
13 various ~~departments,~~ agencies listed in section 81-101, subject
14 to confirmation by a majority vote of the members elected to
15 the Legislature. Such appointments shall be submitted to the
16 Legislature within sixty calendar days following the first Thursday
17 after the first Tuesday in each odd-numbered year. The officers
18 shall be designated as follows: (1) The Director of Agriculture
19 for the Department of Agriculture; (2) the Commissioner of Labor
20 for the Department of Labor; (3) the Director-State Engineer for
21 the Department of Roads; (4) the Director of Natural Resources for
22 the Department of Natural Resources; (5) the Director of Banking
23 and Finance for the Department of Banking and Finance; (6) the
24 Director of Insurance for the Department of Insurance; (7) the
25 Director of Motor Vehicles for the Department of Motor Vehicles;

1 (8) the Director of Administrative Services for the Department of
2 Administrative Services; (9) the Director of Correctional Services
3 for the Department of Correctional Services; (10) the Director of
4 Economic Development for the Department of Economic Development;
5 (11) the Superintendent of Law Enforcement and Public Safety for
6 the Nebraska State Patrol; (12) ~~the Director of Health and Human~~
7 ~~Services for the Department of Health and Human Services;~~ ~~(13) the~~
8 ~~Director of Regulation and Licensure for the Department of Health~~
9 ~~and Human Services Regulation and Licensure;~~ ~~(14) the Director of~~
10 ~~Finance and Support for the Department of Health and Human Services~~
11 ~~Finance and Support;~~ and ~~(15) the Property Tax Administrator for~~
12 ~~the Department of Property Assessment and Taxation; and (13) the~~
13 chief executive officer for the Department of Health and Human
14 Services. Whoever shall be so nominated by the Governor and shall
15 fail to receive the number of votes requisite for confirmation,
16 shall not be subject to nomination or appointment for this or
17 any other appointive state office requiring confirmation by the
18 Legislature during the period for which his or her appointment was
19 sought. In case of a vacancy in any of such offices during the
20 recess of the Legislature, the Governor shall make a temporary
21 appointment until the next meeting of the Legislature, when he or
22 she shall nominate some person to fill such office. Any person so
23 nominated who is confirmed by the Legislature, shall hold his or
24 her office during the remainder of the term if a specific term
25 has been provided by law, otherwise during the pleasure of the

1 Governor subject to the provisions of this section; except any such
2 officers may be removed by the Governor pursuant to Article IV of
3 the Constitution of Nebraska.

4 Sec. 728. Section 81-502, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 81-502 (1) It shall be the duty of the State Fire
7 Marshal, under authority of the Governor:

8 (a) To enforce all laws of the state relating to the
9 suppression of arson and investigation of the cause, origin, and
10 circumstances of fires;

11 (b) To promote safety and reduce loss by fire;

12 (c) To make an investigation for fire safety of the
13 premises and facilities of:

14 (i) Liquor establishments for which a license or renewal
15 of a license is sought, upon request of the Nebraska Liquor Control
16 Commission, pursuant to section 53-119.01;

17 (ii) Licensed foster care facilities or applicants for
18 licenses for foster care facilities, upon request by the Department
19 of Health and Human Services, pursuant to section 71-1903;

20 (iii) Licensed providers of programs or applicants for
21 licenses to provide such programs, upon request of the Department
22 of Health and Human Services, ~~Regulation and Licensure~~, pursuant to
23 section 71-1913. The State Fire Marshal shall report the results
24 of the investigation to the department within thirty days after
25 receipt of the request from the department;

1 (iv) Licensed hospitals, skilled nursing facilities,
2 intermediate care facilities, or other health care facilities
3 which are licensed under the Health Care Facility Licensure Act or
4 applicants for licenses for such facilities or institutions, upon
5 request by the Department of Health and Human Services, ~~Regulation~~
6 ~~and Licensure~~, pursuant to section 71-441; and

7 (v) Mobile home parks for which a license or renewal
8 of a license is sought, upon request of the Department of Health
9 and Human Services, ~~Regulation and Licensure~~, pursuant to section
10 71-4635; and

11 (d) After a careful study and investigation of relevant
12 data, to adopt, promulgate, alter, and enforce, through inspections
13 and code compliance, orders, rules, and regulations covering:

14 (i) The prevention of fires;

15 (ii) The storage, sale, and use of flammable liquids,
16 combustibles, and fireworks;

17 (iii) Electric wiring and heating, protection equipment
18 devices, materials, furnishings, and other safeguards within
19 the structure necessary to promote safety and reduce loss by
20 fire, and the means and adequacy of exits, in case of fire,
21 in assembly, educational, institutional, residential, mercantile,
22 office, storage, and industrial-type occupancies as such structures
23 are defined in the National Fire Protection Association, Pamphlet
24 Number 101, and associated pamphlets, and all other buildings,
25 structures, and enclosures in which numbers of persons congregate

1 from time to time for any purpose whether privately or publicly
2 owned;

3 (iv) Design, construction, location, installation, and
4 operation of equipment for storing, handling, and utilization of
5 liquefied petroleum gases, specifying the odorization of such gases
6 and the degree thereof;

7 (v) Chemicals, prozylin plastics, X-ray nitrocellulose
8 films, or any other hazardous material that may now or hereafter
9 exist;

10 (vi) Tanks used for the storage of regulated substances
11 pursuant to the Petroleum Products and Hazardous Substances Storage
12 and Handling Act; and

13 (vii) Accessibility standards and specifications adopted
14 pursuant to section 81-5,147.

15 (2) The State Fire Marshal may enter into contracts
16 with private individuals or other agencies, boards, commissions,
17 or governmental bodies for the purpose of carrying out his or
18 her duties and responsibilities pursuant to the Arson Reporting
19 Immunity Act, the Nebraska Natural Gas Pipeline Safety Act of
20 1969, and sections 81-502 to 81-541.01, 81-5,132 to 81-5,146, and
21 81-5,151 to 81-5,157.

22 (3) The State Fire Marshal may delegate the authority set
23 forth in this section to qualified local fire prevention personnel.
24 The State Fire Marshal may overrule a decision, act, or policy of
25 the local fire prevention personnel. When the State Fire Marshal

1 overrules the local personnel, such local personnel may follow the
2 appeals procedure established by sections 81-502.01 to 81-502.03.
3 Such delegation of authority may be revoked by the State Fire
4 Marshal for cause upon thirty days' notice after a hearing.

5 (4) The State Fire Marshal, first assistant fire marshal,
6 and deputies shall have such other powers and perform such other
7 duties as are set forth in sections 81-501.01 to 81-531 and
8 81-5,151 to 81-5,157 and as may be conferred and imposed by law.

9 (5) The rules and regulations adopted and promulgated
10 pursuant to subdivision (1)(d) of this section may conform
11 generally to the standards recommended by the National Fire
12 Protection Association, Pamphlet Number 101, known as the Life
13 Safety Code, and associated pamphlets, but not when doing so would
14 impose an unduly severe or costly burden without substantially
15 contributing to the safety of persons or property. This section
16 and the rules and regulations adopted and promulgated pursuant
17 to subdivision (1)(d) of this section shall apply to existing as
18 well as new buildings, structures, and enclosures. Such rules and
19 regulations shall also apply to sites or structures in public
20 ownership listed on the National Register of Historic Places but
21 without destroying the historic quality thereof.

22 (6) Plans for compliance with the rules and regulations
23 adopted and promulgated pursuant to subdivision (1)(d) of this
24 section shall be reviewed by the State Fire Marshal. Plans
25 submitted after remodeling or construction has begun shall be

1 accompanied by a penalty of fifty dollars in addition to the plan
2 review fee set out in subdivision (4) (a) of section 81-505.01.

3 Sec. 729. Section 81-502.01, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 81-502.01 For the purposes of assisting the State Fire
6 Marshal in matters pertaining to the performance of his or her
7 duties, there is hereby established the Nebraska Fire Safety
8 Appeals Board. Such board shall consist of the following members:
9 (1) A representative of the fire insurance industry with experience
10 in fire prevention inspections, (2) an architect licensed in this
11 state, (3) a member of a board of education of a public school
12 district, (4) a fire protection engineer, (5) a member of the
13 inspection division of a paid fire department in this state,
14 (6) an active member of a volunteer fire department in this
15 state, (7) a ~~representative~~ two representatives of the Department
16 of Health and Human Services, and (8) a representative of the
17 Nebraska Association of Hospitals and Health Systems. 7 and ~~(9)~~
18 ~~a representative of the Department of Health and Human Services~~
19 ~~Regulation and Licensure.~~ The members shall be appointed by the
20 Governor and shall serve for a term of four years.

21 Sec. 730. Section 81-601, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 81-601 The Department of Health and Human Services
24 ~~Regulation and Licensure~~ shall have general supervision and
25 control over matters relating to public health and sanitation and

1 shall provide for examination as provided in section 81-602 and
2 have supervision over all matters of quarantine and quarantine
3 regulations.

4 Sec. 731. Section 81-602, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 81-602 The Department of Health and Human Services
7 ~~Regulation and Licensure~~ shall have the right at all times to
8 inspect the equipment and methods of teaching in all medical
9 colleges and medical schools of the state and shall have the power
10 to refuse examination to the graduates of any school which, on
11 proper notice and hearing, shall be adjudged not a medical college
12 or medical school in good standing as defined by the laws of this
13 state.

14 Sec. 732. Section 81-604.01, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 81-604.01 Any local or state agency or department,
17 or any private facility involved in arranging or supervising
18 placements for those persons requiring care or supervision, shall
19 notify the Department of Health and Human Services ~~Regulation and~~
20 ~~Licensure~~ when there is reason to believe that the total number
21 of persons served in any institution, facility, place, or building
22 exceeds three individuals and that such facility is not currently
23 licensed by the Department of Health and Human Services. ~~Regulation~~
24 ~~and Licensure~~. The department shall investigate or inspect such
25 complaints pursuant to the Health Care Facility Licensure Act.

1 Sec. 733. Section 81-604.02, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 81-604.02 For the purpose of assisting the citizens of
4 the state in receiving benefits under the federal medicare law,
5 the State of Nebraska authorizes the Division of Public Health
6 of the Department of Health and Human Services ~~Regulation and~~
7 ~~Licensure~~ to act as the survey and certification agency for the
8 medicare program in Nebraska and to contract to perform such
9 functions with the federal agency responsible for administration of
10 the medicare program and to enter into such other agreements as
11 may be necessary to implement federal requirements. The ~~department~~
12 division may also contract with the federal agency to perform
13 survey and certification functions in accordance with the federal
14 Clinical Laboratory Improvement Amendments of 1988.

15 Sec. 734. Section 81-604.03, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 81-604.03 The Division of Public Health of the Department
18 of Health and Human Services ~~Regulation and Licensure~~ is hereby
19 authorized to act as the survey and certification agency for
20 the medicaid program and to enter into such agreements with the
21 ~~Department of Health and Human Services Finance and Support~~ as
22 may be necessary to carry out its duties. ~~Until January 1, 1997,~~
23 ~~the Department of Health shall notify the Department of Social~~
24 ~~Services of any violation by a nursing facility, as defined in~~
25 ~~section 71-2097, of federal regulations for participation in the~~

1 ~~medicaid program.~~ On and after January 1, 1997, the Department of
 2 Health and Human Services Regulation and Licensure shall notify the
 3 Department of Health and Human Services Finance and Support July
 4 1, 2007, the division shall notify the medicaid program of any
 5 violation by a nursing facility, as defined in section 71-2097,
 6 of federal regulations for participation in the medicaid program.
 7 Civil penalties will be determined pursuant to sections 71-2097 to
 8 71-20,101.

9 Sec. 735. Section 81-637, Reissue Revised Statutes of
 10 Nebraska, is amended to read:

11 81-637 As used in sections 81-637 to 81-640, unless the
 12 context otherwise requires:

13 (1) Cancer ~~shall mean~~ means all malignant neoplasm
 14 regardless of the tissue of origin, including malignant lymphoma
 15 and leukemia;

16 (2) Department means the Department of Health and Human
 17 Services; and

18 ~~(2)~~ (3) Smoking disease ~~shall mean~~ means diseases whose
 19 causes are linked to smoking including, but not limited to,
 20 cardiovascular, pulmonary, and gastrointestinal diseases. ~~and~~

21 ~~(3) Director shall mean the Director of Finance and~~
 22 ~~Support.~~

23 Sec. 736. Section 81-638, Reissue Revised Statutes of
 24 Nebraska, is amended to read:

25 81-638 (1) The Legislature shall appropriate for each

1 year from the ~~Department of Health and Human Services Finance~~
2 ~~and Support~~ Health and Human Services Cash Fund to the ~~Department~~
3 ~~of Health and Human Services Finance and Support~~ department an
4 amount derived from one cent of the cigarette tax imposed by
5 section 77-2602, less any amount appropriated from the fund
6 specifically to the University of Nebraska Eppley Institute for
7 Research in Cancer and Allied Diseases. The ~~director~~ department
8 shall, after deducting expenses incurred in the administration
9 of such funds, distribute such funds exclusively for grants and
10 contracts for research of cancer and smoking diseases, for funding
11 the cancer registry prescribed in sections 81-642 to 81-650, and
12 for associated expenses due to the establishment and maintenance
13 of such cancer registry. Not more than two hundred thousand
14 dollars shall be appropriated for funding the cancer registry and
15 associated expenses. The University of Nebraska may receive such
16 grants and contracts, and other postsecondary institutions having
17 colleges of medicine located in the State of Nebraska may receive
18 such contracts.

19 (2) The Legislature shall appropriate for each year from
20 the ~~Department of Health and Human Services Finance and Support~~
21 Health and Human Services Cash Fund to the ~~Department of Health~~
22 ~~and Human Services Finance and Support~~ department for cancer
23 research an amount derived from two cents of the cigarette tax
24 imposed by section 77-2602 to be used exclusively for grants and
25 contracts for research on cancer and smoking diseases. No amount

1 shall be appropriated or used pursuant to this subsection for
2 the operation and associated expenses of the cancer registry. Not
3 more than one-half of the funds appropriated pursuant to this
4 subsection shall be distributed to the University of Nebraska
5 Medical Center for research in cancer and allied diseases and the
6 University of Nebraska Eppley Institute for Research in Cancer
7 and Allied Diseases. The remaining funds available pursuant to
8 this subsection shall be distributed for contracts with other
9 postsecondary educational institutions having colleges of medicine
10 located in Nebraska which have cancer research programs for the
11 purpose of conducting research in cancer and allied diseases.

12 (3) Any contract between the ~~Department of Health~~
13 ~~and Human Services Finance and Support~~ department and another
14 postsecondary educational institution for cancer research under
15 subsection (2) of this section shall provide that:

16 (a) Any money appropriated for such contract shall only
17 be used for cancer research and shall not be used to support any
18 other program in the institution;

19 (b) Full and detailed reporting of the expenditure of all
20 funds under the contract is required. The report shall include,
21 but not be limited to, separate accounting for personal services,
22 equipment purchases or leases, and supplies. Such reports shall be
23 made available to the Legislature; and

24 (c) No money appropriated for such contract shall be
25 spent for travel, building construction, or any other purpose

1 not directly related to the research that is the subject of the
2 contract.

3 Sec. 737. Section 81-639, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 81-639 The ~~director~~ department when making grants and
6 contracts pursuant to sections 81-637 to 81-640 shall consider:

7 (1) The relevancy of the applicant's proposal to the
8 furthering of research of cancer and smoking diseases;

9 (2) The feasibility of the applicant's proposal;

10 (3) The availability of other sources of funding for the
11 applicant's proposal;

12 (4) The facilities, personnel, and expertise available to
13 the applicant for use in the proposal; and

14 (5) Evidence of the quality of the applicant's prior
15 or existing programs for research of cancer and smoking diseases
16 or the applicant's potential for developing new programs for such
17 research.

18 Sec. 738. Section 81-640, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 81-640 The ~~director~~ department shall adopt and promulgate
21 rules and regulations pursuant to the Administrative Procedure Act
22 to:

23 (1) Establish an application process for grants and
24 contracts;

25 (2) Establish criteria for programs in order to receive

1 funding;

2 (3) Establish criteria as to the rates and amount of
3 funding; and

4 (4) Establish other procedures as ~~he or she~~ may deem
5 necessary for the proper administration of sections 81-637 to
6 81-640.

7 Sec. 739. Section 81-642, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 81-642 It is the intent of the Legislature to require the
10 establishment and maintenance of a cancer registry for the State
11 of Nebraska. This responsibility is delegated to the Department of
12 Health and Human Services ~~Regulation and Licensure~~ along with the
13 authority to exercise the necessary powers to implement sections
14 81-642 to 81-650. To insure an accurate and continuing source
15 of data concerning cancer, all hospitals within the state shall
16 make available to the ~~Department of Health and Human Services~~
17 ~~Regulation and Licensure~~ department upon its request, at least
18 once a year, information contained in the medical records of
19 patients who have cancer within such time following its diagnosis
20 as the department shall require. Any medical doctor, osteopathic
21 physician, or dentist within the state shall make such information
22 available to the department upon request by the department. This
23 cancer registry should provide a central data bank of accurate,
24 precise, and current information which medical authorities state
25 will assist in the research for the prevention, cure, and control

1 of cancer. The information contained in the cancer registry may be
2 used as a source of data for scientific and medical research. Any
3 information released from the cancer registry shall be disclosed
4 as Class I, Class II, Class III, or Class IV data as provided in
5 sections 81-663 to 81-675.

6 Sec. 740. Section 81-652, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 81-652 The Department of Health and Human Services may
9 (1) charge and receive fees, (2) accept third-party reimbursements
10 or matching funds from any federal governmental agency, private
11 corporation, or other public or private organization or entity, and
12 (3) accept grants or donations from any public or private agency,
13 organization, or entity for services provided by any home health
14 agency operated by the department. Such funds shall be paid to the
15 state treasury and credited to the ~~Department of Health and Human~~
16 ~~Services~~ Health and Human Services Cash Fund.

17 Sec. 741. Section 81-654, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 81-654 For purposes of sections 81-653 to 81-661:

20 (1) Brain injury registry shall mean the system of
21 reporting established by sections 81-653 to 81-661 in which cases
22 of brain or head injury in this state are reported and recorded
23 in order to achieve the goals of statistical identification and
24 planning for treatment and rehabilitation of persons with brain or
25 head injury and prevention of such injury;

1 (2) Brain or head injury shall mean clinically evident
2 neurotrauma resulting directly or indirectly from closed or
3 penetrating brain or head trauma, infection, febrile condition,
4 anoxia, vascular lesions, toxin, or spinal cord injury, not
5 primarily related to congenital or degenerative conditions,
6 chemical dependency, or aging processes, which impairs mental,
7 cognitive, behavioral, or physical functioning; and

8 (3) Department shall mean the Department of Health and
9 Human Services, ~~Regulation and Licensure.~~

10 Sec. 742. Section 81-661, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 81-661 The Department of Correctional Services, the
13 Department of Health and Human Services, ~~Regulation and Licensure,~~
14 ~~the Department of Health and Human Services,~~ the State Department
15 of Education and its divisions of special education and vocational
16 rehabilitation, and all other state agencies which serve persons
17 with brain or head injury shall recognize brain or head injury as a
18 distinct disability and shall identify those persons with brain or
19 head injury among the persons served by the agency. Such agencies
20 shall utilize the brain injury registry for improvement of state
21 services for persons with brain or head injury.

22 Sec. 743. Section 81-663, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 81-663 The Legislature finds that there is a need to
25 establish a framework for consistent release of medical record and

1 health information from the many registries and data bases the
2 ~~Department of Health and Human Services Regulation and Licensure~~
3 department maintains for the State of Nebraska. The purpose of the
4 release of data is to encourage research which will protect the
5 health and safety of the citizens of Nebraska by assisting in the
6 prevention, cure, and control of specific diseases or injuries.

7 Sec. 744. Section 81-664, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 81-664 For purposes of sections 81-663 to 81-675:

10 (1) Aggregate data means data contained in the medical
11 record and health information registries maintained by the
12 department which is compiled in a statistical format and which does
13 not include patient-identifying data;

14 (2) Approved researcher means an individual or entity
15 which is approved by the department pursuant to section 81-666 to
16 obtain access to data contained in the medical record and health
17 information registries maintained by the department to assist in
18 the scientific or medical research for the prevention, cure, or
19 control of a disease or injury process;

20 (3) Case-specific data means data contained in the
21 medical record and health information registries concerning a
22 specific individual other than patient-identifying data;

23 (4) Department means the Department of Health and Human
24 Services; ~~Regulation and Licensure;~~

25 (5) Medical record and health information registry means

1 the system of reporting certain medical conditions occurring
2 in this state, as prescribed by law, which are reported and
3 recorded in order to achieve the goals of prevention, cure, and
4 control through research and education, and includes the birth
5 defects registry established in section 71-646, the cancer registry
6 established in sections 81-642 to 81-650, the brain injury registry
7 established in sections 81-653 to 81-661, and the Parkinson's
8 Disease Registry established in the Parkinson's Disease Registry
9 Act;

10 (6) Patient-identifying data means the patient's name,
11 address, record number, symbol, or other identifying particular
12 assigned to or related to an individual patient; and

13 (7) Research means study specific to the diseases or
14 injuries for which access to data is requested and which is
15 dedicated to the prevention, cure, or control of the diseases or
16 injuries.

17 Sec. 745. Section 81-676, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 81-676 The Department of Health and Human Services
20 ~~Regulation and Licensure~~ shall establish a health care data
21 analysis section to conduct data and research initiatives in
22 order to improve the efficiency and effectiveness of health care in
23 Nebraska.

24 Sec. 746. Section 81-677, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 81-677 The Department of Health and Human Services, l
2 ~~Regulation and Licensure~~, through the health care data analysis
3 section, shall:

4 (1) Conduct research using existing health care data
5 bases and promote applications based on existing research;

6 (2) Work closely with health plans and health care
7 providers to promote improvements in health care efficiency and
8 effectiveness;

9 (3) Participate as a partner or sponsor of private-sector
10 initiatives that promote applied research on health care delivery,
11 outcomes, costs, quality, and management; and

12 (4) Provide technical assistance as needed.

13 Sec. 747. Section 81-678, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 81-678 Data and research initiatives by the health care
16 data analysis section of the Department of Health and Human
17 Services ~~Regulation and Licensure~~ shall:

18 (1) Promote applied research on health care delivery,
19 outcomes, costs, quality, and management;

20 (2) Conduct research and promote health care applications
21 based on scientifically sound and statistically valid methods;

22 (3) Emphasize data that is useful and relevant and is not
23 redundant of existing data;

24 (4) Be structured to minimize the administrative burden
25 on health plans, health care providers, and the health care

1 delivery system; and

2 (5) Promote continuous improvement in the efficiency and
3 effectiveness of health care delivery.

4 Sec. 748. Section 81-679, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 81-679 Data and research initiatives by the health care
7 data analysis section of the Department of Health and Human
8 Services ~~Regulation and Licensure~~ related to public-sector health
9 care programs shall:

10 (1) Assist the state's current health care financing
11 and delivery programs to deliver and purchase health care in a
12 manner that promotes improvements in health care efficiency and
13 effectiveness;

14 (2) Assist the state in its public health activities,
15 including the analysis of disease prevalence and trends and the
16 development of public health responses;

17 (3) Assist the state in developing and refining its
18 overall health policy, including policy related to health care
19 costs, quality, and access; and

20 (4) Provide health care information that allows the
21 evaluation of state health care financing and delivery programs.

22 Sec. 749. Section 81-680, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 81-680 (1) To carry out the duties assigned under
25 sections 81-677 to 81-679, the Department of Health and Human

1 Services ~~Regulation and Licensure~~ may contract with or provide
2 grants to private-sector entities.

3 (2) The health care data analysis section of the
4 ~~Department of Health and Human Services Regulation and Licensure~~
5 department shall negotiate with private-sector organizations
6 currently collecting data on specific health conditions of interest
7 to the section in order to obtain required data in a cost-effective
8 manner and minimize administrative costs. The section shall support
9 linkages between existing private-sector data bases and shall
10 consider and implement methods to streamline data collection in
11 order to reduce public-sector and private-sector administrative
12 costs.

13 (3) The health care data analysis section shall use
14 existing public-sector data bases, such as those existing for the
15 medical assistance program and medicare, to the greatest extent
16 possible. The section shall support linkages between existing
17 public-sector data bases and consider and implement methods
18 to streamline public-sector data collection in order to reduce
19 public-sector and private-sector administrative costs.

20 Sec. 750. Section 81-699, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 81-699 For purposes of the Parkinson's Disease Registry
23 Act:

24 (1) Approved researcher means an individual or entity who
25 is approved by the department in accordance with section 81-666 to

1 obtain access to data contained in the Parkinson's Disease Registry
2 to assist in scientific or medical research for the prevention,
3 cure, or control of Parkinson's disease;

4 (2) Department means the Department of Health and Human
5 Services; ~~Regulation and Licensure;~~

6 (3) Parkinson's disease means a chronic, progressive
7 disorder in which there is a lack of the chemical dopamine
8 in the brain as a direct result of the destruction of the
9 dopamine-producing cells in the portion of the brain called the
10 substantia nigra. Clinical features of the disease include tremor
11 at rest, slow movements, rigidity, and unsteady or shuffling gait
12 and may be indicated by improvement after using medications used
13 for Parkinson's disease; and

14 (4) Related movement disorder means a disorder that
15 resembles Parkinson's disease in some way, such as another kind of
16 tremor.

17 Sec. 751. Section 81-6,110, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 81-6,110 Costs associated with administration of the
20 Parkinson's Disease Registry Act shall be paid from cash funds,
21 contract receipts, gifts, and grants. No general funds shall be
22 used to pay such costs. Funds received by the department for the
23 payment of such costs shall be remitted to the State Treasurer for
24 credit to the ~~Department of Health and Human Services Regulation~~
25 ~~and Licensure~~ Health and Human Services Cash Fund. Notwithstanding

1 any other provision of the act, the Parkinson's Disease Registry
2 and all duties related to the administration of such registry and
3 such act shall cease as of June 30 of any year in which the
4 department has insufficient funds on hand to perform its duties
5 under the act for the next fiscal year, after providing thirty
6 days' written notice to each approved researcher who has contracted
7 with the department under section 81-6,101 in the current biennium.

8 Sec. 752. Section 81-6,113, Revised Statutes Cumulative
9 Supplement, 2006, is amended to read:

10 81-6,113 For purposes of the Outpatient Surgical
11 Procedures Data Act:

12 (1) Department means the Department of Health and Human
13 Services; ~~Regulation and Licensure;~~

14 (2) Medicaid means the medical assistance program
15 established pursuant to the Medical Assistance Act;

16 (3) Medicare means Title XVIII of the federal Social
17 Security Act, as such title existed on January 1, 2003;

18 (4) Outpatient surgical procedure means a surgical
19 procedure provided to patients who do not require inpatient
20 hospitalization;

21 (5) Primary payor means the public payor or private payor
22 which is expected to be responsible for the largest percentage of
23 the patient's current bill;

24 (6) Private payor means any nongovernmental source of
25 funding; and

1 (7) Public payor means medicaid, medicare, and any other
2 governmental source of funding.

3 Sec. 753. Section 81-1021, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 81-1021 (1) All motor vehicles acquired by the State of
6 Nebraska shall be indelibly and conspicuously lettered, in plain
7 letters of a contrasting color or reflective material:

8 (a) On each side thereof with the words State of Nebraska
9 and following such words the name of whatever board, department,
10 bureau, division, institution, including the University of Nebraska
11 or state college, office, or other state expending agency of the
12 state to which the motor vehicle belongs; and

13 (b) On the back thereof with the words State of Nebraska.

14 (2) This section shall not apply to motor vehicles used
15 or controlled by:

16 (a) The Nebraska State Patrol, the Public Service
17 Commission, the Game and Parks Commission, deputy state sheriffs
18 employed by the Nebraska Brand Committee and State Fire Marshal
19 for state law enforcement purposes, inspectors employed by the
20 Nebraska Liquor Control Commission, and persons employed by the Tax
21 Commissioner for state revenue enforcement purposes, the exemption
22 for state law enforcement purposes and state revenue enforcement
23 purposes being confined strictly to the seven agencies specifically
24 named;

25 (b) The Department of Health and Human Services or the

1 Department of Correctional Services for the purpose of apprehending
2 and returning escaped offenders or parole violators to facilities
3 in the Department of Correctional Services and transporting
4 offenders and personnel of the Department of Correctional Services
5 and patients and personnel of the ~~Department of Public Institutions~~
6 ~~until January 1, 1997, and on and after January 1, 1997, the~~
7 Department of Health and Human Services who are engaged in
8 off-campus program activities;

9 (c) The Military Department;

10 (d) Vocational rehabilitation counselors and the
11 Department of Health and Human Services for the purposes of
12 communicable disease control, for the prevention and control of
13 those communicable diseases which endanger the public health, or
14 used by the Department of Health and Human Services ~~Regulation and~~
15 ~~Licensure~~ in the enforcement of drug control laws or for other
16 investigation purposes;

17 (e) The Department of Agriculture for special
18 investigative purposes;

19 (f) The Nebraska Motor Vehicle Industry Licensing Board
20 for investigative purposes; and

21 (g) The Insurance Fraud Prevention Division of the
22 Department of Insurance for investigative purposes.

23 Sec. 754. Section 81-1139.01, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 81-1139.01 Until June 30, 1993, the Department of

1 Administrative Services shall be limited to the same rental rate
2 on the Stone Office Building at the Norfolk Regional Center as
3 existed on January 1, 1992. The Department of Health and Human
4 Services ~~Finance and Support~~ shall be limited to reimbursement from
5 the counties maintaining office space in the Stone Office Building
6 pursuant to section 68-130 in the same amount such counties paid
7 for rental of such space on January 1, 1992.

8 Sec. 755. Section 81-1281, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 81-1281 (1) The Department of Economic Development
11 shall establish a comprehensive housing affordability strategy.
12 The strategy shall identify needs, consider issues, and
13 make recommendations regarding housing affordability, housing
14 availability, housing accessibility, and housing quality in
15 Nebraska. The department shall submit the strategy to the Governor
16 and the Clerk of the Legislature by October 1, 1991.

17 (2) The department shall establish a housing advisory
18 committee consisting of individuals and representatives of groups
19 involved with housing issues in Nebraska to assist with the
20 establishment of the strategy. The department shall work with
21 the Governor's Policy Research Office, the Department of Health
22 and Human Services, ~~the Department of Health and Human Services~~
23 ~~Regulation and Licensure~~, the Department of Banking and Finance,
24 the Nebraska Investment Finance Authority, and any other public or
25 private agency involved in addressing housing needs in Nebraska.

1 (3) The strategy shall:

2 (a) Describe the state's estimated housing needs for
3 the ensuing five-year period and the need for assistance for
4 different types of tenure and for different categories of
5 residents such as very-low-income, low-income, and moderate-income
6 persons, the elderly, single persons, large families, residents
7 of nonmetropolitan areas, and other categories determined to be
8 appropriate by the committee;

9 (b) Describe the nature and extent of homelessness
10 in the state, providing an estimate of the special needs of
11 various categories of persons who are homeless or threatened
12 with homelessness and a description of the strategy for (i)
13 helping low-income families avoid homelessness, (ii) addressing the
14 emergency shelter and transitional housing needs of the homeless,
15 including an inventory of facilities and services that meet such
16 needs in Nebraska, and (iii) helping homeless persons make the
17 transition to permanent housing;

18 (c) Describe significant characteristics of the housing
19 market;

20 (d) Explain whether the cost of housing or the incentives
21 to develop, maintain, or improve affordable housing in Nebraska are
22 affected by public policies, including tax policies affecting land
23 and other property, land-use controls, zoning ordinances, building
24 codes, fees and charges, growth limits, and policies that affect
25 the return on residential investment;

1 (e) Explain the institutional structure, including
2 private industry, nonprofit organizations, and public institutions
3 through which the state will carry out the strategy, assessing the
4 strengths and gaps and describing what will be done to overcome
5 any gaps;

6 (f) Describe the means of coordination and cooperation
7 among the units of state and local government in the development
8 and implementation of the strategy;

9 (g) Establish standards and procedures for monitoring
10 housing activities undertaken because of the strategy; and

11 (h) Include any other information on housing in Nebraska
12 deemed relevant by the Department of Economic Development or the
13 committee.

14 Sec. 756. Section 81-1316, Revised Statutes Cumulative
15 Supplement, 2006, is amended to read:

16 81-1316 (1) All agencies and personnel of state
17 government shall be covered by sections 81-1301 to 81-1319 and
18 shall be considered subject to the State Personnel System, except
19 the following:

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

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

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

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

- 1 (e) All personnel of the office of the Attorney General;
- 2 (f) All personnel of the office of the Auditor of Public
3 Accounts;
- 4 (g) All personnel of the Legislature;
- 5 (h) All personnel of the court systems;
- 6 (i) All personnel of the Board of Educational Lands and
7 Funds;
- 8 (j) All personnel of the Public Service Commission;
- 9 (k) All personnel of the Nebraska Brand Committee;
- 10 (l) All personnel of the Commission of Industrial
11 Relations;
- 12 (m) All personnel of the State Department of Education;
- 13 (n) All personnel of the Nebraska state colleges and the
14 Board of Trustees of the Nebraska State Colleges;
- 15 (o) All personnel of the University of Nebraska;
- 16 (p) All personnel of the Coordinating Commission for
17 Postsecondary Education;
- 18 (q) All personnel of the Governor's Policy Research
19 Office, but not to include personnel within the State Energy
20 Office;
- 21 (r) All personnel of the Commission on Public Advocacy;
- 22 (s) All agency heads;
- 23 (t) (i) The Director of Behavioral Health of the Division
24 of Behavioral Health; (ii) the Director of Children and Family
25 Services of the Division of Children and Family Services; (iii)

1 the Director of Developmental Disabilities of the Division of
 2 Developmental Disabilities; (iv) the Director of Medicaid and
 3 Long-Term Care of the Division of Medicaid and Long-Term Care; (v)
 4 the Director of Public Health of the Division of Public Health; and
 5 (vi) the Director of Veterans' Homes of the Division of Veterans'
 6 Homes;

7 ~~(t)~~ (u) The Director of Medical Services chief medical
 8 officer established under section 83-125, the director of the
 9 Division of Veterans Homes created in section 80-314, 6 of this
 10 act, the Administrator of the Office of Juvenile Services, and
 11 the chief executive officers of the Beatrice State Developmental
 12 Center, Lincoln Regional Center, Norfolk Regional Center, Hastings
 13 Regional Center, Grand Island Veterans' Home, Norfolk Veterans'
 14 Home, Thomas Fitzgerald Veterans' Home prior to July 1, 2007,
 15 and the Eastern Nebraska Veterans' Home, on and after July 1,
 16 2007, Western Nebraska Veterans' Home, Youth Rehabilitation and
 17 Treatment Center-Kearney, and Youth Rehabilitation and Treatment
 18 Center-Geneva;

19 ~~(u)~~ (v) All personnel employed as pharmacists,
 20 physicians, psychiatrists, or psychologists, service area
 21 administrators, or facility operating officers of the Department
 22 of Health and Human Services, the Department of Health and Human
 23 Services Finance and Support, and the Department of Health and
 24 Human Services Regulation and Licensure, Department of Health and
 25 Human Services; and

1 ~~(v)~~ (w) Deputies and examiners of the Department of
 2 Banking and Finance and the Department of Insurance as set forth in
 3 sections 8-105 and 44-119, except for those deputies and examiners
 4 who remain in the State Personnel System.

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

8	Number of Agency	Number of Noncovered
9	Employees	Positions
10	less than 25	0
11	25 to 100	1
12	101 to 250	2
13	251 to 500	3
14	501 to 1000	4
15	1001 to 2000	5
16	2001 to 3000	8
17	3001 to 4000	11
18	4001 to 5000	14
19	over 5000	<u>17</u> <u>25</u>

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

1 and shall be paid salaries set by the agency head.

2 (3) No changes to this section or to the number of
3 noncovered positions within an agency shall affect the status
4 of personnel employed on the date the changes become operative
5 without their prior written agreement. A state employee's career
6 protections or coverage by personnel rules and regulations shall
7 not be revoked by redesignation of the employee's position as a
8 noncovered position without the prior written agreement of such
9 employee.

10 Sec. 757. Section 81-15,103, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 81-15,103 (1) For licensed activities involving disposal
13 of low-level radioactive waste, the council shall adopt and
14 promulgate rules and regulations which require a licensee
15 to provide an adequate surety or other financial arrangement
16 sufficient to accomplish any necessary corrective action or cleanup
17 on real or personal property caused by releases of radiation from a
18 disposal site during the operational life and closure period of the
19 facility and to comply with the requirements for decontamination,
20 decommissioning, site closure, and stabilization of sites, and
21 structures and equipment used in conjunction with such licensed
22 activity, in the event the licensee abandons the facility or
23 defaults for any reason in performing its operational, closure,
24 or other requirements. Such sureties required under the license
25 shall be compatible with applicable federal financial assurance

1 regulations and shall be reviewed by the department at the time
2 of license review under subsection (1) of section 81-15,106. Any
3 arrangement which constitutes self-insurance shall not be allowed.
4 In addition to the surety requirements, the licensee shall purchase
5 property and third-party liability insurance and pay the necessary
6 periodic premiums at all times in such amounts as determined by the
7 council pursuant to rules and regulations adopted and promulgated
8 pursuant to the Low-Level Radioactive Waste Disposal Act.

9 (2) All sureties required pursuant to subsection (1) of
10 this section which are forfeited shall be paid to the department
11 and remitted to the State Treasurer for credit to the Radiation
12 Site Closure and Reclamation Fund which is hereby created. Any
13 money in the fund may be expended by the department as necessary to
14 complete the requirements on which licensees have defaulted. Money
15 in this fund shall not be used for normal operating expenses of the
16 department. Any money in the fund available for investment shall be
17 invested by the state investment officer pursuant to the Nebraska
18 Capital Expansion Act and the Nebraska State Funds Investment Act.

19 (3) For licensed activities involving the disposal of
20 low-level radioactive waste, the council shall adopt and promulgate
21 rules and regulations which require a licensee, before termination
22 of the license, to make available such funding arrangements as may
23 be necessary to provide for custodial care.

24 (4)(a) Remedial cleanup costs which become necessary
25 during the operational life and closure of the facility shall

1 be the responsibility of the licensed facility operator either
2 directly or through applicable surety bonds, insurance, and other
3 financial arrangements required pursuant to subsection (1) of
4 this section, and (b) any remaining remedial cleanup costs which
5 become necessary during the operational life and closure of the
6 facility and which exceed funds available under subdivision (a)
7 of this subsection shall be assessed proportionately by waste
8 volume against the generators, then proportionately by waste volume
9 against the party states as provided by the Central Interstate
10 Low-Level Radioactive Waste Compact.

11 (5) Remedial cleanup costs which become necessary during
12 the period of custodial care shall be assessed (a) first, against
13 the funds established pursuant to this section and any surety
14 bonds, insurance, or other financial arrangements established for
15 the facility, excluding such funds reserved for custodial care,
16 (b) second, against the licensed facility operator, (c) third,
17 against the generators based on proportionate waste volume, and
18 (d) fourth, against the party states based on proportionate waste
19 volume as provided by the Central Interstate Low-Level Radioactive
20 Waste Compact.

21 (6) All funds collected from licensees pursuant to
22 subsection (3) of this section and subsection (1) of section
23 81-15,101 shall be paid to the department and remitted to the State
24 Treasurer for credit to the Radiation Custodial Care Fund which
25 is hereby created. All interest accrued on money deposited in the

1 fund may be expended by the department for the continuing custodial
2 care, maintenance, and other care of facilities from which such
3 funds are collected as necessary for protection of the public
4 health, safety, and environment. Any money in the fund available
5 for investment shall be invested by the state investment officer
6 pursuant to the Nebraska Capital Expansion Act and the Nebraska
7 State Funds Investment Act.

8 (7) The department may, by contract, agreement, lease,
9 or license with the Department of Health and Human Services,
10 ~~Regulation and Licensure~~, provide for the decontamination, closure,
11 decommissioning, reclamation, surveillance, or other care of a site
12 subject to this section as needed to carry out the purposes of this
13 section.

14 Sec. 758. Section 81-15,170, Revised Statutes Cumulative
15 Supplement, 2006, is amended to read:

16 81-15,170 The Nebraska Environmental Trust Board is
17 hereby created as an entity of the executive branch. The board
18 shall consist of the Director of Environmental Quality, ~~the~~
19 ~~Director of Regulation and Licensure~~, the Director of Natural
20 Resources, the Director of Agriculture, the secretary of the Game
21 and Parks Commission, the chief executive officer of the Department
22 of Health and Human Services or his or her designee, and nine
23 citizens appointed by the Governor with the approval of a majority
24 of the Legislature. The citizen members shall begin serving
25 immediately following notice of nomination and prior to approval by

1 the Legislature. The citizen members shall represent the general
2 public and shall have demonstrated competence, experience, and
3 interest in the environment of the state. Two of the citizen
4 appointees shall also have experience with private financing of
5 public-purpose projects. Three appointees shall be chosen from each
6 of the three congressional districts. The board shall hire an
7 executive director who shall hire and supervise other staff members
8 as may be authorized by the board. The executive director shall
9 serve at the pleasure of the board and be solely responsible to it.
10 The Game and Parks Commission shall provide administrative support,
11 including, but not limited to, payroll and accounting functions, to
12 the board.

13 Sec. 759. Section 81-15,189, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 81-15,189 In order to implement the Petroleum Products
16 and Hazardous Substances Storage and Handling Act and the Petroleum
17 Release Remedial Action Act, the Director of Environmental Quality
18 shall appoint a technical advisory committee to work with the
19 Department of Environmental Quality. The duties of the committee
20 are advisory only. Committee members shall include, but not be
21 limited to:

22 (1) The Director of Environmental Quality or his or her
23 designee;

24 (2) The State Fire Marshal or his or her designee;

25 (3) The executive director of the Nebraska Petroleum

1 Marketers and Convenience Store Association or his or her designee;

2 (4) The executive director of the League of Nebraska
3 Municipalities or his or her designee;

4 (5) The executive director of the Nebraska Association of
5 County Officials or his or her designee;

6 (6) The executive director of the Nebraska Petroleum
7 Council or his or her designee;

8 (7) The executive director of the American Consulting
9 Engineers Council of Nebraska or his or her designee;

10 (8) The executive director of the Nebraska Chamber of
11 Commerce and Industry or his or her designee;

12 (9) The executive director of the Associated Builders and
13 Contractors or his or her designee;

14 (10) The executive director of the Nebraska Cooperative
15 Council or his or her designee;

16 (11) A representative of the Department of Health and
17 Human Services; ~~or a representative of the Department of Health and~~
18 ~~Human Services Regulation and Licensure;~~ and

19 (12) A member of the public representing environmental
20 interests.

21 Committee members shall be reimbursed for actual and
22 necessary expenses as provided in sections 81-1174 to 81-1177.

23 Sec. 760. Section 81-15,210, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 81-15,210 (1) The director of the Nebraska Emergency

1 Management Agency shall serve as the State Administrator of the
2 Nebraska Emergency Planning and Community Right to Know Act. The
3 State Emergency Response Commission is created and shall be a
4 part of the Nebraska Emergency Management Agency for administrative
5 purposes. The membership of the commission shall include the
6 Director of Environmental Quality or his or her designee, ~~the~~
7 ~~Director of Health and Human Services Regulation and Licensure~~
8 ~~or his or her designee,~~ the Director-State Engineer or his or
9 her designee, the Superintendent of Law Enforcement and Public
10 Safety or his or her designee, the State Fire Marshal or
11 his or her designee, the director of the Nebraska Emergency
12 Management Agency or his or her designee, the chief executive
13 officer of the Department of Health and Human Services or his
14 or her designee, two elected officials or employees of municipal
15 or county government, and one citizen member to represent each
16 of the following interest groups: Firefighters, local emergency
17 management, public or community health, environmental protection,
18 labor, school district, small business, agricultural business,
19 chemical industry, highway transportation, and rail transportation.
20 The Governor shall appoint the municipal or county government
21 officials or employees and the citizen members with the approval of
22 the Legislature. The appointments shall be made to represent the
23 three congressional districts as equally as possible.

24 (2) The members appointed by the Governor shall be
25 appointed for terms of four years, except that of the first citizen

1 members appointed, three members shall serve for one-year terms,
2 three members shall serve for two-year terms, and two members
3 shall serve for three-year terms, as designated at the time of
4 appointment.

5 (3) A vacancy on the commission shall exist in the event
6 of the death, disability, or resignation of a member. Any member
7 appointed to fill a vacancy occurring prior to the expiration of
8 the term for which his or her predecessor was appointed shall be
9 appointed by the Governor for the remainder of such term.

10 Sec. 761. Section 81-15,245, Revised Statutes Cumulative
11 Supplement, 2006, is amended to read:

12 81-15,245 The Private Onsite Wastewater Treatment System
13 Advisory Committee is created. The advisory committee shall be
14 composed of the following eleven members:

15 (1) Seven members appointed by the director as follows:

16 (a) Five private onsite wastewater treatment system
17 professionals; and

18 (b) Two registered environmental health specialists or
19 officials representing local public health departments which have
20 established programs for regulating private onsite wastewater
21 treatment systems;

22 (2) The chief executive officer of the Department of
23 Health and Human Services or his or her designee; The Director of
24 Health and Human Services Regulation and Licensure or his or her
25 designated representative;

1 (3) The Director of Environmental Quality or his or her
2 designated representative; and

3 (4) One representative with experience in soils and
4 geology and one representative with experience in biological
5 engineering, both of whom shall be designated by the vice
6 chancellor of the University of Nebraska Institute of Agriculture
7 and Natural Resources.

8 Members shall be reimbursed for their actual and
9 necessary expenses as provided in sections 81-1174 to 81-1177. The
10 department shall provide administrative support for the advisory
11 committee.

12 Sec. 762. Section 81-2205, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 81-2205 Committee shall mean the ~~Department of Health and~~
15 ~~Human Services~~ Division of Medicaid and Long-Term Care Advisory
16 Committee on Aging.

17 Sec. 763. Section 81-2206, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 81-2206 Department shall mean the Division of Medicaid
20 and Long-Term Care of the Department of Health and Human Services.

21 Sec. 764. Section 81-2213, Revised Statutes Cumulative
22 Supplement, 2006, is amended to read:

23 81-2213 The ~~Department of Health and Human Services~~
24 department shall have the following powers and duties:

25 (1) To develop, approve, and submit to the Governor

1 a two-year, three-year, or four-year state plan on aging, as
2 determined by the department, for purposes of administering grant
3 funds allocated to the state under the federal Older Americans Act,
4 as now or hereafter amended, or administering state funds allocated
5 to the Nebraska Community Aging Services Act;

6 (2) To cooperate with similar departments, commissions,
7 or councils in the federal government and in other states;

8 (3) To adopt and promulgate rules, regulations, and
9 bylaws governing its procedure and activities and as necessary
10 to carry out the policies of the department and the policies
11 prescribed by the Administration on Aging pursuant to the federal
12 Older Americans Act, as now or hereafter amended;

13 (4) To create committees to aid in the discharge of its
14 powers and duties;

15 (5) To cooperate with and assist other state and local
16 governmental agencies and officials on matters relating to services
17 for older individuals;

18 (6) To divide the state into planning-and-service areas
19 as provided in section 71-807 for behavioral health regions,
20 except that Regions 3 and 5 may each be divided into two
21 planning-and-service areas with boundaries as established by the
22 department for planning-and-service areas in existence in those
23 regions on July 1, 1982;

24 (7) To establish minimum standards for program operations
25 and to adopt and promulgate rules and regulations for the

1 performance of area agencies on aging and for any services provided
2 by such area agencies on aging which are funded in whole or in
3 part under the Nebraska Community Aging Services Act or the federal
4 Older Americans Act, as now or hereafter amended;

5 (8) To require the submission of a one-year and a
6 five-year area plan and budget by each area agency on aging or
7 agency seeking designation as an area agency on aging. Such plans
8 and budgets shall be submitted sixty days prior to the start of
9 each fiscal year in accordance with the uniform area plan format
10 and other instructions issued by the department;

11 (9) To review and approve a one-year and a five-year area
12 plan and budget for the support of each area agency on aging and
13 the provision of eligible activities and services as defined in
14 section 81-2222;

15 (10) To adopt and submit to the Legislature a community
16 aging services budget;

17 (11) To review the performance of each area agency on
18 aging and, based on the department-approved area plan and budget,
19 to determine the continued designation or the withdrawal of the
20 designation of an area agency on aging receiving or requesting
21 resources through the state or under the Nebraska Community Aging
22 Services Act or the federal Older Americans Act, as now or
23 hereafter amended. After consultation with the director of the
24 area agency on aging and the governing unit of the area agency
25 on aging, the department may withdraw a designation when it

1 can be shown that federal or state laws, rules, or regulations
2 have not been complied with, state or federal funds are not
3 being expended for the purposes for which they were intended, or
4 older individuals are not receiving appropriate services within
5 available resources. Withdrawal of a designation may be appealed
6 to the ~~director~~ department. Upon withdrawal of a designation, the
7 department may temporarily perform all or part of the functions and
8 responsibilities of the area agency on aging, may designate another
9 agency to perform such functions and responsibilities identified
10 by the department until the designation of a new area agency on
11 aging, and, when deemed necessary, may temporarily deliver services
12 to assure continuity;

13 (12) To conduct continuing studies and analyses of the
14 problems faced by older individuals within the state and develop
15 such recommendations for administrative or legislative action as
16 appear necessary;

17 (13) To develop grants and plans, enter into contracts,
18 accept gifts, grants, and federal funds, and do all things
19 necessary and proper to discharge these powers and duties;

20 (14) To accept and administer any other programs or
21 resources delegated, designated, assigned, or awarded to the
22 department from public or private sources;

23 (15) To report and make recommendations to the Governor
24 and the Legislature on the activities of the department and
25 the committee and improvements or additional resources needed to

1 promote the general welfare of older individuals in Nebraska. Each
2 member of the Legislature shall receive a copy of the report; and

3 (16) Such other powers and duties necessary to
4 effectively implement the Nebraska Community Aging Services Act.

5 Sec. 765. Section 81-2226, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 81-2226 In the event of a documented malfeasance on the
8 part of any area agency on aging in the administration of its area
9 plan, and the failure of the governing unit of the area agency
10 to take corrective action within a reasonable time, the ~~director~~
11 department shall, with the advice of the ~~Department of Health and~~
12 ~~Human Services Advisory Committee on Aging,~~ committee, terminate
13 funding to the area agency governing unit by disapproving the area
14 plan for that area agency on aging.

15 Sec. 766. Section 81-2229, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 81-2229 It is the intent of the Legislature that:

18 (1) The state establish a statewide system of care
19 management units through the area agencies on aging to aid in the
20 coordination of the delivery of a continuum of services targeted
21 primarily to the state's older population;

22 (2) The continuum of services include the proper
23 utilization of all available care resources, including
24 community-based services and institutionalization, to ensure
25 that persons are receiving, when reasonably possible, the level of

1 care that best matches their level of need;

2 (3) The Department of Health and Human Services ~~Finance~~
3 ~~and Support~~ apply for and implement a Title XIX medicaid waiver as
4 a way to provide care management services to medicaid clients and
5 to control the rising costs of medicaid; and

6 (4) The Department of Health and Human Services develop a
7 uniform method for data collection by care management units.

8 Sec. 767. Section 81-2248, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 81-2248 State long-term care ombudsman shall mean the
11 person or persons appointed by the ~~director~~ under section 81-2249
12 to fulfill the responsibilities of the office.

13 Sec. 768. Section 81-2249, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 81-2249 Pursuant to the Older Americans Act, the office
16 of the state long-term care ombudsman is hereby created. The
17 department shall establish and operate the office. The ~~director~~
18 chief executive officer of the department shall appoint the state
19 long-term care ombudsman.

20 Sec. 769. Section 81-2250, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 81-2250 The department shall establish a long-term care
23 ombudsman program consisting of the state long-term care ombudsman
24 and any local long-term care ombudsman ~~program~~ programs. The
25 program, as approved and administered by the department, shall:

1 (1) Investigate and resolve complaints not reportable
2 under the Adult Protective Services Act made by or on behalf
3 of older individuals who are patients, residents, or clients
4 of long-term care facilities relating to action, inaction, or
5 decisions of providers of long-term care services or their
6 representatives, of public agencies, or of social service agencies
7 which may adversely affect the health, safety, welfare, or rights
8 of such older individuals. The ~~director~~ department shall adopt
9 and promulgate rules and regulations regarding the handling of
10 complaints received under this section, including procedures for
11 conducting investigations of complaints. The rules and regulations
12 shall include procedures to ensure that no state long-term
13 care ombudsman or ombudsman advocate investigates any complaint
14 involving a provider with which the representative was once
15 employed or associated;

16 (2) Provide for the training of the state long-term
17 care ombudsman and ombudsman advocates and promote the development
18 of citizen organizations to participate in the program, provide
19 training to ombudsman advocates and staff of local long-term
20 care ombudsman programs, issue certificates attesting to the
21 successful completion of the prescribed training, and provide
22 ongoing technical assistance to such local programs;

23 (3) Analyze and monitor the development and
24 implementation of federal, state, and local laws, regulations, and
25 policies with respect to long-term care facilities and services

1 and recommend any changes in such laws, regulations, and policies
2 deemed by the long-term care ombudsman program to be appropriate;

3 (4) Establish a statewide, uniform reporting system to
4 collect and analyze data relating to complaints and conditions
5 in long-term care facilities for the purpose of identifying and
6 resolving significant problems. The data shall be submitted to the
7 ~~Department of Health and Human Services Regulation and Licensure~~
8 department at least on an annual basis;

9 (5) Prepare reports as requested by the ~~director~~
10 department and provide policy, regulatory, and legislative
11 recommendations to solve problems, resolve complaints, and improve
12 the quality of care and life in long-term care facilities;

13 (6) Provide for public forums to discuss concerns and
14 problems relating to action, inaction, or decisions that may
15 adversely affect the health, safety, welfare, or civil rights of
16 residents of long-term care facilities and their representatives,
17 public agencies and entities, and social service agencies; and

18 (7) Provide information to public agencies, legislators,
19 and others, as deemed necessary by the department, regarding the
20 problems and concerns, including recommendations related to such
21 problems and concerns, of older individuals residing in long-term
22 care facilities.

23 Sec. 770. Section 81-2251, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 81-2251 The ~~director~~ department shall adopt and

1 promulgate rules and regulations to carry out the Long-Term Care
2 Ombudsman Act. The ~~director~~ department shall ensure that the state
3 long-term care ombudsman has no conflicts of interest in fulfilling
4 the duties of the office, is capable of administering the office
5 impartially, has an understanding of long-term care issues, has
6 experience in the fields of aging and health care, and has worked
7 with and been involved in volunteer programs.

8 Sec. 771. Section 81-2252, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 81-2252 The ~~director~~ department may designate for
11 two-year periods, within each planning-and-service area designated
12 pursuant to section 81-2213, local long-term care ombudsman
13 programs in accordance with rules and regulations established by
14 the ~~director~~ department. Such rules and regulations shall include
15 specifications regarding the sites of the offices of the local
16 long-term care ombudsman programs and requirements concerning
17 staffing, levels of training required for ombudsman advocates and
18 staff, standards of operation, and program review.

19 The office may withdraw or provisionally maintain the
20 designation of an entity as a local long-term care ombudsman
21 program if the entity fails to meet the rules and regulations
22 established by the ~~director~~ department. If the designation of a
23 local long-term care ombudsman program is provisionally maintained,
24 the office shall notify the program of the reasons for the
25 provisional status, of the changes or corrections necessary for

1 the removal of the provisional status, of the length of time
2 permitted to make the changes or corrections, and that the office
3 will withdraw the designation if the program does not comply with
4 the requirements specified in the notice. If the designation of a
5 local long-term care ombudsman program is withdrawn, the office may
6 provide for the continuation of long-term care ombudsman services
7 for that area.

8 Sec. 772. Section 81-2255, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 81-2255 (1) When abuse, neglect, or exploitation of an
11 older individual who is a patient, resident, or client of a
12 long-term care facility is suspected, the long-term care ombudsman
13 program shall make an immediate referral to the ~~Department of~~
14 ~~Health and Human Services~~ department or the appropriate law
15 enforcement agency. The long-term care ombudsman program shall
16 coordinate with adult protective services or the appropriate law
17 enforcement agency, if requested, pursuant to any investigation of
18 such abuse, neglect, or exploitation.

19 (2) Any state agency or board which responds to a
20 complaint against a long-term care facility or an individual
21 employed by a long-term care facility that was referred to the
22 agency or board by the office shall forward to the office copies of
23 related inspection reports, plans of correction, and notice of any
24 citations and sanctions levied against the long-term care facility
25 or the individual.

1 Sec. 773. Section 81-2260, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 81-2260 (1) Information relating to any complaints or
4 investigation made pursuant to the Long-Term Care Ombudsman Act
5 that discloses the identities of complainants, patients, residents,
6 or clients shall remain confidential except:

7 (a) When disclosure is authorized in writing by the
8 complainant, patient, resident, or client or the older individual's
9 guardian or legal representative;

10 (b) When disclosure is necessary to an investigation
11 of abuse, neglect, or exploitation and the disclosure is made
12 to the Attorney General, the county attorney, or the Department
13 of Health and Human Services Regulation and Licensure, ~~or adult~~
14 ~~protective services of the Department of Health and Human Services,~~
15 department;

16 (c) When disclosure is necessary for the provision of
17 services to the patient, resident, or client and the patient,
18 resident, or client is unable to express written or oral consent;
19 or

20 (d) Upon court order.

21 (2) Access to the records and files of the office
22 relating to any complaint or investigation made pursuant to the
23 Long-Term Care Ombudsman Act shall be permitted only at the
24 discretion of the state long-term care ombudsman, except that the
25 identity of any complainant, witness, patient, resident, or client

1 shall not be disclosed by such ombudsman except:

2 (a) When disclosure is authorized in writing by such
3 complainant, witness, patient, resident, or client or the older
4 individual's guardian or legal representative;

5 (b) Upon court order; or

6 (c) Pursuant to subsection (3) of this section.

7 (3) The records and files of the office shall be released
8 to adult protective services of the ~~Department of Health and Human~~
9 ~~Services~~ department if it so requests for purposes of the Adult
10 Protective Services Act.

11 (4) The ~~director~~ department shall have access to the
12 records and files of the office to verify the effectiveness and
13 quality of the long-term care ombudsman program.

14 Sec. 774. Section 81-2265, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 81-2265 It is the intent of the Legislature that the
17 Department of Health and Human Services ~~Finance and Support~~ shall
18 amend its current medicaid waiver to provide any federal funding
19 which may be available for the purpose of a pilot project for
20 preadmission screening and that the ~~Department of Health and Human~~
21 ~~Services Finance and Support~~ department shall ~~contract with the~~
22 ~~Department of Health and Human Services~~ ~~to~~ develop and implement
23 such a pilot preadmission screening project.

24 Sec. 775. Section 81-2267, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 81-2267 The Department of Health and Human Services and
2 ~~the Department of Health and Human Services Finance and Support~~
3 shall evaluate the pilot project for the effectiveness of using
4 medicaid funds, any savings of those funds realized which can be
5 used to serve the ever-growing number of frail and vulnerable older
6 individuals in Nebraska, and the effectiveness of preadmission
7 screening and care management to divert individuals from nursing
8 facility admission who do not need that level of care.

9 Sec. 776. Section 81-2268, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 81-2268 Services identified by care plans for those
12 eligible for medical assistance whose care needs are appropriate
13 for nursing facilities but whose needs can be met outside a
14 nursing facility may be purchased with medicaid waiver funds
15 available through the home and community-based waiver for the aged
16 and disabled administered by the Department of Health and Human
17 Services, ~~and the Department of Health and Human Services Finance~~
18 ~~and Support.~~

19 Sec. 777. Section 81-3602, Revised Statutes Cumulative
20 Supplement, 2006, is amended to read:

21 81-3602 (1)(a) The Rural Development Commission shall
22 consist of members who represent a wide range of rural Nebraska
23 interests.

24 (b) The Governor shall appoint four members to the
25 commission. The Governor shall appoint a representative of his

1 or her office and one representative from each of the Department
2 of Economic Development, the Department of Agriculture, and the
3 ~~Nebraska Department of Health and Human Services System.~~

4 (c) The Speaker of the Legislature shall appoint one
5 member of the Legislature to the commission.

6 (d) Other members shall be appointed by the Governor
7 to represent federal agencies, local governments, tribal
8 governments, nonprofit organizations, regional economic development
9 organizations, the private sector, postsecondary education, and
10 youth.

11 (e) The chairperson and vice-chairperson of the
12 commission shall be elected by a majority of the members of
13 the commission at the first commission meeting in odd-numbered
14 years and shall each serve a two-year term as chairperson and
15 vice-chairperson, respectively.

16 (2) The commission shall meet at the call of the
17 chairperson or a majority of the members. The chairperson shall
18 call such meetings as he or she determines necessary to fulfill
19 the duties of the commission. A quorum shall be one-half of the
20 members.

21 (3) The members of the commission shall be reimbursed for
22 their actual and necessary expenses as provided in sections 81-1174
23 to 81-1177 and pursuant to policies of the commission.

24 Sec. 778. Section 83-101.08, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 83-101.08 The Department of Health and Human Services~~7~~
2 ~~the Department of Health and Human Services Regulation and~~
3 ~~Licensure7~~ and the Department of Health and Human Services Finance
4 ~~and Support~~ shall consult and cooperate with the Department of
5 Correctional Services so as to coordinate in an effective manner
6 the activities of the departments with those related activities
7 affecting the welfare of persons which are the responsibility
8 of the Department of Health and Human Services~~7~~ ~~the Department~~
9 ~~of Health and Human Services Regulation and Licensure7~~ ~~the~~
10 ~~Department of Health and Human Services Finance and Support7~~
11 and the Department of Correctional Services.

12 Sec. 779. Section 83-107.01, Revised Statutes Cumulative
13 Supplement, 2006, is amended to read:

14 83-107.01 The official names of the state institutions
15 under the supervision of the Department of Health and Human
16 Services shall be as follows: (1) Beatrice State Developmental
17 Center, (2) Lincoln Regional Center, (3) Norfolk Regional Center,
18 (4) Hastings Regional Center, (5) Grand Island Veterans' Home, (6)
19 Norfolk Veterans' Home, (7) Western Nebraska Veterans' Home, (8)
20 Youth Rehabilitation and Treatment Center-Kearney, ~~and~~ (9) Youth
21 Rehabilitation and Treatment Center-Geneva, ~~7~~ ~~The official name of~~
22 ~~the state institution under the supervision of the Department of~~
23 ~~Health and Human Services shall be~~ and (10) the Thomas Fitzgerald
24 Veterans' Home prior to July 1, 2007, and, on and after July 1,
25 2007, ~~shall be~~ the Eastern Nebraska Veterans' Home.

1 Sec. 780. Section 83-113, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 83-113 The ~~Director~~ Department of Health and Human
4 Services may examine any of the officers, attendants, guards,
5 and other employees and make such inquiries as will determine
6 their fitness for their respective duties and shall investigate and
7 report to the Governor any abuses or wrongs alleged to exist in the
8 institution.

9 Sec. 781. Section 83-114, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 83-114 The ~~Director~~ Department of Health and Human
12 Services shall have the power to summon and examine witnesses
13 under oath, to examine books and papers pertaining to the subject
14 under investigation, and to compel the production of such books and
15 papers. Witnesses who are not employees of the state shall receive
16 the same fees as witnesses in civil cases in the district court,
17 and their fees shall be paid by vouchers. Any officer or employee
18 who interferes in any manner with the ~~director's~~ department's
19 official investigation shall be deemed guilty of a misdemeanor, and
20 upon conviction thereof shall be removed from his or her position,
21 and be fined in a sum not less than ten dollars nor more than one
22 hundred dollars. The claim that any testimony or evidence sought to
23 be elicited or produced may tend to incriminate the person giving
24 or producing it, or expose him or her to public ignominy, shall not
25 excuse him or her from testifying or producing the evidence, but

1 any evidence given by a witness at such an investigation shall not
2 be used against him or her in a criminal prosecution. A witness
3 shall not be exempt from prosecution and punishment for perjury
4 for testifying falsely at an investigation. It shall be the duty
5 of the ~~director~~ department to cause such testimony to be filed in
6 the office of the department as soon thereafter as practicable, and
7 such testimony shall be open for inspection. Any person failing
8 to obey the orders of the ~~director~~, department, issued under the
9 provisions of this section, shall be reported by the ~~director~~
10 department to the district court, or any judge thereof, and shall
11 be dealt with by the court or judge as for contempt of court.

12 Sec. 782. Section 83-115, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 83-115 The ~~Director~~ Department of Health and Human
15 Services shall be prepared to give any information desired by
16 the Legislature concerning the institutions under ~~his or her~~ its
17 control, and ~~his or her~~ its administration shall be subject to
18 examination under oath by a legislative committee, touching any
19 matter in regard to which the Legislature may desire information
20 concerning the condition of the institutions, their inmates, and
21 the performance of their duties by the ~~director or his or her~~
22 ~~employees.~~ department. The committee may call and examine under
23 oath any other persons as witnesses in such investigation. Such
24 examinations shall be conducted in the manner and subject to the
25 provisions of section 83-114.

1 Sec. 783. Section 83-121, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 83-121 There is hereby created the School District
4 Reimbursement Fund for use by the Department of Health and
5 Human Services. The fund shall consist of money received from
6 school districts or the ~~Department of Health and Human Services~~
7 ~~Finance and Support~~ department pursuant to section 79-1152 for
8 the operation of special education programs within the ~~Department~~
9 ~~of Health and Human Services-~~ department. The fund shall be used
10 for the operation of such programs pursuant to sections 79-1152,
11 79-1153, and 79-1155 to 79-1158.

12 Any money in the fund available for investment shall be
13 invested by the state investment officer pursuant to the Nebraska
14 Capital Expansion Act and the Nebraska State Funds Investment Act.

15 Sec. 784. Section 83-126, Revised Statutes Cumulative
16 Supplement, 2006, is amended to read:

17 83-126 The ~~Director of Health and Human Services~~ chief
18 executive officer of the Department of Health and Human Services
19 shall appoint the chief executive officer of each facility referred
20 to in section 83-107.01. Each chief executive officer shall report
21 to the ~~director or his or her designee~~ chief executive officer of
22 the department or his or her designee and shall serve full time
23 and without term at the pleasure of the ~~director-~~ chief executive
24 officer of the department.

25 Sec. 785. Section 83-130, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 83-130 An Emergency Revolving Fund, not to exceed three
3 thousand dollars for any one institution, upon order of the
4 ~~Director~~ Department of Health and Human Services, shall be drawn
5 from the State Treasurer, to be used by the chief executive officer
6 of each institution as an emergency cash fund. The fund shall be
7 drawn from the general maintenance appropriation for the ~~director~~
8 department. An accounting of this fund shall be made by each
9 executive officer once each month to the ~~director~~ department.

10 Sec. 786. Section 83-305.03, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 83-305.03 The ~~Director~~ Department of Health and Human
13 Services or the Director of Correctional Services may order the
14 temporary transfer of any person committed to the Department
15 of Health and Human Services or the Department of Correctional
16 Services to the University of Nebraska Medical Center with the
17 concurrence of the chancellor thereof for special diagnosis and
18 treatment of any illness such person may suffer which cannot be
19 properly diagnosed or treated by the medical facilities of the
20 institution of which he or she is a patient or inmate. The
21 responsibility of guarding any such patient or inmate transferred
22 shall remain with the institution of which he or she is a patient
23 or inmate. The Department of Health and Human Services or the
24 Department of Correctional Services shall pay, out of the proper
25 account, all expenses incurred by the University of Nebraska

1 Medical Center on behalf of any patient or inmate so transferred by
2 the respective department.

3 Sec. 787. Section 83-324, Revised Statutes Cumulative
4 Supplement, 2006, is amended to read:

5 83-324 The ~~Director~~ Department of Health and Human
6 Services may accept patients for care and treatment upon the
7 written application of a patient. Such written application may be
8 made by persons desiring to receive care and treatment in one of
9 the state hospitals for the mentally ill to the chief executive
10 officer of the state hospital in which the patient wishes to
11 receive treatment.

12 Sec. 788. Section 83-336, Revised Statutes Cumulative
13 Supplement, 2006, is amended to read:

14 83-336 The ~~Director~~ Department of Health and Human
15 Services shall provide the mental health boards with blanks for
16 warrants, certificates, and other forms, such as will enable them
17 to comply with sections 83-313 to 83-357, and also with printed
18 copies of the applicable rules and regulations of the ~~Department of~~
19 ~~Health and Human Services.~~ department.

20 Sec. 789. Section 83-348, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 83-348 Patients in the state hospitals for the mentally
23 ill having no legal settlement in this state, or whose legal
24 settlement cannot be ascertained, shall be supported at the expense
25 of the state. This section shall apply to all such patients now

1 in the hospitals and shall include expenses already incurred and
2 remaining unpaid. The ~~Director~~ Department of Health and Human
3 Services may authorize the removal of any such patient at the
4 expense of the state.

5 Sec. 790. Section 83-363, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 83-363 As used in sections 83-227.01, 83-227.02, 83-350,
8 and 83-363 to 83-380, unless the context otherwise requires:

9 (1) Department ~~shall mean~~ means the Department of Health
10 and Human Services;

11 ~~(2) Director shall mean the Director of Health and Human~~
12 ~~Services;~~

13 ~~(3) (2) State institution shall mean means~~ the state
14 hospitals at Lincoln, Norfolk, and Hastings, the Beatrice State
15 Developmental Center, and such other institutions as may hereafter
16 be established by the Legislature for the care and treatment of
17 persons with a mental disorder or mental retardation;

18 ~~(4) (3) Relative shall mean means~~ the spouse of a patient
19 or, if the patient has no spouse and is under the age of majority
20 at the time he or she is admitted, the parents of a patient in a
21 state institution; and

22 ~~(5) (4) Parents shall mean means~~ either or both of a
23 patient's natural parents unless such patient has been legally
24 adopted by other parents, in which case parents ~~shall mean~~ means
25 either or both of the adoptive parents.

1 Sec. 791. Section 83-365, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 83-365 The ~~Department of Health and Human Services~~
4 department shall periodically determine the individual cost,
5 exclusive of the cost of education, for the care, support,
6 maintenance, and treatment of the patients in each state
7 institution and for persons receiving treatment prescribed by
8 an institution following release or without being admitted as a
9 resident patient. In making such determinations, the department may
10 use averaging methods for each institution if, in the judgment of
11 the ~~director, department,~~ it is not practicable to compute the cost
12 for each patient. The cost of capital expenditures and capital
13 construction shall not be included in making such determinations.

14 Sec. 792. Section 83-366, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 83-366 The department shall assess against the patient
17 or his or her relatives all or such part of the cost determined
18 under section 83-365 as they are able to pay, in the judgment
19 of the ~~director, department,~~ except that a patient who is placed
20 in a state institution to receive appropriate special education
21 pursuant to the Special Education Act or his or her relatives
22 shall be assessed only for medical care and medical treatment
23 costs as determined pursuant to rules and regulations adopted and
24 promulgated by the department in accordance with section 83-371.

25 Sec. 793. Section 83-373, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 83-373 Any determination of the ability of a patient or
3 relative to pay shall remain in effect until a redetermination
4 is made. A redetermination shall be made annually and at such
5 additional times when, in the judgment of the ~~director~~, department,
6 it is appropriate to do so, or when a request is made by the
7 patient or relative who is liable for the payments.

8 Sec. 794. Section 83-374, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 83-374 Any patient or relative aggrieved by a
11 determination of ability to pay may request a hearing before the
12 ~~director~~. department. The department shall adopt and promulgate
13 rules and regulations to govern the conduct of such hearings. The
14 ~~director~~ department may appoint an examiner who shall have power
15 to preside at such hearing, administer oaths, examine witnesses,
16 and take testimony and shall report the same to the ~~director~~.
17 department. Such hearings shall be held in the county in which the
18 person requesting the hearing resides, if such person so requests,
19 in which event it shall be the duty of the county board to attend
20 such hearing. The ~~director~~ department shall deliver his or her the
21 decision within sixty days after the conclusion of the hearing. Any
22 patient or relative aggrieved by a decision following a hearing may
23 appeal such decision, and such appeal shall be in accordance with
24 the Administrative Procedure Act.

25 Sec. 795. Section 83-376, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2 83-376 When the full cost determined to be necessary for
3 the care, support, maintenance, and treatment of any patient is
4 not paid by the patient or his or her relatives within thirty
5 days of receipt of such care, (1) the county in which the patient
6 resides shall pay (a) the first fifteen dollars per day of the
7 unpaid cost for each of the first thirty days at the Hastings
8 Regional Center, the Lincoln Regional Center, the Norfolk Regional
9 Center, or other inpatient treatment facility where the patient
10 is receiving inpatient treatment pursuant to an order of a mental
11 health board under the Nebraska Mental Health Commitment Act or the
12 Sex Offender Commitment Act, (b) the first ten dollars per day of
13 the unpaid cost for each of the first thirty days at the Beatrice
14 State Developmental Center, and (c) the first three dollars per day
15 of the unpaid costs for each day after the first thirty days at any
16 such institution, (2) the balance of the unpaid cost shall be borne
17 by the state, and (3) the county in which the patient resides shall
18 be credited by the ~~Director of Health and Human Services~~ department
19 for amounts collected from such patient or his or her relatives in
20 excess of the portion of such costs borne by the state.

21 Sec. 796. Section 83-379, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 83-379 In the absence of fraud, a patient and his
24 relatives shall be liable only to the extent of assessments
25 actually made against them respectively, in accordance with

1 sections 83-227.01, 83-227.02, 83-350, and 83-363 to 83-380. For
2 the purposes of sections 83-227.01, 83-227.02, 83-350, and 83-363
3 to 83-380, it shall be deemed fraudulent for any patient or his
4 relatives to transfer any assets or property to another person for
5 the purpose of affecting the determination of ability to pay. When
6 it is determined that such a fraudulent transfer has been made,
7 the ~~director~~ department shall consider the value of such assets
8 or property transferred in determining the ability to pay under
9 section 83-368 or 83-369.

10 Sec. 797. Section 83-380, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 83-380 Within thirty days after June 30, 1971, and
13 each year thereafter the ~~Director of Health and Human Services~~
14 department shall certify to the Director of Administrative Services
15 all amounts not previously certified due to each state institution
16 from the several counties having patients chargeable thereto. The
17 Director of Administrative Services shall thereupon notify the
18 county clerk of each county of the amount each county owes. The
19 county board shall add to its next levy an amount sufficient to
20 raise the amount certified as due. The county shall pay the amount
21 certified into the state treasury on or before the next June 1
22 following such certification.

23 From any county which fails to pay the total amount
24 certified as due annually by the next June 1 following
25 certification, there shall be withheld by the State Treasurer from

1 the next allocation to such county due under the provisions of
2 section 77-27,137, an amount sufficient to equal the amount unpaid
3 from such county which amount shall be deducted from the county's
4 portion and not the municipalities' under section ~~77-27,138-~~
5 77-27,137.01. The State Treasurer shall credit the amount withheld
6 the same as if the county had paid it when due as above provided.

7 Sec. 798. Section 83-381, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 83-381 As used in sections 83-217, 83-218, and 83-381 to
10 83-390, unless the context otherwise requires:

11 (1) Person with mental retardation ~~shall mean~~ means any
12 person of subaverage general intellectual functioning which is
13 associated with a significant impairment in adaptive behavior;

14 (2) ~~Director shall mean the Director~~ Department means the
15 Department of Health and Human Services or such person or agency
16 within the Department of Health and Human Services as the ~~director~~
17 chief executive officer of the department may designate; and

18 (3) Residential facility ~~shall mean~~ means an institution
19 specified under section 83-217 to provide residential care by the
20 State of Nebraska for persons with mental retardation.

21 Sec. 799. Section 83-382, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 83-382 Except as provided in sections 79-1148 and
24 79-1149, the ~~Department of Health and Human Services~~ department
25 shall have jurisdiction of the admission of persons with mental

1 retardation to a residential facility. Applications for admission
2 to a residential facility shall be filed with the ~~director-~~
3 department.

4 Sec. 800. Section 83-383, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 83-383 (1) An application for admission shall be made in
7 writing by one of the following persons:

8 (a) If the person applying for admission has a
9 court-appointed guardian, the application shall be made by the
10 guardian; and

11 (b) If the person applying for admission does not have a
12 court-appointed guardian and has not reached the age of majority,
13 as established by section 43-2101, as such section may from time to
14 time be amended, the application shall be made by both parents if
15 they are living together or by the parent having custody of such
16 person if both parents are not then living or are not then living
17 together.

18 (2) The county court of the county of residence of any
19 person with mental retardation or the county court of the county in
20 which a state residential facility is located shall have authority
21 to appoint a guardian for any person with mental retardation upon
22 the petition of the husband, wife, parent, person standing in
23 loco parentis to such person, a county attorney, or any authorized
24 official of the ~~Department of Health and Human Services~~ authorized
25 ~~by the director-~~ department. If the guardianship proceedings are

1 initiated by an official of the ~~Department of Health and Human~~
2 ~~Services, department,~~ the costs thereof may be taxed to and paid
3 by the department if the person with mental retardation is without
4 means to pay the costs. The ~~Department of Health and Human Services~~
5 department shall pay such costs upon presentation of a proper
6 claim by the judge of the county court in which the proceedings
7 were initiated. The costs of such proceedings shall include court
8 costs, attorneys' fees, sheriffs' fees, psychiatric fees, and other
9 necessary expenses of the guardianship.

10 Sec. 801. Section 83-384, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 83-384 An application for admission to a residential
13 facility shall contain the name, age, and place of residence of the
14 person for whom admission is requested. The application shall set
15 forth the name of the person submitting the application and the
16 capacity in which he or she makes the application. The application
17 shall contain authorization for the ~~director~~ department to obtain
18 all relevant medical records and information concerning the person
19 for whom admission is requested.

20 Sec. 802. Section 83-385, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 83-385 Upon receipt of an application for admission,
23 the ~~director~~ department shall refer the person for whom admission
24 is requested to an agency or person specially qualified in the
25 diagnosis of mental or related conditions for examination and

1 evaluation. Within fourteen days of referral, the agency or person
2 making such examination and evaluation shall return the findings
3 of the examination and evaluation to the ~~director~~, department.
4 The findings and evaluation may also include recommendations with
5 respect to the placement of the person for whom admission is
6 requested in a residential facility. The ~~director~~ department may
7 require further examination of the person for whom admission is
8 requested.

9 Sec. 803. Section 83-386, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 83-386 The ~~director~~ department shall examine all
12 information concerning the person for whom admission is requested
13 and shall determine therefrom whether the person is a person
14 with mental retardation and whether residence in the residential
15 facility is necessary for the welfare, care, treatment, or training
16 of such person. Such determination shall be made in writing and
17 shall set forth the reasons for the determination. If at any time
18 it shall become necessary, for want of room or other cause, to
19 discriminate in the admission of persons with mental retardation to
20 residential facilities, the selection shall be made as follows: (1)
21 Persons whose care is necessary in order to protect themselves or
22 the public health and safety; (2) persons who are most likely to be
23 benefited thereby; (3) persons shall next be admitted in the order
24 in which their applications for admission have been filed with the
25 ~~director~~, department; and (4) when cases are equally meritorious in

1 all other respects, an indigent person or a person from an indigent
2 family shall be given preference.

3 Sec. 804. Section 83-387, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 83-387 At such time as the ~~director~~ department determines
6 that continued residence in a residential facility will no longer
7 benefit a person with mental retardation, ~~he or she~~ the department
8 shall arrange for the discharge or transfer of such person from the
9 residential facility. The ~~director~~ department shall give reasonable
10 notice to the person authorized to make an application for
11 admission for such person under subsection (1) of section 83-383
12 that ~~he or she~~ the department intends to discharge or transfer such
13 person. The ~~director~~ department shall also be responsible for the
14 placement of such person in any other available program or facility
15 and in the development of other methods for the care, treatment,
16 and training of such person.

17 Sec. 805. Section 83-390, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 83-390 A person shall not lose his or her rights as a
20 citizen, his or her property rights, or his or her legal capacity
21 by reason of being admitted to a residential facility. The ~~director~~
22 department may make reasonable rules and regulations concerning
23 the exercise of such rights within the residential facility. Every
24 person admitted to a residential facility under sections 83-217,
25 83-218, and 83-381 to 83-390 shall have an absolute right to

1 communicate with the ~~director,~~ department, any court, a member
2 of his or her family who does not file a written objection
3 thereto with the ~~director,~~ department, a physician, or an attorney
4 and to be visited at any reasonable hour by a physician or
5 attorney. The ~~director~~ department may make reasonable rules and
6 regulations concerning communication by letter or otherwise with
7 any other person or agency and concerning the right to receive
8 other visitors.

9 Sec. 806. Section 83-802, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 83-802 Pursuant to the compact as provided in section
12 83-801, the ~~Director of Health and Human Services~~ chief executive
13 officer of the Department of Health and Human Services or such
14 person as the ~~director~~ chief executive officer may designate shall
15 be the compact administrator and shall have the power to promulgate
16 rules and regulations to carry out more effectively the terms
17 of the compact. The compact administrator is hereby authorized,
18 empowered, and directed to cooperate with all departments,
19 agencies, and officers of and in the government of this state and
20 its subdivisions in facilitating the proper administration of the
21 compact or of any supplementary agreement or agreements entered
22 into by this state thereunder.

23 Sec. 807. Section 83-1204, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 83-1204 Department shall mean the Division of

1 Developmental Disabilities of the Department of Health and Human
2 Services.

3 Sec. 808. Section 83-1206, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 83-1206 Director shall mean the Director of ~~Health and~~
6 ~~Human Services.~~ Developmental Disabilities of the Division of
7 Developmental Disabilities.

8 Sec. 809. Section 83-1216, Revised Statutes Cumulative
9 Supplement, 2006, is amended to read:

10 83-1216 (1) Beginning July 1, 1995, persons determined
11 to be eligible for specialized services who on or after September
12 6, 1993, graduate from high school, reach the age of twenty-one
13 years, or are currently receiving services shall receive services
14 in accordance with the Developmental Disabilities Services Act.
15 The amount of funding for any person receiving services shall be
16 determined using an objective assessment process developed by the
17 plan in subsection (3) of this section.

18 (2) The department shall provide directly or by contract
19 service coordination to Nebraska residents found to be eligible for
20 specialized services.

21 (3) It is the intent of the Legislature that by July
22 1, 2010, all persons determined to be eligible for services shall
23 receive services in accordance with the act. ~~The department shall~~
24 ~~establish a workgroup including representatives from the State~~
25 ~~Department of Education, the Advisory Committee on Developmental~~

1 ~~Disabilities, the Developmental Disabilities Planning Council,~~
2 ~~consumers, families, consumer advocacy organizations, developmental~~
3 ~~disabilities service providers, and other interested parties. On~~
4 ~~or before December 1, 2004, the Department of Health and Human~~
5 ~~Services, in consultation with the workgroup, shall submit a~~
6 ~~report to the Legislature and the Governor for the development and~~
7 ~~provision of needed specialized services to implement such intent.~~
8 ~~Such plan shall provide for, but shall not be limited to: (a)~~
9 ~~The adequate and equitable distribution of available funding for~~
10 ~~the provision of specialized services pursuant to an objective~~
11 ~~assessment process; (b) the incremental statewide implementation of~~
12 ~~such process for the provision of specialized services; and (c) the~~
13 ~~projected number of persons who will likely become eligible for~~
14 ~~specialized services under the act during the next calendar year.~~
15 ~~The workgroup shall terminate upon submission of such plan or on~~
16 ~~December 1, 2004, whichever occurs earlier.~~

17 (4) It is the intent of the Legislature that the
18 department take all possible steps to maximize funding in order
19 to implement subsections (1) and (2) of this section prior to
20 the date these subsections become entitlements. All Nebraska
21 residents eligible for funding for specialized services under
22 the Developmental Disabilities Services Act shall apply for and
23 accept any federal medicaid benefits for which they may be eligible
24 and benefits from other funding sources within the department, the
25 State Department of Education, specifically including the Division

1 of Rehabilitation Services, and other agencies to the maximum
2 extent possible.

3 Sec. 810. Section 84-1409, Revised Statutes Cumulative
4 Supplement, 2006, is amended to read:

5 84-1409 For purposes of the Open Meetings Act, unless the
6 context otherwise requires:

7 (1)(a) Public body means (i) governing bodies of
8 all political subdivisions of the State of Nebraska, (ii)
9 governing bodies of all agencies, created by the Constitution of
10 Nebraska, statute, or otherwise pursuant to law, of the executive
11 department of the State of Nebraska, (iii) all independent boards,
12 commissions, bureaus, committees, councils, subunits, or any other
13 bodies created by the Constitution of Nebraska, statute, or
14 otherwise pursuant to law, (iv) all study or advisory committees
15 of the executive department of the State of Nebraska whether
16 having continuing existence or appointed as special committees with
17 limited existence, (v) advisory committees of the bodies referred
18 to in subdivisions (i), (ii), and (iii) of this subdivision, and
19 (vi) instrumentalities exercising essentially public functions; and

20 (b) Public body does not include (i) subcommittees of
21 such bodies unless a quorum of the public body attends a
22 subcommittee meeting or unless such subcommittees are holding
23 hearings, making policy, or taking formal action on behalf
24 of their parent body, and (ii) entities conducting judicial
25 proceedings unless a court or other judicial body is exercising

1 rulemaking authority, deliberating, or deciding upon the issuance
2 of administrative orders; i and ~~(iii) the Policy Cabinet created in~~
3 ~~section 81-3009.~~

4 (2) Meeting means all regular, special, or called
5 meetings, formal or informal, of any public body for the purposes
6 of briefing, discussion of public business, formation of tentative
7 policy, or the taking of any action of the public body; and

8 (3) Videoconferencing means conducting a meeting
9 involving participants at two or more locations through the use of
10 audio-video equipment which allows participants at each location
11 to hear and see each meeting participant at each other location,
12 including public input. Interaction between meeting participants
13 shall be possible at all meeting locations.

14 Sec. 811. Section 85-134, Revised Statutes Cumulative
15 Supplement, 2006, is amended to read:

16 85-134 The University of Nebraska Medical Center Medical
17 Education Revolving Fund is hereby established to be administered
18 by the Department of Health and Human Services. ~~Finance and~~
19 ~~Support.~~ The fund shall be used to fund medical education. Any
20 money in the fund available for investment shall be invested by the
21 state investment officer pursuant to the Nebraska Capital Expansion
22 Act and the Nebraska State Funds Investment Act.

23 Sec. 812. Section 86-570, Revised Statutes Cumulative
24 Supplement, 2006, is amended to read:

25 86-570 (1) The Geographic Information System Steering

1 Committee is hereby created and shall consist of nineteen members
2 as follows:

3 (a) The Chief Information Officer or his or her designee
4 and the director or designee of the Department of Environmental
5 Quality, the Department of Health and Human Services, ~~Regulation~~
6 ~~and Licensure~~, the Conservation and Survey Division of the
7 University of Nebraska, the Department of Natural Resources, and
8 the Governor's Policy Research Office;

9 (b) The Director-State Engineer or designee;

10 (c) The State Surveyor or designee;

11 (d) The Clerk of the Legislature or designee;

12 (e) The secretary of the Game and Parks Commission or
13 designee;

14 (f) The Property Tax Administrator or designee;

15 (g) One representative of federal agencies appointed by
16 the Governor;

17 (h) One representative of the natural resources districts
18 nominated by the Nebraska Association of Resources Districts and
19 appointed by the Governor;

20 (i) One representative of the public power districts
21 appointed by the Governor;

22 (j) Two representatives of the counties nominated by
23 the Nebraska Association of County Officials and appointed by the
24 Governor;

25 (k) One representative of the municipalities nominated

1 by the League of Nebraska Municipalities and appointed by the
2 Governor; and

3 (1) Two members at large appointed by the Governor.

4 (2) The appointed members shall serve for terms of
5 four years, except that of the initial members appointed by the
6 Governor, one of the representatives of the counties shall be
7 appointed for one year and the other shall be appointed for three
8 years, one of the members at large shall be appointed for one
9 year and the other for three years, and the representative of the
10 public power districts shall be appointed for two years. Their
11 successors shall be appointed for four-year terms. Any vacancy on
12 the committee shall be filled in the same manner as the original
13 appointment, and the person selected to fill such vacancy shall
14 have the same qualifications as the member whose vacancy is being
15 filled.

16 (3) The members shall be reimbursed for their actual and
17 necessary expenses as provided in sections 81-1174 to 81-1177.

18 Sec. 813. This act becomes operative on July 1, 2007.

19 Sec. 814. Original sections 2-3925, 2-3932, 13-1207,
20 23-3595, 31-740, 32-327, 37-1254.05, 37-1254.06, 42-106, 42-358.01,
21 42-705, 42-917, 43-102, 43-104.01, 43-104.02, 43-104.03, 43-104.04,
22 43-107, 43-118, 43-119, 43-123.01, 43-124, 43-125, 43-126, 43-127,
23 43-130, 43-131, 43-132, 43-133, 43-134, 43-135, 43-137, 43-138,
24 43-139, 43-140, 43-141, 43-142, 43-143, 43-144, 43-145, 43-146,
25 43-146.02, 43-146.04, 43-146.05, 43-146.06, 43-146.07, 43-146.08,

1 43-146.09, 43-146.10, 43-146.11, 43-146.12, 43-146.13, 43-146.14,
2 43-146.15, 43-146.16, 43-161, 43-284.02, 43-404, 43-411, 43-504.01,
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11 83-1216, 84-1409, 85-134, and 86-570, Revised Statutes Cumulative
12 Supplement, 2006, are repealed.

13 Sec. 815. The following sections are outright repealed:
14 Sections 68-1729, 68-1730, 71-355, 71-6011, 71-6319.17, 81-2207,
15 81-2241, 81-3103, 81-3108, 81-3203, 81-3303, and 83-125, Reissue
16 Revised Statutes of Nebraska, and sections 43-2414, 81-3001,
17 81-3001.01, 81-3004, 81-3006, 81-3007.01, 81-3008, 81-3009,
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20 81-3302, 81-3306, 81-3307, 81-3308, 81-3309, 81-3310, and 81-3311,
21 Revised Statutes Cumulative Supplement, 2006.

22 Sec. 816. Since an emergency exists, this act takes
23 effect when passed and approved according to law.