

LEGISLATIVE BILL 352

Approved by the Governor April 7, 1988

Introduced by Abboud, 12; Landis, 46; Ashford, 6

AN ACT relating to administrative procedures; to amend sections 1-149, 2-1822, 2-2433, 2-3107, 2-3204, 3-140, 3-405, 8-1013, 8-1119, 15-1202 to 15-1204, 20-142, 21-1983, 24-313, 24-541.06, 25-1937, 28-433, 31-1022, 32-706, 32-707, 39-669.18, 39-2111, 39-2121, 43-707, 44-111.01, 44-127.09, 44-127.10, 44-127.19, 44-133, 44-134, 44-222.02, 44-224.09, 44-238, 44-352, 44-360, 44-367, 44-368, 44-386.07, 44-511, 44-512, 44-626, 44-711, 44-751, 44-752, 44-766, 44-1212, 44-1441, 44-1485, 44-1530, 44-1531, 44-1713, 44-2312, 44-2851, 44-2913, 44-3278, 44-3283, 44-3720, 44-4027, 45-150, 45-350, 45-605, 45-616, 46-528, 46-669, 46-685, 46-805, 48-416, 48-641, 48-1120, 49-14,131, 54-1170, 54-1706, 54-1707, 54-1904, 54-1905, 57-605, 57-913, 59-1516, 60-409.11, 60-420, 60-503, 60-1415, 60-1435, 68-1034, 69-1320, 70-806, 70-807, 71-159, 71-161.07, 71-161.16, 71-1,104.05, 71-1,147.12, 71-1,147.31, 71-235, 71-1567, 71-1725, 71-1761, 71-1916, 71-2027, 71-2045.02, 71-2506, 71-2719, 71-2817, 71-3211, 71-4609, 71-4626, 71-4630, 71-4631, 71-5113, 71-5303, 71-5517, 71-5866, 71-5907, 71-6031, 71-6310, 71-6314, 72-224.03, 76-552, 76-908, 76-1212, 77-202.07, 77-612, 77-911, 77-1239.01, 77-1775, 77-27,127, 77-27,153, 77-27,182, 79-1544, 79-2838, 81-216.33, 81-2,147.06, 81-502.04, 81-829.43, 81-885.30, 81-8,139.01, 81-8,202, 81-8,285, 81-1319, 81-1509, 81-1513, 81-15,107, 81-15,112, 81-15,122, 81-15,142, 81-1832, 81-1931, 83-109, 83-374, 83-1131, 83-1133, 84-917, and 84-919, Reissue Revised Statutes of Nebraska, 1943, sections 2-3938, 8-1,135, 8-1506, 9-229, 9-325, 9-421, 21-328, 24-541.04, 44-10,107, 44-2406, 44-2710, 44-3110, 46-674.15, 46-1146, 46-1237, 48-638, 48-640, 48-650, 48-660.01, 53-1,116, 54-861, and 60-124, Revised Statutes Supplement, 1986, sections 2-960, 71-1,107.23, 71-3505, 71-3513, 71-3517, 77-378, 77-425,

77-1301.16, 77-1781, and 77-4020, Revised Statutes Supplement, 1987, and section 53-134, Revised Statutes Supplement, 1986, as amended by section 3, Legislative Bill 550, Ninetieth Legislature, Second Session, 1988; to change procedures for appeals from agencies and courts and provisions relating to liquor licenses; to harmonize provisions; to provide operative dates; and to repeal the original sections, and also sections 44-127.11, 45-151, 45-152, 71-161, and 79-2839 to 79-2841, Reissue Revised Statutes of Nebraska, 1943, and section 48-639, Revised Statutes Supplement, 1986.

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

Section 1. That section 1-149, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

1-149. Any decision of the board may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act. ~~reversed, vacated, or modified by the district court of Lancaster County on appeal by any party to the hearing within thirty days from the date of such decision. The procedure to obtain such a reversal, vacation, or modification shall be by filing with the board of a notice of intention to appeal, together with an appeal bond in the sum of fifty dollars conditioned to pay the costs on appeal assessed against him. Appellant shall file a petition in the district court of Lancaster County, Nebraska, setting forth the contention upon which such party relies for reversal, vacation, or modification. Such notice of intention to appeal and appeal bond shall be filed with the board within twenty days following the mailing of a copy of final decision of the board to each party of record.~~

It shall be deemed to be sufficient notice of the filing of such petition if a copy thereof is filed with the board and served on the adverse party or parties to the record or on his, its, or their attorney or attorneys of record. Service of such copy of petition may be waived by such party or parties or his, its, or their attorney or attorneys of record. The time for answering or otherwise pleading to such petition shall be as in other cases in the district court.

Upon the filing with the board of a notice of intention to appeal and appeal bond, the secretary of the board shall prepare and deliver to the appellant on

request a transcript of the proceedings and a transcript of the testimony and evidence before the board, which transcript of the proceedings shall contain a copy of the decision sought to be reversed, vacated, or modified. Such transcripts shall be filed in the district court of Lancaster County, Nebraska, with the petition if received by the appellant within the time permitted for the filing of the petition, if not, as soon thereafter as the same may be received from the secretary of the board. The jurisdiction of the district court of the appeal shall attach when the petition on appeal has been filed and shall not depend upon the filing of the transcripts.

The appeal shall be heard and tried de novo in the district court in the manner provided for trial of suits in equity. Additional testimony may be introduced at the hearing on appeal.

The appellant shall deposit with the secretary of the board the cost of the transcript of the proceedings and the transcript of the testimony and evidence before the commission when requesting the same.

Pending final determination of the matter on appeal, the order of the board shall not act as a revocation, vacation, or modification of any license as provided by sections 1-106 to 1-169.

Sec. 2. That section 2-960, Revised Statutes Supplement, 1987, be amended to read as follows:

2-960. If any person shall be is dissatisfied with the amount of any charge made against him or her by a control authority for control work or for the purchase of materials or use of equipment, he or she may, within fifteen days after being advised of the amount of the charge, file a protest with the county board. The county board shall hold a hearing to determine whether the charges were appropriate, taking into consideration whether the control measures were conducted in a timely fashion. Following the hearing, the county board shall have the power to adjust or affirm such charge. If any person is dissatisfied with the decision of the county board or with charges made by the county board for control work performed, such person may appeal the decision, and the appeal shall be in accordance with the Administrative Procedure Act, within twenty days from the date of such decision or notification of the amount of such charge, file a written notice of protest with the clerk of the district court in which his or her land is located and thereupon an action shall be docketed in such court and tried the same as other civil actions.

Sec. 3. That section 2-1822, Reissue Revised

Statutes of Nebraska, 1943, be amended to read as follows:

2-1822. Any person having a direct financial interest, who is dissatisfied with the grade established by inspection under ~~sections 2-1813 to 2-1825~~ the Nebraska Potato Inspection Act, may appeal to the director in writing for reinspection. Such appeal shall be made within ten days after inspection and before shipment of the inspected potatoes. Upon receipt of such appeal, the director shall cause a reinspection to be completed to determine the grade in dispute, and upon completion of the reinspection, he or she shall make known his or her findings to all persons having a direct financial interest. All parties shall be bound by the findings following the reinspection. ~~7 PROVIDED, this section shall not prevent any person from taking an appeal to a court of law having jurisdiction.~~ In the event that the reinspection does not determine a new or different grade, all costs of the reinspection shall be paid to the director by the person requesting reinspection. Any official inspection certificate issued as the result of a reinspection shall supersede the original official certificate. The findings may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

Sec. 4. That section 2-2433, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-2433. If the Department of Agriculture determines that the organization of such district would be desirable and necessary in the interest of the public welfare, it shall within ten days after the final hearing enter an order (1) approving the petition and amendments thereto, if made, and (2) fixing the boundaries of the proposed district and the divisions thereof for the purpose of election of directors, which order shall be deemed a final order for purposes of review to the district court on appeal. Any person owning taxable property, except intangible property, within the proposed district aggrieved by the order of the department approving the petition or fixing the boundaries, may appeal from such order, and the appeal shall be in accordance with the Administrative Procedure Act. to the district court of the county wherein the office of the district is maintained. The procedure for and upon such appeal shall be nearly as possible the same as is provided for appeals from final orders on claims presented to the county board of such county.

Sec. 5. That section 2-3107, Reissue Revised

Statutes of Nebraska, 1943, be amended to read as follows:

2-3107. If the director determines that a laboratory does not meet the requirements, as established by rule and regulation, with respect to qualified personnel, laboratory facilities or equipment, or the operation thereof, or that analysis being performed by a laboratory is inaccurate as evidenced by check sample results, he or she may issue an order for a hearing pursuant to and in accordance with the Administrative Procedure Act. Following hearing, the director may suspend or revoke registration or issue a compliance order against the respondent laboratory. Any person aggrieved by the decision of the director may appeal the decision, and the appeal shall be in accordance with the Administrative Procedure Act, to the district court of Lancaster County.

Sec. 6. That section 2-3204, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3204. (1) The commission shall adopt and promulgate ~~establish~~ appropriate rules and regulations for all commission hearings authorized by sections 2-1502 to 2-1504, 2-1507, and 2-3201 to 2-3259, ~~7 31-101-01, 31-301-01, 31-401-01, 46-613-01, 46-614-01, and 46-1001-01.~~ All such hearings shall be subject to the provisions of the Administrative Procedure Act.

(2) Appeals from commission determinations and orders entered pursuant to sections 2-1502 to 2-1504, 2-1507, and 2-3201 to 2-3259 may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act. ~~7 31-101-01, 31-301-01, 31-401-01, 46-613-01, 46-614-01, and 46-1001-01 shall be taken to the district court of the county in which the appealing party resides. Such appeals shall be initiated by filing a petition within sixty days after the final order by the commission. The court, in its discretion, may permit other interested persons to intervene. The review shall be conducted as a de novo proceeding by the court without a jury. The court may affirm the decision of the agency or remand the case for further proceedings, or it may reverse or modify the decision if the substantial rights of the petitioner may have been prejudiced because the commission decision is:~~

- (a) In violation of constitutional provisions;
- (b) In excess of the statutory authority or jurisdiction of the agency;
- (c) Made upon unlawful procedure;
- (d) Affected by other error of law;

(e) Unsupported by competent, material, and substantial evidence in view of the entire record as made on review; or

(f) Arbitrary or capricious-

Sec. 7. That section 2-3938, Revised Statutes Supplement, 1986, be amended to read as follows:

2-3938. The director may suspend a license upon evidence of violation by the holder of any of the terms of the Nebraska Manufacturing Milk Act, or for interference with the director in the performance of his or her duties.

The director may revoke a license for serious or repeated violations.

The director shall, before revoking a license for violation of the terms of the Nebraska Manufacturing Milk Act, give at least ten days' notice in writing containing a statement of the alleged violation and the time and place of such hearing. The notice may be served by delivery of a copy personally to the licensee or by mailing a copy to the last-known business address of the licensee. The hearing shall be conducted by the director or by a qualified employee of the department designated by the director as hearing officer. The parties may appear in person or by counsel. The licensee shall be afforded a full hearing on the charges contained in the notice of hearing. All testimony shall be upon oath or affirmation, subject to cross-examination, and shall be reported verbatim and made a part of the record. The common law rules of evidence shall not apply, but evidence which is immaterial, irrelevant, or unduly repetitious or which is not of a sort upon which persons are accustomed to rely, shall be excluded. The director within a reasonable time after the hearing shall, upon the basis of the record made at the hearing, issue findings of fact, conclusions, and an order.

A decision of the director revoking a license may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act, to the district court of Lancaster County. Such appeal shall be taken in the manner provided in section 60-420 for appeals from an order of the Director of Motor Vehicles suspending, canceling, or revoking a motor vehicle operator's license. The evidence presented at the hearing shall constitute the record on appeal. The court shall set aside the order, findings, and conclusions, if it finds that they are not in accordance with law or are not supported by substantial evidence.

Sec. 8. That section 3-140, Reissue Revised

Statutes of Nebraska, 1943, be amended to read as follows:

3-140. Any person aggrieved by an order of the department or by the granting or denial of any license, certificate, or registration may appeal the order or such granting or denial, and the appeal shall be in accordance with the Administrative Procedure Act. have the action of the department reviewed by the courts of this state by error proceedings, as provided in sections 25-1901 to 25-1910, and the rules of law applicable to such reviews shall apply.

Sec. 9. That section 3-405, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

3-405. Any person, aggrieved by any action of the Department of Aeronautics in granting or denying a permit under the terms of sections 3-401 to 3-409, may appeal the action, and the appeal shall be in accordance with the Administrative Procedure Act. to the district court of the county in which it is proposed to build or erect such structure.

Sec. 10. That section 8-1,135, Revised Statutes Supplement, 1986, be amended to read as follows:

8-1,135. Any person aggrieved by a final order of the Director of Banking and Finance made pursuant to section 8-1,134 may appeal the order, and the appeal shall be in accordance with the Administrative Procedure Act. obtain a review of the order in the district court of Lancaster County by filing in such court, within thirty days after the entry of the order, a written petition praying that the order be modified or set aside in whole or in part. A copy of the petition shall be forthwith served upon the director. Upon receipt of the petition, the director shall certify and file in such court a copy of the filing, all exhibits, and the order. When the filing, exhibits, and order have been filed, the court shall have exclusive jurisdiction to affirm, modify, enforce, or set aside the order, in whole or in part. The matter shall be tried de novo in the district court. The commencement of proceedings under this section shall not, unless specifically ordered by the court, operate as a stay of the director's order.

Sec. 11. That section 8-1013, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-1013. No license shall be denied or revoked except on twenty days' notice to the applicant or

licensee, setting forth in writing the reasons therefor. Within five days of receipt of the notice the applicant or licensee may make written demand for hearing. The director shall, with reasonable promptness, grant a hearing to any such applicant or licensee making written demand therefor and shall give the applicant or licensee at least twenty days' written notice of the time and place of such hearing by registered or certified mail addressed to the principal place of business of such applicant or licensee. The director's decision thereon shall be rendered in writing within ten days after the close of the hearing and may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act. shall be subject to judicial review by the district court as provided by law-

Sec. 12. That section 8-1119, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-1119. Any person aggrieved by a final order of the director may appeal the order, and the appeal shall be in accordance with the Administrative Procedure Act. obtain a review of the order in the district court of Lancaster County, by filing in such court, within sixty days after the entry of the order, a written petition praying that the order be modified or set aside in whole or in part. A copy of the petition shall be forthwith served upon the director, and thereupon the director shall certify and file in such court a copy of the filing, all exhibits and the order. When these have been filed, the court shall have exclusive jurisdiction to affirm, modify, enforce, or set aside the order, in whole or in part. The matter shall be tried de novo in the court. The commencement of proceedings under this section shall not, unless specifically ordered by the court, operate as a stay of the director's order.

Sec. 13. That section 8-1506, Revised Statutes Supplement, 1986, be amended to read as follows:

8-1506. Whenever the Department of Banking and Finance determines the acquisition of any of the institutions under its supervision is necessary because its capital is impaired, it is conducting its business in an unsafe or unauthorized manner, or it is endangering the interest of depositors or savers, the Director of Banking and Finance may take immediate action in the case of an emergency so declared by the Governor, the Secretary of State, and the Director of Banking and Finance, without the benefit of a hearing, to take possession of and convert or merge the charter,

form of ownership or operating powers, or some or all of the assets and liabilities of the bank or other financial institution under the department's supervision into the charter, form of ownership, or operating powers of a bank or any other financial institution to facilitate the acquisition.

Any stockholder, depositor, or creditor of any such institution shall, upon application to the director within five days of the entry of the order, be afforded a hearing relating to the department's order and determination not later than ten days after such application has been filed. On the basis of such hearing, the director shall enter a final order which may continue the original order in effect, revoke it, or modify it. Any person aggrieved by a final order of the director made pursuant to this section may appeal the order obtain a review of the final order in the district court of Lancaster County by filing, in such court, within ten days after the entry of the final order, a written petition praying that the final order be modified or set aside in whole or in part. Upon service of the petition, the director shall within fifteen days certify and file in such court a copy of the original order, the application for hearing, all exhibits and testimony, and the final order from which the appeal is taken. Such appeal shall otherwise be governed by the Administrative Procedure Act. The hearing before the district court shall be conducted by the court, without a jury, on the record which was before the department. The court may affirm the decision of the department, remand the case for further proceedings, or reverse or modify the decision if the substantial rights of the party appealing from the final order of the director may have been prejudiced because the department's decision is-

- (1) In violation of constitutional provisions;
- (2) In excess of the statutory authority or jurisdiction of the department;
- (3) Made upon unlawful procedure;
- (4) Affected by other error of law;
- (5) Unsupported by competent, material, and substantial evidence in view of the entire record as made on review; or
- (6) Arbitrary or capricious-

Sec. 14. That section 9-229, Revised Statutes Supplement, 1986, be amended to read as follows:

9-229. (1) A copy of the order or decision of the department in any proceeding before it, certified under the seal of the department, shall be served upon

each party of record to the proceeding before the department. Service upon any attorney of record for any such party shall be deemed to be service upon such party. Each party appearing before the department shall enter his or her appearance and indicate to the department his or her address for the service of a copy of any order, decision, or notice. The mailing of any copy of any order or decision or of any notice in the proceeding, to such party at such address, shall be deemed to be service upon such party.

(2) At the time of making an appearance before the department, each party shall deposit in cash or furnish a sufficient security for costs in an amount the department shall deem adequate to cover all costs liable to accrue, including costs for (a) reporting the testimony to be adduced, (b) making up a complete transcript of the hearing, and (c) extending reporter's original notes in typewriting.

(3) Within twenty days after the service of any order or decision of the department upon any party to the proceeding, such party may apply for a rehearing in respect to any matters determined by the department. The department shall consider such application for a rehearing within twenty days from the date of receipt of the rehearing application. If such application is granted, the department shall promptly consider the matters presented by such application. No appeal shall be allowed from any decision of the department, except as is provided for in subsection (4) of this section. Only one rehearing shall be granted by the department on the application of any one party.

(4) Any decision of the department to revoke, cancel, or suspend or to refuse to revoke, cancel, or suspend a license may be appealed, and the appeal shall be in accordance with reversed, vacated, or modified by the district court as provided in the Administrative Procedure Act.

Sec. 15. That section 9-325, Revised Statutes Supplement, 1986, be amended to read as follows:

9-325. (1) A copy of the order or decision of the department in any proceeding before it, certified under the seal of the department, shall be served upon each party of record to the proceeding before the department. Service upon any attorney of record for any such party shall be deemed to be service upon such party. Each party appearing before the department shall enter his or her appearance and indicate to the department his or her address for the service of a copy of any order, decision, or notice. The mailing of any

copy of any order or decision or of any notice in the proceeding, to such party at such address, shall be deemed to be service upon such party.

(2) At the time of making an appearance before the department, each party shall deposit in cash or furnish a sufficient security for costs in an amount the department shall deem adequate to cover all costs liable to accrue, including costs for (a) reporting the testimony to be adduced, (b) making up a complete transcript of the hearing, and (c) extending reporter's original notes in typewriting.

(3) Within twenty days after the service of any order or decision of the department upon any party to the proceeding, such party may apply for a rehearing in respect to any matters determined by the department. The department shall consider such application for a rehearing within twenty days from the date of receipt of the rehearing application. If such application is granted, the department shall promptly consider the matters presented by such application. No appeal shall be allowed from any decision of the department, except as is provided for in subsection (4) of this section. Only one rehearing shall be granted by the department on application of any one party.

(4) Any decision of the department to revoke, cancel, or suspend or to refuse to revoke, cancel, or suspend a license may be appealed, and the appeal shall be in accordance with reversed, vacated, or modified by the district court as provided in the Administrative Procedure Act.

Sec. 16. That section 9-421, Revised Statutes Supplement, 1986, be amended to read as follows:

9-421. (1) A copy of the order or decision of the department in any proceeding before it, certified under the seal of the department, shall be served upon each party of record to the proceeding before the department. Service upon any attorney of record for any such party shall be deemed to be service upon such party. Each party appearing before the department shall enter his or her appearance and indicate to the department his or her address for the service of a copy of any order, decision, or notice. The mailing of any copy of any order or decision or of any notice in the proceeding, to such party at such address, shall be deemed to be service upon such party.

(2) At the time of making an appearance before the department, each party shall deposit in cash or furnish a sufficient security for costs in an amount the department shall deem adequate to cover all costs

liable to accrue, including costs for (a) reporting the testimony to be adduced, (b) making up a complete transcript of the hearing, and (c) extending reporter's original notes in typewriting.

(3) Within twenty days after the service of any order or decision of the department upon any party to the proceeding, such party may apply for a rehearing in respect to any matters determined by the department. The department shall consider such application for a rehearing within twenty days from the date of receipt of the rehearing application. If such application is granted, the department shall promptly consider the matters presented by such application. No appeal shall be allowed from any decision of the department, except as is provided for in subsection (4) of this section. Only one rehearing shall be granted by the department on the application of any one party.

(4) Any decision of the department to revoke, cancel, or suspend or to refuse to revoke, cancel, or suspend a license or permit may be appealed, and the appeal shall be in accordance with reversed, vacated, or modified by the district court as provided in the Administrative Procedure Act.

Sec. 17. That section 15-1202, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

15-1202. (1) The party appealing shall within thirty days from the date of the order or decision complained of:

(a) (1) File a notice of appeal with the city clerk specifying the parties taking the appeal and the order or decision appealed from; and shall serve a copy of the notice upon the city attorney. The notice of appeal shall serve as a praecipe for a transcript;

(b) (2) Deposit with the city clerk a docket fee in the amount of the filing fee in district court for cases originally commenced in district court;

(c) (3) Deposit with the city clerk a cash bond or undertaking with at least one good and sufficient surety approved by the city clerk, in the amount of two hundred dollars, on condition that the appellant will satisfy any judgment and costs that may be adjudged against him or her; and

(d) (4) Deposit with the city clerk the fees for the preparation of a certified and complete transcript of the proceedings of the city relating to the order or decision appealed.

(2) Satisfaction of the requirements of subdivision (1)(a) of this section shall perfect the

appeal and give the district court jurisdiction of the matter appealed-

Sec. 18. That section 15-1203, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

15-1203. Upon perfection of the appeal, the city clerk, on payment to him or her of the costs of the transcript, and the docket fee, shall transmit within fifteen days to the clerk of the district court the docket fee and a certified and complete transcript of the proceedings of the city relating to the order or decision appealed. After receipt of such fee and transcript, whereupon the clerk of the district court shall docket the appeal.

Sec. 19. That section 15-1204, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

15-1204. The party appealing shall file a petition within thirty days from the date the appeal is perfected transcript is filed in the district court. Satisfaction of the requirements of section 15-1202 and this section shall perfect the appeal and give the district court jurisdiction of the matter appealed.

Sec. 20. That section 20-142, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

20-142. (1) Any party to a proceeding before the commission aggrieved by any decision and order of the commission and directly affected thereby may appeal the decision and order, and the appeal shall be in accordance with the Administrative Procedure Act. institute proceedings in the district court within any county wherein the alleged unlawful practice which is the subject of the order was committed, or wherein any respondent required in the order to cease and desist from an unlawful discriminatory practice or to take other affirmative action, resides or transacts business. The time for appeal from such order of the commission to the district court shall be limited to thirty days from the date of the entry of the order to which complaint is made. The order of the commission shall be stayed until the adjudication by the district court.

(2) Such proceeding shall be initiated by the filing of a petition in such court, together with a transcript of the record upon the hearing before the commission and the service of a copy of such petition upon the commission and upon all parties who appeared at the hearing. Thereupon the court shall have jurisdiction of the proceeding and of the question

determined therein-

(3) The evidence presented before the commission as reported by its official stenographer and reduced to writing shall be duly certified to by the stenographer and the chairman of the commission as the true bill of exceptions which, together with the pleadings and filings duly certified in the case under the seal of the commission, shall constitute the complete record and the evidence upon which the case shall be presented to the district court. The review on appeal shall extend to all questions of law and fact presented by the entire record. The commission's orders shall not be vacated, modified, or set aside unless:

(a) Such order is prohibited by the provisions of sections 20-132 to 20-143, or in violation of constitutional rights, or otherwise contrary to law; or

(b) The findings of the commission in support of such order are unreasonable or arbitrary or are not supported by a preponderance of the evidence.

(4) The jurisdiction of the court shall be exclusive and its judgment and order shall be final, subject to appellate review as provided by law.

(5) The commission's copy of the testimony shall be available at all reasonable times to all parties without cost for examination.

(2) (6) In any action or proceeding under sections 20-132 to 20-143, wherein an appeal is lodged in the district court, the court in its discretion may allow the prevailing party a reasonable attorney's fee fees as part of the costs.

(3) (7) If no proceeding to obtain judicial review is instituted by a respondent within thirty days from the service of an order of the commission, the commission may obtain a decree of the court for the enforcement of such order upon showing that the respondent is subject to the commission's jurisdiction and resides or transacts business within the county in which the petition for enforcement is brought.

Sec. 21. That section 21-328, Revised Statutes Supplement, 1986, be amended to read as follows:

21-328. Any corporation paying the fees imposed by section 21-303 or 21-306 may claim a refund if the payment of such fee was invalid for any reason. The corporation shall file a written claim and any evidence supporting the claim within two years after payment of such fee. The Secretary of State shall either approve or deny the claim within thirty days after such filing. Any approved claims shall be paid

out of the General Fund. Appeal of a decision by the Secretary of State shall be in accordance with made pursuant to the Administrative Procedure Act.

Sec. 22. That section 21-1983, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

21-1983. If the Secretary of State fails shall fail to approve any articles of incorporation, amendment, merger, consolidation, or dissolution; or any other document required by the Nebraska Nonprofit Corporation Act provisions of sections 21-1901 to 21-1991 to be approved by the Secretary of State before the same shall be filed in his or her office, he or she shall, within ten days after the delivery thereof to him or her, give written notice of his or her disapproval to the person or corporation, domestic or foreign, delivering the same, specifying the reasons therefor. From such disapproval such person or corporation may appeal, and the appeal shall be in accordance with the Administrative Procedure Act. to the district court of Lancaster County by filing with the clerk of such court a petition setting forth a copy of the articles or other document sought to be filed and a copy of the written disapproval thereof by the Secretary of State; whereupon the matter shall be tried de novo by the court; and the court shall either sustain the action of the Secretary of State or direct him to take such action as the court may deem proper.

If the Secretary of State shall revoke revokes the certificate of authority to conduct affairs in this state of any foreign corporation; pursuant to the Nebraska Nonprofit Corporation Act, provisions of sections 21-1901 to 21-1991; such foreign corporation may likewise appeal, and the appeal shall be in accordance with the Administrative Procedure Act. to the district court of Lancaster County; by filing with the clerk of such court a petition setting forth a copy of its certificate of authority to conduct affairs in this state and a copy of the notice of revocation given by the Secretary of State; whereupon the matter shall be tried de novo by the court; and the court shall either sustain the action of the Secretary of State or direct him to take such action as the court may deem proper.

In the event of appeal to the district court, notice or service of such appeal shall be made upon the Secretary of State; his deputy; or, if the Secretary of State or his deputy are absent from or are not found in the office of the Secretary of State in the State Capitol at the time of the attempted notice or service;

then by serving any person employed in the office of the Secretary of State, who, previously to such service, has been designated in writing by the Secretary of State as the person or one of the persons upon whom such notice or service shall be made for notice or service upon the Secretary of State-

Appeals from all final orders and judgments entered by the district court under this section in review of any ruling or decision of the Secretary of State may be taken as in other civil actions-

Sec. 23. That section 24-313, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

24-313. The district court may, by rule, compel an inferior court or board to allow an appeal, or to make or amend records according to law, either by correcting an evident mistake or supplying an evident omission. This section shall not apply if the Administrative Procedure Act otherwise provides.

Sec. 24. That section 24-541.04, Revised Statutes Supplement, 1986, be amended to read as follows:

24-541.04. (1) Upon perfection of the appeal, the clerk of the county court shall transmit within ten days to the clerk of the district court a certified copy of the transcript and the docket fee, whereupon the clerk of the district court shall docket the appeal. Any A copy of any bond or undertaking shall be transmitted to the clerk of the district court within ten days of filing.

(2) The Supreme Court shall, by rule and regulation, specify the method of ordering the transcript and the form and content of the transcript.

Sec. 25. That section 24-541.06, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

24-541.06. (1) In all cases other than appeals from the Small Claims Court, the district court shall review the case for error appearing on the record made in the county court or on the record made, if prior to July 1, 1985, in the municipal court. The district court shall render a judgment which may affirm, affirm but modify, or reverse the judgment or final order of the county court or the judgment or final order, if entered prior to July 1, 1985, of the municipal court. If the district court reverses, it may enter judgment in accordance with its findings or remand the case to the county court for further proceedings consistent with the judgment of the district court. Within two judicial

days after the decision of the district court becomes final, the clerk of the district court shall issue a mandate in appeals from the county court and transmit the mandate in appeals to the clerk of the county court on the form prescribed by the Supreme Court together with a copy of such decision.

(2) The bill of exceptions, if filed with the clerk at or before the hearing, shall be considered admitted in evidence on the hearing of the appeal unless the court on objection by a party ~~shall exclude~~ excludes all or part of it.

(3) In all cases other than appeals from the county court sitting as a juvenile court, appeals in adoption proceedings, and appeals under the Nebraska Probate Code, the judgment of the district court shall vacate the judgment in the county court or the judgment, if entered prior to July 1, 1985, of the municipal court. The taxation of costs in the district court shall include the costs in the county court. If a judgment of the county or such municipal court is affirmed or affirmed but modified, interest on the amount of the judgment in the district court that does not exceed the amount of the judgment in the county or such municipal court shall run from the date of the judgment appealed from the county or such municipal court.

(4) In all appeals from the county court sitting as a juvenile court, appeals in adoption proceedings, and appeals under the Nebraska Probate Code, the judgment of the district court shall be certified without cost to the county court for further proceedings consistent with the determination of the district court.

Sec. 26. That section 25-1937, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

25-1937. When the Legislature enacts a law providing for an appeal without providing the procedure therefor, the procedure for appeal to the district court shall be the same as for appeals from the county court to the district court in civil actions. Trial in the district court shall be de novo upon the issues made up by the pleadings in the district court. Appeals from the district court to the Supreme Court shall be taken in the same manner provided by law for appeals to the Supreme Court in civil cases and shall be heard de novo on the record. This section shall not apply if the Administrative Procedure Act otherwise provides.

Sec. 27. That section 28-433, Reissue Revised

Statutes of Nebraska, 1943, be amended to read as follows:

28-433. All final determinations, findings, and conclusions of the department under this article shall be final and conclusive decisions of the matters involved, except that any person aggrieved by such decision may obtain review of appeal the decision, and the appeal shall be in accordance with under the provisions of the Administrative Procedure Act.

Sec. 28. That section 31-1022, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

31-1022. Notice of any hearing to be conducted by the commission pursuant to section 31-1020 shall be given to the clerk of the local government, and to such other local officials as the commission deems appropriate, at least thirty days prior to the hearing. Notice shall also be published in a newspaper of general circulation in the area involved at least once each week for three consecutive weeks, the last publication of which shall be not less than five days prior to the date set for the hearing. The rules and regulations of the commission adopted and promulgated in accordance with section 31-1020 shall not be subject to the provisions of the Administrative Procedure Act. Appeals from commission determinations pursuant to section 31-1020 may be taken by any aggrieved party, and the appeals shall be in accordance with the Administrative Procedure Act. to the district court of Lancaster County, and may be initiated by filing a petition in such court within sixty days of the commission's determination. The filing of the petition shall not stay enforcement by the local government of regulations adopted pursuant to section 31-1020. The review shall be conducted by the court without a jury on the record prepared by the commission. The court may affirm the commission's decision; remand the case for further proceedings; or reverse or modify the commission's decision if substantial rights of the petitioners have been prejudiced because the commission's decision is-

- (a) in violation of constitutional provisions;
- (b) in excess of the statutory authority or jurisdiction of the commission;
- (c) Made upon unlawful procedure;
- (d) Affected by other error of law;
- (e) Unsupported by competent, material, and substantial evidence in view of the entire record; or
- (f) Arbitrary or capricious.

Sec. 29. That section 32-706, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

32-706. (1) If the Secretary of State ~~shall refuse~~ refuses to accept and file any initiative petition presented not less than four months preceding the date of the election at which the proposed law or constitutional amendment is to be voted upon, or any referendum petition presented within ninety days after the Legislature enacting the law to which the petition applies, adjourns sine die, or for a period longer than ninety days, any citizen may apply, within ten days after such refusal, to the district court of Lancaster County for a writ of mandamus. If it ~~shall be~~ is decided by the court that such petition is legally sufficient, the Secretary of State shall then file it, with a certified copy of the judgment attached thereto, as of the date on which it was originally offered for filing in his or her office. On a showing that any petition filed is not legally sufficient, the court, on the application of any citizen, may enjoin the Secretary of State and all other officers from certifying or printing on the official ballot for the ensuing election the ballot title and number of such measure. If an injunction suit is filed against the Secretary of State seeking to enjoin him or her from placing the measure on the official ballot, the person, ~~persons,~~ corporation, or organization which who are the sponsors is the sponsor of record of the petition shall be a necessary ~~parties party~~ defendant in such lawsuit. All such suits shall be advanced on the court docket and heard and decided by the court as quickly as possible. Either party may appeal to the Supreme Court within ten days after a decision is rendered. The district court of Lancaster County shall have jurisdiction of all litigation arising under the provisions of sections 32-702 to 32-713.

(2) The appeal procedures described in the Administrative Procedure Act shall not apply to this section.

Sec. 30. That section 32-707, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

32-707. (1) When any measure is ~~shall be~~ filed with the Secretary of State to be referred to the people of the state by the referendum petition, and when any measure ~~shall be~~ is proposed by initiative petition, the Secretary of State shall forthwith transmit to the Attorney General of the state a copy thereof, and within

ten days thereafter the Attorney General shall provide and return to the Secretary of State a ballot title for such measure. The ballot title may be distinct from the legislative title of the measure, and shall express, in not exceeding one hundred words, the purpose of the measure. The ballot title shall be printed with the number of the measure on the official ballot. The Attorney General also shall prepare a statement to be printed in italics immediately preceding the ballot title on the official ballot. Such statement shall in clear and concise language explain the effect of a vote for and against the measure in such language that the statement shall not be intentionally an argument, or likely to create prejudice, either for or against the measure. The ballot title shall be so worded that those in favor of retaining any measure referred to the electors, or in favor of any measure proposed by initiative petition, shall vote For, and those opposing any measure referred to the electors, or any measure initiated by petition, shall vote Against. Any person who is dissatisfied with the ballot title provided by the Attorney General for any measure may appeal from his decision to the district court, as provided by section 32-706, by petition, praying for a different title and setting forth the reasons why the title prepared by the Attorney General is insufficient or unfair. No appeal shall be allowed from the decision of the Attorney General on a ballot title, unless the same is taken within ten days after the decision is filed. A copy of every such decision shall be served by the Secretary of State, or the clerk of the district court, upon the person offering or filing such initiative or referendum petition or appeal. Service of such decision may be by mail or telegraph and shall be made forthwith. The district court shall thereupon examine the measure, hear arguments, and in its decision thereon certify to the Secretary of State a ballot title for the measure in accord with the intent of this section. The Secretary of State shall print on the official ballot the title thus certified to him or her.

(2) The appeal procedures described in the Administrative Procedure Act shall not apply to this section.

Sec. 31. That section 39-669.18, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-669.18. Any person who feels himself or herself aggrieved because of such revocation may appeal therefrom to the district court of the county where the

alleged events occurred for which he or she was arrested, in the manner prescribed in section 60-420 accordance with the Administrative Procedure Act. Such appeal shall not suspend the order of revocation unless a stay thereof shall be is allowed by a judge of such court pending a final determination of the review. If ; PROVIDED, if a stay shall be is allowed, and the final judgment of a court finds against the person so appealing, the period of revocation shall commence at the time of final judgment of the court for the full period of the time of revocation.

Sec. 32. That section 39-2111, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-2111. The county or municipality may appeal to the Board of Public Roads Classifications and Standards from any action taken by the Department of Roads in assigning any functional classification under the provisions of section 39-2110. Upon the taking of such an appeal, the board shall review all information pertaining to the assignment, hold a hearing thereon if deemed advisable, and render a decision on the assigned classification. The decision of the board may be appealed, and the appeal shall be in accordance with ; which decision shall be subject to the provisions of the Administrative Procedure Act.

Sec. 33. That section 39-2121, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-2121. (1) The department, and each county and municipality, shall make the reports provided for by section 39-2120.

(2) If any county, or municipality or the Department of Roads fails to file such report on or before its due date, the Board of Public Roads Classifications and Standards shall so notify the local governing board, the Governor, and the State Treasurer who shall suspend distribution of any highway-user revenue allocated to such county or municipality or the Department of Roads until the report has been filed. Such funds shall be held in escrow for six months until the county or municipality complies. If the county or municipality complies within the six-month period it shall receive the money in escrow, but after six months, if the county or municipality fails to comply, the money in the escrow account shall be lost to the county or municipality.

(3) If any county or municipality either (a) files a materially false report or (b) constructs any

highway, road, or street below the minimum standards developed under section 39-2113, without having received prior approval thereof, such county's or municipality's share of highway-user revenue allocated during the following calendar year shall be reduced by ten percent and the amount of any such reduction shall be distributed among the other counties or municipalities, as appropriate, in the manner provided by law for allocation of highway-user revenue. The ; PROVIDED; ~~that the~~ penalty for filing a materially false report; and the penalty for constructing a highway, road, or street below established minimum standards without prior approval shall be assessed by the board only after a review of the facts involved in such case; and the holding of a public hearing on the matter. The decision thereafter rendered by the board may be appealed, and the appeal shall be in accordance with ~~shall be subject to the provisions of~~ the Administrative Procedure Act.

Sec. 34. That section 43-707, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

43-707. The Department of Social Services shall have power and it shall be its duty: (1) ~~to~~ To promote the enforcement of all laws for the protection and welfare of defective, illegitimate, dependent, neglected, and delinquent children, except laws whose the administration of which is expressly vested in some other state department or division hereof, and to take the initiative in all matters involving such children where when adequate provision therefor has not already been made; (2) to visit and inspect all public and private institutions, agencies, societies, or persons caring for, receiving, placing out, or handling children; (3) to issue certificates or licenses as provided by law to such institutions, agencies, societies, or persons and revoke such licenses or certificates for good cause shown. If ; PROVIDED; ~~that in case~~ a license is refused or revoked, appeal may be taken to the district court of the county in which the agency is located the refusal or revocation may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act; (4) to exercise general supervision over the administration and enforcement of all laws governing the placing out and adoption of children; (5) to advise with judges and probation officers of courts of domestic relations and juvenile courts of the several counties, with a view to encouraging, standardizing, and coordinating the work of such courts and officers throughout the state; (6) to

cooperate with county boards of public welfare and their executives, in the various counties, in all matters relating to the special classes of children heretofore designated, and in any other matters coming under the jurisdiction of such county boards; and (7) to prescribe the form of reports required by law to be made to the department by public officers, agencies, and institutions.

Sec. 35. That section 44-111.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-111.01. Any person aggrieved by any action of the Director of Insurance arising out of any examination or hearing may appeal the action, and the appeal shall be in accordance with the Administrative Procedure Act. obtain a review by appeal as provided by Chapter 44.

Sec. 36. That section 44-127.09, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-127.09. On all disputed claims the Director of Insurance as liquidator or his or her representative shall hold such hearings and make a final determination as to whether or not such a claim is to be allowed and the amount thereof, if any, which determination shall be a final order which may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act. reversed, vacated or modified by the district court which ordered the liquidation of such company, or in the case of a foreign company, by the district court of Lancaster County. Such proceedings in district court may be had only upon the filing of a petition in error, and the claimant or any creditor, shareholder, or member of such company shall be a real party in interest for the purpose of prosecuting such proceedings in district court. The petition in error shall be filed with the said district court within thirty days of the rendering of such determination, and there shall be filed with the petition in error a written undertaking with one or more sureties conditioned that the plaintiff in error will pay all costs, including the costs of any transcript and stenographic record, which have accrued, or may accrue on such proceedings in error. The filing of this undertaking shall be jurisdictional and the sufficiency of the sureties must be approved by the clerk of the court at the time of filing.

Sec. 37. That section 44-127.10, Reissue Revised Statutes of Nebraska, 1943, be amended to read

as follows:

44-127.10. Upon the filing of the petition in error appeal, a summons shall issue and be served upon the liquidator or his or her authorized representative in the manner provided for service of summons in a civil action. The summons shall notify the liquidator that a petition in error has been filed with respect to a claim, naming it, and shall be returnable on the second Monday after the filing of said petition. It shall state the day of the month on which it is returnable.

Sec. 38. That section 44-127.19, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-127.19. During the period of supervision and during the period of conservatorship, the insurance company may request the Director of Insurance or in his or her absence, the duly appointed representative for such purpose, to review an action taken or proposed to be taken by the supervisor or conservator, specifying wherein the action complained of is believed not to be in the best interests of the insurance company, and such request shall stay the action specified pending review of such action by the director or his duly appointed representative. Any order entered by the director appointing a supervisor and providing that the insurance company shall not do certain acts as set forth in section 44-127.16, any order entered by the director appointing a conservator, and any order by the director following the review of an action of the supervisor or conservator may be appealed, and the appeal shall be in accordance with the provisions of the Administrative Procedure Act.

Sec. 39. That section 44-133, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-133. Whenever any of the grounds mentioned in section 44-125 are shown to exist as to a domestic company, after a hearing upon notice to the company, the Department of Insurance may revoke the certificate of authority of such company to do business, instead of applying to the court, which order of revocation shall be subject to appeal, and the appeal shall be in accordance with the Administrative Procedure Act. ~~pursuant to Chapter 44 to the district court of the county in which the State Capitol is located.~~

Sec. 40. That section 44-134, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-134. Whenever any of the grounds mentioned

in section 44-125 exist as to foreign or alien companies, the Department of Insurance shall revoke the certificate of authority of such company to do business in this state, which order of revocation shall be subject to appeal, and the appeal shall be in accordance with the Administrative Procedure Act, pursuant to Chapter 44- An appeal by the company shall give the court full power over it, to deal with it and its property within this state as justice and equity may require, but such appeal shall not stay the operation of the order of revocation so far as it applies to the transaction or doing of new business-

Sec. 41. That section 44-222.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-222.02. The Director of Insurance may, if he or she finds that any person or insurer has violated any of the provisions of sections 44-222 and 44-222.01, report the facts to the Attorney General for prosecution in accordance with the provisions of section 44-394. In lieu of the criminal prosecution provided herein or in addition thereto the Director of Insurance may suspend such insurer's authority to do business in Nebraska for such length of time as the director may prescribe. An appeal may be taken from the decision of the director, and the appeal shall be in accordance with the Administrative Procedure Act, pursuant to Chapter 44-

Sec. 42. That section 44-224.09, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-224.09. Any party aggrieved by any order of the director approving or disapproving any contract of merger, consolidation, or bulk reinsurance may appeal, and the appeal shall be in accordance with the Administrative Procedure Act, to the district court of Baneaster County in the manner provided by Chapter 44-

Sec. 43. That section 44-238, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-238. If, upon the hearing, the Director of Insurance disapproves the plan, he or she shall enter a written order fully stating the reason therefor. If he or she approves the proposed plan and amendments, he or she shall (1) make and enter an appropriate order approving them, (2) make a finding that the provisions of the plan are in conformity with the requirements of sections 44-231 and 44-235, (3) make a specific finding as to the fair value of the stockholders' interest in the company as of the date of the order, (4) find the

value of each stockholder's interest as represented by his or her shares therein and the amount to be paid therefor, and (5) order that, conditioned upon the approval and adoption of the plan and amendments to the articles of incorporation by the stockholders at a regular or special meeting duly called for the purpose as provided in section 44-231, (a) the plan shall be placed in effect, (b) all stockholders of the company shall surrender their stock for cancellation pursuant to the plan and receive payment therefor in accordance therewith, and (c) upon any stockholder's failing or neglecting to so surrender his or her stock, all of his or her rights, powers, and privileges as such stockholder shall nevertheless terminate and be extinguished, excepting only his or her right to receive payment for his or her stock. The order shall recite that appeal may be had and that the appeal shall be in accordance with the Administrative Procedure Act. ~~from the order to the district court of Lancaster County pursuant to Chapter 44.~~ A copy of the order, duly certified by the director, shall be promptly forwarded by mail to each of the stockholders of the company at his or her latest address as shown on the records of the company.

Sec. 44. That section 44-352, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-352. It shall be unlawful for any insurance company to permit the use of its name, or for any other company, person, or firm to use the name of any insurance company in such a way as to deceive or mislead the public. The violation of this section by an insurance company will be grounds for the revocation of its license, and the person, firm, or corporation so using the name of an insurance company shall be punished by a fine of not exceeding one hundred dollars for each offense. An appeal of a revocation and fine may be taken, and the appeal shall be in accordance with the Administrative Procedure Act. ~~Appeal may be taken pursuant to Chapter 44.~~

Sec. 45. That section 44-360, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-360. If any insurance company authorized to transact business in this state, or any agent or representative thereof, shall, either within or outside this state, directly or indirectly, enter into any contract, understanding, or combination with any other insurance company, agent, or representative thereof, or

with any association of such companies or agents, for the purpose of controlling the rates to be charged for insuring any risk, or class or classes of risks in this state, or for the purpose of, or that may have the tendency or effect of, preventing or lessening lawful competition in the transaction of the business of insurance in this state, the Department of Insurance shall forthwith revoke its license, and the licenses of its agents, and no renewal of the license shall be granted until after the expiration of one year from the date of final revocation. An appeal may be taken from the decision of the department, and the appeal shall be in accordance with the Administrative Procedure Act, pursuant to Chapter 44-

Sec. 46. That section 44-367, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-367. The license of any insurance company, agent, or broker, found by the Department of Insurance, after hearing, to have violated any of the provisions of sections 44-361 to 44-364, may be revoked or suspended. Appeal may be taken from the decision of the Director of Insurance, and the appeal shall be in accordance with the Administrative Procedure Act, pursuant to Chapter 44-

Sec. 47. That section 44-368, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-368. Any insurance company found guilty of violating sections 44-363 to 44-365 shall be guilty of a Class V misdemeanor. The license of any insurance company, agent, or broker found by the Director of Insurance, after hearing, to have been twice convicted of the violation of said such sections, may be revoked or suspended. Appeal may be taken from the decision of the Director of Insurance, and the appeal shall be in accordance with the Administrative Procedure Act, pursuant to Chapter 44-

Sec. 48. That section 44-386.07, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-386.07. If the Director of Insurance orders any person to cease and desist all business of the association, or any activity connected therewith, such order may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act, shall be subject to review in the district court of Lancaster County in the manner provided in Chapter 44, article 23-

Sec. 49. That section 44-511, Reissue Revised Statutes of Nebraska, 1943, be amended to read as

follows:

44-511. No policy of life insurance or annuity shall be delivered or issued for delivery in this state, nor shall any endorsement, rider, or application which becomes a part of any such policy be used, until a copy of the form has been filed with the Director of Insurance. No such policy, endorsement, rider, or application ~~nor shall any such policy, endorsement, rider or application~~ be so used until the expiration of thirty days after the form has been received unless the director shall sooner give his or her written approval thereto. Such ~~PROVIDED; that such~~ thirty-day period may be extended by the director for an additional period, not to exceed thirty days. Notice of such extension shall be mailed to the insurer involved. The director shall notify in writing the insurer which has filed any such form if such form or provision or language thereof is unjust, unfair, inequitable, misleading, or ~~or~~ deceptive, or encourages misrepresentation of the coverage, or is ~~is~~ contrary to any provision of the statutes of this state or any rule or regulation adopted and promulgated thereunder, specifying the reasons for his or her opinion, and it shall thereafter be unlawful for such insurer to use such form in this state. In such notice, the director shall state that a hearing will be granted within thirty days upon written request of the insurer. In all other cases the director shall give his or her approval. The disapproval may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act. An appeal may be taken pursuant to Chapter 44-

Sec. 50. That section 44-512, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-512. After the expiration of such thirty days from the filing of any such form, or at any time after having given written approval thereof, the director may, after a hearing of which at least ten days' written notice has been given to the insurer issuing such form, withdraw approval on any of the grounds stated in section 44-511. Such disapproval shall be effected by written order of the director which shall state the grounds for disapproval and the date, not less than thirty days after such hearing, when the withdrawal of approval shall become effective. The disapproval may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act. An appeal may be taken pursuant to Chapter 44-

Sec. 51. That section 44-626, Reissue Revised

Statutes of Nebraska, 1943, be amended to read as follows:

44-626. Either party may appeal from any decision of the Department of Insurance, made in pursuance of sections 44-624 and 44-625, and the appeal shall be in accordance with the Administrative Procedure Act. ~~to the district court of Lancaster County in the manner provided in Chapter 44-~~

Sec. 52. That section 44-711, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-711. After the expiration of such thirty days from the filing of any such form, as provided in section 44-710, or at any time after having given written approval thereof, the director may, after a hearing of which at least ten days' written notice has been given to the insurer issuing such form, withdraw approval on any of the grounds stated in section 44-710. Such disapproval shall be effected by written order of the director which shall state the grounds for disapproval and the date, not less than thirty days after such hearing, when the withdrawal of approval shall become effective. An appeal from the decision of the Director of Insurance may be taken, and the appeal shall be in accordance with the Administrative Procedure Act. ~~pursuant to Chapter 44-~~

Sec. 53. That section 44-751, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-751. If the Director of Insurance finds that any such advertising copy or advertising practice or plan of solicitation is materially misleading or deceptive, he or she shall order the company, ~~or the agent, or broker~~ using such copy, ~~or practice, or plan~~ to cease and desist from such use. Before making any such finding and order the director shall give notice, not less than ten days in advance, and a hearing to the company, agent, or broker affected. An appeal from the decision of the director may be taken, and the appeal shall be in accordance with the Administrative Procedure Act. ~~pursuant to Chapter 44-~~

Sec. 54. That section 44-752, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-752. If the director finds, after due notice and hearing, that any authorized insurer, licensed insurance agent, or licensed insurance broker has willfully violated any such order to cease and desist, he or she may suspend or revoke the license of

such insurer, agent, or broker. An appeal may be taken, and the appeal shall be in accordance with the Administrative Procedure Act, pursuant to Chapter 44- ~~The decision of the director shall remain in full force until reversed by final judgment of the court-~~

Sec. 55. That section 44-766, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-766. Any person, partnership, or corporation who or which willfully delivers or issues for delivery in this state any such policy on a form which shall have been disapproved by the Director of Insurance, or willfully violates any provision of sections 44-709 to 44-710.17 or 44-711, ~~44-710 to 44-710.17, 44-711, 44-736, 44-749 to 44-767, or of this act, or an order of the director made in accordance with sections 44-710, and 44-711, 44-749 to 44-767, or of this act,~~ shall forfeit to the people of the state a sum not to exceed one hundred dollars for each such violation, which may be recovered by a civil action. The director may after notice and hearing revoke the license of an insurer or agent for any such willful violation. Any person aggrieved by any action of the Director of Insurance may appeal, and the appeal shall be in accordance with the Administrative Procedure Act. ~~obtain a review by appeal as provided by Chapter 44-~~

Sec. 56. That section 44-10,107, Revised Statutes Supplement, 1986, be amended to read as follows:

44-10,107. All decisions and findings of the Director of Insurance made under sections 44-1072 to 44-10,109 may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act. ~~shall be subject to review by proper proceedings in any court of competent jurisdiction in this state-~~

Sec. 57. That section 44-1212, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1212. In addition to the penalties prescribed in section 44-1209, and where when not otherwise provided, the penalty for failure or refusal to comply with any of the terms and provisions of sections 44-1201 to 44-1214, upon the part of the attorney, shall be the refusal, suspension, or revocation of certificate of authority or license by the Department of Insurance, and publication of his or her act, after due notice and opportunity for hearing has been given such attorney so that he or she may appear and show cause why such action should not be taken. An

appeal may be taken from the decision of the Director of Insurance, and the appeal shall be in accordance with the Administrative Procedure Act. pursuant to Chapter 44-

Sec. 58. That section 44-1441, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1441. Any order or decision of the director may be appealed shall be subject to review at the instance of any party in interest, and the appeal shall be in accordance with the Administrative Procedure Act. by appeal to the district court of the county in which the State Capitol is located, within thirty days after notice of the director's order or decision. The appeal shall be heard and tried de novo and in the manner provided for the trial of suits in equity. The court shall determine whether the filing of the appeal shall operate as a stay of such order or decision of the director. The court may, in disposing of the issue before it, modify, affirm or reverse the order or decision of the director in whole or in part. The director or any other party may appeal from such decision to the Supreme Court of the State of Nebraska.

Sec. 59. That section 44-1485, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1485. Any order or decision of the director may be appealed shall be subject to review at the instance of any party in interest, and the appeal shall be in accordance with the Administrative Procedure Act. by appeal to the district court of the county in which the State Capitol is located, within thirty days after notice of the director's order or decision. The appeal shall be heard and tried de novo and in the manner provided for the trial of suits in equity. The court shall determine whether the filing of the appeal shall operate as a stay of such order or decision of the director. The court may, in disposing of the issue before it, modify, affirm or reverse the order or decision of the director in whole or in part. The director or any other party may appeal from such decision to the Supreme Court of the State of Nebraska.

Sec. 60. That section 44-1530, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1530. (1) Any person subject to an order of the director under section 44-1529 may appeal the order, and the appeal shall be in accordance with the Administrative Procedure Act. obtain a review of such

order by filing in the district court of Lancaster County, within thirty days from the date of the service of such order, a petition praying that the order be set aside. A copy of such petition shall be forthwith served upon the director, and thereupon the director forthwith shall certify and file in such court a transcript of the entire record in the proceeding, including all the evidence taken and the report and order. Upon such filing of the petition and transcript, the court shall have jurisdiction of the proceeding and of the question determined therein, shall determine whether the filing of such petition shall operate as a stay of such order, and may enter upon the pleadings, evidence, and proceedings set forth in such transcript a decree modifying, affirming, or reversing the order of the director, in whole or in part. The findings of the director as to the facts, if supported by the evidence, shall be conclusive.

(2) To the extent that the order is affirmed, the court shall issue its own order commanding obedience to the terms of such order of the director. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the director, the court may order such additional evidence to be taken before the director and to be adduced upon the hearing in such manner and upon such terms and conditions as the court may deem proper. The director may modify his findings of fact, or make new findings by reason of the additional evidence so taken, and he shall file such modified or new findings which, if supported by the evidence, shall be conclusive, and his recommendation, if any, for the modification or setting aside of his original order, with the return of such additional evidence.

(2) (3) An order issued by the director under section 44-1529 shall become final:

(a) Upon the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed, except that the director may thereafter modify or set aside his or her order to the extent provided in subsection (2) of section 44-1529; or

(b) Upon the final decision of the court if the court directs that the order of the director be affirmed or the petition for review dismissed.

(3) (4) No order of the director under sections 44-1522 to 44-1535 or order of a court to

enforce the same such order shall in any way relieve or absolve any person affected by such order from any liability under any other laws of this state.

Sec. 61. That section 44-1531, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1531. If, after any hearing as provided by section 44-1528 or 44-1532, the report of the director does not charge a violation of sections 44-1522 to 44-1535, then any intervenor as provided by section 44-1528 may, within ten days after the service of such report, appeal the findings of the director, and the appeal shall be in accordance with the Administrative Procedure Act. file a petition in the district court of Lancaster County for a review of such report. Upon such review, the court may issue appropriate orders and decrees, including an order to enjoin and restrain any method of competition, act, or practice which it finds, notwithstanding such report of the director, to constitute a violation of sections 44-1522 to 44-1535 and invoke penalties pursuant to section 44-1529.

Sec. 62. That section 44-1713, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1713. Whenever the director finds, after due notice and hearing, that there has been a violation of any of the provisions of sections 44-1701 to 44-1713 or of any rules or regulations adopted and promulgated pursuant thereto, he or she may revoke or suspend the license or certificate of authority of the person or insurer guilty of such violation or make such other order or directive as he or she may deem adequate and appropriate to secure compliance with said provisions of sections 44-1701 to 44-1713 or of any rules or regulations adopted and promulgated pursuant thereto. Any action taken by the director pursuant to the provisions of this section shall not preclude such criminal prosecutions as may be otherwise provided by law. An appeal from the decision of the director may be taken, and the appeal shall be in accordance with the Administrative Procedure Act. pursuant to Chapter 44-

Sec. 63. That section 44-2312, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-2312. Hearings and appeals in contested cases under the provisions of Chapter 44 as the same now provide or may hereafter from time to time be amended shall be in accordance with governed by the provisions of the Administrative Procedure Act, 7 as the same now

provide or may hereafter from time to time be amended-

Sec. 64. That section 44-2406, Revised Statutes Supplement, 1986, be amended to read as follows:

44-2406. (1) The association shall be obligated only to the extent of the covered claims existing prior to the date a member company becomes an insolvent insurer or arising within thirty days after it has been determined that the insurer is an insolvent insurer, or before the policy expiration date if less than thirty days after such determination, or before the insured replaces the policy or on request effects cancellation, if he or she does so within thirty days of such dates, but such obligation shall include only that amount of each covered claim which is less than three hundred thousand dollars, except that the association shall pay the amount required by law on any covered claim arising out of a workers' compensation policy. In no event shall the association be obligated to a policyholder or claimant in an amount in excess of the face amount of the policy from which the claim arises.

(2) The director shall transmit to the association all covered claims timely filed with him or her pursuant to sections 44-127.01 to 44-127.05. The association shall thereupon be considered to have been designated the director's representative pursuant to section 44-127.07, and it shall proceed to investigate, hear, settle, and determine such claims unless the claimant shall, within thirty days from the date the claim is filed with the director, file with the director a written demand that the claim be processed in the liquidation proceedings as a claim not covered by the Nebraska Property and Liability Insurance Guaranty Association Act. In regard to those claims transmitted to the association by the director, the association and claimants shall have all of the rights and obligations, and be subject to the same limitations and procedures, as are specified in sections 44-127.05 to ~~44-127.11~~ 44-127.10 for the determination of claims.

(3) In the case of claims arising from bodily injury, sickness, or disease, including death resulting therefrom, the amount of any such award shall not exceed the claimant's reasonable expenses incurred for necessary medical, surgical, X-ray, and dental services, including prosthetic devices and necessary ambulance, hospital, professional nursing, and funeral services, and any amounts actually lost by reason of claimant's inability to work and earn wages or salary or their equivalent, but not other income, that would otherwise

have been earned in the normal course of such injured claimant's employment. Such award may also include payments in fact made to others, not members of claimant's household, which were reasonably incurred to obtain from such other persons ordinary and necessary services for the production of income in lieu of those services the claimant would have performed for himself or herself had he or she not been injured. The amount of any such award under this subsection shall be reduced by the amount the claimant is entitled to receive as the beneficiary under any health, accident, or disability insurance, or under any salary or wage continuation program under which he or she is entitled to benefits, or from his or her employer in the form of workers' compensation benefits, or any other such benefits to which the claimant is legally entitled, and any claimant who intentionally fails to correctly disclose his or her rights to any such benefits shall forfeit all rights which he or she may have by the provisions of the Nebraska Property and Liability Insurance Guaranty Association Act.

(4) A third party having a covered claim against any insured of an insolvent member insurer may file such claim with the director pursuant to sections 44-127.01 to 44-127.05, and the association shall process such claim in the manner specified in subsections (2) and (3) of this section. The filing of such claim shall constitute an unconditional general release of all liability of such insured in connection with the claim, unless the association thereafter denies the claim for the reason that the insurance policy issued by the insolvent member company does not afford coverage, or unless the claimant shall, within thirty days from the date of filing his or her claim with the director, file with the director a written demand that the claim be processed in the liquidation proceedings as a claim not covered by the Nebraska Property and Liability Insurance Guaranty Association Act.

Sec. 65. That section 44-2710, Revised Statutes Supplement, 1986, be amended to read as follows:

44-2710. In addition to the powers and duties enumerated in the Nebraska Life and Health Insurance Guaranty Association Act:

(1) The director shall:

(a) Notify the board of directors of the existence of an impaired or insolvent insurer not later than three days after a determination of impairment or insolvency is made or he or she receives notice of

impairment or insolvency;

(b) Upon request of the board of directors, provide the association with a statement of the premiums in the appropriate states for each member insurer;

(c) When an impairment is declared and the amount of the impairment is determined, serve a demand upon the impaired insurer to make good the impairment within a reasonable time. Notice to the impaired insurer shall constitute notice to its shareholders, if any. The failure of the insurer to promptly comply with such demand shall not excuse the association from the performance of its powers and duties under the act;

(d) In any liquidation or rehabilitation proceeding under Nebraska law involving a domestic insurer, be appointed as the liquidator or rehabilitator. If a foreign or alien member insurer is subject to a liquidation proceeding in its domiciliary jurisdiction or state of entry, the director shall be appointed conservator; and

(e) Transmit to the association all claims on covered policies timely filed with him or her pursuant to sections 44-127.01 to 44-127.05. The association shall then be considered to have been designated as the director's representative pursuant to section 44-127.07, and it shall proceed to investigate, hear, settle, and determine such claims unless the claimant shall, within thirty days from the date the claim is filed with the director, file with the director a written demand that the claim be processed in the liquidation proceedings as a claim not covered by the act. In regard to those claims transmitted to the association by the director, the association and claimants shall have all of the rights and obligations and be subject to the same limitations and procedures as are specified in sections 44-127.05 to ~~44-127-11~~ 44-127.10 for the determination of claims;

(2) The director may suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this state of any member insurer which fails to pay an assessment when due or fails to comply with the plan of operation. As an alternative, the director may levy a forfeiture on any member insurer which fails to pay an assessment when due. Such forfeiture shall not exceed five percent of the unpaid assessment per month, but no forfeiture shall be less than one hundred dollars per month;

(3) Any action of the board of directors or the association may be appealed to the director by any member insurer if such appeal is taken within thirty

days of the action being appealed. Any final action or order of the director may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act; shall be subject to judicial review in a court of competent jurisdiction; and

(4) The liquidator, rehabilitator, or conservator of any impaired or insolvent insurer may notify all interested persons of the effect of the Nebraska Life and Health Insurance Guaranty Association Act.

Sec. 66. That section 44-2851, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-2851. (1) Complaints to the Commission on Medical Qualifications shall be in writing directed to the commission or to any member of the commission. The commission shall formulate a complaint form for the use of persons making complaints, but no specified form of complaint shall be required.

(2) The Director of Health or any citizen of the State of Nebraska shall have the right at all times to make or refer complaints to the Commission on Medical Qualifications with reference to the acts, activities, or qualifications of any physician or surgeon licensed to practice in the State of Nebraska, or to request that the commission consider the qualifications of any physician or surgeon to continue to practice.

(3) Upon receipt of any such complaint or request, the commission shall make such investigation as it determines to be necessary to take such action to resolve the matter. The commission shall notify the person making the complaint as to the disposition of the complaint as soon as the commission has determined what actions will be taken pursuant to such complaint.

(4) The commission shall have the right (a) to subpoena witnesses, (b) to hold preliminary hearings, (c) to require the physician or surgeon under investigation to submit to, or to request that he or she undergo, a physical or mental examination by medical experts in accordance with sections 71-1,104.01 to 71-1,104.05, (d) to appoint special masters to conduct preliminary hearings, (e) to make independent investigations by means of investigators employed by the commission, (f) to hold confidential preliminary conferences with the person or persons filing the complaint or with their agents or attorneys, and (g) to hold confidential preliminary conferences with the physician or surgeon involved in the complaint.

(5) If the commission shall determine that the

complaint has sufficient merit to justify a formal hearing, it shall advise the physician or surgeon involved in writing of the specific charges which have been made and supported, substantiated, or revealed by the independent investigation of the commission. Such evidence and matter shall be simultaneously submitted to the Board of Examiners in Medicine and Surgery. If the matter has not been resolved within ten days after such notice, the commission shall file the complaint with the Board of Examiners in Medicine and Surgery and with the Director of Health and shall be responsible for presenting the matter to the Director of Health for a decision, which decision shall be rendered only following a formal hearing.

(6) The physician or surgeon shall be given reasonable time in which to formally answer such charges in writing and the matter shall then be set for hearing by the Director of Health in accordance with ~~the provisions of sections 71-147 to 71-161~~ 71-160. At such hearing, the Director of Health shall cause the testimony and documentary evidence relating to the charges to be produced and recorded in such manner as he or she shall determine to be advisable, giving the physician or surgeon involved and his or her attorney a full opportunity to question and cross-examine the witnesses and evidence so produced.

(7) The physician or surgeon who is the subject of such complaint shall have an opportunity to produce at such hearing testimony, evidence, and documents relating to the charges involved. Thereafter any rebuttal evidence may be produced. In the alternative or in addition the Director of Health may appoint one or more special masters who shall be authorized to hear and take evidence in such manner and to report to him or her.

(8) If, after hearing or after considering the record of the hearing by a master, the Director of Health finds good cause therefor, he or she shall direct that the license of the physician or surgeon who is the subject of such proceeding to practice medicine and surgery in Nebraska shall be revoked or shall direct such other action short of revocation of the license as he or she determines to be advisable in the circumstances.

(9) Appeal from the decision of the Director of Health may be taken, and the appeal shall be in accordance with the Administrative Procedure Act. shall be to the district court of Lancaster County, Nebraska, on the record made at the hearing before the director-

The Director of Health is authorized to adopt and promulgate rules and regulations governing proceedings before masters and before the director.

Sec. 67. That section 44-2913, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-2913. (1) Every association incorporated pursuant to ~~sections 44-2901 to 44-2918~~ the Nebraska Hospital and Physicians Mutual Insurance Association Act shall, on or before March 1 of each year, pay an administrative fee to the director in the amount of three-tenths of one percent of the gross amount of direct writing premiums received by it during the preceding calendar year for business done in this state.

(2) The computation of the administrative fee shall be made on forms furnished by the Department of Insurance and shall be forwarded to the department together with a sworn statement by an appropriate officer of the company attesting the accuracy of the fee computation. The department shall furnish such forms prior to the end of the year for which the fees are payable.

(3) The director shall rescind or refuse to reissue the license of any association which fails to remit the administrative fee in conformity with the provisions of this section. Prior to rescinding such license, the director shall issue an order to the association directing the association to show cause why such rescission should not be made. The director shall give not less than ten days' notice of a rescission hearing before the department. Should the company be aggrieved by such determination, an appeal may be taken, and the appeal shall be in accordance with the Administrative Procedure Act. ~~made as set forth in Chapter 44, article 23-~~

Sec. 68. That section 44-3110, Revised Statutes Supplement, 1986, be amended to read as follows:

44-3110. (1) In addition to the premium tax prescribed in Chapter 77, article 9, every professional association mutual insurance company licensed pursuant to the Nebraska Professional Association Mutual Insurance Company Act shall, on or before March 1 of each year, pay an administrative fee to the director in the amount of three-tenths of one percent of the gross amount of direct writing premiums received by it during the preceding calendar year for business done in this state.

(2) The computation of the administrative fee

shall be made on forms furnished by the Department of Insurance, and the fee shall be forwarded to the department together with a sworn statement by an appropriate officer of the company attesting the accuracy of the fee computation. The department shall furnish such forms prior to the end of the year for which the fees are payable.

(3) The director shall rescind or refuse to reissue the license of any company which fails to remit the administrative fee in conformity with this section. Prior to rescinding such license, the director shall issue an order to the company directing the company to show cause why such rescission should not be made. The director shall give not less than ten days' notice of a rescission hearing before the department. Should the company be aggrieved by such determination, an appeal may be taken, and the appeal shall be in accordance with made under the Administrative Procedure Act.

Sec. 69. That section 44-3278, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-3278. (1) When the director shall have cause to believe that grounds for the denial of an application for a certificate of authority exist or that grounds for the suspension or revocation of a certificate of authority exist, he or she shall notify the health maintenance organization and the Director of Health in writing specifically stating the grounds for denial, suspension, or revocation and fixing a time of at least ten days thereafter for a hearing on the matter.

(2) The Director of Health or his or her designated representative shall be in attendance at the hearing and shall participate in the proceedings. The recommendations and findings of the Director of Health with respect to matters relating to the quality of health care services provided in connection with any decision regarding denial, suspension, or revocation of a certificate of authority shall be conclusive and binding upon the director. After such hearing, or upon the failure of the health maintenance organization to appear at such hearing, the director shall take action as is deemed advisable on written findings which shall be mailed to the health maintenance organization with a copy thereof to the Director of Health. The action of the director and the recommendations and findings of the Director of Health may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act. shall be subject to review by the district court having

jurisdiction. The court shall, in disposing of the issue before it, modify, affirm, or reverse the order of the director in whole or in part.

(3) The provisions of the Administrative Procedure Act shall apply to proceedings under sections 44-3201 to 44-3291 to the extent they are not in conflict with subsections (1) and (2) of this section.

Sec. 70. That section 44-3283, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-3283. (1) The director may issue an order directing a health maintenance organization or a representative of a health maintenance organization to cease and desist from engaging in any act or practice in violation of the Model Health Maintenance Organization Act. ~~the provisions of sections 44-3201 to 44-3291-~~

(2) Within ten days after service of the order to cease and desist, the respondent may request a hearing on the question of whether acts or practices in violation of sections 44-3201 to 44-3291 the Model Health Maintenance Organization Act have occurred. Such hearings shall be conducted ~~and judicial review shall be available~~ as provided by the Administrative Procedure Act. The respondent may appeal the decision of the director at such hearing, and the appeal shall be in accordance with the Administrative Procedure Act.

Sec. 71. That section 44-3720, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-3720. Except as otherwise provided in ~~sections 44-3701 to 44-3721 the Motor Club Services Act,~~ all hearings held by and all orders and decisions made or any failure to act by the director pursuant to ~~sections 44-3701 to 44-3721 the Motor Club Services Act~~ shall be subject to the provisions of the Administrative Procedure Act. Any order of the director may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act. ~~including its provisions for judicial review-~~

Sec. 72. That section 44-4027, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-4027. If the director denies any application for a license, the director shall notify the applicant and advise the applicant in writing of the reasons for the denial. Within thirty days of receipt of notification of denial, the applicant may make written demand to the director for a hearing on the matter of denial. Such hearing shall be commenced

within thirty days from the date the written demand is received by the director. The director shall advise the applicant of the time and place of the hearing. If after such hearing the director's decision to deny the application remains unchanged, the applicant may appeal from the decision of the director, and the appeal shall be in accordance with in the manner provided by the Administrative Procedure Act.

Sec. 73. That section 45-150, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

45-150. In addition to any other remedy he or she may have, any licensee or any person considering himself or herself aggrieved by any action of the Department of Banking and Finance under sections 45-114 to 45-155 may appeal the action, and the appeal shall be in accordance with the Administrative Procedure Act. 7 within thirty days from the entry of the order complained of, take an appeal to the district court of Lancaster County, Nebraska, by serving upon the Director of Banking and Finance a written notice of such appeal and a demand in writing for a certified transcript of all the papers on file in his office affecting or relating to such order, and the payment of the fee therefor. The appeal shall be prosecuted and perfected in the same manner as appeals are taken from the action of the Director of Administrative Services in the disallowance of claims. The court shall hear the appeal de novo as in equity and without a jury, and shall render judgment and apportion costs as may be equitable.

Sec. 74. That section 45-350, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

45-350. (1) Renewal of a license originally granted under the Nebraska Installment Sales Act ~~sections 45-334 to 45-353~~ may be denied, or a license may be suspended or revoked by the director on the following grounds: (a) Material misstatement in the application for license; (b) willful failure to comply with any provision of ~~sections 45-334 to 45-353~~ the Nebraska Installment Sales Act relating to installment contracts; (c) defrauding any buyer to the buyer's damage; or (d) fraudulent misrepresentation, circumvention, or concealment by the licensee through whatever subterfuge or device of any of the material particulars or the nature thereof required to be stated or furnished to the buyer under ~~sections 45-334 to 45-353~~ the Nebraska Installment Sales Act.

(2) If a licensee is a partnership,

association, or corporation, it shall be sufficient cause for the suspension or revocation of a license that any officer, director, or trustee of a licensed association or corporation, or any member of a licensed partnership, has so acted or failed to act as would be cause for suspending or revoking a license to such party as an individual.

(3) No license shall be denied, suspended, or revoked except after hearing thereon. The director shall give the licensee at least ten days' written notice, in the form of an order to show cause, of the time and place of such hearing by either registered or certified mail addressed to the principal place of business in this state of such licensee. Such notice shall contain the grounds of complaint against the licensee. Any order suspending or revoking such license shall recite the grounds upon which the same is based. The order shall be entered upon the records of the director and shall not be effective until after thirty days' written notice thereof given after such entry forwarded by either registered or certified mail to the licensee at such principal place of business. No revocation, suspension, or surrender of any license shall impair or affect the obligation of any lawful installment contract acquired previously thereto by the licensee.

(4) Any person, licensee, or applicant considering himself or herself aggrieved by an order of the director entered under the provisions of this section may appeal the order, and the appeal shall be in accordance with the Administrative Procedure Act, within thirty days from the entry of the order complained of, take an appeal to the district court of Lancaster County, Nebraska, by serving upon the director a written notice of such appeal and a demand in writing for a certified transcript of all papers on file in his office affecting or relating to such order, and the payment of the fee therefor. The appeal shall be prosecuted and perfected in the same manner as appeals are taken from the action of the Director of Administrative Services in the disallowance of claims. The court shall hear the appeal de novo as in equity and without a jury, and shall render judgment and apportion costs as may be equitable.

Sec. 75. That section 45-605, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

45-605. The Secretary of State shall be responsible for the administration of sections 45-601 to

45-622. All applications for licenses provided for in such sections shall be made to the Secretary of State. The Secretary of State shall investigate the qualifications of each applicant for a license. Based on the results of the investigation, the Secretary of State may either issue a license to the applicant upon the payment of the license fee and the furnishing of the bond provided for in sections 45-601 to 45-622 or refuse to issue such license. The action of the Secretary of State may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act. Any applicant who is refused a license under such sections may appeal from such refusal to the district court of Lancaster County or the district court of the county in which such applicant, in his, her, or its application, states his, her, or its principal place of business in the state is to be located.

Sec. 76. That section 45-616, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

45-616. Any refusal to grant a license or solicitor's certificate under the provisions of sections 45-601 to 45-622 or the revocation of a license or solicitor's certificate may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act. reversed, vacated, or modified by the district court of the county where the applicant for a license or certificate or a licensee or certificate holder resides or has his, her, or its principal place of business in the state. The procedure to obtain such reversal, vacation, or modification shall be by the filing with the Secretary of State of a notice of intention to appeal, followed by the filing of a petition in the district court setting forth the contentions upon which such party relies for such reversal, vacation, or modification. Such notice of intention to appeal shall be filed with the Secretary of State within twenty days following the mailing of a copy of the finding as required by section 45-615. The petition shall be filed in the district court within ten days of the filing of such notice of appeal. It shall be unnecessary to issue or serve a summons upon the filing of the petition referred to in this section; it shall be deemed to be sufficient notice of the filing of such petition if a copy thereof is filed with the Secretary of State. The time for answering or otherwise pleading to such petition shall be as in other cases in the district court. Upon the filing of a notice of intention to appeal with the Secretary of State as provided in this

section, the Secretary of State shall prepare and deliver to the appellant on request a transcript of the proceedings and a transcript of the testimony and evidence offered at the hearing, which transcript of the proceedings shall contain (1) a copy of the application for license or certificate, (2) a copy of the findings of the Secretary of State, and (3) a copy of the order of the Secretary of State refusing to grant the license or certificate or canceling the license or certificate, as the case may be. Such transcript shall be filed in the district court of the proper county as designated in this section with the petition, if received by the appellant within the time permitted for the filing of the petition, or if not, as soon thereafter as the same may be received from the Secretary of State. The jurisdiction of the district court shall attach when the petition on appeal has been filed and shall not depend upon the filing of the transcript. The appeal provided for in this section shall be heard and tried de novo in the district court in the manner provided for the trial of suits in equity. Additional testimony may be introduced at the hearing on appeal. The appellant shall deposit with the Secretary of State the costs of the transcript of the proceedings and the transcript of the testimony and evidence before the Secretary of State when requesting the same.

Sec. 77. That section 46-528, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

46-528. If an order be is entered establishing the district, such order shall be deemed final. Any person, firm, or corporation owning real property within any reclamation district, created or established by virtue of sections 46-501 to 46-573 the Reclamation Act, feeling himself or herself aggrieved by the establishment of such district, the determination of its boundaries, or the enclosure therein of any of his or her property, may appeal the final order of the department adjudging such district to be duly incorporated. The appeal shall be in accordance with the Administrative Procedure Act, except that the appeal shall be to the district court of the county wherein the principal office of the reclamation district is located, from the final order of the department, adjudging such district to be duly incorporated, within thirty days from the entry of said order by the department. If no appeal be is taken within the time prescribed in the Administrative Procedure Act, such time, the entry of such final order by the department shall finally and

conclusively establish the regular organization of the said district against all persons, except the State of Nebraska in an action in the nature of a writ of quo warranto commenced by the Attorney General within three months after said the decree declaring such district organized as herein provided and not otherwise. The organization of such said districts shall not be directly or collaterally questioned in any suit, action, or proceeding, except as herein expressly authorized.

Sec. 78. That section 46-669, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

46-669. Any person aggrieved by any order of the district or of the director issued pursuant to the Nebraska Ground Water Management and Protection Act may appeal in the manner provided by the order, and the appeal shall be in accordance with the Administrative Procedure Act.

Sec. 79. That section 46-674.15, Revised Statutes Supplement, 1986, be amended to read as follows:

46-674.15. Any person aggrieved by any order of the district or the Director of Environmental Control issued pursuant to sections 46-674.02 to 46-674.20 may appeal the order, and the appeal shall be in accordance with in the manner provided by the Administrative Procedure Act.

Sec. 80. That section 46-685, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

46-685. Any affected person aggrieved by any order issued or final decision made by the director pursuant to ~~sections 46-675 to 46-690~~ the Industrial Ground Water Regulatory Act may appeal the order, and the appeal shall be in accordance with in the manner provided by the Administrative Procedure Act. As used in this section, the term affected person shall mean the applicant for a permit which is the subject of the director's order or final decision, and any owner of an estate or interest in or concerning land or water whose interest is or may be impacted in a direct and significant manner by the director's order or final decision.

Sec. 81. That section 46-805, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

46-805. An applicant, feeling himself or herself aggrieved by the endorsement made upon his or her application, may take an appeal therefrom to the

district court of the county in which the proposed works may be situated. Such appeal shall otherwise be governed by the Administrative Procedure Act. Such appeal shall be perfected when the applicant shall have filed in the office of the clerk of the district court a copy of the order appealed from. Such copy shall be certified by the Department of Water Resources as a true copy. It shall be accompanied by a petition to such court setting forth applicant's reason for such an appeal. Such appeal shall be heard and determined upon proofs by the applicant and the department.

Sec. 82. That section 46-1146, Revised Statutes Supplement, 1986, be amended to read as follows:

46-1146. Any affected person aggrieved by any order issued or final decision made by the department pursuant to the Nebraska Chemigation Act may appeal the order or decision, and the appeal shall be in accordance with in the manner provided by the Administrative Procedure Act. The appeal from any final order of the district shall be taken to the district court of the county in which is located the land claimed to be adversely affected by the order or decision or, if such land is in two or more counties, the county in which the largest portion of such land lies. As used in this section, affected person shall mean an applicant for a permit which is subject to an order or final decision of the department or district and any owner of an estate or interest in or concerning land whose interest is or may be impacted in a direct or significant manner by the order or final decision of the department or district.

Sec. 83. That section 46-1237, Revised Statutes Supplement, 1986, be amended to read as follows:

46-1237. If the department proposes to deny, refuse renewal of, suspend, or revoke a license or certificate for any of the reasons enumerated in the Water Well Standards and Contractors' Licensing Act, it shall send to the applicant, licensee, or certificate holder, by certified or registered mail, a notice setting forth the specific reasons for the proposed action. The denial, refusal of renewal, suspension, or revocation shall become final thirty days after the mailing of the notice unless the applicant, licensee, or certificate holder, within such period, gives written notice of a desire for a hearing. The applicant, licensee, or certificate holder shall then be given an opportunity for a formal hearing before the department and shall have the right to present evidence on his or

her own behalf. On the basis of the evidence presented, the action in question shall be affirmed or set aside, and a copy of the decision setting forth the findings of fact and the specific reasons upon which the decision is based shall be sent by either certified or registered mail to the applicant, licensee, or certificate holder. The decision shall become final thirty days after the copy is mailed, unless the applicant, licensee, or certificate holder, within such period, appeals the decision. Any such appeal shall be in accordance with pursuant to the Administrative Procedure Act. The procedure governing hearings authorized by this section shall be in accordance with the Administrative Procedure Act.

Sec. 84. That section 48-416, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-416. Any person in interest who is dissatisfied with the decision of the commissioner of labor may appeal the decision, and the decision shall be in accordance with the Administrative Procedure Act. therefrom to any court of competent jurisdiction to determine the validity or reasonableness of such decision; PROVIDED, that the decision of the commissioner shall be final unless within thirty days thereafter one of the parties commences an action in the district court as provided herein-

Sec. 85. That section 48-638, Revised Statutes Supplement, 1986, be amended to read as follows:

48-638. Within thirty days after a decision of an appeal tribunal has become final, the commissioner, or any Any party to the proceedings before the appeal tribunal, may obtain judicial review thereof appeal the tribunal's decision by filing a petition (1) in the district court of the county in which the individual claiming benefits claims to have been last employed or in which such claimant resides or (2) in any district court of this state upon which the parties may agree, a petition for review of such decision. In such review proceedings, any other party to the proceedings before the tribunal shall be made a party defendant. The petition for review need not be verified but shall state the grounds upon which such review is sought. The commissioner shall be deemed to be a party to any such review proceedings. If the commissioner is not the petitioning party, he or she shall be a party defendant in every appeal. If the commissioner is a party defendant, the petition shall be served upon him

or her by leaving with him or her, or such representative as he or she may designate for that purpose, as many copies of the petition as there are defendants. The commissioner shall certify and file with the court a certified copy of the records of the case, including all documents and papers and a transcript of all testimony taken in the matter, together with the appeal tribunal's findings, conclusions, and decisions therein. Upon the filing of a petition for review by the commissioner or upon the service of the petition on him or her, the commissioner shall immediately send by registered or certified mail to each other party to the proceeding a copy of such petition. Such mailing shall be deemed to be completed service upon all such parties. Such appeal shall otherwise be governed by the Administrative Procedure Act. Each party defendant shall file his or her answer within ten days from the date of such mailing.

Sec. 86. That section 48-640, Revised Statutes Supplement, 1986, be amended to read as follows:

48-640. An appeal may be taken from the decision of the district court to the Supreme Court of Nebraska in accordance with the Administrative Procedure Act. in the same manner, but not inconsistent with the Employment Security Law, as is provided in civil cases. In any judicial proceeding under this section the court shall consider the matter de novo upon the record.

Sec. 87. That section 48-641, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-641. It shall not be necessary as a condition precedent to judicial review of any decision of an appeal tribunal to enter exceptions to the rulings of such tribunal, and no No bond shall be required as a condition of initiating a proceeding for judicial review or entering an appeal from the decision of the court upon such review. Upon the final termination of such judicial proceeding, the appeal tribunal shall enter an order in accordance with the mandate of the court. Costs which would be otherwise taxed to a claimant shall be taxed in said such courts to the commissioner regardless of the result of any such action unless justice and equity otherwise require. Notwithstanding any general statute to the contrary, no filing fee shall be charged by an appeal tribunal or by the clerk of any court for any service required by sections 48-634 to 48-640.

Sec. 88. That section 48-650, Revised

Statutes Supplement, 1986, be amended to read as follows:

48-650. The commissioner shall determine the rate of contributions applicable to each employer pursuant to section 48-649 and may determine, at any time during the year, whether services performed by an individual were employment or for an employer. Any such determination shall become conclusive and binding upon the employer unless, within thirty days after the prompt mailing of notice thereof to his or her last-known address or in the absence of mailing within thirty days after the delivery of such notice, the employer files an application for review and redetermination, setting forth the reasons therefor. If the commissioner grants such review, the employer shall be promptly notified thereof and shall be granted an opportunity for a fair hearing conducted by the commissioner or his or her designee, but no employer shall have standing, in any proceeding involving his or her rate of contributions or contribution liability, to contest the chargeability to his or her account of any benefits paid in accordance with a determination, redetermination, or decision pursuant to sections 48-629 to 48-644, except upon the ground that the services on the basis of which such benefits were found to be chargeable did not constitute services performed in employment for him or her and only in the event that he or she was not a party to such determination, redetermination, or decision or to any other proceedings under the Employment Security Law in which the character of such services was determined. A full and complete record shall be kept of all proceedings in connection with such hearing. All testimony at any such hearing shall be recorded, but need not be transcribed unless there is a further appeal. The employer shall be promptly notified of the commissioner's denial of his or her application, or the commissioner's redetermination, either of which shall become final unless the employer appeals. The appeal shall be in accordance with the Administrative Procedure Act. , within thirty days after the mailing of notice thereof to his or her last-known address or in the absence of mailing within thirty days after the delivery of such notice, a petition for judicial review is filed (1) in proceedings involving the rate of contributions applicable to such employer in the district court of Lancaster County and (2) in proceedings involving whether services performed by an individual were employment or for an employer (a) in the district court of the county in which (i) the services were performed

or (ii) the employer is situated or has his or her principal office or place of business or (b) in any district court of this state upon which the parties may agree. In any judicial proceeding under this section trial de novo on the record shall be had to the judge of such court. An appeal may be taken from the decision of the district court to the Supreme Court of Nebraska in the same manner, but not inconsistent with the Employment Security Law, as is provided in civil cases. Sec. 89. That section 48-660.01, Revised Statutes Supplement, 1986, be amended to read as follows:

48-660.01. Benefits paid to employees of nonprofit organizations shall be financed in accordance with this section. For the purpose of this section, a nonprofit organization is an organization, or group of organizations, described in subsection (9) of section 48-603.

(1) Any nonprofit organization which is, or becomes, subject to the Employment Security Law on or after January 1, 1972, shall pay contributions under sections 48-648 to 48-661, unless it elects, in accordance with this subdivision, to pay to the commissioner for the unemployment fund an amount, equal to the amount of regular benefits and of one-half of the extended benefits paid, that is attributable to service in the employ of such nonprofit organization, to individuals for weeks of unemployment which begin during the effective period of such election.

(a) Any nonprofit organization which is, or becomes, subject to the Employment Security Law on January 1, 1972, may elect to become liable for payments in lieu of contributions for a period of not less than one taxable year beginning with January 1, 1972, provided if it files with the commissioner a written notice of its election within the thirty-day period immediately following such date or within a like period immediately following the date of enactment of this subdivision, whichever occurs later.

(b) Any nonprofit organization which becomes subject to the Employment Security Law after January 1, 1972, may elect to become liable for payments in lieu of contributions for a period of not less than twelve months beginning with the date on which such subjectivity begins by filing a written notice of its election with the commissioner not later than thirty days immediately following the date of the determination of such subjectivity.

(c) Any nonprofit organization which makes an

election in accordance with subdivision (a) or (b) of this subdivision ~~will~~ shall continue to be liable for payments in lieu of contributions until it files with the commissioner a written notice terminating its election not later than thirty days prior to the beginning of the taxable year for which such termination shall first be effective.

(d) Any nonprofit organization which has been paying contributions under the Employment Security Law for a period subsequent to January 1, 1972, may change to a reimbursable basis by filing with the commissioner not later than thirty days prior to the beginning of any taxable year a written notice of election to become liable for payments in lieu of contributions. Such election shall not be terminable by the organization for that and the next year.

(e) The commissioner may for good cause extend the period within which a notice of election, or a notice of termination, must be filed and may permit an election to be retroactive but not any earlier than with respect to benefits paid after December 31, 1969.

(f) The commissioner, in accordance with such rules and regulations as he or she may ~~prescribe~~ adopt and promulgate, shall notify each nonprofit organization of any determination which he or she may make of its status as an employer and of the effective date of any election which it makes and of any termination of such election. Such determinations shall be subject to redetermination, and appeal, and review in accordance with section 48-650 the appeal shall be in accordance with the Administrative Procedure Act.

(2) Payments in lieu of contributions shall be made in accordance with this subdivision as follows:

(a) At the end of each calendar quarter, or at the end of any other period as determined by the commissioner, the commissioner shall bill each nonprofit organization, or group of such organizations, which has elected to make payment in lieu of contributions for an amount equal to the full amount of regular benefits plus one-half of the amount of extended benefits paid during such quarter or other prescribed period that is attributable to service in the employ of such organization;

(b) Payment of any bill rendered under subdivision (a) of this subdivision shall be made not later than thirty days after such bill was mailed to the last-known address of the nonprofit organization or was otherwise delivered to it, unless there has been an application for review and redetermination in accordance

with subdivision (d) of this subdivision;

(c) Payments made by any nonprofit organization under this subdivision shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of the organization;

(d) The amount due specified in any bill from the commissioner shall be conclusive on the organization unless, not later than thirty days after the bill was mailed to its last-known address or otherwise delivered to it, the organization files an application for redetermination by the commissioner setting forth the grounds for such application. The commissioner shall promptly review and reconsider the amount due specified in the bill and shall thereafter issue a redetermination in any case in which such application for redetermination has been filed. Any such redetermination shall be conclusive on the organization unless the organization appeals the redetermination, and the appeal shall be in accordance with the Administrative Procedure Act; not later than thirty days after the redetermination was mailed to its last-known address or otherwise delivered to it; a petition for judicial review is filed in the district court of Lancaster County; in any judicial proceeding under this section; trial de novo shall be had to the judge of such court; An appeal may be taken from the decision of the district court of Lancaster County to the Supreme Court of Nebraska in the same manner; but not inconsistent with the Employment Security Law, as is provided in civil cases; and

(e) Past-due payments of amounts in lieu of contributions shall be subject to the same interest that, pursuant to section 48-655, applies to past-due contributions.

(3) If any nonprofit organization is delinquent in making payments in lieu of contributions as required under subdivision (2) of this subdivision section, the commissioner may terminate such organization's election to make payments in lieu of contributions as of the beginning of the next taxable year, and such termination shall be effective for that and the next taxable year.

(4) Each employer that is liable for payments in lieu of contributions shall pay to the commissioner for the fund the amount of regular benefits plus the amount of one-half of extended benefits paid that are attributable to service in the employ of such employer. If benefits paid to an individual are based on wages

paid by more than one employer and one or more of such employers are liable for payments in lieu of contributions, the amount payable to the fund by each employer that is liable for such payments shall be determined in accordance with section 48-652.

Sec. 90. That section 48-1120, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-1120. (1) Any party to a proceeding before the commission aggrieved by such decision and order and directly affected thereby may appeal the decision and order, and the appeal shall be in accordance with the Administrative Procedure Act. institute proceedings in the district court within any county wherein the alleged unlawful employment practice which is the subject of the order was committed, or wherein any respondent required in the order to cease and desist from an unlawful employment practice or to take other affirmative action, resides or transacts business, PROVIDED, that the time for appeal from such order of the commission to the district court shall be limited to thirty days from the date of the entry of the order to which complaint is made, AND PROVIDED FURTHER, that the order of the commission shall be stayed until the adjudication by the district court.

(2) Such proceeding shall be initiated by the filing of a petition in such court, together with a transcript of the record upon the hearing before the commission and the service of a copy of such petition upon the commission and upon all parties who appeared at the hearing. Thereupon the court shall have jurisdiction of the proceeding and of the question determined therein.

(3) The evidence presented before the commission as reported by its official stenographer and reduced to writing, shall be duly certified to by the stenographer and the chairperson of the commission as the true bill of exceptions, which, together with the pleadings and filings duly certified in the case under the seal of the commission, shall constitute the complete record and the evidence upon which the case shall be presented to the district court. The determination of the case by the district court shall extend to all questions of law and fact presented by the entire record before it. The commission's orders shall not be vacated, modified, or set aside unless:

(a) Such order is prohibited by the provisions of sections 48-1101 to 48-1125, or in violation of constitutional rights, or otherwise contrary to law, or

(b) The findings of the commission in support of such order are unreasonable or arbitrary or are not supported by a preponderance of the evidence.

(4) The jurisdiction of the court shall be exclusive and its judgment and order shall be final, subject to appellate review as provided by law.

(5) The commission's copy of the testimony shall be available at all reasonable times to all parties without cost for examination.

(2) (6) In any action or proceeding under the Nebraska Fair Employment Practice Act sections 48-1101 to 48-1125, wherein an appeal is lodged in the district court, the court, in its discretion, may allow the prevailing party a reasonable attorney's fee fees as part of the costs.

(7) If no proceeding to obtain judicial review is instituted by a respondent within thirty days from the service of an order pursuant to subsection (2) or (3) of section 48-1119, (3) If a respondent does not appeal an order, the commission may obtain a decree of the court for the enforcement of such order upon showing that respondent is subject to the commission's jurisdiction, and resides or transacts business within the county in which the petition for enforcement is brought.

Sec. 91. That section 49-14,131, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

49-14,131. Any action by the commission made pursuant to the Nebraska Political Accountability and Disclosure Act may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act, sections 49-1401 to 49-14,138 shall be subject to review in the district court of the county in which the commission has its main office upon the petition of any interested party filed within thirty days after the action for which review is sought. The court shall enter a judgment enforcing, modifying, or setting aside the order of the commission or it may remand the proceedings to the commission for such further action as it may direct.

Sec. 92. That section 53-134, Revised Statutes Supplement, 1986, as amended by section 3, Legislative Bill 550, Ninetieth Legislature, Second Session, 1988, be amended to read as follows:

53-134. The local governing body of any city or village with respect to licenses within its corporate limits and the local governing body of any county with respect to licenses not within the corporate limits of

any city or village shall have the following powers, functions, and duties with respect to retail and bottle club licenses: (1) To cancel, ~~or~~ revoke, or suspend for cause retail or bottle club licenses to sell or dispense alcoholic liquors issued to persons for premises within its jurisdiction, subject to the right of appeal, ~~to the commission;~~ (2) to enter or to authorize any law enforcement officer to enter at any time upon any premises licensed under the Nebraska Liquor Control Act to determine whether any of the provisions of the act or any rules or regulations adopted and promulgated by it or by the commission have been or are being violated, and at such time to examine the premises of such licensee in connection therewith; (3) to receive a signed complaint from any citizen within its jurisdiction that any of the provisions of the act or any rules or regulations adopted and promulgated pursuant thereto have been or are being violated and to act upon such complaints in the manner provided in this section; (4) to receive retail or bottle club license fees as provided in subdivision (5) or (9) of section 53-124, and pay the same forthwith, after the applicant has been delivered his or her retail or bottle club license, to the city or village, or county treasurer, as the case may be; (5) to examine or cause to be examined any applicant or any retail or bottle club licensee upon whom notice of cancellation or revocation has been served in the manner provided in this section, to examine or cause to be examined the books and records of any such applicant or licensee, and to hear testimony and to take proof for its information in the performance of its duties. For the purpose of obtaining any of the information desired, the local governing body may authorize its agent or attorney to act on its behalf; (6) to cancel or revoke on its own motion any license if, upon the same notice and hearing as provided in section 53-1,116, it determines that the licensee has violated any of the provisions of the act or any valid and subsisting ordinance, rule, or regulation duly enacted relating to alcoholic liquors. Such order of cancellation or revocation shall be subject to appeal ~~to the commission as other orders or actions of the local governing body~~ as provided in section 53-1,116; and (7) upon receipt from the commission of the notice and copy of application as provided in section 53-131, the local governing body shall fix a time and place at which a hearing will be had and at which such local governing body will receive evidence, either orally or by affidavit, from the applicant and any other person,

bearing upon the propriety of the issuance of such license. Notice of the time and place of such hearing shall be published in a legal newspaper in or of general circulation in such city, village, or county, as the case may be, one time not less than seven nor more than fourteen days before the time of the hearing. Such notice shall include, but not be limited to, a statement that all persons desiring to give evidence before the local governing body in support of or protest against the issuance of such license may do so at the time of the hearing. Such hearing shall be held not more than thirty-five days after the date of receipt of the notice from the commission. At the hearing, the considerations of the local governing body shall include, but not be limited to, (a) the adequacy of existing law enforcement and the recommendation of law enforcement agencies in the area, (b) existing motor vehicle and pedestrian traffic flow in the vicinity of the proposed licensed premises, (c) zoning restrictions, (d) the sanitation or sanitary conditions on or about the proposed licensed premises, (e) the existence of a citizens' protest and any other evidence in support of or opposition to the application, (f) the existing population of the city, village, or county, as the case may be, its projected growth, the existence of licenses in such city, village, or county, and the class of such licenses, (g) the nature of the neighborhood or community where the proposed licensed premises are located, (h) whether the type of business or activity proposed to be operated in conjunction with the proposed license is and will be consistent with the public interest, and (i) any licensing standards enacted by such local governing body pursuant to section 53-134.01. After such hearing, the local governing body shall cause to be spread at large in the minute record of its proceedings a resolution recommending either the issuance, or refusal of the denial, or the renewal of such license or the refusal to issue, deny, or renew such license. The clerk of such city, village, or county shall thereupon mail to the commission by first-class mail postage prepaid a copy of the resolution which shall state the cost of the published notice, except that failure to comply herewith shall not render void any license issued by the commission. In the event the commission refuses to issue such a license, the cost of publication of notice as ~~herein~~ required in this section shall be paid by the commission from the security for costs.

Sec. 93. That section 53-1,116, Revised Statutes Supplement, 1986, be amended to read as

follows:

53-1,116. (1) A copy of the rule, regulation, order, or decision of the commission, in any proceeding before it, certified under the seal of the commission, shall be served upon each party of record to the proceeding before the commission. Service upon any attorney of record for any such party shall be deemed to be service upon such party. Each party appearing before the commission shall enter his or her appearance and indicate to the commission his or her address for the service of a copy of any rule, regulation, order, decision, or notice. The mailing of a copy of any rule, regulation, order, or decision of the commission or of any notice by the commission, in the proceeding, to such party at such address shall be deemed to be service thereof upon such party.

(2) At the time of making an appearance before the commission, as referred to in subsection (1) of this section, each party, except the local governing body, shall deposit in cash or furnish a sufficient security for costs in such sum as the commission shall deem adequate to cover all costs liable to accrue, including (a) reporting the testimony to be adduced, (b) making up a complete transcript thereof, and (c) extending reporter's original notes in typewriting.

(3) Within twenty days after the service of any rule, regulation, order, or decision of the commission upon any party to the proceeding, as provided for by subsection (1) of this section, such party may apply for a rehearing in respect to any matters determined by the commission. The commission shall receive and consider such application for a rehearing within twenty days from the filing thereof with the secretary of the commission. In case such application for rehearing is granted, the commission shall proceed as promptly as possible to consider the matters presented by such application. No appeal shall be allowed from any decision of the commission, except as is provided for in subsection (5) of this section.

(4) Upon the final disposition of any proceeding, costs shall be paid by the party or parties against whom a final decision is rendered. Costs may be taxed or retaxed to local governing bodies as well as individuals. Only one rehearing, referred to in subsection (3) of this section, shall be granted by the commission on application of any one party.

(5)(a) If the local governing body does not make a recommendation to the commission, any decision of the commission granting or refusing to grant or

suspending, canceling, revoking, or renewing or refusing to suspend, cancel, revoke, or renew a license, special designated permit, or permit for the sale of alcoholic liquors, including beer, may be reversed, vacated, remanded, or modified by the district court of Lancaster County on appeal by any party to the hearing or rehearing before the commission. The procedure to obtain such a reversal, vacation, remand, or modification shall be by the filing with the commission of a notice of intention to appeal, followed by the filing of a petition in the district court setting forth the contention upon which such party relies for reversal, vacation, remand, or modification. Such notice of intention to appeal shall be filed with the commission within twenty days following the mailing of a copy of the final decision of the commission to each party of record, as required by subsection (1) of this section. The petition shall be filed in the district court within thirty days after such the mailing of a copy of the decision to the parties of record. In the event that a motion for rehearing has been filed with the commission as provided in this section, the time for filing a notice of intention to appeal and the petition shall begin with the date of the mailing of the notice of the overruling of the motion for rehearing to each party to the record.

(b) If the local governing body does make a recommendation to the commission on the issuance or denial of, the suspension, cancellation, revocation, or renewal of, or the refusal to issue, deny, suspend, cancel, revoke or renew a license, special designated permit, or permit for the sale of alcoholic liquors, including beer, the recommendation shall be binding on the commission. The decision of the commission based on the recommendation of the local governing body may be reversed, vacated, remanded, or modified by the district court of a county in which the local governing body is located on appeal by any party to the hearing before the local governing body. The procedure to obtain such a reversal, vacation, remand, or modification shall be by the filing with the local governing body and the commission of a notice of intention to appeal, followed by the filing of a petition in the district court of a county in which the local governing body is located, setting forth the contention upon which such party relies for reversal, vacation, remand, or modification. Such notice of intention to appeal petition shall be filed with name the local governing body and the commission within twenty days following the mailing of a

copy of the final decision of the commission to each as the party of record. The petition shall be filed in the district court in a county in which the local governing body is located within thirty days after such the mailing of a copy of the decision to the parties of record.

(6) The petition shall set forth: (a) The name and mailing address of the petitioner; (b) the name and mailing address of the commission and the local governing body making the decision or recommendation; (c) the identification of the final decision or recommendation at issue together with a duplicate copy of the decision or recommendation; (d) the identification of the parties in the contested case that led to the final decision or recommendation; (e) facts to demonstrate proper venue; (f) the petitioner's reasons for believing that relief should be granted; and (g) a request for relief specifying the type and extent of the relief requested. It shall be unnecessary to issue or serve a summons upon the filing of a petition referred to in subsection (5) of this section. It shall be deemed to be sufficient notice of the filing of such petition if a copy thereof is filed with the local governing body and the commission and served on the adverse party or parties to the record or on his, her, its, or their attorney or attorneys of record. Service of such copy of the petition may be waived by such party or parties or his, her, its, or their attorney or attorneys of record. The time for answering or otherwise pleading to such petition shall be as in other cases in the district court.

(7)(a) Upon the filing of a notice of intention to appeal with the commission, petition as provided for in subdivision (5)(a) of this section and the making of a request, the secretary of the commission shall prepare and deliver to the appellant a certified copy of the official record of the proceedings had before the commission. Such official record shall include: (i) Notice of all proceedings; (ii) any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the commission pertaining to the contested case; (iii) the transcribed record of the hearing before the commission including all exhibits and evidence introduced during such hearing, a statement of the matters officially noticed by the commission during the proceeding, and all proffers of proof and objections and rulings thereon; and (iv) the final order appealed from. The commission shall charge the petitioner with

the reasonable direct cost or require the petitioner to pay the cost for preparing the official record for transmittal to the court in all cases except when the petitioner is not required to pay a filing fee. The commission may require payment or bond prior to the transmittal of the record. on request a transcript of the proceedings and a transcript of the testimony and evidence before the commission, which transcript of the proceedings shall contain (a) a copy of the application granting or refusing a license or permit or a copy of the license or permit revoked or denied, as the case may be; and (b) a copy of the decision sought to be reversed, vacated, remanded, or modified. Such transcripts record shall be filed in the district court of the proper county, as designated in subdivision (5)(a) of this section, with the petition if received by the appellant within the time permitted for the filing of the petition, if not, as soon thereafter as the same may be received from the secretary of the commission. The jurisdiction of the district court of the appeal shall attach when the petition on appeal has been filed and shall not depend upon the filing of the transcripts record.

(b) Upon the filing of a petition as provided for in subdivision (5)(b) of this section and the making of a request, the local governing body shall prepare and deliver to the appellant a certified copy of the official record of the proceedings had before the local governing body. Such official record shall include: (i) Notice of all proceedings; (ii) any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the local governing body pertaining to the contested case; (iii) the transcribed record of the hearing before the local governing body including all exhibits and evidence introduced during such hearing, a statement of the matters officially noticed by the local governing body during the proceeding, and all proffers of proof and objections and rulings thereon; and (iv) the final order appealed from. The local governing body shall charge the petitioner with the reasonable direct cost or require the petitioner to pay the costs for preparing the official record for transmittal to the court in all cases except when the petitioner is not required to pay a filing fee. The local governing body may require payment or bond prior to the transmittal of the record. Such record shall be filed with the petition if received by the appellant within the time permitted for the filing of the petition, if not, as soon thereafter as

the same may be received from the local governing body. The jurisdiction of the district court of the appeal shall attach when the petition on appeal has been filed and shall not depend upon the filing of the record.

(8) All appeals provided for or referred to in subdivisions subsections (6) and (7) of this section and subdivision (5)(a) and (7)(a) of this section shall be heard and tried by the court without a jury on the record of the commission. All appeals provided for or referred to in subdivisions subdivision (5)(b) and (7)(b) of this section shall be heard and tried by the court without a jury on the record of the local governing body.

(9) The appellant shall deposit with the secretary of the commission the costs of the transcript of the proceedings and the transcript of the testimony and evidence before the commission when requesting the same as provided for in subsection (7) of this section.

Sec. 94. That section 54-861, Revised Statutes Supplement, 1986, be amended to read as follows:

54-861. (1) Except as otherwise provided in subsection (6) of this section, any person convicted of violating any of the provisions of the Commercial Feed Act or any rules and regulations adopted and promulgated pursuant thereto or who shall impede, hinder, or otherwise prevent or attempt to prevent the director in the performance of his or her duty shall be guilty of a Class IV misdemeanor for the first violation and guilty of a Class II misdemeanor for any subsequent violation.

(2) Nothing in the Commercial Feed Act shall be construed as requiring the director to (a) report for prosecution, (b) institute seizure proceedings, or (c) issue a withdrawal-from-distribution order, as a result of minor violations of the act or when he or she believes the public interest will best be served by suitable notice of warning in writing.

(3) It shall be the duty of the county attorney of the county in which any violation occurs or is about to occur, when notified by the department of such violation or threatened violation, to pursue appropriate proceedings pursuant to subsection (1) or (4) of this section without delay. Before the director reports a violation, an opportunity shall be given the manufacturer or distributor to present his or her view to the director.

(4) In order to insure compliance with the Commercial Feed Act, the department may apply for a restraining order, a temporary or permanent injunction,

or a mandatory injunction against any person violating or threatening to violate the act or the rules and regulations adopted and promulgated pursuant to such act. The district court of the county where the violation is occurring or is about to occur shall have jurisdiction to grant such relief upon good cause shown. Relief may be granted notwithstanding the existence of any other remedy at law and shall be granted without bond.

(5) Any person adversely affected by an act, order, or ruling made by the department pursuant to the Commercial Feed Act may appeal the act, order, or ruling, and the appeal shall be in accordance with the Administrative Procedure Act, within thirty days thereafter bring action in the district court of Banearster County for judicial review of such actions-

(6) Any person who uses to his or her own advantage or reveals to other than the director, representatives of the department, the Attorney General, other legal representatives of the state, or the courts when relevant in any judicial proceeding any information acquired under the authority of the Commercial Feed Act concerning any method, record, formulation, or process which as a trade secret is entitled to protection shall be guilty of a Class IV misdemeanor. The director shall not be prohibited from exchanging information of a regulatory nature with duly appointed officials of the federal government or other states who are similarly prohibited by law from revealing this information.

Sec. 95. That section 54-1170, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-1170. The board shall keep a complete transcript of all proceedings and evidence presented in any hearing before it. The applicant for a market license, ~~or~~ any protestant formally appearing in the hearing before the board for such market license, ~~or~~ the holder of any market license suspended or revoked, or any party to a transfer application, may appeal the order of the board, and the appeal shall be in accordance with the Administrative Procedure Act. ~~from the order of the board to the district court of the county in which the proposed livestock auction market is to be located, or in which the market license holder has his livestock auction market, by giving notice of such appeal in writing to the director within fifteen days after receiving notice by registered or certified mail of the board's decision, and within such time filing a bond with the clerk of such district court in the sum of~~

five hundred dollars to be approved by the clerk of such court as legally sufficient, conditioned to pay all costs that may be awarded against such party in the event of an adverse decision, or the decision of the board being affirmed or upheld. Within thirty days after such decision or within such additional time as the district court shall allow upon good cause shown, but not exceeding sixty days after such decision, the appealing party shall file with the clerk of the district court a transcript of the testimony and proof presented to the board including notice of appeal, complaint, pleadings, notices, motions and other papers filed with the board duly certified by the director. Cost of preparing such transcript shall be paid by the appealing party. In case of suspension or revocation of a market license the filing of such notice and bond shall stay the order of the board until the final determination of the appeal. If the appealing party shall fail to perfect his appeal or file such transcript as provided in this section, such stay shall automatically terminate. The hearing on appeal shall be had summarily and solely upon the record of the proceedings before the board in the matter in which the appeal is taken and upon which its decision was rendered by the board. The court shall determine whether the board acted capriciously, arbitrarily, or abused its discretion and whether it acted according to law. Appeals from judgments of the district court may be taken to the Supreme Court in the same manner as appeals are taken in civil actions.

Sec. 96. That section 54-1706, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-1706. (1) Whenever the director or the State Veterinarian has reason to believe that any person has violated any of the provisions of the Nebraska Livestock Dealer Licensing Act sections 54-1701 to 54-1711 or any rules or regulations adopted and promulgated under the act, thereunder, an order may be entered requiring such person to appear before the director and show cause why an order should not be entered requiring such person to cease and desist from the violations charged. Such order shall set forth the alleged violations, fix the time and place of the hearing, and provide for notice thereof which shall be given not less than twenty days before the date of such hearing. After a hearing, or if the person charged with such violation fails to appear at the time of such hearing, if the director finds such person to be in

violation, he or she shall enter an order requiring such person to cease and desist from the specific acts, practices, or omissions. Any such order shall become final upon the expiration of thirty days after its entry if no appeal is taken therefrom.

(2) Any person aggrieved by any order entered by the director or other action of the director may appeal the order or action, and the appeal shall be in accordance with take an appeal therefrom under the provisions of the Administrative Procedure Act.

Sec. 97. That section 54-1707, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-1707. (1) Hearings shall be conducted by the director or by a hearing officer designated by him or her. Provision shall be made to insure that any such hearing officer other than the director shall not have participated in the performance of investigative or prosecuting functions in the case to which he or she is assigned. The hearing shall be conducted in an impartial manner by the hearing officer, who is empowered to may administer oaths, rule upon offers of proof and objections, and take such other action as may be necessary. He or she shall not be bound by formal rules of evidence as observed in courts of law, but shall exclude irrelevant, immaterial, or unduly repetitious evidence. The burden of proof and of proceeding with the evidence shall be on the department, and every party shall have the right to compulsory process, to representation by counsel of his or her own choosing, and to cross-examination of and confrontation by witnesses against him or her.

(2) Whenever any hearing is conducted by any person other than the director, the person conducting the same shall render a recommended decision with appropriate proposed findings and orders disposing of all the relevant matters of fact and law involved in the proceeding. Thereafter the case may be remanded to the person or persons who conducted the hearing with such instructions as the director may deem appropriate, or the director himself or herself may perform such function and may conduct a new or supplemental hearing. The director may dispense with a recommended decision and proceed to the rendering of his or her final order thereon with appropriate findings of fact on the basis of the entire record as certified to him or her by the person conducting the hearing. Prior to each recommended and each final decision, the parties shall be afforded an opportunity to submit proposed findings,

briefs, and arguments as the director may deem appropriate.

(3) Any person aggrieved by any order entered by the director or other action taken by the department may appeal the order or action, and the appeal shall be in accordance with take an appeal therefrom under the provisions of the Administrative Procedure Act.

Sec. 98. That section 54-1904, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-1904. After September 19, 1969, it It shall be unlawful for any person to operate or maintain any establishment unless first licensed by the department. A license may be obtained by application to the director upon forms prescribed by him or her for that purpose. The license shall authorize and restrict the licensee to the operation or operations requested in his or her application and approved by the director.

Application for a livestock establishment or a poultry establishment license shall be accompanied by a fee of fifty dollars for each establishment. A license application for a rendering establishment or for a pet feed establishment shall be accompanied by a fee of three hundred dollars for each establishment. Such fee shall be deposited in the state treasury and deposited in the Livestock Auction Market Fund.

No license shall be issued until an inspection of the facilities described in the license application is completed showing the proposed facilities to be in conformity with the provisions of sections 54-1901 to 54-1915 the Nebraska Meat and Poultry Inspection Law and the rules and regulations adopted and promulgated thereunder by the director.

Licenses shall be renewable annually on or before their expiration. No license shall be transferable with respect to licensee or location. The renewal fee shall be the same as the application fee for each license.

Each license shall by order be summarily suspended whenever an inspection reveals that conditions in any establishment constitute a menace to the public health and shall remain suspended until such conditions are corrected, subject to review by the department and courts as is provided for in sections 54-1901 to 54-1915. The enforcement of an order of suspension shall not be restrained by any court pending final action thereon the Nebraska Meat and Poultry Inspection Law.

In addition, the director may, upon ten days'

notice in writing, suspend or revoke any license issued hereunder or refuse to renew the same for violation of any of the provisions of ~~sections 54-1901 to 54-1915~~ the Nebraska Meat and Poultry Inspection Law or any rule or regulation duly adopted and promulgated by the director. The notice shall specify in writing the charges relied on, and the hearings, disposition, and court review shall be as prescribed by ~~sections 54-1901 to 54-1915~~ the Nebraska Meat and Poultry Inspection Law.

Sec. 99. That section 54-1905, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-1905. Hearings shall be conducted by the director, who is ~~empowered to~~ may administer oaths, rule upon offer of proof and objections, and take such other action as may be necessary.

The director shall not be bound by formal rules of evidence as observed in courts of law, but shall exclude irrelevant, immaterial, or unduly repetitious evidence. The burden of proof and of proceeding with the evidence shall be on the department, and every party shall have the right to compulsory process, to representation by counsel of his or her own choosing, and to cross-examination of and confrontation by witnesses against him or her. The final determination of the director may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act, reviewed in the district court of the county having jurisdiction by error proceedings. The department or any party aggrieved by the decision of the district court may appeal such judgment to the Supreme Court within thirty days after notice of entry of judgment in the district court. Any such order shall become final upon the expiration of thirty days after its entry if no appeal is taken therefrom.

Sec. 100. That section 57-605, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

57-605. Any condemner desiring to exercise the right of eminent domain as to any property for use for underground storage of natural gas or liquefied petroleum gas or both shall, as a condition precedent to the filing of its petition, obtain from the Nebraska Oil and Gas Conservation Commission a certificate setting out findings of ~~said the~~ the commission (1) that the underground stratum or formation sought to be acquired is not capable of producing oil in paying quantities by any generally accepted method, (2) that the field, if then capable of producing commercially recoverable

native gas, must have been producing natural gas for at least ten years, (3) that the condemner has acquired by purchase or other voluntary means at least sixty percent of the ownership which has the right to grant the use of the underground stratum or formation sought to be acquired, computed in relation to the surface area overlying that part of the stratum or formation expected to be penetrated by displaced or injected gas, and that the volume of native gas originally in place in the underground stratum or formation sought to be acquired is forty percent depleted, (4) that the underground stratum or formation sought to be acquired is suitable for the underground storage of natural gas or liquefied petroleum gas or both, (5) the amount of commercially recoverable native gas, if any, remaining therein, and (6) in the event any recoverable native gas is found to remain therein, that its use for such purposes is in the public interest because said the stratum or formation has a greater value or utility as an underground reservoir for the storage of natural gas or liquefied petroleum gas or both than for the production of the remaining volumes of native gas. Such finding ; ~~PROVIDED~~; ~~that such finding~~ shall not of itself be a basis for compensation to be paid to the condemnee. If ; ~~AND PROVIDED FURTHER~~; ~~that if~~ at the time of the condemner's filing with the commission, native gas from said the underground reservoir is being used for the secondary recovery of oil, then gas in necessary and required amounts shall be furnished to the operator or operators of the secondary recovery operations at equivalent costs, for so long as oil is produced in paying quantities in the secondary recovery operations, but the amount of gas to be furnished hereunder shall not exceed the quantity of recoverable native gas found to exist in said the reservoir at the time of its acquisition hereunder if such operator was or operators were at such time entitled to the whole thereof, but if it was or they were at such time entitled to less than the whole thereof, then not to exceed the quantity thereof to which such operator was or operators were then entitled. The commission shall issue no such certificate until after public hearing is had on application and upon reasonable notice to interested parties. The applicant shall be assessed and pay all the costs of said the proceedings incurred with the commission. Any person having an interest in the property affected by a finding of the commission or the condemner may appeal ~~from any the~~ issuance or denial of certificate or from any finding as to the amount of

commercially recoverable native gas, and the appeal shall be in accordance with the Administrative Procedure Act. in the manner provided by section 57-913-

Sec. 101. That section 57-913, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

57-913. (1) Any person having an interest in property affected by and who is dissatisfied with any rule, regulation, or order made or issued under the provisions of sections 57-901 to 57-921 may appeal the rule, regulation, or order, and the appeal shall be in accordance with the Administrative Procedure Act. 7 within thirty days after the entry thereof; appeal to the district court of the county or counties in which the affected real estate is situated. The commission shall keep and maintain an order journal and shall cause all orders made to be entered in such journal; and the date of the entry of such order shall be the date for the commencement of time for appeal. Such person shall file a petition on appeal and give notice to all interested parties; by personal service or registered or certified United States mail with return receipt; requiring such parties to answer within thirty days from the date of service. The district court shall hold a trial de novo and determine independently all issues of fact and conclusions of law with respect to the validity and reasonableness of the provision, rule, regulation; or orders complained of; and shall not be bound by any findings of fact or conclusions of law made by the commission-

(2) Any appeal to the Supreme Court of the State of Nebraska from the judgment or decree of the district court shall be under the provisions of the code of civil procedure as in other civil cases-

(3) Any action or writ of error or other writ involving a test of the validity of any provision of sections 57-901 to 57-921; or any appeal from a rule, regulation; or order of the commission shall be advanced for trial and be determined as expeditiously as feasible; and no postponement thereof shall be granted unless deemed imperative by the court-

(4) Any such court is hereby authorized to enjoin the enforcement by the commission of sections 57-901 to 57-921; or any part thereof; or any act done or threatened thereunder; if the plaintiff shall show that as to him the act or conduct complained of is unreasonable; unjust; arbitrary; or capricious; or violates any constitutional right of the plaintiff; or if the plaintiff shows that the matter complained of

does not constitute or result in waste, or does not in a reasonable manner accomplish the end that is the subject matter of sections 57-901 to 57-921-

Sec. 102. That section 59-1516, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

59-1516. (1) In addition to the provisions of sections 59-1503 and 59-1515, the division may, after notice and hearing, suspend or revoke, for any violation of the provisions of sections 59-1501 to 59-1518, the Unfair Cigarette Sales Act the license or licenses of any person, licensed under the provisions of Chapter 28 or Chapter 77, article 26, and notice of hearing shall be given as provided in the Administrative Procedure Act.

(2) Any person whose license or licenses have been so revoked may apply to the division at the expiration of sixty days for a reinstatement of his or her license or licenses. Such license or licenses may be reinstated by the division if it shall appear to the satisfaction of the division that the licensee will comply within the provisions of sections 59-1501 to 59-1518 with the Unfair Cigarette Sales Act and the rules and regulations adopted and promulgated thereunder under the act.

(3) No person whose license has been suspended or revoked shall sell cigarettes or permit cigarettes to be sold during the period of such suspension or revocation on the premises occupied by him or her or upon other premises controlled by him or her or others or in any other manner or form whatever. No disciplinary proceedings or action shall be barred or abated by the expiration, transfer, surrender, continuance, renewal, or extension of any license issued under the provisions of Chapter 28 or Chapter 77, article 26.

(4) Any person aggrieved by any decision, order, or finding of the division may appeal the decision, order, or finding, and the appeal shall be in accordance with the Administrative Procedure Act. therefrom to the district court of the county in which such person resides or has his principal office or place of business-

Sec. 103. That section 60-124, Revised Statutes Supplement, 1986, be amended to read as follows:

60-124. The patrol may, after notice and a hearing, revoke a certificate issued pursuant to sections 60-118 to 60-127. The patrol shall only be

required to hold a hearing if the hearing is requested in writing within fifteen days after notice of the proposed revocation is delivered by the patrol. The patrol may revoke a certificate for any reason for which an applicant may be denied approval for training pursuant to section 60-123. The patrol may revoke a certificate if the holder fails to keep a certificate current by taking any additional training the patrol may require. The patrol may revoke a certificate if the patrol finds that the holder is incompetent. A rebuttable presumption of incompetence shall arise from a finding by the patrol or a court of competent jurisdiction that the certificate holder has issued a statement of inspection for a stolen vehicle. Any person who feels himself or herself aggrieved by the patrol's decision to revoke a certificate may appeal such decision, and the appeal shall be in accordance with the Administrative Procedure Act, to the appropriate district court in the manner provided in section 60-420.

Sec. 104. That section 60-409.11, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-409.11. The director may cancel, suspend, revoke, or refuse to issue or renew a school or instructor's license in any case ~~where~~ when he or she finds the licensee or applicant has not complied with, or has violated any of the provisions of sections 60-409.06 to 60-409.13 or any rule or regulation adopted and promulgated by the director hereunder. A suspended or revoked license shall be returned to the director by the licensee, and its holder shall not be eligible to apply for a license under sections 60-409.06 to 60-409.13 until twelve months have elapsed since the date of such suspension or revocation. Any action taken by the director to cancel, suspend, revoke, or refuse to issue or renew a license, and any appeal from such a decision by the director, shall comply with the provisions of the Administrative Procedure Act. A licensee or applicant may appeal the cancellation, suspension, or revocation of or the refusal to issue or renew a license, and the appeal shall be in accordance with the Administrative Procedure Act.

Sec. 105. That section 60-420, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-420. Any person who feels aggrieved because of any order of the director on account of a refusal to issue any license contemplated under sections

60-418 and 60-419 may appeal to the district court of the county in which the application for the license was originally made or to the district court of the county in which such person resides in the manner otherwise set forth in the Administrative Procedure Act, following manner: The director shall reduce the ruling, order, or decision to writing, file a copy in his or her office, and furnish a copy together with a statement of reasons for the ruling to the applicant or licensee, as the case may be, upon request. The ruling, decision, or order of the director in refusing to issue or reinstate such license or in suspending, canceling, or revoking the same shall be as final and binding as the final order or judgment of a court of general jurisdiction. The applicant, licensee, or appellant shall, within twenty days from the date of the final order complained of, execute a bond for costs to the State of Nebraska in the sum of two hundred dollars with sufficient surety to be approved by the Auditor of Public Accounts. The bond shall be filed in the office of the director. In lieu of the bond, the sum of two hundred dollars in cash, certified check, or money order may be deposited at the office of the director. It shall be the duty of the director, on payment or tender of the cost of preparing the transcript at the rate of ten cents per hundred words, to prepare a complete transcript of the proceedings relating to the refusal to issue or to reinstate any license or relating to the proceedings concerning the suspension, cancellation, or revocation of the license complained of. The applicant or licensee shall file a petition in such district court within thirty days from the date of filing of the director's final order in the matter and shall file the transcript before answer day which shall be the same as provided under the code of civil procedure in section 25-821. The district court shall hear the appeal as in equity without a jury and determine anew all questions raised before the director. Either party may appeal from the decision of the district court to the Supreme Court of the state.

Sec. 106. That section 60-503, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-503. Any person aggrieved by an order or act of the department, under the provisions of sections 60-501 to 60-569, the Motor Vehicle Safety Responsibility Act may, within twenty days after notice thereof, file a petition in the district court of the county where the aggrieved person resides, but in the

event the aggrieved person is a nonresident, then said such petition shall be filed in the district court of Lancaster County for a review thereof. The ~~7~~ and the filing of such a petition shall suspend the order or act pending a final determination of the review. Such appeal shall otherwise be governed by the Administrative Procedure Act. The ~~7~~ PROVIDED, the license or registration of any person claiming to be aggrieved shall not be restored to such person in the event the final judgment of a court finds against such person until the full time of revocation as fixed by the department shall have elapsed. The court shall summarily hear the petition as a case in equity without a jury and may make any appropriate order or decree.

Sec. 107. That section 60-1415, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-1415. The board shall state in writing, officially signed by the chairperson or vice-chairperson and the executive director, its findings and determination after such hearing and its order in the matter. If the board shall determine and order that an applicant is not qualified to receive a license, no license shall be granted. If the board shall determine that the license holder has willfully or through undue negligence been guilty of any violation of Chapter 60, article 14, or any rule or regulation adopted and promulgated or made by the board under authority of Chapter 60, article 14, his or her license may be suspended or revoked, or he or she may be placed on probation. The board may make a demand on a dealer or licensee for restitution to a harmed consumer. The ~~Should~~ the applicant for a license or a license holder desire to may appeal from the decision of the board, and the appeal shall be in accordance with the Administrative Procedure Act. he or she shall, within ten days, file an appeal bond with the board in the sum of one thousand dollars and he or she shall, within thirty days after service on him or her of the final decision or order of the board, file a petition in the district court in the county where such action was taken, which appeal shall be governed by the provisions of the Administrative Procedure Act. Pending the final determination of such action, he or she shall not, except as permitted by the court to which appeal is taken, be permitted to do business as a motor vehicle dealer, trailer dealer, motorcycle dealer, motor vehicle auction dealer, motor vehicle or trailer salesperson, manufacturer, wholesaler, distributor, factory

representative; factory branch; distributor representative; supplemental motor vehicle dealer; wrecker or salvage dealer; or finance company.

Sec. 108. That section 60-1435, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-1435. Any party to a hearing before the board may ~~take an appeal from~~ any final order entered in such hearing, and the appeal shall be in accordance with the Administrative Procedure Act. in the manner provided for appeals in this act.

Sec. 109. That section 68-1034, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

68-1034. Within thirty days from the date of receipt of an application filed pursuant to section 68-1033 and accompanied by such additional information as reasonably required by the Department of Social Services, the Director of Social Services shall, by written notification, either certify the unit or deny such certification. Any denial of certification shall (1) specify the reasons for the denial, (2) state that the unit is granted fifteen days to remedy any deficiency in its application identified in the statement of denial, and (3) state that a hearing pursuant to the Administrative Procedure Act will be granted within thirty days if requested by the unit. An appeal from the The decision of the director may be appealed by the applicant, and the appeal shall be in accordance with taken pursuant to the Administrative Procedure Act. The Department of Social Services may establish fees for filing an application pursuant to this section. Such fees shall cover the costs of processing such applications; but shall not exceed one hundred dollars.

Sec. 110. That section 69-1320, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

69-1320. Any person aggrieved by a decision of the State Treasurer or as to whose claim the State Treasurer has failed to act within ninety days after the filing of the claim; may appeal, and the appeal shall be in accordance with the Administrative Procedure Act. commence an action in the district court to establish his claim. The proceeding shall be brought within ninety days after the decision of the State Treasurer or within one hundred eighty days from the filing of the claim if the State Treasurer fails to act. The action shall be tried de novo without a jury.

Sec. 111. That section 70-806, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

70-806. The petitioner may appeal from the decision of the board dismissing the petitioner's petition, and the appeal shall be in accordance with the Administrative Procedure Act, either to the district court for the county in which the capital of this state is located or to the district court for the county in which, if in this state, the principal place of business of the petitioner is located. Such appeal shall be taken by filing notice of such appeal with the board within twenty days after receiving written notice of such decision by executing and filing with the board a bond to the State of Nebraska with sufficient surety, to be approved by the Secretary of State, conditioned upon the faithful prosecution of the appeal and the payment of all costs that shall be adjudged against appellant. Within thirty days after the filing of such notice of appeal and bond, the board shall prepare and file in the office of the clerk of the proper district court a complete transcript of the proceedings before the board, and such appeal shall be entered, tried, and determined de novo upon formal pleadings as in a cause in equity; the petition of appellant to be filed within thirty days after filing of the transcript.

Sec. 112. That section 70-807, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

70-807. Any interested person, firm, or corporation may likewise appeal from a decision of the board granting the petition, and the appeal shall be in accordance with the Administrative Procedure Act, in like manner and times as aforesaid, except that such appellant shall also be required to furnish a bond to the petitioner and district, with sufficient surety, approved by the Secretary of State, conditioned that in the event of adjudication against appellant in such appeal, appellant pay all damages sustained by either or both the petitioner and the district by reason of such appeal.

Sec. 113. That section 71-159, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-159. Both parties shall have the right of appeal, and the appeal shall be in accordance with the Administrative Procedure Act, to the district court of Lancaster County at any time within thirty days after the entry of the order by the Director of Health. The

filing of a notice in writing of the intention of taking such appeal with the director within ten days after the entry of the order; shall be sufficient notice to the adverse party of the intention of taking such appeal. A transcript of all pleadings and the bill of exceptions from the proceeding before the department upon which the cause was tried before the department, duly certified, shall be filed in the office of the clerk of the district court, and such filing shall complete the appeal. The trial in the district court upon such appeal shall be de novo, but the record made before the department shall be admissible as evidence, and such de novo appeal shall be upon the issues joined before the director, except as the judge of the district court may allow amendments thereto, which shall be governed by the usual rules of pleading in that court.

Sec. 114. That section 71-161.07, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-161.07. In determining whether the disciplinary measure should be set aside and the terms and conditions which should be imposed if the disciplinary measure is set aside, the board (1) may investigate and consider all activities of the petitioner since the disciplinary action was taken against him or her, including activities prohibited by section 71-147, the act or offense for which he or she was disciplined, his or her activity during the time his or her license or certificate was in good standing, and his or her general reputation for truth, professional ability, and good character, (2) may require the petitioner to submit to a complete diagnostic examination by one or more physicians appointed by the board, the petitioner being free also to consult a physician or physicians of his or her own choice for a complete diagnostic examination and making make available a report or reports thereof to the board, and (3) may require the petitioner to pass an oral or practical examination, or both. The affirmative vote of a majority of the members of the board shall be necessary to recommend the setting aside of a disciplinary measure and the reinstatement of a license or certificate with or without terms, conditions, or restrictions. The board may grant or deny, without a hearing or argument, any petition to recommend reinstatement filed pursuant to this section, when the petitioner has been afforded a hearing or an opportunity for a hearing upon any petition filed pursuant to this section within a period of two years immediately

preceding the filing of such petition. Denial by the board of the petition for recommendation of reinstatement of the license or certificate may be appealed, and the appeal shall be in accordance with shall be subject to review pursuant to the provisions of the Administrative Procedure Act.

Sec. 115. That section 71-161.16, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-161.16. Any applicant, licensee, or certificate holder shall have the right to appeal from an order denying, refusing renewal of, limiting, suspending, or revoking a license or certificate to practice a profession or occupation licensed or certified by the Department of Health pursuant to the provisions of Chapter 71 because of physical or mental illness or physical or mental deterioration or disability. Such appeal shall be taken in accordance with the provisions of the Administrative Procedure Act. Unless otherwise ordered by the district court after a hearing, the order of denial, refusal of renewal, limitation, suspension, or revocation of a license or certificate because of physical or mental illness or physical or mental deterioration or disability shall remain in effect pending such appeal until the appeal has been finally terminated and it has been finally determined that no cause exists for further denial, refusal of renewal, limitation, suspension, or revocation of the license or certificate of such applicant, former licensee or certificate holder, or licensee or certificate holder because of physical or mental illness or physical or mental deterioration or disability. If the appeal is denied, such order shall remain in effect pursuant to section 71-161-14.

Sec. 116. That section 71-1,104.05, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,104.05. Any licensee shall have the right to appeal from an order suspending or limiting his or her license to practice medicine and surgery because of physical or mental illness or physical or mental deterioration or disability. Such appeal shall be taken in accordance with the Administrative Procedure Act. the provisions of sections 71-159 to 71-161. Unless otherwise ordered by the district court after a hearing the order of suspension or limitation of a license because of physical or mental illness or physical or mental deterioration or disability shall remain in effect pending such appeal until the appeal has been

finally terminated and it has been finally determined that no cause exists for further suspension or limitation of the license of such licensee because of physical or mental illness or physical or mental deterioration or disability.

Sec. 117. That section 71-1,107.23, Revised Statutes Supplement, 1987, be amended to read as follows:

71-1,107.23. The board, with the concurrence of the department, may limit, deny, suspend, or revoke the certificate of approval to supervise a physician assistant held by any physician when it finds that sections 71-1,107.15 to 71-1,107.30 or any of the rules and regulations adopted and promulgated by the board thereunder are not being complied with. In cases of failure to pay the required fees, denial shall be automatic. Any limitation, denial, suspension, or revocation shall be subject to review pursuant to may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

If the supervision of a physician assistant is terminated by the physician or physician assistant, the physician shall notify the department of such termination. A physician who thereafter assumes the responsibility for such supervision shall obtain a certificate of approval to supervise a physician assistant from the department prior to the use of the physician assistant in the practice of medicine.

Sec. 118. That section 71-1,147.12, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,147.12. Any permittee shall have the right of appeal to the district court of Lancaster County from an order of the Department of Health revoking or suspending a permit, and the appeal shall be in accordance with the Administrative Procedure Act. within thirty days after the entry of such order. The filing with the department within ten days after the entry of the order of a notice in writing of the intention to make such appeal shall be sufficient notice to the adverse party of such appeal. A transcript of all of the pleadings upon which the case was submitted to the department, duly certified, shall be filed in the office of the clerk of the district court of Lancaster County, and such filing shall complete the appeal. The trial in the district court upon such appeal shall be de novo. In the event of an appeal, the decision of the department shall not be stayed by the proceedings on appeal, and such appeal shall not operate to restore the

right of the appellant to operate a pharmacy pending disposition of such appeal-

Sec. 119. That section 71-1,147.31, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,147.31. Any temporary educational permit granted under the authority of sections 71-1,147.17 to 71-1,147.32 may be suspended, limited, or revoked by the Department of Health upon recommendation of the Board of Examiners in Pharmacy at any time upon a finding that the reasons for issuing such permit no longer exist, or that the person to whom such permit has been issued is no longer qualified to hold such permit, or for any reason for which a regular license to practice pharmacy could be suspended, limited, or revoked. A hearing on the suspension, limitation, or revocation of the temporary educational permit by the Department of Health shall be held in the same manner as for the denial of a regular license to practice pharmacy. The final order of the Director of Health may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act. Methods of administrative procedure and judicial review thereof shall be identical to those applicable to regular licenses to practice pharmacy.

Sec. 120. That section 71-235, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-235. Any licensee, considering himself or herself aggrieved by any action of the board, taken pursuant to under the provisions of sections 71-201 to 71-237, the Barber Act may appeal the action of the board, and the appeal shall be in accordance with the Administrative Procedure Act. , within thirty days after the posting of the order of the board, take an appeal from the action of the board to the district court of the county in which such person resides, which court shall have jurisdiction to reverse, vacate or modify the order complained of if, after hearing and upon consideration of the records, such court is of the opinion that such order was unlawful or unreasonable. Upon service of notice of such appeal, the board shall, with its answer, file a transcript of the testimony at the hearing, the original papers or duly authenticated transcripts thereof and the other evidence in said court. No proceedings to vacate or reverse or modify a final order rendered by the board shall operate to stay the execution or effect thereof unless the district court, or a judge thereof in vacation, on application and three days' notice to the board shall allow such

stay, in which event the petitioner shall be required to execute an undertaking in such sum as the court may prescribe, with sufficient surety to the satisfaction of the court, conditioned for the prompt payment of all damage arising from or caused by the delay in the enforcement of the order complained of. Any order applying only to a person, or persons, named therein shall be served by the delivery of the order, or a certified copy thereof, to such person or persons by an authorized representative of the board or by the sheriff of the county in which such person resides, for service upon him or them in the same manner as summons is served in civil actions.

Sec. 121. That section 71-1567, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1567. (1) The department shall refuse to issue a seal to a manufacturer for any modular housing unit not found to be in compliance with departmental standards governing the construction of or the structural, plumbing, heating, or electrical systems for modular housing units or for which fees have not been paid. Except in case of failure to pay the required fees, any such manufacturer may request a hearing before the department on the issue of such refusal. Procedures for notice and opportunity for a hearing before the department shall be pursuant to the Administrative Procedure Act. The refusal may be appealed, and the appeal shall be in accordance with the provisions of the Administrative Procedure Act, and continued departmental suspension subsequent to such a hearing shall also be subject to judicial review pursuant to such provisions.

(2) The issuance of seals may be suspended as to any manufacturer who is convicted of violating section 71-1563 or as to any manufacturer who violates any other provision of the Nebraska Uniform Standards for Modular Housing Units Act or any rule, regulation, or standard adopted pursuant thereto, and issuance of the seals shall not be resumed until such manufacturer submits sufficient proof that the conditions which caused the violation have been remedied. Any such manufacturer may request a hearing before the department on the issue of such suspension. Procedures for notice and opportunity for a hearing before the department shall be pursuant to the Administrative Procedure Act. The suspension may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act, and continued departmental suspension subsequent to such

a hearing shall also be subject to judicial review pursuant to such provisions-

Sec. 122. That section 71-1725, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1725. A certificate to practice as a nurse practitioner may be denied, refused renewal, revoked, or suspended for any violation of the Nurse Practitioner Act, sections 71-1704 to 71-1727, for physical or mental disability or incapacity, for gross incompetence, or for any reason for which a license to practice as a registered professional nurse could be denied, revoked, or suspended. The methods and procedures for notice of hearing, opportunity for hearing, presentation of evidence, conduct of hearing, ~~judicial review~~, reinstatement of certificate, and for related matters in such instance shall be identical to those pertaining to the denial, revocation, or suspension of a license to practice as a registered professional nurse. Any decision to deny, refuse renewal of, revoke, or suspend a certificate to practice as a nurse practitioner may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

Sec. 123. That section 71-1761, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1761. A certificate to practice as a certified nurse midwife may be denied, refused renewal, revoked, or suspended for any violation of the Nebraska Certified Nurse Midwifery Practice Act, for physical or mental disability or incapacity, for gross incompetence, or for any reason for which a license to practice as a registered professional nurse could be denied, revoked, or suspended. The methods and procedures for notice of hearing, opportunity for hearing, presentation of evidence, conduct of hearing, ~~judicial review~~, reinstatement of a certificate, and other matters relating to licensing of certified nurse midwives shall be identical to those pertaining to the denial, revocation, or suspension of a license to practice as a registered professional nurse. Any decision to deny, refuse renewal of, revoke, or suspend a certificate to practice as a certified nurse midwife may be appealed, and such appeal shall be in accordance with the Administrative Procedure Act.

Sec. 124. That section 71-1916, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1916. The department shall adopt and

promulgate such rules and regulations, consistent with sections 71-1908 to 71-1915, as it shall deem necessary for (1) the proper care and protection of children by providers under such sections, (2) the issuance, suspension, and revocation of licenses for early childhood program providers, and (3) the proper administration of such sections. The procedure for contested cases and their appeal in the Administrative Procedure Act shall apply to hearings Hearings conducted by the department pursuant to section 71-1915 and for any other contested cases of the department shall be in accordance with the Administrative Procedure Act. An appeal may be taken from the decision of the department, which appeal shall be in accordance with the Administrative Procedure Act.

Sec. 125. That section 71-2027, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-2027. Any applicant or licensee, who is dissatisfied with the decision of the Department of Health as a result of the hearing provided in section 71-2023 may appeal such decision, and the appeal shall be in accordance with the Administrative Procedure Act. After receiving a copy of the decision, appeal to the district court of Lancaster County at any time within thirty days after the mailing of such copy of the order. The filing of a notice in writing of the intention to take such an appeal, with the Director of the Department of Health within such time shall be sufficient notice to the adverse party of the intention to appeal. A duly certified transcript of all pleadings, upon which the cause was tried before the department, shall be filed in the office of the clerk of said district court, which shall complete the appeal. The trial in the district court upon such appeal shall be de novo and be upon the issues joined before the Director of the Department of Health, except as the district court may allow amendments thereto in accordance with the usual rules of pleading in that court.

Sec. 126. That section 71-2045.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-2045.02. The board shall license administrators of homes for the aged or infirm in accordance with sections 71-2041.01 to 71-2045.09 and standards, rules, and regulations issued by it pursuant thereto. The license of an administrator of a home for the aged or infirm shall not be transferable or assignable. Such licenses may be denied, suspended, or

revoked by the board for due cause which shall include: (1) Fraud in procuring a license; (2) immoral, unprofessional, or dishonorable conduct; (3) habitual intoxication or addiction to the use of drugs; (4) distribution of intoxicating liquors or drugs for other than lawful purposes; (5) conviction of a felony; (6) physical or mental incapacity to perform professional duties; (7) violation of any provision of sections 71-2041.01 to 71-2045.09 or standards, rules, and regulations adopted thereunder or of any law, standards, rules, and regulations relating to the proper administration and management of a home for the aged or infirm; (8) commission of any of the acts or offenses set forth in sections 71-147 and 71-148; and (9) failure to pay the required fees. Except in cases of failure to pay the required fees, no license shall be denied, suspended, or revoked except after due notice and opportunity for a hearing. Any denial, suspension, or revocation of such license may be appealed, and the appeal shall be in accordance with shall be subject to review pursuant to the provisions of the Administrative Procedure Act.

Sec. 127. That section 71-2506, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-2506. Whenever, in the judgment of the Director of Health, it shall become necessary for the protection of the public, to add any poison, not specifically enumerated in section 71-2501, the Department of Health shall have printed a revised schedule of all poisons coming under the provisions of that section, and 71-2501. The department shall forward by mail one copy to each person registered upon its books, and to every person applying for same, and the revised schedule shall carry an effective date for the new poisons added. No poison shall be added by the director under the provisions of this section unless the same shall be as toxic in its effect as any of the poisons enumerated under section 71-2501. Whenever the director shall propose to bring any additional poisons under the provisions of said such section, such the proposal shall be set down for hearing. At least ten days' notice of such hearing shall be given by the director. The notice shall designate the poison or poisons to be added and shall state the time and place of the hearing. Such notice shall be given by such means as the director shall determine to be reasonably calculated to notify the various interested parties. The director shall have the power to adopt and

promulgate ~~prescribe~~ such rules and regulations with respect to the conduct of such hearings as may be necessary. Any person aggrieved by any order of the director passed pursuant to the provisions of this section may appeal such order, and the appeal shall be in accordance with the Administrative Procedure Act, therefrom to the district court of Lancaster County, Nebraska, at any time within ten days after such order shall have been promulgated, and, upon appeal, the court shall hear and determine the issues raised thereby de novo, PROVIDED, the revised schedule of poisons shall become effective if and when promulgated as other rules of the department.

Sec. 128. That section 71-2719, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-2719. Any person may appeal from any decision or order of the Department of Health, and the appeal shall be in accordance with the Administrative Procedure Act, to the district court of Lancaster County within thirty days after receiving official notice thereof. Such appeal may be taken by the filing of a petition on appeal. It shall proceed in the manner provided by law in regard to appeals from the county court to the district court and shall be prosecuted to effect as in such an appeal. The court shall hear the appeal as in equity without a jury and enter judgment and apportion the costs in such manner as may be equitable.

Sec. 129. That section 71-2817, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-2817. The department, with the concurrence of the board, may deny, suspend, or revoke the certificate of approval to supervise a physical therapist assistant held by any physical therapist when it finds that sections 71-2808 to 71-2822 or any of the rules and regulations adopted and promulgated by the board pursuant to sections 71-2808 to 71-2822 are not being complied with. In the case of failure to pay the required fees, denial shall be automatic. Any denial, suspension, or revocation may be appealed, and the appeal shall be in accordance with shall be subject to review pursuant to the provisions of the Administrative Procedure Act.

Sec. 130. That section 71-3211, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-3211. Any applicant, licensee, or other

person directly and adversely affected by any order of the secretary may appeal such order, and the appeal shall be in accordance with the Administrative Procedure Act. 7 within thirty days of the making of such order by the secretary and upon filing with the secretary a cost bond in the sum of two hundred dollars, institute proceedings in error for judicial review of the lawfulness of such order in the district court of Lancaster County or in the district court of the county in which he resides or has his principal place of business.

Sec. 131. That section 71-3505, Revised Statutes Supplement, 1987, be amended to read as follows:

71-3505. Matters relative to radiation as they relate to occupational and public health and safety and the environment shall be a responsibility of the department. The department shall:

(1) Develop comprehensive policies and programs for the evaluation and determination of undesirable radiation associated with the production, use, storage, or disposal of radiation sources, and formulate, adopt, promulgate, and repeal rules and regulations which may provide (a) for registration or licensure under section 71-3507 or 71-3509 and (b) for registration or licensure of any other source of radiation as specified by rule or regulation so as to reasonably protect occupational and public health and safety and the environment in a manner compatible with regulatory programs of the federal government. The department for identical purposes may also adopt and promulgate rules and regulations for the issuance of licenses, either general or specific, to persons for the purpose of using, manufacturing, producing, transporting, transferring, receiving, acquiring, owning, or possessing any radioactive material. Such rules and regulations may prohibit the use of radiation for uses found by the department to be detrimental to occupational and public health or safety or the environment and shall carry out the purposes and policies set out in sections 71-3501 and 71-3502. Such rules and regulations shall not prohibit or limit the kind or amount of radiation purposely prescribed for or administered to a patient by doctors of medicine and surgery, dentistry, osteopathy, chiropractic, podiatry, and veterinary medicine, while engaged in the lawful practice of such profession, or administered by other professional personnel, such as allied health personnel, radiologic technologists, nurses, and laboratory

workers, acting under the supervision of a licensed practitioner. Violation of rules and regulations adopted and promulgated by the department pursuant to the Radiation Control Act shall be due cause for the suspension, revocation, or limitation of a license issued by the department. Any licensee may request a hearing before the department on the issue of such suspension, revocation, or limitation. Procedures for notice and opportunity for a hearing before the department shall be pursuant to the provisions of the Administrative Procedure Act. The decision of the department may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act; and continued departmental suspension, revocation, or limitation subsequent to such a hearing shall also be subject to judicial review pursuant to such provisions;

(2) Inform the council of any such rules and regulations at least thirty days prior to their adoption and consider any recommendations of the council;

(3) Have the authority to accept and administer loans, grants, or other funds or gifts, conditional or otherwise, in furtherance of its functions, from the federal government and from other sources, public or private;

(4) Encourage, participate in, or conduct studies, investigations, training, research, and demonstrations relating to the control of sources of radiation;

(5) Collect and disseminate health education information relating to radiation protection;

(6) Make its facilities available so that any person or any agency may request the department to review and comment on plans and specifications of installations submitted by the person or agency, with respect to matters of protection and safety, for the control of undesirable radiation;

(7) Be empowered to inspect radiation sources and their shieldings and surroundings for the determination of any possible undesirable radiation or violations of rules and regulations adopted and promulgated by the department; and provide the owner, user, or operator with a report of any known or suspected deficiencies;

(8) Collect a fee for emergency response or environmental surveillance, or both, offsite from each nuclear power plant equal to the cost of completing the emergency response or environmental surveillance and any associated report. In no event shall the fee for any nuclear power plant exceed the lesser of the actual

annual costs of such activities or thirty-six thousand dollars. The fee collected shall be deposited in the Department of Health Cash Fund and shall be used solely for the purpose of defraying the costs of the emergency response and environmental surveillance conducted by the department; and

(9) Develop a program which establishes policies, requirements, and standards for appropriate education, training, written testing, and practical testing of persons operating an X-ray system.

Sec. 132. That section 71-3513, Revised Statutes Supplement, 1987, be amended to read as follows:

71-3513. (1) In any proceeding for the issuance or modification of rules or regulations relating to control of sources of radiation, the department shall provide an opportunity for public participation through written comments and a public hearing.

(2) In any proceeding for the denial of an application for a license or for the amendment, suspension, or revocation of a license, the department shall provide the applicant or licensee an opportunity for a hearing on the record.

(3) In any proceeding for licensing ores processed primarily for their source material content and management of byproduct material and source material mill tailings, or for licensing management of low-level radioactive waste, the department shall provide:

(a) An opportunity, after public notice, for written comments and a public hearing with a transcript;

(b) An opportunity for cross examination; and

(c) A written determination of the action to be taken which is based upon findings included in the determination and upon evidence presented during the public comment period.

(4) In any proceeding for licensing ores processed primarily for their source material content and disposal of byproduct material and source material mill tailings, or for licensing management of low-level radioactive waste, the department shall prepare, for each licensed activity which has a significant impact on the occupational or public health and safety or the environment, a written analysis of the impact of such licensed activity. The analysis shall be available to the public before the commencement of the hearing and shall include:

(a) An assessment of the radiological and nonradiological impacts to the public health;

(b) An assessment of any impact on any waterway and ground water;

(c) Consideration of alternatives, including alternative sites and engineering methods, to the activities to be conducted; and

(d) Consideration of the long-term impacts, including decommissioning, decontamination, and reclamation of facilities and sites associated with the licensed activities and management of any radioactive materials which will remain on the site after such decommissioning, decontamination, and reclamation.

(5) The department shall prohibit any major construction with respect to any activity for which an environmental impact analysis is required by this section prior to completion of such analysis.

(6) Whenever the department finds that an emergency exists with respect to radiation requiring immediate action to protect occupational or public health and safety or the environment, the department may, without notice, hearing, or submission to the coordinator, issue a regulation or order reciting the existence of such emergency and requiring that such action be taken as is necessary to meet the emergency. Notwithstanding any provisions of the Radiation Control Act, such regulation or order shall be effective immediately. Any person to whom such regulation or order is directed shall comply immediately, but on application to the department shall be afforded a hearing not less than fifteen days and not more than thirty days after filing of the application. On the basis of such hearing, the emergency regulation or order shall be continued, modified, or revoked within thirty days after such hearing, and the department shall mail the applicant a copy of its findings of fact and determination.

(7) Any final department action or order entered pursuant to subsection (1), (2), (3), or (6) of this section may be appealed, and the appeal shall be in accordance with shall be subject to judicial review pursuant to the Administrative Procedure Act.

Sec. 133. That section 71-3517, Revised Statutes Supplement, 1987, be amended to read as follows:

71-3517. (1) Any person who violates any of the provisions of the Radiation Control Act shall be guilty of a Class IV misdemeanor.

(2) In addition to the penalty provided in subsection (1) of this section, any person who violates any provision of the Radiation Control Act or any rule,

regulation, or order issued pursuant to such act or any term, condition, or limitation of any license or registration certificate issued pursuant to such act shall be subject to:

- (a) License revocation, suspension, modification, condition, or limitation;
- (b) The imposition of a civil penalty; or
- (c) The terms of any appropriate order issued by the department.

(3) Whenever the department proposes to subject a person to the provisions of subsection (2) of this section, the department shall notify the person in writing (a) setting forth the date, facts, and nature of each act or omission with which the person is charged, (b) specifically identifying the particular provision or provisions of the section, rule, regulation, order, license, or registration certificate involved in the violation, (c) of the time, date, and place at which a full and fair hearing will be had on such charge, (d) that the department may revoke, suspend, modify, condition, or limit a license, impose a civil penalty, or enter an appropriate order, and (e) that upon failure to pay the civil penalty, if any, subsequently determined by the department, the penalty may be collected by civil action. The notice shall be delivered to each alleged violator not less than ten days before the time set for the hearing by personal service, by certified or registered mail to his or her last-known address, or by publication. Notice by publication shall only be made if personal service or service by mail cannot be effectuated.

(4) Hearings held pursuant to subsection (3) of this section shall be held in accordance with rules and regulations adopted and promulgated by the department and shall provide for the alleged violator to present such evidence as may be proper. Witnesses may be subpoenaed by either party and shall be allowed fees at a rate prescribed by the rules and regulations of the department. A full and complete record shall be kept of the proceedings.

(5) Following the hearing, the director shall determine whether the charges are true or not, and if true, the director may (a) issue a declaratory order finding the charges to be true, (b) revoke, suspend, modify, condition, or limit the license, (c) impose a civil penalty in an amount not to exceed ten thousand dollars for each violation, or (d) enter an appropriate order. If any violation is a continuing one, each day of such violation shall constitute a separate violation

for the purpose of computing the applicable civil penalty and the amount of the penalty shall be based on the severity of the violation. A copy of such decision setting forth the finding of facts and the particular reasons upon which it is based shall be sent by either certified or registered mail to the alleged violator. The decision may be appealed, and the appeal shall be in accordance with shall become final thirty days after the copy is mailed unless the alleged violator within such thirty-day period appeals the decision as provided in the Administrative Procedure Act.

(6) Any civil penalty assessed and unpaid under subsection (5) of this section shall constitute a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in any proper form of action in the name of the State of Nebraska in the district court of the county in which the violator resides or owns property. The department shall, within thirty days from receipt, transmit any collected civil penalty to the State Treasurer for deposit in the Permanent School Fund.

Sec. 134. That section 71-4609, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-4609. (1) The department is hereby charged with the administration of the Uniform Standard Code for Manufactured Homes and Recreational Vehicles. The department may adopt and promulgate, amend, alter, or repeal general rules and regulations of procedure for (a) administering the provisions of the code, (b) issuing of seals, (c) obtaining statistical data respecting the manufacture and sale of manufactured homes and recreational vehicles, and (d) prescribing means, methods, and practices to make effective such provisions.

(2) The department shall appoint an advisory committee of seven members which shall have the authority to review the rules, regulations, and standards of the department pertaining to manufactured homes and recreational vehicles and to recommend changes relative thereto. The committee shall represent a cross section of those having an extensive interest in manufactured home or recreational vehicle body and frame design and construction or plumbing, heating, or electrical systems. The committee shall serve at the pleasure of the department.

(3) The department shall refuse to issue a seal to any manufacturer or other person for any manufactured home or recreational vehicle found to be

not in compliance with departmental standards governing body and frame design and construction or plumbing, heating, or electrical systems for manufactured homes or recreational vehicles or for which fees have not been paid. Except in case of failure to pay the required fees, any such manufacturer or other person may request a hearing before the department on the issue of such refusal. Procedures for notice and opportunity for a hearing before the department shall be pursuant to the Administrative Procedure Act. The refusal by the department may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act, and continued departmental refusal subsequent to such a hearing shall also be subject to review pursuant to such provisions-

(4) The issuance of seals may be suspended or revoked as to any manufacturer or other person who has not complied with any provision of the Uniform Standard Code for Manufactured Homes and Recreational Vehicles or with any rule, regulation, or standard adopted and promulgated under the code or who is convicted of violating section 71-4608, and issuance of the seals shall not be resumed until such manufacturer or other person submits sufficient proof that the conditions which caused the lack of compliance or the violation have been remedied. Any manufacturer or other person may request a hearing before the department on the issue of such suspension or revocation. Procedures for notice and opportunity for a hearing before the department shall be pursuant to the Administrative Procedure Act. The suspension or revocation by the department may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act, and continued departmental suspension or revocation subsequent to such a hearing shall also be subject to review pursuant to such provisions-

(5) The department is authorized to conduct hearings and presentations of views consistent with the regulations adopted by the United States Department of Housing and Urban Development and to adopt and promulgate such rules and regulations as are necessary to carry out this function.

(6) The department shall establish a monitoring inspection fee in an amount established by the United States Secretary of Housing and Urban Development. This monitoring inspection fee shall be an amount paid by the manufacturer for each manufactured home produced in the state. The monitoring inspection fee shall be paid by the manufacturer to the United

States Secretary of Housing and Urban Development who shall distribute the fees collected from all manufactured home manufacturers from among the approved and conditionally approved states based on the number of new manufactured homes whose first location after leaving the manufacturing plant is on the premises of a distributor, dealer, or purchaser in such state.

Sec. 135. That section 71-4626, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-4626. If the application for a permit to construct, expand, remodel, or make alterations upon a mobile home park and the appurtenances thereto, pursuant to section 71-4625, is denied by the department, it shall so state in writing, giving the reasons for denying the application. If the objection can be corrected, the applicant may amend his or her application and resubmit it for approval. No such permit shall be denied except after due notice and opportunity for a hearing before the department pursuant to the Administrative Procedure Act. Any denial of such permit may be appealed, and the appeal shall be in accordance with ~~shall be subject to judicial review pursuant to the provisions of~~ the Administrative Procedure Act.

Sec. 136. That section 71-4630, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-4630. (1) The Uniform Standard Code for Mobile Home Parks Sections 71-4621 to 71-4634 shall not apply to any mobile home park located within the jurisdiction of any city, village, or county which provides for the regulation of mobile home parks by resolution, ordinance, or regulation which at a minimum is not less stringent than the then current standards and specifications, and all subsequent revisions and amendments thereto, approved, and adopted, and promulgated by the department, as such standards and specifications apply to mobile home parks. No such resolution, ordinance, or regulation shall become effective until a certificate of exemption has been issued by the department. Such certificate of exemption shall be available for inspection in the office of the city or county clerk as the case may be.

(2) If the department shall determine at any time after the issuance of such a certificate of exemption that such a resolution, ordinance, or regulation is being enforced in a manner contrary to or inconsistent with the standards mentioned in subsection

(1) of this section, or is otherwise being improperly enforced, in any city, village, or county holding a certificate of exemption, the department may revoke the certificate of exemption and ~~sections 71-4621 to 71-4634~~ the Uniform Standard Code for Mobile Home Parks shall apply in such city, village, or county until such standards are met and enforced and a new certificate is issued.

(3) Any city, village, or county desiring a certificate of exemption shall make application for such certificate by filing a petition for a certificate of exemption with the department. The department shall promptly investigate such petition. If the recommendation of the department is against the granting of a certificate of exemption and the applicant requests that a formal hearing be held, a formal hearing shall be held on the questions of whether (a) the resolution, ordinance, or regulation is at a minimum as stringent as the standards mentioned in subsection (1) of this section, (b) whether the resolution, ordinance, or regulation is being enforced in a manner contrary to or inconsistent with such standards or is otherwise being improperly enforced, and (c) whether adequate provisions have been made for enforcement. The burden of proof thereof shall be upon the applicant. A like formal hearing shall be held upon any proposed revocation of a certificate of exemption upon the request of the holder thereof. The procedure governing hearings authorized by this subsection shall be in accordance with the Administrative Procedure Act. The decision to deny or revoke a certificate of exemption may be appealed, and the appeal shall be in accordance with the provisions of the Administrative Procedure Act. Any final decision of denial or revocation of a certificate of exemption by the department, after opportunity for a formal hearing thereon, shall become final thirty days after a copy thereof is mailed by certified or registered mail, unless the applicant or holder of the certificate of exemption within such thirty-day period appeals the decision pursuant to the provisions of the Administrative Procedure Act.

Sec. 137. That section 71-4631, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-4631. The department shall issue licenses for the establishment, operation, and maintenance of mobile home parks which are found to comply with the Uniform Standard Code for Mobile Home Parks ~~the provisions of sections 71-4621 to 71-4634~~ and such

rules, regulations, and standards as are lawfully adopted and promulgated by the department pursuant thereto. The department shall deny, refuse renewal of, suspend, or revoke licenses on any of the following grounds:

(1) Violation of any of the provisions of ~~sections 71-4621 to 71-4634~~ the code or the rules, regulations, and standards lawfully adopted and promulgated pursuant thereto;

(2) Permitting, aiding, or abetting the commission of any unlawful act; or

(3) Conduct or utility or sanitation practices detrimental to the health or safety of residents of a mobile home park. Should the department determine to deny, refuse renewal of, suspend, or revoke a license, it shall send to the applicant or licensee, by either certified or registered mail, a notice setting forth the specific reasons for the determination. The denial, refusal of renewal, suspension, or revocation shall become final thirty days after the mailing of the notice in all cases of failure to pay the required licensure fee if not paid by the end of such period, and in all other instances unless the applicant or licensee, within such thirty-day period, shall give written notice of a desire for a hearing. Thereupon the applicant or licensee shall be given opportunity for a formal hearing before the department and shall have the right to present evidence on his or her own behalf. The procedure governing hearings authorized by this section shall be in accordance with the provisions of the Administrative Procedure Act. On the basis of the evidence presented, the determination involved shall be affirmed or set aside, and a copy of such decision setting forth the findings of facts and the specific reasons upon which it is based shall be sent by either certified or registered mail to the applicant or licensee. The applicant or licensee may appeal such decision, and the appeal shall be in accordance with The decision shall become final thirty days after a copy thereof is mailed, unless the applicant or licensee within such thirty-day period appeals the decision pursuant to the provisions of the Administrative Procedure Act.

Sec. 138. That section 71-5113, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-5113. (1) The department shall issue licenses for the operation of ambulances to be used for the transportation of patients, which are found to

comply with the rules, regulations, and standards as are lawfully adopted and promulgated by the department with the approval of the board. The department shall deny, refuse renewal of, suspend, or revoke licenses for any of the following grounds:

(a) Violation of any of the provisions of the rules, regulations, and standards lawfully adopted and promulgated;

(b) Permitting, aiding, or abetting the commission of any unlawful act; or

(c) Conduct or practices detrimental to the health or safety of patients transported in an ambulance, or to members of the general public during a period of such transportation.

(2) If there is a determination to deny, refuse renewal of, suspend, or revoke a license issued pursuant to sections 60-337 and 71-5101 to 71-5123, the department shall send to the applicant or licensee, by either registered or certified mail, a notice setting forth the specific reasons for the determination. The denial, refusal of renewal, suspension, or revocation shall become final thirty days after the mailing of the notice unless the applicant or licensee, within such thirty-day period, shall give written notice of a desire for a hearing. Upon receipt of such notice, the applicant or licensee shall be given a formal hearing before the department and the board and shall have the right to present evidence on his or her own behalf. On the basis of the evidence presented, the determination involved shall be affirmed or set aside by the department, and a copy of such decision setting forth the findings of facts and the specific reasons upon which it is based shall be sent by either registered or certified mail to the applicant or licensee. ~~The decision shall become final thirty days after a copy thereof is mailed unless the applicant or licensee, within such thirty-day period, appeals the decision pursuant to~~ The applicant or licensee may appeal the decision, and the appeal shall be in accordance with the Administrative Procedure Act.

Sec. 139. That section 71-5303, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-5303. (1) Commencing January 1, 1978, no person shall operate or maintain a public water supply system without first obtaining a permit to operate such system from the director.

(2) To aid in accomplishing the purposes of ~~sections 71-5301 to 71-5313~~ the Nebraska Safe Drinking

Water Act, the director shall inspect public water supply systems and report findings to the owner, publish a list of those systems in compliance, and promote the training of and certify the capability of operators. The director ~~and~~ may seek a temporary or permanent injunction or such other legal process as is deemed necessary to obtain compliance with the provisions of sections 71-5301 to 71-5313 act.

(3) The basis for denying or revoking a permit to operate a public water supply system shall be noncompliance with the act provisions of sections 71-5301 to 71-5313 or the rules and regulations adopted and promulgated thereunder.

(4) Any person shall be granted, upon request, an opportunity for a hearing before the department under the provisions of the Administrative Procedure Act prior to the denial or revocation of a permit. The denial or revocation by the department may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act. Judicial review of such denial or revocation may be obtained as provided by such chapter and article-

Sec. 140. That section 71-5517, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-5517. (1) An application for a certificate or the certificate of any certified advanced emergency medical technician-I, certified advanced emergency medical technician-II, certified emergency medical technician-paramedic, certified emergency medical technician-D, trainee, certified field supervisor, or approved training or service program, or an application for, or any other certification issued by the department or the board under the Emergency Medical Technician-Paramedic Act, may be denied, refused renewal, suspended, or revoked by the Director of Health when the director finds that such person or entity has:

(a) Acted negligently in performing the authorized services;

(b) Failed to follow the directions of his or her supervising approved licensed physician;

(c) Rendered treatment not authorized under such act;

(d) Violated any of the provisions of such act or any of the rules and regulations adopted and promulgated thereunder; or

(e) Committed any of the acts or offenses set forth in sections 71-147 to 71-148.

(2) Any applicant or certificate holder may

request a hearing before the department on the issue of such denial, refusal of renewal, suspension, or revocation of the certificate. Procedures for notice and opportunity for a hearing before the department shall be pursuant to the Administrative Procedure Act. The denial, refusal of renewal, suspension, or revocation by the department may be appealed, and the appeal shall be in accordance with the provisions of the Administrative Procedure Act. 7 and continued departmental denial, refusal of renewal, suspension, or revocation subsequent to such hearing shall be subject to judicial review pursuant to such provisions.

Sec. 141. That section 71-5866, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-5866. The findings of the appeal shall be based upon the applicable criteria for review of an application for a certificate of need established pursuant to sections 71-5852 to 71-5855. The appeals board shall issue a final written decision affirming or reversing the determination of the Certificate of Need Review Committee within forty-five days after the hearing date. The findings, conclusions, and the decisions resulting from the hearing shall, to the extent the determinations of the review committee are reversed or modified, constitute the determinations of the department, except that the review committee, the department, or any affected person may appeal the decision, and the appeal shall be in accordance with seek judicial review as provided in the Administrative Procedure Act.

Sec. 142. That section 71-5907, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-5907. Any applicant or licensee, who is dissatisfied with the decision of the Department of Health as a result of the hearing provided in section 71-5906 may appeal, and the appeal shall be in accordance with the Administrative Procedure Act. 7 after receiving a copy of the decision, appeal to the district court of Lancaster County at any time within thirty days after the mailing of such copy of the order. The filing of a notice in writing of the intention to take such an appeal, with the Director of the Department of Health within such time shall be sufficient notice to the adverse party of the intention to appeal. A duly certified transcript of all pleadings, upon which the cause was tried before the department, shall be filed in the office of the clerk of such district court, which

shall complete the appeal. The trial in the district court upon such appeal shall be de novo and be upon the issues joined before the Director of the Department of Health, except as the district court may allow amendments thereto in accordance with the usual rules of pleading in that court.

Sec. 143. That section 71-6031, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-6031. (1) Except as provided in subsection (3) of section 71-6025, a nursing home which desires to contest a citation or to further contest an affirmed or modified citation shall do so pursuant to in the manner provided in the Administrative Procedure Act, for contested cases. Notice of intent to formally contest a citation shall be given to the department in writing within (a) five working days after service of a citation or (b) five working days after the receipt of the written explanation of the representative delegated to hold the informal conference, in the case of an affirmed or modified citation. The final decision may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

(2) Hearings on petitions for judicial review of any final decision regarding a citation for an alleged violation of sections 71-6008 to 71-6037 shall be set for trial at the earliest possible date. The times for pleadings and hearings in such action shall be set by the judge of the court with the object of securing a decision at the earliest possible time.

Sec. 144. That section 71-6310, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-6310. (1) An individual person shall not be eligible to work on an asbestos project unless the person holds a certificate issued by the department.

(2) To qualify for a certificate, a person shall have (a) successfully completed a basic course, approved by the director, on the health and safety aspects of asbestos projects, including the applicable state standards, and (b) been examined by a physician within the preceding year and declared by the physician to be physically capable of working while wearing a respirator. A certificate shall be valid for one year. To qualify for a renewal certificate, a person shall have successfully completed an annual review course approved by the director and been reexamined and approved by a physician. Each renewal certificate shall be valid for one year.

(3) Applications for certificates and renewal certificates shall be submitted to the department on forms prescribed by the department and shall be accompanied by the prescribed fee.

(4) The department may deny, refuse to renew, suspend, or revoke a certificate in accordance with the Administrative Procedure Act, for failure of the holder to comply with applicable departmental health and safety standards, rules, and regulations. Orders suspending or revoking a certificate may be appealed, and the appeal shall be in accordance with ~~section 71-6314~~ the Administrative Procedure Act.

Sec. 145. That section 71-6314, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-6314. (1) Whenever the department proposes to subject a person to ~~the provisions of~~ section 71-6312 or intends to deny, refuse to renew, suspend, or revoke a license or certificate, it shall notify the person in writing: (a) Setting forth the date, facts, and nature of each act or omission with which the person is charged; (b) specifically identifying the particular provision ~~or provisions~~ of the section, rule, or regulation involved in the violation; (c) notifying the person of the time, date, and place at which a full and fair hearing shall be had on such charge; and (d) notifying the person that the department may deny, refuse to renew, suspend, or revoke a license or certificate or impose a civil penalty for engaging in a project without a license or certificate. The notice shall also advise such person that upon failure to pay the civil penalty, if any, subsequently determined by the department, the penalty may be collected by civil action. The notice shall be delivered to each alleged violator not less than ten days before the time set for the hearing by personal service, by certified or registered mail to his or her last-known address, or by publication. Notice by publication shall only be made if personal service or service by mail cannot be effectuated.

(2) Hearings held pursuant to subsection (1) of this section shall be held in accordance with rules and regulations adopted and promulgated by the department and shall provide for the alleged violator to present such evidence as may be proper. Witnesses may be subpoenaed by either party and shall be allowed fees at a rate prescribed by the rules and regulations of the department. A full and complete record shall be kept of the proceedings.

(3) Following the hearing, the director shall determine whether or not the charges are true, and if true, the director may (a) issue a declaratory order finding the charges to be true or (b) deny, refuse to renew, suspend, or revoke a license or certificate or impose a civil penalty prescribed in section 71-6312. A copy of such decision, setting forth the finding of facts and the particular reasons upon which it is based, shall be sent by either registered or certified mail to the alleged violator. ~~The decision shall become final thirty days after a copy thereof is mailed, unless the alleged violator, within such thirty-day period, appeals the decision as provided in The alleged violator may appeal the decision, and the appeal shall be in accordance with~~ the Administrative Procedure Act.

(4) Any civil penalty assessed and unpaid under sections 71-6301 to 71-6314 shall constitute a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in any proper form of action in the name of the State of Nebraska in the district court of the county in which the violator resides or owns property. The department shall, within thirty days of receipt, transmit any collected civil penalty to the State Treasurer for deposit in the Permanent School Fund.

Sec. 146. That section 72-224.03, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

72-224.03. Except as otherwise provided in section 72-222.02, any public body that has or hereafter shall be granted by the Legislature the authority to acquire educational lands for public use shall be required to condemn the interest of the state, as trustee for the public schools, in educational lands in the following manner:

(1) The proceedings shall be had before a board consisting of (a) the superintendent of a school district offering instruction in grades kindergarten through twelve, (b) a certified public accountant, and (c) a licensed real estate appraiser, all appointed by the Governor for a term of six years, except that of the initial appointees one shall serve for a term of two years, one for a term of four years, and one for a term of six years as designated by the Governor. The members of the board shall each receive fifty dollars for each day actually engaged in the performance of official duties and shall be reimbursed for expenses as provided in sections 81-1174 to 81-1177; for state employees, to be paid by the Board of Educational Lands and Funds;

(2) The condemnation proceedings shall be commenced by the filing of a plat and complete description of the lands to be acquired together with an application for that purpose with the secretary of the Board of Educational Lands and Funds. Notice of the pendency of such application and the date of hearing shall be given by serving a copy of the application, together with notice of the date of hearing, upon the Governor and the Attorney General. The date of hearing shall be not less than ten days from the date of the filing of the application;

(3) The condemner and the Board of Educational Lands and Funds may present evidence before the board of appraisers. The board shall have the power to administer oaths and subpoena witnesses at the request of either party or on its own motion;

(4) After hearing the evidence, the board of appraisers shall make the award and file same in the office of the Board of Educational Lands and Funds. Appeals from such award may be taken to the district court of Lancaster County; Such award may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act; and

(5) Upon payment of the amount of the award by the condemner, it shall be the duty of the secretary of the Board of Educational Lands and Funds to transmit a certified copy of the award to the condemner for filing in the office of the register of deeds in the county or counties where the land is located. The filing of such certified copy of the award shall have the force and effect of a deed of conveyance of the real estate and shall constitute a transfer of the title thereto.

Sec. 147. That section 76-552, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

76-552. A verified complaint may be filed with the board charging a registered abstractor or a holder of a certificate of authority with a violation of the Abstracters Act. The board on its own motion may also file such a complaint. If a complaint is filed, the board shall immediately notify the abstractor or holder of such certificate of the complaint. The notice shall be in writing and be sent by registered or certified mail, return receipt requested. The notice shall contain a statement of the charges and a copy of the complaint. The notice shall state the time and place of the hearing which shall be not less than twenty nor more than forty days from the date of service of such complaint. The abstractor or holder of such

certificate shall be entitled to counsel at any hearing. The board shall cause a transcript of any testimony taken to be made by a reporter or stenographer.

The decision of the board may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act. Either the respondent or the complainant may appeal from the decision of the board to the district court for the county where the cause of action arose. Such appeal shall be taken within thirty days after the decision of the board by serving written notice of appeal on the director of the board and executing a bond to the State of Nebraska, with surety to be approved by the board, conditioned to pay all costs that may be adjudged against the appellant. If an appeal is taken, the director of the board shall file a certified record of the hearing and the decision of the board with the clerk of the court to which the appeal is taken. The court shall hear the appeal as a trial de novo, and the costs of such appeal, including the furnishing of the testimony, shall be taxed as the court may direct. The court on its own motion may order additional evidence to be taken. An appeal shall stay any disciplinary actions taken by the board until the final decision is had on appeal.

Sec. 148. That section 76-908, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

76-908. Any person paying the documentary stamp tax imposed by section 76-901 may claim a refund if the payment of such tax was (1) the result of a misunderstanding or honest mistake of the taxpayer, (2) the result of a clerical error on the part of the register of deeds or the taxpayer, or (3) invalid for any reason. Within two years after payment of such tax, the taxpayer shall file in the office of the register of deeds of the county in which the tax was paid a written claim on a form prescribed by the Tax Commissioner and evidence in support thereof, stating the reason for the claim. The register of deeds shall, within thirty days after such filing, make a recommendation of approval or denial and forward the recommendation together with a copy of the claim and evidence filed to the Tax Commissioner. Within thirty days after the forwarding of such recommendation the Tax Commissioner shall, upon consideration of the recommendation of the register of deeds and the claim and evidence filed by the taxpayer, render his or her decision approving or rejecting the claim for a refund in whole or in part. A copy of the decision of the Tax Commissioner shall be forwarded to

the register of deeds and to the last-known address of the taxpayer by certified mail within ten days after the decision is rendered. Upon approval by the Tax Commissioner of a refund for all or a portion of the documentary stamp tax paid, the register of deeds is authorized to make such refund from the currently collected documentary stamp tax funds presently in the office of the register of deeds. A taxpayer denied a refund under this section, in whole or in part, may appeal the decision of the Tax Commissioner, and the appeal shall be in accordance with in the manner and within the time provided by the Administrative Procedure Act.

Sec. 149. That section 76-1212, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

76-1212. Any person aggrieved by a determination as to eligibility for a payment authorized by sections 76-1201 to 76-1212, or the amount of the payment, may obtain judicial review pursuant to appeal the determination, and the appeal shall be in accordance with the Administrative Procedure Act. Nothing in sections 76-1201 to 76-1212 shall be construed as creating in any condemnation proceedings brought under the power of eminent domain any element of value or damage not in existence on March 15, 1971.

Sec. 150. That section 77-202.07, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-202.07. The applicant or county may appeal ~~de novo directly from the order of the Tax Commissioner, and the appeal shall be in accordance with the Administrative Procedure Act, to the district court of the county where the property is situated within twenty days after such order, in the same manner as provided in section 77-202.04.~~

Sec. 151. That section 77-378, Revised Statutes Supplement, 1987, be amended to read as follows:

77-378. (1) If any county official violates the rules or regulations provided for in section 77-369, any directive of the Department of Revenue, any order of the Tax Commissioner, or any of the revenue laws of the State of Nebraska, the department shall notify by certified mail the official concerned and the county attorney of the county involved setting forth the violation. If the violation is not corrected within fourteen calendar days, the department shall fix a date for hearing, upon five days' notice by certified mail to

the county official concerned and the county attorney. A copy of the notice shall be given to the Director of Administrative Services and the State Treasurer. Upon receipt of the notice the State Treasurer shall withhold distribution of all money to which the county may be entitled pursuant to Chapter 66, article 4, and Chapter 77, articles 27 and 35. At the hearing if the department determines that the rules, regulations, directives, orders, or laws have been violated, the department shall enter an order setting forth the specific nature of the violation, whether or not the violation has ceased, and if it has not, what corrective measures shall be taken. The order shall be sent by certified mail to the official concerned and the county attorney.

(2) If rules, regulations, directives, orders, or laws are determined to have been violated on the date the notice of hearing was mailed and are still being violated on the date of the hearing, the Director of Administrative Services shall distribute ninety percent of the money withheld from the county upon completion of the corrective measures ordered by the department. The balance shall be forfeited to the state and transferred to the General Fund. If it is determined that there have been no violations as of the date of the notice of hearing or subsequent thereto or that the violations have been corrected by the date of the hearing, the entire amount withheld shall be distributed to the county.

(3) The amount so withheld by the treasurer shall be determined by totaling the amount to which the county is entitled for the month or months involved under Chapter 66, article 4, and Chapter 77, articles 27 and 35, and multiplying such amount by a fraction of which the denominator shall be the total number of calendar days in the month or months involved and the numerator shall be the total number of calendar days in the month or months during which such money was to be withheld, starting with the date the notice of hearing was issued and ending with the latest of either the date of the hearing or the date on which the department determines that corrective measures have been completed.

(4) Failure or refusal by any county officer to take the necessary corrective action according to law shall in and of itself be deemed grounds for suspension and removal of such officer in accordance with the procedure outlined in sections 25-21,147 and 25-21,148.

(5) The county may appeal ~~de novo~~ the decision of the department, and the appeal shall be in accordance

with pursuant to the Administrative Procedure Act.

Sec. 152. That section 77-425, Revised Statutes Supplement, 1987, be amended to read as follows:

77-425. The Tax Commissioner, subject to proper rules and regulations to be published and furnished to every assessing official, shall have the power to invalidate the certificate of any assessor or deputy assessor who willfully fails or refuses faithfully to perform his or her duties in accordance with the rules, regulations, and instructions adopted, promulgated, and issued by the Tax Commissioner, his or her manuals of assessment, and the laws of the state governing the assessment of property and the duties of each assessor and deputy assessor. No certificate shall be revoked or suspended except upon a proper hearing before the Tax Commissioner or his or her designee after due notice. If the county assessor certificate of a person serving as assessor or deputy assessor is revoked, such person shall be removed from office by the Tax Commissioner, the office shall be declared vacant, and such person shall not be eligible to hold that office for a period of five years from the date of removal. Any assessor or deputy assessor whose county assessor certificate has been so revoked may appeal the decision of the Tax Commissioner, and the appeal shall be in accordance with the Administrative Procedure Act.

Sec. 153. That section 77-612, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-612. The Tax Commissioner shall, on or before July 15 of each year, notify in writing each railroad company of the value, determined by the Tax Commissioner, of the railroad company's taxable operating property within the state. In the event any railroad company shall feel aggrieved, then such railroad company may, prior to August 1, file with the Tax Commissioner an administrative appeal in writing stating that it claims the valuation is unjust or inequitable, the amount which it is claimed the valuation should be, and the excess therein and asking for an adjustment of the valuation by the commissioner. The appeal shall be considered and either party shall be permitted to introduce any evidence in reference thereto and fully and fairly present its case. The commissioner shall act upon the appeal and shall make an order in the premises. The order shall be considered as the final order in the case from which an appeal may be taken, and the appeal shall be in accordance with to the district

court as provided in the Administrative Procedure Act. In lieu of filing an administrative appeal with the Tax Commissioner pursuant to this section, a railroad may, prior to August 1, appeal to the district court, which appeal shall be heard by the district court de novo.

Sec. 154. That section 77-911, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-911. The director shall rescind or refuse to reissue the license of any company which fails to remit its taxes in conformity with Chapter 77, article 9. Prior to rescinding such license, the director shall issue an order to such company directing the company to show cause why such rescission should not be made. He or she shall in the order give not less than ten days' notice for a hearing before the department. Should the company be aggrieved by such determination, the company may appeal the determination, and the appeal shall be in accordance with the Administrative Procedure Act. appeal may be had as set forth in Chapter 44-

Sec. 155. That section 77-1239.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-1239.01. Any person interested in the taxation or any taxing unit may, within ten days after such schedule of values has been filed by the Tax Commissioner, file objections in writing to the valuations of the Tax Commissioner, stating wherein he or she claims such valuations are unjust or inequitable. Upon the filing of such objections the Tax Commissioner shall fix a time of hearing. Either party shall be permitted to introduce any evidence in reference thereto, and the Tax Commissioner shall act upon the objections and shall make such an order in the premises as shall seem just and reasonable. The final determination by the Tax Commissioner may be appealed, and the appeal shall be in accordance with shall be subject to judicial review as provided in the Administrative Procedure Act.

Sec. 156. That section 77-1301.16, Revised Statutes Supplement, 1987, be amended to read as follows:

77-1301.16. Any taxpayer aggrieved by a reappraisal may file an appeal, and the appeal shall be in accordance with the Administrative Procedure Act. in the district court of the county in which the property reappraised is located within thirty days after the date of the approval of the reappraisal by the county board of equalization. Any taxpayer may appeal in a class

action as provided in section 25-319. The county assessor shall advertise the fact of the such approval of the reappraisal in a paper of general circulation in the county. The thirty-day appeal period shall run from the first day of such publication-

Sec. 157. That section 77-1775, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-1775. (1) When any demand to refund property taxes paid is made upon the Tax Commissioner, the Tax Commissioner shall immediately transmit a copy of such demand along with the Tax Commissioner's recommendation to the State Board of Equalization and Assessment; who which shall approve the refund if the board finds the tax or a part of such tax to be invalid for any reason. Upon approval of the refund, the Tax Commissioner shall cause a refund to be paid from the fund to which the tax was originally deposited. If there are insufficient funds available at such time, the taxpayer shall be allowed a credit against the subsequent year's taxes. If the taxpayer does not have a tax liability in such subsequent year, or if the liability does not exceed the amount of the refund, then a refund of the balance shall be paid as soon as sufficient funds have been deposited into the fund.

(2) The State Board of Equalization and Assessment shall make its determination within one hundred twenty days of filing the claim for a refund. Such claim for a refund shall be considered a contested case pursuant to the Administrative Procedure Act.

(3) If the refund claim is denied in whole or part, the taxpayer may appeal the decision, and the appeal shall be in accordance with ~~to the district court pursuant to the provisions of~~ the Administrative Procedure Act. If, at the trial, it is shall be determined that such tax or any part of such tax was invalid, judgment shall be rendered in the amount of the refund claim with interest and such judgment shall be collected as in other cases.

Sec. 158. That section 77-1781, Revised Statutes Supplement, 1987, be amended to read as follows:

77-1781. The denial, in whole or in part, of a claim for refund shall be considered a final action of the Tax Commissioner, and shall be subject to judicial review as provided in ~~The denial may be appealed, and the appeal shall be in accordance with~~ the Administrative Procedure Act.

Sec. 159. That section 77-27,127, Reissue

Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-27,127. Any final action of the Tax Commissioner may be appealed, and the appeal shall be in accordance with shall be subject to judicial review as provided in the Administrative Procedure Act. The review appeal provided by this section shall be the exclusive remedy available to any taxpayer, and no other legal or equitable proceedings shall issue to prevent or enjoin the assessment or collection of any tax imposed under the provisions of the Nebraska Revenue Act of 1967.

Sec. 160. That section 77-27,153, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-27,153. A party aggrieved by the issuance, or refusal to issue, revocation, or modification of a pollution control tax refund may appeal from the finding and order of the Tax Commissioner, and the appeal shall be in accordance with in the manner and form and within the time provided by the Administrative Procedure Act.

Sec. 161. That section 77-27,182, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-27,182. If the Department of Revenue receives a written application for a hearing, it shall proceed with notice and hearing as for a contested case pursuant to the Administrative Procedure Act. The validity and amount of the liability shall be determined and any adjustments made. No issues shall be reconsidered at the hearing which have previously been litigated. An appeal of the final decision may be made, and the appeal shall be in accordance with pursuant to the Administrative Procedure Act.

Sec. 162. That section 77-4020, Revised Statutes Supplement, 1987, be amended to read as follows:

77-4020. Within a reasonable time after the hearing pursuant to section 77-4019, the Tax Commissioner shall make a final decision or final determination and notify the licensee by registered or certified mail of such decision or determination. If any tax or additional tax becomes due, such notice shall be accompanied by a demand for payment of any tax due. A licensee may appeal the decision of the Tax Commissioner, and the appeal shall be in accordance with in the manner prescribed in the Administrative Procedure Act.

Sec. 163. That section 79-1544, Reissue

Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1544. All acts and decisions of the retirement board shall be subject to review, reversal, modification, or approval by the retirement board, on its own motion or on the complaint of a member, under such rules as it may prescribe. Any teacher or other person, who deems himself or herself aggrieved by any action of the retirement board, may appeal to and have the same reviewed by the retirement board under such rules as it shall prescribe. Any final order, made by the retirement board after review may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act. 7 shall be subject to review by appeal to the district court for Lancaster County. Such review shall be governed by the general rules of procedure applicable to appeals in civil cases from the county court to the district court.

Sec. 164. That section 79-2838, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2838. Any person aggrieved or adversely affected by any final board action or by any penalty imposed by the board may appeal such action or penalty, and the appeal shall be in accordance with the Administrative Procedure Act. obtain judicial review of such action as provided in sections 79-2838 to 79-2841. An action for judicial review may be commenced in any court of competent jurisdiction within thirty days after such board action becomes effective.

Sec. 165. That section 81-216.33, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-216.33. If a regulatory authority finds that food is being manufactured, processed, distributed, offered for sale, or sold, in violation of the adulteration, misbranding, deceptive packaging, or false advertising provisions of sections 81-216.28 to 81-216.31, such regulatory authority may issue and enforce a written or printed stop-sale, stop-use, or removal order to the person in charge of such food, if the issuance of such an order is necessary for the protection of the public health, safety, or welfare. Such an order shall specifically describe the nature of the violation found, and the precise actions needed to be taken to bring the food into compliance with the applicable provisions of sections 81-216.01 to 81-216.37. Such order shall clearly advise the person in charge of the food that he or she may request an

immediate hearing before the director or his or her designee on the matter. No such order may direct the involuntary and immediate disposal or destruction of any food until the person in charge of such food has been afforded an opportunity to be heard on the matter, and an opportunity to appeal any determination order of the director or his or her designee from such a hearing ~~to a court of competent jurisdiction in accordance with the Administrative Procedure Act.~~ The regulatory authority may issue a stop-sale, stop-use, or removal order against articles of food that are perishable, even if the practical result of such an order is to bring about the involuntary disposal of such food, when, in the opinion of the person issuing the order, no alternative course of action would sufficiently protect the public health, safety, or welfare under the circumstances.

Sec. 166. That section 81-2,147.06, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-2,147.06. (1) The duty of enforcing the Nebraska Seed Law and carrying out such law and requirements shall be vested in the Director of Agriculture. It is the duty of such officer, who may act through his or her authorized agents:

(a) To sample, inspect, make analysis of, and test agricultural and vegetable seed transported, sold, or offered or exposed for sale within this state for sowing purposes at such time and place and to such extent as he or she may deem necessary to determine whether such agricultural or vegetable seed is in compliance with the Nebraska Seed Law and to notify promptly the persons who transported, sold, offered, or exposed the seed for sale of any violation;

(b) To prescribe and, after public hearing following due public notice, to adopt and promulgate rules and regulations governing the method of sampling, inspecting, analyzing, testing, and examining agricultural and vegetable seed; and the tolerances to be followed in the administration of the Nebraska Seed Law, which shall be in general accord with officially prescribed practice in interstate commerce, and such other rules and regulations as may be necessary to secure the efficient enforcement of such law;

(c) To prescribe and, after public hearing following due public notice, to establish, add to, or subtract therefrom by rules and regulations a prohibited and restricted noxious weed list;

(d) To prescribe and, after public hearing following due public notice, to adopt and promulgate

rules and regulations establishing reasonable standards of germination for vegetable seeds; and

(e) To prescribe and, after public hearing following due public notice, to establish, add to, or subtract therefrom by rules and regulations the seeds listed in subdivision (2)(i) of section 81-2,147.02 and to which the tetrazolium test may be employed as the official test to indicate the potential viability of the seed.

(2) For the purpose of carrying out the Nebraska Seed Law the Director of Agriculture, individually or through his or her authorized agents, is authorized:

(a) To enter upon any public or private premises during regular business hours in order to have access to seeds and the records connected therewith subject to the Nebraska Seed Law and the rules and regulations under such law, and any truck or other conveyer by land, water, or air at any time when the conveyer is accessible, for the same purpose;

(b) To issue and enforce a written or printed stop-sale order to the owner or custodian of any lot of agricultural or vegetable seed which the Director of Agriculture finds is in violation of any of the provisions of the Nebraska Seed Law or rules and regulations adopted and promulgated under such law, which order shall prohibit further sale, conditioning, and movement of such seed, except on approval of the enforcing officer, until such officer has evidence that the law has been complied with, and he or she has issued a release from the stop-sale order of such seed. With respect to seed which has been denied sale, conditioning, and movement as provided in this subdivision, the owner or custodian of such seed shall have the right to appeal from such order to a court of competent jurisdiction in the locality in which the seeds are found in accordance with the Administrative Procedure Act, praying for a judgment as to the justification of such order and for the discharge of such seed from the order prohibiting the sale, conditioning, and movement in accordance with the findings of the court. The provisions of this This subdivision shall not be construed as limiting the right of the director to proceed as authorized by the provisions of other sections of the Nebraska Seed Law;

(c) To establish and maintain or make provision for seed testing facilities, to employ qualified persons, and to incur such expenses as may be necessary to comply with these provisions;

(d) To make or provide for making purity and germination tests of seed for farmers and dealers on request, to prescribe rules and regulations governing such testing, and to fix and collect charges for the tests made. All fees shall be remitted to the state treasury and by the State Treasurer placed in the Nebraska Seed Administrative Cash Fund; and

(e) To cooperate with the United States Department of Agriculture and other agencies in seed law enforcement.

Sec. 167. That section 81-502.04, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-502.04. The enforcement of rules and regulations adopted and promulgated by the State Fire Marshal under the provisions of section 81-502 shall be as follows:

(1) Any order of the State Fire Marshal under the authority granted to him or her by section 81-502 shall be in writing addressed to the owner or person in charge of the premises affected thereby;

(2) ~~If within ten days from the receipt of such order the person or organization affected thereby does not appeal therefrom as provided in this section the order shall become final;~~

(2) (3) If the affected party or organization does not comply with the final order, the State Fire Marshal shall apply to the district court of the county in which the premises are located to obtain court enforcement of the order. The county attorney of the county in which the action is brought shall represent the State Fire Marshal and the action shall be brought in the name of the State of Nebraska and be tried the same as any action in equity; and

(3) (4) If the affected party or organization feels that the order of the State Fire Marshal is not necessary for the safety and welfare of the persons using or to use the premises regarding which the order is made, the party or organization owner may appeal from such order, and the appeal shall be in accordance with the Administrative Procedure Act. in the manner provided for in sections 81-501-01 to 81-541;

(5) If the district court determines that the rule or regulation from which the appeal has been perfected is necessary for the protection, health, and welfare of persons using or proposing to use the structure, it shall affirm the order appealed from; and

(6) If the district court determines that the rule or regulation from which the appeal has been

perfected is not necessary for the protection, health, and welfare of persons using or to use the premises; it may set aside the order or may modify the same-

Sec. 168. That section 81-829.43, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-829.43. (1) In addition to disaster prevention measures as included in the state, local, and interjurisdictional disaster plans, the Governor shall consider on a continuing basis steps that could be taken to prevent or reduce the harmful consequences of disasters. At his or her direction, and pursuant to any other authority and competence they have, state agencies, including, but not limited to those charged with responsibilities in connection with flood plain management, stream encroachment and flow regulation, weather modification, fire prevention and control, air quality, public works, land use and land-use planning, and construction standards, shall make studies of disaster prevention-related matters. The Governor, from time to time, shall make recommendations to the Legislature, local governments, and other appropriate public and private entities as may facilitate measures for prevention or reduction of the harmful consequences of disasters.

(2) The appropriate state agencies, in conjunction with the state Civil Defense Agency, shall keep land uses and construction of structures and other facilities under continuing study and identify areas which are particularly susceptible to severe land shifting, subsidence, flood, or other catastrophic occurrence. The studies under this subsection shall concentrate on means of reducing or avoiding the dangers caused by any such occurrence or the consequences thereof.

(3) If the state Civil Defense Agency believes on the basis of the studies or other competent evidence that an area is susceptible to a disaster of catastrophic proportions without adequate warning, that existing building standards and land-use controls in that area are inadequate and could add substantially to the magnitude of the disaster, and that changes in zoning regulations, other land-use regulations, or building requirements are essential in order to further the purposes of this section, it shall specify the essential changes to the Governor. If the Governor upon review of the recommendation finds after public hearing that the changes are essential, he or she shall so recommend to the agencies or local governments with

jurisdiction over the area and subject matter. If no action or insufficient action pursuant to his or her recommendations is taken within the time specified by the Governor, he or she shall so inform the Legislature and request legislative action appropriate to mitigate the impact of disaster.

(4) The Governor, at the same time that he or she makes his recommendations pursuant to subsection (3) of this section, may suspend the standard or control which he or she finds to be inadequate to protect the public safety and by regulation place a new standard or control in effect. The new standard or control shall remain in effect until rejected by resolution of the Legislature or amended by the Governor. During the time it is in effect, the standard or control contained in the Governor's regulation shall be administered and given full effect by all relevant regulatory agencies of the state and local governments to which it applies. The Governor's action ~~shall be subject to judicial review but shall not be subject to temporary stay pending litigation may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.~~

Sec. 169. That section 81-885.30, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-885.30. An order of the commission which has become final ~~shall be subject to judicial review under may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.~~

Sec. 170. That section 81-8,139.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-8,139.01. (1) An advisory committee is hereby created which shall be known as the Athletic Advisory Committee. The Governor shall appoint three persons to the committee. The members shall be selected on their experience, training, and interest in boxing and wrestling, and one member shall be or shall have been active in amateur boxing, one member shall be or shall have been active in professional wrestling, and one member shall be or shall have been active in professional boxing. The members shall serve at the pleasure of the Governor, and the commissioner may recommend individuals to serve on the advisory committee. The advisory committee members shall receive no salaries but shall receive reimbursement for their expenses as provided in sections section 81-1174, to 81-1177 for state employees. The committee shall review the rules and regulations drawn up by the commissioner,

pursuant to section 81-8,139, and shall make recommendations and give advice regarding any proposed or adopted rules and regulations.

(2) The Athletic Advisory Committee shall serve as an appeals board which shall hear and determine all cases of parties who contest any of the State Athletic Commissioner's decisions. The procedure for such appeal shall be designated in the commissioner's rules and regulations, and the decision of the advisory committee shall be by a majority vote of the committee. Any party who wishes to appeal from the advisory committee's decision shall pursue the remedy in the district court of Lancaster County may appeal the decision, and the appeal shall be in accordance with the Administrative Procedure Act.

Sec. 171. That section 81-8,202, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-8,202. The board shall have the power by a four-fifths vote of the entire board to place a registered landscape architect on probation or to revoke or suspend the certificate of any professional landscape architect registered under the Professional Landscape Architects Act provisions of sections 81-8,184 to 81-8,208 whom it finds guilty of (1) deceit in obtaining a certificate, (2) fraud, (3) gross negligence, (4) incompetency, or (5) misconduct in the practice of professional landscape architecture. Such person shall have the right to appeal the revocation or suspension of his or her certificate of registration, and the appeal shall be in accordance with in the manner provided by the Administrative Procedure Act.

Sec. 172. That section 81-8,285, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-8,285. (1) The commission may, upon its own motion, and shall, upon the written complaint of any aggrieved person, investigate the action of any licensed real estate appraiser and shall have the power to suspend or revoke any license issued under sections 81-8,276 to 81-8,287 at any time when, after notice and hearing as provided for in this section, it finds that such licensee has made any false statement in his or her application for a real estate appraiser's license, has knowingly violated any of the provisions of such sections or rules and regulations of the commission, or has done any act which constitutes dishonest, fraudulent, or improper conduct.

(2)(a) If a public hearing is requested by an

applicant in accordance with section 81-8,283 or if information brought to the attention of the commission is such that, in the commission's discretion, it would be proper to suspend or revoke the license of a licensee, the commission shall forthwith set the matter for hearing and, at least twenty days prior to the hearing date, it shall notify in writing the applicant or licensee of the reasons for the denial or of the charges made and shall afford such applicant or licensee an opportunity to be heard in person or through counsel in reference thereto. Such written notice shall be served by delivery personally to the applicant or license holder or by mailing by certified or registered mail to the last-known business address of such applicant or license holder. The hearing on such charges shall be at such time and place as the commission prescribes, except that in cases involving revocation of the license of a nonresident of this state licensed under sections 81-8,276 to 81-8,287 by the real estate commission of the state or district in which such nonresident licensee is a resident, or when there is a conviction by a court of competent jurisdiction of any licensee under such sections which constitutes a violation of such sections or a similar act of another state and the order of such commission or court of competent jurisdiction is certified to the commission, any nonresident real estate license may be revoked by the commission without hearing. Any member of the commission or its director shall have power to administer oaths and to subpoena and bring before the commission any person in this state or take testimony of any such person by deposition upon allowance of fees as in civil cases in district court and mileage as provided in section 81-1176 for state employees. Any party to any hearing before the commission shall have the right to the attendance of witnesses in his or her behalf at such hearing upon making request therefor to the commission and designating the person or persons to be subpoenaed.

(b) Any subpoena so issued shall be served by the county sheriff or his or her deputies. Nonresidents may be served by certified or registered mail. If any witness so subpoenaed refuses or neglects to attend, or attends but refuses to testify, such official issuing the subpoena shall report the fact to the appropriate court and such court shall proceed against such witness in all respects as if such neglect or refusal had been by a witness subpoenaed to appear in such court in a case pending before it.

(c) After such hearing, the commission shall state in writing, officially signed by the chairperson and attested to by the director, its findings and determination and its order in the matter. If the commission determines that the license holder has been guilty of any violation of sections 81-8,276 to 81-8,287, his or her license shall be revoked or suspended forthwith or the commission may enter an order censoring the license holder. The execution of a penalty of suspension may be stayed by the commission and the licensee may be placed on probation for any portion of the suspension period, after satisfactory completion of which the license shall be fully reinstated.

Any final order of the commission may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act. Within ten days after an order of the commission has become final, the applicant for a license or a license holder may obtain judicial review thereof by serving upon the director a written notice of appeal and a demand in writing for certified transcript of all the papers on file in his or her office affecting or relating to such order, together with a transcript of the evidence and the payment of the fee therefor, and he or she shall, within thirty days from the entry of such order, file a petition for review in the district court for the county where the cause of action or some part thereof arose, together with a bond to the State of Nebraska in the sum of two hundred dollars, with sufficient surety to be approved by the clerk of the district court to which such appeal is taken and conditioned that the applicant for a license or the license holder shall pay all costs taxed against him or her which may accrue to the commission by reason of taking such appeal. In lieu of such bond, a cash deposit of two hundred dollars may be made with the clerk for the same purpose. The petition for review need not be verified but shall state the grounds upon which such review is sought. The commission shall be deemed to be a party to any such review proceedings. The petition for review shall be served upon the director by leaving with him or her a copy of the petition, and the commission shall file its answer within ten days from the date of service of the petition for review.

In any judicial proceeding under sections 81-8,276 to 81-8,287, the court shall consider the matter de novo upon the record. The court may on its own motion order additional evidence to be taken before

it. In addition, any party to such review may offer additional evidence before the court if such party shall have served written notice of such offer on the other parties at least ten days prior to the hearing. Such notice shall set out the nature of the evidence which he or she so desires to offer and the names of the witnesses whom he or she intends to call. In such event the other parties may without advance notice offer evidence in rebuttal. Such proceedings shall be heard in a summary manner.

(d) Whenever the commission revokes the license of any person and no appeal to the proper court has been filed within the time specified for such appeals, the commission shall mail a written notice of such revocation to all real estate appraisers licensed under sections 81-8,276 to 81-8,287.

(e) When the license of a nonresident is so suspended or revoked, the commission shall also send written notice, stating the cause for such revocation or suspension, to the real estate commission or licensing authority in the state or district of which such nonresident licensee is a resident.

(3) Grounds for suspension or revocation shall be:

(a) Proof that the licensee is doing business in violation of sections 81-8,276 to 81-8,287;

(b) Proof that the license has been obtained by fraud or misrepresentation;

(c) Proof that the licensee is falsely impersonating a practitioner or is practicing under an assumed, fictitious, or corporate name;

(d) Proof that the licensee has been found guilty of a felony;

(e) Proof that the licensee is guilty of perjury, fraud, or deceit or of gross negligence, incompetency, or misconduct in the practice of real property appraising;

(f) Proof that the licensee permitted his or her signature to be affixed to any appraisal report if such report was not prepared by him or her or under his or her personal supervision by his or her regularly employed subordinates;

(g) Proof that the licensee accepted an engagement to appraise a property in which his or her employment or fee is contingent upon his or her reporting a predetermined or specified value or is otherwise contingent upon a finding to be reported;

(h) In cases when monetary damages are involved, the licensee has made his or her compensation

contingent upon the amount of or as a percentage of the damages which may be agreed upon or finally decreed; or
 (i) For other causes that the commission may deem proper.

Sec. 173. That section 81-1319, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1319. Appeal from the decision of the State Personnel Board shall be as provided in accordance with the Administrative Procedure Act.

Sec. 174. That section 81-1509, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1509. (1) An appeal may be taken from any final order or other final determination decision of the director, and the appeal shall be in accordance with the Administrative Procedure Act. by any person who is or may be adversely affected by such order or determination; to the district court of Lancaster County. Within thirty days after receipt of a copy of the order, or other final determination, or after service of notice thereof by certified or registered mail, the appellant or his attorney shall serve a notice of appeal on the agency through its director. During such thirty-day period the court may for good cause shown extend such time for not exceeding an additional sixty days. The notice of appeal shall refer to the action of the director appealed from and shall specify the grounds of appeal, including both points of law and fact which are asserted or questioned by the appellant. A copy of the original notice of appeal with proof of service shall be filed by the appellant or his attorney with the clerk of the court within ten days of the service of the notice and thereupon the court shall have jurisdiction of the appeal. The service of such notice of appeal shall not act as a stay of enforcement of the director's final order or other final determination unless so ordered and directed by the court.

(2) The appellant and the state shall in all cases be deemed the original parties to an appeal. No bond or deposit for costs shall be required of the state upon any such appeal or upon any subsequent appeal to the Supreme Court or other court proceedings pertaining to the matter.

(3) The appeal shall be heard and determined by the court upon the issues raised by the notice of appeal and the answer thereto according to the rules related to a trial in the nature of an appeal in equity of an administrative determination. All findings of

fact by the director are to be deemed final, unless it is shown that such findings were not supported by substantial evidence produced before the director at the hearing. In any appeal or other proceeding involving any order, or other determination of the director, the action of the director shall be prima facie reasonable and valid and it shall be presumed that all requirements of the law pertaining to the taking thereof have been complied with. A certified copy of the proceedings, together with all documents and papers on file and all testimony taken therein shall be certified to the district court in connection with each appeal. The certified copies of the director's findings and decisions shall be deemed its answer to the notice of appeal.

(4) The trial of the appeal before the district court shall be without a jury and shall be de novo. The court shall receive in evidence in any such case a certified transcript of the proceedings had before the director, together with a certified copy of the director's findings and decision, which findings and decision shall be evidence of the facts found therein and may receive such further evidence as the court in its discretion deems proper and necessary and shall have jurisdiction to enter such judgment and orders enforcing such judgment as may be proper and necessary. The record of the director filed in court shall be returned to the director after the final disposition of the case by the district court or the Supreme Court.

(5) The director or any party who may consider himself aggrieved by the decision of the district court on appeal, may appeal such decision to the Supreme Court in the same manner as is provided in civil cases.

Sec. 175. That section 81-1513, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1513. (1) Any person who owns or is in control of any plant, building structure, process, or equipment may apply to the director for a variance from rules or regulations. The director may grant such variance if he or she finds that the emissions or discharge discharges occurring or proposed to occur do not endanger or tend to endanger human health or safety or that compliance with the rules or regulations from which variance is sought would produce serious hardship without equal or greater benefits to the public. In making such findings the director shall give due consideration to all the facts and circumstances bearing upon the reasonableness of the emissions or discharge

discharges involved including, but not limited to:

(a) The character and degree of injury to or interference with the health and physical property of the people;

(b) The social and economic value of the source of the air, water, or land pollution;

(c) The question of priority of location in the area involved; and

(d) The technical practicability and economic reasonableness of reducing or eliminating the emissions or discharges resulting from such source.

(2) No variance shall be granted until the director has considered the relative interests of the applicant, other owners of property likely to be affected by the discharges, and the general public.

(3) Any variance or renewal thereof shall be granted within the requirements of subsection (1) of this section, and for time periods and under conditions consistent with the reasons therefor, and within the following limitations:

(a) If the variance is granted on the ground that there is no practicable means known or available for the adequate prevention, abatement, or control of the air, water, or land pollution involved, it shall be only until the necessary means for prevention, abatement, or control become known and available, and subject to the taking of any substitute or alternate measures that the director may prescribe;

(b) If the variance is granted on the ground that compliance with the particular requirement or requirements from which variance is sought will necessitate the taking of measures which, because of their extent or cost, must be spread over a considerable period of time, it shall be for a period not to exceed such reasonable time as, in the view of the director, is requisite for the taking of the necessary measures. A variance granted on the ground specified in this section shall contain a timetable for the taking of action in an expeditious manner and shall be conditioned on adherence to such timetable; and

(c) If the variance is granted on the ground that it is justified to relieve or prevent hardship of a kind other than that provided for in subdivision (a) or (b) of this subsection, it shall be for not more than one year.

(4) Any variance granted pursuant to this section may be renewed on terms and conditions and for periods which would be appropriate on initial granting of a variance. If complaint is made to the director on

account of the variance, no renewal thereof shall be granted unless the director finds that renewal is justified. No renewal shall be granted except on application therefor. Any such application shall be made at least thirty days prior to the expiration of the variance. Immediately upon receipt of an application for renewal the director shall give public notice of such application in accordance with rules and regulations of the department.

(5) A variance or renewal shall not be a right of the applicant or holder thereof but shall be in the discretion of the director. The granting or denial of a variance or a renewal shall be by final order of the director. Any person adversely affected by such an order may appeal the decision, and the appeal shall be in accordance with the Administrative Procedure Act, obtain judicial review thereof in accordance with the provisions of section 81-1509; PROVIDED, that such review shall be limited to the issue of whether the director exercised his discretion in an arbitrary or capricious manner-

(6) Nothing in this section and no variance or renewal granted pursuant to this section shall be construed to prevent or limit the application of the emergency provisions and procedures of section 81-1507 to any person or his or her property.

(7) No variance shall be granted which will sanction any violation of state or federal statutes or regulations.

Sec. 176. That section 81-15,107, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-15,107. (1) For any application for a license, the department shall provide an opportunity, after public notice, for written comments and shall hold a public hearing in the county in which the proposed facility is to be located. The cost of such hearing shall be borne by the applicant. All testimony offered at such hearing shall be recorded. The department shall issue a written determination of the action to be taken which is based upon findings to be included in the determination and upon evidence presented during the public comment period.

(2) The department shall prepare, for each licensed activity which has a significant impact on the human environment, a written analysis of the impact of such licensed activity on the environment. The environmental impact analysis shall address each subject listed in Public Law 91-190, Title I, section 102(2)(c),

83 Stat. 853, and supporting regulations. The department shall prohibit any construction with respect to any activity for which an environmental impact analysis is required prior to completion of such analysis. The analysis shall be available to the public at the time notice is given for the hearing held pursuant to this section and shall include:

(a) An assessment of the radiological and nonradiological impacts to the public health;

(b) An assessment of any impact on any waterways and ground water;

(c) Consideration of alternatives to the activities to be conducted, including alternative sites and engineering methods; and

(d) Consideration of the long-term impacts, including closure, decommissioning, decontamination, and reclamation of facilities and sites associated with the licensed activities and management of any radioactive materials which will remain on the site after such closure, decommissioning, decontamination, and reclamation.

(3) Any final agency action or order may be appealed, and the appeal shall be in accordance with ~~pursuant to~~ the Administrative Procedure Act.

Sec. 177. That section 81-15,112, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-15,112. (1) Any person who (a) violates any licensing provision of the Low-Level Radioactive Waste Disposal Act, any rule, regulation, or order issued pursuant to the act, or any term, condition, or limitation of any license issued pursuant to the act or (b) commits any violation for which a license may be revoked under rules or regulations issued pursuant to the act may be subject to a civil penalty, to be imposed by the department, not to exceed ten thousand dollars. If any violation is a continuing one, each day of such violation shall constitute a separate violation for the purpose of computing the applicable civil penalty. The department shall have the power to compromise, mitigate, or remit such penalties.

(2) Whenever the department proposes to subject a person to the imposition of a civil penalty under this section, the department shall notify such person in writing (a) setting forth the date, facts, and nature of each act or omission with which the person is charged, (b) specifically identifying the particular provision or provisions of the section, rule, regulation, order, or license involved in the violation,

and (c) specifying each penalty which the department proposes to impose and its amount. Such written notice shall be sent by registered or certified mail by the department to the last-known address of such person. The person so notified may request a hearing, in writing, within thirty days of receipt of such notice. A hearing, if granted, shall be held in accordance with the Administrative Procedure Act. The notice shall also advise such person that upon failure to pay the civil penalty subsequently determined by the department, if any, the penalty may be collected by civil action. Any person upon whom a civil penalty is imposed may appeal such penalty, and the appeal shall be in accordance with ~~action pursuant to~~ the Administrative Procedure Act. On the request of the department, the Attorney General or county attorney may institute a civil action to collect a penalty imposed pursuant to this section.

Sec. 178. That section 81-15,122, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-15,122. Before the State Fire Marshal denies an application for a permit, the affected person shall be given notice and opportunity for a hearing under procedures established by the State Fire Marshal. Upon receipt of the notification, any person aggrieved by the denial or revocation of a permit may request a hearing within ten days or the decision of the State Fire Marshal shall become final. When the State Fire Marshal has reason to believe that a permitholder's activities create an immediate threat to public safety, a permit may be suspended until the hearing process is complete. Any person aggrieved by a final decision of the State Fire Marshal may appeal such action, and the appeal shall be in accordance with ~~pursuant to~~ the Administrative Procedure Act.

Sec. 179. That section 81-15,142, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-15,142. Any person aggrieved by an order or decision of the director may appeal such order, and the appeal shall be in accordance with as provided in the Administrative Procedure Act.

Sec. 180. That section 81-1832, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1832. All determinations, decisions, and awards made by the committee or any hearing officer may be appealed, and the appeal shall be in accordance with ~~pursuant to~~ the Administrative Procedure Act.

Sec. 181. That section 81-1931, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1931. Any person aggrieved by final action of the secretary under the Licensing of Truth and Deception Examiners Act may appeal the final action, and such appeal shall be in accordance with the Administrative Procedure Act. ~~sections 81-1901 to 81-1936 shall have the right to a judicial review by a court of competent jurisdiction within the state. Proceedings in any court pursuant to sections 81-1901 to 81-1936 shall be de novo. When the court has acquired jurisdiction, all administrative actions taken prior thereto shall be stayed.~~

Sec. 182. That section 83-109, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-109. The Department of Public Institutions shall have general control over the admission of patients and residents to all institutions over which it has jurisdiction. Each individual shall be assigned to the institution best adapted to care for him or her. A record of every patient or resident of every institution shall be kept complete from the date of his or her entrance to the date of his or her discharge or death, such records to be accessible only to the department, a legislative committee, the Governor, any federal agency requiring medical records to adjudicate claims for federal benefits, any public or private agency under contract to provide facilities, programs, and patient services, or upon order of a judge or court. In addition, a patient or resident, or his or her legally authorized representative, may authorize the specific release of his or her records, or portions thereof, by filing with the department a signed written consent. Transfers of patients or residents from one institution to another shall be within the exclusive jurisdiction of the department and shall be recorded in the office of the department, with the reasons for such transfers. When the department is unable to assign a patient to a regional center or commit him or her to any other institution at the time of application, a record thereof shall be kept, and the patient accepted at the earliest practicable date. The superintendents of the regional centers and Beatrice State Developmental Center shall notify the department immediately whenever there is any question regarding the propriety of the commitment, detention, transfer, or placement of any person admitted to a state institution. The department shall then

investigate the matter and take such action as shall be proper. Any interested party who is not satisfied with such action may appeal such action, and the appeal shall be in accordance with the Administrative Procedure Act. his or her case to the district court in the district where such party resides. The department shall have full authority on its own suggestion, or upon the application of any interested person, to investigate the physical and mental status of any patient or resident of any regional center or the Beatrice State Developmental Center. If upon such investigation the department considers shall consider such patient or resident fit to be released from the regional center or Beatrice State Developmental Center, it shall cause such patient or resident to be discharged or released on convalescent leave.

Sec. 183. That section 83-374, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-374. Any patient or relative aggrieved by a determination of ability to pay may request a hearing before the director. The department shall adopt and promulgate rules and regulations to govern the conduct of such hearings. The director may appoint an examiner who shall have power to preside at such hearing, administer oaths, examine witnesses, and take testimony, and shall report the same to the director. Such hearings shall be held in the county in which the person requesting the hearing resides, if such person so requests, in which event it shall be the duty of the county board of public welfare to attend such hearing. The director shall deliver his or her decision within sixty days after the conclusion of the hearing. Any patient or relative aggrieved by a decision following a hearing may appeal such decision, and such appeal shall be in accordance with the Administrative Procedure Act. to the district court of the county in which he resides. The district court shall hear the appeal as in equity and without a jury, and determine anew all questions raised before the director. Either party may appeal from the district court to the Nebraska Supreme Court.

Sec. 184. That section 83-1131, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-1131. (1) If the report of the client's case by the interdisciplinary team indicates that (a) continued habilitation of the client is necessary or (b) discharge is desirable for the client's needs, such report shall be submitted to the superintendent for

necessary action, and copies of such report shall be served upon the client and his or her representative.

(2) If the superintendent determines that discharge to a community-based program or discharge is desirable for the needs of the client, copies of such determination shall be served upon the client and his or her representative. Any such person receiving copies of such determination may request an administrative hearing before a hearing examiner appointed by the director and conducted in accordance with rules and regulations of the department duly adopted and promulgated; upon giving written notice to the superintendent within thirty days after receipt of a copy of such determination, ~~or such person may within the thirty days elect to appeal directly to the district court pursuant to section 83-1133.~~

(3) If the client is not represented by an attorney, the district court shall appoint an attorney for the client for such administrative hearing, ~~or appeal to the district court.~~ The appointed attorney shall receive expenses and fees as provided in section 83-1132, and such attorney may obtain as a part of his or her paid fees or expenses, the services of expert witnesses to examine the client and the client's records and testify on behalf of the client during the administrative hearing, ~~or the appeal to the district court.~~ Such hearing examiner after the administrative hearing shall make findings and recommendations as to the disposition made by the superintendent, and copies of the hearing examiner's findings and recommendations shall be served upon the client, his or her representative, and all other interested persons. Upon the review of the hearing examiner's recommendations, the superintendent shall enter his or her order accepting or rejecting such disposition. The superintendent's order shall be a final order for purpose of appeal to the district court pursuant to section 83-1133 and such order shall take effect after the time for appeal has expired if no appeal is taken. If an appeal is taken, such order of the superintendent shall be subject to the disposition upon appeal. The superintendent shall cause his or her order to and shall be served upon the client and his or her representative. Such and such order may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act. Such order shall take effect after the time for appeal has expired pursuant to the Administrative Procedure Act if no appeal is taken. to the district court within thirty days of its receipt. The hearing

before the district court on the superintendent's order shall be de novo.

Sec. 185. That section 83-1133, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-1133. (1) Under subdivision (1)(b) of section 83-1131, if the superintendent makes his or her determination to discharge a client, such order may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act, to the district court that previously ordered the client to the facility.

(2) A client or his or her representative may file a petition in the district court that previously ordered the client to the facility, alleging that the client is being unjustly denied a right or privilege granted by sections 83-1101 to 83-1139 or that a procedure authorized by sections 83-1101 to 83-1139 is being abused.

(3) At any time and without notice, persons detained by the facility, or any person on behalf of such detained person, may petition for a writ of habeas corpus to question the cause and legality of detention and to request any court of competent jurisdiction on its own initiative to issue a writ of release. Upon the filing of such petition for habeas corpus, the court shall have the authority to conduct a judicial inquiry and to issue appropriate orders to correct any abuses of sections 83-1101 to 83-1139.

(4) The subject of a petition of the county attorney may appeal a final order of the district court to the Nebraska Supreme Court in accordance with appeals in civil cases.

Sec. 186. That section 84-917, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

84-917. (1) Any person aggrieved by a final decision in a contested case, whether such decision is affirmative or negative in form, shall be entitled to judicial review under the Administrative Procedure Act. Nothing in this section shall be deemed to prevent resort to other means of review, redress, or relief provided by law.

(2)(a) Proceedings for review shall be instituted by filing a petition in the district court of the county where the action is taken within thirty days after the service of the final decision by the agency. All parties of record shall be made parties to the proceedings for review. If an agency's only role in a contested case is to act as a neutral factfinding body,

the agency shall not be a party of record. In all other cases, the agency shall be a party of record. Summons shall be served within thirty days of the filing of the petition in the manner provided for service of a summons in a civil action. If the agency whose decision is appealed from is not a party of record, the petitioner shall serve a copy of the petition and a request for preparation of the official record upon the agency within thirty days of the filing of the petition. The court, in its discretion, may permit other interested persons to intervene.

(b) A petition for review shall set forth: (i) The name and mailing address of the petitioner; (ii) the name and mailing address of the agency whose action is at issue; (iii) identification of the final decision at issue together with a duplicate copy of the final decision; (iv) identification of the parties in the contested case that led to the final decision; (v) facts to demonstrate proper venue; (vi) the petitioner's reasons for believing that relief should be granted; and (vii) a request for relief, specifying the type and extent of the relief requested.

(3) The filing of the petition or the service of summons upon such agency shall not stay enforcement of a decision. The agency may order a stay. The agency may do so; or the court may order a stay after notice of the application therefor to such agency and to all parties of record. to such agency of application therefor upon such terms as it deems proper and may require the party requesting such stay to give bond in such amount and conditioned as the court may direct. If the agency has found that its action on an application for stay or other temporary remedies is justified to protect against a substantial threat to the public health, safety, or welfare, the court may not grant relief unless the court finds that: (a) The applicant is likely to prevail when the court finally disposes of the matter; (b) without relief, the applicant will suffer irreparable injuries; (c) the grant of relief to the applicant will not substantially harm other parties to the proceedings; and (d) the threat to the public health, safety, or welfare relied on by the agency is not sufficiently serious to justify the agency's action in the circumstances. The court may require the party requesting such stay to give bond in such amount and conditioned as the court may direct.

(4) Within fifteen thirty days after service of the petition or within such further time as the court for good cause shown may allow, the agency shall prepare

and transmit to the court a certified transcript copy of the official record of the proceedings had before the agency, it including the final decision sought to be reversed, vacated, or modified. Any deposition or exhibit introduced in the agency proceeding shall, upon demand of the party who introduced it, be returned to such party for use in the proceedings for review. Such official record shall include: (a) Notice of all proceedings; (b) any pleadings, motions, requests, preliminary or intermediate rulings and orders, and any similar correspondence to or from the agency pertaining to the contested case; (c) the transcribed record of the hearing before the agency including all exhibits and evidence introduced during such hearing, a statement of matters officially noticed by the agency during the proceeding, and all proffers of proof and objections and rulings thereon; and (d) the final order appealed from. The agency shall charge the petitioner with the reasonable direct cost or require the petitioner to pay the cost for preparing the official record for transmittal to the court in all cases except when the petitioner is not required to pay a filing fee. The agency may require payment or bond prior to the transmittal of the record.

(5) The review shall be conducted by the court without a jury on the record of the agency. Review may not be obtained of any issue that was not raised before the agency unless such issue involves one of the grounds for reversal or modification enumerated in subsection (6) of this section. If the court determines that the interest of justice would be served by the resolution of any other issue not raised before the agency, the court may remand the case to the agency for further proceedings.

(6) The court may affirm the decision of the agency or remand the case for further proceedings, or it may reverse or modify the decision if the substantial rights of the petitioner may have been prejudiced because the agency decision is:

- (a) In violation of constitutional provisions;
 - (b) In excess of the statutory authority or jurisdiction of the agency;
 - (c) Made upon unlawful procedure;
 - (d) Affected by other error of law;
 - (e) Unsupported by competent, material, and substantial evidence in view of the entire record as made on review; or
 - (f) Arbitrary or capricious.
- (7) The review provided by this section shall

not be available in any case where other provisions of law prescribe the method of appeal.

Sec. 187. That section 84-919, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

84-919. The Except as otherwise provided by law, the Administrative Procedure Act establishes the exclusive means of judicial review of a final decision of any agency in a contested case. is intended to constitute an independent act establishing the procedure for review of actions of agencies. It shall be considered as cumulative to existing laws.

Sec. 188. Sections 17, 18, 19, 24, 25, 92, 93, 188, and 189 of this act shall become operative on their effective date. The other sections of this act shall become operative on July 1, 1989.

Sec. 189. That original sections 15-1202 to 15-1204 and 24-541.06, Reissue Revised Statutes of Nebraska, 1943, sections 24-541.04 and 53-1,116, Revised Statutes Supplement, 1986, and section 53-134, Revised Statutes Supplement, 1986, as amended by section 3, Legislative Bill 550, Ninetieth Legislature, Second Session, 1988, are repealed.

Sec. 190. That original sections 1-149, 2-1822, 2-2433, 2-3107, 2-3204, 3-140, 3-405, 8-1013, 8-1119, 20-142, 21-1983, 24-313, 25-1937, 28-433, 31-1022, 32-706, 32-707, 39-669.18, 39-2111, 39-2121, 43-707, 44-111.01, 44-127.09, 44-127.10, 44-127.19, 44-133, 44-134, 44-222.02, 44-224.09, 44-238, 44-352, 44-360, 44-367, 44-368, 44-386.07, 44-511, 44-512, 44-626, 44-711, 44-751, 44-752, 44-766, 44-1212, 44-1441, 44-1485, 44-1530, 44-1531, 44-1713, 44-2312, 44-2851, 44-2913, 44-3278, 44-3283, 44-3720, 44-4027, 45-150, 45-350, 45-605, 45-616, 46-528, 46-669, 46-685, 46-805, 48-416, 48-641, 48-1120, 49-14,131, 54-1170, 54-1706, 54-1707, 54-1904, 54-1905, 57-605, 57-913, 59-1516, 60-409.11, 60-420, 60-503, 60-1415, 60-1435, 68-1034, 69-1320, 70-806, 70-807, 71-159, 71-161.07, 71-161.16, 71-1,104.05, 71-1,147.12, 71-1,147.31, 71-235, 71-1567, 71-1725, 71-1761, 71-1916, 71-2027, 71-2045.02, 71-2506, 71-2719, 71-2817, 71-3211, 71-4609, 71-4626, 71-4630, 71-4631, 71-5113, 71-5303, 71-5517, 71-5866, 71-5907, 71-6031, 71-6310, 71-6314, 72-224.03, 76-552, 76-908, 76-1212, 77-202.07, 77-612, 77-911, 77-1239.01, 77-1775, 77-27,127, 77-27,153, 77-27,182, 79-1544, 79-2838, 81-216.33, 81-2,147.06, 81-502.04, 81-829.43, 81-885.30, 81-8,139.01, 81-8,202, 81-8,285, 81-1319, 81-1509, 81-1513, 81-15,107, 81-15,112, 81-15,122, 81-15,142, 81-1832, 81-1931, 83-109, 83-374,

83-1131, 83-1133, 84-917, and 84-919, Reissue Revised Statutes of Nebraska, 1943, sections 2-3938, 8-1,135, 8-1506, 9-229, 9-325, 9-421, 21-328, 44-10,107, 44-2406, 44-2710, 44-3110, 46-674.15, 46-1146, 46-1237, 48-638, 48-640, 48-650, 48-660.01, 54-861, and 60-124, Revised Statutes Supplement, 1986, and sections 2-960, 71-1,107.23, 71-3505, 71-3513, 71-3517, 77-378, 77-425, 77-1301.16, 77-1781, and 77-4020, Revised Statutes Supplement, 1987, and also sections 44-127.11, 45-151, 45-152, 71-161, and 79-2839 to 79-2841, Reissue Revised Statutes of Nebraska, 1943, and section 48-639, Revised Statutes Supplement, 1986, are repealed.