

AMENDMENTS TO LB 23

(Amendments to Standing Committee amendments, AM538)

Introduced by Coash

1           1. Strike section 5 and insert the following new  
2 sections:

3           Section 1. Section 21-610, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           21-610 When any such organization ~~shall have~~ has  
6 established in this state an institution for the care of children  
7 or persons who are incapacitated in any manner and such institution  
8 ~~shall have~~ has been incorporated under the laws of Nebraska, such  
9 corporation shall have power to act either by itself or jointly  
10 with any natural person or persons (1) as administrator of the  
11 estate of any deceased person whose domicile was within the county  
12 in which the corporation is located or whose domicile was outside  
13 the State of Nebraska, (2) as executor under a last will and  
14 testament or as guardian of the property of any infant, person  
15 with ~~mental retardation,~~ an intellectual disability, person with  
16 a mental disorder, or person under other disability, or (3) as  
17 trustee for any person or of the estate of any deceased person  
18 under the appointment of any court of record having jurisdiction of  
19 the estate of such person.

20           Sec. 2. Section 23-104.03, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           23-104.03 Each county shall have the authority (1)

1 to plan, initiate, fund, maintain, administer, and evaluate  
2 facilities, programs, and services that meet the rehabilitation,  
3 treatment, care, training, educational, residential, diagnostic,  
4 evaluation, community supervision, and protective service needs of  
5 dependent, aged, blind, disabled, ill, or infirm persons, persons  
6 with a mental disorder, and persons with ~~mental retardation~~ an  
7 intellectual disability domiciled in the county, (2) to purchase  
8 outright by installment contract or by mortgage with the power to  
9 borrow funds in connection with such contract or mortgage, hold,  
10 sell, and lease for a period of more than one year real estate  
11 necessary for use of the county to plan, initiate, fund, maintain,  
12 administer, and evaluate such facilities, programs, and services,  
13 (3) to lease personal property necessary for such facilities,  
14 programs, and services, and such lease may provide for installment  
15 payments which extend over a period of more than one year,  
16 notwithstanding the provisions of section 23-132 or 23-916, (4)  
17 to enter into compacts with other counties, state agencies, other  
18 political subdivisions, and private nonprofit agencies to exercise  
19 and carry out the powers to plan, initiate, fund, maintain,  
20 administer, and evaluate such facilities, programs, and services,  
21 and (5) to contract for such services from agencies, either public  
22 or private, which provide such services on a vendor basis. Compacts  
23 with other public agencies pursuant to subdivision (4) of this  
24 section shall be subject to the Interlocal Cooperation Act.

25           Sec. 3. Section 28-105.01, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27           28-105.01 (1) Notwithstanding any other provision of law,

1 the death penalty shall not be imposed upon any person who was  
2 under the age of eighteen years at the time of the commission of  
3 the crime.

4 (2) Notwithstanding any other provision of law, the  
5 death penalty shall not be imposed upon any person with ~~mental~~  
6 ~~retardation~~, an intellectual disability.

7 (3) As used in subsection (2) of this section, ~~mental~~  
8 ~~retardation~~ intellectual disability means significantly subaverage  
9 general intellectual functioning existing concurrently with  
10 deficits in adaptive behavior. An intelligence quotient of seventy  
11 or below on a reliably administered intelligence quotient test  
12 shall be presumptive evidence of ~~mental retardation~~, intellectual  
13 disability.

14 (4) If (a) a jury renders a verdict finding the  
15 existence of one or more aggravating circumstances as provided  
16 in section 29-2520 or (b) (i) the information contains a notice of  
17 aggravation as provided in section 29-1603 and (ii) the defendant  
18 waives his or her right to a jury determination of the alleged  
19 aggravating circumstances, the court shall hold a hearing prior  
20 to any sentencing determination proceeding as provided in section  
21 29-2521 upon a verified motion of the defense requesting a ruling  
22 that the penalty of death be precluded under subsection (2) of  
23 this section. If the court finds, by a preponderance of the  
24 evidence, that the defendant is a person with ~~mental retardation~~,  
25 an intellectual disability, the death sentence shall not be  
26 imposed. A ruling by the court that the evidence of diminished  
27 intelligence introduced by the defendant does not preclude the

1 death penalty under subsection (2) of this section shall not  
2 restrict the defendant's opportunity to introduce such evidence  
3 at the sentencing determination proceeding as provided in section  
4 29-2521 or to argue that such evidence should be given mitigating  
5 significance.

6 Sec. 4. Section 28-401, Revised Statutes Cumulative  
7 Supplement, 2012, is amended to read:

8 28-401 As used in the Uniform Controlled Substances Act,  
9 unless the context otherwise requires:

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

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

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

19 (4) Controlled substance shall mean a drug, biological,  
20 substance, or immediate precursor in Schedules I to V of section  
21 28-405. Controlled substance shall not include distilled spirits,  
22 wine, malt beverages, tobacco, or any nonnarcotic substance if such  
23 substance may, under the Federal Food, Drug, and Cosmetic Act, 21  
24 U.S.C. 301 et seq., as such act existed on January 1, 2009, and  
25 the law of this state, be lawfully sold over the counter without a  
26 prescription;

27 (5) Counterfeit substance shall mean a controlled

1 substance which, or the container or labeling of which, without  
2 authorization, bears the trademark, trade name, or other  
3 identifying mark, imprint, number, or device, or any likeness  
4 thereof, of a manufacturer, distributor, or dispenser other than  
5 the person or persons who in fact manufactured, distributed, or  
6 dispensed such substance and which thereby falsely purports or is  
7 represented to be the product of, or to have been distributed by,  
8 such other manufacturer, distributor, or dispenser;

9 (6) Department shall mean the Department of Health and  
10 Human Services;

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

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

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

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

22 (11) Drug shall mean (a) articles recognized in  
23 the official United States Pharmacopoeia, official Homeopathic  
24 Pharmacopoeia of the United States, official National Formulary,  
25 or any supplement to any of them, (b) substances intended for use  
26 in the diagnosis, cure, mitigation, treatment, or prevention of  
27 disease in human beings or animals, and (c) substances intended for

1 use as a component of any article specified in subdivision (a) or  
2 (b) of this subdivision, but shall not include devices or their  
3 components, parts, or accessories;

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

8 (13) Marijuana shall mean all parts of the plant of  
9 the genus cannabis, whether growing or not, the seeds thereof,  
10 and every compound, manufacture, salt, derivative, mixture, or  
11 preparation of such plant or its seeds, but shall not include  
12 the mature stalks of such plant, hashish, tetrahydrocannabinols  
13 extracted or isolated from the plant, fiber produced from such  
14 stalks, oil or cake made from the seeds of such plant, any other  
15 compound, manufacture, salt, derivative, mixture, or preparation of  
16 such mature stalks, or the sterilized seed of such plant which is  
17 incapable of germination. When the weight of marijuana is referred  
18 to in the Uniform Controlled Substances Act, it shall mean its  
19 weight at or about the time it is seized or otherwise comes into  
20 the possession of law enforcement authorities, whether cured or  
21 uncured at that time;

22 (14) Manufacture shall mean the production, preparation,  
23 propagation, conversion, or processing of a controlled substance,  
24 either directly or indirectly, by extraction from substances of  
25 natural origin, independently by means of chemical synthesis, or  
26 by a combination of extraction and chemical synthesis, and shall  
27 include any packaging or repackaging of the substance or labeling

1 or relabeling of its container. Manufacture shall not include  
2 the preparation or compounding of a controlled substance by an  
3 individual for his or her own use, except for the preparation or  
4 compounding of components or ingredients used for or intended to  
5 be used for the manufacture of methamphetamine, or the preparation,  
6 compounding, conversion, packaging, or labeling of a controlled  
7 substance: (a) By a practitioner as an incident to his or her  
8 prescribing, administering, or dispensing of a controlled substance  
9 in the course of his or her professional practice; or (b) by a  
10 practitioner, or by his or her authorized agent under his or her  
11 supervision, for the purpose of, or as an incident to, research,  
12 teaching, or chemical analysis and not for sale;

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

27 (16) Opiate shall mean any substance having an

1 addiction-forming or addiction-sustaining liability similar to  
2 morphine or being capable of conversion into a drug having  
3 such addiction-forming or addiction-sustaining liability. Opiate  
4 shall not include the dextrorotatory isomer of 3-methoxy-n  
5 methylmorphinan and its salts. Opiate shall include its racemic and  
6 levorotatory forms;

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

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

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

13 (20) Practitioner shall mean a physician, a physician  
14 assistant, a dentist, a veterinarian, a pharmacist, a podiatrist,  
15 an optometrist, a certified nurse midwife, a certified registered  
16 nurse anesthetist, a nurse practitioner, a scientific investigator,  
17 a pharmacy, a hospital, or any other person licensed, registered,  
18 or otherwise permitted to distribute, dispense, prescribe, conduct  
19 research with respect to, or administer a controlled substance in  
20 the course of practice or research in this state, including an  
21 emergency medical service as defined in section 38-1207;

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

24 (22) Immediate precursor shall mean a substance which is  
25 the principal compound commonly used or produced primarily for use  
26 and which is an immediate chemical intermediary used or likely  
27 to be used in the manufacture of a controlled substance, the



1 control of which is necessary to prevent, curtail, or limit such  
2 manufacture;

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

4 (24) Ultimate user shall mean a person who lawfully  
5 possesses a controlled substance for his or her own use, for the  
6 use of a member of his or her household, or for administration  
7 to an animal owned by him or her or by a member of his or her  
8 household;

9 (25) Hospital shall have the same meaning as in section  
10 71-419;

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

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

21 (28) Exceptionally hazardous drug shall mean (a)  
22 a narcotic drug, (b) thiophene analog of phencyclidine,  
23 (c) phencyclidine, (d) amobarbital, (e) secobarbital, (f)  
24 pentobarbital, (g) amphetamine, or (h) methamphetamine;

25 (29) Imitation controlled substance shall mean a  
26 substance which is not a controlled substance but which, by way  
27 of express or implied representations and consideration of other

1 relevant factors including those specified in section 28-445,  
2 would lead a reasonable person to believe the substance is a  
3 controlled substance. A placebo or registered investigational drug  
4 manufactured, distributed, possessed, or delivered in the ordinary  
5 course of practice or research by a health care professional shall  
6 not be deemed to be an imitation controlled substance;

7 (30) (a) Controlled substance analogue shall mean a  
8 substance (i) the chemical structure of which is substantially  
9 similar to the chemical structure of a Schedule I or Schedule  
10 II controlled substance as provided in section 28-405 or (ii)  
11 which has a stimulant, depressant, analgesic, or hallucinogenic  
12 effect on the central nervous system that is substantially similar  
13 to or greater than the stimulant, depressant, analgesic, or  
14 hallucinogenic effect on the central nervous system of a Schedule I  
15 or Schedule II controlled substance as provided in section 28-405.  
16 A controlled substance analogue shall, to the extent intended for  
17 human consumption, be treated as a controlled substance under  
18 Schedule I of section 28-405 for purposes of the Uniform Controlled  
19 Substances Act; and

20 (b) Controlled substance analogue shall not include (i)  
21 a controlled substance, (ii) any substance generally recognized as  
22 safe and effective within the meaning of the Federal Food, Drug,  
23 and Cosmetic Act, 21 U.S.C. 301 et seq., as such act existed on  
24 January 1, 2009, (iii) any substance for which there is an approved  
25 new drug application, or (iv) with respect to a particular person,  
26 any substance if an exemption is in effect for investigational use  
27 for that person, under section 505 of the Federal Food, Drug, and

1 Cosmetic Act, 21 U.S.C. 355, as such section existed on January  
2 1, 2009, to the extent conduct with respect to such substance is  
3 pursuant to such exemption;

4 (31) Anabolic steroid shall mean any drug or hormonal  
5 substance, chemically and pharmacologically related to testosterone  
6 (other than estrogens, progestins, and corticosteroids), that  
7 promotes muscle growth and includes any controlled substance in  
8 Schedule III(d) of section 28-405. Anabolic steroid shall not  
9 include any anabolic steroid which is expressly intended for  
10 administration through implants to cattle or other nonhuman species  
11 and has been approved by the Secretary of Health and Human Services  
12 for such administration, but if any person prescribes, dispenses,  
13 or distributes such a steroid for human use, such person shall  
14 be considered to have prescribed, dispensed, or distributed an  
15 anabolic steroid within the meaning of this subdivision;

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

21 (33) Medical order shall mean a prescription, a  
22 chart order, or an order for pharmaceutical care issued by a  
23 practitioner;

24 (34) Prescription shall mean an order for a controlled  
25 substance issued by a practitioner. Prescription shall not include  
26 a chart order;

27 (35) Registrant shall mean any person who has a

1 controlled substances registration issued by the state or the  
2 administration;

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

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

13 (38) Facsimile shall mean a copy generated by a  
14 system that encodes a document or photograph into electrical  
15 signals, transmits those signals over telecommunications lines,  
16 and reconstructs the signals to create an exact duplicate of the  
17 original document at the receiving end;

18 (39) Electronic signature shall have the definition found  
19 in section 86-621;

20 (40) Electronic transmission shall mean transmission  
21 of information in electronic form. Electronic transmission may  
22 include computer-to-computer transmission or computer-to-facsimile  
23 transmission; and

24 (41) Long-term care facility shall mean an intermediate  
25 care facility, an intermediate care facility for ~~the mentally~~  
26 ~~retarded,~~ persons with developmental disabilities, a long-term care  
27 hospital, a mental health center, a nursing facility, or a skilled

1 nursing facility, as such terms are defined in the Health Care  
2 Facility Licensure Act.

3 Sec. 5. Section 30-2624, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 30-2624 A visitor shall be trained in law, nursing,  
6 social work, mental health, ~~mental retardation~~, gerontology, or  
7 developmental disabilities and shall be an officer, employee, or  
8 special appointee of the court with no personal interest in the  
9 proceedings.

10 Any qualified person may be appointed visitor of a  
11 proposed ward, except that it shall be unlawful for any owner, part  
12 owner, manager, administrator, or employee, or any spouse of an  
13 owner, part owner, manager, administrator, or employee of a nursing  
14 home, room and board home, convalescent home, group care home, or  
15 institution providing residential care to any person ~~physically or~~  
16 ~~mentally handicapped, infirm, or~~ with a physical or an intellectual  
17 disability, with an infirmity, or who is aged to be appointed  
18 visitor of any such person residing, being under care, receiving  
19 treatment, or being housed in any such home or institution within  
20 the State of Nebraska.

21 The court shall select the visitor who has the expertise  
22 to most appropriately evaluate the needs of the person who is  
23 allegedly incapacitated.

24 The court shall maintain a current list of persons  
25 trained in or having demonstrated expertise in the areas of mental  
26 health, ~~mental retardation~~, intellectual disability, drug abuse,  
27 alcoholism, gerontology, nursing, and social work, for the purpose

1 of appointing a suitable visitor.

2           Sec. 6. Section 31-113, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           31-113 The county board on actual view of the premises  
5 shall fix and allow such compensation for land appropriated and  
6 assess such damages as will in its judgment accrue from the  
7 construction of the improvement to each person or corporation  
8 making application as provided by section 31-112 and without such  
9 application to each person with ~~mental retardation~~, an intellectual  
10 disability, person with a mental disorder, or minor owning lands  
11 taken or affected by such improvement.

12           Sec. 7. Section 38-2404, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           38-2404 Administrator or nursing home administrator means  
15 any individual who meets the education and training requirements  
16 of section 38-2419 and is responsible for planning, organizing,  
17 directing, and controlling the operation of a nursing home or  
18 an integrated system or who in fact performs such functions,  
19 whether or not such functions are shared by one or more other  
20 persons. Notwithstanding this section or any other provision of  
21 law, the administrator of an intermediate care facility for ~~the~~  
22 ~~mentally retarded~~ persons with developmental disabilities may be  
23 either a licensed nursing home administrator or a qualified ~~mental~~  
24 ~~retardation~~ developmental disabilities professional.

25           Sec. 8. Section 38-2826.01, Revised Statutes Cumulative  
26 Supplement, 2012, is amended to read:

27           38-2826.01 Long-term care facility means an intermediate

1 care facility, an intermediate care facility for ~~the mentally~~  
2 ~~retarded,~~ persons with developmental disabilities a long-term care  
3 hospital, a mental health center, a nursing facility, or a skilled  
4 nursing facility, as such terms are defined in the Health Care  
5 Facility Licensure Act.

6 Sec. 9. Section 42-374, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 42-374 A marriage may be annulled for any of the  
9 following causes:

10 (1) The marriage between the parties is prohibited by  
11 law;

12 (2) Either party is impotent at the time of marriage;

13 (3) Either party had a spouse living at the time of  
14 marriage; or

15 ~~(4) Either party was mentally ill or a person with mental~~  
16 ~~retardation at the time of marriage; or~~

17 ~~(5)~~ (4) Force or fraud.

18 Sec. 10. Section 43-289, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 43-289 In no case shall a juvenile committed under the  
21 terms of the Nebraska Juvenile Code be confined after he or she  
22 reaches the age of majority. The court may, when the health or  
23 condition of any juvenile adjudged to be within the terms of such  
24 code shall require it, cause the juvenile to be placed in a public  
25 hospital or institution for treatment or special care or in an  
26 accredited and suitable private hospital or institution which will  
27 receive the juvenile for like purposes. Whenever any juvenile has

1 been committed to the Department of Health and Human Services, the  
2 department shall follow the court's orders, if any, concerning the  
3 juvenile's specific needs for treatment or special care for his  
4 or her physical well-being and healthy personality. If the court  
5 finds any such juvenile to be a person with ~~mental retardation,~~  
6 it an intellectual disability, the court may, upon attaching a  
7 physician's certificate and a report as to the mental capacity of  
8 such person, commit such juvenile directly to an authorized and  
9 appropriate state or local facility or home.

10           The marriage of any juvenile committed to a state  
11 institution under the age of nineteen years shall not make such  
12 juvenile of the age of majority.

13           A juvenile committed to any such institution shall be  
14 subject to the control of the superintendent thereof, and the  
15 superintendent, with the advice and consent of the Department of  
16 Health and Human Services, shall adopt and promulgate rules and  
17 regulations for the promotion, paroling, and final discharge of  
18 residents such as shall be considered mutually beneficial for  
19 the institution and the residents. Upon final discharge of any  
20 resident, such department shall file a certified copy of the  
21 discharge with the court which committed the resident.

22           Sec. 11. Section 44-710.01, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           44-710.01 No policy of sickness and accident insurance  
25 shall be delivered or issued for delivery to any person in  
26 this state unless (1) the entire money and other considerations  
27 therefor are expressed therein, (2) the time at which the insurance



1 takes effect and terminates is expressed therein, (3) it purports  
2 to insure only one person, except that a policy may insure,  
3 originally or by subsequent amendment, upon the application of an  
4 adult member of a family who shall be deemed the policyholder,  
5 any two or more eligible members of that family, including  
6 husband, wife, dependent children, any children enrolled on a  
7 full-time basis in any college, university, or trade school, or  
8 any children under a specified age which shall not exceed thirty  
9 years and any other person dependent upon the policyholder; any  
10 individual policy hereinafter delivered or issued for delivery  
11 in this state which provides that coverage of a dependent child  
12 shall terminate upon the attainment of the limiting age for  
13 dependent children specified in the policy shall also provide in  
14 substance that attainment of such limiting age shall not operate  
15 to terminate the coverage of such child during the continuance  
16 of such policy and while the child is and continues to be both  
17 (a) incapable of self-sustaining employment by reason of ~~mental~~  
18 ~~retardation~~ an intellectual disability or a physical handicap  
19 disability and (b) chiefly dependent upon the policyholder for  
20 support and maintenance, if proof of such incapacity and dependency  
21 is furnished to the insurer by the policyholder within thirty-one  
22 days of the child's attainment of the limiting age and subsequently  
23 as may be required by the insurer but not more frequently than  
24 annually after the two-year period following the child's attainment  
25 of the limiting age; such insurer may charge an additional premium  
26 for and with respect to any such continuation of coverage beyond  
27 the limiting age of the policy with respect to such child, which

1 premium shall be determined by the insurer on the basis of the  
2 class of risks applicable to such child, (4) it contains a title  
3 on the face of the policy correctly describing the policy, (5)  
4 the exceptions and reductions of indemnity are set forth in  
5 the policy and, except those which are set forth in sections  
6 44-710.03 and 44-710.04, are printed, at the insurer's option,  
7 either included with the benefit provision to which they apply  
8 or under an appropriate caption such as EXCEPTIONS, or EXCEPTIONS  
9 AND REDUCTIONS; if an exception or reduction specifically applies  
10 only to a particular benefit of the policy, a statement of such  
11 exception or reduction shall be included with the benefit provision  
12 to which it applies, (6) each such form, including riders and  
13 endorsements, shall be identified by a form number in the lower  
14 left-hand corner of the first page thereof, (7) it contains no  
15 provision purporting to make any portion of the charter, rules,  
16 constitution, or bylaws of the insurer a part of the policy unless  
17 such portion is set forth in full in the policy, except in the  
18 case of the incorporation of, or reference to, a statement of  
19 rates or classification of risks, or short-rate table filed with  
20 the Director of Insurance, and (8) on or after January 1, 1999,  
21 any restrictive rider contains a notice of the existence of the  
22 Comprehensive Health Insurance Pool if the policy provides health  
23 insurance as defined in section 44-4209.

24           Sec. 12. Section 68-911, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26           68-911 (1) Medical assistance shall include coverage for  
27 health care and related services as required under Title XIX of the

1 federal Social Security Act, including, but not limited to:

2 (a) Inpatient and outpatient hospital services;

3 (b) Laboratory and X-ray services;

4 (c) Nursing facility services;

5 (d) Home health services;

6 (e) Nursing services;

7 (f) Clinic services;

8 (g) Physician services;

9 (h) Medical and surgical services of a dentist;

10 (i) Nurse practitioner services;

11 (j) Nurse midwife services;

12 (k) Pregnancy-related services;

13 (l) Medical supplies; and

14 (m) Early and periodic screening and diagnosis and  
15 treatment services for children.

16 (2) In addition to coverage otherwise required under this  
17 section, medical assistance may include coverage for health care  
18 and related services as permitted but not required under Title XIX  
19 of the federal Social Security Act, including, but not limited to:

20 (a) Prescribed drugs;

21 (b) Intermediate care facilities for ~~the mentally~~  
22 ~~retarded~~; persons with developmental disabilities;

23 (c) Home and community-based services for aged persons  
24 and persons with disabilities;

25 (d) Dental services;

26 (e) Rehabilitation services;

27 (f) Personal care services;

- 1 (g) Durable medical equipment;
- 2 (h) Medical transportation services;
- 3 (i) Vision-related services;
- 4 (j) Speech therapy services;
- 5 (k) Physical therapy services;
- 6 (l) Chiropractic services;
- 7 (m) Occupational therapy services;
- 8 (n) Optometric services;
- 9 (o) Podiatric services;
- 10 (p) Hospice services;
- 11 (q) Mental health and substance abuse services;
- 12 (r) Hearing screening services for newborn and infant
- 13 children; and

14 (s) Administrative expenses related to administrative  
15 activities, including outreach services, provided by school  
16 districts and educational service units to students who are  
17 eligible or potentially eligible for medical assistance.

18 (3) No later than July 1, 2009, the department  
19 shall submit a state plan amendment or waiver to the federal  
20 Centers for Medicare and Medicaid Services to provide coverage  
21 under the medical assistance program for community-based secure  
22 residential and subacute behavioral health services for all  
23 eligible recipients, without regard to whether the recipient has  
24 been ordered by a mental health board under the Nebraska Mental  
25 Health Commitment Act to receive such services.

26 Sec. 13. Section 68-919, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

1           68-919 (1) The recipient of medical assistance under the  
2 medical assistance program shall be indebted to the department for  
3 the total amount paid for medical assistance on behalf of the  
4 recipient if:

5           (a) The recipient was fifty-five years of age or older at  
6 the time the medical assistance was provided; or

7           (b) The recipient resided in a medical institution and,  
8 at the time of institutionalization or application for medical  
9 assistance, whichever is later, the department determines that the  
10 recipient could not have reasonably been expected to be discharged  
11 and resume living at home. For purposes of this section, medical  
12 institution means a nursing facility, an intermediate care facility  
13 for ~~the mentally retarded,~~ persons with developmental disabilities,  
14 or an inpatient hospital.

15           (2) The debt accruing under subsection (1) of this  
16 section arises during the life of the recipient but shall be held  
17 in abeyance until the death of the recipient. Any such debt to the  
18 department that exists when the recipient dies shall be recovered  
19 only after the death of the recipient's spouse, if any, and only  
20 when the recipient is not survived by a child who either is under  
21 twenty-one years of age or is blind or totally and permanently  
22 disabled as defined by the Supplemental Security Income criteria.

23           (3) The debt shall include the total amount of medical  
24 assistance provided when the recipient was fifty-five years of age  
25 or older or during a period of institutionalization as described in  
26 subsection (1) of this section and shall not include interest.

27           (4) In any probate proceedings in which the department

1 has filed a claim under this section, no additional evidence of  
2 foundation shall be required for the admission of the department's  
3 payment record supporting its claim if the payment record bears the  
4 seal of the department, is certified as a true copy, and bears the  
5 signature of an authorized representative of the department.

6 (5) The department may waive or compromise its claim, in  
7 whole or in part, if the department determines that enforcement of  
8 the claim would not be in the best interests of the state or would  
9 result in undue hardship as provided in rules and regulations of  
10 the department.

11 Sec. 14. Section 68-921, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 68-921 For purposes of sections 68-921 to 68-925:

14 (1) Assets means property which is not exempt from  
15 consideration in determining eligibility for medical assistance  
16 under rules and regulations adopted and promulgated under section  
17 68-922;

18 (2) Community spouse monthly income allowance means the  
19 amount of income determined by the department in accordance with  
20 section 1924 of the federal Social Security Act, as amended, Public  
21 Law 100-360, 42 U.S.C. 1396r-5;

22 (3) Community spouse resource allowance means the amount  
23 of assets determined in accordance with section 1924 of the federal  
24 Social Security Act, as amended, Public Law 100-360, 42 U.S.C.  
25 1396r-5. For purposes of 42 U.S.C. 1396r-5(f)(2)(A)(i), the amount  
26 specified by the state shall be twelve thousand dollars;

27 (4) Home and community-based services means services

1 furnished under home and community-based waivers as defined in  
2 Title XIX of the federal Social Security Act, as amended, 42 U.S.C.  
3 1396;

4 (5) Qualified applicant means a person (a) who applies  
5 for medical assistance on or after July 9, 1988, (b) who is  
6 under care in a state-licensed hospital, a nursing facility, an  
7 intermediate care facility for ~~the mentally retarded~~, persons  
8 with developmental disabilities, an assisted-living facility, or  
9 a center for the developmentally disabled, as such terms are  
10 defined in the Health Care Facility Licensure Act, or an adult  
11 family home certified by the department or is receiving home  
12 and community-based services, and (c) whose spouse is not under  
13 such care or receiving such services and is not applying for or  
14 receiving medical assistance;

15 (6) Qualified recipient means a person (a) who has  
16 applied for medical assistance before July 9, 1988, and is eligible  
17 for such assistance, (b) who is under care in a facility certified  
18 to receive medical assistance funds or is receiving home and  
19 community-based services, and (c) whose spouse is not under such  
20 care or receiving such services and is not applying for or  
21 receiving medical assistance; and

22 (7) Spouse means the spouse of a qualified applicant or  
23 qualified recipient.

24 Sec. 15. Section 68-1202, Revised Statutes Cumulative  
25 Supplement, 2012, is amended to read:

26 68-1202 Social services may be provided on behalf of  
27 recipients with payments for such social services made directly

1 to vendors. Social services shall include those mandatory and  
2 optional services to former, present, or potential social services  
3 recipients provided for under the federal Social Security Act,  
4 as amended, and described by the State of Nebraska in the  
5 approved State Plan for Services. Such services may include, but  
6 shall not be limited to, foster care for children, child care,  
7 family planning, treatment for alcoholism and drug addiction,  
8 treatment for persons with ~~mental retardation~~, an intellectual  
9 disability, health-related services, protective services for  
10 children, homemaker services, employment services, foster care  
11 for adults, protective services for adults, transportation  
12 services, home management and other functional education services,  
13 housing improvement services, legal services, adult day services,  
14 home delivered or congregate meals, educational services, and  
15 secondary prevention services, including, but not limited to, home  
16 visitation, child screening and early intervention, and parenting  
17 education programs.

18 Sec. 17. Section 68-1802, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 68-1802 For purposes of the ~~ICF/MR~~ ICF/DD Reimbursement  
21 Protection Act:

22 (1) Department means the Department of Health and Human  
23 Services;

24 (2) Intermediate care facility for ~~the mentally retarded~~  
25 persons with developmental disabilities has the definition found in  
26 section 71-421;

27 (3) Medical assistance program means the program



1 established pursuant to the Medical Assistance Act; and

2 (4) Net revenue means the revenue paid to an intermediate  
3 care facility for ~~the mentally retarded~~ persons with developmental  
4 disabilities for resident care, room, board, and services less  
5 contractual adjustments and does not include revenue from sources  
6 other than operations, including, but not limited to, interest and  
7 guest meals.

8 Sec. 18. Section 68-1803, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 68-1803 (1) Each intermediate care facility for ~~the~~  
11 ~~mentally retarded~~ persons with developmental disabilities shall pay  
12 a tax equal to a percentage of its net revenue for the most recent  
13 State of Nebraska fiscal year. The percentage shall be (a) six  
14 percent prior to January 1, 2008, (b) five and one-half percent  
15 beginning January 1, 2008, through September 30, 2011, and (c) six  
16 percent beginning October 1, 2011.

17 (2) Taxes collected under this section shall be  
18 remitted to the State Treasurer for credit to the ~~ICF/MR~~ ICF/DD  
19 Reimbursement Protection Fund.

20 (3) Taxes collected pursuant to this section shall be  
21 reported on a separate line on the cost report of the intermediate  
22 care facility for ~~the mentally retarded,~~ persons with developmental  
23 disabilities, regardless of how such costs are reported on any  
24 other cost report or income statement. The department shall  
25 recognize such tax as an allowable cost within the state plan  
26 for reimbursement of intermediate care facilities for ~~the mentally~~  
27 ~~retarded~~ persons with developmental disabilities which participate

1 in the medical assistance program. The tax shall be a direct  
2 pass-through and shall not be subject to cost limitations.

3 Sec. 20. Section 68-1805, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 68-1805 (1) On or before July 1, 2004, the department  
6 shall submit an application to the Centers for Medicare and  
7 Medicaid Services of the United States Department of Health and  
8 Human Services amending the state medicaid plan to provide for  
9 utilization of money in the ~~ICF/MR~~ ICF/DD Reimbursement Protection  
10 Fund to increase medicaid payments to intermediate care facilities  
11 for ~~the mentally retarded.~~ persons with developmental disabilities.

12 (2) The tax imposed under section 68-1803 is not due and  
13 payable until such amendment to the state medicaid plan is approved  
14 by the Centers for Medicare and Medicaid Services.

15 Sec. 23. Section 68-1807, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 68-1807 (1) An intermediate care facility for ~~the~~  
18 ~~mentally retarded~~ persons with developmental disabilities that  
19 fails to pay the tax required by section 68-1803 shall be subject  
20 to a penalty of five hundred dollars per day of delinquency. The  
21 total amount of the penalty assessed under this section shall  
22 not exceed five percent of the tax due from the intermediate  
23 care facility for ~~the mentally retarded~~ persons with developmental  
24 disabilities for the year for which the tax is assessed.

25 (2) The department shall collect the penalties and remit  
26 them to the State Treasurer for distribution in accordance with  
27 Article VII, section 5, of the Constitution of Nebraska.

1           Sec. 24. Section 68-1808, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           68-1808 An intermediate care facility for ~~the mentally~~  
4 ~~retarded~~ persons with developmental disabilities that has paid a  
5 tax that is not required by section 68-1803 may file a claim  
6 for refund with the department. The department may by rule and  
7 regulation establish procedures for filing and consideration of  
8 such claims.

9           Sec. 25. Section 68-1809, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           68-1809 The department may adopt and promulgate rules and  
12 regulations to carry out the ~~ICF/MR~~ ICF/DD Reimbursement Protection  
13 Act.

14           Sec. 26. Section 71-413, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           71-413 Health care facility means an ambulatory surgical  
17 center, an assisted-living facility, a center or group home for  
18 the developmentally disabled, a critical access hospital, a general  
19 acute hospital, a health clinic, a hospital, an intermediate  
20 care facility, an intermediate care facility for ~~the mentally~~  
21 ~~retarded~~, persons with developmental disabilities, a long-term care  
22 hospital, a mental health center, a nursing facility, a pharmacy,  
23 a psychiatric or mental hospital, a public health clinic, a  
24 rehabilitation hospital, a skilled nursing facility, or a substance  
25 abuse treatment center.

26           Sec. 27. Section 71-421, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

1           71-421 Intermediate care facility for ~~the mentally~~  
2 ~~retarded~~ persons with developmental disabilities means a facility  
3 where shelter, food, and training or habilitation services, advice,  
4 counseling, diagnosis, treatment, care, nursing care, or related  
5 services are provided for a period of more than twenty-four  
6 consecutive hours to four or more persons residing at such facility  
7 who have ~~mental retardation or related conditions,~~ including  
8 ~~epilepsy,~~ ~~cerebral palsy,~~ ~~or other developmental disabilities,~~ a  
9 developmental disability.

10           Sec. 28. Section 71-434, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           71-434 (1) Licensure activities under the Health Care  
13 Facility Licensure Act shall be funded by license fees. An  
14 applicant for an initial or renewal license under section 71-433  
15 shall pay a license fee as provided in this section.

16           (2) License fees shall include a base fee of fifty  
17 dollars and an additional fee based on:

18           (a) Variable costs to the department of inspections,  
19 architectural plan reviews, and receiving and investigating  
20 complaints, including staff salaries, travel, and other similar  
21 direct and indirect costs;

22           (b) The number of beds available to persons residing at  
23 the health care facility;

24           (c) The program capacity of the health care facility or  
25 health care service; or

26           (d) Other relevant factors as determined by the  
27 department.

1           Such additional fee shall be no more than two thousand  
2 six hundred dollars for a hospital or a health clinic operating  
3 as an ambulatory surgical center, no more than two thousand  
4 dollars for an assisted-living facility, a health clinic providing  
5 hemodialysis or labor and delivery services, an intermediate care  
6 facility, an intermediate care facility for ~~the mentally retarded,~~  
7 persons with developmental disabilities, a nursing facility, or  
8 a skilled nursing facility, no more than one thousand dollars  
9 for home health agencies, hospice services, and centers for the  
10 developmentally disabled, and no more than seven hundred dollars  
11 for all other health care facilities and health care services.

12           (3) If the licensure application is denied, the license  
13 fee shall be returned to the applicant, except that the department  
14 may retain up to twenty-five dollars as an administrative fee  
15 and may retain the entire license fee if an inspection has been  
16 completed prior to such denial.

17           (4) The department shall also collect the fee provided in  
18 subsection (1) of this section for reinstatement of a license that  
19 has lapsed or has been suspended or revoked. The department shall  
20 collect a fee of ten dollars for a duplicate original license.

21           (5) The department shall collect a fee from any applicant  
22 or licensee requesting an informal conference with a representative  
23 peer review organization under section 71-452 to cover all costs  
24 and expenses associated with such conference.

25           (6) The department shall adopt and promulgate rules  
26 and regulations for the establishment of license fees under this  
27 section.

1           (7) The department shall remit all license fees collected  
2 under this section to the State Treasurer for credit to the Health  
3 and Human Services Cash Fund. License fees collected under this  
4 section shall only be used for activities related to the licensure  
5 of health care facilities and health care services.

6           Sec. 29. Section 71-1101, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           71-1101 Sections 71-1101 to 71-1134 and section 31 of  
9 this act shall be known and may be cited as the Developmental  
10 Disabilities Court-Ordered Custody Act.

11          Sec. 30. Section 71-1107, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13          71-1107 Developmental disability means ~~mental retardation~~  
14 an intellectual disability or a severe chronic cognitive  
15 impairment, other than mental illness, that is manifested before  
16 the age of twenty-two years and is likely to continue indefinitely.

17          Sec. 31. Section 71-1110, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19          71-1110 ~~Mental retardation~~ Intellectual disability  
20 means a state of significantly subaverage general intellectual  
21 functioning existing concurrently with deficits in adaptive  
22 behavior which originates in the developmental period.

23          Sec. 32. Section 71-2102, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25          71-2102 The Legislature finds that shaken baby syndrome  
26 is the medical term used to describe the violent shaking of an  
27 infant or child and the injuries or other results sustained by

1 the infant or child. The Legislature further finds that shaken  
2 baby syndrome may occur when an infant or child is violently  
3 shaken as part of a pattern of abuse or because an adult has  
4 momentarily succumbed to the frustration of responding to a crying  
5 infant or child. The Legislature further finds that these injuries  
6 can include brain swelling and damage, subdural hemorrhage, ~~mental~~  
7 ~~retardation,~~ intellectual disability, or death. The Legislature  
8 further finds and declares that there is a present and growing need  
9 to provide programs aimed at reducing the number of cases of shaken  
10 baby syndrome in Nebraska.

11 Sec. 33. Section 71-2411, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 71-2411 For purposes of the Emergency Box Drug Act:

14 (1) Authorized personnel means any medical doctor, doctor  
15 of osteopathy, registered nurse, licensed practical nurse, nurse  
16 practitioner, pharmacist, or physician assistant;

17 (2) Department means the Department of Health and Human  
18 Services;

19 (3) Drug means any prescription drug or device or legend  
20 drug or device defined under section 38-2841, any nonprescription  
21 drug as defined under section 38-2829, any controlled substance  
22 as defined under section 28-405, or any device as defined under  
23 section 38-2814;

24 (4) Emergency box drugs means drugs required to meet the  
25 immediate therapeutic needs of patients when the drugs are not  
26 available from any other authorized source in time to sufficiently  
27 prevent risk of harm to such patients by the delay resulting from

1 obtaining such drugs from such other authorized source;

2 (5) Long-term care facility means an intermediate care  
3 facility, an intermediate care facility for ~~the mentally retarded,~~  
4 persons with developmental disabilities, a long-term care hospital,  
5 a mental health center, a nursing facility, or a skilled nursing  
6 facility, as such terms are defined in the Health Care Facility  
7 Licensure Act;

8 (6) Multiple dose vial means any bottle in which more  
9 than one dose of a liquid drug is stored or contained;

10 (7) Pharmacist means a pharmacist as defined in section  
11 38-2832 who is employed by a supplying pharmacy or who has  
12 contracted with a long-term care facility to provide consulting  
13 services; and

14 (8) Supplying pharmacy means a pharmacy that supplies  
15 drugs for an emergency box located in a long-term care facility.  
16 Drugs in the emergency box are owned by the supplying pharmacy.

17 Sec. 34. Section 71-2445, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 71-2445 For purposes of the Automated Medication Systems  
20 Act:

21 (1) Automated medication distribution machine means a  
22 type of automated medication system that stores medication to  
23 be administered to a patient by a person credentialed under the  
24 Uniform Credentialing Act;

25 (2) Automated medication system means a mechanical system  
26 that performs operations or activities, other than compounding,  
27 administration, or other technologies, relative to storage and



1 packaging for dispensing or distribution of medications and that  
2 collects, controls, and maintains all transaction information  
3 and includes, but is not limited to, a prescription medication  
4 distribution machine or an automated medication distribution  
5 machine. An automated medication system may only be used in  
6 conjunction with the provision of pharmacist care;

7 (3) Chart order means an order for a drug or device  
8 issued by a practitioner for a patient who is in the hospital  
9 where the chart is stored or for a patient receiving detoxification  
10 treatment or maintenance treatment pursuant to section 28-412.  
11 Chart order does not include a prescription;

12 (4) Hospital has the definition found in section 71-419;

13 (5) Long-term care facility means an intermediate care  
14 facility, an intermediate care facility for ~~the mentally retarded,~~  
15 persons with developmental disabilities, a long-term care hospital,  
16 a mental health center, a nursing facility, or a skilled nursing  
17 facility, as such terms are defined in the Health Care Facility  
18 Licensure Act;

19 (6) Medical order means a prescription, a chart order, or  
20 an order for pharmaceutical care issued by a practitioner;

21 (7) Pharmacist means any person who is licensed by the  
22 State of Nebraska to practice pharmacy;

23 (8) Pharmacist care means the provision by a pharmacist  
24 of medication therapy management, with or without the dispensing of  
25 drugs or devices, intended to achieve outcomes related to the cure  
26 or prevention of a disease, elimination or reduction of a patient's  
27 symptoms, or arresting or slowing of a disease process;

1           (9) Pharmacist remote order entry means entering an order  
2 into a computer system or drug utilization review by a pharmacist  
3 licensed to practice pharmacy in the State of Nebraska and located  
4 within the United States, pursuant to medical orders in a hospital,  
5 long-term care facility, or pharmacy licensed under the Health Care  
6 Facility Licensure Act;

7           (10) Practice of pharmacy means (a) the interpretation,  
8 evaluation, and implementation of a medical order, (b) the  
9 dispensing of drugs and devices, (c) drug product selection,  
10 (d) the administration of drugs or devices, (e) drug utilization  
11 review, (f) patient counseling, (g) the provision of pharmaceutical  
12 care, and (h) the responsibility for compounding and labeling of  
13 dispensed or repackaged drugs and devices, proper and safe storage  
14 of drugs and devices, and maintenance of proper records. The active  
15 practice of pharmacy means the performance of the functions set  
16 out in this subdivision by a pharmacist as his or her principal or  
17 ordinary occupation;

18           (11) Practitioner means a certified registered nurse  
19 anesthetist, a certified nurse midwife, a dentist, an optometrist,  
20 a nurse practitioner, a physician assistant, a physician, a  
21 podiatrist, or a veterinarian;

22           (12) Prescription means an order for a drug or device  
23 issued by a practitioner for a specific patient, for emergency use,  
24 or for use in immunizations. Prescription does not include a chart  
25 order;

26           (13) Prescription medication distribution machine means  
27 a type of automated medication system that packages, labels, or

1 counts medication in preparation for dispensing of medications by a  
2 pharmacist pursuant to a prescription; and

3 (14) Telepharmacy means the provision of pharmacist  
4 care, by a pharmacist located within the United States, using  
5 telecommunications, remote order entry, or other automations and  
6 technologies to deliver care to patients or their agents who are  
7 located at sites other than where the pharmacist is located.

8 Sec. 35. Section 71-5803.09, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 71-5803.09 Intermediate care facility has the same  
11 meaning as in section 71-420 and includes an intermediate care  
12 facility for ~~the mentally retarded~~ persons with developmental  
13 disabilities that has sixteen or more beds. Intermediate care  
14 facility for ~~the mentally retarded~~ persons with developmental  
15 disabilities has the same meaning as in section 71-421.

16 Sec. 36. Section 71-6018.01, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 71-6018.01 (1) Unless a waiver is granted pursuant to  
19 subsection (2) of this section, a nursing facility shall use the  
20 services of (a) a licensed registered nurse for at least eight  
21 consecutive hours per day, seven days per week and (b) a licensed  
22 registered nurse or licensed practical nurse on a twenty-four-hour  
23 basis seven days per week. Except when waived under subsection  
24 (2) of this section, a nursing facility shall designate a licensed  
25 registered nurse or licensed practical nurse to serve as a charge  
26 nurse on each tour of duty. The Director of Nursing Services shall  
27 be a licensed registered nurse, and this requirement shall not be

1 waived. The Director of Nursing Services may serve as a charge  
2 nurse only when the nursing facility has an average daily occupancy  
3 of sixty or fewer residents.

4 (2) The department may waive either the requirement that  
5 a nursing facility or long-term care hospital certified under  
6 Title XIX of the federal Social Security Act, as amended, use  
7 the services of a licensed registered nurse for at least eight  
8 consecutive hours per day, seven days per week, or the requirement  
9 that a nursing facility or long-term care hospital certified under  
10 Title XIX of the federal Social Security Act, as amended, use the  
11 services of a licensed registered nurse or licensed practical nurse  
12 on a twenty-four-hour basis seven days per week, including the  
13 requirement for a charge nurse on each tour of duty, if:

14 (a)(i) The facility or hospital demonstrates to the  
15 satisfaction of the department that it has been unable, despite  
16 diligent efforts, including offering wages at the community  
17 prevailing rate for the facilities or hospitals, to recruit  
18 appropriate personnel;

19 (ii) The department determines that a waiver of the  
20 requirement will not endanger the health or safety of individuals  
21 staying in the facility or hospital; and

22 (iii) The department finds that, for any periods in which  
23 licensed nursing services are not available, a licensed registered  
24 nurse or physician is obligated to respond immediately to telephone  
25 calls from the facility or hospital; or

26 (b) The department has been granted any waiver by the  
27 federal government of staffing standards for certification under

1 Title XIX of the federal Social Security Act, as amended, and the  
2 requirements of subdivisions (a)(ii) and (iii) of this subsection  
3 have been met.

4 (3) The department shall apply for such a waiver from the  
5 federal government to carry out subdivision (1)(b) of this section.

6 (4) A waiver granted under this section shall be subject  
7 to annual review by the department. As a condition of granting  
8 or renewing a waiver, a facility or hospital may be required to  
9 employ other qualified licensed personnel. The department may grant  
10 a waiver under this section if it determines that the waiver will  
11 not cause the State of Nebraska to fail to comply with any of  
12 the applicable requirements of medicaid so as to make the state  
13 ineligible for the receipt of all funds to which it might otherwise  
14 be entitled.

15 (5) The department shall provide notice of the granting  
16 of a waiver to the office of the state long-term care ombudsman and  
17 to the Nebraska Advocacy Services or any successor designated for  
18 the protection of and advocacy for persons with mental illness  
19 or ~~mental retardation.~~ an intellectual disability. A nursing  
20 facility granted a waiver shall provide written notification to  
21 each resident of the facility or, if appropriate, to the guardian,  
22 legal representative, or immediate family of the resident.

23 Sec. 37. Section 71-6039, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 71-6039 (1) No person shall act as a nursing assistant in  
26 a nursing home unless such person:

27 (a) Is at least sixteen years of age and has not been

1 convicted of a crime involving moral turpitude;

2 (b) Is able to speak and understand the English language  
3 or a language understood by a substantial portion of the nursing  
4 home residents; and

5 (c) Has successfully completed a basic course of training  
6 approved by the department for nursing assistants within one  
7 hundred twenty days of initial employment in the capacity of a  
8 nursing assistant at any nursing home.

9 (2) (a) A registered nurse or licensed practical nurse  
10 whose license has been revoked, suspended, or voluntarily  
11 surrendered in lieu of discipline may not act as a nursing  
12 assistant in a nursing home.

13 (b) If a person registered as a nursing assistant becomes  
14 licensed as a registered nurse or licensed practical nurse, his or  
15 her registration as a nursing assistant becomes null and void as of  
16 the date of licensure.

17 (c) A person listed on the Nurse Aide Registry with  
18 respect to whom a finding of conviction has been placed on the  
19 registry may petition the department to have such finding removed  
20 at any time after one year has elapsed since the date such finding  
21 was placed on the registry.

22 (3) The department may prescribe a curriculum for  
23 training nursing assistants and may adopt and promulgate rules  
24 and regulations for such courses of training. The content of  
25 the courses of training and competency evaluation programs shall  
26 be consistent with federal requirements unless exempted. The  
27 department may approve courses of training if such courses of

1 training meet the requirements of this section. Such courses of  
2 training shall include instruction on the responsibility of each  
3 nursing assistant to report suspected abuse or neglect pursuant  
4 to sections 28-372 and 28-711. Nursing homes may carry out  
5 approved courses of training within the nursing home, except that  
6 nursing homes may not conduct the competency evaluation part of  
7 the program. The prescribed training shall be administered by a  
8 licensed registered nurse.

9 (4) For nursing assistants at intermediate care  
10 facilities for ~~the mentally retarded,~~ persons with developmental  
11 disabilities, such courses of training shall be no less than twenty  
12 hours in duration and shall include at least fifteen hours of  
13 basic personal care training and five hours of basic therapeutic  
14 and emergency procedure training, and for nursing assistants at  
15 all nursing homes other than intermediate care facilities for ~~the~~  
16 ~~mentally retarded,~~ persons with developmental disabilities, such  
17 courses shall be no less than seventy-five hours in duration.

18 (5) This section shall not prohibit any facility from  
19 exceeding the minimum hourly or training requirements.

20 Sec. 38. Section 71-6721, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 71-6721 For purposes of the Medication Aide Act:

23 (1) Ability to take medications independently means the  
24 individual is physically capable of (a) the act of taking or  
25 applying a dose of a medication, (b) taking or applying the  
26 medication according to a specific prescription or recommended  
27 protocol, and (c) observing and monitoring himself or herself for

1 desired effect, side effects, interactions, and contraindications  
2 of the medication and taking appropriate actions based upon those  
3 observations;

4 (2) Administration of medication includes, but is not  
5 limited to (a) providing medications for another person according  
6 to the five rights, (b) recording medication provision, and (c)  
7 observing, monitoring, reporting, and otherwise taking appropriate  
8 actions regarding desired effects, side effects, interactions, and  
9 contraindications associated with the medication;

10 (3) Caretaker means a parent, foster parent, family  
11 member, friend, or legal guardian who provides care for an  
12 individual;

13 (4) Child care facility means an entity or a person  
14 licensed under the Child Care Licensing Act;

15 (5) Competent individual means an adult who is the  
16 ultimate recipient of medication and who has the capability and  
17 capacity to make an informed decision about taking medications;

18 (6) Department means the Department of Health and Human  
19 Services;

20 (7) Direction and monitoring means the acceptance  
21 of responsibility for observing and taking appropriate action  
22 regarding any desired effects, side effects, interactions, and  
23 contraindications associated with the medication by a (a) competent  
24 individual for himself or herself, (b) caretaker, or (c) licensed  
25 health care professional;

26 (8) Facility means a health care facility or health  
27 care service as defined in section 71-413 or 71-415 or an



1 entity or person certified by the department to provide home  
2 and community-based services;

3 (9) Five rights means getting the right drug to the right  
4 recipient in the right dosage by the right route at the right time;

5 (10) Health care professional means an individual for  
6 whom administration of medication is included in the scope of  
7 practice;

8 (11) Home means the residence of an individual but does  
9 not include any facility or school;

10 (12) Intermediate care facility for ~~the mentally retarded~~  
11 persons with developmental disabilities has the definition found in  
12 section 71-421;

13 (13) Informed decision means a decision made knowingly,  
14 based upon capacity to process information about choices and  
15 consequences, and made voluntarily;

16 (14) Medication means any prescription or nonprescription  
17 drug intended for treatment or prevention of disease or to affect  
18 body function in humans;

19 (15) Medication aide means an individual who is listed on  
20 the medication aide registry operated by the department;

21 (16) Nonprescription drug has the definition found in  
22 section 38-2829;

23 (17) Nursing home means any facility or a distinct part  
24 of any facility that provides care as defined in sections 71-420,  
25 71-422, 71-424, and 71-429;

26 (18) Prescription drug has the definition of prescription  
27 drug or device as found in section 38-2841;

1           (19) Provision of medication means the component of the  
2 administration of medication that includes giving or applying a  
3 dose of a medication to an individual and includes helping an  
4 individual in giving or applying such medication to himself or  
5 herself;

6           (20) PRN means an administration scheme in which a  
7 medication is not routine, is taken as needed, and requires  
8 assessment for need and effectiveness;

9           (21) Recipient means a person who is receiving  
10 medication;

11           (22) Routine, with reference to medication, means the  
12 frequency of administration, amount, strength, and method are  
13 specifically fixed; and

14           (23) School means an entity or person meeting the  
15 requirements for a school set by Chapter 79.

16           Sec. 39. Section 71-6725, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           71-6725 (1) The minimum competencies for a medication  
19 aide, a person licensed to operate a child care facility or a staff  
20 member of a child care facility, or a staff member of a school  
21 shall include (a) maintaining confidentiality, (b) complying with  
22 a recipient's right to refuse to take medication, (c) maintaining  
23 hygiene and current accepted standards for infection control, (d)  
24 documenting accurately and completely, (e) providing medications  
25 according to the five rights, (f) having the ability to understand  
26 and follow instructions, (g) practicing safety in application  
27 of medication procedures, (h) complying with limitations and

1 conditions under which a medication aide may provide medications,  
2 and (i) having an awareness of abuse and neglect reporting  
3 requirements and any other areas as shall be determined by rules or  
4 regulations.

5 (2) The Department of Health and Human Services shall  
6 adopt and promulgate rules and regulations setting minimum  
7 standards for competencies listed in subsection (1) of this section  
8 and methods for competency assessment of medication aides. The  
9 Department of Health and Human Services shall adopt and promulgate  
10 rules and regulations setting methods for competency assessment  
11 of the person licensed to operate a child care facility or staff  
12 of child care facilities. The State Department of Education shall  
13 adopt and promulgate rules and regulations setting methods for  
14 competency assessment of the school staff member.

15 (3) A medication aide, except ~~{except~~ one who is  
16 employed by a nursing home, an intermediate care facility for  
17 ~~the mentally retarded,~~ persons with developmental disabilities,  
18 ~~or an assisted-living facility}~~, facility, a person licensed to  
19 operate a child care facility or a staff member of a child care  
20 facility, or a staff member of a school shall not be required to  
21 take a course. The medication aide shall be assessed to determine  
22 that the medication aide has the competencies listed in subsection  
23 (1) of this section.

24 (4) A medication aide providing services in an  
25 assisted-living facility as defined in section 71-406, a nursing  
26 home, or an intermediate care facility for ~~the mentally retarded~~  
27 persons with developmental disabilities shall be required to

1 have completed a forty-hour course on the competencies listed in  
2 subsection (1) of this section and competency standards established  
3 through rules and regulations as provided for in subsection (2)  
4 of this section, except that a medication aide who has, prior  
5 to January 1, 2003, completed a twenty-hour course and passed  
6 an examination developed and administered by the Department of  
7 Health and Human Services may complete a second twenty-hour course  
8 supplemental to the first twenty-hour course in lieu of completing  
9 the forty-hour course. The department shall adopt and promulgate  
10 rules and regulations regarding the procedures and criteria  
11 for curriculum. Competency assessment shall include passing an  
12 examination developed and administered by the department. Criteria  
13 for establishing a passing standard for the examination shall be  
14 established in rules and regulations.

15 (5) Medication aides providing services in nursing homes  
16 or intermediate care facilities for ~~the mentally retarded persons~~  
17 with developmental disabilities shall also meet the requirements  
18 set forth in section 71-6039.

19 Sec. 40. Section 71-6727, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 71-6727 (1) The department shall list each medication  
22 aide registration in the Medication Aide Registry as a Medication  
23 Aide-40-Hour, Medication Aide-20-Hour, or Medication Aide. A  
24 listing in the registry shall be valid for the term of the  
25 registration and upon renewal unless such listing is refused  
26 renewal or is removed as provided in section 71-6730.

27 (2) The registry shall contain the following information

1 on each individual who meets the conditions in section 71-6726:  
2 (a) The individual's full name; (b) information necessary to  
3 identify individuals, including those qualified to provide  
4 medications in nursing homes, intermediate care facilities for  
5 ~~the mentally retarded,~~ persons with developmental disabilities,  
6 or assisted-living facilities; (c) any conviction of a felony or  
7 misdemeanor reported to the department; and (d) other information  
8 as the department may require by rule and regulation.

9           Sec. 41. Section 77-1827, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           77-1827 The real property of persons with ~~mental~~  
12 ~~retardation or~~ an intellectual disability or a mental disorder so  
13 sold, or any interest they may have in real property sold for  
14 taxes, may be redeemed at any time within five years after such  
15 sale.

16           Sec. 42. Section 77-2704.12, Revised Statutes Cumulative  
17 Supplement, 2012, is amended to read:

18           77-2704.12 (1) Sales and use taxes shall not be imposed  
19 on the gross receipts from the sale, lease, or rental of  
20 and the storage, use, or other consumption in this state of  
21 purchases by (a) any nonprofit organization created exclusively  
22 for religious purposes, (b) any nonprofit organization providing  
23 services exclusively to the blind, (c) any nonprofit private  
24 educational institution established under sections 79-1601 to  
25 79-1607, (d) any regionally or nationally accredited, nonprofit,  
26 privately controlled college or university with its primary campus  
27 physically located in Nebraska, (e) any nonprofit (i) hospital,

1 (ii) health clinic when one or more hospitals or the parent  
2 corporations of the hospitals own or control the health clinic  
3 for the purpose of reducing the cost of health services or when  
4 the health clinic receives federal funds through the United States  
5 Public Health Service for the purpose of serving populations that  
6 are medically underserved, (iii) skilled nursing facility, (iv)  
7 intermediate care facility, (v) assisted-living facility, (vi)  
8 intermediate care facility for ~~the mentally retarded~~, persons  
9 with developmental disabilities, (vii) nursing facility, (viii)  
10 home health agency, (ix) hospice or hospice service, (x) respite  
11 care service, or (xi) mental health center licensed under the  
12 Health Care Facility Licensure Act, (f) any nonprofit licensed  
13 child-caring agency, (g) any nonprofit licensed child placement  
14 agency, or (h) any nonprofit organization certified by the  
15 Department of Health and Human Services to provide community-based  
16 services for persons with developmental disabilities.

17 (2) Any organization listed in subsection (1) of this  
18 section shall apply for an exemption on forms provided by the  
19 Tax Commissioner. The application shall be approved and a numbered  
20 certificate of exemption received by the applicant organization in  
21 order to be exempt from the sales and use tax.

22 (3) The appointment of purchasing agents shall be  
23 recognized for the purpose of altering the status of the  
24 construction contractor as the ultimate consumer of building  
25 materials which are physically annexed to the structure and  
26 which subsequently belong to the owner of the organization or  
27 institution. The appointment of purchasing agents shall be in

1 writing and occur prior to having any building materials annexed  
2 to real estate in the construction, improvement, or repair. The  
3 contractor who has been appointed as a purchasing agent may apply  
4 for a refund of or use as a credit against a future use tax  
5 liability the tax paid on inventory items annexed to real estate  
6 in the construction, improvement, or repair of a project for a  
7 licensed not-for-profit institution.

8 (4) Any organization listed in subsection (1) of this  
9 section which enters into a contract of construction, improvement,  
10 or repair upon property annexed to real estate without first  
11 issuing a purchasing agent authorization to a contractor or  
12 repairperson prior to the building materials being annexed to  
13 real estate in the project may apply to the Tax Commissioner for  
14 a refund of any sales and use tax paid by the contractor or  
15 repairperson on the building materials physically annexed to real  
16 estate in the construction, improvement, or repair.

17 (5) Any person purchasing, storing, using, or  
18 otherwise consuming building materials in the performance of any  
19 construction, improvement, or repair by or for any institution  
20 enumerated in subsection (1) of this section which is licensed upon  
21 completion although not licensed at the time of construction or  
22 improvement, which building materials are annexed to real estate  
23 and which subsequently belong to the owner of the institution,  
24 shall pay any applicable sales or use tax thereon. Upon becoming  
25 licensed and receiving a numbered certificate of exemption,  
26 the institution organized not for profit shall be entitled to  
27 a refund of the amount of taxes so paid in the performance

1 of such construction, improvement, or repair and shall submit  
2 whatever evidence is required by the Tax Commissioner sufficient  
3 to establish the total sales and use tax paid upon the building  
4 materials physically annexed to real estate in the construction,  
5 improvement, or repair.

6 Sec. 43. Section 79-712, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 79-712 Provisions shall be made by the proper local  
9 school authorities for instructing the pupils in all public  
10 schools in a comprehensive health education program which shall  
11 include instruction (1) as to the physiological, psychological, and  
12 sociological aspects of drug use, misuse, and abuse and (2) on  
13 ~~mental retardation~~ intellectual disability and other developmental  
14 disabilities, such as cerebral palsy, autism, and epilepsy, their  
15 causes, and the prevention thereof through proper nutrition and  
16 the avoidance of the consumption of drugs as defined in this  
17 section. For purposes of this section, drugs means any and all  
18 biologically active substances used in the treatment of illnesses  
19 or for recreation or pleasure. Special emphasis shall be placed  
20 upon the commonly abused drugs of tobacco, alcohol, marijuana,  
21 hallucinogenics, amphetamines, barbiturates, and narcotics.

22 Sec. 44. Section 79-1118.01, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 79-1118.01 Disability means an impairment which causes  
25 a child to be classified as ~~mentally retarded, hard of hearing,~~  
26 ~~deaf, speech and language impaired, blind and visually impaired,~~  
27 ~~behaviorally disordered, orthopedically impaired, other health~~



1 ~~impaired, deaf-blind, or developmentally delayed~~ diagnosed  
2 with: An intellectual disability; a hearing, speech, language,  
3 or visual impairment; a behavioral disorder; an orthopedic  
4 impairment; another health impairment; deafness or blindness; or a  
5 developmental delay or as having multiple disabilities or specific  
6 learning disabilities, traumatic brain injury, or autism and causes  
7 such child to need special education and related services. For  
8 purposes of this section:

9 (1) Autism means a developmental disability significantly  
10 affecting verbal and nonverbal communication and social  
11 interaction, generally evident before age three, that adversely  
12 affects a child's educational performance. Other characteristics  
13 often associated with autism are engagement in repetitive  
14 activities and stereotyped movements, resistance to environmental  
15 change or change in daily routines, and unusual responses to  
16 sensory experiences. Autism does not apply if a child's educational  
17 performance is adversely affected primarily because the child has  
18 a serious emotional disturbance;

19 (2) ~~Behaviorally disordered~~ Behavior disorder means a  
20 condition in which a child exhibits one or more of the following  
21 characteristics over a long period of time and to a marked degree  
22 which adversely affects educational performance:

23 (a) An inability to learn which cannot be explained by  
24 intellectual, sensory, or health factors;

25 (b) An inability to build or maintain satisfactory  
26 interpersonal relationships with peers and teachers;

27 (c) Inappropriate types of behavior or feelings under

1 normal circumstances;

2 (d) A general pervasive mood of unhappiness or  
3 depression; or

4 (e) A tendency to develop physical symptoms or fears  
5 associated with personal or school problems.

6 ~~Behaviorally~~ ~~disordered~~ Behavior disorder includes  
7 schizophrenia but does not include social maladjustment unless  
8 the characteristics defined in subdivision (a) or (b) of this  
9 subdivision are also present;

10 (3) Blind and visually impaired means partially seeing  
11 or blind, which visual impairment, even with correction, adversely  
12 affects a child's educational performance;

13 (4) Deaf means a hearing impairment which is so severe  
14 that processing linguistic information through hearing, with or  
15 without amplification, is impaired to the extent that educational  
16 performance is adversely affected;

17 (5) Deaf-blind means concomitant hearing and visual  
18 impairments, the combination of which causes such severe  
19 communication and other developmental and educational problems  
20 that such impairments cannot be accommodated in special education  
21 programs solely for children who are deaf or blind;

22 (6) Developmental delay means either a significant  
23 delay in function in one or more of the following areas: (a)  
24 Cognitive development; (b) physical development; (c) communication  
25 development; (d) social or emotional development; or (e) adaptive  
26 behavior or skills development, or a diagnosed physical or mental  
27 condition that has a high probability of resulting in a substantial

1 delay in function in one or more of such areas;

2 (7) Hard of hearing means a hearing impairment, whether  
3 permanent or fluctuating, which adversely affects educational  
4 performance but is not included under the term deaf in subdivision  
5 (4) of this section;

6 (8) ~~Mentally retarded~~ Intellectual disability means a  
7 condition in which a child exhibits significantly subaverage  
8 general intellectual functioning existing concurrently with  
9 deficits in adaptive behavior and manifested during the  
10 developmental period which adversely affects educational  
11 performance;

12 (9) Multiple disabilities means concomitant impairments,  
13 such as ~~mentally retarded-blind~~ intellectual disability-blind  
14 or ~~mentally retarded-orthopedically impaired,~~ intellectual  
15 disability-orthopedic impairment, the combination of which causes  
16 such severe educational problems that a child with such impairments  
17 cannot be accommodated in special education programs for one of the  
18 impairments. Multiple disabilities does not include deaf-blind;

19 (10) ~~Orthopedically impaired~~ Orthopedic impairment means  
20 a severe orthopedic impairment which adversely affects a child's  
21 educational performance. Severe orthopedic impairments include  
22 impairments caused by (a) congenital anomaly, including, but  
23 not limited to, clubfoot or absence of a member, (b) disease,  
24 including, but not limited to, poliomyelitis or bone tuberculosis,  
25 or (c) other causes, including, but not limited to, cerebral palsy,  
26 amputations, and fractures and burns which cause contractures;

27 (11) Other health impaired means having limited strength,

1 vitality, or alertness due to chronic or acute health problems,  
2 including, but not limited to, a heart condition, tuberculosis,  
3 rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia,  
4 epilepsy, lead poisoning, leukemia, or diabetes, which adversely  
5 affects a child's educational performance;

6 (12) Specific learning disability means a disorder in  
7 one or more of the basic psychological processes involved in  
8 understanding or in using language, spoken or written, which may  
9 manifest itself in an imperfect ability to listen, think, speak,  
10 read, write, spell, or do mathematical calculations. Specific  
11 learning disability includes, but is not limited to, perceptual  
12 disabilities, brain injury, minimal brain dysfunction, dyslexia,  
13 and developmental aphasia;

14 (13) Speech-and-language-impaired means having a  
15 communication disorder such as stuttering, impaired articulation,  
16 language impairments, or voice impairment which adversely affects a  
17 child's educational performance; and

18 (14) Traumatic brain injury means an acquired injury  
19 to the brain caused by an external physical force, resulting  
20 in total or partial functional disability or psychosocial  
21 impairment, or both, that adversely affects a child's educational  
22 performance. Traumatic brain injury applies to open or closed  
23 head injuries resulting in impairments in one or more areas,  
24 including cognition; language; memory; attention; reasoning;  
25 abstract thinking; judgment; problem solving; sensory, perceptual,  
26 and motor abilities; psychosocial behavior; physical functions;  
27 information processing; and speech. Traumatic brain injury does not

1 include brain injuries that are congenital or degenerative or brain  
2 injuries induced by birth trauma.

3           The State Department of Education may group or subdivide  
4 the classifications of children with disabilities for the purpose  
5 of program description and reporting. The department shall  
6 establish eligibility criteria and age ranges for the disability  
7 classification of developmental delay.

8           Sec. 45. Section 79-1124, Revised Statutes Cumulative  
9 Supplement, 2012, is amended to read:

10           79-1124 Service agency means the school district,  
11 educational service unit, local or regional office of ~~mental~~  
12 ~~retardation~~, intellectual disability, interim-program school, or  
13 some combination thereof or such other agency as may provide a  
14 special education program approved by the State Department of  
15 Education, including an institution not wholly owned or controlled  
16 by the state or any political subdivision to the extent that  
17 it provides educational or other services for the benefit of  
18 children from the age of five to the age of twenty-one years with  
19 disabilities if such services are nonsectarian in nature.

20           Sec. 46. Section 79-1128, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           79-1128 The special education programs required by  
23 section 79-1127 may be provided by any school district, by  
24 contracting with another school district or service agency, or by  
25 some combination of school districts, an educational service unit,  
26 combination of educational service units, the local or regional  
27 office of ~~mental retardation~~, intellectual disability, any program

1 approved by the State of Nebraska, or any combination thereof,  
2 except that only nonsectarian services shall be considered for  
3 approval by the State of Nebraska. Any ~~office of mental retardation~~  
4 program receiving funds under the Special Education Act shall not  
5 use such funds to match state funds under the provisions of other  
6 programs. The members of the school board of any school district  
7 not offering continuous special education programs acceptable to  
8 the State Board of Education shall be in violation of the law.  
9 No state funds shall be paid to any school district as long as  
10 such violation exists, but no deduction shall be made from any  
11 funds required by the Constitution of Nebraska to be paid to such  
12 district.

13           Sec. 47. Section 83-101.06, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15           83-101.06 The Department of Health and Human Services  
16 shall:

17           (1) Administer the clinical programs and services of the  
18 Beatrice State Developmental Center, the Lincoln Regional Center,  
19 the Norfolk Regional Center, the Hastings Regional Center, and  
20 such other medical facilities, including skilled nursing care and  
21 intermediate care facilities, as may be provided by the department;

22           (2) Plan, develop, administer, and operate mental health  
23 and ~~mental retardation~~ intellectual disability clinics, programs,  
24 and services;

25           (3) Plan, develop, and execute the clinical programs and  
26 services carried on by the department; and

27           (4) Represent the department in its work with the

1 University of Nebraska Medical Center concerning psychiatric  
2 services.

3 Sec. 48. Section 83-112, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 83-112 (1) The Department of Health and Human Services  
6 shall gather information as to the expenditures of charitable  
7 institutions in this and other countries and regarding the best  
8 and most successful methods of caring for persons with ~~mental~~  
9 ~~retardation~~ an intellectual disability and persons with a mental  
10 disorder.

11 (2) The Department of Health and Human Services shall  
12 encourage scientific investigation of the treatment of mental  
13 problems, epilepsy, and all other diseases and causes that  
14 contribute to mental disabilities by the medical staffs of the  
15 state medical institutions. The department shall provide forms for  
16 statistical returns to be made by the institutions. The department  
17 shall make an investigation of the conditions, causes, prevention,  
18 and cure of epilepsy, ~~mental retardation,~~ intellectual disability,  
19 and mental disorders. The department shall give special attention  
20 to the methods of care, treatment, education, and improvement of  
21 the persons served by the institutions under its control and shall  
22 exercise a careful supervision of the methods to the end that, so  
23 far as practicable, the best treatment and care known to modern  
24 science shall be given to such persons and that the best methods of  
25 teaching, improving, and educating such persons shall be used.

26 Sec. 49. Section 83-217, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

1           83-217 The Nebraska institution for ~~children with~~  
2 ~~mental retardation and adults requiring~~ persons with intellectual  
3 disabilities who require residential care shall be known and  
4 designated as the Beatrice State Developmental Center.

5           Sec. 50. Section 83-218, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           83-218 The Beatrice State Developmental Center shall  
8 provide residential care and humane treatment for those persons  
9 with ~~mental retardation~~ intellectual disabilities who require  
10 residential care, shall study to improve their condition, shall  
11 classify them, and shall furnish such training in industrial,  
12 mechanical, agricultural, and academic subjects as they may be  
13 capable of learning. Whenever the Department of Health and Human  
14 Services determines that continued residence in the Beatrice State  
15 Developmental Center is no longer necessary for the welfare, care,  
16 treatment, or training of such person, it shall have authority  
17 to discharge or transfer such person as provided in section  
18 83-387. The Department of Health and Human Services shall discharge  
19 any person from the Beatrice State Developmental Center without  
20 requiring sterilization of such person, if the discharge satisfies  
21 the requirements of this section, notwithstanding any court order,  
22 judgment, or decree rendered prior to December 25, 1969, requiring  
23 sterilization as a condition of discharge.

24           Sec. 51. Section 83-363, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26           83-363 As used in sections 83-227.01, 83-227.02, 83-350,  
27 and 83-363 to 83-380, unless the context otherwise requires:



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

3                   (2) State institution means the state hospitals at  
4 Lincoln, Norfolk, and Hastings, the Beatrice State Developmental  
5 Center, and such other institutions as may hereafter be established  
6 by the Legislature for the care and treatment of persons with a  
7 mental disorder or ~~mental retardation~~, persons with an intellectual  
8 disability;

9                   (3) Relative means the spouse of a patient or, if the  
10 patient has no spouse and is under the age of majority at the  
11 time he or she is admitted, the parents of a patient in a state  
12 institution; and

13                   (4) Parents means either or both of a patient's natural  
14 parents unless such patient has been legally adopted by other  
15 parents, in which case parents means either or both of the adoptive  
16 parents.

17                   Sec. 52. Section 83-381, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19                   83-381 As used in sections 83-217, 83-218, and 83-381 to  
20 83-390, unless the context otherwise requires:

21                   (1) Person with ~~mental retardation~~ an intellectual  
22 disability means any person of subaverage general intellectual  
23 functioning which is associated with a significant impairment in  
24 adaptive behavior;

25                   (2) Department means the Department of Health and Human  
26 Services or such person or agency within the Department of Health  
27 and Human Services as the chief executive officer of the department

1 may designate; and

2 (3) Residential facility means an institution specified  
3 under section 83-217 to provide residential care by the State  
4 of Nebraska for persons with ~~mental retardation~~ an intellectual  
5 disability.

6 Sec. 53. Section 83-382, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 83-382 Except as provided in sections 79-1148 and  
9 79-1149, the department shall have jurisdiction of the admission  
10 of persons with ~~mental retardation~~ an intellectual disability to a  
11 residential facility. Applications for admission to a residential  
12 facility shall be filed with the department.

13 Sec. 54. Section 83-383, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 83-383 (1) An application for admission shall be made in  
16 writing by one of the following persons:

17 (a) If the person applying for admission has a  
18 court-appointed guardian, the application shall be made by the  
19 guardian; and

20 (b) If the person applying for admission does not have a  
21 court-appointed guardian and has not reached the age of majority,  
22 as established by section 43-2101, as such section may from time to  
23 time be amended, the application shall be made by both parents if  
24 they are living together or by the parent having custody of such  
25 person if both parents are not then living or are not then living  
26 together.

27 (2) The county court of the county of residence of any

1 person with ~~mental retardation~~ an intellectual disability or the  
2 county court of the county in which a state residential facility  
3 is located shall have authority to appoint a guardian for any  
4 person with ~~mental retardation~~ an intellectual disability upon the  
5 petition of the husband, wife, parent, person standing in loco  
6 parentis to such person, a county attorney, or any authorized  
7 official of the department. If the guardianship proceedings are  
8 initiated by an official of the department, the costs thereof may  
9 be taxed to and paid by the department if the person with ~~mental~~  
10 ~~retardation~~ an intellectual disability is without means to pay the  
11 costs. The department shall pay such costs upon presentation of  
12 a proper claim by the judge of the county court in which the  
13 proceedings were initiated. The costs of such proceedings shall  
14 include court costs, attorneys' fees, sheriffs' fees, psychiatric  
15 fees, and other necessary expenses of the guardianship.

16 Sec. 55. Section 83-386, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 83-386 The department shall examine all information  
19 concerning the person for whom admission is requested and shall  
20 determine therefrom whether the person is a person with ~~mental~~  
21 ~~retardation~~ an intellectual disability and whether residence in the  
22 residential facility is necessary for the welfare, care, treatment,  
23 or training of such person. Such determination shall be made in  
24 writing and shall set forth the reasons for the determination. If  
25 at any time it shall become necessary, for want of room or other  
26 cause, to discriminate in the admission of persons with ~~mental~~  
27 ~~retardation~~ an intellectual disability to residential facilities,

1 the selection shall be made as follows: (1) Persons whose care is  
2 necessary in order to protect themselves or the public health and  
3 safety; (2) persons who are most likely to be benefited thereby;  
4 (3) persons shall next be admitted in the order in which their  
5 applications for admission have been filed with the department; and  
6 (4) when cases are equally meritorious in all other respects, an  
7 indigent person or a person from an indigent family shall be given  
8 preference.

9           Sec. 56. Section 83-387, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           83-387 At such time as the department determines  
12 that continued residence in a residential facility will no  
13 longer benefit a person with ~~mental retardation~~, an intellectual  
14 disability, the department shall arrange for the discharge or  
15 transfer of such person from the residential facility. The  
16 department shall give reasonable notice to the person authorized to  
17 make an application for admission for such person under subsection  
18 (1) of section 83-383 that the department intends to discharge  
19 or transfer such person. The department shall also be responsible  
20 for the placement of such person in any other available program  
21 or facility and in the development of other methods for the care,  
22 treatment, and training of such person.

23           Sec. 57. Section 83-389, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           83-389 A person admitted to a residential facility under  
26 the provisions of sections 83-217, 83-218, and 83-381 to 83-390  
27 shall be immediately discharged from the residential facility after

1 notice of intention to remove the person with ~~mental retardation~~ an  
2 intellectual disability has been given by the person authorized to  
3 make an application for admission under subsection (1) of section  
4 83-383 and the normal discharge procedures are completed.

5 Sec. 58. Section 83-1205, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 83-1205 Developmental disability shall mean:

8 (1) ~~Mental retardation~~; Intellectual disability; or

9 (2) A severe, chronic disability other than ~~mental~~  
10 ~~retardation~~ an intellectual disability or mental illness which:

11 (a) Is attributable to a mental or physical impairment  
12 other than a mental or physical impairment caused solely by mental  
13 illness;

14 (b) Is manifested before the age of twenty-two years;

15 (c) Is likely to continue indefinitely; and

16 (d) Results in:

17 (i) In the case of a person under three years of age, at  
18 least one developmental delay; or

19 (ii) In the case of a person three years of age or older,  
20 a substantial limitation in three or more of the following areas of  
21 major life activity, as appropriate for the person's age:

22 (A) Self-care;

23 (B) Receptive and expressive language development and  
24 use;

25 (C) Learning;

26 (D) Mobility;

27 (E) Self-direction;

1 (F) Capacity for independent living; and

2 (G) Economic self-sufficiency.

3 Sec. 59. Original sections 21-610, 23-104.03, 28-105.01,  
4 30-2624, 31-113, 38-2404, 42-374, 43-289, 44-710.01, 68-911,  
5 68-919, 68-921, 68-1801, 68-1802, 68-1803, 68-1805, 68-1806,  
6 68-1807, 68-1808, 68-1809, 71-413, 71-421, 71-434, 71-1101,  
7 71-1107, 71-1110, 71-2102, 71-2411, 71-2445, 71-5803.09,  
8 71-6018.01, 71-6039, 71-6721, 71-6725, 71-6727, 77-1827, 79-712,  
9 79-1118.01, 79-1128, 83-101.06, 83-112, 83-217, 83-218, 83-363,  
10 83-381, 83-382, 83-383, 83-386, 83-387, 83-389, and 83-1205,  
11 Reissue Revised Statutes of Nebraska, and sections 28-401,  
12 38-2826.01, 68-1202, 68-1804, 77-2704.12, and 79-1124, Revised  
13 Statutes Cumulative Supplement, 2012, are repealed.

14 2. On page 1, line 5, strike "4" and insert "22".

15 3. On page 1, lines 6 and 10; page 3, line 11; and page  
16 5, lines 9 and 11, strike "ICF/MR", show as stricken, and insert  
17 "ICF/DD".

18 4. On page 2, line 25; page 4, line 6; page 5, line 26;  
19 and page 6, lines 1, 5, 11, and 14, strike "ICF/MR" and insert  
20 "ICF/DD".

21 5. On page 3, lines 2 and 7; page 4, lines 10 and 20  
22 and 21; page 5, line 21; and page 6, line 7, strike "the mentally  
23 retarded" and insert "persons with developmental disabilities".

24 6. On page 3, lines 16, 22, and 25; page 4, line 2; and  
25 page 5, lines 6 and 15, strike "the mentally retarded", show as  
26 stricken, and insert "persons with developmental disabilities".

27 7. Renumber the remaining sections and correct internal

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1 references accordingly.