

LEGISLATIVE BILL 154

Approved by the Governor February 12, 2009

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

FOR AN ACT relating to government; to amend sections 12-1301, 29-3922, 29-3927, 38-2881, 38-2886, 38-2888, 38-2889, 42-917, 44-5230, 44-5255, 44-5263, 66-1337, 66-1518, 81-15,124.01, 85-1655, 86-401, 86-593, 86-597, and 86-598, Reissue Revised Statutes of Nebraska, and sections 66-1519, 71-702, 71-801, and 71-810, Revised Statutes Cumulative Supplement, 2008; to eliminate obsolete provisions; to repeal the Small Business Development Authority Act, the Nebraska Transit and Rail Advisory Council Act, the Behavioral Health Oversight Commission, the Broadband Services Task Force, the Donor Registry of Nebraska Advisory Board, the Health Benefit Plan Committee, the Indigent Defense Standards Advisory Council, the Nebraska Commission on the Status of Women, the Nebraska Lewis and Clark Bicentennial Commission, the Nebraska Veterans Cemetery Advisory Board, the Public Health Clinic Formulary Advisory Committee, the Regional Interoperability Advisory Board, the Special Education Services Task Force, the Tax Policy Reform Commission, the Teen Tobacco Education and Prevention Project Committee, the Vote Nebraska Initiative, an ethanol advisory committee, a postsecondary education advisory committee, a technical advisory committee for petroleum products, a working group studying sex offender treatment, and certain funds; to harmonize provisions; to repeal the original sections; and to outright repeal sections 29-3932, 32-1701, 44-5236, 44-5262, 58-301, 58-302, 58-303, 58-304, 58-305, 58-306, 58-307, 58-308, 58-309, 58-310, 58-311, 58-312, 58-313, 58-314, 58-315, 58-316, 58-317, 58-318, 58-319, 58-320, 58-321, 58-322, 58-323, 58-324, 58-325, 71-5715, 74-1501, 74-1502, 74-1503, 74-1504, 74-1505, 74-1506, 74-1507, 74-1508, 74-1509, 74-1510, 74-1511, 74-1512, 74-1513, 74-1514, 77-2704.19, 79-11,151, 79-11,152, 79-11,153, 79-11,154, 81-8,255, 81-8,256, 81-8,257, 81-8,258, 81-8,259, 81-8,260, 81-8,260.01, 81-8,260.02, 81-8,307, 81-8,308, 81-15,189, 81-15,190, 86-418.01, and 86-599, Reissue Revised Statutes of Nebraska, and sections 71-818, 71-1227, 71-1228, 71-4823, 77-6001, 77-6002, 77-6003, 77-6004, 77-6005, 77-6006, and 77-6007, Revised Statutes Cumulative Supplement, 2008.

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

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

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

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

(i) Gifts, bequests, grants, or contributions from private or public sources designated for the maintenance, administration, or operation of the state veteran cemetery system;

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

(iii) Following the termination of the Veteran Cemetery Construction Fund, any funds received by the state from any source for the state veteran

cemetery system.

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

(3) There is hereby created the Nebraska Veteran Cemetery System Operation Fund. Money in the fund shall be used for the operation, administration, and maintenance of the state veteran cemetery system. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

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

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

(6) The director may expend such funds as may be available for any of the purposes authorized in this section.

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

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

~~(9) The Nebraska Veterans Cemetery Advisory Board is created. The board shall consist of seven members. One member shall be the director who shall serve as the chairperson of the board. Three members of the board shall be veterans appointed by the Governor from a list of candidates forwarded by the county board of each county within which a state veteran cemetery system facility is located. Three members with experience in cemetery administration or operation, one from each congressional district, shall be appointed by the Governor. The members of the board shall receive no compensation but shall be reimbursed for their actual and necessary expenses in the discharge of their duties as provided in sections 81-1174 to 81-1177. The board shall meet from time to time as requested by the director to review the status of the state veteran cemetery system, to recommend actions to facilitate the development of the system, to assist in fundraising from public or private sources for the construction, operation, administration, and maintenance of the system, and to advise the director on the most appropriate actions for the state to undertake in the development of the system and the priorities for action.~~

~~(10)~~ (9) The director may adopt and promulgate rules and regulations to carry out this section. The rules and regulations shall include

requirements for proof of residency, cost of burial if any, and standards for cemeteries, including decorations and headstones.

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

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

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

(2) Commission means the Commission on Public Advocacy;

(3) Commission staff means attorneys, investigators, and support staff who are performing work for the capital litigation division, appellate division, DNA testing division, and major case resource center;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(g) Adopt guidelines and standards, ~~which are recommended to the commission by the council,~~ for county indigent defense systems, including, but not limited to, standards relating to the following: The use and expenditure of funds appropriated by the Legislature to reimburse counties which qualify for reimbursement; attorney eligibility and qualifications for court appointments; compensation rates for salaried public defenders, contracting attorneys, and court-appointed attorneys and overall funding of the indigent defense system; maximum caseloads for all types of systems; systems administration, including rules for appointing counsel, awarding defense contracts, and reimbursing defense expenses; conflicts of interest; continuing legal education and training; and availability of supportive services and expert witnesses.

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

(3) With respect to its duties related to the provision of civil legal services to eligible low-income persons, the commission shall have such

powers and duties as described in sections 25-3001 to 25-3004.

(4) The commission may adopt and promulgate rules and regulations governing the Legal Education for Public Service Loan Repayment Act which are recommended by the Legal Education for Public Service Loan Repayment Board pursuant to the act. The commission shall have the powers and duties provided in the act.

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

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

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

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

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

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

- (i) Controlled substances;
- (ii) Drugs with significant dietary interactions;
- (iii) Drugs with significant drug-drug interactions; and
- (iv) Drugs or devices with complex counseling profiles.

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

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

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

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

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

38-2886 (1) A delegating pharmacist shall conduct the training of public health clinic workers. The training shall be approved in advance by the board. ~~The board shall base its approval upon the standards determined by the Public Health Clinic Formulary Advisory Committee.~~

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 8. Section 42-917, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

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

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

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

44-5263 The board, ~~in consultation with members of the committee,~~ shall study and report at least every three years to the director on the effectiveness of the Small Employer Health Insurance Availability Act. The report shall analyze the effectiveness of the act in promoting rate stability, product availability, and coverage affordability. The report may contain recommendations for actions to improve the overall effectiveness, efficiency, and fairness of the small group health insurance marketplace. The report shall address whether carriers, agents, and brokers are fairly and actively marketing or issuing health benefit plans to small employers in fulfillment of the purposes of the act. The report may contain recommendations for market conduct or other regulatory standards or action.

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

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

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

66-1337 The board may rent office space and employ such personnel as may be necessary for the performance of its duties. The board may employ the services of experts and consultants and expend funds necessary to acquire title to commodities pursuant to section 66-1340, to promote air quality improvement programs, or to otherwise carry out the board's duties under the Ethanol Development Act. The board shall have an advisory committee of four persons, one representing each of the following: The Department of Economic Development, the University of Nebraska, the Department of Agriculture, and the State Energy Office.

Sec. 14. Section 66-1518, Reissue Revised Statutes of Nebraska, is

amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

66-1519 (1) There is hereby created the Petroleum Release Remedial Action Cash Fund to be administered by the department. Revenue from the following sources shall be remitted to the State Treasurer for credit to the fund:

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

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

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

(2) Money in the fund may be spent for: (a) Reimbursement for the costs of remedial action by a responsible person or his or her designated representative and costs of remedial action undertaken by the department in response to a release first reported after July 17, 1983, and on or before June 30, 2012, including reimbursement for damages caused by the department or a person acting at the department's direction while investigating or

inspecting or during remedial action on property other than property on which a release or suspected release has occurred; (b) payment of any amount due from a third-party claim; (c) fee collection expenses incurred by the State Fire Marshal; (d) direct expenses incurred by the department in carrying out the Petroleum Release Remedial Action Act; (e) other costs related to fixtures and tangible personal property as provided in section 66-1529.01; (f) interest payments as allowed by section 66-1524; (g) ~~expenses incurred by the technical advisory committee created in section 81-15,189 in carrying out its duties pursuant to section 81-15,190;~~ ~~(h)~~ claims approved by the State Claims Board authorized under section 66-1531; ~~(i)~~ (h) a grant to a city of the metropolitan class in the amount of three hundred thousand dollars, provided no later than September 15, 2005, to carry out the federal Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. 4851 et seq., as such act existed on October 1, 2003; and ~~(j)~~ (i) methyl tertiary butyl ether testing, to be conducted randomly at terminals within the state for up to two years ending June 30, 2003. The amount expended on the testing shall not exceed forty thousand dollars. The testing shall be conducted by the Department of Agriculture. The department may enter into contractual arrangements for such purpose. The results of the tests shall be made available to the Department of Environmental Quality.

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

(4) Any money in the Petroleum Release Remedial Action Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

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

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

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

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

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

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

(6) The members of the advisory council shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177 and pursuant to policies of the advisory council. Funds for reimbursement for expenses shall be from the Women's Health Initiative Fund.

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

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

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

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

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

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

(2) The division may reduce or discontinue regional center behavioral health services only if (a) appropriate community-based services or other regional center behavioral health services are available for every person receiving the regional center services that would be reduced or discontinued, (b) such services possess sufficient capacity and capability to effectively replace the service needs which otherwise would have been provided at such regional center, and (c) no further commitments, admissions, or readmissions for such services are required due to the availability of community-based services or other regional center services to replace such services.

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

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

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

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

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

a regional center and receiving regional center services, (e) the number of persons waiting to receive regional center services, (f) the number of persons waiting to be transferred from a regional center to community-based services or other regional center services, (g) the number of persons discharged from a regional center who are receiving community-based services or other regional center services, and (h) the number of persons admitted to behavioral health crisis centers. Each regional behavioral health authority shall provide such information as requested by the division and necessary to carry out this subsection. The division shall submit reports of such information to the Governor and the Legislature on a quarterly basis beginning July 1, 2005, in a format which does not identify any person by name, address, county of residence, social security number, or other personally identifying characteristic.

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

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

81-15,124.01 (1) The Environmental Quality Council shall adopt and promulgate rules and regulations consistent with principles of risk-based corrective action governing all phases of remedial action to be taken by owners, operators, and other persons in response to a release or suspected release of a regulated substance from a tank. Such rules and regulations shall include:

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) Telecommunications has the same meaning as telecommunications

defined in section 86-117;

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

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

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

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

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

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

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

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

Sec. 26. Original sections 12-1301, 29-3922, 29-3927, 38-2881, 38-2886, 38-2888, 38-2889, 42-917, 44-5230, 44-5255, 44-5263, 66-1337, 66-1518, 81-15,124.01, 85-1655, 86-401, 86-593, 86-597, and 86-598, Reissue Revised Statutes of Nebraska, and sections 66-1519, 71-702, 71-801, and 71-810, Revised Statutes Cumulative Supplement, 2008, are repealed.

Sec. 27. The following sections are outright repealed: Sections 29-3932, 32-1701, 44-5236, 44-5262, 58-301, 58-302, 58-303, 58-304, 58-305, 58-306, 58-307, 58-308, 58-309, 58-310, 58-311, 58-312, 58-313, 58-314, 58-315, 58-316, 58-317, 58-318, 58-319, 58-320, 58-321, 58-322, 58-323, 58-324, 58-325, 71-5715, 74-1501, 74-1502, 74-1503, 74-1504, 74-1505, 74-1506, 74-1507, 74-1508, 74-1509, 74-1510, 74-1511, 74-1512, 74-1513, 74-1514, 77-2704.19, 79-11,151, 79-11,152, 79-11,153, 79-11,154, 81-8,255, 81-8,256, 81-8,257, 81-8,258, 81-8,259, 81-8,260, 81-8,260.01, 81-8,260.02, 81-8,307, 81-8,308, 81-15,189, 81-15,190, 86-418.01, and 86-599, Reissue Revised Statutes of Nebraska, and sections 71-818, 71-1227, 71-1228, 71-4823, 77-6001, 77-6002, 77-6003, 77-6004, 77-6005, 77-6006, and 77-6007, Revised Statutes Cumulative Supplement, 2008.