

LEGISLATURE OF NEBRASKA  
ONE HUNDREDTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 906**

Introduced by Pankonin, 2.

Read first time January 14, 2008

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to the Department of Health and Human Services;  
2 to amend sections 71-2619, 71-2620, 71-2621, and 71-5306,  
3 Revised Statutes Supplement, 2007; to change provisions  
4 relating to laboratories; to harmonize provisions; and to  
5 repeal the original sections.  
6 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 71-2619, Revised Statutes Supplement,  
2 2007, is amended to read:

3           71-2619 (1) The Department of Health and Human Services  
4 may by regulation establish fees to defray the costs of providing  
5 specimen containers, shipping outfits, and related supplies and  
6 fees to defray the costs of certain laboratory examinations as  
7 requested by individuals, firms, corporations, or governmental  
8 agencies in the state. Fees for the provision of certain classes  
9 of shipping outfits or specimen containers shall be no more than  
10 the actual cost of materials, labor, and delivery. Fees for the  
11 provision of shipping outfits may be made when no charge is made  
12 for service.

13           (2) Fees may be established by regulation for chemical  
14 or microbiological examinations of various categories of water  
15 samples. Fees established for examination of water to ascertain  
16 qualities for domestic, culinary, and associated uses shall be  
17 set to defray no more than the actual cost of the tests  
18 in the following categories: (a) Inorganic chemical assays; (b)  
19 organic pollutants; and (c) bacteriological examination to indicate  
20 sanitary quality as coliform density by membrane filter test or  
21 equivalent test.

22           (3) Fees for examinations of water from lakes, streams,  
23 impoundments, or similar sources, from wastewaters, or from ground  
24 water for industrial or agricultural purposes may be charged in  
25 amounts established by regulation but shall not exceed one and

1 one-half times the limits set by regulation for examination of  
2 domestic waters.

3 (4) Fees may be established by regulation for chemical  
4 or microbiological examinations of various categories of samples to  
5 defray no more than the actual cost of testing. Such fees may be  
6 charged for:

7 (a) Any specimen submitted for radiochemical analysis or  
8 characterization;

9 (b) Any material submitted for chemical characterization  
10 or quantitation; and

11 (c) Any material submitted for microbiological  
12 characterization.

13 (5) Fees may be established by regulation for the  
14 examinations of certain categories of biological and clinical  
15 specimens to defray no more than the actual costs of testing. Such  
16 fees may be charged for examinations pursuant to law or regulation  
17 of:

18 (a) Any specimen submitted for chemical examination for  
19 assessment of health status or functional impairment;

20 (b) Any specimen submitted for microbiological  
21 examination which is not related to direct human contact with the  
22 microbiological agent; and

23 (c) A specimen submitted for microbiological examination  
24 or procedure by an individual, firm, corporation, or governmental  
25 unit other than the department.

1           (6) The department shall not charge fees for tests that  
2 include microbiological isolation, identification examination, or  
3 other laboratory examination for the following:

4           (a) A contagious disease when the department is  
5 authorized by law or regulation to directly supervise the  
6 prevention, control, or surveillance of such contagious disease;

7           (b) Any emergency when the health of the people of any  
8 part of the state is menaced or exposed pursuant to section 71-502;  
9 and

10          (c) When adopting or enforcing special quarantine and  
11 sanitary regulations authorized by the department.

12          (7) Combinations of different tests or groups of tests  
13 submitted together may be offered at rates less than those set for  
14 individual tests as allowed in this section and shall defray the  
15 actual costs.

16          (8) Fees may be established by regulation to defray no  
17 more than the actual costs of ~~conducting qualifying inspections~~  
18 ~~in order to make~~ certifying laboratories, inspecting laboratories,  
19 and making laboratory agreements between the department and  
20 laboratories other than the Department of Health and Human  
21 Services, Division of Public Health, Environmental Laboratory for  
22 the purpose of conducting analyses of drinking water as prescribed  
23 in section 71-5306. ~~The inspection fees shall be collected on~~  
24 ~~an annual schedule from those laboratories which enter into~~  
25 ~~an agreement with the department for the purpose of conducting~~

1 ~~laboratory analyses of water. Such fees shall not exceed the~~  
2 ~~amount in the following categories: (a) Bacteriological examination~~  
3 ~~agreement, one hundred and fifty dollars; (b) inorganic chemical~~  
4 ~~analyses agreement, one hundred dollars; (c) heavy metal analyses~~  
5 ~~agreement, two hundred dollars; (d) organic chemical analyses~~  
6 ~~agreement, two hundred dollars; and (e) radiochemical analyses~~  
7 ~~agreement, two hundred dollars. For each laboratory applying~~  
8 ~~for certification, fees shall include (a) an annual fee not to~~  
9 ~~exceed one thousand eight hundred dollars per laboratory and~~  
10 ~~(b) an inspection fee not to exceed three thousand dollars per~~  
11 ~~certification period for each laboratory located in this state.~~

12 (9) All fees collected pursuant to this section shall be  
13 ~~deposited in the state treasury and credited remitted to the State~~  
14 ~~Treasurer for credit~~ to the Health and Human Services Cash Fund.

15 Sec. 2. Section 71-2620, Revised Statutes Supplement,  
16 2007, is amended to read:

17 71-2620 The Division of Public Health of the Department  
18 of Health and Human Services may enter into agreements, not  
19 exceeding one year in duration, with any other governmental agency  
20 relative to the provision of certain laboratory tests and services  
21 to the agency. Such services shall be provided as stipulated in  
22 the agreement and for such fee, either lump sum or by the item,  
23 as is mutually agreed upon and as complies with the provisions of  
24 section 71-2619. All laboratories performing human genetic testing  
25 for clinical diagnosis and treatment purposes shall be accredited

1 by the College of American Pathologists or by any other national  
2 accrediting body or public agency which has requirements that are  
3 substantially equivalent to or more comprehensive than those of the  
4 college.

5           Sec. 3. Section 71-2621, Revised Statutes Supplement,  
6 2007, is amended to read:

7           71-2621 All fees collected for laboratory tests and  
8 services pursuant to sections 71-2619 and 71-2620 shall be paid  
9 into the state treasury and by remitted to the State Treasurer  
10 credited for credit to the Health and Human Services Cash Fund,  
11 which shall be used to partially defray the costs of labor,  
12 operations, supplies, and materials in the operations of the  
13 Department of Health and Human Services, Division of Public Health,  
14 Environmental Laboratory.

15           Sec. 4. Section 71-5306, Revised Statutes Supplement,  
16 2007, 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, Division of

1 Public Health, Environmental Laboratory, or at any other certified  
2 laboratory which has entered into an agreement with the department  
3 therefor, and establish and collect fees for making laboratory  
4 analyses of water samples pursuant to sections 71-2619 to 71-2621,  
5 except that subsection (6) of section 71-2619 shall not apply for  
6 purposes of the Nebraska Safe Drinking Water Act. Inspection fees  
7 for making other laboratory agreements shall be established and  
8 collected pursuant to sections 71-2619 to 71-2621;

9 (c) Certify laboratories performing tests on water that  
10 is intended for human consumption. The director may establish,  
11 through rules and regulations, standards for certification.  
12 Such standards may include requirements for staffing, equipment,  
13 procedures, and methodology for conducting laboratory tests,  
14 quality assurance and quality control procedures, and communication  
15 of test results. Such standards shall be consistent with  
16 requirements for performing laboratory tests established by  
17 the federal Environmental Protection Agency to the extent such  
18 requirements are consistent with state law. The director may  
19 accept accreditation by a recognized independent accreditation  
20 body, public agency, or federal program which has standards  
21 that are at least as stringent as those established pursuant to  
22 this section. The director may adopt and promulgate rules and  
23 regulations which list accreditation bodies, public agencies, and  
24 federal programs that may be accepted as evidence that a laboratory  
25 meets the standards for certification. Inspection fees and fees for

1 certifying other laboratories shall be established and collected to  
2 defray the cost of the inspections and certification as provided  
3 in sections 71-2619 to 71-2621;

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 provide  
18 information as the department may reasonably require by regulation  
19 to enable it to determine whether such owner or operator has  
20 acted or is acting in compliance with the Nebraska Safe Drinking  
21 Water Act and rules and regulations adopted pursuant thereto. The  
22 department or its designated agent shall have access at all times  
23 to such records and reports; and

24 (h) Assess by regulation a fee for any review of plans  
25 and specifications pertaining to a public water system governed by



1 section 71-5305 in order to defray no more than the actual cost of  
2 the services provided.

3 (2) All such fees collected by the department shall be  
4 remitted to the State Treasurer for credit to the Safe Drinking  
5 Water Act Cash Fund, which is hereby created. Such fund shall  
6 be used by the department for the purpose of administering the  
7 Nebraska Safe Drinking Water Act. Any money in the fund available  
8 for investment shall be invested by the state investment officer  
9 pursuant to the Nebraska Capital Expansion Act and the Nebraska  
10 State Funds Investment Act.

11 Sec. 5. Original sections 71-2619, 71-2620, 71-2621, and  
12 71-5306, Revised Statutes Supplement, 2007, are repealed.