

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 154

FINAL READING

Introduced by Government, Military and Veterans Affairs Committee:
Avery, 28, Chairperson; Giese, 17; Janssen, 15;
Pahls, 31; Pirsch, 4; Price, 3; Sullivan, 41;
Karpisek, 32.

Read first time January 09, 2009

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to government; to amend sections 12-1301,
2 29-3922, 29-3927, 38-2881, 38-2886, 38-2888, 38-2889,
3 42-917, 44-5230, 44-5255, 44-5263, 66-1337, 66-1518,
4 81-15,124.01, 85-1655, 86-401, 86-593, 86-597, and
5 86-598, Reissue Revised Statutes of Nebraska, and
6 sections 66-1519, 71-702, 71-801, and 71-810, Revised
7 Statutes Cumulative Supplement, 2008; to eliminate
8 obsolete provisions; to repeal the Small Business
9 Development Authority Act, the Nebraska Transit and Rail
10 Advisory Council Act, the Behavioral Health Oversight
11 Commission, the Broadband Services Task Force, the Donor

1 Registry of Nebraska Advisory Board, the Health Benefit
2 Plan Committee, the Indigent Defense Standards Advisory
3 Council, the Nebraska Commission on the Status of Women,
4 the Nebraska Lewis and Clark Bicentennial Commission,
5 the Nebraska Veterans Cemetery Advisory Board, the
6 Public Health Clinic Formulary Advisory Committee, the
7 Regional Interoperability Advisory Board, the Special
8 Education Services Task Force, the Tax Policy Reform
9 Commission, the Teen Tobacco Education and Prevention
10 Project Committee, the Vote Nebraska Initiative, an
11 ethanol advisory committee, a postsecondary education
12 advisory committee, a technical advisory committee
13 for petroleum products, a working group studying sex
14 offender treatment, and certain funds; to harmonize
15 provisions; to repeal the original sections; and to
16 outright repeal sections 29-3932, 32-1701, 44-5236,
17 44-5262, 58-301, 58-302, 58-303, 58-304, 58-305, 58-306,
18 58-307, 58-308, 58-309, 58-310, 58-311, 58-312, 58-313,
19 58-314, 58-315, 58-316, 58-317, 58-318, 58-319, 58-320,
20 58-321, 58-322, 58-323, 58-324, 58-325, 71-5715, 74-1501,
21 74-1502, 74-1503, 74-1504, 74-1505, 74-1506, 74-1507,
22 74-1508, 74-1509, 74-1510, 74-1511, 74-1512, 74-1513,
23 74-1514, 77-2704.19, 79-11,151, 79-11,152, 79-11,153,
24 79-11,154, 81-8,255, 81-8,256, 81-8,257, 81-8,258,
25 81-8,259, 81-8,260, 81-8,260.01, 81-8,260.02, 81-8,307,

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1 81-8,308, 81-15,189, 81-15,190, 86-418.01, and 86-599,
2 Reissue Revised Statutes of Nebraska, and sections
3 71-818, 71-1227, 71-1228, 71-4823, 77-6001, 77-6002,
4 77-6003, 77-6004, 77-6005, 77-6006, and 77-6007, Revised
5 Statutes Cumulative Supplement, 2008.

6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 12-1301, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 12-1301 (1) The Director of Veterans' Affairs may
4 establish and operate a state veteran cemetery system consisting
5 of a facility in Box Butte County, a facility in Sarpy County,
6 and the Nebraska Veterans' Memorial Cemetery in Hall County. The
7 director may seek and expend private, state, and federal funds for
8 the establishment, construction, maintenance, administration, and
9 operation of the cemetery system as provided in this section. Any
10 gift, bequest, or devise of real property for the cemetery system
11 shall be subject to the approval requirements of section 81-1108.33
12 notwithstanding the value of the real property. All funds received
13 for the construction of the cemetery system shall be remitted to
14 the State Treasurer for credit to the Veteran Cemetery Construction
15 Fund. Any funds remaining in the Veteran Cemetery Construction Fund
16 following the completion of construction of the three facilities
17 comprising the state veteran cemetery system shall upon such
18 completion be transferred to the Nebraska Veteran Cemetery System
19 Endowment Fund, and the Veteran Cemetery Construction Fund shall
20 thereafter terminate.

21 (2)(a) A trust fund to be known as the Nebraska Veteran
22 Cemetery System Endowment Fund is hereby created. The fund shall
23 consist of:

24 (i) Gifts, bequests, grants, or contributions from
25 private or public sources designated for the maintenance,

1 administration, or operation of the state veteran cemetery system;

2 (ii) Any funds transferred from the Veteran Cemetery
3 Construction Fund following the completion of construction of the
4 three facilities comprising the state veteran cemetery system; and

5 (iii) Following the termination of the Veteran Cemetery
6 Construction Fund, any funds received by the state from any source
7 for the state veteran cemetery system.

8 (b) No revenue from the General Fund shall be remitted
9 to the Nebraska Veteran Cemetery System Endowment Fund. The
10 Legislature shall not appropriate or transfer money from the
11 Nebraska Veteran Cemetery System Endowment Fund for any purpose
12 other than as provided in this section. Any money in the Nebraska
13 Veteran Cemetery System Endowment Fund available for investment
14 shall be invested by the state investment officer pursuant to
15 the Nebraska Capital Expansion Act and the Nebraska State Funds
16 Investment Act. No portion of the principal of the Nebraska Veteran
17 Cemetery System Endowment Fund shall be expended for any purpose
18 except investment pursuant to this subdivision. All investment
19 earnings from the Nebraska Veteran Cemetery System Endowment Fund
20 shall be credited on a quarterly basis to the Nebraska Veteran
21 Cemetery System Operation Fund.

22 (3) There is hereby created the Nebraska Veteran Cemetery
23 System Operation Fund. Money in the fund shall be used for the
24 operation, administration, and maintenance of the state veteran
25 cemetery system. Any money in the fund available for investment

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

4 (4) The director may make formal application to the
5 federal government regarding federal financial assistance for the
6 construction of any of the facilities comprising the state veteran
7 cemetery system which is located in a county with a population of
8 less than one hundred thousand persons when he or she determines
9 that the requirements for such assistance have been met.

10 (5) The director may make formal application to
11 the federal government regarding financial assistance for the
12 construction of any facility comprising a portion of the state
13 veteran cemetery system located in a county with a population of
14 more than one hundred thousand persons when sufficient funds have
15 been remitted to the Nebraska Veteran Cemetery System Endowment
16 Fund such that (a) the projected annual earnings from such fund
17 available for transfer to the Nebraska Veteran Cemetery System
18 Operation Fund plus (b) the projected annual value of formal
19 agreements that have been entered into between the state and
20 any political subdivisions or private entities to subsidize or
21 undertake the operation, administration, or maintenance of any of
22 the facilities within the state veteran cemetery system, has a
23 value that is sufficient to fund the operation, administration, and
24 maintenance of any cemetery created pursuant to this subsection.

25 (6) The director may expend such funds as may be

1 available for any of the purposes authorized in this section.

2 (7) The director, with the approval of the Governor, may
3 enter into agreements for cemetery construction, administration,
4 operation, or maintenance with qualified persons, political
5 subdivisions, or business entities. The director shall provide
6 lots in the cemetery system for the interment of deceased veterans
7 as defined by the National Cemetery Administration of the United
8 States Department of Veterans Affairs. The director shall provide
9 lots for the interment of those veterans' spouses, minor children,
10 and unmarried adult children who were physically or mentally
11 disabled and incapable of self-support. Section 12-501 does not
12 apply to the state veteran cemetery system.

13 (8) The Veteran Cemetery Construction Fund is created.
14 Any money in the fund available for investment shall be invested
15 by the state investment officer pursuant to the Nebraska Capital
16 Expansion Act and the Nebraska State Funds Investment Act.

17 ~~(9) The Nebraska Veterans Cemetery Advisory Board is~~
18 ~~created. The board shall consist of seven members. One member~~
19 ~~shall be the director who shall serve as the chairperson of the~~
20 ~~board. Three members of the board shall be veterans appointed by~~
21 ~~the Governor from a list of candidates forwarded by the county~~
22 ~~board of each county within which a state veteran cemetery system~~
23 ~~facility is located. Three members with experience in cemetery~~
24 ~~administration or operation, one from each congressional district,~~
25 ~~shall be appointed by the Governor. The members of the board shall~~

1 receive no compensation but shall be reimbursed for their actual
2 and necessary expenses in the discharge of their duties as provided
3 in sections 81-1174 to 81-1177. The board shall meet from time
4 to time as requested by the director to review the status of the
5 state veteran cemetery system, to recommend actions to facilitate
6 the development of the system, to assist in fundraising from public
7 or private sources for the construction, operation, administration,
8 and maintenance of the system, and to advise the director on
9 the most appropriate actions for the state to undertake in the
10 development of the system and the priorities for action.

11 ~~(10)~~ (9) The director may adopt and promulgate rules and
12 regulations to carry out this section. The rules and regulations
13 shall include requirements for proof of residency, cost of burial
14 if any, and standards for cemeteries, including decorations and
15 headstones.

16 Sec. 2. Section 29-3922, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 29-3922 For purposes of the County Revenue Assistance
19 Act:

20 (1) Chief counsel means an attorney appointed to be
21 the primary administrative officer of the commission pursuant to
22 section 29-3928;

23 (2) Commission means the Commission on Public Advocacy;

24 (3) Commission staff means attorneys, investigators, and
25 support staff who are performing work for the capital litigation

1 division, appellate division, DNA testing division, and major case
2 resource center;

3 (4) Contracting attorney means an attorney contracting to
4 act as a public defender pursuant to sections 23-3404 to 23-3408;

5 ~~(5) Council means the Indigent Defense Standards Advisory~~
6 ~~Council;~~

7 ~~(6) (5) Court-appointed attorney means an attorney other~~
8 than a contracting attorney or a public defender appointed by the
9 court to represent an indigent person;

10 ~~(7) (6) Indigent defense services means legal services~~
11 provided to indigent persons by an indigent defense system in
12 capital cases, felony cases, misdemeanor cases, juvenile cases,
13 mental health commitment cases, child support enforcement cases,
14 and paternity establishment cases;

15 ~~(8) (7) Indigent defense system means a system of~~
16 providing services, including any services necessary for litigating
17 a case, by a contracting attorney, court-appointed attorney, or
18 public defender;

19 ~~(9) (8) Indigent person means a person who is indigent~~
20 and unable to obtain legal counsel as determined pursuant to
21 subdivision (3) of section 29-3901; and

22 ~~(10) (9) Public defender means an attorney appointed or~~
23 elected pursuant to sections 23-3401 to 23-3403.

24 Sec. 3. Section 29-3927, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 29-3927 (1) With respect to its duties under section
2 29-3923, the commission shall:

3 (a) Adopt and promulgate rules and regulations for its
4 organization and internal management and rules and regulations
5 governing the exercise of its powers and the fulfillment of its
6 purpose;

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

10 (c) Accept and administer loans, grants, and donations
11 from the United States and its agencies, the State of Nebraska and
12 its agencies, and other sources, public and private, for carrying
13 out the functions of the commission;

14 (d) Enter into contracts, leases, and agreements
15 necessary, convenient, or desirable for carrying out its purposes
16 and the powers granted under this section with agencies of state or
17 local government, corporations, or persons;

18 (e) Acquire, hold, and dispose of personal property in
19 the exercise of its powers;

20 (f) Provide legal services to indigent persons through
21 the divisions in section 29-3930; and

22 (g) Adopt guidelines and standards, ~~which are recommended~~
23 ~~to the commission by the council,~~ for county indigent defense
24 systems, including, but not limited to, standards relating to
25 the following: The use and expenditure of funds appropriated

1 by the Legislature to reimburse counties which qualify for
2 reimbursement; attorney eligibility and qualifications for court
3 appointments; compensation rates for salaried public defenders,
4 contracting attorneys, and court-appointed attorneys and overall
5 funding of the indigent defense system; maximum caseloads for
6 all types of systems; systems administration, including rules for
7 appointing counsel, awarding defense contracts, and reimbursing
8 defense expenses; conflicts of interest; continuing legal education
9 and training; and availability of supportive services and expert
10 witnesses.

11 (2) The standards adopted by the commission under
12 subdivision (1)(g) of this section are intended to be used as a
13 guide for the proper methods of establishing and operating indigent
14 defense systems. The standards are not intended to be used as
15 criteria for the judicial evaluation of alleged misconduct of
16 defense counsel to determine the validity of a conviction. They may
17 or may not be relevant in such judicial evaluation, depending upon
18 all the circumstances.

19 (3) With respect to its duties related to the provision
20 of civil legal services to eligible low-income persons, the
21 commission shall have such powers and duties as described in
22 sections 25-3001 to 25-3004.

23 (4) The commission may adopt and promulgate rules and
24 regulations governing the Legal Education for Public Service Loan
25 Repayment Act which are recommended by the Legal Education for

1 Public Service Loan Repayment Board pursuant to the act. The
2 commission shall have the powers and duties provided in the act.

3 Sec. 4. Section 38-2881, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 38-2881 (1) With the recommendation of the board, the
6 director shall approve a formulary to be used by individuals
7 dispensing pursuant to a delegated dispensing permit. A formulary
8 shall consist of a list of drugs or devices appropriate to
9 delegated dispensing activities authorized by the delegated
10 dispensing permit. Except as otherwise provided in this section, if
11 the board finds that a formulary would be unnecessary to protect
12 the public health and welfare and promote public convenience and
13 necessity, the board shall recommend that no formulary be approved.

14 (2)(a) With the recommendation of the board, ~~which shall~~
15 ~~be based on the recommendations of the Public Health Clinic~~
16 ~~Formulary Advisory Committee,~~ the director shall approve the
17 formulary to be used by public health clinics dispensing pursuant
18 to a delegated dispensing permit.

19 (b) The formulary for a public health clinic shall
20 consist of a list of drugs and devices for contraception,
21 sexually transmitted diseases, and vaginal infections which may
22 be dispensed and stored, patient instruction requirements which
23 shall include directions on the use of drugs and devices, potential
24 side effects and drug interactions, criteria for contacting the
25 on-call pharmacist, and accompanying written patient information.

1 (c) In no event shall the director ~~approve for inclusion~~
2 ~~in the formulary any drug or device not approved by the committee~~
3 ~~or~~ exclude any of the provisions for patient instruction approved
4 by the board.

5 (d) Drugs and devices with the following characteristics
6 shall not be eligible to be included in the formulary:

7 (i) Controlled substances;

8 (ii) Drugs with significant dietary interactions;

9 (iii) Drugs with significant drug-drug interactions; and

10 (iv) Drugs or devices with complex counseling profiles.

11 (3) (a) With the recommendation of the board, the director
12 shall approve a formulary to be used by dialysis drug or device
13 distributors.

14 (b) The formulary for a dialysis drug or device
15 distributor shall consist of a list of drugs, solutions, supplies,
16 and devices for the treatment of chronic kidney failure which may
17 be dispensed and stored.

18 (c) In no event shall the director approve for inclusion
19 in the formulary any drug or device not approved by the board.

20 (d) Controlled substances shall not be eligible to be
21 included in the formulary.

22 Sec. 5. Section 38-2886, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 38-2886 (1) A delegating pharmacist shall conduct the
25 training of public health clinic workers. The training shall be

1 approved in advance by the board. ~~The board shall base its approval~~
2 ~~upon the standards determined by the Public Health Clinic Formulary~~
3 ~~Advisory Committee.~~

4 (2) A delegating pharmacist shall conduct training of
5 dialysis drug or device distributor workers. The training shall be
6 based upon the standards approved by the board.

7 (3) The public health clinic, the dialysis drug or device
8 distributor, and the delegating pharmacist shall be responsible to
9 assure that approved training has occurred and is documented.

10 Sec. 6. Section 38-2888, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 38-2888 A delegating pharmacist shall conduct the
13 training of all licensed health care professionals specified in
14 subdivision (1) of section 38-2884 and who are dispensing pursuant
15 to the delegated dispensing permit of a public health clinic. The
16 training shall be approved in advance by the board. ~~The board~~
17 ~~shall base its approval upon the standards determined by the Public~~
18 ~~Health Clinic Formulary Advisory Committee.~~

19 Sec. 7. Section 38-2889, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 38-2889 ~~(1)~~ The board may appoint formulary advisory
22 committees as deemed necessary for the determination of formularies
23 for delegated dispensing permittees.

24 ~~(2) The Public Health Clinic Formulary Advisory Committee~~
25 ~~is created. The committee shall consist of eight members as~~

1 follows:

2 ~~(a) Two members designated by the board;~~

3 ~~(b) Two members who are employees of the department~~
4 ~~with knowledge of and interest in reproductive health and sexually~~
5 ~~transmitted diseases;~~

6 ~~(c) Two members who are licensed pharmacists in this~~
7 ~~state and who are selected by the director. The Nebraska~~
8 ~~Pharmacists Association may submit to the director a list of five~~
9 ~~persons of recognized ability in the profession. If such a list is~~
10 ~~submitted, the director shall consider the names on such list and~~
11 ~~may appoint one or more of the persons so named. The director may~~
12 ~~appoint any qualified person even if such person is not named on~~
13 ~~the list submitted by the association; and~~

14 ~~(d) Two members who are employees of public health~~
15 ~~clinics which hold or will hold a delegated dispensing permit and~~
16 ~~who are selected by the director from names recommended by such~~
17 ~~public health clinics.~~

18 ~~(3) Designations and recommendations shall be made and~~
19 ~~submitted to the director in July prior to the third quarter~~
20 ~~meeting of the committee. Members shall serve for terms of two~~
21 ~~years each beginning with the third quarter meeting. Members may~~
22 ~~serve for consecutive terms as approved by the director. The~~
23 ~~director may remove a member of the committee for inefficiency,~~
24 ~~neglect of duty, or misconduct in office.~~

25 Sec. 8. Section 42-917, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 42-917 The delivery of all services provided for under
3 the Protection from Domestic Abuse Act shall be done in cooperation
4 with existing public, private, state, and local programs whenever
5 possible to avoid duplication of services. Special effort shall
6 be taken to coordinate programs with the Department of Labor, ~~the~~
7 ~~Nebraska Commission on the Status of Women,~~ the State Department
8 of Education, the Department of Health and Human Services, and
9 other appropriate agencies, community service agencies, and private
10 sources.

11 Sec. 9. Section 44-5230, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 44-5230 Basic health benefit plan shall mean a lower
14 cost health benefit plan developed pursuant to section 44-5262.
15 regulated by the board.

16 Sec. 10. Section 44-5255, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 44-5255 Standard health benefit plan shall mean a health
19 benefit plan developed pursuant to section 44-5262. regulated by
20 the board.

21 Sec. 11. Section 44-5263, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 44-5263 The board, ~~in consultation with members of the~~
24 ~~committee,~~ shall study and report at least every three years
25 to the director on the effectiveness of the Small Employer

1 Health Insurance Availability Act. The report shall analyze the
2 effectiveness of the act in promoting rate stability, product
3 availability, and coverage affordability. The report may contain
4 recommendations for actions to improve the overall effectiveness,
5 efficiency, and fairness of the small group health insurance
6 marketplace. The report shall address whether carriers, agents, and
7 brokers are fairly and actively marketing or issuing health benefit
8 plans to small employers in fulfillment of the purposes of the act.
9 The report may contain recommendations for market conduct or other
10 regulatory standards or action.

11 Sec. 12. (1) The Small Business Development Authority,
12 created pursuant to section 58-309, as such section existed prior
13 to the effective date of this act, is hereby dissolved. Any
14 assets of the authority remaining upon such dissolution which are
15 pledged to outstanding indebtedness of the authority shall, upon
16 the consent of the holders of the respective indebtedness, be
17 immediately transferred, free and clear, to the holder of such
18 indebtedness in satisfaction of such indebtedness.

19 (2) The State Treasurer shall transfer any money in the
20 Small Business Investment Fund on the effective date of this act
21 to the General Fund. Any remaining assets or obligations of the
22 authority shall rest in the Department of Economic Development.

23 Sec. 13. Section 66-1337, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 66-1337 The board may rent office space and employ such

1 personnel as may be necessary for the performance of its duties.
2 The board may employ the services of experts and consultants and
3 expend funds necessary to acquire title to commodities pursuant
4 to section 66-1340, to promote air quality improvement programs,
5 or to otherwise carry out the board's duties under the Ethanol
6 Development Act. ~~The board shall have an advisory committee of four~~
7 ~~persons, one representing each of the following: The Department of~~
8 ~~Economic Development, the University of Nebraska, the Department of~~
9 ~~Agriculture, and the State Energy Office.~~

10 Sec. 14. Section 66-1518, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 66-1518 (1) The Environmental Quality Council shall
13 adopt and promulgate rules and regulations governing reimbursements
14 authorized under the Petroleum Release Remedial Action Act. Such
15 rules and regulations shall include:

16 (a) Procedures regarding the form and procedure for
17 application for payment or reimbursement from the fund, including
18 the requirement for timely filing of applications;

19 (b) Procedures for the requirement of submitting
20 cost estimates for phases or stages of remedial actions,
21 procurement requirements to be followed by responsible persons, and
22 requirements for reuse of fixtures and tangible personal property
23 by responsible persons during a remedial action;

24 (c) Procedures for investigation of claims for payment or
25 reimbursement;

1 (d) Procedures for determining the amount and type of
2 costs that are eligible for payment or reimbursement from the fund;

3 (e) Procedures for auditing persons who have received
4 payments from the fund;

5 (f) Procedures for reducing reimbursements made for a
6 remedial action for failure by the responsible person to comply
7 with applicable statutory or regulatory requirements. Reimbursement
8 may be reduced as much as one hundred percent; and

9 (g) Other procedures necessary to carry out the act.

10 ~~(2) Such rules and regulations shall take into account~~
11 ~~the recommendations for rules and regulations developed by the~~
12 ~~technical advisory committee established pursuant to section~~
13 ~~81-15,189.~~

14 ~~(3)~~ (2) The Director of Environmental Quality shall (a)
15 estimate the cost to complete remedial action at each petroleum
16 contaminated site where the responsible party has been ordered
17 by the department to begin remedial action, and, based on such
18 estimates, determine the total cost that would be incurred in
19 completing all remedial actions ordered; (b) determine the total
20 estimated cost of all approved remedial actions; (c) determine
21 the total dollar amount of all pending claims for payment or
22 reimbursement; (d) determine the total of all funds available for
23 reimbursement of pending claims; and (e) include the determinations
24 made pursuant to this subsection in the department's annual report
25 to the Legislature.

1 ~~(4)~~ (3) The Department of Environmental Quality shall
2 make available to the public a current schedule of reasonable rates
3 for equipment, services, material, and personnel commonly used for
4 remedial action. The department shall consider the schedule of
5 reasonable rates in reviewing all costs for the remedial action
6 which are submitted in a plan. The rates shall be used to determine
7 the amount of reimbursement for the eligible and reasonable costs
8 of the remedial action, except that (a) the reimbursement for the
9 costs of the remedial action shall not exceed the actual eligible
10 and reasonable costs incurred by the responsible person or his
11 or her designated representative and (b) reimbursement may be
12 made for costs which exceed or are not included on the schedule
13 of reasonable rates if the application for such reimbursement is
14 accompanied by sufficient evidence for the department to determine
15 and the department does determine that such costs are reasonable.

16 ~~(5)~~ The Department of Environmental Quality and the
17 Department of Insurance, in consultation with interested parties,
18 shall report to the Legislature on or before December 1, 2001,
19 on the availability and cost of private insurance to insure the
20 damages for which payment may be made from the fund.

21 Sec. 15. Section 66-1519, Revised Statutes Cumulative
22 Supplement, 2008, is amended to read:

23 66-1519 (1) There is hereby created the Petroleum Release
24 Remedial Action Cash Fund to be administered by the department.
25 Revenue from the following sources shall be remitted to the State

1 Treasurer for credit to the fund:

2 (a) The fees imposed by sections 66-1520 and 66-1521;

3 (b) Money paid under an agreement, stipulation,
4 cost-recovery award under section 66-1529.02, or settlement; and

5 (c) Money received by the department in the form
6 of gifts, grants, reimbursements, property liquidations, or
7 appropriations from any source intended to be used for the purposes
8 of the fund.

9 (2) Money in the fund may be spent for: (a) Reimbursement
10 for the costs of remedial action by a responsible person or his
11 or her designated representative and costs of remedial action
12 undertaken by the department in response to a release first
13 reported after July 17, 1983, and on or before June 30, 2012,
14 including reimbursement for damages caused by the department or
15 a person acting at the department's direction while investigating
16 or inspecting or during remedial action on property other than
17 property on which a release or suspected release has occurred;
18 (b) payment of any amount due from a third-party claim; (c) fee
19 collection expenses incurred by the State Fire Marshal; (d) direct
20 expenses incurred by the department in carrying out the Petroleum
21 Release Remedial Action Act; (e) other costs related to fixtures
22 and tangible personal property as provided in section 66-1529.01;
23 (f) interest payments as allowed by section 66-1524; (g) expenses
24 incurred by the technical advisory committee created in section
25 ~~81-15,189~~ in carrying out its duties pursuant to section ~~81-15,190~~;

1 ~~(h)~~ claims approved by the State Claims Board authorized under
2 section 66-1531; ~~(i)~~ (h) a grant to a city of the metropolitan
3 class in the amount of three hundred thousand dollars, provided no
4 later than September 15, 2005, to carry out the federal Residential
5 Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. 4851 et
6 seq., as such act existed on October 1, 2003; and ~~(j)~~ (i) methyl
7 tertiary butyl ether testing, to be conducted randomly at terminals
8 within the state for up to two years ending June 30, 2003. The
9 amount expended on the testing shall not exceed forty thousand
10 dollars. The testing shall be conducted by the Department of
11 Agriculture. The department may enter into contractual arrangements
12 for such purpose. The results of the tests shall be made available
13 to the Department of Environmental Quality.

14 (3) Transfers may be made from the Petroleum Release
15 Remedial Action Cash Fund to the General Fund at the direction of
16 the Legislature. Transfers may be made from the Petroleum Release
17 Remedial Action Cash Fund to the Water Policy Task Force Cash
18 Fund at the direction of the Legislature. The State Treasurer
19 shall transfer one million five hundred thousand dollars from
20 the Petroleum Release Remedial Action Cash Fund to the Ethanol
21 Production Incentive Cash Fund on July 1 of each of the following
22 years: 2004 through 2011.

23 (4) Any money in the Petroleum Release Remedial Action
24 Cash Fund available for investment shall be invested by the state
25 investment officer pursuant to the Nebraska Capital Expansion Act

1 and the Nebraska State Funds Investment Act.

2 Sec. 16. Section 71-702, Revised Statutes Cumulative
3 Supplement, 2008, is amended to read:

4 71-702 (1) The Women's Health Initiative Advisory
5 Council is created and shall consist of not more than thirty
6 members, at least three-fourths of whom are women. At least
7 one member shall be appointed from the following disciplines:
8 (a) An obstetrician/gynecologist; (b) a nurse practitioner or
9 physician's assistant from a rural community; (c) a geriatrics
10 physician or nurse; (d) a pediatrician; (e) a community public
11 health representative from each congressional district; (f) a
12 health educator; (g) an insurance industry representative; (h) a
13 mental health professional; (i) a representative from a statewide
14 health volunteer agency; (j) a private health care industry
15 representative; (k) an epidemiologist or a health statistician; (l)
16 a foundation representative; and (m) a woman who is a health care
17 consumer from each of the following age categories: Eighteen to
18 thirty; thirty-one to forty; forty-one to sixty-five; and sixty-six
19 and older. The membership shall also include a representative of
20 the University of Nebraska Medical Center, a representative from
21 Creighton University Medical Center, ~~the executive director of the~~
22 ~~Nebraska Commission on the Status of Women or his or her designee,~~
23 the chief medical officer if one is appointed under section
24 81-3115, and the Title V ~~Director~~ Administrator of the Department
25 of Health and Human Services.

1 (2) The Governor shall appoint advisory council members
2 and shall consider and attempt to balance representation based
3 on political party affiliation, race, and different geographical
4 areas of Nebraska when making appointments. The Governor shall
5 appoint the first chairperson and vice-chairperson of the advisory
6 council. There shall be two ex officio, nonvoting members from the
7 Legislature, one of which shall be the chairperson of the Health
8 and Human Services Committee.

9 (3) The terms of the initial members shall be as follows:
10 One-third shall serve for one-year terms, one-third shall serve
11 for two-year terms, and one-third shall serve for three-year terms
12 including the members designated chairperson and vice-chairperson.
13 Thereafter members shall serve for three-year terms. Members may
14 not serve more than two consecutive three-year terms.

15 (4) The Governor shall make the appointments within three
16 months after July 13, 2000.

17 (5) The advisory council shall meet quarterly the first
18 two years. After this time the advisory council shall meet at least
19 every six months or upon the call of the chairperson or a majority
20 of the voting members. A quorum shall be one-half of the voting
21 members.

22 (6) The members of the advisory council shall be
23 reimbursed for their actual and necessary expenses as provided
24 in sections 81-1174 to 81-1177 and pursuant to policies of the
25 advisory council. Funds for reimbursement for expenses shall be

1 from the Women's Health Initiative Fund.

2 (7) The advisory council shall advise the Women's Health
3 Initiative of Nebraska in carrying out its duties under section
4 71-701 and may solicit private funds to support the initiative.

5 (8) The advisory council terminates on December 31, 2009.

6 Sec. 17. Section 71-801, Revised Statutes Cumulative
7 Supplement, 2008, is amended to read:

8 71-801 Sections 71-801 to ~~71-818~~ 71-817 shall be known
9 and may be cited as the Nebraska Behavioral Health Services Act.

10 Sec. 18. Section 71-810, Revised Statutes Cumulative
11 Supplement, 2008, is amended to read:

12 71-810 (1) The division shall encourage and facilitate
13 the statewide development and provision of an appropriate array of
14 community-based behavioral health services and continuum of care
15 for the purposes of (a) providing greater access to such services
16 and improved outcomes for consumers of such services and (b)
17 reducing the necessity and demand for regional center behavioral
18 health services.

19 (2) The division may reduce or discontinue regional
20 center behavioral health services only if (a) appropriate
21 community-based services or other regional center behavioral health
22 services are available for every person receiving the regional
23 center services that would be reduced or discontinued, (b) such
24 services possess sufficient capacity and capability to effectively
25 replace the service needs which otherwise would have been

1 provided at such regional center, and (c) no further commitments,
2 admissions, or readmissions for such services are required due
3 to the availability of community-based services or other regional
4 center services to replace such services.

5 (3) The division shall notify the Governor and the
6 Legislature of any intended reduction or discontinuation of
7 regional center services under this section. Such notice shall
8 include detailed documentation of the community-based services
9 or other regional center services that are being utilized to
10 replace such services. ~~The Behavioral Health Oversight Commission~~
11 ~~shall review such documentation and shall report to the Governor~~
12 ~~and the Health and Human Services Committee of the Legislature~~
13 ~~whether, in its opinion, the requirements of subsection (2) of this~~
14 ~~section have been met with respect to such intended reduction or~~
15 ~~discontinuation of regional center services and shall enumerate the~~
16 ~~criteria used by the commission in making such determination.~~

17 (4) As regional center services are reduced or
18 discontinued under this section, the division shall make
19 appropriate corresponding reductions in regional center personnel
20 and other expenditures related to the provision of such services.
21 All funding related to the provision of regional center services
22 that are reduced or discontinued under this section shall be
23 reallocated and expended by the division for purposes related
24 to the statewide development and provision of community-based
25 services.

1 (5) The division may establish state-operated
2 community-based services to replace regional center services
3 that are reduced or discontinued under this section. The division
4 shall provide regional center employees with appropriate training
5 and support to transition such employees into positions as may be
6 necessary for the provision of such state-operated services.

7 (6) When the occupancy of the licensed psychiatric
8 hospital beds of any regional center reaches twenty percent or
9 less of its licensed psychiatric hospital bed capacity on March 15,
10 2004, the division shall notify the Governor and the Legislature of
11 such fact. Upon such notification, the division, with the approval
12 of a majority of members of the Executive Board of the Legislative
13 Council, may provide for the transfer of all remaining patients
14 at such center to appropriate community-based services or other
15 regional center services pursuant to this section and cease the
16 operation of such regional center.

17 (7) The division, in consultation with each regional
18 behavioral health authority, shall establish and maintain a data
19 and information system for all persons receiving state-funded
20 behavioral health services under the Nebraska Behavioral Health
21 Services Act. Information maintained by the division shall include,
22 but not be limited to, (a) the number of persons receiving regional
23 center services, (b) the number of persons ordered by a mental
24 health board to receive inpatient or outpatient treatment and
25 receiving regional center services, (c) the number of persons

1 ordered by a mental health board to receive inpatient or outpatient
2 treatment and receiving community-based services, (d) the number of
3 persons voluntarily admitted to a regional center and receiving
4 regional center services, (e) the number of persons waiting
5 to receive regional center services, (f) the number of persons
6 waiting to be transferred from a regional center to community-based
7 services or other regional center services, (g) the number of
8 persons discharged from a regional center who are receiving
9 community-based services or other regional center services, and
10 (h) the number of persons admitted to behavioral health crisis
11 centers. Each regional behavioral health authority shall provide
12 such information as requested by the division and necessary to
13 carry out this subsection. The division shall submit reports of
14 such information to the Governor and the Legislature on a quarterly
15 basis beginning July 1, 2005, in a format which does not identify
16 any person by name, address, county of residence, social security
17 number, or other personally identifying characteristic.

18 (8) The provisions of this section are self-executing and
19 require no further authorization or other enabling legislation.

20 Sec. 19. Section 81-15,124.01, Reissue Revised Statutes
21 of Nebraska, is amended to read:

22 81-15,124.01 (1) The Environmental Quality Council
23 shall adopt and promulgate rules and regulations consistent with
24 principles of risk-based corrective action governing all phases of
25 remedial action to be taken by owners, operators, and other persons

1 in response to a release or suspected release of a regulated
2 substance from a tank. Such rules and regulations shall include:

3 (a) Provisions governing remedial action to be taken by
4 owners and operators pursuant to section 81-15,124;

5 (b) Provisions by which the Department of Environmental
6 Quality may determine the cleanup levels to be achieved through
7 soil or water remediation and the applicable limitations for air
8 emissions at the petroleum release site or occurring by reason of
9 such remediation; and

10 (c) Such other provisions necessary to carry out the
11 Petroleum Products and Hazardous Substances Storage and Handling
12 Act.

13 (2) In developing rules and regulations, the
14 Environmental Quality Council shall take into account ~~(a)~~
15 risk-based corrective action assessment principles which identify
16 the risks presented to the public health and safety or the
17 environment by each release in a manner that will protect the
18 public health and safety and the environment using, to the
19 extent appropriate, a tiered approach consistent with the American
20 Society for Testing of Materials guidance for risk-based corrective
21 action applicable to petroleum release sites, and ~~(b)~~ rules
22 and regulations proposed by the technical advisory committee
23 established in section 81-15,189.

24 Sec. 20. Section 85-1655, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 85-1655 The Tuition Recovery Cash Fund shall be
2 administered by the board, ~~and an advisory committee composed of~~
3 ~~the commissioner or his or her representative, the State Treasurer~~
4 ~~or his or her representative, and three administrators of private~~
5 ~~postsecondary career schools appointed by the board with the advice~~
6 ~~of the Nebraska Council of Private Postsecondary Career Schools.~~
7 The board shall adopt and promulgate rules and regulations for the
8 administration of the fund and for the evaluation and approval of
9 claims pursuant to section 85-1657.

10 Sec. 21. Section 86-401, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 86-401 Sections 86-401 to ~~86-418.01~~ 86-418 shall be known
13 and may be cited as the Nebraska Public Safety Communication System
14 Act.

15 Sec. 22. Section 86-593, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 86-593 For purposes of sections 86-593 to ~~86-599~~ 86-598:

18 (1) Broadband services means the offering of a capability
19 for high-speed broadband telecommunications capability at a speed
20 or bandwidth in excess of two hundred kilobits per second that
21 enables users to originate and receive high-quality voice, data,
22 and video telecommunications using any technology;

23 (2) Internet services means the offering of Internet
24 service provider services, providing voice over Internet protocol
25 services, or providing Internet protocol-based video services;

1 (3) Public power supplier means a public power district,
2 a public power and irrigation district, a municipal electric
3 system, a joint entity formed under the Interlocal Cooperation Act,
4 a joint public agency formed under the Joint Public Agency Act, an
5 agency formed under the Municipal Cooperative Financing Act, or any
6 other governmental entity providing electric service;

7 (4) Telecommunications has the same meaning as
8 telecommunications defined in section 86-117;

9 (5) Telecommunications services has the same meaning as
10 telecommunications service defined in section 86-121; and

11 (6) Video services means the delivery of any subscription
12 video service except those described in section 70-625.

13 Sec. 23. Section 86-597, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 86-597 (1) For purposes of sections 86-594 to 86-596,
16 providing a service on a retail or wholesale basis shall not
17 include an agency or political subdivision of the state, whether
18 or not a public power supplier, deploying or utilizing broadband
19 services, Internet services, telecommunications services, or video
20 services, for its own use either individually or jointly through
21 the Interlocal Cooperation Act, the Joint Public Agency Act, or
22 the Municipal Cooperative Financing Act for the internal use and
23 purpose of the agency, political subdivision, or public power
24 supplier or to carry out the public purposes of the agency,
25 political subdivision, or public power supplier.

1 (2) Nothing in sections 86-593 to ~~86-599~~ 86-598 prohibits
2 or restricts the ability of an agency, political subdivision,
3 or public power supplier from deploying or utilizing broadband
4 services, Internet services, telecommunications services, or video
5 services for the internal use and purpose of the agency, political
6 subdivision, or public power supplier, or to carry out the public
7 purposes of the agency, political subdivision, or public power
8 supplier.

9 Sec. 24. Section 86-598, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 86-598 Except as otherwise provided in sections 86-595
12 and 86-596, nothing in sections 86-593 to ~~86-599~~ 86-598 shall be
13 construed to restrict or expand any authority of a public power
14 supplier as that authority existed prior to September 4, 2005.

15 Sec. 25. The State Treasurer shall transfer any money in
16 the Commission on the Status of Women Cash Fund, the Nebraska Lewis
17 and Clark Bicentennial Fund, the Nebraska Transit and Rail Advisory
18 Council Cash Fund, and the Nebraska Transit and Rail Advisory
19 Council Revolving Fund on the effective date of this act to the
20 General Fund.

21 Sec. 26. Original sections 12-1301, 29-3922, 29-3927,
22 38-2881, 38-2886, 38-2888, 38-2889, 42-917, 44-5230, 44-5255,
23 44-5263, 66-1337, 66-1518, 81-15,124.01, 85-1655, 86-401, 86-593,
24 86-597, and 86-598, Reissue Revised Statutes of Nebraska, and
25 sections 66-1519, 71-702, 71-801, and 71-810, Revised Statutes

1 Cumulative Supplement, 2008, are repealed.

2 Sec. 27. The following sections are outright repealed:

3 Sections 29-3932, 32-1701, 44-5236, 44-5262, 58-301, 58-302,
4 58-303, 58-304, 58-305, 58-306, 58-307, 58-308, 58-309, 58-310,
5 58-311, 58-312, 58-313, 58-314, 58-315, 58-316, 58-317, 58-318,
6 58-319, 58-320, 58-321, 58-322, 58-323, 58-324, 58-325, 71-5715,
7 74-1501, 74-1502, 74-1503, 74-1504, 74-1505, 74-1506, 74-1507,
8 74-1508, 74-1509, 74-1510, 74-1511, 74-1512, 74-1513, 74-1514,
9 77-2704.19, 79-11,151, 79-11,152, 79-11,153, 79-11,154, 81-8,255,
10 81-8,256, 81-8,257, 81-8,258, 81-8,259, 81-8,260, 81-8,260.01,
11 81-8,260.02, 81-8,307, 81-8,308, 81-15,189, 81-15,190, 86-418.01,
12 and 86-599, Reissue Revised Statutes of Nebraska, and sections
13 71-818, 71-1227, 71-1228, 71-4823, 77-6001, 77-6002, 77-6003,
14 77-6004, 77-6005, 77-6006, and 77-6007, Revised Statutes Cumulative
15 Supplement, 2008.