

AMENDMENTS TO LB 265

Introduced by Cook

1 1. Strike the original sections and all amendments
2 thereto and insert the following new sections:

3 Section 1. Sections 1 to 28 of this act shall be known
4 and may be cited as the Children's Residential Facilities and
5 Placing Licensure Act.

6 Sec. 2. The purpose of the Children's Residential
7 Facilities and Placing Licensure Act is to protect the public
8 health and the health, safety, and welfare of children who
9 reside in or who are placed in settings other than the home of
10 their parent or legal guardian by providing for the licensing
11 of residential child-caring agencies and child-placing agencies
12 in the State of Nebraska. The act provides for the development,
13 establishment, and enforcement of basic standards for residential
14 child-caring agencies and child-placing agencies.

15 Sec. 3. For purposes of the Children's Residential
16 Facilities and Placing Licensure Act:

17 (1) Care means the provision of room and board and the
18 exercise of concern and responsibility for the safety and welfare
19 of children on a twenty-four-hour per day basis in settings that
20 serve as the out-of-home placement for children;

21 (2) Child means a minor less than nineteen years of age;

22 (3) Child-placing agency means any person other than the
23 parent or legal guardian of a child that receives the child for

1 placement and places or arranges for the placement of a child in a
2 foster family home, adoptive home, residential child-caring agency,
3 or independent living;

4 (4) Department means the Division of Public Health of the
5 Department of Health and Human Services;

6 (5) Director means the Director of Public Health of the
7 Division of Public Health;

8 (6) Person includes bodies politic and corporate,
9 societies, communities, the public generally, individuals,
10 partnerships, limited liability companies, joint-stock companies,
11 and associations; and

12 (7) Residential child-caring agency means a person that
13 provides care for four or more children that is not a foster family
14 home as defined in section 71-1901.

15 Sec. 4. (1) Except as provided in subsection (2) of
16 this section, a residential child-caring agency or child-placing
17 agency shall not be established, operated, or maintained in this
18 state without first obtaining a license issued by the department
19 under the Children's Residential Facilities and Placing Licensure
20 Act. No person shall hold itself out as a residential child-caring
21 agency or child-placing agency or as providing such services unless
22 licensed under the act. The department shall issue a license to
23 a residential child-caring agency or a child-placing agency that
24 satisfies the requirements for licensing under the act.

25 (2) A group home, child-caring agency, or child-placing
26 agency licensed under sections 71-1901 to 71-1906.01 on the
27 effective date of this act shall be deemed licensed under the

1 Children's Residential Facilities and Placing Licensure Act until
2 the license under such sections expires, and renewal shall be under
3 the act.

4 (3) For purposes of requiring licensure, a residential
5 child-caring agency or child-placing agency does not include
6 an individual licensed as a foster family home under sections
7 71-1901 to 71-1906.01, a person licensed under the Health Care
8 Facility Licensure Act, a person operating a juvenile detention
9 facility as defined in section 83-4,125, a staff secure youth
10 confinement facility operated by a county, or a person providing
11 only casual care for children at irregular intervals. Such persons
12 may voluntarily apply for a license.

13 Sec. 5. (1) An applicant for an initial or renewal
14 license to operate a residential child-caring agency or a
15 child-placing agency shall file a written application with the
16 department. To be licensed as a child-placing agency, an applicant
17 must be a corporation, nonprofit corporation, or limited liability
18 company. The application shall be accompanied by the applicable
19 fees under section 6 of this act and shall set forth the full
20 name and address of the agency to be licensed, the full name and
21 address of the owner of the agency, the names of all persons in
22 control of the agency, and additional information as required by
23 the department, including sufficient affirmative evidence of the
24 applicant's ability to comply with rules and regulations adopted
25 and promulgated under the Children's Residential Facilities and
26 Placing Licensure Act, and evidence of adequate liability insurance
27 or, if self-insured, of sufficient funds to pay liability claims.

1 The application shall include the applicant's social security
2 number if the applicant is an individual. The social security
3 number shall not be public record and may only be used for
4 administrative purposes.

5 (2) The application shall be signed by:

6 (a) The owner, if the applicant is an individual or
7 partnership;

8 (b) Two of its members, if the applicant is a limited
9 liability company;

10 (c) Two of its officers who have the authority to bind
11 the corporation to the terms of the application, if the applicant
12 is a corporation; or

13 (d) The head of the governmental unit having jurisdiction
14 over the residential child-caring agency or child-placing agency to
15 be licensed, if the applicant is a governmental unit.

16 Sec. 6. Fees applicable to an applicant for an initial
17 or renewal license under the Children's Residential Facilities and
18 Placing Licensure Act include:

19 (1) A nonrefundable license fee of twenty-five dollars;

20 (2) A nonrefundable renewal license fee of twenty-five
21 dollars;

22 (3) A reinstatement fee of twenty-five dollars if the
23 license has lapsed or has been suspended or revoked; and

24 (4) A duplicate original license fee of ten dollars when
25 a duplicate is requested.

26 Sec. 7. Except as otherwise provided in the Children's
27 Residential Facilities and Placing Licensure Act:

1 (1) Licenses issued under the act shall expire on uniform
2 annual dates established by the department specified in rules and
3 regulations; and

4 (2) Licenses shall be issued only for the premises and
5 individuals named in the application and shall not be transferable
6 or assignable. Licenses, license record information, and inspection
7 reports shall be made available by the licensee for public
8 inspection upon request and may be displayed in a conspicuous
9 place on the licensed premises.

10 Sec. 8. (1) An applicant for licensure under the
11 Children's Residential Facilities and Placing Licensure Act shall
12 obtain a separate license for each type of residential child-caring
13 agency or child-placing agency that the applicant seeks to operate.
14 A single license may be issued for a child-caring agency operating
15 in separate buildings or structures on the same premises under one
16 management.

17 (2) An applicant for licensure shall obtain a separate
18 license for each type of placement service the applicant seeks
19 to provide. When a child-placing agency has more than one office
20 location, the child-placing agency shall inform the department of
21 each office location and the services provided at each location. A
22 single license may be issued for multiple offices or the applicant
23 may apply for individual licenses for each office location.

24 Sec. 9. A provisional license may be issued to an
25 applicant for an initial residential child-caring agency or
26 child-placing agency that substantially complies with requirements
27 for licensure under the Children's Residential Facilities and

1 Placing Licensure Act and the rules and regulations adopted and
2 promulgated under the act if the failure to fully comply with such
3 requirements does not pose a danger to the children residing in
4 or served by the residential child-caring agency or child-placing
5 agency. Such provisional license shall be valid for a period of
6 up to one year, shall not be renewed, and may be converted to
7 a regular license upon a showing that the agency fully complies
8 with the requirements for licensure under the act and rules and
9 regulations.

10 Sec. 10. The department may inspect or provide for the
11 inspection of residential child-caring agencies or child-placing
12 agencies licensed under the Children's Residential Facilities and
13 Placing Licensure Act in such manner and at such times as provided
14 in rules and regulations adopted and promulgated by the department.
15 The department shall issue an inspection report and provide a copy
16 of the report to the agency within ten working days after the
17 completion of an inspection.

18 Sec. 11. (1) The department may request the State Fire
19 Marshal to inspect any residential child-caring agency for fire
20 safety under section 81-502. The State Fire Marshal shall assess
21 a fee for such inspection under section 81-505.01 payable by
22 the applicant or licensee. The State Fire Marshal may delegate
23 the authority to make such inspections to qualified local fire
24 prevention personnel under section 81-502.

25 (2) The department may investigate any residential
26 child-caring agency to determine if the place or places to be
27 covered by the license meet standards of sanitation and physical

1 well-being set by the department for the care and protection of
2 the children who may be placed with the residential child-caring
3 agency. The department may delegate this authority to qualified
4 local environmental health personnel.

5 Sec. 12. If the inspection report issued under section
6 10 of this act contains findings of noncompliance by a licensed
7 residential child-caring agency or child-placing agency with any
8 applicable provisions of the Children's Residential Facilities
9 and Placing Licensure Act or rules and regulations adopted under
10 the act, the department shall review such findings within twenty
11 working days after such inspection. If the findings are supported
12 by the evidence, the department shall proceed under sections 16
13 to 23 of this act, except that if the findings indicate one or
14 more violations that create no imminent danger of death or serious
15 physical harm and no direct or immediate adverse relationship to
16 the health, safety, or welfare of the children residing in or
17 served by the residential child-caring agency or child-placing
18 agency, the department may send a letter to the agency requesting
19 a statement of compliance. The letter shall include a description
20 of each violation, a request that the residential child-caring
21 agency or child-placing agency submit a statement of compliance
22 within ten working days, and a notice that the department may take
23 further steps if the statement of compliance is not submitted.
24 The statement of compliance shall indicate any steps which have
25 been or will be taken to correct each violation and the period
26 of time estimated to be necessary to correct each violation. If
27 the residential child-caring agency or child-placing agency fails

1 to submit and implement a statement of compliance which indicates
2 a good faith effort to correct the violations, the department may
3 proceed under sections 16 to 23 of this act.

4 Sec. 13. (1) Any person may submit a complaint to the
5 department and request investigation of an alleged violation of
6 the Children's Residential Facilities and Placing Licensure Act
7 or rules and regulations adopted and promulgated under the act.
8 The department shall review all complaints and determine whether
9 to conduct an investigation. In making such determination, the
10 department may consider factors such as:

11 (a) Whether the complaint pertains to a matter within the
12 authority of the department to enforce;

13 (b) Whether the circumstances indicate that a complaint
14 is made in good faith;

15 (c) Whether the complaint is timely or has been delayed
16 too long to justify present evaluation of its merit;

17 (d) Whether the complainant may be a necessary witness if
18 action is taken and is willing to identify himself or herself and
19 come forward to testify if action is taken; or

20 (e) Whether the information provided or within the
21 knowledge of the complainant is sufficient to provide a reasonable
22 basis to believe that a violation has occurred or to secure
23 necessary evidence from other sources.

24 (2) A complaint submitted to the department shall be
25 confidential. An individual submitting a complaint shall be immune
26 from criminal or civil liability of any nature, whether direct
27 or derivative, for submitting a complaint or for disclosure of

1 documents, records, or other information to the department.

2 Sec. 14. Licensees shall not discriminate or retaliate
3 against an individual or the family of an individual residing
4 in, served by, or employed at the residential child-caring agency
5 or child-placing agency who has initiated or participated in any
6 proceeding authorized by the Children's Residential Facilities and
7 Placing Licensure Act or who has presented a complaint or provided
8 information to the administrator of the residential child-caring
9 agency or child-placing agency or the department. Such individual
10 may maintain an action for any type of relief, including injunctive
11 and declaratory relief, permitted by law.

12 Sec. 15. (1) Whenever the department finds that an
13 emergency exists requiring immediate action to protect the health,
14 safety, or welfare of a child in a residential child-caring
15 agency or child-placing agency, the department may, without notice
16 or hearing, issue an order declaring the existence of such an
17 emergency and requiring that such action be taken as the department
18 deems necessary to meet the emergency. The order may include an
19 immediate prohibition on the care or placement of children by
20 the licensee. An order under this subsection shall be effective
21 immediately. Any person to whom the order is directed shall comply
22 immediately, and upon application to the department, the person
23 shall be afforded a hearing as soon as possible and not later than
24 ten days after his or her application for the hearing. On the basis
25 of such hearing the department shall continue to enforce such order
26 or rescind or modify it.

27 (2) A copy of the notice shall also be mailed to

1 the holder of the license if the holder is not actually
2 involved in the daily operation of the residential child-caring
3 agency or child-placing agency. If the holder of the license
4 is a corporation, a copy of the notice shall be sent to the
5 corporation's registered agent.

6 (3) The department may petition the appropriate district
7 court for an injunction whenever there is the belief that any
8 person is violating the Children's Residential Facilities and
9 Placing Licensure Act, an order issued under the act, or any rule
10 or regulation adopted and promulgated under the act. It shall be
11 the duty of each county attorney or the Attorney General to whom
12 the department reports a violation to cause appropriate proceedings
13 to be instituted without delay to ensure compliance with the act,
14 rules, regulations, and orders. In charging any defendant in a
15 complaint in such action, it shall be sufficient to charge that
16 such defendant did, upon a certain day and in a certain county,
17 establish, operate, or maintain a residential child-caring agency
18 or a child-placing agency without obtaining a license to do so,
19 without alleging any further or more particular facts concerning
20 the charge.

21 Sec. 16. The department may deny or refuse to renew
22 a license under the Children's Residential Facilities and
23 Placing Licensure Act to any residential child-caring agency or
24 child-placing agency that fails to meet the requirements for
25 licensure provided in the act or in rules and regulations adopted
26 and promulgated under the act, including:

27 (1) Failing an inspection under section 10 of this act;

1 (2) Having had a license revoked within the two-year
2 period preceding application; or

3 (3) Any of the grounds listed in section 17 of this act.

4 Sec. 17. The department may deny, refuse to renew,
5 or take disciplinary action against a license issued under the
6 Children's Residential Facilities and Placing Licensure Act on any
7 of the following grounds:

8 (1) Failure to meet or violation of any of the
9 requirements of the act or the rules and regulations adopted and
10 promulgated under the act;

11 (2) Violation of an order of the department under the
12 act;

13 (3) Conviction, admission, or substantial evidence of
14 committing or permitting, aiding, or abetting another to commit,
15 any unlawful act, including, but not limited to, unlawful acts
16 committed by an applicant or licensee under the act, household
17 members who reside at the place where children's residential
18 care or child-placing services are provided, or employees of the
19 applicant or licensee that involve:

20 (a) Physical abuse of children or vulnerable adults as
21 defined in section 28-371;

22 (b) Endangerment or neglect of children or vulnerable
23 adults;

24 (c) Sexual abuse, sexual assault, or sexual misconduct;

25 (d) Homicide;

26 (e) Use, possession, manufacturing, or distribution of a
27 controlled substance listed in section 28-405;

1 (f) Property crimes, including, but not limited to,
2 fraud, embezzlement, and theft by deception; and

3 (g) Use of a weapon in the commission of an unlawful act;

4 (4) Conduct or practices detrimental to the health,
5 safety, or welfare of any individual residing in, served by, or
6 employed at the residential child-caring agency or child-placing
7 agency;

8 (5) Failure to allow an agent or employee of the
9 department access to the residential child-caring agency or
10 child-placing agency for the purposes of inspection, investigation,
11 or other information collection activities necessary to carry out
12 the duties of the department;

13 (6) Failure to allow local or state inspectors,
14 investigators, or law enforcement officers access to the
15 residential child-caring agency or child-placing agency for the
16 purposes of investigation necessary to carry out their duties;

17 (7) Failure to meet requirements relating to sanitation,
18 fire safety, and building codes;

19 (8) Failure to comply with or violation of the Medication
20 Aide Act;

21 (9) Failure to file a report of suspected abuse or
22 neglect as required by sections 28-372 and 28-711;

23 (10) Violation of any city, village, or county rules,
24 regulations, resolutions, or ordinances regulating licensees;

25 (11) A history of misconduct or violations by an
26 applicant or licensee involving children or vulnerable adults;

27 or

1 (12) Violation of any federal, state, or local law
2 involving care of children.

3 Sec. 18. (1) The department may impose any one or a
4 combination of the following types of disciplinary actions against
5 the license of a residential child-caring agency or child-placing
6 agency:

7 (a) A fine not to exceed ten thousand dollars per
8 violation;

9 (b) A period of probation not to exceed two years, during
10 which time the residential child-caring agency or child-placing
11 agency may continue to operate under terms and conditions fixed by
12 the order of probation;

13 (c) Restrictions on new admissions to a residential
14 child-caring agency or acceptance of new referrals by a
15 child-placing agency;

16 (d) Restrictions or other limitations on the number,
17 gender, or age of children served by the residential child-caring
18 agency or child-placing agency;

19 (e) Other restrictions or limitations on the type
20 of service provided by the residential child-caring agency or
21 child-placing agency;

22 (f) Suspension of the license for a period not to exceed
23 three years, during which time the licensee shall not operate a
24 residential child-caring agency or child-placing agency; or

25 (g) Revocation of the license. A former licensee whose
26 license has been revoked shall not apply for a license for a
27 minimum of two years after the date of revocation.

1 (2) Any fine imposed and unpaid under the Children's
2 Residential Facilities and Placing Licensure Act shall constitute a
3 debt to the State of Nebraska which may be collected in the manner
4 of a lien foreclosure or sued for and recovered in any proper form
5 of action in the name of the State of Nebraska in the district
6 court of the county in which the residential child-caring agency
7 or child-placing agency is located. The department shall, within
8 thirty days after receipt, remit fines to the State Treasurer for
9 distribution in accordance with Article VII, section 5, of the
10 Constitution of Nebraska.

11 Sec. 19. In determining what type of disciplinary action
12 to impose, the department may consider:

13 (1) The gravity of the violation, including the
14 probability that death or serious physical or mental harm will
15 result, the severity of the actual or potential harm, and the
16 extent to which the provisions of applicable statutes, rules, and
17 regulations were violated;

18 (2) The reasonableness of the diligence exercised by the
19 licensee in identifying or correcting the violation;

20 (3) The degree of cooperation exhibited by the licensee
21 in the identification, disclosure, and correction of the violation;

22 (4) Any previous violations committed by the licensee;
23 and

24 (5) The financial benefit to the licensee of committing
25 or continuing the violation.

26 Sec. 20. Except as provided in section 15 of this act:

27 (1) If the department determines to deny, refuse renewal

1 of, or take disciplinary action against a license, the department
2 shall send to the applicant or licensee, by certified mail to
3 the last known address shown on the records of the department, a
4 notice setting forth the determination, the particular reasons for
5 the determination, including a specific description of the nature
6 of the violation and the statute, rule, or regulation violated,
7 and the type of disciplinary action which is pending. The denial,
8 refusal to renew, or disciplinary action shall become final fifteen
9 days after the mailing of the notice unless the applicant or
10 licensee, within such fifteen-day period, makes a written request
11 for a hearing under section 21 of this act.

12 (2) A copy of the notice in subsection (1) of this
13 section shall also be mailed to the holder of the license if the
14 holder is not actually involved in the daily operation of the
15 residential child-caring agency or child-placing agency. If the
16 holder of the license is a corporation, a copy of the notice shall
17 be sent to the corporation's registered agent.

18 Sec. 21. (1) Within fifteen days after the mailing of a
19 notice under section 20 of this act, an applicant or licensee shall
20 notify the department in writing that the applicant or licensee:

21 (a) Desires to contest the notice and requests a hearing;
22 or

23 (b) Does not contest the notice.

24 (2) If the department does not receive notification
25 within the fifteen-day period, the action of the department shall
26 be final.

27 Sec. 22. (1) If the applicant or licensee requests a

1 hearing under section 21 of this act, the department shall hold a
2 hearing and give the applicant or licensee the right to present
3 such evidence as may be proper. On the basis of such evidence,
4 the director shall affirm, modify, or set aside the determination.
5 A copy of such decision setting forth the findings of facts and
6 the particular reasons upon which the decision is based shall be
7 sent by either registered or certified mail to the applicant or
8 licensee.

9 (2) The procedure governing hearings authorized by this
10 section shall be in accordance with rules and regulations adopted
11 and promulgated by the department. A full and complete record shall
12 be kept of all proceedings. Witnesses may be subpoenaed by either
13 party and shall be allowed fees at a rate prescribed by rule and
14 regulation.

15 Sec. 23. Any party to a decision of the department under
16 the Children's Residential Facilities and Placing Licensure Act may
17 appeal such decision. The appeal shall be in accordance with the
18 Administrative Procedure Act.

19 Sec. 24. (1) A license issued under the Children's
20 Residential Facilities and Placing Licensure Act that has lapsed
21 for nonpayment of fees is eligible for reinstatement at any time
22 by applying to the department and paying the fees as provided in
23 section 6 of this act.

24 (2) A license that has been disciplined by being placed
25 on suspension is eligible for reinstatement at the end of the
26 period of suspension upon successful completion of an inspection
27 and payment of the fees as provided in section 6 of this act.

1 (3) A license that has been disciplined by being placed
2 on probation is eligible for reinstatement at the end of the period
3 of probation upon successful completion of an inspection if the
4 department determines an inspection is warranted.

5 (4) A license that has been disciplined by being
6 placed on probation or suspension may be reinstated prior to
7 the completion of the term of such probation or suspension as
8 provided in this subsection. Upon petition from a licensee and
9 after consideration of materials submitted with such petition, the
10 director may order an inspection or other investigation of the
11 licensee. On the basis of material submitted by the licensee and
12 the results of any inspection or investigation by the department,
13 the director shall determine whether to grant full reinstatement of
14 the license, to modify the probation or suspension, or to deny the
15 petition for reinstatement. The director's decision shall become
16 final fifteen days after mailing the decision to the licensee
17 unless the licensee requests a hearing within such fifteen-day
18 period. Any requested hearing shall be held according to rules
19 and regulations of the department for administrative hearings in
20 contested cases. Any party to the decision shall have a right to
21 judicial review under the Administrative Procedure Act.

22 (5) A license that has been disciplined by being revoked
23 is not eligible for relicensure until two years after the date of
24 such revocation. A reapplication for an initial license may be made
25 at the end of such two-year period.

26 Sec. 25. A licensee may voluntarily surrender a license
27 issued under the Children's Residential Facilities and Placing

1 Licensure Act at any time, except that the department may refuse
2 to accept a voluntary surrender of a license if the licensee is
3 under investigation or if the department has initiated disciplinary
4 action against the licensee.

5 Sec. 26. (1) To protect the health, safety, and welfare
6 of the public and to insure to the greatest extent possible the
7 efficient, adequate, and safe care of children, the department
8 may adopt and promulgate rules and regulations consistent with the
9 Children's Residential Facilities and Placing Licensure Act, as
10 necessary for:

11 (a) The proper care and protection of children in
12 residential child-caring agencies and child-placing agencies
13 regulated under the act;

14 (b) The issuance, discipline, and reinstatement of
15 licenses; and

16 (c) The proper administration of the act.

17 (2) Such rules and regulations shall establish standards
18 for levels of care and services which may include, but are
19 not limited to, supervision and structured activities designed
20 to address the social, emotional, educational, rehabilitative,
21 medical, and physical needs of children residing in or being placed
22 by a residential child-caring agency or child-placing agency and
23 may include the use of community resources to meet the needs of
24 children and qualifications of staff.

25 (3) Contested cases of the department under the act shall
26 be in accordance with the Administrative Procedure Act.

27 Sec. 27. Any person who establishes, operates, or

1 maintains a residential child-caring agency or child-placing agency
2 subject to the Children's Residential Facilities and Placing
3 Licensure Act without first obtaining a license as required under
4 the act or who violates any of the provisions of the act shall
5 be guilty of a Class I misdemeanor. Each day such person operates
6 after a first conviction shall be considered a subsequent offense.

7 Sec. 28. (1) All rules and regulations adopted prior to
8 December 1, 2012, under sections 71-1901 to 71-1906.01 or other
9 statutes amended by this legislative bill, may continue to be
10 effective under the Children's Residential Facilities and Placing
11 Licensure Act to the extent not in conflict with the act.

12 (2) All licenses issued prior to December 1, 2012, in
13 accordance with sections 71-1901 to 71-1906.01 or other statutes
14 amended by this legislative bill shall remain valid as issued
15 for purposes of the Children's Residential Facilities and Placing
16 Licensure Act unless revoked or otherwise terminated by law.

17 (3) Any suit, action, or other proceeding, judicial or
18 administrative, which was lawfully commenced prior to December
19 1, 2012, under sections 71-1901 to 71-1906.01 or other statutes
20 amended by this legislative bill subject to the provisions of
21 sections 71-1901 to 71-1906.01 such other statutes as they existed
22 prior to December 1, 2012.

23 Sec. 29. Section 28-710, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 28-710 (1) Sections 28-710 to 28-727 shall be known and
26 may be cited as the Child Protection Act.

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

1 (a) Child abuse or neglect means knowingly,
2 intentionally, or negligently causing or permitting a minor
3 child to be:

4 (i) Placed in a situation that endangers his or her life
5 or physical or mental health;

6 (ii) Cruelly confined or cruelly punished;

7 (iii) Deprived of necessary food, clothing, shelter, or
8 care;

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

11 (v) Sexually abused; or

12 (vi) Sexually exploited by allowing, encouraging, or
13 forcing such person to solicit for or engage in prostitution,
14 debauchery, public indecency, or obscene or pornographic
15 photography, films, or depictions;

16 (b) Department means the Department of Health and Human
17 Services;

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

21 (d) Out-of-home child abuse or neglect means child abuse
22 or neglect occurring in day care homes, foster homes, day care
23 centers, ~~group homes,~~ residential child-caring agencies as defined
24 in section 3 of this act, and other child care facilities or
25 institutions; and

26 (e) Subject of the report of child abuse or neglect means
27 the person or persons identified in the report as responsible for

1 the child abuse or neglect.

2 Sec. 30. Section 29-2264, Revised Statutes Cumulative
3 Supplement, 2012, is amended to read:

4 29-2264 (1) Whenever any person is placed on probation
5 by a court and satisfactorily completes the conditions of his or
6 her probation for the entire period or is discharged from probation
7 prior to the termination of the period of probation, the sentencing
8 court shall issue an order releasing the offender from probation.
9 Such order in all felony cases shall provide notice that the
10 person's voting rights are restored two years after completion of
11 probation. The order shall include information on restoring other
12 civil rights through the pardon process, including application to
13 and hearing by the Board of Pardons.

14 (2) Whenever any person is convicted of a misdemeanor or
15 felony and is placed on probation by the court or is sentenced to
16 a fine only, he or she may, after satisfactory fulfillment of the
17 conditions of probation for the entire period or after discharge
18 from probation prior to the termination of the period of probation
19 and after payment of any fine, petition the sentencing court to set
20 aside the conviction.

21 (3) In determining whether to set aside the conviction,
22 the court shall consider:

23 (a) The behavior of the offender after sentencing;

24 (b) The likelihood that the offender will not engage in
25 further criminal activity; and

26 (c) Any other information the court considers relevant.

27 (4) The court may grant the offender's petition and issue

1 an order setting aside the conviction when in the opinion of the
2 court the order will be in the best interest of the offender and
3 consistent with the public welfare. The order shall:

4 (a) Nullify the conviction; and

5 (b) Remove all civil disabilities and disqualifications
6 imposed as a result of the conviction.

7 (5) The setting aside of a conviction in accordance with
8 the Nebraska Probation Administration Act shall not:

9 (a) Require the reinstatement of any office, employment,
10 or position which was previously held and lost or forfeited as a
11 result of the conviction;

12 (b) Preclude proof of a plea of guilty whenever such plea
13 is relevant to the determination of an issue involving the rights
14 or liabilities of someone other than the offender;

15 (c) Preclude proof of the conviction as evidence of the
16 commission of the misdemeanor or felony whenever the fact of its
17 commission is relevant for the purpose of impeaching the offender
18 as a witness, except that the order setting aside the conviction
19 may be introduced in evidence;

20 (d) Preclude use of the conviction for the purpose of
21 determining sentence on any subsequent conviction of a criminal
22 offense;

23 (e) Preclude the proof of the conviction as evidence
24 of the commission of the misdemeanor or felony in the event an
25 offender is charged with a subsequent offense and the penalty
26 provided by law is increased if the prior conviction is proved;

27 (f) Preclude the proof of the conviction to determine

1 whether an offender is eligible to have a subsequent conviction set
2 aside in accordance with the Nebraska Probation Administration Act;

3 (g) Preclude use of the conviction as evidence of
4 commission of the misdemeanor or felony for purposes of determining
5 whether an application filed or a license issued under sections
6 71-1901 to 71-1906.01, ~~or~~ the Child Care Licensing Act, or the
7 Children's Residential Facilities and Placing Licensure Act or
8 a certificate issued under sections 79-806 to 79-815 should be
9 denied, suspended, or revoked;

10 (h) Preclude use of the conviction as evidence of
11 incompetence, neglect of duty, physical, mental, or emotional
12 incapacity, or final conviction of or pleading guilty or nolo
13 contendere to a felony for purposes of determining whether an
14 application filed or a certificate issued under sections 81-1401 to
15 81-1414.10 should be denied, suspended, or revoked;

16 (i) Preclude proof of the conviction as evidence whenever
17 the fact of the conviction is relevant to a determination of the
18 registration period under section 29-4005; or

19 (j) Relieve a person who is convicted of an offense for
20 which registration is required under the Sex Offender Registration
21 Act of the duty to register and to comply with the terms of the
22 act.

23 (6) Except as otherwise provided for the notice in
24 subsection (1) of this section, changes made to this section by
25 Laws 2005, LB 713, shall be retroactive in application and shall
26 apply to all persons, otherwise eligible in accordance with the
27 provisions of this section, whether convicted prior to, on, or

1 subsequent to September 4, 2005.

2 Sec. 31. Section 43-2,108.05, Revised Statutes Cumulative
3 Supplement, 2012, is amended to read:

4 43-2,108.05 (1) If the court orders the record of a
5 juvenile sealed pursuant to section 43-2,108.04, the court shall:

6 (a) Order that all records, including any information
7 or other data concerning any proceedings relating to the offense,
8 including the arrest, taking into custody, petition, complaint,
9 indictment, information, trial, hearing, adjudication, correctional
10 supervision, dismissal, or other disposition or sentence, be deemed
11 never to have occurred;

12 (b) Send notice of the order to seal the record (i) to
13 the Nebraska Commission on Law Enforcement and Criminal Justice,
14 (ii) if the record includes impoundment or prohibition to obtain
15 a license or permit pursuant to section 43-287, to the Department
16 of Motor Vehicles, (iii) if the juvenile whose record has been
17 ordered sealed was a ward of the state at the time the proceeding
18 was initiated or if the Department of Health and Human Services
19 was a party in the proceeding, to such department, and (iv) to
20 law enforcement agencies, county attorneys, and city attorneys
21 referenced in the court record;

22 (c) Order all notified under subdivision (1)(b) of this
23 section to seal all records pertaining to the offense;

24 (d) If the case was transferred from district court to
25 juvenile court or was transferred under section 43-282, send notice
26 of the order to seal the record to the transferring court; and

27 (e) Explain to the juvenile what sealing the record means

1 verbally if the juvenile is present in the court at the time the
2 court issues the sealing order or by written notice sent by regular
3 mail to the juvenile's last-known address if the juvenile is not
4 present in the court at the time the court issues the sealing
5 order.

6 (2) The effect of having a record sealed under section
7 43-2,108.04 is that thereafter no person is allowed to release
8 any information concerning such record, except as provided by
9 this section. After a record is sealed, the person whose record
10 was sealed can respond to any public inquiry as if the offense
11 resulting in such record never occurred. A government agency and
12 any other public office or agency shall reply to any public
13 inquiry that no information exists regarding a sealed record.
14 Except as provided in subsection (3) of this section, an order
15 to seal the record applies to every government agency and any
16 other public office or agency that has a record relating to the
17 offense, regardless of whether it receives notice of the hearing
18 on the sealing of the record or a copy of the order. Upon the
19 written request of a person whose record has been sealed and the
20 presentation of a copy of such order, a government agency or any
21 other public office or agency shall seal all records pertaining to
22 the offense.

23 (3) A sealed record is accessible to law enforcement
24 officers, county attorneys, and city attorneys in the
25 investigation, prosecution, and sentencing of crimes, to the
26 sentencing judge in the sentencing of criminal defendants, and
27 to any attorney representing the subject of the sealed record.

1 Inspection of records that have been ordered sealed under section
2 43-2,108.04 may be made by the following persons or for the
3 following purposes:

4 (a) By the court or by any person allowed to inspect such
5 records by an order of the court for good cause shown;

6 (b) By the court, city attorney, or county attorney
7 for purposes of collection of any remaining parental support or
8 obligation balances under section 43-290;

9 (c) By the Nebraska Probation System for purposes of
10 juvenile intake services, for presentence and other probation
11 investigations, and for the direct supervision of persons placed
12 on probation and by the Department of Correctional Services,
13 the Office of Juvenile Services, a juvenile assessment center, a
14 criminal detention facility, or a juvenile detention facility, for
15 an individual committed to it, placed with it, or under its care;

16 (d) By the Department of Health and Human Services for
17 purposes of juvenile intake services, the preparation of case
18 plans and reports, the preparation of evaluations, compliance with
19 federal reporting requirements, or the supervision and protection
20 of persons placed with the department or for licensing or
21 certification purposes under sections 71-1901 to 71-1906.01, ~~or~~ the
22 Child Care Licensing Act, or the Children's Residential Facilities
23 and Placing Licensure Act;

24 (e) Upon application, by the person who is the subject of
25 the sealed record and by persons authorized by the person who is
26 the subject of the sealed record who are named in that application;

27 (f) At the request of a party in a civil action that is

1 based on a case that has a sealed record, as needed for the civil
2 action. The party also may copy the sealed record as needed for the
3 civil action. The sealed record shall be used solely in the civil
4 action and is otherwise confidential and subject to this section;

5 (g) By persons engaged in bona fide research, with
6 the permission of the court, only if the research results
7 in no disclosure of the person's identity and protects the
8 confidentiality of the sealed record; or

9 (h) By a law enforcement agency if a person whose record
10 has been sealed applies for employment with the law enforcement
11 agency.

12 (4) Nothing in this section prohibits the Department of
13 Health and Human Services from releasing information from sealed
14 records in the performance of its duties with respect to the
15 supervision and protection of persons served by the department.

16 (5) In any application for employment, bonding, license,
17 education, or other right or privilege, any appearance as a
18 witness, or any other public inquiry, a person cannot be questioned
19 with respect to any offense for which the record is sealed. If
20 an inquiry is made in violation of this subsection, the person
21 may respond as if the offense never occurred. Applications for
22 employment shall contain specific language that states that the
23 applicant is not obligated to disclose a sealed record. Employers
24 shall not ask if an applicant has had a record sealed. The
25 Department of Labor shall develop a link on the department's web
26 site to inform employers that employers cannot ask if an applicant
27 had a record sealed and that an application for employment shall

1 contain specific language that states that the applicant is not
2 obligated to disclose a sealed record.

3 (6) Any person who violates this section may be held in
4 contempt of court.

5 Sec. 32. Section 43-1301, Revised Statutes Cumulative
6 Supplement, 2012, is amended to read:

7 43-1301 For purposes of the Foster Care Review Act,
8 unless the context otherwise requires:

9 (1) Local board means a local foster care review board
10 created pursuant to section 43-1304;

11 (2) Office means the Foster Care Review Office created
12 pursuant to section 43-1302;

13 (3) Foster care facility means any foster family home
14 as defined in section 71-1901, residential child-caring agency as
15 defined in section 3 of this act, group home, child care facility,
16 public agency, private agency, or any other person or entity
17 receiving and caring for foster children;

18 (4) Foster care placements means all placements of
19 juveniles as described in ~~subdivision (3)(b)~~ of section 43-247,
20 placements of neglected, dependent, or delinquent children,
21 including those made directly by parents or by third parties,
22 and placements of children who have been voluntarily relinquished
23 pursuant to section 43-106.01 to the Department of Health and Human
24 Services or any ~~child placement~~ child-placing agency as defined in
25 section 3 of this act licensed by the Department of Health and
26 Human Services;

27 (5) Person or court in charge of the child means (a)

1 the Department of Health and Human Services, an association, or
2 an individual who has been made the guardian of a neglected,
3 dependent, or delinquent child by the court and has the
4 responsibility of the care of the child and has the authority
5 by and with the assent of the court to place such a child in a
6 suitable family home or institution or has been entrusted with
7 the care of the child by a voluntary placement made by a parent
8 or legal guardian, (b) the court which has jurisdiction over
9 the child, or (c) the entity having jurisdiction over the child
10 pursuant to the Nebraska Indian Child Welfare Act;

11 (6) Voluntary placement means the placement by a parent
12 or legal guardian who relinquishes the possession and care of a
13 child to a third party, individual, or agency;

14 (7) Family unit means the social unit consisting of the
15 foster child and the parent or parents or any person in the
16 relationship of a parent, including a grandparent, and any siblings
17 with whom the foster child legally resided prior to placement
18 in foster care, except that for purposes of potential sibling
19 placement, the child's family unit also includes the child's
20 siblings even if the child has not resided with such siblings prior
21 to placement in foster care;

22 (8) ~~Child-caring~~ Residential child-caring agency has the
23 definition found in section ~~71-1902,~~ 3 of this act;

24 (9) Child-placing agency has the definition found in
25 section ~~71-1902,~~ 3 of this act; and

26 (10) Siblings means biological siblings and legal
27 siblings, including, but not limited to, half-siblings and

1 stepsiblings.

2 Sec. 33. Section 43-1302, Revised Statutes Cumulative
3 Supplement, 2012, is amended to read:

4 43-1302 (1)(a) The Foster Care Review Office is hereby
5 established. The purpose of the office is to provide information
6 and direct reporting to the courts, the Department of Health and
7 Human Services, and the Legislature regarding the foster care
8 system in Nebraska; to provide oversight of the foster care
9 system; and to make recommendations regarding foster care policy
10 to the Legislature. The executive director of the office shall
11 provide information and reporting services, provide analysis of
12 information obtained, and oversee foster care file audit case
13 reviews and tracking of cases of children in the foster care
14 system. The executive director of the office shall, through
15 information analysis and with the assistance of the Foster Care
16 Advisory Committee, (i) determine key issues of the foster care
17 system and ways to resolve the issues and to otherwise improve the
18 system and (ii) make policy recommendations.

19 (b) All equipment and effects of the State Foster Care
20 Review Board on July 1, 2012, shall be transferred to the
21 Foster Care Review Office, and all staff of the board, except
22 the executive director and interim executive director, shall be
23 transferred to the office. The State Foster Care Review Board shall
24 terminate on July 1, 2012. Beginning on July 1, 2012, the data
25 coordinator of the board, as such position existed prior to such
26 date, shall serve as the executive director of the office until
27 the Foster Care Advisory Committee hires an executive director as

1 prescribed by this section. It is the intent of the Legislature
2 that the staff of the board employed prior to July 1, 2012, shall
3 continue to be employed by the office until such time as the
4 executive director is hired by the committee.

5 (c) It is the intent of the Legislature that the funds
6 appropriated to the State Foster Care Review Board be transferred
7 to the Foster Care Review Office for FY2012-13.

8 (2) (a) The Foster Care Advisory Committee is created. The
9 committee shall have five members appointed by the Governor. The
10 members shall have no pecuniary interest in the foster care system
11 and shall not be employed by the office, the Department of Health
12 and Human Services, a county, a residential child-caring agency, a
13 child-placing agency, or a court.

14 (b) The Governor shall appoint three members from a list
15 of twelve local board members submitted by the Health and Human
16 Services Committee of the Legislature, one member from a list of
17 four persons with data analysis experience submitted by the Health
18 and Human Services Committee of the Legislature, and one member
19 from a list of four persons who are residents of the state and are
20 representative of the public at large submitted by the Health and
21 Human Services Committee of the Legislature. The Health and Human
22 Services Committee of the Legislature shall hold a confirmation
23 hearing for the appointees, and the appointments shall be subject
24 to confirmation by the Legislature, except that the initial members
25 and members appointed while the Legislature is not in session shall
26 serve until the next session of the Legislature, at which time
27 a majority of the members of the Legislature shall approve or

1 disapprove of the appointments.

2 (c) The terms of the members shall be for three years,
3 except that the Governor shall designate two of the initial
4 appointees to serve initial terms ending on March 1, 2014, and
5 three of the initial appointees to serve initial terms ending on
6 March 1, 2015. The Governor shall make the initial appointments
7 within thirty days after July 1, 2012. Members shall not serve more
8 than two consecutive terms, except that members shall serve until
9 their successors have been appointed and qualified. The Governor
10 shall appoint members to fill vacancies in the same manner as the
11 original appointments to serve for the remainder of the unexpired
12 term.

13 (d) The Foster Care Advisory Committee shall meet at
14 least four times each calendar year. Each member shall attend at
15 least two meetings each calendar year and shall be subject to
16 removal for failure to attend at least two meetings unless excused
17 by a majority of the members of the committee. Members shall be
18 reimbursed for their actual and necessary expenses as provided in
19 sections 81-1174 to 81-1177.

20 (e) The duties of the Foster Care Advisory Committee are
21 to:

22 (i) Hire and fire an executive director for the office
23 who has training and experience in foster care; and

24 (ii) Support and facilitate the work of the office,
25 including the tracking of children in foster care and reviewing
26 foster care file audit case reviews.

27 (3) The executive director of the office shall hire,

1 fire, and supervise office staff and shall be responsible for the
2 duties of the office as provided by law, including the annual
3 report and other reporting, review, tracking, data collection and
4 analysis, and oversight and training of local boards.

5 Sec. 34. Section 43-1304, Revised Statutes Cumulative
6 Supplement, 2012, is amended to read:

7 43-1304 There shall be local foster care review boards
8 to conduct the foster care file audit case reviews of children
9 in foster care placement and carry out other powers and duties
10 given to such boards under the Foster Care Review Act. Members of
11 local boards serving on July 1, 2012, shall continue to serve the
12 unexpired portion of their terms. The executive director of the
13 office shall select members to serve on local boards from a list
14 of applications submitted to the office. Each local board shall
15 consist of not less than four and not more than ten members as
16 determined by the executive director. The members of the local
17 board shall reasonably represent the various social, economic,
18 racial, and ethnic groups of the county or counties from which
19 its members may be appointed. A person employed by the office, the
20 Department of Health and Human Services, a residential child-caring
21 agency, a child-placing agency, or a court shall not be appointed
22 to a local board. A list of the members of each local board shall
23 be sent to the department.

24 Sec. 35. Section 43-1503, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 43-1503 For the purposes of the Nebraska Indian Child
27 Welfare Act, except as may be specifically provided otherwise, the

1 term:

2 (1) Child custody proceeding shall mean and include:

3 (a) Foster care placement which shall mean any action
4 removing an Indian child from its parent or Indian custodian for
5 temporary placement in a foster home or institution or the home
6 of a guardian or conservator where the parent or Indian custodian
7 cannot have the child returned upon demand, but where parental
8 rights have not been terminated;

9 (b) Termination of parental rights which shall mean
10 any action resulting in the termination of the parent-child
11 relationship;

12 (c) Preadoptive placement which shall mean the temporary
13 placement of an Indian child in a foster home or institution after
14 the termination of parental rights, but prior to or in lieu of
15 adoptive placement; and

16 (d) Adoptive placement which shall mean the permanent
17 placement of an Indian child for adoption, including any action
18 resulting in a final decree of adoption.

19 Such term or terms shall not include a placement based
20 upon an act which, if committed by an adult, would be deemed a
21 crime or upon an award, in a divorce proceeding, of custody to one
22 of the parents;

23 (2) Extended family member shall be as defined by the
24 law or custom of the Indian child's tribe or, in the absence of
25 such law or custom, shall be a person who has reached the age of
26 eighteen and who is the Indian child's parent, grandparent, aunt
27 or uncle, clan member, band member, ~~brother or sister,~~ sibling,

1 brother-in-law or sister-in-law, niece or nephew, ~~first or second~~
2 cousin, or stepparent;

3 (3) Indian means any person who is a member of an Indian
4 tribe, or who is an Alaska Native and a member of a regional
5 corporation defined in section 7 of the Alaska Native Claims
6 Settlement Act, 43 U.S.C. 1606;

7 (4) Indian child means any unmarried person who is under
8 age eighteen and is either (a) a member of an Indian tribe or (b)
9 is eligible for membership in an Indian tribe and is the biological
10 child of a member of an Indian tribe;

11 (5) Indian child's tribe means (a) the Indian tribe in
12 which an Indian child is a member or eligible for membership or (b)
13 in the case of an Indian child who is a member of or eligible for
14 membership in more than one tribe, the Indian tribe with which the
15 Indian child has the more significant contacts;

16 (6) Indian custodian means any Indian person who has
17 legal custody of an Indian child under tribal law or custom or
18 under state law or to whom temporary physical care, custody, and
19 control has been transferred by the parent of such child;

20 (7) Indian organization means any group, association,
21 partnership, limited liability company, corporation, or other legal
22 entity owned or controlled by Indians or a majority of whose
23 members are Indians;

24 (8) Indian tribe means any Indian tribe, band, nation,
25 or other organized group or community of Indians recognized as
26 eligible for the services provided to Indians by the secretary
27 because of their status as Indians, including any Alaska Native

1 village as defined in section 3(c) of the Alaska Native Claims
2 Settlement Act, as amended, 43 U.S.C. 1602(c);

3 (9) Parent means any biological parent or parents of an
4 Indian child or any Indian person who has lawfully adopted an
5 Indian child, including adoptions under tribal law or custom. It
6 does not include the unwed father when paternity has not been
7 acknowledged or established;

8 (10) Reservation means Indian country as defined in 18
9 U.S.C. 1151 and any lands, not covered under such section, title to
10 which is either held by the United States in trust for the benefit
11 of any Indian tribe or individual or held by any Indian tribe or
12 individual subject to a restriction by the United States against
13 alienation;

14 (11) Secretary means the Secretary of the Interior;

15 (12) Tribal court means a court with jurisdiction over
16 child custody proceedings and which is either a Court of Indian
17 Offenses, a court established and operated under the code or custom
18 of an Indian tribe, or any other administrative body of a tribe
19 which is vested with authority over child custody proceedings; and

20 (13) Tribal service area means a geographic area in
21 which tribal services and programs are provided to Native American
22 people.

23 Sec. 36. Section 43-4308, Revised Statutes Cumulative
24 Supplement, 2012, is amended to read:

25 43-4308 Licensed child care facility means a facility or
26 program licensed under the Child Care Licensing Act, the Children's
27 Residential Facilities and Placing Licensure Act, or sections

1 71-1901 to 71-1906.01.

2 Sec. 37. Section 68-1006.01, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 68-1006.01 The Department of Health and Human Services
5 shall include in the standard of need for eligible aged, blind, and
6 disabled persons at least fifty dollars per month for a personal
7 needs allowance if such persons reside in an alternative living
8 arrangement.

9 For purposes of this section, an alternative living
10 arrangement shall include board and room, a boarding home, a
11 certified adult family home, a licensed assisted-living facility, a
12 licensed ~~group home for children or~~ residential child-caring agency
13 as defined in section 3 of this act, a licensed center for the
14 developmentally disabled, and a long-term care facility.

15 Sec. 38. Section 68-1207, Revised Statutes Cumulative
16 Supplement, 2012, is amended to read:

17 68-1207 (1) The Department of Health and Human Services
18 shall supervise all public child welfare services as described
19 by law. The department and the pilot project described in
20 section 68-1212 shall maintain caseloads to carry out child
21 welfare services which provide for adequate, timely, and indepth
22 investigations and services to children and families. Caseloads
23 shall range between twelve and seventeen cases as determined
24 pursuant to subsection (2) of this section. In establishing the
25 specific caseloads within such range, the department and the pilot
26 project shall (a) include the workload factors that may differ
27 due to geographic responsibilities, office location, and the travel

1 required to provide a timely response in the investigation of
2 abuse and neglect, the protection of children, and the provision
3 of services to children and families in a uniform and consistent
4 statewide manner and (b) utilize the workload criteria of the
5 standards established as of January 1, 2012, by the Child Welfare
6 League of America. The average caseload shall be reduced by the
7 department in all service areas as designated pursuant to section
8 81-3116 and by the pilot project to comply with the caseload
9 range described in this subsection by September 1, 2012. Beginning
10 September 15, 2012, the department shall include in its annual
11 report required pursuant to section 68-1207.01 a report on the
12 attainment of the decrease according to such caseload standards.
13 The department's annual report shall also include changes in the
14 standards of the Child Welfare League of America or its successor.

15 (2) Caseload size shall be determined in the following
16 manner: (a) If children are placed in the home, the family shall
17 count as one case regardless of how many children are placed in
18 the home; (b) if a child is placed out of the home, the child
19 shall count as one case; (c) if, within one family, one or more
20 children are placed in the home and one or more children are placed
21 out of the home, the children placed in the home shall count as
22 one case and each child placed out of the home shall count as one
23 case; and (d) any child receiving services from the department or a
24 private entity under contract with the department shall be counted
25 as provided in subdivisions (a) through (c) of this subsection
26 whether or not such child is a ward of the state. For purposes of
27 this subsection, a child is considered to be placed in the home if

1 the child is placed with his or her biological or adoptive parent
2 or a legal guardian and a child is considered to be placed out
3 of the home if the child is placed in a foster care, group home
4 care, family home as defined in section 71-1901, a residential
5 child-caring agency as defined in section 3 of this act, or any
6 other setting which is not the child's planned permanent home.

7 (3) To insure appropriate oversight of noncourt and
8 voluntary cases when any child welfare services are provided,
9 either by the department or by a lead agency participating in
10 the pilot project, as a result of a child safety assessment, the
11 department or lead agency shall develop a case plan that specifies
12 the services to be provided and the actions to be taken by the
13 department or lead agency and the family in each such case.

14 (4) To carry out the provisions of this section, the
15 Legislature shall provide funds for additional staff.

16 Sec. 39. Section 71-428, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 71-428 (1) Respite care service means a person or
19 any legal entity that provides short-term temporary care on an
20 intermittent basis to persons with special needs when the person's
21 primary caregiver is unavailable to provide such care.

22 (2) Respite care service does not include:

23 (a) A person or any legal entity which is licensed under
24 the Health Care Facility Licensure Act and which provides respite
25 care services at the licensed location;

26 (b) A person or legal entity which is licensed to provide
27 child care to thirteen or more children under the Child Care

1 Licensing Act or which is licensed as a ~~group home or~~ residential
2 child-caring agency under sections 71-1901 to 71-1906.01; the
3 Children's Residential Facilities and Placing Licensure Act;

4 (c) An agency that recruits, screens, or trains a person
5 to provide respite care;

6 (d) An agency that matches a respite care service or
7 other providers of respite care with a person with special needs,
8 or refers a respite care service or other providers of respite
9 care to a person with special needs, unless the agency receives
10 compensation for such matching or referral from the service or
11 provider or from or on behalf of the person with special needs;

12 (e) A person who provides respite care to fewer than
13 eight unrelated persons in any seven-day period in his or her home
14 or in the home of the recipient of the respite care; or

15 (f) A nonprofit agency that provides group respite care
16 for no more than eight hours in any seven-day period.

17 Sec. 40. Section 71-1901, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 71-1901 For purposes of sections 71-1901 to 71-1906.01:

20 (1) Person includes a partnership, limited liability
21 company, firm, agency, association, or corporation;

22 (2) Child means an unemancipated minor;

23 (3) Child-placing agency has the definition found in
24 section 3 of this act;

25 ~~(3)~~ (4) Department means the ~~Division of Public Health of~~
26 the Department of Health and Human Services;

27 ~~(4)~~ (5) Foster care means engaged in the service of

1 exercising twenty-four-hour daily care, supervision, custody, or
2 control over children, for compensation or hire, in lieu of
3 the care or supervision normally exercised by parents in their
4 own home. Foster care does not include casual care at irregular
5 intervals or programs as defined in section 71-1910; and

6 (6) Foster family home means a home which provides foster
7 care to a child or children pursuant to a foster care placement
8 as defined in section 43-1301. Foster family homes include licensed
9 homes where the primary caretaker has no significant prior
10 relationship with the child or children in their care and both
11 licensed and unlicensed relative and kinship homes;

12 (7) Kinship home means a home where a child or children
13 receive foster care and at least one of the primary caretakers has
14 previously lived with or is a trusted adult that has a preexisting,
15 significant relationship with the child or children or a sibling of
16 such child or children pursuant to section 43-1311.02;

17 ~~(5)~~ (8) Native American means a person who is a member of
18 an Indian tribe or eligible for membership in an Indian tribe;:-

19 (9) Relative home means a home where a child or children
20 receive foster care and at least one of the primary caretakers is
21 related to the child or children or, to a sibling of such child or
22 children pursuant to section 43-1311.02, in their care by blood,
23 marriage, or adoption or, in the case of an Indian child, at least
24 one of the primary caretakers is an extended family member as
25 defined in section 43-1503; and

26 (10) Residential child-caring agency has the definition
27 found in section 3 of this act.

1 Sec. 41. Section 71-1902, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

3 71-1902 (1) The department shall adopt and promulgate
4 rules and regulations on requirements for licenses, waivers,
5 variances, and approval of foster family homes taking into
6 consideration the health, safety, well-being, and best interests of
7 the child. An initial assessment of a foster family home shall be
8 completed and shall focus on the safety, protection, and immediate
9 health, educational, developmental, and emotional needs of the
10 child and the willingness and ability of the foster home, relative
11 home, or kinship home to provide a safe, stable, and nurturing
12 environment for a child for whom the department or child-placing
13 agency has assumed responsibility.

14 ~~(1)~~ (2) (a) Except as otherwise provided in this section,
15 no person shall furnish or offer to furnish foster care for one
16 or more children not related to such person by blood, marriage, or
17 adoption without having in full force and effect a written license
18 issued by the department upon such terms and conditions as may be
19 prescribed by general rules and regulations adopted and promulgated
20 by the department. The terms and conditions for licensure may allow
21 foster family homes to meet licensing standards through variances
22 equivalent to the established standards.

23 (b) The department may issue a time-limited, nonrenewable
24 provisional license to an applicant who is unable to comply
25 with all licensure requirements and standards, is making a good
26 faith effort to comply, and is capable of compliance within the
27 time period stated in the license. The department may issue a

1 time-limited, nonrenewable probationary license to a licensee who
2 agrees to establish compliance with rules and regulations that,
3 when violated, do not present an unreasonable risk to the health,
4 safety, or well-being of the foster children in the care of the
5 applicant. ~~No license shall be issued pursuant to this section
6 unless the applicant has completed the required hours of training
7 in foster care as prescribed by the department.~~

8 (3) Kinship homes and relative homes are exempt from
9 licensure, however, such homes should make efforts to be licensed
10 if such license will facilitate the permanency plan of the
11 child. The department and child-placing agencies shall, when
12 requested or as part of the child's permanency plan, provide
13 resources for and assistance with licensure, including, but
14 not limited to, information on licensure, waivers for relative
15 homes, kinship-specific and relative-specific foster care training,
16 referral to local service providers and support groups, and funding
17 and resources available to address home safety or other barrier to
18 licensure.

19 (4) Prior to placement in a nonlicensed relative home
20 or kinship home, approval shall be obtained from the department.
21 Requirements for initial approval shall include, but not be limited
22 to, the initial assessment provided for in subsection (1) of this
23 section, a home visit to assure adequate and safe housing, and a
24 criminal background check of all adult residents. Final approval
25 shall include, but is not limited to, requirements as appropriate
26 under 71-1903. The department or child-placing agency shall provide
27 assistance to an approved relative home or kinship home to support

1 the care, protection, and nurturing of the child. Support may
2 include, but is not limited to, information on licensure, waivers,
3 and variances, kinship-specific and relative-specific foster care
4 training, mental and physical health care, options for funding for
5 needs of the child, and service providers and support groups to
6 address the needs of relative and kinship parents, families, and
7 children.

8 ~~(2)~~ (5) All nonprovisional and nonprobationary licenses
9 issued under sections 71-1901 to 71-1906.01 shall expire two years
10 from the date of issuance and shall be subject to renewal under the
11 same terms and conditions as the original license, except that if
12 a licensee submits a completed renewal application thirty days or
13 more before the license's expiration date, the license shall remain
14 in effect until the department either renews the license or denies
15 the renewal application. No license issued pursuant to this section
16 shall be renewed unless the licensee has completed the required
17 hours of training in foster care in the preceding twelve months as
18 prescribed by the department. ~~For the issuance or renewal of each~~
19 ~~nonprovisional and nonprobationary license, the department shall~~
20 ~~charge a fee of fifty dollars for a group home, fifty dollars for a~~
21 ~~child-caring agency, and fifty dollars for a child-placing agency.~~
22 ~~For the issuance of each provisional license and each probationary~~
23 ~~license, the department shall charge a fee of twenty-five dollars~~
24 ~~for a group home, twenty-five dollars for a child-caring agency,~~
25 ~~and twenty-five dollars for a child-placing agency. A license may~~
26 be revoked for cause, after notice and hearing, in accordance with
27 rules and regulations adopted and promulgated by the department.

1 ~~(3) For purposes of this section:~~

2 ~~(a) Foster family home means any home which provides~~
3 ~~twenty-four-hour care to children who are not related to the foster~~
4 ~~parent by blood, marriage, or adoption;~~

5 ~~(b) Group home means a home which is operated under the~~
6 ~~auspices of an organization which is responsible for providing~~
7 ~~social services, administration, direction, and control for the~~
8 ~~home and which is designed to provide twenty-four-hour care for~~
9 ~~children and youth in a residential setting;~~

10 ~~(c) Child-caring agency means an organization which is~~
11 ~~organized as a corporation or a limited liability company for the~~
12 ~~purpose of providing care for children in buildings maintained by~~
13 ~~the organization for that purpose; and~~

14 ~~(d) Child-placing agency means an organization which is~~
15 ~~authorized by its articles of incorporation and by its license to~~
16 ~~place children in foster family homes.~~

17 Sec. 42. Section 71-1903, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 71-1903 (1) Before issuance of a license under
20 sections 71-1901 to 71-1906.01, the department shall cause such
21 investigation to be made as it deems necessary to determine if
22 the character of the applicant, any member of the applicant's
23 household, or the person in charge of the service and the place
24 where the foster care is to be furnished are such as to ensure
25 the proper care and treatment of children. The department may
26 request the State Fire Marshal to inspect such places for fire
27 safety pursuant to section 81-502. The State Fire Marshal shall

1 assess a fee for such inspection pursuant to section 81-505.01,
2 payable by the licensee or applicant for a license, except that the
3 department may pay the fee for inspection for fire safety of ~~foster~~
4 family homes where foster care is provided. as defined in section
5 ~~71-1902.~~ The department may conduct sanitation and health standards
6 investigations pursuant to subsection (2) of this section. The
7 department may also, at any time it sees fit, cause an inspection
8 to be made of the place where any licensee is furnishing foster
9 care to see that such service is being properly conducted.

10 (2) The department shall make an investigation and report
11 of all ~~facilities and programs of licensed foster care providers~~
12 ~~of foster care programs~~ subject to this section or applicants
13 for licenses to provide such ~~programs~~ care to determine if ~~the~~
14 ~~place or places to be covered by such licenses meet standards~~
15 of health and sanitation set by the department for the care and
16 protection of the child or children who may be placed in ~~such~~
17 ~~facilities and programs.~~ foster family homes are being met. The
18 department may delegate the investigation authority to qualified
19 local environmental health personnel.

20 (3) Before the foster care placement of any child in
21 Nebraska by the department, the department shall require a national
22 criminal history record information check of the prospective foster
23 parent of such child and each member of such prospective foster
24 parent's household who is eighteen years of age or older. The
25 department shall provide two sets of legible fingerprints for such
26 persons to the Nebraska State Patrol for submission to the Federal
27 Bureau of Investigation. The Nebraska State Patrol shall conduct a

1 criminal history record information check of such persons and shall
2 submit such fingerprints to the Federal Bureau of Investigation
3 for a national criminal history record information check. The
4 criminal history record information check shall include information
5 from federal repositories of such information and repositories of
6 such information in other states if authorized by federal law.
7 The Nebraska State Patrol shall issue a report of the results of
8 such criminal history record information check to the department.
9 The department shall pay a fee to the Nebraska State Patrol
10 for conducting such check. Information received from the criminal
11 history record information check required under this subsection
12 shall be used solely for the purpose of evaluating and confirming
13 information provided by such persons for providing foster care or
14 for the finalization of an adoption. A child may be placed in
15 foster care by the department prior to the completion of a criminal
16 history record information check under this subsection in emergency
17 situations as determined by the department.

18 Sec. 43. Section 71-1904, Revised Statutes Cumulative
19 Supplement, 2012, is amended to read:

20 71-1904 (1) The department shall adopt and promulgate
21 rules and regulations pursuant to sections 71-1901 to 71-1906.01
22 for (a) the proper care and protection of children by licensees
23 under such sections, (b) the issuance, suspension, and revocation
24 of licenses to provide foster care, (c) the issuance, suspension,
25 and revocation of probationary licenses to provide foster care, (d)
26 the issuance, suspension, and revocation of provisional licenses to
27 provide foster care, (e) the provision of training in foster care,

1 which training shall be directly related to the skills necessary
2 to care for children in need of out-of-home care, including,
3 but not limited to, abused, neglected, dependent, and delinquent
4 children, and (f) the proper administration of sections 71-1901 to
5 71-1906.01.

6 (2) ~~The training required by subdivision (1)(e) of this~~
7 ~~section may be waived in whole or in part by the department for~~
8 ~~persons operating foster homes providing care only to relatives~~
9 ~~of the foster care provider. The department may issue a waiver~~
10 ~~for any licensing standard not related to children's safety for a~~
11 ~~relative home that is pursuing licensure.~~ Such waivers shall be
12 granted on a case-by-case basis upon assessment by the department
13 ~~of the appropriateness of the relative foster care placement.~~
14 ~~based upon the best interests of the child. A relative home that~~
15 ~~receives a waiver pursuant to this subsection shall be considered~~
16 ~~fully licensed for purposes of federal reimbursement under the~~
17 ~~federal Fostering Connections to Success and Increasing Adoptions~~
18 ~~Act of 2008, Public Law 110-351.~~ The department shall submit
19 electronically an annual report to the Health and Human Services
20 Committee of the Legislature on the number of waivers granted
21 under this subsection and the total number of children placed in
22 relative ~~foster~~ homes. For 2012, 2013, and 2014, the department
23 shall provide the report to the Health and Human Services Committee
24 of the Legislature on or before September 15.

25 Sec. 44. Section 71-1907, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 71-1907 Any person furnishing foster care who is subject

1 to licensure under section 71-1902 or the Children's Residential
2 Facilities and Placing Licensure Act, when transporting in a motor
3 vehicle any children for whom care is being furnished, shall use
4 an approved child passenger restraint system for each child, except
5 that an occupant protection system as defined in section 60-6,265
6 may be used for any child six years of age or older.

7 Any person violating this section shall be guilty of an
8 infraction as defined in section 29-431 and shall have his or
9 her license to furnish foster care revoked or suspended by the
10 Department of Health and Human Services.

11 For purposes of this section, approved child passenger
12 restraint system shall mean a restraint system which meets Federal
13 Motor Vehicle Safety Standard 213 as developed by the National
14 Highway Traffic Safety Administration, as such standard existed on
15 July 20, 2002.

16 Sec. 45. Section 75-302, Revised Statutes Cumulative
17 Supplement, 2012, is amended to read:

18 75-302 For purposes of sections 75-301 to 75-322 and in
19 all rules and regulations adopted and promulgated by the commission
20 pursuant to such sections, unless the context otherwise requires:

21 (1) Attended services means an attendant or caregiver
22 accompanying a minor or ~~persons who are physically, mentally, or~~
23 ~~developmentally disabled and~~ a person who has a physical, mental,
24 or developmental disability and is unable to travel or wait without
25 assistance or supervision;

26 (2) Carrier enforcement division means the carrier
27 enforcement division of the Nebraska State Patrol or the Nebraska

1 State Patrol;

2 (3) Certificate means a certificate of public convenience
3 and necessity issued under Chapter 75, article 3, to common
4 carriers by motor vehicle;

5 (4) Civil penalty means any monetary penalty assessed by
6 the commission or carrier enforcement division due to a violation
7 of Chapter 75, article 3, or section 75-126 as such section applies
8 to any person or carrier specified in Chapter 75, article 3; any
9 term, condition, or limitation of any certificate or permit issued
10 pursuant to Chapter 75, article 3; or any rule, regulation, or
11 order of the commission, the Division of Motor Carrier Services,
12 or the carrier enforcement division issued pursuant to Chapter 75,
13 article 3;

14 (5) Commission means the Public Service Commission;

15 (6) Common carrier means any person who or which
16 undertakes to transport passengers or household goods for the
17 general public in intrastate commerce by motor vehicle for hire,
18 whether over regular or irregular routes, upon the highways of this
19 state;

20 (7) Contract carrier means any motor carrier which
21 transports passengers or household goods for hire other than
22 as a common carrier designed to meet the distinct needs of each
23 individual customer or a specifically designated class of customers
24 without any limitation as to the number of customers it can serve
25 within the class;

26 (8) Division of Motor Carrier Services means the Division
27 of Motor Carrier Services of the Department of Motor Vehicles;

1 (9) Highway means the roads, highways, streets, and ways
2 in this state;

3 (10) Household goods means personal effects and property
4 used or to be used in a dwelling, when a part of the equipment
5 or supply of such dwelling, and similar property as the commission
6 may provide by regulation if the transportation of such effects or
7 property, is:

8 (a) Arranged and paid for by the householder, including
9 transportation of property from a factory or store when the
10 property is purchased by the householder with the intent to use in
11 his or her dwelling; or

12 (b) Arranged and paid for by another party;

13 (11) Intrastate commerce means commerce between any place
14 in this state and any other place in this state and not in part
15 through any other state;

16 (12) Licensed care transportation services means
17 transportation provided by an entity licensed by the Department of
18 Health and Human Services as a residential child-caring agency as
19 defined in section 71-1902 3 of this act or child-placing agency as
20 defined in such section or a child care facility licensed under
21 the Child Care Licensing Act to a client of the entity or facility
22 when the person providing transportation services also assists and
23 supervises the passenger or, if the client is a minor, to a family
24 member of a minor when it is necessary for agency or facility
25 staff to accompany or facilitate the transportation in order to
26 provide necessary services and support to the minor. Licensed care
27 transportation services must be incidental to and in furtherance

1 of the social services provided by the entity or facility to the
2 transported client;

3 (13) Motor carrier means any person other than a
4 regulated motor carrier who or which owns, controls, manages,
5 operates, or causes to be operated any motor vehicle used to
6 transport passengers or property over any public highway in this
7 state;

8 (14) Motor vehicle means any vehicle, machine, tractor,
9 trailer, or semitrailer propelled or drawn by mechanical power
10 and used upon the highways in the transportation of passengers
11 or property but does not include any vehicle, locomotive, or car
12 operated exclusively on a rail or rails;

13 (15) Permit means a permit issued under Chapter 75,
14 article 3, to contract carriers by motor vehicle;

15 (16) Person means any individual, firm, partnership,
16 limited liability company, corporation, company, association,
17 or joint-stock association and includes any trustee, receiver,
18 assignee, or personal representative thereof;

19 (17) Private carrier means any motor carrier which
20 owns, controls, manages, operates, or causes to be operated a
21 motor vehicle to transport passengers or property to or from
22 its facility, plant, or place of business or to deliver to
23 purchasers its products, supplies, or raw materials (a) when such
24 transportation is within the scope of and furthers a primary
25 business of the carrier other than transportation and (b) when
26 not for hire. Nothing in sections 75-301 to 75-322 shall apply to
27 private carriers;

1 (18) Regulated motor carrier means any person who or
2 which owns, controls, manages, operates, or causes to be operated
3 any motor vehicle used to transport passengers, other than those
4 excepted under section 75-303, or household goods over any public
5 highway in this state;

6 (19) Residential care means care for a minor or a
7 person who is physically, mentally, or developmentally disabled
8 who resides in a residential home or facility regulated by the
9 Department of Health and Human Services, including, but not limited
10 to, a foster home, treatment facility, ~~group home,~~ residential
11 child-caring agency, or shelter;

12 (20) Residential care transportation services means
13 transportation services to persons in residential care when such
14 residential care transportation services and residential care are
15 provided as part of a services contract with the Department of
16 Health and Human Services or pursuant to a subcontract entered into
17 incident to a services contract with the department; and

18 (21) Supported transportation services means
19 transportation services to a minor or for a person who is
20 physically, mentally, or developmentally disabled when the person
21 providing transportation services also assists and supervises the
22 passenger or transportation services to a family member of a minor
23 when it is necessary for provider staff to accompany or facilitate
24 the transportation in order to provide necessary services and
25 support to the minor. Supported transportation services must be
26 provided as part of a services contract with the Department of
27 Health and Human Services or pursuant to a subcontract entered into

1 incident to a services contract with the department, and the driver
2 must meet department requirements for (a) training or experience
3 working with minors or persons who are physically, mentally, or
4 developmentally disabled, (b) training with regard to the specific
5 needs of the client served, (c) reporting to the department,
6 and (d) age. Assisting and supervising the passenger shall not
7 necessarily require the person providing transportation services
8 to stay with the passenger after the transportation services have
9 been provided.

10 Sec. 46. Section 77-2704.12, Revised Statutes Cumulative
11 Supplement, 2012, is amended to read:

12 77-2704.12 (1) Sales and use taxes shall not be imposed
13 on the gross receipts from the sale, lease, or rental of
14 and the storage, use, or other consumption in this state of
15 purchases by (a) any nonprofit organization created exclusively
16 for religious purposes, (b) any nonprofit organization providing
17 services exclusively to the blind, (c) any nonprofit private
18 educational institution established under sections 79-1601 to
19 79-1607, (d) any regionally or nationally accredited, nonprofit,
20 privately controlled college or university with its primary campus
21 physically located in Nebraska, (e) any nonprofit (i) hospital,
22 (ii) health clinic when one or more hospitals or the parent
23 corporations of the hospitals own or control the health clinic
24 for the purpose of reducing the cost of health services or when
25 the health clinic receives federal funds through the United States
26 Public Health Service for the purpose of serving populations
27 that are medically underserved, (iii) skilled nursing facility,

1 (iv) intermediate care facility, (v) assisted-living facility,
2 (vi) intermediate care facility for the mentally retarded, (vii)
3 nursing facility, (viii) home health agency, (ix) hospice or
4 hospice service, (x) respite care service, or (xi) mental health
5 center licensed under the Health Care Facility Licensure Act, (f)
6 any nonprofit licensed residential child-caring agency, (g) any
7 nonprofit licensed child placement agency, or (h) any nonprofit
8 organization certified by the Department of Health and Human
9 Services to provide community-based services for persons with
10 developmental disabilities.

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

16 (3) The appointment of purchasing agents shall be
17 recognized for the purpose of altering the status of the
18 construction contractor as the ultimate consumer of building
19 materials which are physically annexed to the structure and
20 which subsequently belong to the owner of the organization or
21 institution. The appointment of purchasing agents shall be in
22 writing and occur prior to having any building materials annexed
23 to real estate in the construction, improvement, or repair. The
24 contractor who has been appointed as a purchasing agent may apply
25 for a refund of or use as a credit against a future use tax
26 liability the tax paid on inventory items annexed to real estate
27 in the construction, improvement, or repair of a project for a

1 licensed not-for-profit institution.

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

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

27 Sec. 47. Section 81-502, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 81-502 (1) It shall be the duty of the State Fire
3 Marshal, under authority of the Governor:

4 (a) To enforce all laws of the state relating to the
5 suppression of arson and investigation of the cause, origin, and
6 circumstances of fires;

7 (b) To promote safety and reduce loss by fire;

8 (c) To make an investigation for fire safety of the
9 premises and facilities of:

10 (i) Liquor establishments for which a license or renewal
11 of a license is sought, upon request of the Nebraska Liquor Control
12 Commission, pursuant to section 53-119.01;

13 (ii) Licensed foster care facilities or applicants for
14 licenses for foster care facilities, upon request by the Department
15 of Health and Human Services, pursuant to section 71-1903;

16 (iii) ~~Licensed providers of programs or applicants for~~
17 ~~licenses to provide such programs, upon~~ Upon request of the
18 Department of Health and Human Services, licensed providers of
19 programs or applicants for licenses to provide such programs
20 pursuant to section 71-1913 and licensed residential child-caring
21 agencies or applicants for such licensure pursuant to section 10 of
22 this act. The State Fire Marshal shall report the results of the
23 investigation to the department within thirty days after receipt of
24 the request from the department;

25 (iv) Licensed hospitals, skilled nursing facilities,
26 intermediate care facilities, or other health care facilities
27 which are licensed under the Health Care Facility Licensure Act or

1 applicants for licenses for such facilities or institutions, upon
2 request by the Department of Health and Human Services, pursuant to
3 section 71-441; and

4 (v) Mobile home parks for which a license or renewal of
5 a license is sought, upon request of the Department of Health and
6 Human Services, pursuant to section 71-4635; and

7 (d) After a careful study and investigation of relevant
8 data, to adopt, promulgate, alter, and enforce, through inspections
9 and code compliance, orders, rules, and regulations covering:

10 (i) The prevention of fires;

11 (ii) The storage, sale, and use of flammable liquids,
12 combustibles, and fireworks;

13 (iii) Electric wiring and heating, protection equipment
14 devices, materials, furnishings, and other safeguards within
15 the structure necessary to promote safety and reduce loss by
16 fire, and the means and adequacy of exits, in case of fire,
17 in assembly, educational, institutional, residential, mercantile,
18 office, storage, and industrial-type occupancies as such structures
19 are defined in the National Fire Protection Association, Pamphlet
20 Number 101, and associated pamphlets, and all other buildings,
21 structures, and enclosures in which numbers of persons congregate
22 from time to time for any purpose whether privately or publicly
23 owned;

24 (iv) Design, construction, location, installation, and
25 operation of equipment for storing, handling, and utilization of
26 liquefied petroleum gases, specifying the odorization of such gases
27 and the degree thereof;

1 (v) Chemicals, prozylin plastics, X-ray nitrocellulose
2 films, or any other hazardous material that may now or hereafter
3 exist;

4 (vi) Tanks used for the storage of regulated substances
5 pursuant to the Petroleum Products and Hazardous Substances Storage
6 and Handling Act; and

7 (vii) Accessibility standards and specifications adopted
8 pursuant to section 81-5,147.

9 (2) The State Fire Marshal may enter into contracts
10 with private individuals or other agencies, boards, commissions,
11 or governmental bodies for the purpose of carrying out his or
12 her duties and responsibilities pursuant to the Arson Reporting
13 Immunity Act, the Nebraska Natural Gas Pipeline Safety Act of
14 1969, and sections 81-502 to 81-541.01, 81-5,132 to 81-5,146, and
15 81-5,151 to 81-5,157.

16 (3) The State Fire Marshal may delegate the authority set
17 forth in this section to qualified local fire prevention personnel.
18 The State Fire Marshal may overrule a decision, act, or policy of
19 the local fire prevention personnel. When the State Fire Marshal
20 overrules the local personnel, such local personnel may follow the
21 appeals procedure established by sections 81-502.01 to 81-502.03.
22 Such delegation of authority may be revoked by the State Fire
23 Marshal for cause upon thirty days' notice after a hearing.

24 (4) The State Fire Marshal, first assistant fire marshal,
25 and deputies shall have such other powers and perform such other
26 duties as are set forth in sections 81-501.01 to 81-531 and
27 81-5,151 to 81-5,157 and as may be conferred and imposed by law.

1 (5) The rules and regulations adopted and promulgated
2 pursuant to subdivision (1)(d) of this section may conform
3 generally to the standards recommended by the National Fire
4 Protection Association, Pamphlet Number 101, known as the Life
5 Safety Code, and associated pamphlets, but not when doing so would
6 impose an unduly severe or costly burden without substantially
7 contributing to the safety of persons or property. This section
8 and the rules and regulations adopted and promulgated pursuant
9 to subdivision (1)(d) of this section shall apply to existing as
10 well as new buildings, structures, and enclosures. Such rules and
11 regulations shall also apply to sites or structures in public
12 ownership listed on the National Register of Historic Places but
13 without destroying the historic quality thereof.

14 (6) Plans for compliance with the rules and regulations
15 adopted and promulgated pursuant to subdivision (1)(d) of this
16 section shall be reviewed by the State Fire Marshal. Plans
17 submitted after remodeling or construction has begun shall be
18 accompanied by a penalty of fifty dollars in addition to the plan
19 review fee set out in subdivision (4)(a) of section 81-505.01.

20 Sec. 48. Section 81-505.01, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 81-505.01 (1) The State Fire Marshal shall establish and
23 assess fees not to exceed the actual costs for the performance
24 of services by the State Fire Marshal or by qualified local fire
25 prevention personnel to whom the State Fire Marshal has delegated
26 authority to perform such services. Prior to establishing or
27 altering such fees, the State Fire Marshal shall hold a public

1 hearing on the question of the adoption of or change in fees.
2 Notice of such hearing shall be given at least thirty days
3 prior thereto (a) by publication in a newspaper having general
4 circulation in the state and (b) by notifying in writing the head
5 of any agency or department having jurisdiction over facilities
6 that would be subject to the fees. Fees for services performed by
7 the State Fire Marshal shall be paid to the State Fire Marshal and
8 shall be remitted to the State Treasurer for credit to the State
9 Fire Marshal Cash Fund. Fees for services performed by local fire
10 prevention personnel shall be paid directly to the office of the
11 local fire prevention personnel.

12 (2) The fee for inspection for fire safety of any
13 premises or facility pursuant to section 81-502 shall be not less
14 than twenty-five nor more than one hundred fifty dollars and shall
15 be paid by the licensee or applicant for a license. The fee for
16 inspection for fire safety of the same premises or facility made
17 within twelve months after the last prior inspection shall be not
18 less than twenty-five nor more than one hundred fifty dollars and
19 shall be paid by the licensee or applicant for a license. The fees
20 for inspection for fire safety of foster family homes as defined in
21 section ~~71-1902~~ 71-1901 may be paid by the Department of Health and
22 Human Services.

23 (3) The fee for providing investigation reports to
24 insurance companies shall not exceed three dollars for each report
25 provided. The State Fire Marshal may charge an amount not to exceed
26 the actual cost of preparation for any other approved information
27 release.

1 (4) (a) Except as provided in subdivision (b) of this
2 subsection, the fee for reviewing plans, blueprints, and shop
3 drawings to determine compliance with rules and regulations adopted
4 and promulgated pursuant to section 81-502 shall be assessed
5 according to the following schedule:

6 TOTAL VALUE OF PROPOSED

7 STRUCTURE OR IMPROVEMENT FEE

8	\$1 - \$5,000	\$5.00
9	\$5,001 - \$25,000	\$5.00 for the first \$5,000.00 plus
10		\$2.00 for each additional \$5,000.00
11		or fraction thereof.
12	\$25,001 - \$50,000	\$15.00 for the first \$25,000.00 plus
13		\$2.00 for each additional \$5,000.00
14		or fraction thereof.
15	\$50,001 - \$100,000	\$25.00 for the first \$50,000.00 plus
16		\$1.00 for each additional \$5,000.00
17		or fraction thereof.
18	\$100,001 - \$200,000	\$35.00 for the first \$100,000.00 plus
19		\$1.00 for each additional \$10,000.00
20		or fraction thereof.
21	\$200,001 or more	\$50.00 for the first \$200,000.00 plus
22		\$1.00 for each additional \$10,000.00
23		or fraction thereof, except that the
24		total fee shall not exceed \$500.00.

25 (b) The fees set out in subdivision (a) of this
26 subsection shall not be assessed or collected by any political
27 subdivision to which the State Fire Marshal has delegated
28 the authority to conduct such review and which reviews plans,

1 blueprints, or shop drawings to determine compliance with such
2 political subdivision's own fire safety regulations. Nothing in
3 this subdivision shall be construed to prohibit such political
4 subdivision from assessing or collecting a fee set by its governing
5 board for such review.

6 (c) An additional fee equal to fifty percent of the
7 fee charged pursuant to subdivision (a) of this subsection shall
8 be assessed for reviewing plans, blueprints, and shop drawings
9 to determine compliance with the accessibility standards and
10 specifications adopted pursuant to section 81-5,147, except that
11 the additional fee assessed pursuant to this subdivision shall not
12 exceed two hundred fifty dollars.

13 Sec. 49. Section 83-108.04, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 83-108.04 (1) In addition to the institutions established
16 by law, the Department of Health and Human Services may maintain or
17 use the following facilities for the care of children in its legal
18 custody who have been adjudged to be as described in subdivision
19 (1), (2), (3)(b), or (4) of section 43-247: (a) Receiving homes
20 to be used for the temporary care of children; (b) foster homes;
21 (c) ~~group homes;~~ residential child-caring agencies as defined in
22 section 3 of this act; and (d) other facilities and services,
23 including forestry or conservation camps for the training and
24 treatment of children.

25 (2) The Department of Health and Human Services also may
26 use other public facilities or contract for the use of private
27 facilities for the care and treatment of children in its legal

1 custody. Placement of children in private or public facilities not
2 under its jurisdiction shall not terminate the legal custody of the
3 department. No state funds may be paid for care of a child in the
4 home of a parent.

5 Sec. 50. Original sections 28-710, 43-1503, 68-1006.01,
6 71-428, 71-1901, 71-1903, 71-1907, 81-502, 81-505.01, and
7 83-108.04, Reissue Revised Statutes of Nebraska, and sections
8 29-2264, 43-2,108.05, 43-1301, 43-1302, 43-1304, 43-4308, 68-1207,
9 71-1902, 71-1904, 75-302, and 77-2704.12, Revised Statutes
10 Cumulative Supplement, 2012, are repealed.

11 Sec. 51. Since an emergency exists, this act takes effect
12 when passed and approved according to law.