

AMENDMENTS TO LB 821

(Amendments to E & R amendments, ER196)

Introduced by Campbell

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

3 Section 1. (1) The Legislature finds and declares that:

4 (a) The Health and Human Services Committee of the
5 Legislature documented serious problems with the child welfare
6 system in its 2011 report of the study that was conducted under
7 Legislative Resolution 37, One Hundred Second Legislature, First
8 Session, 2011;

9 (b) Improving the safety and well-being of Nebraska's
10 children and families is a critical priority which must guide
11 policy decisions in a variety of areas;

12 (c) To improve the safety and well-being of children
13 and families in Nebraska, the legislative, judicial, and executive
14 branches of government must work together to ensure:

15 (i) The integration, coordination, and accessibility of
16 all services provided by the state, whether directly or pursuant to
17 contract;

18 (ii) Reasonable access to appropriate services statewide
19 and efficiency in service delivery; and

20 (iii) The availability of accurate and complete data as
21 well as ongoing data analysis to identify important trends and
22 problems as they arise; and

1 (d) As the primary state agency serving children and
2 families, the Department of Health and Human Services must
3 exemplify leadership, responsiveness, transparency, and efficiency
4 and program managers within the agency must strive cooperatively to
5 ensure that their programs view the needs of children and families
6 comprehensively as a system rather than individually in isolation,
7 including pooling funding when possible and appropriate.

8 (2) It is the intent of the Legislature in creating the
9 Nebraska Children's Commission to provide for the needs identified
10 in subsection (1) of this section, to provide a broad restructuring
11 of the goals of the child welfare system, and to provide a
12 structure to the commission that maintains the framework of the
13 three branches of government and their respective powers and
14 duties.

15 Sec. 2. (1) The Nebraska Children's Commission is created
16 as a high-level leadership body to (a) create a statewide strategic
17 plan for reform of the child welfare system programs and services
18 in the State of Nebraska and (b) review the operations of the
19 Department of Health and Human Services regarding child welfare
20 programs and services and recommend, as a part of the statewide
21 strategic plan, options for attaining the legislative intent stated
22 in section 1 of this act, either by the establishment of a new
23 division within the department or the establishment of a new state
24 agency to provide all child welfare programs and services which
25 are the responsibility of the state. The commission shall provide
26 a permanent forum for collaboration among state, local, community,
27 public, and private stakeholders in child welfare programs and

1 services.

2 (2) The commission shall include the following voting
3 members:

4 (a) The chief executive officer of the Department of
5 Health and Human Services or his or her designee;

6 (b) The Director of Children and Family Services or his
7 or her designee; and

8 (c) Sixteen members appointed by the Governor within
9 thirty days after the effective date of this act. The members
10 appointed pursuant to this subdivision shall represent stakeholders
11 in the child welfare system and shall include: (i) A director of a
12 child advocacy center; (ii) an administrator of a behavioral health
13 region established pursuant to section 71-807; (iii) a community
14 representative from each of the service areas designated pursuant
15 to section 81-3116. In the eastern service area designated pursuant
16 to such section, the representative may be from a pilot project
17 lead agency of a pilot project established under Legislative Bill
18 961, One Hundred Second Legislature, Second Session, 2012, or a
19 collaborative member; (iv) a prosecuting attorney who practices in
20 juvenile court; (v) a guardian ad litem; (vi) a biological parent
21 currently or previously involved in the child welfare system;
22 (vii) a foster parent; (viii) a court-appointed special advocate
23 volunteer; (ix) a member of the State Foster Care Review Board or
24 any entity that succeeds to the powers and duties of the board or
25 a member of a local foster care review board; (x) a child welfare
26 service agency that directly provides a wide range of child welfare
27 services and is not a member of a lead agency collaborative; (xi) a

1 young adult previously in foster care; and (xii) a representative
2 of a child advocacy organization that deals with legal and policy
3 issues that include child welfare.

4 (3) The commission shall have the following nonvoting, ex
5 officio members: (a) The chairperson of the Health and Human
6 Services Committee of the Legislature or a committee member
7 designated by the chairperson; (b) the chairperson of the Judiciary
8 Committee of the Legislature or a committee member designated
9 by the chairperson; (c) the chairperson of the Appropriations
10 Committee of the Legislature or a committee member designated by
11 the chairperson; and (d) three persons appointed by the State
12 Court Administrator. The nonvoting, ex officio members may attend
13 commission meetings and participate in the discussions of the
14 commission, provide information to the commission on the policies,
15 programs, and processes of each of their respective bodies, gather
16 information for the commission, and provide information back to
17 their respective bodies from the commission. The nonvoting, ex
18 officio members shall not vote on decisions by the commission or
19 on the direction or development of the statewide strategic plan
20 pursuant to section 4 of this act.

21 (4) The commission shall meet within sixty days after
22 the effective date of this act and shall select from among its
23 members a chairperson and vice-chairperson and conduct any other
24 business necessary to the organization of the commission. The
25 commission shall meet not less often than once every three months,
26 and meetings of the commission may be held at any time on the
27 call of the chairperson. The commission shall be within the office

1 of the chief executive officer of the Department of Health and
2 Human Services. The commission may hire staff to carry out the
3 responsibilities of the commission. The commission shall hire a
4 consultant with experience in facilitating strategic planning to
5 provide neutral, independent assistance in developing the statewide
6 strategic plan. The commission shall terminate on June 30, 2014,
7 unless continued by the Legislature.

8 (5) Members of the commission shall be reimbursed for
9 their actual and necessary expenses as members of such commission
10 as provided in sections 81-1174 to 81-1177.

11 Sec. 3. (1) The Nebraska Children's Commission shall
12 work with administrators from each of the service areas designated
13 pursuant to section 81-3116, the teams created pursuant to section
14 28-728, local foster care review boards, child advocacy centers,
15 the teams created pursuant to the Supreme Court's Through the Eyes
16 of the Child Initiative, community stakeholders, and advocates for
17 child welfare programs and services to establish networks in each
18 of such service areas. Such networks shall permit collaboration
19 to strengthen the continuum of services available to child welfare
20 agencies and to provide resources for children and juveniles
21 outside the child protection system. Each service area shall
22 develop its own unique strategies to be included in the statewide
23 strategic plan. The Department of Health and Human Services shall
24 assist in identifying the needs of each service area.

25 (2) (a) The commission shall create a committee to examine
26 state policy regarding the prescription of psychotropic drugs for
27 children who are wards of the state and the administration of such

1 drugs to such children. Such committee shall review the policy and
2 procedures for prescribing and administering such drugs and make
3 recommendations to the commission for changes in such policy and
4 procedures.

5 (b) The commission may organize committees as it
6 deems necessary. Members of the committees may be members of
7 the commission or may be appointed, with the approval of the
8 majority of the commission, from individuals with knowledge of
9 the committee's subject matter, professional expertise to assist
10 the committee in completing its assigned responsibilities, and the
11 ability to collaborate within the committee and with the commission
12 to carry out the powers and duties of the commission.

13 (c) If the One Hundred Second Legislature, Second
14 Session, 2012, creates the Title IV-E Demonstration Project
15 Committee or the Foster Care Reimbursement Rate Committee, or both,
16 such committees shall be under the jurisdiction of the commission.

17 (3) The commission shall work with the office of the
18 State Court Administrator, as appropriate, and entities which
19 coordinate facilitated conferencing as described in section
20 43-247.01. Facilitated conferencing shall be included in statewide
21 strategic plan discussions by the commission. Facilitated
22 conferencing shall continue to be utilized and maximized, as
23 determined by the court of jurisdiction, during the development
24 of the statewide strategic plan. Funding and contracting of
25 facilitated conferencing entities shall continue to be provided by
26 the Department of Health and Human Services to at least the same
27 extent as such funding and contracting are being provided on the

1 effective date of this act.

2 (4) The commission shall gather information and
3 communicate with juvenile justice specialists of the Office of
4 Probation Administration and county officials with respect to any
5 county-operated practice model participating in the Crossover Youth
6 Program of the Center for Juvenile Justice Reform at Georgetown
7 University.

8 (5) If the Nebraska Juvenile Service Delivery Project
9 is enacted by the One Hundred Second Legislature, Second Session,
10 2012, the commission shall coordinate and gather information about
11 the progress and outcomes of the project.

12 Sec. 4. (1) The Nebraska Children's Commission shall
13 create a statewide strategic plan to carry out the legislative
14 intent stated in section 1 of this act for child welfare
15 program and service reform in Nebraska. In developing the statewide
16 strategic plan, the commission shall consider, but not be limited
17 to:

18 (a) The potential of contracting with private nonprofit
19 entities as a lead agency, subject to the requirements of
20 subsection (2) of this section. Such lead-agency utilization
21 shall be in a manner that maximizes the strengths, experience,
22 skills, and continuum of care of the lead agencies. Any lead-agency
23 contracts entered into or amended after the effective date of
24 this act shall detail how qualified licensed agencies as part
25 of efforts to develop the local capacity for a community-based
26 system of coordinated care will implement community-based care
27 through competitively procuring either (i) the specific components

1 of foster care and related services or (ii) comprehensive services
2 for defined eligible populations of children and families;

3 (b) Provision of leadership for strategies to support
4 high-quality evidence-based prevention and early intervention
5 services that reduce risk and enhance protection for children;

6 (c) Realignment of service areas designated pursuant to
7 section 81-3116 to be coterminous with the judicial districts
8 described in section 24-301.02;

9 (d) Identification of the type of information needed
10 for a clear and thorough analysis of progress on child welfare
11 indicators; and

12 (e) Such other elements as the commission deems necessary
13 and appropriate.

14 (2) A lead agency used after the effective date of this
15 act shall:

16 (a) Have a board of directors of which at least fifty-one
17 percent of the membership is comprised of Nebraska residents who
18 are not employed by the lead agency or by a subcontractor of the
19 lead agency;

20 (b) Complete a readiness assessment as developed by
21 the Department of Health and Human Services to determine the
22 lead agency viability. The readiness assessment shall evaluate
23 organizational, operational, and programmatic capabilities and
24 performance, including review of: The strength of the board of
25 directors; compliance and oversight; financial risk management;
26 financial liquidity and performance; infrastructure maintenance;
27 funding sources, including state, federal, and external private

1 funding; and operations, including reporting, staffing, evaluation,
2 training, supervision, contract monitoring, and program performance
3 tracking capabilities;

4 (c) Have the ability to provide directly or by contract
5 through a local network of providers the services required of a
6 lead agency. A lead agency shall not directly provide more than
7 thirty-five percent of direct services required under the contract;
8 and

9 (d) Provide accountability for meeting the outcomes and
10 performance standards related to child welfare services established
11 by Nebraska child welfare policy and the federal government.

12 (3) The commission shall review the operations of the
13 department regarding child welfare programs and services and
14 recommend, as a part of the statewide strategic plan, options for
15 attaining the legislative intent stated in section 1 of this act,
16 either by the establishment of a new division within the department
17 or the establishment of a new state agency to provide all child
18 welfare programs and services which are the responsibility of the
19 state.

20 Sec. 5. Within three months after the effective date
21 of this act, the Department of Health and Human Services, with
22 direction from the Nebraska Children's Commission shall contract
23 with an independent entity specializing in medicaid analysis
24 to conduct a cross-system analysis of current prevention and
25 intervention programs and services provided by the department
26 for the safety, health, and well-being of children and funding
27 sources to (1) identify state general funds being used, in order

1 to better utilize federal funds, (2) identify resources that
2 could be better allocated to more effective services to at-risk
3 children and juveniles transitioning to home-based and school-based
4 interventions, and (3) provide information which will allow the
5 replacement of state general funds for services to at-risk children
6 and juveniles with federal funds, with the goal of expanding the
7 funding base for such services while reducing overall state General
8 Fund expenditures on such services.

9 Sec. 6. The Department of Health and Human Services shall
10 fully cooperate with the activities of the Nebraska Children's
11 Commission. The department shall provide to the commission all
12 requested information on children and juveniles in Nebraska,
13 including, but not limited to, departmental reports, data,
14 programs, processes, finances, and policies. The department shall
15 collaborate with the commission regarding the development of a
16 plan for a statewide automated child welfare information system
17 to integrate child welfare information into one system if the
18 One Hundred Second Legislature, Second Session, 2012, enacts
19 legislation to require the development of such a plan. The
20 department shall coordinate and collaborate with the commission
21 regarding engagement of an evaluator to provide an evaluation of
22 the child welfare system if the One Hundred Second Legislature,
23 Second Session, 2012, enacts legislation to require such
24 evaluation.

25 Sec. 7. The Nebraska Children's Commission shall provide
26 a written report to the Health and Human Services Committee of the
27 Legislature on the status of its activities on or before August

1 1, 2012, September 15, 2012, and November 1, 2012. The commission
2 shall complete the statewide strategic plan required pursuant to
3 section 4 of this act and provide a written report to the Health
4 and Human Services Committee of the Legislature and the Governor on
5 or before December 15, 2012.

6 Sec. 8. Sections 8 to 38 of this act shall be known and
7 may be cited as the Office of Inspector General of Nebraska Child
8 Welfare Act.

9 Sec. 9. (1) It is the intent of the Legislature to:

10 (a) Establish a full-time program of investigation
11 and performance review to provide increased accountability and
12 oversight of the Nebraska child welfare system;

13 (b) Assist in improving operations of the department and
14 the Nebraska child welfare system;

15 (c) Provide an independent form of inquiry for concerns
16 regarding the actions of individuals and agencies responsible
17 for the care and protection of children in the Nebraska child
18 welfare system. Confusion of the roles, responsibilities, and
19 accountability structures between individuals, private contractors,
20 and agencies in the current system make it difficult to monitor and
21 oversee the Nebraska child welfare system; and

22 (d) Provide a process for investigation and review to
23 determine if individual complaints and issues of investigation and
24 inquiry reveal a problem in the child welfare system, not just
25 individual cases, that necessitates legislative action for improved
26 policies and restructuring of the child welfare system.

27 (2) It is not the intent of the Legislature in enacting

1 the Office of Inspector General of Nebraska Child Welfare Act to
2 interfere with the duties of the Legislative Performance Audit
3 Section of the Legislative Performance Audit Committee or the
4 Legislative Fiscal Analyst or to interfere with the statutorily
5 defined investigative responsibilities or prerogatives of any
6 officer, agency, board, bureau, commission, association, society,
7 or institution of the executive branch of state government, except
8 that the act does not preclude an inquiry on the sole basis that
9 another agency has the same responsibility. The act shall not be
10 construed to interfere with or supplant the responsibilities or
11 prerogatives of the Governor to investigate, monitor, and report
12 on the activities of the agencies, boards, bureaus, commissions,
13 associations, societies, and institutions of the executive branch
14 under his or her administrative direction.

15 Sec. 10. For purposes of the Office of Inspector General
16 of Nebraska Child Welfare Act, the definitions found in sections 11
17 to 23 of this act apply.

18 Sec. 11. Administrator means a person charged with
19 administration of a program, an office, or a division of the
20 department or administration of a private agency or licensed child
21 care facility.

22 Sec. 12. Department means the Department of Health and
23 Human Services.

24 Sec. 13. Director means the chief executive officer of
25 the department.

26 Sec. 14. Inspector General means the Inspector General of
27 Nebraska Child Welfare appointed under section 24 of this act.

1 Sec. 15. Licensed child care facility means a facility
2 or program licensed under the Child Care Licensing Act or sections
3 71-1901 to 71-1906.01.

4 Sec. 16. Malfeasance means a wrongful act that the actor
5 has no legal right to do or any wrongful conduct that affects,
6 interrupts, or interferes with performance of an official duty.

7 Sec. 17. Management means supervision of subordinate
8 employees.

9 Sec. 18. Misfeasance means the improper performance of
10 some act that a person may lawfully do.

11 Sec. 19. Obstruction means hindering an investigation,
12 preventing an investigation from progressing, stopping or delaying
13 the progress of an investigation, or making the progress of an
14 investigation difficult or slow.

15 Sec. 20. Office means the office of Inspector General of
16 Nebraska Child Welfare and includes the Inspector General and other
17 employees of the office.

18 Sec. 21. Private agency means a child welfare agency that
19 contracts with the department or contracts to provide services to
20 another child welfare agency that contracts with the department.

21 Sec. 22. Record means any recording, in written, audio,
22 electronic transmission, or computer storage form, including, but
23 not limited to, a draft, memorandum, note, report, computer
24 printout, notation, or message, and includes, but is not limited
25 to, medical records, mental health records, case files, clinical
26 records, financial records, and administrative records.

27 Sec. 23. Responsible individual means a foster parent, a

1 relative provider of foster care, or an employee of the department,
2 a foster home, a private agency, a licensed child care facility, or
3 another provider of child welfare programs and services responsible
4 for the care or custody of records, documents, and files.

5 Sec. 24. (1) The office of Inspector General of Nebraska
6 Child Welfare is created within the office of Public Counsel for
7 the purpose of conducting investigations, audits, inspections, and
8 other reviews of the Nebraska child welfare system. The Inspector
9 General shall be appointed by the Public Counsel with approval from
10 the chairperson of the Executive Board of the Legislative Council
11 and the chairperson of the Health and Human Services Committee of
12 the Legislature.

13 (2) The Inspector General shall be appointed for a
14 term of five years and may be reappointed. The Inspector General
15 shall be selected without regard to political affiliation and on
16 the basis of integrity, capability for strong leadership, and
17 demonstrated ability in accounting, auditing, financial analysis,
18 law, management analysis, public administration, investigation, or
19 criminal justice administration or other closely related fields.
20 No former or current executive or manager of the department may
21 be appointed Inspector General within five years after such former
22 or current executive's or manager's period of service with the
23 department. Not later than two years after the date of appointment,
24 the Inspector General shall obtain certification as a Certified
25 Inspector General by the Association of Inspectors General,
26 its successor, or another nationally recognized organization
27 that provides and sponsors educational programs and establishes

1 professional qualifications, certifications, and licensing for
2 inspectors general. During his or her employment, the Inspector
3 General shall not be actively involved in partisan affairs.

4 (3) The Inspector General shall employ such investigators
5 and support staff as he or she deems necessary to carry out the
6 duties of the office within the amount available by appropriation
7 through the office of Public Counsel for the office of Inspector
8 General of Nebraska Child Welfare. The Inspector General shall
9 be subject to the control and supervision of the Public Counsel,
10 except that removal of the Inspector General shall require approval
11 of the chairperson of the Executive Board of the Legislative
12 Council and the chairperson of the Health and Human Services
13 Committee of the Legislature.

14 Sec. 25. (1) The office shall investigate:

15 (a) Allegations or incidents of possible misconduct,
16 misfeasance, malfeasance, or violations of statutes or of rules
17 or regulations of the department by an employee of or person
18 under contract with the department, a private agency, a child care
19 facility, a foster parent, or any other provider of child welfare
20 services or which may provide a basis for discipline pursuant to
21 the Uniform Credentialing Act; and

22 (b) Death or serious injury in foster homes, private
23 agencies, child care facilities, and other programs and facilities
24 licensed by or under contract with the department and death or
25 serious injury in any case in which services are provided by the
26 department to a child or his or her parents or any case involving
27 an investigation under the Child Protection Act, which case has

1 been open for one year or less. The department shall report all
2 cases of death or serious injury of a child in a foster home,
3 private agency, child care facility or program, or other program
4 or facility licensed by the department to the Inspector General
5 as soon as reasonably possible after the department learns of
6 such death or serious injury. For purposes of this subdivision,
7 serious injury means an injury or illness caused by suspected
8 abuse, neglect, or maltreatment which leaves a child in critical or
9 serious condition.

10 (2) Any investigation conducted by the Inspector General
11 shall be independent of and separate from an investigation pursuant
12 to the Child Protection Act. The Inspector General and his or
13 her staff are subject to the reporting requirements of the Child
14 Protection Act.

15 (3) If the Inspector General in conjunction with the
16 Public Counsel determines it appropriate, or upon a request from
17 a law enforcement agency or prosecuting attorney, the Inspector
18 General may suspend an investigation by the office until a criminal
19 investigation or prosecution is completed or has proceeded to a
20 point that reinstatement of the Inspector General investigation
21 will not impede or infringe upon the criminal investigation or
22 prosecution.

23 Sec. 26. (1) The office shall have access to all
24 information and personnel necessary to perform the duties of
25 the office.

26 (2) A full investigation conducted by the office shall
27 consist of retrieval of relevant records through subpoena, request,

1 or voluntary production, review of all relevant records, and
2 interviews of all relevant persons.

3 Sec. 27. (1) Complaints to the office may be made in
4 writing. The office shall also maintain a toll-free telephone line
5 for complaints. A complaint shall be evaluated to determine if it
6 alleges possible misconduct, misfeasance, malfeasance, or violation
7 of a statute or of rules and regulations of the department by
8 an employee of or a person under contract with the department,
9 a private agency, or a licensed child care facility, a foster
10 parent, or any other provider of child welfare services or alleges
11 a basis for discipline pursuant to the Uniform Credentialing Act.
12 All complaints shall be evaluated to determine whether a full
13 investigation is warranted.

14 (2) The office shall not conduct a full investigation of
15 a complaint unless:

16 (a) The complaint alleges misconduct, misfeasance,
17 malfeasance, violation of a statute or of rules and regulations of
18 the department, or a basis for discipline pursuant to the Uniform
19 Credentialing Act;

20 (b) The complaint is against a person within the
21 jurisdiction of the office; and

22 (c) The allegations can be independently verified through
23 investigation.

24 (3) The Inspector General shall determine within fourteen
25 days after receipt of a complaint whether it will conduct a full
26 investigation. A complaint alleging facts which, if verified, would
27 provide a basis for discipline under the Uniform Credentialing Act

1 shall be referred to the appropriate credentialing board under the
2 act.

3 Sec. 28. All employees of the department, all foster
4 parents, and all owners, operators, managers, supervisors, and
5 employees of private agencies, licensed child care facilities, and
6 other providers of child welfare services shall cooperate with the
7 office. Cooperation includes, but is not limited to, the following:

8 (1) Provision of full access to and production of records
9 and information. Providing access to and producing records and
10 information for the office is not a violation of confidentiality
11 provisions under any law, statute, rule, or regulation if done in
12 good faith for purposes of an investigation under the Office of
13 Inspector General of Nebraska Child Welfare Act;

14 (2) Fair and honest disclosure of records and information
15 reasonably requested by the office in the course of an
16 investigation under the act;

17 (3) Encouraging employees to fully comply with reasonable
18 requests of the office in the course of an investigation under the
19 act;

20 (4) Prohibition of retaliation by owners, operators, or
21 managers against employees for providing records or information or
22 filing or otherwise making a complaint to the office;

23 (5) Not requiring employees to gain supervisory approval
24 prior to filing a complaint with or providing records or
25 information to the office;

26 (6) Provision of complete and truthful answers to
27 questions posed by the office in the course of an investigation;

1 and

2 (7) Not willfully interfering with or obstructing the
3 investigation.

4 Sec. 29. Failure to cooperate with an investigation by
5 the office may result in discipline or other sanctions.

6 Sec. 30. The Inspector General may issue a subpoena,
7 enforceable by action in an appropriate court, to compel any person
8 to appear, give sworn testimony, or produce documentary or other
9 evidence deemed relevant to a matter under his or her inquiry.
10 A person thus required to provide information shall be paid the
11 same fees and travel allowances and shall be accorded the same
12 privileges and immunities as are extended to witnesses in the
13 district courts of this state and shall also be entitled to have
14 counsel present while being questioned.

15 Sec. 31. (1) In conducting investigations, the office
16 shall access all relevant records through subpoena, compliance
17 with a request of the office, and voluntary production. The
18 office may request or subpoena any record necessary for the
19 investigation from the department, a foster parent, a licensed
20 child care facility, or a private agency that is pertinent to an
21 investigation. All case files, licensing files, medical records,
22 financial and administrative records, and records required to be
23 maintained pursuant to applicable licensing rules shall be produced
24 for review by the office in the course of an investigation.

25 (2) Compliance with a request of the office includes:

26 (a) Production of all records requested;

27 (b) A diligent search to ensure that all appropriate

1 records are included; and

2 (c) A continuing obligation to immediately forward to the
3 office any relevant records received, located, or generated after
4 the date of the request.

5 (3) The office shall seek access in a manner that
6 respects the dignity and human rights of all persons involved,
7 maintains the integrity of the investigation, and does not
8 unnecessarily disrupt child welfare programs or services. When
9 advance notice to a foster parent or to an administrator or his
10 or her designee is not provided, the office investigator shall,
11 upon arrival at the departmental office, bureau, or division, the
12 private agency, the licensed child care facility, or the location
13 of another provider of child welfare services, request that an
14 onsite employee notify the administrator or his or her designee of
15 the investigator's arrival.

16 (4) When circumstances of an investigation require,
17 the office may make an unannounced visit to a foster home, a
18 departmental office, bureau, or division, a licensed child care
19 facility, a private agency, or another provider to request records
20 relevant to an investigation.

21 (5) A responsible individual or an administrator may be
22 asked to sign a statement of record integrity and security when
23 a record is secured by request as the result of a visit by the
24 office, stating:

25 (a) That the responsible individual or the administrator
26 has made a diligent search of the office, bureau, division, private
27 agency, licensed child care facility, or other provider's location

1 to determine that all appropriate records in existence at the time
2 of the request were produced;

3 (b) That the responsible individual or the administrator
4 agrees to immediately forward to the office any relevant records
5 received, located, or generated after the visit;

6 (c) The persons who have had access to the records since
7 they were secured; and

8 (d) Whether, to the best of the knowledge of the
9 responsible individual or the administrator, any records were
10 removed from or added to the record since it was secured.

11 (6) The office shall permit a responsible individual, an
12 administrator, or an employee of a departmental office, bureau,
13 or division, a private agency, a licensed child care facility, or
14 another provider to make photocopies of the original records within
15 a reasonable time in the presence of the office for purposes of
16 creating a working record in a manner that assures confidentiality.

17 (7) The office shall present to the responsible
18 individual or the administrator or other employee of the
19 departmental office, bureau, or division, private agency, licensed
20 child care facility, or other service provider a copy of the
21 request, stating the date and the titles of the records received.

22 (8) If an original is provided during an investigation,
23 the office shall return the original record as soon as practical
24 but no later than ten working days after the date of the compliance
25 request.

26 (9) All investigations conducted by the office shall
27 be conducted in a manner designed to ensure the preservation of

1 evidence for possible use in a criminal prosecution.

2 Sec. 32. (1) Reports of investigations conducted by the
3 office shall not be distributed beyond the entity that is the
4 subject of the report without the consent of the Inspector General.

5 (2) Except when a report is provided to parties in
6 juvenile court pursuant to subsection (2) of section 34 of
7 this act, the office shall redact confidential information before
8 distributing a report of an investigation.

9 (3) Reports of investigations conducted by the office are
10 not public records for purposes of sections 84-712 to 84-712.09.

11 (4) The office may withhold the identity of sources of
12 information to protect from retaliation any person who files a
13 complaint or provides information in good faith pursuant to the
14 Office of Inspector General of Nebraska Child Welfare Act.

15 Sec. 33. The department shall provide the Public Counsel
16 and the Inspector General with direct computer access to all
17 computerized records, reports, and documents maintained by the
18 department in connection with administration of the Nebraska child
19 welfare system.

20 Sec. 34. (1) The Inspector General's report of an
21 investigation shall be in writing to the Public Counsel and
22 shall contain recommendations. The report may recommend systemic
23 reform or case-specific action, including a recommendation for
24 discharge or discipline of employees or for sanctions against a
25 foster parent, private agency, licensed child care facility, or
26 other provider of child welfare services. All recommendations to
27 pursue discipline shall be in writing and signed by the Inspector

1 General. A report of an investigation shall be presented to the
2 director within fifteen days after the report is presented to the
3 Public Counsel.

4 (2) Any person receiving a report under this section
5 shall not further distribute the report or any confidential
6 information contained in the report. The Inspector General, upon
7 notifying the Public Counsel and the director, may distribute the
8 report, to the extent that it is relevant to a child's welfare,
9 to the guardian ad litem and attorneys in the juvenile court in
10 which a case is pending involving the child or family who is the
11 subject of the report. The report shall not be distributed beyond
12 the parties except through the appropriate court procedures to the
13 judge.

14 (3) A report that identifies misconduct, misfeasance,
15 malfeasance, or violation of statute, rules, or regulations by an
16 employee of the department, a private agency, a licensed child
17 care facility, or another provider that is relevant to providing
18 appropriate supervision of an employee may be shared with the
19 employer of such employee. The employer may not further distribute
20 the report or any confidential information contained in the report.

21 Sec. 35. (1) Within fifteen days after a report is
22 presented to the director under section 34 of this act, he or she
23 shall determine whether to accept, reject, or request in writing
24 modification of the recommendations contained in the report. The
25 Inspector General, with input from the Public Counsel, may consider
26 the director's request for modifications but is not obligated
27 to accept such request. Such report shall become final upon the

1 decision of the director to accept or reject the recommendations
2 in the report or, if the director requests modifications, within
3 fifteen days after such request or after the Inspector General
4 incorporates such modifications, whichever occurs earlier.

5 (2) Within fifteen days after the report is presented to
6 the director, the report shall be presented to the foster parent,
7 private agency, licensed child care facility, or other provider of
8 child welfare services that is the subject of the report and with
9 persons involved in the implementation of the recommendations in
10 the report. Within forty-five days after receipt of the report,
11 the foster parent, private agency, licensed child care facility,
12 or other provider may submit a written response to the office to
13 correct any factual errors in the report. The Inspector General,
14 with input from the Public Counsel, shall consider all materials
15 submitted under this subsection to determine whether a corrected
16 report shall be issued. If the Inspector General determines that a
17 corrected report is necessary, the corrected report shall be issued
18 within fifteen days after receipt of the written response.

19 (3) If the Inspector General does not issue a corrected
20 report pursuant to subsection (2) of this section, or if the
21 corrected report does not address all issues raised in the written
22 response, the foster parent, private agency, licensed child care
23 facility, or other provider may request that its written response,
24 or portions of the response, be appended to the report or corrected
25 report.

26 (4) A report which raises issues related to credentialing
27 under the Uniform Credentialing Act shall be submitted to the

1 appropriate credentialing board under the act.

2 Sec. 36. No report or other work product of an
3 investigation by the Inspector General shall be reviewable in any
4 court. Neither the Inspector General nor any member of his or her
5 staff shall be required to testify or produce evidence in any
6 judicial or administrative proceeding concerning matters within
7 his or her official cognizance except in a proceeding brought to
8 enforce the Office of Inspector General of Nebraska Child Welfare
9 Act.

10 Sec. 37. The Office of Inspector General of Nebraska
11 Child Welfare Act does not require the Inspector General to
12 investigate all complaints. The Inspector General, with input from
13 the Public Counsel, shall prioritize and select investigations
14 and inquiries that further the intent of the act and assist in
15 legislative oversight of the Nebraska child welfare system. If the
16 Inspector General determines that he or she will not investigate
17 a complaint, the Inspector General may recommend to the parties
18 alternative means of resolution of the issues in the complaint.

19 Sec. 38. On or before September 15 of each year, the
20 Inspector General shall provide to the Health and Human Services
21 Committee of the Legislature and the Governor a summary of reports
22 and investigations made under the Office of Inspector General of
23 Nebraska Child Welfare Act for the preceding year. The summaries
24 shall detail recommendations and the status of implementation
25 of recommendations and may also include recommendations to the
26 committee regarding issues discovered through investigation,
27 audits, inspections, and reviews by the office that will increase

1 accountability and legislative oversight of the Nebraska child
2 welfare system, improve operations of the department and the
3 Nebraska child welfare system, or deter and identify fraud, abuse,
4 and illegal acts. The summaries shall not contain any confidential
5 or identifying information concerning the subjects of the reports
6 and investigations.

7 Sec. 39. Section 28-711, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 28-711 (1) When any physician, any medical institution,
10 any nurse, any school employee, any social worker, the Inspector
11 General appointed under section 24 of this act, or any other person
12 has reasonable cause to believe that a child has been subjected to
13 child abuse or neglect or observes such child being subjected to
14 conditions or circumstances which reasonably would result in child
15 abuse or neglect, he or she shall report such incident or cause
16 a report of child abuse or neglect to be made to the proper law
17 enforcement agency or to the department on the toll-free number
18 established by subsection (2) of this section. Such report may be
19 made orally by telephone with the caller giving his or her name
20 and address, shall be followed by a written report, and to the
21 extent available shall contain the address and age of the abused
22 or neglected child, the address of the person or persons having
23 custody of the abused or neglected child, the nature and extent
24 of the child abuse or neglect or the conditions and circumstances
25 which would reasonably result in such child abuse or neglect, any
26 evidence of previous child abuse or neglect including the nature
27 and extent, and any other information which in the opinion of the

1 person may be helpful in establishing the cause of such child abuse
2 or neglect and the identity of the perpetrator or perpetrators.
3 Law enforcement agencies receiving any reports of child abuse or
4 neglect under this subsection shall notify the department pursuant
5 to section 28-718 on the next working day by telephone or mail.

6 (2) The department shall establish a statewide toll-free
7 number to be used by any person any hour of the day or night,
8 any day of the week, to make reports of child abuse or neglect.
9 Reports of child abuse or neglect not previously made to or by a
10 law enforcement agency shall be made immediately to such agency by
11 the department.

12 Sec. 40. Section 73-401, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 73-401 Except for long-term care facilities subject to
15 the jurisdiction of the state long-term care ombudsman pursuant
16 to the Long-Term Care Ombudsman Act, the contracting agency shall
17 ensure that any contract which a state agency enters into or
18 renews which agrees that a corporation, partnership, business,
19 firm, governmental entity, or person shall provide health and human
20 services to individuals or service delivery, service coordination,
21 or case management on behalf of the State of Nebraska shall contain
22 a clause requiring the corporation, partnership, business, firm,
23 governmental entity, or person to submit to the jurisdiction of the
24 Public Counsel under sections 81-8,240 to 81-8,254 with respect to
25 the provision of services under the contract.

26 Sec. 41. Section 81-8,240, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 81-8,240 As used in sections 81-8,240 to 81-8,254, unless
2 the context otherwise requires:

3 (1) Administrative agency shall mean any department,
4 board, commission, or other governmental unit, any official,
5 any employee of the State of Nebraska acting or purporting to
6 act by reason of connection with the State of Nebraska, any
7 corporation, partnership, business, firm, governmental entity, or
8 person who is providing health and human services to individuals
9 or service delivery, service coordination, or case management
10 under contract with the State of Nebraska and who is subject
11 to the jurisdiction of the office of Public Counsel as required
12 by section 73-401, any regional behavioral health authority, any
13 community-based behavioral health services provider that contracts
14 with a regional behavioral health authority, and any county or
15 municipal correctional or jail facility and employee thereof acting
16 or purporting to act by reason of connection with the county or
17 municipal correctional or jail facility; but shall not include (a)
18 any court, (b) any member or employee of the Legislature or the
19 Legislative Council, (c) the Governor or his or her personal staff,
20 (d) any political subdivision or entity thereof except a county or
21 municipal correctional or jail facility or a regional behavioral
22 health authority, (e) any instrumentality formed pursuant to an
23 interstate compact and answerable to more than one state, or (f)
24 any entity of the federal government; and

25 (2) Administrative act shall include every action, rule,
26 regulation, order, omission, decision, recommendation, practice, or
27 procedure of an administrative agency.

1 Sec. 42. Section 81-8,241, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 81-8,241 The office of Public Counsel is hereby
4 established to exercise the authority and perform the duties
5 provided by sections 81-8,240 to 81-8,254 and the Office of
6 Inspector General of Nebraska Child Welfare Act. The Public Counsel
7 shall be appointed by the Legislature, with the vote of two-thirds
8 of the members required for approval of such appointment from
9 nominations submitted by the Executive Board of the Legislative
10 Council.

11 Sec. 43. Section 81-8,244, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 81-8,244 (1)(a) The Public Counsel may select, appoint,
14 and compensate as he or she sees fit, within the amount available
15 by appropriation, such assistants and employees as he or she deems
16 necessary to discharge the responsibilities under sections 81-8,240
17 to 81-8,254. He or she shall appoint and designate one assistant
18 to be a deputy public counsel, one assistant to be a deputy
19 public counsel for corrections, one assistant to be a deputy public
20 counsel for institutions, and one assistant to be a deputy public
21 counsel for welfare services.

22 (b) Such deputy public counsels shall be subject to the
23 control and supervision of the Public Counsel.

24 (c) The authority of the deputy public counsel for
25 corrections shall extend to all facilities and parts of facilities,
26 offices, houses of confinement, and institutions which are operated
27 by the Department of Correctional Services and all county or

1 municipal correctional or jail facilities.

2 (d) The authority of the deputy public counsel for
3 institutions shall extend to all mental health and veterans
4 institutions and facilities operated by the Department of
5 Health and Human Services and to all regional behavioral
6 health authorities that provide services and all community-based
7 behavioral health services providers that contract with a regional
8 behavioral health authority to provide services, for any individual
9 who was a patient within the prior twelve months of a state-owned
10 and state-operated regional center, and to all complaints
11 pertaining to administrative acts of the department, authority,
12 or provider when those acts are concerned with the rights and
13 interests of individuals placed within those institutions and
14 facilities or receiving community-based behavioral health services.

15 (e) The authority of the deputy public counsel for
16 welfare services shall extend to all complaints pertaining to
17 administrative acts of administrative agencies when those acts are
18 concerned with the rights and interests of individuals involved in
19 the welfare services system of the State of Nebraska.

20 (f) The Public Counsel may delegate to members of the
21 staff any authority or duty under sections 81-8,240 to 81-8,254
22 except the power of delegation and the duty of formally making
23 recommendations to administrative agencies or reports to the
24 Governor or the Legislature.

25 (2) The Public Counsel shall appoint the Inspector
26 General of Nebraska Child Welfare as provided in section 24 of
27 this act. The Inspector General of Nebraska Child Welfare shall

1 have the powers and duties provided in the Office of Inspector
2 General of Nebraska Child Welfare Act.

3 Sec. 44. Section 81-8,245, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 81-8,245 The Public Counsel shall have the power to:

6 (1) Investigate, on complaint or on his or her own
7 motion, any administrative act of any administrative agency;

8 (2) Prescribe the methods by which complaints are to be
9 made, received, and acted upon; determine the scope and manner
10 of investigations to be made; and, subject to the requirements
11 of sections 81-8,240 to 81-8,254, determine the form, frequency,
12 and distribution of his or her conclusions, recommendations, and
13 proposals;

14 (3) Conduct inspections of the premises, or any parts
15 thereof, of any administrative agency or any property owned,
16 leased, or operated by any administrative agency as frequently as
17 is necessary, in his or her opinion, to carry out duties prescribed
18 under sections 81-8,240 to 81-8,254;

19 (4) Request and receive from each administrative agency,
20 and such agency shall provide, the assistance and information
21 the counsel deems necessary for the discharge of his or her
22 responsibilities; inspect and examine the records and documents
23 of all administrative agencies notwithstanding any other provision
24 of law; and enter and inspect premises within any administrative
25 agency's control;

26 (5) Issue a subpoena, enforceable by action in an
27 appropriate court, to compel any person to appear, give sworn

1 testimony, or produce documentary or other evidence deemed relevant
2 to a matter under his or her inquiry. A person thus required
3 to provide information shall be paid the same fees and travel
4 allowances and shall be accorded the same privileges and immunities
5 as are extended to witnesses in the district courts of this state
6 and shall also be entitled to have counsel present while being
7 questioned;

8 (6) Undertake, participate in, or cooperate with general
9 studies or inquiries, whether or not related to any particular
10 administrative agency or any particular administrative act, if he
11 or she believes that they may enhance knowledge about or lead to
12 improvements in the functioning of administrative agencies; and

13 (7) Make investigations, reports, and recommendations
14 necessary to carry out his or her duties under the State Government
15 Effectiveness Act; ~~and-~~

16 (8) Carry out his or her duties under the Office of
17 Inspector General of Nebraska Child Welfare Act. If any of
18 the provisions of sections 81-8,240 to 81-8,254 conflict with
19 provisions of the Office of Inspector General of Nebraska Child
20 Welfare Act, the provisions of such act shall control.

21 Sec. 45. Original sections 28-711, 73-401, 81-8,240,
22 81-8,241, 81-8,244, and 81-8,245, Reissue Revised Statutes of
23 Nebraska, are repealed.

24 Sec. 46. Since an emergency exists, this act takes effect
25 when passed and approved according to law.